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**SUBSTITUTE SENATE BILL 5431**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Schoesler, Robinson, Dozier, and Nobles)

READ FIRST TIME 02/10/25.

1 AN ACT Relating to modifying tax and revenue laws in a manner  
2 that is not estimated to affect state or local tax collections;  
3 amending RCW 82.08.050, 82.08.986, and 43.06.400; amending 2022 c 172  
4 s 3 (uncodified); amending 2017 3rd sp.s. c 37 s 401 (uncodified);  
5 and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** 2022 c 172 s 3 (uncodified) is amended to read as  
8 follows:

9 (1) This section is the tax preference performance statement for  
10 the tax preference contained in section 2, chapter 172, Laws of 2022.  
11 This performance statement is only intended to be used for subsequent  
12 evaluation of the tax preference. It is not intended to create a  
13 private right of action by any party or be used to determine  
14 eligibility for preferential tax treatment.

15 (2) The legislature categorizes this tax preference as one  
16 intended to improve industry competitiveness and to create and retain  
17 jobs as indicated in RCW 82.32.808(2) (b) and (c).

18 (3) It is the legislature's specific public policy objective to  
19 maintain and grow jobs in the solar silicon industry. Trade disputes  
20 currently threaten employment in this sector. It is the legislature's  
21 intent to extend by five years the preferential tax rates for

1 manufacturers and wholesalers of specific solar energy material and  
2 parts in order to maintain and grow jobs in the solar silicon  
3 industry.

4 (4) If a review finds that the number of people employed by the  
5 solar silicon industry in Washington is the same or more than in  
6 2019, and that at least 60 percent of employees earn \$60,000 a year  
7 or more, then the legislature intends to extend the expiration date  
8 of the tax preference.

9 (5) In order to obtain the data necessary to perform the review  
10 in subsection (4) of this section, the joint legislative audit and  
11 review committee may refer to the department of revenue's annual  
12 ((survey)) tax performance report data.

13 **Sec. 2.** 2017 3rd sp.s. c 37 s 401 (uncodified) is amended to  
14 read as follows:

15 (1) This section is the tax preference performance statement for  
16 the tax preferences contained in sections 402 and 403, chapter 37,  
17 Laws of 2017 3rd sp. sess. This performance statement is only  
18 intended to be used for subsequent evaluation of the tax preferences.  
19 It is not intended to create a private right of action by any party  
20 or be used to determine eligibility for preferential tax treatment.

21 (2) The legislature categorizes these tax preferences as ones  
22 intended to improve industry competitiveness and to create and retain  
23 jobs as indicated in RCW 82.32.808(2) (b) and (c).

24 (3) It is the legislature's specific public policy objective to  
25 maintain and grow jobs in the solar silicon industry. Trade disputes  
26 currently threaten employment in this sector. It is the legislature's  
27 intent to extend by ((ten)) 10 years the preferential tax rates for  
28 manufacturers and wholesalers of specific solar energy material and  
29 parts in order to maintain and grow jobs in the solar silicon  
30 industry.

31 (4) If a review finds that the number of people employed by the  
32 solar silicon industry in Washington is the same or more than in  
33 2015, and that at least ((sixty)) 60 percent of employees earn  
34 ((sixty thousand dollars)) \$60,000 a year or more, then the  
35 legislature intends to extend the expiration date of the tax  
36 preference.

37 (5) In order to obtain the data necessary to perform the review  
38 in subsection (4) of this section, the joint legislative audit and

1 review committee may refer to the department of revenue's annual  
2 ((survey)) tax preference report data.

3 **Sec. 3.** RCW 82.08.050 and 2017 3rd sp.s. c 28 s 211 are each  
4 amended to read as follows:

5 (1) The tax imposed in this chapter must be paid by the buyer to  
6 the seller. Each seller must collect from the buyer the full amount  
7 of the tax payable in respect to each taxable sale in accordance with  
8 the schedule of collections adopted by the department under the  
9 provisions of RCW 82.08.060.

10 (2) The tax required by this chapter, to be collected by the  
11 seller, is deemed to be held in trust by the seller until paid to the  
12 department. Any seller who appropriates or converts the tax collected  
13 to the seller's own use or to any use other than the payment of the  
14 tax to the extent that the money required to be collected is not  
15 available for payment on the due date as prescribed in this chapter  
16 is guilty of a gross misdemeanor.

17 (3) Except as otherwise provided in this section, if any seller  
18 fails to collect the tax imposed in this chapter or, having collected  
19 the tax, fails to pay it to the department in the manner prescribed  
20 by this chapter, whether such failure is the result of the seller's  
21 own acts or the result of acts or conditions beyond the seller's  
22 control, the seller is, nevertheless, personally liable to the state  
23 for the amount of the tax.

24 (4) Sellers are not relieved from personal liability for the  
25 amount of the tax unless they maintain proper records of exempt or  
26 nontaxable transactions and provide them to the department when  
27 requested.

28 (5) Sellers are not relieved from personal liability for the  
29 amount of tax if they fraudulently fail to collect the tax or if they  
30 solicit purchasers to participate in an unlawful claim of exemption.

31 (6) Sellers are not relieved from personal liability for the  
32 amount of tax if they accept an exemption certificate from a  
33 purchaser claiming an entity-based exemption if:

34 (a) The subject of the transaction sought to be covered by the  
35 exemption certificate is actually received by the purchaser at a  
36 location operated by the seller in Washington; and

37 (b) Washington provides an exemption certificate that clearly and  
38 affirmatively indicates that the claimed exemption is not available  
39 in Washington. Graying out exemption reason types on a uniform form

1 and posting it on the department's website is a clear and affirmative  
2 indication that the grayed out exemptions are not available.

3 (7)(a) Sellers are relieved from personal liability for the  
4 amount of tax if they obtain a fully completed exemption certificate  
5 or capture the relevant data elements required under the streamlined  
6 sales and use tax agreement within (~~ninety~~) 90 days, or a longer  
7 period as may be provided by rule by the department, subsequent to  
8 the date of sale.

9 (b) If the seller has not obtained an exemption certificate or  
10 all relevant data elements required under the streamlined sales and  
11 use tax agreement within the period allowed subsequent to the date of  
12 sale, the seller may, within (~~one hundred twenty~~) 120 days, or a  
13 longer period as may be provided by rule by the department,  
14 subsequent to a request for substantiation by the department, either  
15 prove that the transaction was not subject to tax by other means or  
16 obtain a fully completed exemption certificate from the purchaser,  
17 taken in good faith.

18 (c) Sellers are relieved from personal liability for the amount  
19 of tax if they obtain a blanket exemption certificate for a purchaser  
20 with which the seller has a recurring business relationship. The  
21 department may not request from a seller renewal of blanket exemption  
22 certificates or updates of exemption certificate information or data  
23 elements if there is a recurring business relationship between the  
24 buyer and seller. For purposes of this subsection (7)(c), a  
25 "recurring business relationship" means at least one sale transaction  
26 within a period of (~~twelve~~) 12 consecutive months.

27 (d) Sellers are relieved from personal liability for the amount  
28 of tax if they obtain a copy of a direct pay permit issued under RCW  
29 82.32.087.

30 (8) The amount of tax, until paid by the buyer to the seller or  
31 to the department, constitutes a debt from the buyer to the seller.  
32 Any seller who fails or refuses to collect the tax as required with  
33 intent to violate the provisions of this chapter or to gain some  
34 advantage or benefit, either direct or indirect, and any buyer who  
35 refuses to pay any tax due under this chapter is guilty of a  
36 misdemeanor.

37 (9) (a) Except as otherwise provided in this subsection (9), the  
38 tax required by this chapter to be collected by the seller must be  
39 stated separately from the selling price in any sales invoice or  
40 other instrument of sale. (~~On all retail sales through vending~~

1 ~~machines, the tax need not be stated separately from the selling~~  
2 ~~price or collected separately from the buyer.))~~ Except as otherwise  
3 provided in this subsection, for purposes of determining the tax due  
4 from the buyer to the seller and from the seller to the department it  
5 must be conclusively presumed that the selling price quoted in any  
6 price list, sales document, contract or other agreement between the  
7 parties does not include the tax imposed by this chapter. But if the  
8 seller advertises the price as including the tax or that the seller  
9 is paying the tax, the advertised price may not be considered the  
10 selling price.

11 (b) The tax required by this chapter to be collected by the  
12 seller need not be stated separately from the selling price or  
13 collected separately from the buyer on the following:

14 (i) All retail sales through vending machines; or

15 (ii) Retail sales of medical equipment paid by a health insurance  
16 provider, if the following conditions are met:

17 (A) The payment for the medical equipment is a fixed amount set  
18 by contract between the medical supply vendor and the health  
19 insurance provider; and

20 (B) The medical supply vendor is not entitled to collect the  
21 balance from the covered person, or other persons, after contractual  
22 amounts are paid by the health insurance provider.

23 (c) The department shall adopt rules as may be necessary to  
24 administer the provisions of this section.

25 (10) Where a buyer has failed to pay to the seller the tax  
26 imposed by this chapter and the seller has not paid the amount of the  
27 tax to the department, the department may, in its discretion, proceed  
28 directly against the buyer for collection of the tax. If the  
29 department proceeds directly against the buyer for collection of the  
30 tax as authorized in this subsection, the department may add a  
31 penalty of (~~ten~~) 10 percent of the unpaid tax to the amount of the  
32 tax due for failure of the buyer to pay the tax to the seller,  
33 regardless of when the tax may be collected by the department. In  
34 addition to the penalty authorized in this subsection, all of the  
35 provisions of chapter 82.32 RCW, including those relative to interest  
36 and penalties, apply. For the sole purpose of applying the various  
37 provisions of chapter 82.32 RCW, the (~~twenty-fifth~~) 25th day of the  
38 month following the tax period in which the purchase was made will be  
39 considered as the due date of the tax.

1 (11) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Exemption certificate" means documentation furnished by a  
4 buyer to a seller to claim an exemption from sales tax. An exemption  
5 certificate includes a reseller permit or other documentation  
6 authorized in RCW 82.04.470 furnished by a buyer to a seller to  
7 substantiate a wholesale sale.

8 (b) "Health insurance provider" includes, but is not limited to,  
9 commercial insurers, the medicaid program, and the medicare program.

10 (c) "Seller" includes a certified service provider, as defined in  
11 RCW 82.32.020, acting as agent for the seller.

12 **Sec. 4.** RCW 82.08.986 and 2022 c 267 s 3 are each amended to  
13 read as follows:

14 (1)(a) An exemption from the tax imposed by RCW 82.08.020 is  
15 provided for sales to qualifying businesses and to qualifying tenants  
16 of eligible server equipment to be installed, without intervening  
17 use, in an eligible computer data center to which a valid exemption  
18 certificate applies, and to charges made for labor and services  
19 rendered in respect to installing eligible server equipment.

20 (b) This exemption also applies to sales to qualifying businesses  
21 and to qualifying tenants of eligible power infrastructure, including  
22 labor and services rendered in respect to constructing, installing,  
23 repairing, altering, or improving eligible power infrastructure at an  
24 eligible computer data center for which an exemption certificate has  
25 been issued.

26 (c) No new exemption certificates may be issued on or after July  
27 1, 2036.

28 (d) The exemptions provided in this section expire July 1, 2048.

29 (e) Each calendar year, the department may issue no more than six  
30 certificates for data centers which qualify through refurbishment.  
31 Certificates are available for refurbished data centers on a first-  
32 in-time basis based on the date the application required under this  
33 section is received by the department. Each qualifying business may  
34 apply for only one certificate for a refurbished data center each  
35 calendar year.

36 (2)(a) In order to obtain an exemption certificate under this  
37 section, a qualifying business or a qualifying tenant must submit an  
38 application to the department for an exemption certificate. The  
39 application must include the information necessary, as required by

1 the department, to determine that a business or tenant qualifies for  
2 the exemption under this section. The department must issue exemption  
3 certificates to qualifying businesses and qualifying tenants. The  
4 department may assign a unique identification number to each  
5 exemption certificate issued under this section.

6 (b) A qualifying business or a qualifying tenant claiming the  
7 exemption under this section must present the seller with an  
8 exemption certificate in a form and manner prescribed by the  
9 department. The seller must retain a copy of the certificate for the  
10 seller's files.

11 (c) With respect to computer data centers for which the  
12 commencement of construction occurs after July 1, 2015, but before  
13 July 1, 2019, the exemption provided in this section is limited to no  
14 more than eight computer data centers, with total eligible data  
15 centers provided under this section limited to (~~twelve~~) 12 from  
16 July 1, 2015, through June 9, 2022. Tenants of qualified data centers  
17 do not constitute additional data centers under the limit. The  
18 exemption is available on a first-in-time basis based on the date the  
19 application required under this section is received by the  
20 department.

21 (d) The exemption certificate is effective on the date the  
22 application is received by the department, which is deemed to be the  
23 date of issuance. Only purchases on or after the date of issuance  
24 qualify for the exemption under this section. No tax refunds are  
25 authorized for purchases made before the effective date of the  
26 exemption certificate.

27 (e) Exemption certificates expire two years after the date of  
28 issuance, unless construction has been commenced.

29 (3) (a) (i) Within six years of the date that the department issued  
30 an exemption certificate under this section to a qualifying business  
31 or a qualifying tenant with respect to an eligible computer data  
32 center, the qualifying business or qualifying tenant must establish  
33 that net employment assigned to an eligible computer data center has  
34 increased by a minimum of:

35 (A) Thirty-five family wage employment positions; or, if lower

36 (B) Three family wage employment positions for each (~~twenty~~  
37 ~~thousand~~) 20,000 square feet of space or less that is newly  
38 dedicated to housing working servers at the eligible computer data  
39 center. For qualifying tenants, the number of family wage employment  
40 positions that must be increased under this subsection (3) (a) (i) (B)

1 is based only on the space occupied by the qualifying tenant in the  
2 eligible computer data center.

3 (ii) After the minimum number of family wage employment positions  
4 as required under (a)(i) of this subsection (3) is established, a  
5 qualifying business or a qualifying tenant must maintain the minimum  
6 family wage employment positions required under (a)(i) of this  
7 subsection (3) while the exemption certificate is valid.

8 (b) In calculating the net increase in family wage employment  
9 positions:

10 (i) The owner of an eligible computer data center, in addition to  
11 its own net increase in family wage employment positions, may  
12 include:

13 (A) The net increase, since the date of issuance of the  
14 qualifying business's exemption certificate, in family wage  
15 employment positions employed by qualifying tenants; and

16 (B) The net increase in family wage employment positions  
17 described in (c)(ii)(B) of this subsection (3).

18 (ii)(A) Qualifying tenants, in addition to their own net increase  
19 in family wage employment positions, may include:

20 (I) A portion of the net increase in family wage employment  
21 positions employed by the owner; and

22 (II) A portion of the net increase in family wage employment  
23 positions described in (c)(ii)(B) of this subsection (3).

24 (B) The portion of the net increase in family wage employment  
25 positions to be counted under this subsection (3)(b)(ii) by each  
26 qualifying tenant is equal to the net increase in family wage  
27 employment positions assigned to an eligible computer data center as  
28 described in (b)(ii)(A)(I) and (II) of this subsection (3),  
29 multiplied by the percentage of total space within the eligible  
30 computer data center occupied by the qualifying tenant. Any  
31 combination of qualifying business and qualifying tenant family wage  
32 employment positions may meet this requirement.

33 (C)(I) In the instance of an existing data center facility that  
34 was ineligible, regardless of the date of commencement of  
35 construction, that later obtains an exemption certificate under this  
36 section, the data center may count the existing employment positions  
37 that are dedicated to the data center toward the new family wage  
38 employment position requirements if the employment positions meet the  
39 requirements of a family wage employment position, as described in  
40 (c)(i)(B) and (C) of this subsection (3), other than the requirement



1 that the position did not exist or had not previously been filled as  
2 of the date that the department issued an exemption certificate.

3 (II) In the instance of the refurbishment of an existing data  
4 center that previously qualified under the data center program, the  
5 data center may count the existing employment positions dedicated to  
6 the data center toward the new family wage employment position  
7 requirements if the employment positions meet the requirements of a  
8 family wage employment position, as described in (c)(i)(B) and (C) of  
9 this subsection (3), other than the requirement that the position did  
10 not exist or had not previously been filled as of the date that the  
11 department issued an exemption certificate.

12 (c)(i) For purposes of this subsection:

13 (A) For exemption certificates issued before June 9, 2022, family  
14 wage employment positions are new permanent employment positions  
15 requiring (~~forty~~) 40 hours of weekly work, or their equivalent, on  
16 a full-time basis assigned to an eligible computer data center and  
17 receiving a wage equivalent to or greater than (~~one hundred fifty~~)  
18 150 percent of the per capita personal income of the county in which  
19 the qualified project is located as published by the employment  
20 security department. The per capita personal income to be used to  
21 determine qualification for any year is the amount that was  
22 established for the immediate prior year.

23 (B) For exemption certificates issued on or after June 9, 2022,  
24 family wage employment positions are new permanent employment  
25 positions requiring 40 hours of weekly work, or their equivalent, on  
26 a full-time basis assigned to an eligible computer data center and  
27 receiving a wage equivalent to or greater than 125 percent of the per  
28 capita personal income of the county in which the qualified project  
29 is located as published by the employment security department. The  
30 per capita personal income to be used to determine qualification for  
31 any year is the amount that was established for the immediate prior  
32 year.

33 (C) An employment position may not be counted as a family wage  
34 employment position unless the employment position is entitled to  
35 health insurance coverage provided by the employer of the employment  
36 position.

37 (D) "New permanent employment position" means an employment  
38 position that did not exist or that had not previously been filled as  
39 of the date that the department issued an exemption certificate to  
40 the qualifying business or qualifying tenant of an eligible computer

1 data center, as the case may be, except as provided in (b)(ii)(C) of  
2 this subsection (3).

3 (ii)(A) Family wage employment positions include positions filled  
4 by employees of the qualifying business and by employees of  
5 qualifying tenants.

6 (B) Family wage employment positions also include individuals  
7 performing work at an eligible computer data center as an independent  
8 contractor hired by the owner of the eligible computer data center or  
9 as an employee of an independent contractor hired by the owner of the  
10 eligible computer data center, if the work is necessary for the  
11 operation of the computer data center, such as security and building  
12 maintenance, and provided that all of the applicable requirements in  
13 (c)(i) of this subsection (3) are met.

14 (d)(i) For a qualifying business or qualifying tenant that does  
15 not meet the requirements of this subsection (3), previously exempted  
16 sales and use taxes are immediately due and payable and any exemption  
17 certificate issued to that qualifying business or qualifying tenant  
18 under this section is canceled, except as described in (d)(iii) of  
19 this subsection (3).

20 (ii) The department of labor and industries must, at the request  
21 of the department, assist in determining whether the requirements of  
22 this subsection (3) have been met.

23 (iii) If the department, with the assistance of the department of  
24 labor and industries, finds that a failure to meet the requirements  
25 of this subsection (3) is due to circumstances beyond the control of  
26 the qualifying business or qualifying tenant including, but not  
27 limited to, a declaration of an economic recession, pandemic, or  
28 natural disaster affecting data center operations, the department may  
29 provide exceptions or extensions to the requirements of this  
30 subsection (3).

31 (iv) Any repayment of taxes triggered by the failure of a  
32 qualifying business or qualifying tenant to meet the requirements of  
33 this subsection (3) must be calculated in proportion to the duration  
34 of time for which any applicable requirement was not met.

35 (v) If the department is notified that a qualifying business or  
36 qualifying tenant fails to meet the requirements of this subsection  
37 (3), the department may require a qualifying business or qualifying  
38 tenant to submit records necessary to determine whether the  
39 requirements have been met.

40 (4) For exemption certificates issued on or after June 9, 2022:

1 (a) Within three years after being placed in service, the  
2 qualifying business operating a newly constructed data center must  
3 certify to the department that it has attained certification under  
4 one or more of the following sustainable design or green building  
5 standards:

6 (i) BREEAM for new construction or BREEAM in-use;

7 (ii) Energy star;

8 (iii) Envision;

9 (iv) ISO 50001-energy management;

10 (v) LEED for building design and construction or LEED for  
11 operations and maintenance;

12 (vi) Green globes for new construction or green globes for  
13 existing buildings;

14 (vii) UL 3223; or

15 (viii) Other reasonable standards approved by the department.

16 (b) The department may require qualifying businesses and  
17 qualifying tenants to submit records necessary to verify the  
18 requirements under (a) of this subsection have been met.

19 (c)(i) For a qualifying business or qualifying tenant that does  
20 not meet the requirements of (a) of this subsection (4), all  
21 previously exempted sales and use taxes may be immediately due and  
22 payable, any exemption certificate issued to that qualifying business  
23 or qualifying tenant under this section is canceled, and an  
24 additional 10 percent penalty is assessed, except as described in  
25 (c)(ii) of this subsection (4).

26 (ii) If the department finds that a failure to meet the  
27 requirements of this subsection (4) is due to circumstances beyond  
28 the control of the qualifying business or qualifying tenant  
29 including, but not limited to, a declaration of an economic  
30 recession, pandemic, or natural disaster affecting data center  
31 operations, the department may, at its discretion, provide exceptions  
32 or extensions to the requirements of this subsection (4). The  
33 department may, at its discretion, coordinate with agencies with  
34 relevant expertise to assist in determining whether the requirements  
35 have been met.

36 (5) A qualifying business or a qualifying tenant claiming the  
37 exemption under this section is encouraged to take direct steps to  
38 adopt practices to mitigate negative environmental impacts resulting  
39 from expanded use of data centers, including through:

1 (a) Coordinating with the industrial waste coordination program  
2 established under RCW 43.31.625 to identify and provide technical  
3 assistance in implementing industrial symbiosis projects;

4 (b) To the extent possible, procuring or contracting for power  
5 from renewable sources;

6 (c) Adopting practices to improve the energy efficiency of  
7 existing data centers, including through upgrading and consolidating  
8 technology, managing data center airflow, and adjusting and improving  
9 heating, ventilation, and air conditioning systems; and

10 (d) Taking actions to conserve, reuse, and replace water. This  
11 includes using water efficient fixtures and practices; treating,  
12 infiltrating, and harvesting rainwater; recycling water before  
13 discharging; partnering with local water utilities to use discharged  
14 water for irrigation and other water conservation purposes; using  
15 reclaimed water where possible for data center operations; and  
16 supporting water restoration in local watersheds.

17 (6) A qualifying business or a qualifying tenant claiming an  
18 exemption under this section or RCW 82.12.986 must complete an annual  
19 tax performance report with the department as required under RCW  
20 82.32.534. The report must identify construction firm names and  
21 employment levels used for constructing, renovating, refurbishing, or  
22 remodeling the data centers.

23 (7)(a) The certificate holder may not at any time assign or  
24 transfer a certificate without the prior written consent of the  
25 department. The department must allow certificate transfers if the  
26 certificate holder meets the following requirements:

27 (i) The certificate assignee or transferee is qualified to do  
28 business in the state;

29 (ii) The assignee or transferee acknowledges the transfer of the  
30 certificate in writing;

31 (iii) The assignee or transferee agrees to keep and perform all  
32 the terms of the certificates; and

33 (iv) An assignment or transfer of the certificate is to an entity  
34 that:

35 (A) Controls, is controlled by, or under common control with, the  
36 certificate holder;

37 (B) Acquires all or substantially all of the stock or assets of  
38 the certificate holder; or

39 (C) Is the resulting entity of a merger or consolidation with the  
40 certificate holder.

1 (b) In the event the assignee or transferee acquires eligible  
2 server equipment in a qualifying asset sale under (a)(iv)(B) of this  
3 subsection, the purchaser shall be deemed to purchase the eligible  
4 server equipment pursuant to the transferred certificate.

5 (8) The definitions in this subsection apply throughout this  
6 section unless the context clearly requires otherwise.

7 (a) "Affiliated" means that one person has a direct or indirect  
8 ownership interest of at least (~~twenty~~) 20 percent in another  
9 person.

10 (b) "Building" means a fully enclosed structure with a weather  
11 resistant exterior wall envelope or concrete or masonry walls  
12 designed in accordance with the requirements for structures under  
13 chapter 19.27 RCW. This definition of "building" only applies to  
14 computer data centers for which commencement of construction occurs  
15 on or after July 1, 2015.

16 (c) "Certificate of occupancy" means:

17 (i) For a newly constructed eligible computer data center, the  
18 certificate of occupancy issued by a local governing authority for  
19 the structure or structures which comprise the eligible computer data  
20 center; or

21 (ii) For renovations of an eligible computer data center, the  
22 certificate of occupancy issued by a local governing authority for  
23 the renovated structure or structures that comprise the eligible  
24 computer data center.

25 (d)(i) "Computer data center" means a facility comprised of one  
26 or more buildings, which may be comprised of multiple businesses,  
27 constructed or refurbished specifically, and used primarily, to house  
28 working servers, where the facility has the following  
29 characteristics: (A) Uninterruptible power supplies, generator backup  
30 power, or both; (B) sophisticated fire suppression and prevention  
31 systems; and (C) enhanced physical security, such as: Restricted  
32 access to the facility to selected personnel; permanent security  
33 guards; video camera surveillance; an electronic system requiring  
34 passcodes, keycards, or biometric scans, such as hand scans and  
35 retinal or fingerprint recognition; or similar security features.

36 (ii) For a computer data center comprised of multiple buildings,  
37 each separate building constructed or refurbished specifically, and  
38 used primarily, to house working servers is considered a computer  
39 data center if it has all of the characteristics listed in (d)(i)(A)  
40 through (C) of this subsection (8).

1 (iii) A facility comprised of one building or more than one  
2 building must have a combined square footage of at least (~~one~~  
3 ~~hundred thousand~~) 100,000 square feet.

4 (e) "Electronic data storage and data management services"  
5 include, but are not limited to: Providing data storage and backup  
6 services, providing computer processing power, hosting enterprise  
7 software applications, and hosting websites. The term also includes  
8 providing services such as email, web browsing and searching, media  
9 applications, and other online services, regardless of whether a  
10 charge is made for such services.

11 (f)(i) "Eligible computer data center" means a computer data  
12 center:

13 (A) Located in a rural county as defined in RCW 82.14.370 at the  
14 time an application for an exemption under this section is received;

15 (B) Having at least (~~twenty thousand~~) 20,000 square feet  
16 dedicated to housing working servers; and

17 (C) For which the commencement of construction occurs:

18 (I) After March 31, 2010, and before July 1, 2011;

19 (II) After March 31, 2012, and before July 1, 2015; or

20 (III) After June 30, 2015, and before July 1, 2035.

21 (ii) For purposes of this section, "commencement of construction"  
22 means the date that a building permit is issued under the building  
23 code adopted under RCW 19.27.031 for construction of the computer  
24 data center. The construction of a computer data center includes the  
25 expansion, renovation, or refurbishment of existing facilities  
26 regardless of whether the existing facility was previously ineligible  
27 and regardless of whether commencement of construction of the  
28 existing facility occurred outside of the dates listed in  
29 (f)(i)(C)(I) through (III) of this subsection, including leased or  
30 rented space. "Commencement of construction" does not include soil  
31 testing, site clearing and grading, site preparation, or any other  
32 related activities that are initiated before the issuance of a  
33 building permit for the construction of the foundation of a computer  
34 data center. If no building permit is required for renovation or  
35 refurbishment, then the date that renovation or refurbishment begins  
36 is the "commencement of construction."

37 (g) "Eligible power infrastructure" means all fixtures and  
38 equipment owned by a qualifying business or qualifying tenant and  
39 necessary for the transformation, distribution, or management of  
40 electricity that is required to operate eligible server equipment

1 within an eligible computer data center. The term includes  
2 generators; wiring; cogeneration equipment; and associated fixtures  
3 and equipment, such as electrical switches, batteries, and  
4 distribution, testing, and monitoring equipment. The term does not  
5 include substations.

6 (h) "Eligible server equipment" means:

7 (i) For a qualifying business whose computer data center  
8 qualifies as an eligible computer data center under (f)(i)(C)(I) of  
9 this subsection (8), the original server equipment installed in an  
10 eligible computer data center on or after April 1, 2010, and before  
11 January 1, 2026, and replacement server equipment. For purposes of  
12 this subsection (8)(h)(i), "replacement server equipment" means  
13 server equipment that:

14 (A) Replaces existing server equipment, if the sale or use of the  
15 server equipment to be replaced qualified for an exemption under this  
16 section or RCW 82.12.986; and

17 (B) Is installed and put into regular use before April 1, 2018.

18 (ii) For a qualifying business whose computer data center  
19 qualifies as an eligible computer data center under (f)(i)(C)(II) of  
20 this subsection (8), "eligible server equipment" means the original  
21 server equipment installed in an eligible computer data center on or  
22 after April 1, 2012, and before January 1, 2026, and replacement  
23 server equipment. For purposes of this subsection (8)(h)(ii),  
24 "replacement server equipment" means server equipment that:

25 (A) Replaces existing server equipment, if the sale or use of the  
26 server equipment to be replaced qualified for an exemption under this  
27 section or RCW 82.12.986; and

28 (B) Is installed and put into regular use before April 1, 2024.

29 (iii) For a qualifying business whose computer data center  
30 qualifies as an eligible computer data center under (f)(i)(C)(III) of  
31 this subsection (8), "eligible server equipment" means the original  
32 server equipment installed in a building within an eligible computer  
33 data center on or after July 1, 2015, and replacement server  
34 equipment. Server equipment installed in movable or fixed stand-  
35 alone, prefabricated, or modular units, including intermodal shipping  
36 containers, is not "directly installed in a building." For purposes  
37 of this subsection (8)(h)(iii), "replacement server equipment" means  
38 server equipment that:

1 (A) (I) Replaces existing server equipment, if the sale or use of  
2 the server equipment to be replaced qualified for an exemption under  
3 this section or RCW 82.12.986; or

4 (II) Replaces existing server equipment in a computer data center  
5 that meets the following requirements: Was ineligible before June 9,  
6 2022, for the exemptions provided under this section and RCW  
7 82.12.986; has been refurbished; and to which a valid exemption  
8 certificate applies; and

9 (B) Is installed and put into regular use no later than  
10 (~~twelve~~) 12 years after the date of the certificate of occupancy or  
11 completion of refurbishment of the computer data center.

12 (iv) For a qualifying tenant who leases space within an eligible  
13 computer data center, "eligible server equipment" means the original  
14 server equipment installed within the space it leases from an  
15 eligible computer data center with an exemption certificate on or  
16 after April 1, 2010, and replacement server equipment. For purposes  
17 of this subsection (8) (h) (iv), "replacement server equipment" means  
18 server equipment that:

19 (A) (I) Replaces existing server equipment, if the sale or use of  
20 the server equipment to be replaced qualified for an exemption under  
21 this section or RCW 82.12.986; or

22 (II) Replaces existing server equipment in a computer data center  
23 that meets the following requirements: Was ineligible before June 9,  
24 2022, for the exemptions provided under this section and RCW  
25 82.12.986; has been refurbished; and to which a valid exemption  
26 certificate applies; and

27 (B) Is installed and put into regular use no later than 12 years  
28 after the date of the certificate of occupancy or completion of  
29 refurbishment of the computer data center.

30 (i) "Qualifying business" means a business entity that exists for  
31 the primary purpose of engaging in commercial activity for profit and  
32 that is the owner of an eligible computer data center. The term does  
33 not include the state or federal government or any of their  
34 departments, agencies, and institutions; tribal governments;  
35 political subdivisions of this state; or any municipal, quasi-  
36 municipal, public, or other corporation created by the state or  
37 federal government, tribal government, municipality, or political  
38 subdivision of the state.

39 (j) "Qualifying tenant" means a business entity that exists for  
40 the primary purpose of engaging in commercial activity for profit and



1 that leases space from a qualifying business within an eligible  
2 computer data center. The term does not include the state or federal  
3 government or any of their departments, agencies, and institutions;  
4 tribal governments; political subdivisions of this state; or any  
5 municipal, quasi-municipal, public, or other corporation created by  
6 the state or federal government, tribal government, municipality, or  
7 political subdivision of the state. The term also does not include a  
8 lessee of space in an eligible computer data center under  
9 (f)(i)(C)(I) of this subsection (8), if the lessee and lessor are  
10 affiliated and:

11 (i) That space will be used by the lessee to house server  
12 equipment that replaces server equipment previously installed and  
13 operated in that eligible computer data center by the lessor or  
14 another person affiliated with the lessee; or

15 (ii) Prior to May 2, 2012, the primary use of the server  
16 equipment installed in that eligible computer data center was to  
17 provide electronic data storage and data management services for the  
18 business purposes of either the lessor, persons affiliated with the  
19 lessor, or both.

20 (k)(i) "Refurbished" or "refurbishment" means a substantial  
21 improvement to an eligible computer data center to update or  
22 modernize servers, server space, ventilation, or power infrastructure  
23 in an eligible computer data center.

24 (ii) For a qualifying computer data center to be considered  
25 refurbished, the qualifying business must certify, in a form and  
26 manner prescribed by the department, that the refurbishment of an  
27 eligible computer data center is complete. The refurbishment is  
28 considered complete on the date that the improved portion of the  
29 computer data center is operationally complete and able to be used  
30 for its intended purpose.

31 (l) "Server equipment" means the computer hardware located in an  
32 eligible computer data center and used exclusively to provide  
33 electronic data storage and data management services, including cloud  
34 services, for internal use by the owner or lessee of the computer  
35 data center, for clients of the owner or lessee of the computer data  
36 center, or both. "Server equipment" also includes computer software  
37 necessary to operate the computer hardware. "Server equipment" does  
38 not include personal computers, the racks upon which the server  
39 equipment is installed, and computer peripherals such as keyboards,  
40 monitors, printers, and mice.

1 (9) This section expires July 1, 2048.

2 **Sec. 5.** RCW 43.06.400 and 2013 c 225 s 605 are each amended to  
3 read as follows:

4 (1) Beginning in January (~~(1984)~~) 2029, and in January of every  
5 fourth year thereafter, the department of revenue must submit to the  
6 legislature prior to the regular session a listing of the amount of  
7 reduction for the current and next biennium in the revenues of the  
8 state or the revenues of local government collected by the state as a  
9 result of tax exemptions. The listing must include an estimate of the  
10 revenue lost from the tax exemption, the purpose of the tax  
11 exemption, the persons, organizations, or parts of the population  
12 which benefit from the tax exemption, and whether or not the tax  
13 exemption conflicts with another state program. The listing must  
14 include but not be limited to the following revenue sources:

15 (a) Real and personal property tax exemptions under Title 84 RCW;

16 (b) Business and occupation tax exemptions, deductions, and  
17 credits under chapter 82.04 RCW;

18 (c) Retail sales and use tax exemptions under chapters 82.08,  
19 82.12, and 82.14 RCW;

20 (d) Public utility tax exemptions and deductions under chapter  
21 82.16 RCW;

22 (e) Food fish and shellfish tax exemptions under chapter 82.27  
23 RCW;

24 (f) Leasehold excise tax exemptions under chapter 82.29A RCW;

25 (g) Motor vehicle and special fuel tax exemptions and refunds  
26 under chapter 82.38 RCW;

27 (h) Aircraft fuel tax exemptions under chapter 82.42 RCW;

28 (i) Motor vehicle excise tax exclusions under chapter 82.44 RCW;

29 and

30 (j) Insurance premiums tax exemptions under chapter 48.14 RCW.

31 (2) The department of revenue must prepare the listing required  
32 by this section with the assistance of any other agencies or  
33 departments as may be required.

34 (3) The department of revenue must present the listing to the  
35 ways and means committees of each house in public hearings.

36 (4) Beginning in January (~~(1984)~~) 2029, and every four years  
37 thereafter the governor is requested to review the report from the  
38 department of revenue and may submit recommendations to the  
39 legislature with respect to the repeal or modification of any tax

1 exemption. The ways and means committees of each house and the  
2 appropriate standing committee of each house must hold public  
3 hearings and take appropriate action on the recommendations submitted  
4 by the governor.

5 (5) As used in this section, "tax exemption" means an exemption,  
6 exclusion, or deduction from the base of a tax; a credit against a  
7 tax; a deferral of a tax; or a preferential tax rate.

8 ~~((6) For purposes of the listing due in January 2012, the  
9 department of revenue does not have to prepare or update the listing  
10 with respect to any tax exemption that would not be likely to  
11 increase state revenue if the exemption was repealed or otherwise  
12 eliminated.))~~

13 NEW SECTION. **Sec. 6.** RCW 82.32.805 and 82.32.808 do not apply  
14 to this act.

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