
SENATE BILL 5431

State of Washington

69th Legislature

2025 Regular Session

By Senators Schoesler, Robinson, Dozier, and Nobles

Read first time 01/22/25. Referred to Committee on Ways & Means.

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 36.21.015, 82.08.050, 82.08.986, and 43.06.400; amending
4 2022 c 172 s 3 (uncodified); amending 2017 3rd sp.s. c 37 s 401
5 (uncodified); and creating a new section.

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

7 **Sec. 1.** RCW 36.21.015 and 1991 c 218 s 3 are each amended to
8 read as follows:

9 (1) Any person having the responsibility of valuing real property
10 for purposes of taxation including persons acting as assistants or
11 deputies to a county assessor under RCW 36.21.011 shall have first:

12 (a) Had at least one year of experience in transactions involving
13 real property, in appraisal of real property, or in assessment of
14 real property, or at least one year of experience in a combination of
15 the three;

16 (b) Become knowledgeable in repair and remodeling of buildings
17 and improvement of land, and in the significance of locality and area
18 to the value of real property;

19 (c) Become knowledgeable in the standards for appraising property
20 set forth by the department of revenue; and

1 (d) Met other minimum requirements specified by department of
2 revenue rule.

3 ~~(2) ((The department of revenue shall prepare and administer an
4 examination on subjects related to the valuation of real property.))~~

5 No person shall assess real property for purposes of taxation without
6 having passed ((said)) the international association of assessing
7 officers course 101 examination, or its equivalent as determined by
8 the department of revenue, or having received an examination waiver
9 from the department of revenue upon showing education or experience
10 determined by the department to be equivalent to passing the
11 examination. A person passing said examination or receiving an
12 examination waiver shall be accredited accordingly by the department
13 of revenue.

14 (3) The department of revenue may by rule establish continuing
15 education requirements for persons assessing real property for
16 purposes of taxation. The department shall provide accreditation of
17 completion of requirements imposed under this section. No person
18 shall assess real property for purposes of taxation without complying
19 with requirements imposed under this subsection.

20 (4) To the extent practical, the department of revenue shall
21 coordinate accreditation requirements under this section with the
22 requirements for certified real estate appraisers under chapter
23 18.140 RCW.

24 (5) The examination requirements of subsection (2) of this
25 section shall not apply to any person who shall have either:

26 (a) Been certified as a real property appraiser by the department
27 of personnel prior to July 1, 1992; or

28 (b) Attended and satisfactorily completed the assessor's school
29 operated jointly by the department of revenue and the Washington
30 state assessors association prior to August 9, 1971.

31 **Sec. 2.** 2022 c 172 s 3 (uncodified) is amended to read as
32 follows:

33 (1) This section is the tax preference performance statement for
34 the tax preference contained in section 2, chapter 172, Laws of 2022.
35 This performance statement is only intended to be used for subsequent
36 evaluation of the tax preference. It is not intended to create a
37 private right of action by any party or be used to determine
38 eligibility for preferential tax treatment.

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

4 (3) It is the legislature's specific public policy objective to
5 maintain and grow jobs in the solar silicon industry. Trade disputes
6 currently threaten employment in this sector. It is the legislature's
7 intent to extend by five years the preferential tax rates for
8 manufacturers and wholesalers of specific solar energy material and
9 parts in order to maintain and grow jobs in the solar silicon
10 industry.

11 (4) If a review finds that the number of people employed by the
12 solar silicon industry in Washington is the same or more than in
13 2019, and that at least 60 percent of employees earn \$60,000 a year
14 or more, then the legislature intends to extend the expiration date
15 of the tax preference.

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

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

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

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

31 (3) It is the legislature's specific public policy objective to
32 maintain and grow jobs in the solar silicon industry. Trade disputes
33 currently threaten employment in this sector. It is the legislature's
34 intent to extend by ((ten)) 10 years the preferential tax rates for
35 manufacturers and wholesalers of specific solar energy material and
36 parts in order to maintain and grow jobs in the solar silicon
37 industry.

38 (4) If a review finds that the number of people employed by the
39 solar silicon industry in Washington is the same or more than in

1 2015, and that at least (~~sixty~~) 60 percent of employees earn
2 (~~sixty thousand dollars~~) \$60,000 a year or more, then the
3 legislature intends to extend the expiration date of the tax
4 preference.

5 (5) In order to obtain the data necessary to perform the review
6 in subsection (4) of this section, the joint legislative audit and
7 review committee may refer to the department of revenue's annual
8 (~~survey~~) tax preference report data.

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

11 (1) The tax imposed in this chapter must be paid by the buyer to
12 the seller. Each seller must collect from the buyer the full amount
13 of the tax payable in respect to each taxable sale in accordance with
14 the schedule of collections adopted by the department under the
15 provisions of RCW 82.08.060.

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

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

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

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

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

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

4 (b) Washington provides an exemption certificate that clearly and
5 affirmatively indicates that the claimed exemption is not available
6 in Washington. Graying out exemption reason types on a uniform form
7 and posting it on the department's website is a clear and affirmative
8 indication that the grayed out exemptions are not available.

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

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

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

33 (d) Sellers are relieved from personal liability for the amount
34 of tax if they obtain a copy of a direct pay permit issued under RCW
35 82.32.087.

36 (8) The amount of tax, until paid by the buyer to the seller or
37 to the department, constitutes a debt from the buyer to the seller.
38 Any seller who fails or refuses to collect the tax as required with
39 intent to violate the provisions of this chapter or to gain some
40 advantage or benefit, either direct or indirect, and any buyer who

1 refuses to pay any tax due under this chapter is guilty of a
2 misdemeanor.

3 (9) (a) Except as otherwise provided in this subsection (9), the
4 tax required by this chapter to be collected by the seller must be
5 stated separately from the selling price in any sales invoice or
6 other instrument of sale. (~~On all retail sales through vending~~
7 ~~machines, the tax need not be stated separately from the selling~~
8 ~~price or collected separately from the buyer.~~) Except as otherwise
9 provided in this subsection, for purposes of determining the tax due
10 from the buyer to the seller and from the seller to the department it
11 must be conclusively presumed that the selling price quoted in any
12 price list, sales document, contract or other agreement between the
13 parties does not include the tax imposed by this chapter. But if the
14 seller advertises the price as including the tax or that the seller
15 is paying the tax, the advertised price may not be considered the
16 selling price.

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

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

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

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

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

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

31 (10) Where a buyer has failed to pay to the seller the tax
32 imposed by this chapter and the seller has not paid the amount of the
33 tax to the department, the department may, in its discretion, proceed
34 directly against the buyer for collection of the tax. If the
35 department proceeds directly against the buyer for collection of the
36 tax as authorized in this subsection, the department may add a
37 penalty of (~~ten~~) 10 percent of the unpaid tax to the amount of the
38 tax due for failure of the buyer to pay the tax to the seller,
39 regardless of when the tax may be collected by the department. In
40 addition to the penalty authorized in this subsection, all of the

1 provisions of chapter 82.32 RCW, including those relative to interest
2 and penalties, apply. For the sole purpose of applying the various
3 provisions of chapter 82.32 RCW, the (~~twenty-fifth~~) 25th day of the
4 month following the tax period in which the purchase was made will be
5 considered as the due date of the tax.

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

8 (a) "Exemption certificate" means documentation furnished by a
9 buyer to a seller to claim an exemption from sales tax. An exemption
10 certificate includes a reseller permit or other documentation
11 authorized in RCW 82.04.470 furnished by a buyer to a seller to
12 substantiate a wholesale sale.

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

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

17 **Sec. 5.** RCW 82.08.986 and 2022 c 267 s 3 are each amended to
18 read as follows:

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

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

31 (c) No new exemption certificates may be issued on or after July
32 1, 2036.

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

34 (e) Each calendar year, the department may issue no more than six
35 certificates for data centers which qualify through refurbishment.
36 Certificates are available for refurbished data centers on a first-
37 in-time basis based on the date the application required under this
38 section is received by the department. Each qualifying business may

1 apply for only one certificate for a refurbished data center each
2 calendar year.

3 (2) (a) In order to obtain an exemption certificate under this
4 section, a qualifying business or a qualifying tenant must submit an
5 application to the department for an exemption certificate. The
6 application must include the information necessary, as required by
7 the department, to determine that a business or tenant qualifies for
8 the exemption under this section. The department must issue exemption
9 certificates to qualifying businesses and qualifying tenants. The
10 department may assign a unique identification number to each
11 exemption certificate issued under this section.

12 (b) A qualifying business or a qualifying tenant claiming the
13 exemption under this section must present the seller with an
14 exemption certificate in a form and manner prescribed by the
15 department. The seller must retain a copy of the certificate for the
16 seller's files.

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

27 (d) The exemption certificate is effective on the date the
28 application is received by the department, which is deemed to be the
29 date of issuance. Only purchases on or after the date of issuance
30 qualify for the exemption under this section. No tax refunds are
31 authorized for purchases made before the effective date of the
32 exemption certificate.

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

35 (3) (a) (i) Within six years of the date that the department issued
36 an exemption certificate under this section to a qualifying business
37 or a qualifying tenant with respect to an eligible computer data
38 center, the qualifying business or qualifying tenant must establish
39 that net employment assigned to an eligible computer data center has
40 increased by a minimum of:

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

2 (B) Three family wage employment positions for each (~~twenty~~
3 ~~thousand~~) 20,000 square feet of space or less that is newly
4 dedicated to housing working servers at the eligible computer data
5 center. For qualifying tenants, the number of family wage employment
6 positions that must be increased under this subsection (3)(a)(i)(B)
7 is based only on the space occupied by the qualifying tenant in the
8 eligible computer data center.

9 (ii) After the minimum number of family wage employment positions
10 as required under (a)(i) of this subsection (3) is established, a
11 qualifying business or a qualifying tenant must maintain the minimum
12 family wage employment positions required under (a)(i) of this
13 subsection (3) while the exemption certificate is valid.

14 (b) In calculating the net increase in family wage employment
15 positions:

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

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

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

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

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

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

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

39 (C)(I) In the instance of an existing data center facility that
40 was ineligible, regardless of the date of commencement of

1 construction, that later obtains an exemption certificate under this
2 section, the data center may count the existing employment positions
3 that are dedicated to the data center toward the new family wage
4 employment position requirements if the employment positions meet the
5 requirements of a family wage employment position, as described in
6 (c)(i)(B) and (C) of this subsection (3), other than the requirement
7 that the position did not exist or had not previously been filled as
8 of the date that the department issued an exemption certificate.

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

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

19 (A) For exemption certificates issued before June 9, 2022, family
20 wage employment positions are new permanent employment positions
21 requiring (~~forty~~) 40 hours of weekly work, or their equivalent, on
22 a full-time basis assigned to an eligible computer data center and
23 receiving a wage equivalent to or greater than (~~one hundred fifty~~)
24 150 percent of the per capita personal income of the county in which
25 the qualified project is located as published by the employment
26 security department. The per capita personal income to be used to
27 determine qualification for any year is the amount that was
28 established for the immediate prior year.

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

39 (C) An employment position may not be counted as a family wage
40 employment position unless the employment position is entitled to

1 health insurance coverage provided by the employer of the employment
2 position.

3 (D) "New permanent employment position" means an employment
4 position that did not exist or that had not previously been filled as
5 of the date that the department issued an exemption certificate to
6 the qualifying business or qualifying tenant of an eligible computer
7 data center, as the case may be, except as provided in (b)(ii)(C) of
8 this subsection (3).

9 (ii)(A) Family wage employment positions include positions filled
10 by employees of the qualifying business and by employees of
11 qualifying tenants.

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

20 (d)(i) For a qualifying business or qualifying tenant that does
21 not meet the requirements of this subsection (3), previously exempted
22 sales and use taxes are immediately due and payable and any exemption
23 certificate issued to that qualifying business or qualifying tenant
24 under this section is canceled, except as described in (d)(iii) of
25 this subsection (3).

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

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

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

1 (v) If the department is notified that a qualifying business or
2 qualifying tenant fails to meet the requirements of this subsection
3 (3), the department may require a qualifying business or qualifying
4 tenant to submit records necessary to determine whether the
5 requirements have been met.

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

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

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

13 (ii) Energy star;

14 (iii) Envision;

15 (iv) ISO 50001-energy management;

16 (v) LEED for building design and construction or LEED for
17 operations and maintenance;

18 (vi) Green globes for new construction or green globes for
19 existing buildings;

20 (vii) UL 3223; or

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

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

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

32 (ii) If the department finds that a failure to meet the
33 requirements of this subsection (4) is due to circumstances beyond
34 the control of the qualifying business or qualifying tenant
35 including, but not limited to, a declaration of an economic
36 recession, pandemic, or natural disaster affecting data center
37 operations, the department may, at its discretion, provide exceptions
38 or extensions to the requirements of this subsection (4). The
39 department may, at its discretion, coordinate with agencies with

1 relevant expertise to assist in determining whether the requirements
2 have been met.

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

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

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

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

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

23 (6) A qualifying business or a qualifying tenant claiming an
24 exemption under this section or RCW 82.12.986 must complete an annual
25 tax performance report with the department as required under RCW
26 82.32.534. The report must identify construction firm names and
27 employment levels used for constructing, renovating, refurbishing, or
28 remodeling the data centers.

29 (7)(a) The certificate holder may not at any time assign or
30 transfer a certificate without the prior written consent of the
31 department. The department must allow certificate transfers if the
32 certificate holder meets the following requirements:

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

35 (ii) The assignee or transferee acknowledges the transfer of the
36 certificate in writing;

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

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

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

3 (B) Acquires all or substantially all of the stock or assets of
4 the certificate holder; or

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

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

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

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

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

22 (c) "Certificate of occupancy" means:

23 (i) For a newly constructed eligible computer data center, the
24 certificate of occupancy issued by a local governing authority for
25 the structure or structures which comprise the eligible computer data
26 center; or

27 (ii) For renovations of an eligible computer data center, the
28 certificate of occupancy issued by a local governing authority for
29 the renovated structure or structures that comprise the eligible
30 computer data center.

31 (d)(i) "Computer data center" means a facility comprised of one
32 or more buildings, which may be comprised of multiple businesses,
33 constructed or refurbished specifically, and used primarily, to house
34 working servers, where the facility has the following
35 characteristics: (A) Uninterruptible power supplies, generator backup
36 power, or both; (B) sophisticated fire suppression and prevention
37 systems; and (C) enhanced physical security, such as: Restricted
38 access to the facility to selected personnel; permanent security
39 guards; video camera surveillance; an electronic system requiring

1 passcodes, keycards, or biometric scans, such as hand scans and
2 retinal or fingerprint recognition; or similar security features.

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

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

11 (e) "Electronic data storage and data management services"
12 include, but are not limited to: Providing data storage and backup
13 services, providing computer processing power, hosting enterprise
14 software applications, and hosting websites. The term also includes
15 providing services such as email, web browsing and searching, media
16 applications, and other online services, regardless of whether a
17 charge is made for such services.

18 (f)(i) "Eligible computer data center" means a computer data
19 center:

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

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

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

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

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

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

28 (ii) For purposes of this section, "commencement of construction"
29 means the date that a building permit is issued under the building
30 code adopted under RCW 19.27.031 for construction of the computer
31 data center. The construction of a computer data center includes the
32 expansion, renovation, or refurbishment of existing facilities
33 regardless of whether the existing facility was previously ineligible
34 and regardless of whether commencement of construction of the
35 existing facility occurred outside of the dates listed in
36 (f)(i)(C)(I) through (III) of this subsection, including leased or
37 rented space. "Commencement of construction" does not include soil
38 testing, site clearing and grading, site preparation, or any other
39 related activities that are initiated before the issuance of a
40 building permit for the construction of the foundation of a computer

1 data center. If no building permit is required for renovation or
2 refurbishment, then the date that renovation or refurbishment begins
3 is the "commencement of construction."

4 (g) "Eligible power infrastructure" means all fixtures and
5 equipment owned by a qualifying business or qualifying tenant and
6 necessary for the transformation, distribution, or management of
7 electricity that is required to operate eligible server equipment
8 within an eligible computer data center. The term includes
9 generators; wiring; cogeneration equipment; and associated fixtures
10 and equipment, such as electrical switches, batteries, and
11 distribution, testing, and monitoring equipment. The term does not
12 include substations.

13 (h) "Eligible server equipment" means:

14 (i) For a qualifying business whose computer data center
15 qualifies as an eligible computer data center under (f)(i)(C)(I) of
16 this subsection (8), the original server equipment installed in an
17 eligible computer data center on or after April 1, 2010, and before
18 January 1, 2026, and replacement server equipment. For purposes of
19 this subsection (8)(h)(i), "replacement server equipment" means
20 server equipment that:

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

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

25 (ii) For a qualifying business whose computer data center
26 qualifies as an eligible computer data center under (f)(i)(C)(II) of
27 this subsection (8), "eligible server equipment" means the original
28 server equipment installed in an eligible computer data center on or
29 after April 1, 2012, and before January 1, 2026, and replacement
30 server equipment. For purposes of this subsection (8)(h)(ii),
31 "replacement server equipment" means server equipment that:

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

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

36 (iii) For a qualifying business whose computer data center
37 qualifies as an eligible computer data center under (f)(i)(C)(III) of
38 this subsection (8), "eligible server equipment" means the original
39 server equipment installed in a building within an eligible computer
40 data center on or after July 1, 2015, and replacement server

1 equipment. Server equipment installed in movable or fixed stand-
2 alone, prefabricated, or modular units, including intermodal shipping
3 containers, is not "directly installed in a building." For purposes
4 of this subsection (8)(h)(iii), "replacement server equipment" means
5 server equipment that:

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

9 (II) Replaces existing server equipment in a computer data center
10 that meets the following requirements: Was ineligible before June 9,
11 2022, for the exemptions provided under this section and RCW
12 82.12.986; has been refurbished; and to which a valid exemption
13 certificate applies; and

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

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

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

27 (II) Replaces existing server equipment in a computer data center
28 that meets the following requirements: Was ineligible before June 9,
29 2022, for the exemptions provided under this section and RCW
30 82.12.986; has been refurbished; and to which a valid exemption
31 certificate applies; and

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

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

1 municipal, public, or other corporation created by the state or
2 federal government, tribal government, municipality, or political
3 subdivision of the state.

4 (j) "Qualifying tenant" means a business entity that exists for
5 the primary purpose of engaging in commercial activity for profit and
6 that leases space from a qualifying business within an eligible
7 computer data center. The term does not include the state or federal
8 government or any of their departments, agencies, and institutions;
9 tribal governments; political subdivisions of this state; or any
10 municipal, quasi-municipal, public, or other corporation created by
11 the state or federal government, tribal government, municipality, or
12 political subdivision of the state. The term also does not include a
13 lessee of space in an eligible computer data center under
14 (f)(i)(C)(I) of this subsection (8), if the lessee and lessor are
15 affiliated and:

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

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

25 (k)(i) "Refurbished" or "refurbishment" means a substantial
26 improvement to an eligible computer data center to update or
27 modernize servers, server space, ventilation, or power infrastructure
28 in an eligible computer data center.

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

36 (l) "Server equipment" means the computer hardware located in an
37 eligible computer data center and used exclusively to provide
38 electronic data storage and data management services, including cloud
39 services, for internal use by the owner or lessee of the computer
40 data center, for clients of the owner or lessee of the computer data

1 center, or both. "Server equipment" also includes computer software
2 necessary to operate the computer hardware. "Server equipment" does
3 not include personal computers, the racks upon which the server
4 equipment is installed, and computer peripherals such as keyboards,
5 monitors, printers, and mice.

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

7 **Sec. 6.** RCW 43.06.400 and 2013 c 225 s 605 are each amended to
8 read as follows:

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

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

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

23 (c) Retail sales and use tax exemptions under chapters 82.08,
24 82.12, and 82.14 RCW;

25 (d) Public utility tax exemptions and deductions under chapter
26 82.16 RCW;

27 (e) Food fish and shellfish tax exemptions under chapter 82.27
28 RCW;

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

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

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

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

34 and

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

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

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

3 (4) Beginning in January ((1984)) 2029, and every four years
4 thereafter the governor is requested to review the report from the
5 department of revenue and may submit recommendations to the
6 legislature with respect to the repeal or modification of any tax
7 exemption. The ways and means committees of each house and the
8 appropriate standing committee of each house must hold public
9 hearings and take appropriate action on the recommendations submitted
10 by the governor.

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

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

19 NEW SECTION. **Sec. 7.** RCW 82.32.805 and 82.32.808 do not apply
20 to this act.

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