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**HOUSE BILL 1846**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representatives Berg and Ramel

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1 AN ACT Relating to providing a tax preference for rural and  
2 nonrural data centers; amending RCW 82.08.986 and 82.12.986; adding  
3 new sections to chapter 82.08 RCW; adding a new section to chapter  
4 82.12 RCW; creating new sections; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that data  
7 centers are a cornerstone for strong internet infrastructure that is  
8 critical to the continuing prosperity of Washington's vibrant digital  
9 economy.

10 (2) The legislature further finds that the data center industry  
11 is experiencing explosive growth across the nation and the  
12 competition among states for data center investments has increased  
13 dramatically. A department of commerce study, *2018 State of the Data  
14 Center Industry, An Analysis of Washington's Competitiveness*, found  
15 that data center growth in rural Washington is at the lower end of  
16 the growth rate experienced by other major competitive markets.

17 (3) The legislature recognizes that rural county data center  
18 investments are necessary but insufficient for the state's total  
19 economy and competitiveness. Washington is the only state that  
20 restricts incentives geographically. As a result, data centers  
21 serving urban counties requiring higher performance and that offer

1 colocation services for multiple tenants that foster technology  
2 ecosystems are lost to other states, particularly neighboring Oregon.

3 (4) The legislature further finds that data centers are one of  
4 the most energy-intensive building types, consuming 10 to 50 times  
5 the energy per floor space of a typical commercial office building.  
6 In addition, the legislature finds that it is imperative that the  
7 economic expansion of data centers not result in negative  
8 environmental impacts to the communities in which the data centers  
9 are located. To this end, the legislature encourages data centers to  
10 be good environmental stewards for their community through adopting  
11 practices to mitigate negative environmental impacts of data centers,  
12 such as the use of energy derived from renewable resources,  
13 redirecting waste heat for alternative uses, or other industrial  
14 symbiosis practices.

15 (5) The legislature therefore intends to encourage additional  
16 investments in data technology facilities through expanding and  
17 extending the current sales and use tax exemption for rural county  
18 data centers and establishing a sales and use tax exemption pilot  
19 program for data centers in counties with populations over 800,000,  
20 which will in turn incentivize local economic development, increased  
21 local tax revenues, and construction and trade jobs across Washington  
22 through the development of additional data center facilities.

23 NEW SECTION. **Sec. 2.** (1) This section is the tax preference  
24 performance statement for the tax preferences contained in sections  
25 3, 4, 5, and 6, chapter . . . , Laws of 2022 (sections 3, 4, 5, and 6  
26 of this act). This performance statement is only intended to be used  
27 for subsequent evaluation of the tax preferences. It is not intended  
28 to create a private right of action by any party or be used to  
29 determine eligibility for preferential tax treatment.

30 (2) The legislature categorizes these sales and use tax  
31 exemptions on eligible server equipment and eligible power  
32 infrastructure equipment at eligible computer data centers as ones  
33 intended to: Induce certain designated behavior by taxpayers as  
34 indicated in RCW 82.32.808(2)(a); improve industry competitiveness as  
35 indicated in RCW 82.32.808(2)(b); create or retain jobs as indicated  
36 in RCW 82.32.808(2)(c); and reduce structural inefficiencies in the  
37 tax structure as indicated in RCW 82.32.808(2)(d).

38 (3) It is the legislature's specific public policy objective to:

1 (a) Maintain and grow the existing data center sector in  
2 Washington state, and encourage development of new data center  
3 facilities and refurbishment of existing data centers, thereby  
4 increasing the competitiveness of Washington's tax structure, which  
5 will increase or maintain construction and trade job growth in rural  
6 areas, and increase local tax revenue streams.

7 (b) Improve industry competitiveness and to increase, create, or  
8 retain jobs in computer data centers in counties with a population  
9 over 800,000, as determined by the April 1, 2021, office of financial  
10 management population estimates, thereby increasing family wage jobs.  
11 It is the legislature's intent to establish a pilot program that  
12 would provide a sales and use tax exemption on eligible server  
13 equipment and power infrastructure installed in eligible computer  
14 data centers, charges made for labor and services rendered in respect  
15 to installing eligible server equipment, and for construction,  
16 installation, repair, alteration, or improvement of eligible power  
17 infrastructures in order to increase investment in data center  
18 construction, leasing, and other investment throughout rural counties  
19 and counties with a population over 800,000, as determined by the  
20 April 1, 2021, office of financial management population estimates,  
21 thereby growing employment in the technology industry while adding  
22 real and personal property to state and local property tax rolls,  
23 thereby increasing the county tax base.

24 (4) The legislature intends to extend the expiration date of the  
25 tax preference if a review finds that the tax preference is (a)  
26 generating capital investment in new computer data centers,  
27 refurbished data centers, and existing data centers (e.g.,  
28 replacement server equipment), (b) generating state and local tax  
29 collections from data center investment and operations, and (c)  
30 generating construction and trade jobs in the state. The review must  
31 factor in changing economic conditions.

32 (5) In order to obtain the data necessary to perform the review  
33 in subsection (4) of this section, the joint legislative audit and  
34 review committee may refer to any available data source, including  
35 data available from the department of revenue regarding rural county  
36 property tax assessments and employment data from the employment  
37 security department.

38 **Sec. 3.** RCW 82.08.986 and 2017 c 135 s 26 are each amended to  
39 read as follows:

1 (1)(a) An exemption from the tax imposed by RCW 82.08.020 is  
2 provided for sales to qualifying businesses and to qualifying tenants  
3 of eligible server equipment to be installed, without intervening  
4 use, in an eligible computer data center to which a valid exemption  
5 certificate applies, and to charges made for labor and services  
6 rendered in respect to installing eligible server equipment. (~~Until~~  
7 ~~January 1, 2026, the~~)

8 (b) This exemption also applies to sales to qualifying businesses  
9 and to qualifying tenants of eligible power infrastructure, including  
10 labor and services rendered in respect to constructing, installing,  
11 repairing, altering, or improving eligible power infrastructure at an  
12 eligible computer data center for which an exemption certificate has  
13 been issued.

14 (c) No new exemption certificates may be issued on or after July  
15 1, 2036.

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

17 (e) Each calendar year, the department may issue no more than  
18 four certificates for data centers which qualify through  
19 refurbishment. Certificates are available for refurbished data  
20 centers on a first-in-time basis based on the date the application  
21 required under this section is received by the department. Each  
22 qualifying business may apply for only one certificate for a  
23 refurbished data center each calendar year.

24 (2)(a) In order to (~~claim the exemption~~) obtain an exemption  
25 certificate under this section, a qualifying business or a qualifying  
26 tenant must submit an application to the department for an exemption  
27 certificate. The application must include the information necessary,  
28 as required by the department, to determine that a business or tenant  
29 qualifies for the exemption under this section. The department must  
30 issue exemption certificates to qualifying businesses and qualifying  
31 tenants. The department may assign a unique identification number to  
32 each exemption certificate issued under this section.

33 (b) A qualifying business or a qualifying tenant claiming the  
34 exemption under this section must present the seller with an  
35 exemption certificate in a form and manner prescribed by the  
36 department. The seller must retain a copy of the certificate for the  
37 seller's files.

38 (c) With respect to computer data centers for which the  
39 commencement of construction occurs after July 1, 2015, but before  
40 July 1, 2019, the exemption provided in this section is limited to no

1 more than eight computer data centers, with total eligible data  
2 centers provided under this section limited to twelve from July 1,  
3 2015, through (~~July 1, 2025~~) the effective date of this section.  
4 Tenants of qualified data centers do not constitute additional data  
5 centers under the limit. The exemption is available on a first-in-  
6 time basis based on the date the application required under this  
7 section is received by the department.

8 (d) The exemption certificate is effective on the date the  
9 application is received by the department, which is deemed to be the  
10 date of issuance. Only purchases on or after the date of issuance  
11 qualify for the exemption under this section. No tax refunds are  
12 authorized for purchases made before the effective date of the  
13 exemption certificate.

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

16 (3) (a) Within six years of the date that the department issued an  
17 exemption certificate under this section to a qualifying business or  
18 a qualifying tenant with respect to an eligible computer data center,  
19 the qualifying business or qualifying tenant must establish that net  
20 employment at the eligible computer data center has increased by a  
21 minimum of:

22 (i) Thirty-five family wage employment positions; or, if lower

23 (ii) Three family wage employment positions for each twenty  
24 thousand square feet of space or less that is newly dedicated to  
25 housing working servers at the eligible computer data center. For  
26 qualifying tenants, the number of family wage employment positions  
27 that must be increased under this subsection (3) (a) (ii) is based only  
28 on the space occupied by the qualifying tenant in the eligible  
29 computer data center.

30 (b) In calculating the net increase in family wage employment  
31 positions:

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

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

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

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

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

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

7 (B) The portion of the net increase in family wage employment  
8 positions to be counted under this subsection (3) (b) (ii) by each  
9 qualifying tenant (~~must be in proportion to the amount of space in~~  
10 ~~the eligible computer data center occupied by the qualifying tenant~~  
11 ~~compared to the total amount of space in the eligible computer data~~  
12 ~~center occupied by all qualifying tenants)) is equal to the net  
13 increase in family wage employment positions at the eligible computer  
14 data center as described in (b) (ii) (A) (I) and (II) of this subsection  
15 (3), multiplied by the percentage of total space within the eligible  
16 computer data center occupied by the qualifying tenant. Any  
17 combination of qualifying business and qualifying tenant family wage  
18 employment positions may meet this requirement.~~

19 (C) (I) In the instance of an existing data center facility that  
20 was ineligible, regardless of the date commencement of construction,  
21 that later pursues an exemption certificate under this section, the  
22 data center may count the existing employment positions that are  
23 dedicated to the data center toward the family wage employment  
24 position requirements so long as the employment positions meet the  
25 definition of a family wage employment position.

26 (II) In the instance of the refurbishment of an existing data  
27 center that previously qualified under the data center program, the  
28 data center may count the existing employment positions dedicated to  
29 the data center toward the family wage employment position  
30 requirements so long as they meet the definition of a family wage  
31 employment position.

32 (c) (i) For purposes of this subsection (~~(7)~~):

33 (A) For exemption certificates issued before the effective date  
34 of this section, family wage employment positions are new permanent  
35 employment positions requiring forty hours of weekly work, or their  
36 equivalent, on a full-time basis at the eligible computer data center  
37 and receiving a wage equivalent to or greater than one hundred fifty  
38 percent of the per capita personal income of the county in which the  
39 qualified project is located.

1 (B) For exemption certificates issued on or after the effective  
2 date of this section, family wage employment positions are new  
3 permanent employment positions requiring 40 hours of weekly work, or  
4 their equivalent, on a full-time basis at the eligible computer data  
5 center and receiving a wage equivalent to or greater than 125 percent  
6 of the per capita personal income of the county in which the  
7 qualified project is located.

8 (C) An employment position may not be counted as a family wage  
9 employment position unless the employment position is entitled to  
10 health insurance coverage provided by the employer of the employment  
11 position. (~~For purposes of this subsection (3)(c), "new~~)

12 (D) "New permanent employment position" means an employment  
13 position that did not exist or that had not previously been filled as  
14 of the date that the department issued an exemption certificate to  
15 the (~~owner~~) qualifying business or qualifying tenant of an eligible  
16 computer data center, as the case may be.

17 (ii) (A) Family wage employment positions include positions filled  
18 by employees of the (~~owner of the eligible computer data center~~)  
19 qualifying business and by employees of qualifying tenants.

20 (B) Family wage employment positions also include individuals  
21 performing work at an eligible computer data center as an independent  
22 contractor hired by the owner of the eligible computer data center or  
23 as an employee of an independent contractor hired by the owner of the  
24 eligible computer data center, if the work is necessary for the  
25 operation of the computer data center, such as security and building  
26 maintenance, and provided that all of the requirements in (c)(i) of  
27 this subsection (3) are met.

28 (d) (~~All~~) For a qualifying business or qualifying tenant that  
29 does not meet the requirements of this subsection (3), all previously  
30 exempted sales and use taxes are immediately due and payable (~~for a~~  
31 qualifying business or qualifying tenant that does not meet the  
32 requirements of this subsection) and any exemption certificate  
33 issued to that qualifying business or qualifying tenant under this  
34 section is canceled.

35 (4) (a) For exemption certificates issued on or after the  
36 effective date of this section, qualifying businesses or qualifying  
37 tenants in operation for:

38 (i) At least one year prior to receiving an exemption certificate  
39 under this section must establish, 12 months after the date the  
40 department issued an exemption certificate under this section or RCW

1 82.12.986 and on a schedule determined by the department, that the  
2 energy consumed by the qualifying business or qualifying tenant,  
3 measured on a per working server basis, did not increase from the  
4 time the exemption certificate under this section was issued, for the  
5 purpose of limiting emissions to the community in which the data  
6 center is located.

7 (ii) Less than one year at the time the exemption certificate  
8 under this section was issued must establish, 12 months after the  
9 date the qualifying business or qualifying tenant began operation,  
10 that the energy consumed by the qualifying business or qualifying  
11 tenant, measured on a per working server basis, did not increase  
12 during the time the qualifying business or qualifying tenant is in  
13 operation, for the purpose of limiting emissions to the community in  
14 which the data center is located.

15 (b) The department shall review power consumption data from  
16 qualifying businesses or qualifying tenants in determining whether an  
17 increase in energy consumption occurred as provided in subsection  
18 (a)(i) or (ii) of this subsection (4). The department may require  
19 qualifying businesses and qualifying tenants to submit records  
20 necessary to make a determination under this subsection (4).

21 (c) For a qualifying business or qualifying tenant that does not  
22 meet the requirements of this subsection (4):

23 (i) All previously exempted sales and use taxes are immediately  
24 due and payable;

25 (ii) An additional 10 percent penalty is added to the amounts  
26 described in (c)(i) of this subsection; and

27 (iii) Any exemption certificate issued to that qualifying  
28 business or qualifying tenant under this section is canceled.

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

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

36 (b) To the extent possible, consuming power from renewable  
37 sources;

38 (c) For new data centers, using best practices to design data  
39 centers efficiently, including through accessing the United States



1 department of energy best practices guide for energy efficient data  
2 center design;

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

7 (e) Using reclaimed water for cooling and heat transfer for  
8 alternative uses.

9 (6) A qualifying business or a qualifying tenant claiming an  
10 exemption under this section or RCW 82.12.986 must complete an annual  
11 tax performance report with the department as required under RCW  
12 82.32.534.

13 ~~((5)) (7)(a) ((The exemption provided in this section does not~~  
14 ~~apply to:~~

15 ~~(i) Any person who has received the benefit of the deferral~~  
16 ~~program under chapter 82.60 RCW on: (A) The construction, renovation,~~  
17 ~~or expansion of a structure or structures used as a computer data~~  
18 ~~center; or (B) machinery or equipment used in a computer data center;~~  
19 ~~and~~

20 ~~(ii) Any person affiliated with a person within the scope of~~  
21 ~~(a)(i) of this subsection (5).~~

22 ~~(b) If a person claims an exemption under this section and~~  
23 ~~subsequently receives the benefit of the deferral program under~~  
24 ~~chapter 82.60 RCW on either the construction, renovation, or~~  
25 ~~expansion of a structure or structures used as a computer data center~~  
26 ~~or machinery or equipment used in a computer data center, the person~~  
27 ~~must repay the amount of taxes exempted under this section. Interest~~  
28 ~~as provided in chapter 82.32 RCW applies to amounts due under this~~  
29 ~~section until paid in full.~~

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

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

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

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

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

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

5 (B) Acquires all or substantially all of the stock or assets of  
6 the certificate holder; or

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

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

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

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

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

23 (c) "Certificate of occupancy" means:

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

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

32 (d)(i) "Computer data center" means a facility comprised of one  
33 or more buildings, which may be comprised of multiple businesses,  
34 constructed or refurbished specifically, and used primarily, to house  
35 working servers, where the facility has the following  
36 characteristics: (A) Uninterruptible power supplies, generator backup  
37 power, or both; (B) sophisticated fire suppression and prevention  
38 systems; and (C) enhanced physical security, such as: Restricted  
39 access to the facility to selected personnel; permanent security  
40 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 ~~((e))~~  
7 (d)(i)(A) through (C) of this subsection ((6)) (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 hundred  
10 thousand square feet.

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

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

20 (A) Located in a rural county as defined in RCW 82.14.370;

21 (B) Having at least twenty thousand square feet dedicated to  
22 housing working servers(~~(, where the server space has not previously~~  
23 ~~been 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, ~~((2025))~~ 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 ~~((other improvements made to))~~  
33 refurbishment of existing facilities regardless of whether the  
34 existing facility was previously ineligible and regardless of whether  
35 commencement of construction of the existing facility occurred  
36 outside of the dates listed in (f)(i)(C)(I) through (III) of this  
37 subsection, including leased or rented space. "Commencement of  
38 construction" does not include soil testing, site clearing and  
39 grading, site preparation, or any other related activities that are  
40 initiated before the issuance of a building permit for the

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

5 ~~((iii) With respect to facilities in existence on April 1, 2010,~~  
6 ~~that are expanded, renovated, or otherwise improved after March 31,~~  
7 ~~2010, or facilities in existence on April 1, 2012, that are expanded,~~  
8 ~~renovated, or otherwise improved after March 31, 2012, or facilities~~  
9 ~~in existence on July 1, 2015, that are expanded, renovated, or~~  
10 ~~otherwise improved after June 30, 2015, an eligible computer data~~  
11 ~~center includes only the portion of the computer data center meeting~~  
12 ~~the requirements in (e)(i)(B) of this subsection (6).~~

13 ~~(f))~~ (g) "Eligible power infrastructure" means all fixtures and  
14 equipment owned by a qualifying business or qualifying tenant and  
15 necessary for the transformation, distribution, or management of  
16 electricity that is required to operate eligible server equipment  
17 within an eligible computer data center. The term includes  
18 generators; wiring; cogeneration equipment; and associated fixtures  
19 and equipment, such as electrical switches, batteries, and  
20 distribution, testing, and monitoring equipment. The term does not  
21 include substations.

22 ~~((g))~~ (h) "Eligible server equipment" means:

23 (i) For a qualifying business whose computer data center  
24 qualifies as an eligible computer data center under ~~((e))~~ (f)  
25 (i)(C)(I) of this subsection ~~((6))~~ (8), the original server  
26 equipment installed in an eligible computer data center on or after  
27 April 1, 2010, and before January 1, 2026, and replacement server  
28 equipment. For purposes of this subsection ~~((6)(g))~~ (8)(h)(i),  
29 "replacement server equipment" means server equipment that:

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

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

34 (ii) For a qualifying business whose computer data center  
35 qualifies as an eligible computer data center under ~~((e))~~ (f)  
36 (i)(C)(II) of this subsection ~~((6))~~ (8), "eligible server  
37 equipment" means the original server equipment installed in an  
38 eligible computer data center on or after April 1, 2012, and before  
39 January 1, 2026, and replacement server equipment. For purposes of

1 this subsection ~~((6)(g))~~ (8)(h)(ii), "replacement server equipment"  
2 means server equipment that:

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

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

7 (iii) ~~((A))~~ For a qualifying business whose computer data center  
8 qualifies as an eligible computer data center under ~~((e))~~ (f)  
9 (i)(C)(III) of this subsection ~~((6))~~ (8), "eligible server  
10 equipment" means the original server equipment installed in a  
11 building within an eligible computer data center on or after July 1,  
12 2015, and replacement server equipment. Server equipment installed in  
13 movable or fixed stand-alone, prefabricated, or modular units,  
14 including intermodal shipping containers, is not "directly installed  
15 in a building." For purposes of this subsection ~~((6)(g))~~ (8)(h)  
16 (iii) ~~((A))~~, "replacement server equipment" means server equipment  
17 that ~~((replaces))~~:

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

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

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

29 (iv) For a qualifying tenant who leases space within an eligible  
30 computer data center, "eligible server equipment" means the original  
31 server equipment installed within the space it leases from an  
32 eligible computer data center with an exemption certificate on or  
33 after April 1, 2010, ~~((and before January 1, 2026,))~~ and replacement  
34 server equipment. For purposes of this subsection ~~((6)(g))~~ (8)(h)  
35 (iv), "replacement server equipment" means server equipment that:

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

39 (II) Replaces existing server equipment in a computer data center  
40 that meets the following requirements: Was ineligible before the

1 effective date of this section for the exemptions provided under this  
2 section and RCW 82.12.986; has been refurbished; and to which a valid  
3 exemption certificate applies; and

4 (B) Is installed and put into regular use (~~before April 1, 2024;~~  
5 and

6 ~~(C) For tenants leasing space in an eligible computer data center~~  
7 ~~built after July 1, 2015, is installed and put into regular use no~~  
8 ~~later than twelve years after the date of the certificate of~~  
9 ~~occupancy)) no later than 12 years after the date of the certificate~~

10 of occupancy or completion of refurbishment of the computer data  
11 center.  
12 (~~(h)~~) (i) "Qualifying business" means a business entity that  
13 exists for the primary purpose of engaging in commercial activity for  
14 profit and that is the owner of an eligible computer data center. The  
15 term does not include the state or federal government or any of their  
16 departments, agencies, and institutions; tribal governments;  
17 political subdivisions of this state; or any municipal, quasi-  
18 municipal, public, or other corporation created by the state or  
19 federal government, tribal government, municipality, or political  
20 subdivision of the state.

21 (~~(i)~~) (j) "Qualifying tenant" means a business entity that  
22 exists for the primary purpose of engaging in commercial activity for  
23 profit and that leases space from a qualifying business within an  
24 eligible computer data center. The term does not include the state or  
25 federal government or any of their departments, agencies, and  
26 institutions; tribal governments; political subdivisions of this  
27 state; or any municipal, quasi-municipal, public, or other  
28 corporation created by the state or federal government, tribal  
29 government, municipality, or political subdivision of the state. The  
30 term also does not include a lessee of space in an eligible computer  
31 data center under (~~(e)~~) (f) (i) (C) (I) of this subsection (~~(6)~~)  
32 (8), if the lessee and lessor are affiliated and:

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

37 (ii) Prior to May 2, 2012, the primary use of the server  
38 equipment installed in that eligible computer data center was to  
39 provide electronic data storage and data management services for the

1 business purposes of either the lessor, persons affiliated with the  
2 lessor, or both.

3 ~~((j))~~ (k) (i) "Refurbished" or "refurbishment" means a  
4 substantial improvement to an eligible computer data center to update  
5 or modernize servers, server space, ventilation, or power  
6 infrastructure in an eligible computer data center.

7 (ii) For a qualifying computer data center to be considered  
8 refurbished, the qualifying business must certify, in a form and  
9 manner prescribed by the department, that the refurbishment of an  
10 eligible computer data center is complete. The refurbishment is  
11 considered complete on the date that the improved portion of the  
12 computer data center is operationally complete and able to be used  
13 for its intended purpose.

14 (l) "Server equipment" means the computer hardware located in an  
15 eligible computer data center and used exclusively to provide  
16 electronic data storage and data management services, including cloud  
17 services, for internal use by the owner or lessee of the computer  
18 data center, for clients of the owner or lessee of the computer data  
19 center, or both. "Server equipment" also includes computer software  
20 necessary to operate the computer hardware. "Server equipment" does  
21 not include personal computers, the racks upon which the server  
22 equipment is installed, and computer peripherals such as keyboards,  
23 monitors, printers, and mice.

24 (7) This section expires July 1, 2047.

25 **Sec. 4.** RCW 82.12.986 and 2015 3rd sp.s. c 6 s 303 are each  
26 amended to read as follows:

27 (1) (a) An exemption from the tax imposed by RCW 82.12.020 is  
28 provided for the use by qualifying businesses or qualifying tenants  
29 of eligible server equipment to be installed, without intervening  
30 use, in an eligible computer data center for which an exemption  
31 certificate under RCW 82.08.986 has been issued, and to the use of  
32 labor and services rendered in respect to installing such server  
33 equipment.

34 ~~((The))~~ (b) Until July 1, 2047, this exemption also applies to  
35 the use by a qualifying business or qualifying tenant of eligible  
36 power infrastructure, including labor and services rendered in  
37 respect to installing, repairing, altering, or improving such  
38 infrastructure at an eligible computer data center for which an  
39 exemption certificate under RCW 82.08.986 has been issued.

1 (c) The exemptions provided in this section expire July 1, 2047.

2 (2) A qualifying business or a qualifying tenant is not eligible  
3 for the exemption under this section unless the department issued an  
4 exemption certificate to the qualifying business or a qualifying  
5 tenant for the exemption provided in RCW 82.08.986.

6 ~~(3) ((a) The exemption provided in this section does not apply~~  
7 ~~to:~~

8 ~~(i) Any person who has received the benefit of the deferral~~  
9 ~~program under chapter 82.60 RCW on: (A) The construction, renovation,~~  
10 ~~or expansion of a structure or structures used as a computer data~~  
11 ~~center; or (B) machinery or equipment used in a computer data center;~~  
12 ~~and~~

13 ~~(ii) Any person affiliated with a person within the scope of~~  
14 ~~(a)(i) of this subsection (3).~~

15 ~~(b) If a person has received the benefit of the exemption under~~  
16 ~~this section and subsequently receives the benefit of the deferral~~  
17 ~~program under chapter 82.60 RCW on either the construction,~~  
18 ~~renovation, or expansion of a structure or structures used as a~~  
19 ~~computer data center or machinery or equipment used in a computer~~  
20 ~~data center, the person must repay the amount of taxes exempted under~~  
21 ~~this section. Interest as provided in chapter 82.32 RCW applies to~~  
22 ~~amounts due under this subsection (3)(b) until paid in full. A person~~  
23 ~~is not required to repay taxes under this subsection with respect to~~  
24 ~~property and services for which the person is required to repay taxes~~  
25 ~~under RCW 82.08.986(5).~~

26 ~~(4)) The definitions and requirements in RCW 82.08.986 apply to~~  
27 ~~this section.~~

28 (4) This section expires July 1, 2047.

29 NEW SECTION. Sec. 5. A new section is added to chapter 82.08  
30 RCW to read as follows:

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

37 (b) The exemption also applies to sales to qualifying businesses  
38 and to qualifying tenants of eligible power infrastructure, including  
39 labor, material, equipment, and services rendered in respect to



1 constructing, installing, repairing, altering, or improving eligible  
2 power infrastructure at an eligible computer data center for which an  
3 exemption certificate has been issued.

4 (c) No new exemption certificates may be issued on or after July  
5 1, 2028.

6 (d) The exemptions provided in this section expire July 1, 2038.

7 (2)(a)(i) In order to obtain an exemption, a qualifying business  
8 must be located in a county with a population over 800,000, as  
9 determined by the April 1, 2021, office of financial management  
10 population estimates and must submit an application to the department  
11 for an exemption certificate. The application must include the  
12 information necessary, as required by the department, to determine  
13 that a business or tenant qualifies for the exemption under this  
14 section. The department must issue exemption certificates to  
15 qualifying businesses and qualifying tenants. The department may  
16 assign a unique identification number to each exemption certificate  
17 issued under this section.

18 (ii) For the purposes of demonstrating that the requirements of  
19 this subsection (2)(a) are met, a qualifying business must submit  
20 records of available power for customers at the time of the  
21 application for the exemption under this section. The qualifying  
22 business must demonstrate that it has a minimum of 1.5 megawatts of  
23 available power. The qualifying business must provide requests for  
24 proposals, pricing offered, and marketing materials associated with  
25 the requirements of this subsection, as required by the department,  
26 as supporting documentation that the requirements of this subsection  
27 (2)(a) have been met.

28 (b) A qualifying business or a qualifying tenant claiming the  
29 exemption under this section must present the seller with an  
30 exemption certificate in a form and manner prescribed by the  
31 department. The seller must retain a copy of the certificate for the  
32 seller's files.

33 (c)(i) The exemptions provided in this section are limited to  
34 qualifying businesses or tenants, and the department is authorized to  
35 approve:

36 (A) Two applications to obtain the exemptions for qualifying  
37 businesses in the first calendar year of the exemption; and

38 (B) Two applications to obtain the exemptions for qualifying  
39 businesses in each year, calendar year three through calendar year  
40 six, of the exemption.

1 (ii) The exemption is available on a first-in-time basis based on  
2 the date the application required under this section is received by  
3 the department.

4 (d) The exemption certificate is effective on the date the  
5 application is received by the department, which is deemed to be the  
6 date of issuance. Only purchases on or after the date of issuance  
7 qualify for the exemption under this section. No tax refunds are  
8 authorized for purchases made before the effective date of the  
9 exemption certificate.

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

12 (f) A qualifying tenant must contract for a minimum electrical  
13 capacity of 150 kilowatts for server and computer equipment in a  
14 qualifying business. Tenants that previously qualified under RCW  
15 82.08.986 or 82.12.986 must reapply if they intend to expand into a  
16 qualifying business.

17 (3) (a) Within six years of the date that the department issued an  
18 exemption certificate under this section to a qualifying business or  
19 a qualifying tenant with respect to an eligible computer data center,  
20 the qualifying business or qualifying tenant must establish that net  
21 employment at the eligible computer data center has increased by a  
22 minimum of three family wage employment positions for each  
23 incremental increase of 20,000 square feet of space that is newly  
24 dedicated to housing working servers at the eligible computer data  
25 center. For qualifying tenants, the number of family wage employment  
26 positions that must be increased under this subsection (3) (a) is  
27 based only on the space occupied by the qualifying tenant in the  
28 eligible computer data center.

29 (b) In calculating the number of family wage employment  
30 positions:

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

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

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

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

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

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

5 (B) The portion of the net increase in family wage employment  
6 positions to be counted under this subsection (3)(b)(ii) by each  
7 qualifying tenant is equal to the net increase in family wage  
8 employment positions at the eligible computer data center as  
9 described in (b)(ii)(A)(I) and (II) of this subsection (3),  
10 multiplied by the percentage of total space within the eligible  
11 computer data center occupied by the qualifying tenant. Any  
12 combination of qualifying business and qualifying tenant family wage  
13 employment positions may meet this requirement.

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

15 (A) For exemption certificates issued on or after the effective  
16 date of this section, family wage employment positions are new  
17 permanent employment positions requiring 40 hours of weekly work, or  
18 their equivalent, on a full-time basis at the eligible computer data  
19 center and receiving a wage equivalent to or greater than 125 percent  
20 of the per capita personal income of the county in which the  
21 qualified project is located.

22 (B) An employment position may not be counted as a family wage  
23 employment position unless the employment position is entitled to  
24 health insurance coverage provided by the employer of the employment  
25 position.

26 (C) "New permanent employment position" means an employment  
27 position that did not exist or that had not previously been filled as  
28 of the date that the department issued an exemption certificate to  
29 the qualifying business or qualifying tenant of an eligible computer  
30 data center, as the case may be.

31 (ii)(A) Family wage employment positions include positions filled  
32 by employees of the qualifying business and by employees of  
33 qualifying tenants.

34 (B) Family wage employment positions also include individuals  
35 performing work at an eligible computer data center as an independent  
36 contractor hired by the owner of the eligible computer data center or  
37 as an employee of an independent contractor hired by the owner of the  
38 eligible computer data center, if the work is necessary for the  
39 operation of the computer data center, such as security and building

1 maintenance, and provided that all of the requirements in (c)(i) of  
2 this subsection (3) are met.

3 (d) For a qualifying business or qualifying tenant that does not  
4 meet the requirements of this subsection (3), all previously exempted  
5 sales and use taxes are immediately due and payable and any exemption  
6 certificate issued to that qualifying business or qualifying tenant  
7 under this section is canceled.

8 (4)(a) For exemption certificates issued on or after the  
9 effective date of this section, qualifying businesses or qualifying  
10 tenants in operation for:

11 (i) At least one year prior to receiving an exemption certificate  
12 under this section must establish, 12 months after the date the  
13 department issued an exemption certificate under this section or  
14 section 6 of this act and on a schedule determined by the department,  
15 that the energy consumed by the qualifying business or qualifying  
16 tenant, measured on a per working server basis, did not increase from  
17 the time the exemption certificate under this section was issued, for  
18 the purpose of limiting emissions to the community in which the data  
19 center is located.

20 (ii) Less than one year at the time the exemption certificate  
21 under this section was issued must establish, 12 months after the  
22 date the qualifying business or qualifying tenant began operation,  
23 that the energy consumed by the qualifying business or qualifying  
24 tenant, measured on a per working server basis, did not increase from  
25 the time the qualifying business or qualifying tenant is in  
26 operation, for the purpose of limiting emissions to the community in  
27 which the data center is located.

28 (b) The department shall review power consumption data from  
29 qualifying businesses or qualifying tenants in determining whether an  
30 increase in energy consumption occurred as provided in (a)(i) or (ii)  
31 of this subsection (4). The department may require qualifying  
32 businesses and qualifying tenants to submit records necessary to make  
33 a determination under this subsection (4).

34 (c) For a qualifying business or qualifying tenant that does not  
35 meet the requirements of this subsection (4):

36 (i) All previously exempted sales and use taxes are immediately  
37 due and payable;

38 (ii) An additional 10 percent penalty is added to the amounts  
39 described in (c)(i) of this subsection; and

1 (iii) Any exemption certificate issued to that qualifying  
2 business or qualifying tenant under this section is canceled.

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, consuming power from renewable  
11 sources;

12 (c) For new data centers, using best practices to design data  
13 centers efficiently, including through accessing the United States  
14 department of energy best practices guide for energy efficient data  
15 center design;

16 (d) Adopting practices to improve the energy efficiency of  
17 existing data centers, including through upgrading and consolidating  
18 technology, managing data center airflow, and adjusting and improving  
19 heating, ventilation, and air conditioning systems; and

20 (e) The use of reclaimed water for cooling and heat transfer for  
21 alternative uses.

22 (6) Qualifying businesses and tenants must claim an exemption  
23 under this section in the current tax year when the taxes would have  
24 been due unless an extension is filed with the department.

25 (7) A qualifying business or a qualifying tenant claiming an  
26 exemption under this section must complete an annual tax performance  
27 report as required in RCW 82.32.534.

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

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

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

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

38 (iv) An assignment or transfer of the certificate is to an entity  
39 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) Information submitted on the tax performance report is not  
8 subject to the confidentiality provisions of RCW 82.32.330 and may be  
9 disclosed to the public upon request, except as provided otherwise in  
10 RCW 82.32.330.

11 (9) 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 20 percent in another person.

15 (b) "Building" means a fully enclosed structure with a weather  
16 resistant exterior wall envelope or concrete or masonry walls  
17 designed in accordance with the requirements for structures under  
18 chapter 19.27 RCW.

19 (c) "Certificate of occupancy" means:

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

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

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

39 (ii) For a computer data center comprised of multiple buildings,  
40 each separate building constructed or refurbished specifically, and

1 used primarily, to house working servers is considered a computer  
2 data center if it has all of the characteristics listed in (d)(i)(A)  
3 through (C) of this subsection (9).

4 (iii) A facility comprised of one building or more than one  
5 building must have a combined square footage of at least 100,000  
6 square feet.

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

14 (f) "Eligible computer data center" means a computer data center  
15 having at least 20,000 square feet dedicated for housing working  
16 servers. Movable or fixed stand-alone, prefabricated, or modular  
17 units, including intermodal shipping containers, do not qualify as  
18 "eligible computer data centers."

19 (g) "Eligible power infrastructure" means all fixtures and  
20 equipment owned by a qualifying business or qualifying tenant and  
21 necessary for the transformation, distribution, or management of  
22 electricity that is required to operate eligible server equipment  
23 within an eligible computer data center. The term includes  
24 generators; wiring; cogeneration equipment; and associated fixtures  
25 and equipment, such as electrical switches, batteries, and  
26 distribution, testing, and monitoring equipment. The term does not  
27 include substations.

28 (h)(i) "Eligible server equipment" means for a qualifying  
29 business whose computer data center qualifies as an eligible computer  
30 data center, the original server equipment installed in an eligible  
31 computer data center on or after the effective date of this section,  
32 and replacement server equipment.

33 (ii) For purposes of this subsection (9)(h), "replacement server  
34 equipment" means server equipment that:

35 (A) Replaces existing server equipment, if the sale or use of the  
36 server equipment to be replaced qualified for an exemption under this  
37 section or section 6 of this act; and

38 (B) Is installed and put into regular use within 10 years of the  
39 effective date of this section.

1 (iii) For a qualifying tenant who leases space within an eligible  
2 computer data center, "eligible server equipment" means the original  
3 server equipment installed within the space it leases from an  
4 eligible computer data center with an exemption certificate on or  
5 within 10 years of the effective date of this section, and  
6 replacement server equipment. For purposes of this subsection  
7 (9)(h)(iii), "replacement server equipment" means server equipment  
8 that:

9 (A)(I) Replaces existing server equipment, if the sale or use of  
10 the server equipment to be replaced qualified for an exemption under  
11 this section or section 6 of this act and is installed and put into  
12 regular use before July 1, 2027; or

13 (II) Replaces existing server equipment in a computer data center  
14 that meets the following requirements: Was ineligible before the  
15 effective date of this section for the exemptions provided under this  
16 section and section 6 of this act; has been refurbished; and to which  
17 a valid exemption certificate applies; and

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

21 (i) "Qualifying business" means a business entity that exists for  
22 the primary purpose of engaging in commercial activity for profit and  
23 that is the owner of an eligible computer data center. The term does  
24 not include the state or federal government or any of their  
25 departments, agencies, and institutions; tribal governments;  
26 political subdivisions of this state; or any municipal, quasi-  
27 municipal, public, or other corporation created by the state or  
28 federal government, tribal government, municipality, or political  
29 subdivision of the state.

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

39 (k)(i) "Refurbished" or "refurbishment" means a substantial  
40 improvement to an eligible computer data center for which a



1 certificate of occupancy is not issued. Such an improvement must  
2 update or modernize servers, server space, ventilation, or power  
3 infrastructure in an eligible computer data center.

4 (ii) For a qualifying computer data center to be considered  
5 refurbished, the qualifying business must certify, in a form and  
6 manner prescribed by the department, that the refurbishment of an  
7 eligible computer data center is complete. The refurbishment is  
8 considered complete on the date that the improved portion of the  
9 computer data center is operationally complete and able to be used  
10 for its intended purpose.

11 (1) "Server equipment" means the computer hardware located in an  
12 eligible computer data center and used exclusively to provide  
13 electronic data storage and data management services for internal use  
14 by the owner or lessee of the computer data center, for clients of  
15 the owner. For the purposes of this subsection, "electronic data  
16 storage and data management services" include, but are not limited  
17 to: Providing data storage and backup services, providing computer  
18 processing power, hosting enterprise software applications, and  
19 hosting websites. The term also includes providing services such as  
20 email, web browsing and searching, media applications, and other  
21 online services, regardless of whether a charge is made for such  
22 services. "Server equipment" also includes computer software  
23 necessary to operate the computer hardware. "Server equipment" does  
24 not include personal computers, the racks upon which the server  
25 equipment is installed, and computer peripherals such as keyboards,  
26 monitors, printers, and mice, unless used within the eligible  
27 computer data center.

28 (7) This section expires January 1, 2038.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12  
30 RCW to read as follows:

31 (1) An exemption from the tax imposed by RCW 82.12.020 is  
32 provided for the use by qualifying businesses or qualifying tenants  
33 of eligible server equipment to be installed, without intervening  
34 use, in an eligible computer data center, and to the use of labor and  
35 services rendered in respect to installing such server equipment. The  
36 exemption also applies to the use by a qualifying business or  
37 qualifying tenant of eligible power infrastructure, including labor  
38 and services rendered in respect to installing, repairing, altering,  
39 or improving such infrastructure.

1 (2) The exemption provided in this section does not apply to any  
2 person for whom the exemption under section 5 of this act does not  
3 apply.

4 (3) A qualifying business or a qualifying tenant claiming an  
5 exemption under this section must complete an annual tax performance  
6 report as required in RCW 82.32.534.

7 (4) The definitions and requirements in section 5 of this act  
8 apply to this section.

9 (5) This section expires January 1, 2038.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08  
11 RCW to read as follows:

12 From the effective date of this section, in order to obtain the  
13 exemption provided in RCW 82.08.986 or section 5 of this act, a  
14 qualifying business or qualifying tenant must certify to the  
15 department that the computer data center receiving an exemption under  
16 RCW 82.08.986 or section 5 of this act is developed in a way that  
17 includes community workforce agreements or project labor agreements  
18 and the payment of area standard prevailing wages and apprenticeship  
19 utilization requirements, provided the following apply:

20 (1) The owner and the prime contractor and all of its  
21 subcontractors regardless of tier have the absolute right to select  
22 any qualified and responsible bidder for the award of contracts on a  
23 specified project without reference to the existence or nonexistence  
24 of any agreements between such bidder and any party to such project  
25 labor agreement, and only when such bidder is willing, ready, and  
26 able to become a party to, signs a letter of assent, and complies  
27 with such agreement or agreements, should it be designated the  
28 successful bidder; and

29 (2) It is understood that this is a self-contained, stand-alone  
30 agreement, and that by virtue of having become bound to such  
31 agreement or agreements, neither the project contractor nor the  
32 subcontractors are obligated to sign any other local, area, or  
33 national agreement.

--- END ---