

**DEPARTMENT OF TAXATION
2025 Fiscal Impact Statement**

1. **Patron** R. Creigh Deeds
3. **Committee** Senate Finance and Appropriations
4. **Title** Sales and use tax exemption; Data centers

2. **Bill Number** SB 1196
House of Origin:
 X **Introduced**
 Substitute
 Engrossed
- Second House:**
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would require data centers to meet certain energy efficiency standards in order to be eligible for the Retail Sales and Use Tax (“RSUT”) exemption for qualifying data center purchases. A data center would be eligible for the exemption only if the operator demonstrates that:

- Its facilities either:
 - Have a power usage effectiveness score of no greater than 1.2, or
 - For data centers co-located in buildings with other commercial uses that make up more than 20 percent of the square footage of the building, achieve an energy efficiency level of no less than the most efficient 15 percent of similar buildings constructed in the previous five years, and
- By January 1, 2028, it will procure carbon-free renewable energy and associated renewable energy certificates from facilities equal to 90 percent of its electricity requirements or that its electricity will be otherwise derived from non-carbon-emitting, renewable sources.

Under current law, qualification for the exemption is not contingent on the data center meeting energy efficiency standards.

If enacted during the regular session of the 2025 General Assembly, this bill would become effective July 1, 2025.

6. **Budget amendment necessary:** Yes.
Item 113: Virginia Economic Development Partnership

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2025-26	\$250,000	2 FTE	GF
2026-27	\$250,000	2 FTE	GF
2027-28	\$250,000	2 FTE	GF
2028-29	\$250,000	2 FTE	GF
2029-30	\$250,000	2 FTE	GF
2030-31	\$250,000	2 FTE	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation considers implementation of this bill to be routine and does not require additional funding. The Virginia Economic Development Partnership (“VEDP”) estimates that it would need two additional full time employees at a cost of \$250,000 (including benefits) annually to monitor data centers’ compliance with the requirements established by this bill.

Revenue Impact

As it is unknown whether any data centers currently meet the energy usage requirements mandated by this bill or would be able to meet them going forward, the impact of this bill on the cost to the Commonwealth of the data center exemption is unknown. To the extent that data centers are unable to meet this bill’s energy usage requirements, this bill could result in a substantial unknown positive revenue impact.

Based upon data provided to VEDP by data centers, the estimated cost of this program to the Commonwealth is as follows:

Fiscal Year	Aggregate Reported Exempt Equipment and Software Investment	Aggregate Estimated Cost to the Commonwealth Based Upon Reported Data
2022	\$9.4 billion	\$674 million
2023	\$15.6 billion	\$904 million

The aggregate estimated cost to the Commonwealth reflects the total negative revenue impact to the Commonwealth, including the General Fund, non-General Fund, and local revenue impact. Please note that these estimated costs are based upon data that was self-reported by data center operators and cannot be independently validated. In addition, certain companies did not report the requested information and, as a result, the actual impact could be higher.

Therefore, to the extent that data centers are unable to comply with the energy usage requirements of this bill, the aggregate cost of the data center exemption to the Commonwealth would be reduced, resulting in a positive revenue impact. The extent of such positive revenue impact, if any, is unknown.

9. Specific agency or political subdivisions affected:

Virginia Economic Development Partnership Authority
Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Background

Virginia Code § 58.1-609.3 (18) provides an exemption for data center operators and their tenants from the RSUT for computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of such exempt equipment, provided that such computer equipment or enabling software is purchased or leased for use in a data center that is located in a Virginia locality, and the data center operator has entered into a memorandum of understanding (“MOU”) with VEDP setting forth minimum capital investment and new job creation requirements associated with the operation or maintenance of the data center. The exemption does not apply to any computer software, otherwise taxable under Chapter 6 of Title 58.1 of the *Virginia Code*, sold separately from the computer equipment, nor does it apply to general building improvements or fixtures.

The exemption is available for data centers that:

- Make a new capital investment on or after January 1, 2009, of at least \$150 million; and,
- Result in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality.

The requirement of at least 50 new jobs is reduced to 10 new jobs if the data center is located in a distressed locality at the time of the execution of a memorandum of understanding with VEDP. Additionally, the requirement of a \$150 million capital investment is reduced to \$70 million for data centers that qualify for the reduced jobs requirement.

The exemption is scheduled to sunset June 30, 2035. The exemption, however, is extended to 2040 for a data center operator that on or after January 1, 2023, but before July 1, 2035:

- Makes a capital investment of at least \$35 billion in data centers in the Commonwealth;
- Creates at least 1,000 new full-time jobs; and
- Of the 1,000 new jobs, at least 100 of such jobs shall pay at least one and a half times the prevailing average wage in the Commonwealth.

The data center operator is eligible for further extension to 2050, if such operator on or after January 1, 2023, but before July 1, 2040:

- Makes a total capital investment of at least \$100 billion, inclusive of the initial \$35 billion investment;
- Creates a total of at least 2,500 direct new jobs; and
- Of the 2,500 new jobs, at least 100 of such jobs shall pay at least one and a half times the prevailing average wage in the Commonwealth.

Proposal

This bill would require data centers to meet certain energy efficiency standards in order to be eligible for the data center exemption. A data center would be eligible for the exemption only if the operator demonstrates that:

- Its facilities either:
 - Have a power usage effectiveness score of no greater than 1.2, or
 - For data centers co-located in buildings with other commercial uses that make up more than 20 percent of the square footage of the building, achieve an energy efficiency level of no less than the most efficient 15 percent of similar buildings constructed in the previous five years, and
- By January 1, 2028, it will procure carbon-free renewable energy and associated renewable energy certificates from facilities equal to 90 percent of its electricity requirements or that its electricity will be otherwise derived from non-carbon-emitting, renewable sources.

The bill would require VEDP to establish guidelines for calculating the power usage effectiveness (“PUE”) score and determining analogous buildings for comparison. PUE is a ratio that describes how efficiently a computer data center uses energy; specifically, how much energy is used by the computing equipment (in contrast to cooling and other overhead that supports the equipment). In no case would a qualifying data center be allowed to use diesel fuel for on-site power generation after December 31, 2030.

The data center’s memorandum of understanding with VEDP, or any renewal if an MOU is already in place, would be required to include the data center operator’s method of demonstrating compliance with these energy procurement and use requirements.

If enacted during the regular session of the 2025 General Assembly, this bill would become effective July 1, 2025.

Similar Legislation

House Bill 2428 would include “digital asset mining business activities” within the definition of “data center” for purposes of what constitutes computer equipment and

peripherals used in a data center that is treated as a separate class of tangible personal property for rate purposes. Localities have the option to assign a rate of tax or rate of assessment to this class different from, but not higher than, the rate applicable to the general class of tangible personal property.

House Bill 2685 would provide that, between July 1, 2025 and July 1, 2030, the retail sales and use tax exemption for computer equipment or enabling software purchased or leased for use in a data center shall not apply for such equipment if it is purchased or leased for use in a data center that is constructed after July 1, 2025, in Planning District 8.

House Bill 2715 would require data center operators to meet certain wage rate standards in order to be eligible for the sales and use tax exemption for data center purchases.

House Bill 2578 would require a data center operator, in order to be eligible for the existing data center sales and use tax exemption to (i) beginning July 1, 2030, purchase a certain percentage of the data center's annual electric load from clean energy resources, (ii) beginning July 1, 2030, demonstrate sufficient investment in energy efficiency measures to provide system-wide benefits, and (iii) beginning July 1, 2027, use only backup generators that meet certain emissions standards.

Senate Bill 1425 would provide for a sunset of the data center retail sales and use tax exemption on and after July 1, 2025. The bill would require the revenues generated by the expiration of the exemption be distributed for school construction and road and bridge construction.

cc : Secretary of Finance

Date: 01/20/2025 VB
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