

DEPARTMENT OF TAXATION

2025 Fiscal Impact Statement

1. **Patron** Ian T. Lovejoy

3. **Committee** House Finance

4. **Title** Retail sales and use tax; Commercial and industrial exemptions; Data centers.

2. **Bill Number** HB 2685

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide that, between July 1, 2025 and July 1, 2030, the retail sales and use tax exemption available to data centers would not apply to data centers that are constructed after July 1, 2025, in Planning District 8.

Under current law, data centers are eligible to purchase 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 exempt from sales and use tax.

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

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill to be routine and would not require additional funding.

Revenue Impact

This bill would have an unknown impact on state and local revenues.

9. **Specific agency or political subdivisions affected:**

Department of Taxation

Counties of Arlington, Fairfax, Loudoun, and Prince William

Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park

10. Technical amendment necessary: Yes.

The Department of Taxation recommends clarifying the use of the term “constructed” on Line 174 of Page 3. It is unclear whether “constructed” as used in the Introduced bill would require a data center to be fully constructed and operational or to have simply begun the construction process. Since data centers typically take multiple years to complete construction, a clarification of this requirement may assist with implementation of the bill.

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.

Planning District 8

Planning District 8 is comprised of the Northern Virginia localities of the Counties of Arlington, Fairfax, Loudoun, and Prince William, the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the Towns of Dumfries, Herndon, Leesburg, Vienna.

Current data indicates that 429 of Virginia's 488 data centers, or 87.9%, are located in Northern Virginia localities. Data collected for 2024 also indicates that Northern Virginia housed 46.5% of the nation's data centers in total.

Proposal

This bill would provide that, between July 1, 2025 and July 1, 2030, the retail sales and use tax exemption available to data centers would not apply to data centers that are constructed after July 1, 2025, in Planning District 8.

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 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.

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.

Senate Bill 1196 would require data centers to meet certain energy efficiency standards in order to be eligible for the RSUT exemption for qualifying data center purchases.

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: 01/26/2025 VB
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