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1 **HOUSE BILL NO. 897**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact § 58.1-609.3 of the Code of Virginia, relating to retail sales and use tax;*
5 *exemption for data centers.*

6 Patron—Sullivan

7 Committee Referral Pending

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 58.1-609.3 of the Code of Virginia is amended and reenacted as follows:**10 **§ 58.1-609.3. Commercial and industrial exemptions.**11 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not
12 apply to the following:13 1. Personal property purchased by a contractor which is used solely in another state or in a foreign
14 country, which could be purchased by such contractor for such use free from sales tax in such other state or
15 foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.16 2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of
17 tangible personal property for resale where such industrial materials either enter into the production of or
18 become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated
19 into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii)
20 machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used
21 directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv)
22 materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal
23 property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication
24 described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at
25 no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if
26 the preponderance of their use is directly in processing, manufacturing, refining, mining or converting
27 products for sale or resale. The provisions of this subsection do not apply to the drilling or extraction of oil,
28 gas, natural gas and coalbed methane gas. In addition, the exemption provided herein shall not be applicable
29 to any machinery, tools, and equipment, or any other tangible personal property used by a public service
30 corporation in the generation of electric power, except for raw materials that are inputs to production of
31 electricity, including fuel, or for machinery, tools, and equipment used to generate energy derived from
32 sunlight or wind. The exemption for machinery, tools, and equipment used to generate energy derived from
33 sunlight or wind shall expire June 30, 2027.34 3. Tangible personal property sold or leased to a public service corporation engaged in business as a
35 common carrier of property or passengers by railway, for use or consumption by such common carrier
36 directly in the rendition of its public service.37 4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in
38 interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the
39 high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the
40 United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth
41 and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property
42 used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This
43 exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use
44 or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or
45 foreign commerce.46 5. Tangible personal property purchased for use or consumption directly and exclusively in basic research
47 or research and development in the experimental or laboratory sense.48 6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property sold
49 or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing
50 scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use
51 or consumption by such airline directly in the rendition of its common carrier service.

52 7. Meals furnished by restaurants or food service operators to employees as a part of wages.

53 8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and
54 supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an
55 industrial processor engaged in the commercial leasing or renting of laundered textile products.

56 9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment

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59 that has not been certified to the Department of Taxation by a state certifying authority or subdivision
60 certifying authority pursuant to such section.

61 10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption
62 directly in the rendition of their services.

63 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000
64 impressions or more per hour purchased or leased by persons engaged primarily in the printing or
65 photocopying of products for sale or resale.

66 12. From July 1, 1994, and ending July 1, 2024, raw materials, fuel, power, energy, supplies, machinery
67 or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, or processing
68 of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural
69 gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.2-1600. For the purposes
70 of this section, "drilling," "extraction," and "processing" shall include production, inspection, testing,
71 dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial
72 practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted
73 into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements
74 thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or
75 processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or
76 federal law.

77 13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or
78 suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind
79 possessing space flight capability, including the components thereof, irrespective of whether such facility,
80 system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or
81 consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage,
82 consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital
83 space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of
84 whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or
85 consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted
86 for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to
87 conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and
88 equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods
89 and services provided to operate and maintain launch facilities, launch equipment, payload processing
90 facilities and payload processing equipment used to conduct spaceport activities.

91 For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility
92 owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

93 The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or
94 cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle,
95 satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

96 14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal
97 property used primarily in the integrated process of designing, developing, manufacturing, or testing a
98 semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment
99 without regard to whether the property is actually contained in or used in a cleanroom environment, touches
100 the product, is used before or after production, or is affixed to or incorporated into real estate.

101 15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

102 16. Railroad rolling stock when sold or leased by the manufacturer thereof.

103 17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a
104 Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November
105 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers,
106 routers, connections, and other enabling hardware when part of a new investment of at least \$75 million in
107 such exempt property, when such investment results in the creation of at least 100 new jobs paying at least
108 twice the prevailing average wage in that locality, so long as such investment was made in accordance with a
109 memorandum of understanding with the Virginia Economic Development Partnership Authority entered into
110 or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such
111 computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or
112 leased in the initial investment. The exemption shall not apply to any computer software sold separately from
113 the computer equipment, nor shall it apply to general building improvements or fixtures.

114 18. a. Beginning July 1, 2010, and ending June 30, 2035, except as provided in subdivision *b or 19*,
115 computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or
116 communication of data, including ~~but not limited to~~ servers, routers, connections, and other enabling
117 hardware, including chillers and backup generators used or to be used in the operation of the equipment
118 exempted in this paragraph, provided that such computer equipment or enabling software is purchased or
119 leased for use in a data center, which includes any data center facilities located in the same locality as the data
120 center that are under common ownership or affiliation of the data center operator, that (i) is located in a

121 Virginia locality; (ii) results in a new capital investment on or after January 1, 2009, of at least \$150 million;
 122 and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and
 123 the tenants of the data center, collectively, associated with the operation or maintenance of the data center
 124 provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The
 125 requirement of at least 50 new jobs is reduced to 10 new jobs if the data center is located in a distressed
 126 locality at the time of the execution of a memorandum of understanding with the Virginia Economic
 127 Development Partnership Authority. Additionally, the requirement of a \$150 million capital investment shall
 128 be reduced to \$70 million for data centers that qualify for the reduced jobs requirement.

129 This exemption applies to the data center operator and the tenants of the data center if they collectively
 130 meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming
 131 the exemption, including a data center operator on behalf of itself and its tenants, must enter into a
 132 memorandum of understanding with the Virginia Economic Development Partnership Authority that at a
 133 minimum provides the details for determining the amount of capital investment made and the number of new
 134 jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations
 135 should those goals not be achieved, and any conditions under which repayment by the qualifying data center
 136 or data center tenant claiming the exemption may be required. *Such memorandum of understanding shall*
 137 *include or, if already in effect prior to July 1, 2026, shall be amended to include the data center operator's*
 138 *method of demonstrating compliance with the requirements of subdivision d.* In addition, the exemption shall
 139 apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or
 140 replace computer equipment or enabling software purchased or leased in the initial investment. The
 141 exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1
 142 that is sold or leased separately from the computer equipment, nor shall it apply to general building
 143 improvements or other fixtures.

144 b. *A data center operator and the tenants of the data center shall only qualify for this exemption if in*
 145 *addition to meeting all other requirements of this subdivision 18, the data center operator and any such*
 146 *tenants:*

147 (1) *Beginning July 1, 2027, do not use co-located generating facilities that emit carbon dioxide, other*
 148 *than backup generators;*

149 (2) *Beginning July 1, 2029, contract for energy, capacity, and renewable energy certificates (RECs) from*
 150 *clean energy resources to serve the data center in percentages equal to or greater than the annual*
 151 *percentage that applies to the incumbent utility under subsection C of § 56-585.5, except that the data center*
 152 *operator's or tenants' minimum annual clean energy procurement obligations shall be accelerated by 10*
 153 *years relative to the incumbent electric utility's annual requirement. If the data center is not located within*
 154 *the certificated service territory of a Phase I or Phase II Utility, as those terms are defined in subdivision A 1*
 155 *of § 56-585.1, the data center's annual clean energy procurement percentage shall be accelerated by 10*
 156 *years relative to the percentage applicable to a Phase I Utility under subsection C of § 56-585.5.*

157 Evidence of compliance with the annual clean energy procurement obligation described in this
 158 subdivision shall be established by either (i) a certification from the State Corporation Commission that the
 159 data center operator or its tenants are an accelerated renewable buyer that purchases energy, capacity, and
 160 RECs in sufficient quantity to satisfy the requirement identified in this subdivision or (ii) contracts or other
 161 service agreements, redacted as may be necessary to protect commercially sensitive information, that
 162 establish the data center operator or its tenants as participating in a voluntary tariff program, approved by
 163 the State Corporation Commission, to facilitate large customer procurement of carbon-free and renewable
 164 energy generation in a manner that does not impose additional costs on other customers, including ring-
 165 fenced, utility-owned resources and sleeved third-party power purchase agreements, to satisfy the percentage
 166 requirement identified above;

167 (3) *Except as provided in this subdivision 3, utilize only non-carbon dioxide-emitting backup power*
 168 *sources, such as energy storage resources. For a data center operator or its tenants that use carbon dioxide-*
 169 *emitting backup power sources for some or all of their backup power supply, the exemption shall only be*
 170 *available (i) through January 1, 2035, if such operator or tenants took initial service prior to July 1, 2026,*
 171 *only use carbon dioxide-emitting backup power sources during declared grid emergencies and required*
 172 *testing and maintenance, and have either installed a selective catalytic reduction system on at least one-third*
 173 *of such power generators or at least one-third of such generators meet or exceed the U.S. Environmental*
 174 *Protection Agency's Tier 4 emissions standards by July 1, 2031, or (ii) if such operator or tenants take initial*
 175 *service on or after July 1, 2026, only use carbon dioxide-emitting backup power sources during declared grid*
 176 *emergencies and required testing and maintenance, and utilize non-carbon dioxide-emitting power sources*
 177 *as their primary backup power source for at least one-third of their contracted demand by January 1, 2030,*
 178 *and 100 percent of their contracted demand by January 1, 2035. The Department may provide an extension*
 179 *of the deadlines set forth in clauses (i) and (ii) if, in its sole discretion, it finds that the data center operator*
 180 *or tenants have taken reasonable efforts to comply with such requirements but require additional time due to*
 181 *supply chain constraints beyond the data center operator's or tenants' control; and*

182 (4) *Beginning July 1, 2030, have demonstrated sufficient investment in environmental management and*

183 *energy efficiency measures to provide system-wide benefits. A data center operator shall be considered to*
184 *have demonstrated sufficient investment in environmental management and energy efficiency measures to*
185 *provide system-wide benefits if the data center has attained a certification under the International*
186 *Organization for Standardization's ISO 14001, environmental management, and one of the following*
187 *sustainable design or green building standards: (i) Building Research Establishment Environmental*
188 *Assessment Methodology (BREEAM) for new construction or in BREEAM In-Use; (ii) Energy Star; (iii)*
189 *Envision; (iv) ISO 50001, energy management; (v) Leadership in Energy and Environmental Design (LEED)*
190 *for building design and construction or LEED for operations and maintenance; (vi) Green Globes for new*
191 *construction or Green Globes for existing buildings; or (vii) any other reasonable standards approved by the*
192 *Department.*

193 c. For purposes of this subdivision 18, "~~distressed~~:

194 "*Clean energy resources*" means electric generating facilities that are located in the Commonwealth or
195 are physically located within the PJM Interconnection, LLC region, that do not emit carbon dioxide as a
196 byproduct of combusting fuel or manufacturing fuel for combustion to generate electricity, do not include
197 electric generating units utilizing carbon capture and sequestration facilities, and were not in operation prior
198 to July 1, 2020.

199 "*Distressed locality*" means:

200 (1) From July 1, 2021, until July 1, 2023, any locality that had (i) an annual unemployment rate for
201 calendar year 2019 that was greater than the final statewide average unemployment rate for that calendar year
202 and (ii) a poverty rate for calendar year 2019 that exceeded the statewide average poverty rate for that year;
203 and

204 (2) From and after July 1, 2023, any locality that has (i) an annual unemployment rate for the most recent
205 calendar year for which such data is available that is greater than the final statewide average unemployment
206 rate for that calendar year and (ii) a poverty rate for the most recent calendar year for which such data is
207 available that exceeds the statewide average poverty rate for that year.

208 e. d. For so long as a data center operator is claiming an exemption pursuant to this subdivision 18, such
209 operator shall be required to submit an annual report to the Virginia Economic Development Partnership
210 Authority on behalf of itself and, if applicable, its participating tenants that includes their employment levels,
211 capital investments, average annual wages, qualifying expenses, and tax benefit, and such other information
212 as the Virginia Economic Development Partnership Authority determines is relevant, pursuant to procedures
213 developed by the Virginia Economic Development Partnership Authority. The annual report shall be
214 submitted by the data center operator in a format prescribed by the Virginia Economic Development
215 Partnership Authority. The Virginia Economic Development Partnership Authority shall share all information
216 collected with the Department.

217 The Department, in collaboration with the Virginia Economic Development Partnership Authority, shall
218 publish a biennial report on the exemption that shall include aggregate information on qualifying expenses
219 claimed under this exemption, the total value of the tax benefit, a return on investment analysis that includes
220 direct and indirect jobs created by data center investment, state and local tax revenues generated, and any
221 other information the Department and the Virginia Economic Development Partnership Authority deem
222 appropriate to demonstrate the costs and benefits of the exemption. The report shall not include, and the
223 Department and the Virginia Economic Development Partnership Authority shall not publish or disclose, any
224 such information if it is unaggregated or if such report or publication could be used to identify a business or
225 individual. The Department shall submit the report to the Chairmen of the Senate Committee on Finance and
226 Appropriations and the House Committees on Appropriations and Finance. The Virginia Economic
227 Development Partnership Authority may publish on its website and distribute annual information indicating
228 the job creation and ranges of capital investments made by a data center operator and, if applicable, its
229 participating tenants, in a format to be developed in consultation with data center operators.

230 19. a. Notwithstanding any provision of subdivision 18 to the contrary, the exemption set forth in
231 subdivision 18 may be extended for the purchase or lease of computer equipment or enabling software by or
232 on behalf of data center operators for use in data centers in the Commonwealth that are under common
233 ownership or affiliation with the data center operator as set forth in this subdivision 19. For purposes of this
234 subdivision 19, a data center operator shall be considered to own a data center if it is operated on behalf of
235 the data center operator pursuant to a long-term lease of at least ten years.

236 b. To qualify for an extension pursuant to this subdivision 19, a data center operator shall enter into a
237 memorandum of understanding with the Virginia Economic Development Partnership Authority on or after
238 January 1, 2023, that at a minimum provides the details for determining the amount of capital investment
239 made and the number of new jobs created; the locality or localities in which the capital investment shall be
240 made and new jobs shall be created in order to qualify for the extension; and the timeline for making the
241 capital investment and creating the new jobs in each specified locality. *Such memorandum of understanding*
242 *shall include or, if already in effect prior to July 1, 2026, shall be amended to include the data center*
243 *operator's method of demonstrating compliance with the requirements of subdivision 18 b.* A data center
244 operator shall only be required to enter into one memorandum of understanding pursuant to this subdivision

245 19 in order to qualify for the extension pursuant to both subdivisions c and d.

246 c. If on or after January 1, 2023, but before July 1, 2035, a data center operator that has entered into a
 247 memorandum of understanding pursuant to subdivision b (i) makes or causes to be made a capital investment
 248 of at least \$35 billion in data centers in localities identified in a memorandum of understanding and (ii)
 249 creates at least 1,000 new full-time jobs, as defined in § 59.1-284.42, at such data centers, of which at least
 250 100 of such jobs shall pay at least one and one-half times the prevailing average wage in the Commonwealth,
 251 the data center operator shall be eligible to continue to utilize the exemption set forth in subdivision 18
 252 through June 30, 2040.

253 d. If on or after January 1, 2023, but before July 1, 2040, a data center operator that has entered into a
 254 memorandum of understanding pursuant to subdivision b (i) makes a total capital investment of at least \$100
 255 billion, inclusive of any investment made pursuant to subdivision c, in data centers in the localities identified
 256 in such memorandum of understanding and (ii) creates a total of at least 2,500 new full-time jobs, as defined
 257 in § 59.1-284.42, at such data centers, of which at least 100 of such jobs shall pay at least one and one-half
 258 times the prevailing average wage in the Commonwealth, inclusive of any new full-time jobs created
 259 pursuant to subdivision c, the data center operator shall be eligible to utilize the exemption set forth in
 260 subdivision 18 through June 30, 2050.

261 e. The extension provided in this subdivision 19 shall apply to the computer equipment or enabling
 262 software purchased or leased for use in the data centers subject to the capital investment and job requirements
 263 set forth herein, as well as to any such computer equipment or enabling software purchased or leased to
 264 upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial
 265 investment. The extension shall also apply to any computer equipment or software purchased or leased in
 266 data centers under common ownership or affiliation with the data center operator for which the data center
 267 operator entered into a memorandum of understanding with the Virginia Economic Development Partnership
 268 Authority to qualify for the exemption set forth in subdivision 18.

269 f. The reporting requirements set forth in subdivision 18 and any requirement set forth in subdivision 18 b
 270 shall continue to apply to a data center operator for the duration of any extension granted pursuant to this
 271 subdivision 19.

272 20. If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to
 273 subdivision 3 or 4 of § 4.1-206.1, (i) machinery, tools, and equipment, or repair parts therefor or replacements
 274 thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion
 275 into beer where such materials either enter into the production of or become a component part of the beer;
 276 and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future
 277 use, for packaging the beer for shipment or sale.

278 21. If the preponderance of their use is in advanced recycling, as defined in § 58.1-439.7, (i) machinery,
 279 tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii)
 280 materials for processing, manufacturing, or conversion for resale where such materials either are recycled or
 281 recovered; and (iii) materials, including containers, labels, sacks, cans, boxes, drums, or bags used for
 282 packaging recycled or recovered material for shipment or resale.

283 **2. That, to the extent not already available, each investor-owned electric utility shall file with the State
 284 Corporation Commission for approval of a voluntary tariff to facilitate large customer procurement of
 285 clean energy in a manner that does not impose additional costs on other customers, including ring-
 286 fenced, utility-owned resources and sleeved third-party power purchase agreements.**

287 **3. That, to the extent not already available, each investor-owned electric utility shall petition the State
 288 Corporation Commission for approval of a program enabling large energy customers to participate in
 289 demand response or other voluntary programs in which a large energy customer's on-site solar, wind,
 290 energy storage, or zero-carbon electricity generating resources, as defined in § 56-585.5 of the Code of
 291 Virginia, can provide system-wide benefits for which such large energy customer shall receive just and
 292 reasonable compensation.**