DEPARTMENT OF TAXATION
2026 Fiscal Impact Statement

1. **Patron** Danica A. Roem
2. **Bill Number** SB 93
   House of Origin:
   X Introduced
   ___ Substitute
   ___ Engrossed

   Second House:
   ___ In Committee
   ___ Substitute
   ___ Enrolled
3. **Committee** Senate Finance and Appropriations
4. **Title** Bank Franchise Tax; Retail Sales and Use Tax; Tangible Personal Property Tax; Data Centers

5. **Summary/Purpose:**

   This bill would provide that on and after July 1, 2026, if any tenant of a data center is a bank, then the sales tax exemption for data center computer equipment would not apply to the data center operator and any tenants of the data center. The bill would also add computer equipment and peripherals of any bank used in a data center to personal property subject to local taxation.

   Under current law, only the tangible personal property of banks which is leased to customers or other lessees is subject to the local personal property taxes.

   If enacted during the regular session of the 2026 General Assembly, this bill would become effective July 1, 2026.

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

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

8. **Fiscal implications:**

   <u>Administrative Costs</u>

   This impact of this bill on the Department of Taxation's costs would be routine. The impact of this bill on local administrative costs is unknown.

   <u>Revenue Impact</u>

   This legislation would have unknown positive revenue impacts at both the Commonwealth and local government levels. To the extent that data centers and their tenants would lose the benefit of the data center sales tax exemption if any tenant in the data center is a bank, this bill would positively impact state sales tax revenues by an unknown amount. To the extent that the computer equipment and peripherals of banks used in data centers would become subject to local tangible personal property taxes, this bill would positively impact local property tax revenues by an unknown amount.

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

   Localities

10. **Technical amendment necessary:** No.

11. **Other comments:**

<u>Sales and Use Taxation of Data Centers</u>
A data center is a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services.

Currently, a sales tax exemption is available to qualifying data centers. The exemption covers 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 the equipment for use in a data center that: (i) is located in a Virginia locality; (ii) results in a new capital investment on or after January 1, 2009, of at least $150 million; and (iii) results 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.

If the data center is located in a “distressed locality,” (i) the requirement of at least 50 new jobs is reduced to 10 new jobs and (ii) the requirement of at least a $150 million new capital investment is reduced to $70 million. A “distressed locality” is:

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

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

This exemption applies to the data center operator and the tenants of the data center if they collectively meet these requirements. In order to take advantage of this exemption, data center operators and their tenant must enter into a memorandum of understanding ("MOU") with VEDP and obtain an exemption certificate from the Department. The exemption is scheduled to expire June 30, 2035.

Legislation enacted in the 2023 Session of the General Assembly extends the exemption to 2040 for a data center operator that (i) makes a capital investment of at least $35 billion in data centers in the Commonwealth and (ii) creates at least 1,000 direct new jobs, of which at least 100 jobs pay 1.5 times the Commonwealth's prevailing average wage. The data center operator is eligible for further extension to 2050 if the data center operator (i) makes a total capital investment of at least $100 billion, inclusive of the initial $35 billion investment, and (ii) creates a total of at least 2,500 direct new jobs, of which at least 100 jobs pay 1.5 times the Commonwealth's prevailing average wage, inclusive of the 1,000 jobs initially created.

<u>Bank Franchise Tax</u>

For purposes of the bank franchise tax, a bank is any incorporated bank, banking association, savings bank that is a member of the Federal Reserve System, or trust company organized by or under the authority of the laws of the Commonwealth and any bank or banking association organized by or under the authority of the laws of the United States, doing business or having an office in the Commonwealth or having a charter which designates any place within the Commonwealth as the place of its principal office, and any bank which establishes and maintains a branch in this Commonwealth, whether such bank or banking association is authorized to transact business as a trust company or not, and any joint stock land bank or any other bank organized by or under the authority of the laws of the United States upon which the Commonwealth is authorized to impose a tax.

An annual bank franchise tax is imposed on a bank's net capital at the rate of $1 per $100. Counties, cities and towns are authorized to impose a local bank franchise tax on banks at an amount equal to 80 percent of the state tax. A credit against the state tax is allowed in the amount of the local taxes imposed. Therefore, banks pay a total bank franchise tax of $1 per $100 on their net capital, but it is effectively split 80 percent to localities and 20 percent to the state. Banks located in multiple jurisdictions divide the bank franchise tax among those jurisdictions based on the percentage of the bank's total deposits held at the branches located in each jurisdiction.

Banks and trust companies pay the bank franchise tax in lieu of the Virginia corporate income tax and local business, professional, and occupational license tax, and the merchant's capital tax. Although the real estate of banks is subject to the local real property taxes, only the tangible personal property of banks which is leased to customers or other lessees is subject to the local personal property taxes.

Proposal

This bill would provide that on and after July 1, 2026, if any tenant of a data center is a bank, then the sales tax exemption for data center computer equipment shall not apply to the data center operator and any tenants of the data center. The bill would also add computer equipment and peripherals of all banks used in a data center to personal property that is taxable for banks subject to the bank franchise tax in lieu of most other taxes.

If enacted during the regular session of the 2026 General Assembly, this bill would become effective July 1, 2026.

Similar Legislation

House Bill 641 would impose a land conservation tax upon data center operators and dedicate the revenue for land preservation.

House Bill 784 would require *t*he Department to publish an annual report summarizing the usage of the data center sales tax exemption including the names of data center operators, and (i) the amount of the exemption claimed, (ii) whether the required job creation and capital investments goals have been met, and (iii) the employment levels and average annual wages paid to its employees.

House Bill 897 would impose requirements on operators to qualify for the data center sales tax exemption, including (i) not using co-located generating facilities that emit carbon dioxide, other than backup generators; (ii) contracting for a certain percentage of energy from clean energy resources, (iii) utilizing only non-carbon dioxide-emitting backup power sources; and (iv) demonstrating sufficient investment in environmental management and energy efficiency measures to provide system-wide benefits.

House Bill 961 would limit the data center exemption to purchases or leases of equipment or enabling software that (i) take place prior to the data center's start of operations, or (ii) as part of a refresh cycle of an existing data center improve the energy efficiency of such equipment or software.

House Bill 1101 would require that the local composite index school funding formula be revised to include as a factor in the calculation of required local effort any local revenue generated by data centers.

House Bill 1132 would authorize localities to create local renewable energy incentive program to reduce utility bills for residential customers, to reduce reliance upon fossil fuel power generation facilities, to reduce the need for construction and placement of new transmission lines, and to minimize future electricity costs for residential customers. The bill would require that 15 percent of new data center revenue be spent toward residential solar and battery storage investment and an additional 15 percent allocated to providing pro rata reimbursements for residents' tangible personal property tax assessments on qualifying vehicles.

cc : Secretary of Finance

Date: 01/20/2026 JEM
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