

**DEPARTMENT OF TAXATION
2026 Fiscal Impact Statement**

1. **Patron** Richard C. “Rip” Sullivan, Jr.
3. **Committee** Senate Finance and Appropriations
4. **Title** Retail Sales and Use Tax; Data Center Exemption; Clean Energy Requirements

2. **Bill Number** HB 897
House of Origin:
 Introduced
 Substitute
 Engrossed
- Second House:**
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would add clean energy requirements for data center operators and their tenants to qualify for the data center sales tax exemption.

If enacted during the regular session of the 2026 General Assembly, this bill will become effective July 1, 2027.

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>
2026-27	\$230,000	2 FTE	GF
2027-28	\$230,000	2 FTE	GF
2028-29	\$230,000	2 FTE	GF
2029-30	\$230,000	2 FTE	GF
2030-31	\$230,000	2 FTE	GF
2031-32	\$230,000	2 FTE	GF

8. Fiscal implications:

Administrative Costs

The impact of this bill on the Department of Taxation’s costs would be routine. The Virginia Economic Development Partnership (“VEDP”) estimates that it would need two additional full time employees at a cost of \$230,000 (including benefits) annually to monitor data centers’ compliance with the requirements established by this bill. This bill would have no impact on local administrative costs.

Revenue Impact

This bill would have an unknown positive impact on state and local revenues to the extent that the requirements in the bill result in fewer data centers qualifying for exemption. The Department of Taxation (“the Department”) lacks sufficient information to determine the extent of the impact of this bill on state or local revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation, Virginia Economic Development Partnership

10. Technical amendment necessary: No.

11. Other comments:

Current Law

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 tenants must enter into a memorandum of understanding

(“MOU”) with the Virginia Economic Development Partnership (“VEDP”) and obtain an exemption certificate from the Department.

Virginia Tax Exemptions for Data Centers Report

The Department is required to prepare a report, which must include aggregate information on qualifying expenses claimed under this exemption, the total value of the tax benefit, a return on investment analysis that includes direct and indirect jobs created by data center investment, state and local tax revenues generated, and any other information the Department and VEDP deem appropriate to demonstrate the costs and benefits of the exemption. In addition, VEDP is authorized to publish on its website and distribute annual information indicating the job creation and ranges of capital investments made by a data center operator and, if applicable, its participating tenants, in a format to be developed in consultation with data center operators. On January 2, 2026, the most recent [Virginia Tax Exemptions for Data Centers Report](#) was published, which found that the sales tax exemption resulted in forgone revenues of \$1.3 billion in Fiscal Year 2024 and \$1.9 billion in Fiscal Year 2025.

Proposal

This bill would add additional requirements for data center operators and their tenants to qualify for the data center sales tax exemption and the memorandum of understanding entered into by each data center operator with VEDP would need to include or, if already in effect prior to July 1, 2027, be amended to include the data center operator’s method of demonstrating compliance with the following requirements:

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

- (2) Beginning July 1, 2029, contract for energy, capacity, and renewable energy certificates (RECs) from clean energy resources to serve the data center in percentages equal to or greater than the annual percentage that applies to the incumbent utility, except that the data center operator’s or tenants’ minimum annual clean energy procurement obligations would be accelerated by 10 years relative to the incumbent electric utility’s annual requirement. If the data center is not located within the certificated service territory of a Phase I or Phase II Utility, the data center’s annual clean energy procurement percentage would be accelerated by 10 years relative to the percentage applicable to a Phase I Utility. Evidence of compliance would be established by either (i) a certification from the State Corporation Commission (“SCC”) that the data center operator or its tenants are an accelerated renewable buyer that purchases energy, capacity, and RECs in sufficient quantity to satisfy this requirement or (ii) contracts or other service agreements, that establish the data center operator or its tenants as participating in a voluntary tariff program, approved by the SCC, to facilitate large customer procurement of carbon-free and renewable energy generation in a manner that does not impose additional costs on other customers, including ring-fenced, utility-owned resources and sleeved third-party power purchase agreements, to satisfy the percentage requirement identified above;

(3) Use only non-carbon dioxide-emitting backup power sources, such as energy storage resources. For a data center operator or its tenants that use carbon dioxide-emitting backup power sources for some or all of their backup power supply, the exemption would only be available (i) through January 1, 2035, if such operator or tenants took initial service prior to July 1, 2027, only use carbon dioxide-emitting backup power sources during declared grid emergencies and required testing and maintenance, and have either installed a selective catalytic reduction system on at least one-third of such power generators or at least one-third of such generators meet or exceed the U.S. Environmental Protection Agency's Tier 4 emissions standards by July 1, 2031, or (ii) if such operator or tenants take initial service on or after July 1, 2027, only use carbon dioxide-emitting backup power sources during declared grid emergencies and required testing and maintenance, and utilize non-carbon dioxide-emitting power sources as their primary backup power source for at least one-third of their contracted demand by January 1, 2030, and 100 percent of their contracted demand by January 1, 2035. The Department of Taxation would be authorized to provide an extension of these deadlines if, in its sole discretion, it finds that the data center operator or tenants have taken reasonable efforts to comply with such requirements but require additional time due to supply chain constraints beyond the data center operator's or tenants' control; and

(4) Demonstrate, for any new data center issued a final certificate of occupancy or its equivalent on or after January 1, 2030, or for any data center operator seeking an amended memorandum of understanding, sufficient investment in environmental management and energy efficiency measures to provide system-wide benefits, as defined herein, including in the methods of reporting and certification of compliance and the maintenance of the environmental management and energy efficiency measures. A data center operator with a memorandum of understanding initially entered into before July 1, 2027, may seek to amend its memorandum of understanding to comply with the requirements of this subdivision b and must do so by July 1, 2028. If such data center operator fails to amend its memorandum of understanding by July 1, 2028, such data center facility shall only be eligible for the exemption through December 31, 2034.

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

“Sufficient investment in environmental management and energy efficiency measures to provide system-wide benefits” would mean a data center operator has an environmental management system certified under the International Organization for Standardization (ISO) 14001 (Environmental Management Systems) or another reasonable environmental management system approved by the VEDP, in consultation with the Department of Energy, and has met the requirements of one or more of the following sustainable design, energy management, or green building standards: Building Research Establishment Environmental Assessment Methodology (BREEAM) for new construction or BREEAM in-use; Energy Star; ISO 50001; Leadership in Energy and Environmental Design (LEED); Green Globes for new construction or Green Globes for existing building; UL 3223; or another comparable standard approved by the VEDP.

To the extent not already available, each investor-owned electric utility would be required to file with the SCC for approval of a voluntary tariff to facilitate large customer procurement of clean energy in a manner that does not impose additional costs on other customers, including ring-fenced, utility-owned resources and sleeved third-party power purchase agreements.

To the extent not already available, each investor-owned electric utility would be required to petition the SCC for approval of a program enabling large energy customers to participate in demand response or other voluntary programs in which a large energy customer's on-site solar, wind, energy storage, or zero-carbon electricity generating resources can provide system-wide benefits for which such large energy customer shall receive just and reasonable compensation.

If enacted during the regular session of the 2026 General Assembly, this bill will become effective July 1, 2027.

cc : Secretary of Finance

Date: 02/23/2026 JEM
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