DEPARTMENT OF TAXATION
2008 Fiscal Impact Statement

1. Patron Thomas C. Wright, Jr.

2. Bill Number HB 1388

House of Origin:
_____ **Introduced**
_X_ **Substitute**
_____ **Engrossed**

3. Committee House Finance

4. Title Retail Sales and Use Tax Exemption; Computer Equipment for Data Centers

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

5. Summary/Purpose:

TAX understands that the patron plans to introduce a substitute bill. This impact statement addresses the substitute bill.

This bill would provide an exemption from the retail sales and use tax for computer equipment purchased or leased on or before June 30, 2011 used in data centers for the processing, storage, retrieval or communication of data, including but not limited to servers, routers, connections and other enabling hardware. In order to be eligible for this exemption, the computer equipment would need to be part of a new investment of at least $75 million in such exempt property by a data center located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007 that creates at least 100 new jobs paying at least twice the prevailing average wage within 3 years. The investment would have to be made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008 and December 31, 2008. Purchased or leased upgrades, additions to, or replacement of such equipment would also be exempt.

The effective date of this bill is not specified.

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

7. Budget amendment necessary: Yes. (See Line 8.)
ITEM(S): Page 1, Revenue Estimates; and companion amendments to items 140, 437, 449, 455, 464, and §3-5.04

The fiscal impact of this bill is assumed in executive amendments to the budget. The budget amendments assume a revenue loss to the General Fund of $1.54 million in Fiscal Year 2009 and $0.92 million in Fiscal Year 2010, and a revenue loss to the Transportation Trust Fund of $0.23 million in Fiscal Year 2009 and $0.14 million in Fiscal Year 2010. If this bill passes the General Assembly, the executive budget amendments would need to be adopted to adjust the introduced budget bill.

8. Fiscal implications:

Administrative Costs Impact

TAX would have no administrative costs associated with this bill.

Revenue Impact

The revenue estimate is based on the assumption that exempt purchases will total $90 million in the first 3 years and that equipment will be replaced in 5-year cycles. It is estimated that the proposed Retail Sales and Use Tax exemption would result in total exempt equipment purchases of $45 million in Fiscal Year 2009 and $27 million in Fiscal Year 2010. State and local sales tax revenues would decrease by an estimated $2.21 million in Fiscal Year 2009 and $1.33 million in Fiscal Year 2010, and $0 in Fiscal Year 2011.

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This revenue estimate includes only foregone revenues from the Retail Sales and Use Tax and does not include potential increased tax revenues from the proposed data center. As this exemption would only apply to computer equipment purchased or leased when part of a new investment, spending to build and staff such qualifying facilities could potentially increase other tax revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia localities having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007.

10. Technical amendment necessary: No.

11. Other comments:

Generally

Under current law, computer equipment purchased or leased to be used by data centers is subject to the Virginia Retail Sales and Use Tax. Only computer equipment used directly in manufacturing or certain computer equipment used by Internet Service Providers qualifies for exemption.

Proposal

This bill would provide an exemption from the retail sales and use tax for computer equipment purchased or leased on or before June 30, 2011 used in data centers for the

processing, storage, retrieval or communication of data, including but not limited to servers, routers, connections and other enabling hardware. Purchased or leased upgrades, additions to, or replacement of the computer equipment in a qualifying facility would be equally exempt. The exemption would not apply to separately sold computer software or general building improvements or fixtures.

In order to be eligible for exemption under this provision, the computer equipment would be required to be part of a new investment of at least $75 million in such exempt property, and at least 100 new jobs paying at least twice the prevailing average wage made within 3 years in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007. The investment would have to be made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008 and December 31, 2008.

Similar Legislation

Senate Bill 668 is identical to this bill.

cc : Secretary of Finance

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