



2025 South Dakota Legislature

Senate Bill 177

Introduced by: **Senator Wheeler**

1 **An Act to provide a sales tax refund for goods and services related to data center**
 2 **operations.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 10-45-47.1 be AMENDED:**

5 **10-45-47.1.** The secretary of revenue may promulgate rules pursuant to chapter
 6 1-26 concerning:

- 7 (1) Licensing, including bonding and filing license applications;
 8 (2) The filing of returns and payment of the tax;
 9 (3) Determining the application of the tax and exemptions;
 10 (4) Taxpayer record-keeping requirements; ~~and~~
 11 (5) Determining auditing methods; and
 12 (6) The filing for tax refund applications.

13 **Section 2. That chapter 10-45 be amended with a NEW SECTION:**

14 The terms used in sections 2 to 6, inclusive, of this Act mean:

- 15 (1) "Computer software," software used at a qualified data center, and the software's
 16 maintenance, licensing, and customization;
 17 (2) "Data center," a centralized repository for the storage, management,
 18 dissemination, and processing of electronic data and information;
 19 (3) "Enterprise information technology equipment," the following products:
 20 (a) Computer hardware, servers, routers, cooling systems, and cooling towers;
 21 (b) Temperature control infrastructure and power infrastructure for the
 22 transformation, distribution, or management of electricity used for the
 23 maintenance and operation of a qualified data center;
 24 (c) Exterior dedicated business-owned substations, backup power generation
 25 systems, battery systems, or other related infrastructure; and

- 1 (d) Racking systems, raised flooring, cabling, or trays necessary for the
2 maintenance and operation of a qualified data center;
- 3 (4) "Initial furnishment," the initial purchase and installation of enterprise information
4 technology, equipment, environmental controls, and computer software for use in
5 the qualified data center;
- 6 (5) "Qualifying date," the time at which the initial construction of the qualified data
7 center commences;
- 8 (6) "Qualified business," the owner, operator, or tenants of a qualified data center;
- 9 (7) "Qualified data center," a facility located in this state:
- 10 (a) Comprised of one or more buildings, the primary purpose of which is to
11 contain a data center;
- 12 (b) Where all buildings that contain a data center qualify as real property
13 subject to taxation pursuant to §§ 10-4-1 and 10-4-2;
- 14 (c) Where the cost of the initial furnishment and all substantial refurbishment
15 of all buildings that contain a data center does not exceed five hundred
16 million dollars;
- 17 (d) Where the qualifying date occurs no later than July 1, 2029;
- 18 (e) Equipped with uninterrupted power supplies, generator backup, or both;
19 and
- 20 (f) Equipped with sophisticated fire suppression and prevention systems; and
- 21 (8) "Substantial refurbishment," the purchase and the installation of enterprise
22 information technology equipment, environmental controls, and computer software
23 for use in a qualified data center after the qualifying date.

24 **Section 3. That chapter 10-45 be amended with a NEW SECTION:**

25 A qualified business in a qualified data center, or a future qualified business in a
26 proposed qualified data center, is entitled to receive a refund of taxes imposed pursuant
27 to this chapter, in a transaction for:

- 28 (1) Enterprise information technology equipment and computer software, purchased
29 for the initial furnishment of the qualified data center; and
- 30 (2) Substantial refurbishment of the qualified data center during a twenty-year period
31 beginning on the qualifying date.

32 To qualify for the refund, the enterprise information technology equipment or
33 computer software must be used by a qualified business at the qualified data center.

1 **Section 4. That a NEW SECTION be added to chapter 10-45:**

2 To be eligible for the refund provided for in this Act, a future qualified business in
3 a proposed qualified data center shall submit any documentary evidence required by the
4 Governor's Office of Economic Development to verify the plans for the proposed qualified
5 data center. The commissioner of the Governor's Office of Economic Development shall
6 determine if the future qualified business is eligible.

7 Upon determining the eligibility of a future qualified business in a proposed
8 qualified data center, the commissioner shall provide to the Department of Revenue notice
9 of the determination regarding the entitlement to a tax refund of taxes imposed pursuant
10 to this chapter.

11 **Section 5. That chapter 10-45 be amended with a NEW SECTION:**

12 Qualified data center owners that intend to co-locate operators or tenants within
13 the center shall provide the operators or tenants with documentation from the Department
14 of Revenue indicating that the center meets the definition of a qualified data center under
15 section 2 of this Act. Operators or tenants shall obtain and submit a copy of the
16 documentation with all applications for sales tax refunds on information technology
17 equipment and computer software purchased for use in the qualified data center.

18 **Section 6. That a NEW SECTION be added to chapter 10-45:**

19 An application for a refund as provided for in this Act must be made at the time
20 and in the manner directed by the Governor's Office of Economic Development and must
21 include information sufficient to permit the Department of Revenue to verify the sales and
22 use taxes paid and the refund status of the sale or use.