

2025 South Dakota Legislature

Senate Bill 177**AMENDMENT 177D
FOR THE SENATE TAXATION ENGROSSED BILL**

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

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

4 **Section 1. That a NEW SECTION be added to chapter 1-16G:**

5 The terms used in sections 1 to 4, inclusive, of this Act mean:

6 (1) "Computer software," software used at a qualified data center, and the software's
7 maintenance, licensing, and customization;

8 (2) "Data center," a centralized repository for the storage, management,
9 dissemination, and processing of electronic data and information;

10 (3) "Enterprise information technology equipment," the following products:

11 (a) Computer hardware, servers, routers, cooling systems, and cooling towers;

12 (b) Temperature control infrastructure and power infrastructure for the
13 transformation, distribution, or management of electricity used for the
14 maintenance and operation of a qualified data center;

15 (c) Exterior dedicated business-owned substations, backup power generation
16 systems, battery systems, or other related infrastructure; and

17 (d) Racking systems, raised flooring, cabling, or trays necessary for the
18 maintenance and operation of a qualified data center;

19 (4) "Initial furnishment," the initial purchase and installation of enterprise information
20 technology, equipment, environmental controls, and computer software for use in
21 the qualified data center;

22 (5) "Qualifying date," the time at which the initial construction of the qualified data
23 center commences;

24 (6) "Qualified business," the owner, operator, or tenants of a qualified data center;

25 (7) "Qualified data center," a facility located in this state:

- 1 (a) Comprised of one or more buildings, the primary purpose of which is to
 2 contain a data center;
 3 (b) Where all buildings that contain a data center qualify as real property
 4 subject to taxation pursuant to §§ 10-4-1 and 10-4-2;
 5 (c) Where the cost of the initial furnishment and all substantial refurbishment
 6 of all buildings that contain a data center does not exceed five hundred
 7 million dollars;
 8 (d) Where the qualifying date occurs no later than July 1, 2029;
 9 (e) Equipped with uninterrupted power supplies, generator backup, or both;
 10 and
 11 (f) Equipped with sophisticated fire suppression and prevention systems; and
 12 (8) "Substantial refurbishment," the purchase and the installation of enterprise
 13 information technology equipment, environmental controls, and computer software
 14 for use in a qualified data center after the qualifying date.

15 **Section 2. That a NEW SECTION be added to chapter 1-16G:**

16 A qualified business in a qualified data center, or a future qualified business in a
 17 proposed qualified data center, is entitled to receive a refund of taxes imposed pursuant
 18 to chapters 10-45 and 10-46, excluding any tax imposed by a municipality, in a transaction
 19 for:

- 20 (1) Enterprise information technology equipment and computer software, purchased
 21 for the initial furnishment of the qualified data center; and
 22 (2) Substantial refurbishment of the qualified data center ~~during a twenty-year period~~
 23 ~~beginning on the qualifying date.~~

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

26 **Section 3. That a NEW SECTION be added to chapter 1-16G:**

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

32 Upon determining the eligibility of a future qualified business in a proposed
 33 qualified data center, the commissioner shall provide to the Department of Revenue notice

1 of the determination regarding the entitlement to a tax refund of taxes imposed pursuant
2 to chapters 10-45 and 10-46.

3 **Section 4. That a NEW SECTION be added to chapter 1-16G:**

4 Qualified data center owners that intend to co-locate operators or tenants within
5 the center shall provide the operators or tenants with documentation from the Governor's
6 Office of Economic Development indicating that the center meets the definition of a
7 qualified data center under section 1 of this Act. Operators or tenants shall obtain and
8 submit a copy of the documentation with all applications for sales tax refunds on
9 information technology equipment and computer software purchased for use in the
10 qualified data center.