

2026 South Dakota Legislature

House Bill 1005

**AMENDMENT 1005B
FOR THE INTRODUCED BILL**

1 **An Act to provide a sales and use tax exemption for goods and services related to**
2 **data 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 10-45:**

5 The terms used in this Act mean:

6 (1) "Computer software," programs and other operating information used solely for
7 the maintenance and operation of a qualified data center;

8 (2) "Data center," a centralized repository for the storage, management,
9 dissemination, and processing of electronic data and information, except for that
10 which relates to the mining of digital currency;

11 (3) "Enterprise information technology equipment," the following products used solely
12 for the maintenance and operation of a qualified data center:

13 (a) Computer hardware, servers, storage arrays, backup systems, disaster
14 recovery equipment, routers, cooling systems, temperature control
15 infrastructure, network equipment, switches, load balancers, firewalls,
16 network cabling, edge devices, network monitoring equipment, water
17 treatment systems, chilled water equipment, economizers, cooling towers,
18 and piping and pump equipment for cooling towers;

19 (b) Power infrastructure for the management of electricity, dedicated
20 distribution equipment, backup power generation systems, battery
21 systems, construction materials for structures unique to data centers or
22 other related infrastructure excluding primary electric generation service,
23 transmission, or utility distribution infrastructure;

24 (c) Racking systems, raised flooring, cabling, or trays necessary for the
25 maintenance and operation of a qualified data center;

- (d) Security systems, physical access control systems, surveillance systems, biometric scanners, security monitoring equipment, and monitoring systems, environmental monitoring systems, infrastructure management tools, and building management systems;
- (e) Testing and diagnostic equipment used for maintenance, commissioning, or troubleshooting;
- (f) Telecommunications and fiber infrastructure, fiber optic cabling, satellite equipment, and internet exchange components; and
- (g) Air quality systems, specialized HVAC, filtration, and humidity control equipment;

(4) "Qualified business," the owner, operator, or tenant of a qualified data center or a proposed data center;

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

- (a) Comprised of one or more buildings containing a data center;
- (b) Where all buildings that contain a data center qualify as real property subject to taxation pursuant to §§ 10-4-1 and 10-4-2;
- (c) Where the qualifying date occurs on or after July 1, 2026, and on or before June 30, 2036; and
- (d) Equipped with fire suppression and prevention systems; and

(6) "Qualifying date," the date on which a building permit is issued for the initial construction of the facility.

Section 2. That a NEW SECTION be added to chapter 10-45:

There are specifically exempted from the provisions of this chapter and from the computation of tax imposed by it, gross receipts from the sale of enterprise information technology equipment or computer software to be used in a qualified data center. A qualified business is exempt for a period of ~~fifty years after the qualifying date~~:

(1) Ten years after the qualifying date if:

(a) The cost of the initial construction, and of the initial purchase and installment of computer software and enterprise information technology equipment, for the data center exceeds fifty million dollars but does not exceed two hundred fifty million dollars; and

(b) The number of permanent full-time employees of the data center is at least ten but does not exceed twenty-four;

(2) Twenty-five years after the qualifying date if:

- 1 (a) The cost of the initial construction, and of the initial purchase and
2 installment of computer software and enterprise information technology
3 equipment, for the data center exceeds two hundred fifty million dollars but
4 does not exceed seven hundred fifty million dollars; and
5 (b) The number of permanent full-time employees of the data center is at least
6 twenty-five but does not exceed fifty; and
7 (3) Ten years after the qualifying date if:
8 (a) The cost of the initial construction, and of the initial purchase and
9 installment of computer software and enterprise information technology
10 equipment, for the data center exceeds seven hundred fifty million dollars;
11 and
12 (b) The number of permanent full-time employees of the data center is at least
13 fifty.

14 For purposes of this section, the minimum thresholds under this section for cost of
15 the initial construction, and of the initial purchase and installation of computer software
16 and enterprise information technology equipment must be met within five years of the
17 qualifying date of the data center. If the minimum thresholds under this section are not
18 met, the Department of Revenue may impose a fine on the data center in an amount equal
19 to the taxes exempt under this section.

20 **Section 3. That a NEW SECTION be added to chapter 10-45:**

21 To be eligible for the exemption provided in section 2 of this Act, a qualified
22 business in a qualified data center, or a qualified business in a proposed qualified data
23 center, shall submit any documentary evidence required by the Department of Revenue
24 to verify the eligibility of the qualified data center or proposed data center. The
25 documentary evidence required by this section is confidential. The secretary of the
26 Department of Revenue shall determine if the qualified business is eligible.

27 To be eligible for the exemption provided by section 2 of this Act, a qualified
28 business shall:

- 29 (1) Ensure electric service provided to the qualified business by an electric utility is
30 under a written agreement or rate schedule that avoids the shifting of costs to
31 other customers of the electric utility; and
32 (2) Provide notice to local water providers to ensure that water consumption is
33 compatible for the location in which the qualified data center is situated.

1 Upon determining the eligibility of a future qualified business in a proposed
2 qualified data center, the secretary shall provide an exemption certificate for taxes
3 imposed pursuant to this chapter and chapter 10-46.

4 To retain eligibility for the exemption provided in section 2 of this Act, a qualified
5 business must file an affidavit with the secretary attesting that the data center or the
6 future data center qualifies for the exemption provided in section 2 of this Act, prior to
7 June first of each year.

8 **Section 4. That a NEW SECTION be added to chapter 10-46:**

9 There are specifically exempted from the provisions of this chapter, gross receipts
10 from the sale of enterprise information technology equipment or computer software to be
11 used in a qualified data center. A qualified business is exempt for a period of~~–fifty years~~
12 after the qualifying date:

13 (1) Ten years after the qualifying date if:

14 (a) The cost of the initial construction, and of the initial purchase and
15 installation of computer software and enterprise information technology
16 equipment, for the data center exceeds fifty million dollars but does not
17 exceed two hundred fifty million dollars; and

18 (b) The number of permanent full-time employees of the data center is at least
19 ten but does not exceed twenty-four;

20 (2) Twenty-five years after the qualifying date if:

21 (a) The cost of the initial construction, and of the initial purchase and
22 installation of computer software and enterprise information technology
23 equipment, for the data center exceeds two hundred fifty million dollars but
24 does not exceed seven hundred fifty million dollars; and

25 (b) The number of permanent full-time employees of the data center is at least
26 twenty-five but does not exceed fifty; and

27 (3) Ten years after the qualifying date if:

28 (a) The cost of the initial construction, and of the initial purchase and
29 installation of computer software and enterprise information technology
30 equipment, for the data center exceeds seven hundred fifty million dollars;
31 and

32 (b) The number of permanent full-time employees of the data center is at least
33 fifty.

1 For purposes of this section, the minimum thresholds under this section for cost of
2 the initial construction, and of the initial purchase and installation of computer software
3 and enterprise information technology equipment must be met within five years of the
4 qualifying date of the data center. If the minimum thresholds under this section are not
5 met, the Department of Revenue may impose a fine on the data center in an amount equal
6 to the taxes exempt under this section.

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