

2025 South Dakota Legislature

Senate Bill 177**AMENDMENT 177B
FOR THE INTRODUCED 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 § 10-45-47.1 be AMENDED:~~**

5 ~~10-45-47.1. The secretary of revenue may promulgate rules pursuant to chapter 1-26~~
6 ~~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 1. That ~~chapter 10-45 be amended with~~ a NEW SECTION be added to chapter**
14 **1-16G:**

15 The terms used in sections ~~2 to 6~~ 1 to 4, inclusive, of this Act mean:

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

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

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

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

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

29 **Section 2. That ~~chapter 10-45 be amended with~~ a NEW SECTION be added to chapter**
 30 **1-16G:**

31 **A qualified business in a qualified data center, or a future qualified business in a**
 32 **proposed qualified data center, is entitled to receive a refund of taxes imposed pursuant**
 33 **to ~~this chapter~~ chapters 10-45 and 10-46, excluding any tax imposed by a municipality,**
 34 **in a transaction for:**

1 (1) Enterprise information technology equipment and computer software, purchased
2 for the initial furnishment of the qualified data center; and

3 (2) Substantial refurbishment of the qualified data center during a twenty-year period
4 beginning on the qualifying date.

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

7 **Section 3. That a NEW SECTION be added to chapter ~~10-45~~ 1-16G:**

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

13 Upon determining the eligibility of a future qualified business in a proposed
14 qualified data center, the commissioner shall provide to the Department of Revenue notice
15 of the determination regarding the entitlement to a tax refund of taxes imposed pursuant
16 to ~~this chapter chapters 10-45 and 10-46.~~

17 **Section 4. That ~~chapter 10-45 be amended with~~ a NEW SECTION be added to chapter**
18 **1-16G:**

19 Qualified data center owners that intend to co-locate operators or tenants within
20 the center shall provide the operators or tenants with documentation from the ~~Department~~
21 ~~of Revenue~~ Governor's Office of Economic Development indicating that the center meets
22 the definition of a qualified data center under ~~section 2~~ section 1 of this Act. Operators or
23 tenants shall obtain and submit a copy of the documentation with all applications for sales
24 tax refunds on information technology equipment and computer software purchased for
25 use in the qualified data center.

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

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