

House File 824 - Introduced

HOUSE FILE _____
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 750)
(SUCCESSOR TO HF 140)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to providing sales, use, and property tax
2 exemptions and sales tax refunds for certain data processing
3 businesses and including an applicability date provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1207HZ 83
6 tw/mg:sc/5

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1 1 Section 1. Section 423.3, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 95. a. (1) The sales price from the
1 4 sale or rental of computers and equipment that are necessary
1 5 for the maintenance and operation of a data center business
1 6 and property whether directly or indirectly connected to the
1 7 computers, including but not limited to cooling systems,
1 8 cooling towers, and other temperature control infrastructure;
1 9 power infrastructure for transformation, distribution, or
1 10 management of electricity used for the maintenance and
1 11 operation of the data center business, including but not
1 12 limited to exterior dedicated business-owned substations,
1 13 backup power generation systems, battery systems, and related
1 14 infrastructure; and racking systems, cabling, and trays, which
1 15 are necessary for the maintenance and operation of the data
1 16 center business.
1 17 (2) The sales price of backup power generation fuel that
1 18 is purchased by a data center business for use in the items
1 19 listed in subparagraph (1).
1 20 (3) The sales price of electricity purchased for use by a
1 21 data center business.
1 22 b. For the purpose of claiming this exemption, all of the
1 23 following requirements shall be met:
1 24 (1) The purchaser or renter shall be a data center
1 25 business.
1 26 (2) The data center business shall have a physical
1 27 location in the state that is, in the aggregate, at least five
1 28 thousand square feet in size that is used for the operations
1 29 and maintenance of the data center business.
1 30 (3) The data center business shall make a minimum
1 31 investment in an Iowa physical location of two hundred million
1 32 dollars within the first six years of operation in Iowa
1 33 beginning with the date the data center business initiates
1 34 site preparation activities. The minimum investment includes
1 35 the initial investment, including land and subsequent
2 1 acquisition of additional adjacent land and subsequent
2 2 investment at the Iowa location.
2 3 (4) The data center business shall comply with the
2 4 sustainable design and construction standards established by
2 5 the state building code commissioner pursuant to section
2 6 103A.8B.
2 7 c. This exemption applies from the date of the initial
2 8 investment in or the initiation of site preparation activities
2 9 for the data center business facility as described in
2 10 paragraph "b".
2 11 d. Failure to meet eighty percent of the minimum
2 12 investment amount requirement specified in paragraph "b"
2 13 within the first six years of operation from the date the data
2 14 center business initiates site preparation activities will
2 15 result in the data center business losing the right to claim
2 16 this data center business exemption and the data center

2 17 business shall pay all sales or use tax that would have been
2 18 due on the purchase or rental or use of the items listed in
2 19 this exemption, plus any applicable penalty and interest
2 20 imposed by statute.

2 21 e. For purposes of this subsection:

2 22 (1) "Data center" means a building rehabilitated or
2 23 constructed to house a group of networked server computers in
2 24 one physical location in order to centralize the storage,
2 25 management, and dissemination of data and information
2 26 pertaining to a particular business, taxonomy, or body of
2 27 knowledge. A data center business's facility typically
2 28 includes the mechanical and electrical systems, redundant or
2 29 backup power supplies, redundant data communications
2 30 connections, environmental controls, and fire suppression
2 31 systems. A data center business's facility also includes a
2 32 restricted access area employing advanced physical security
2 33 measures such as video surveillance systems and card-based
2 34 security or biometric security access systems.

2 35 (2) "Data center business" means an entity whose business
3 1 among other businesses, is to operate a data center.

3 2 Sec. 2. Section 423.4, subsection 8, Code 2009, is amended
3 3 to read as follows:

3 4 8. a. The owner of ~~an information technology facility a~~
3 5 ~~data center business, as defined in section 423.3, subsection~~
3 6 ~~95, located in this state on July 1, 2007, and having a~~
3 7 ~~primary business with a North American industry classification~~
3 8 ~~system number 518210 or 541519 as verified by the department~~
3 9 ~~of economic development using nationally recognized~~
3 10 ~~third-party sources such as Hoovers, Harris Directory or~~
3 11 ~~others designated by the department of economic development,~~
3 12 may make an annual application for up to five consecutive
3 13 years to the department for the refund of fifty percent of the
3 14 sales or use tax upon the sales price of all sales of fuel
3 15 used in creating heat, power, and steam for processing or
3 16 generating electrical current, or from the sale of electricity
3 17 consumed by computers, machinery, or other equipment for
3 18 operation of the ~~technology data center business~~ facility.

3 19 b. ~~An information technology facility~~ A data center
3 20 business shall qualify for the refund in this subsection if
3 21 all of the following criteria are met:

3 22 (1) ~~The facility's six-digit North American industry~~
3 23 ~~classification system number 518210 or 541519 indicates that~~
3 24 ~~the facility is primarily engaged in providing~~
3 25 ~~computer-related services~~ data center business shall make an
3 26 investment in an Iowa physical location within the first three
3 27 years of operation in Iowa beginning with the date on which
3 28 the data center business initiates site preparation
3 29 activities.

3 30 (2) The amount of the investment in an Iowa physical
3 31 location, including the value of a lease agreement, or an
3 32 investment in land or buildings, and the capital expenditures
3 33 for computers, machinery, and other equipment used in the
3 34 operation of the facility equals data center business shall
3 35 equal at least one million dollars, but shall not exceed ten
4 1 million dollars for a newly constructed building or five
4 2 million dollars for a rehabilitated building.

4 3 (3) ~~If the data center business is leasing a building to~~
4 4 ~~house operations, the data center business shall enter into a~~
4 5 ~~lease that is at least five years in duration.~~

4 6 (4) ~~The facility is certified as meeting the~~
4 7 ~~Leadership in Energy and Environmental Design (LEED) standards~~
4 8 ~~data center business shall comply with the sustainable design~~
4 9 ~~and construction standards established by the state building~~
4 10 ~~code commissioner pursuant to section 103A.8B.~~

4 11 c. The refund may be obtained only in the following manner
4 12 and under the following conditions:

4 13 (1) The applicant shall use forms furnished by the
4 14 department.

4 15 (2) The applicant shall separately list the amounts of
4 16 sales and use tax paid during the reporting period.

4 17 (3) The applicant may request when the refund begins, but
4 18 it must start on the first day of a month and proceed for a
4 19 continuous twelve-month period.

4 20 d. In determining the amount to be refunded, if the dates
4 21 of the utility billing or meter reading cycle for the sale or
4 22 furnishing of metered gas and electricity are on or after the
4 23 first day of the first month through the last day of the last
4 24 month of the refund year, ~~the full fifty percent of the amount~~
4 25 ~~of tax charged in the billings shall be refunded.~~ In
4 26 determining the amount to be refunded, if the dates of the
4 27 sale or furnishing of fuel for purposes of commercial energy

4 28 and the delivery of the fuel are on or after the first day of
4 29 the first month through the last day of the last month of the
4 30 refund year, ~~the full fifty percent of the~~ amount of tax
4 31 charged in the billings shall be refunded.

4 32 e. To receive refunds during the five-year period, the
4 33 applicant shall file a refund claim within three months after
4 34 the end of each refund year.

4 35 f. The refund in this subsection applies only to state
5 1 sales and use tax paid and does not apply to local option
5 2 sales and services taxes imposed pursuant to ~~chapters~~ chapter
5 3 423B and 423E. Notwithstanding the state sales tax imposed in
5 4 section 423.2, a refund issued pursuant to this section shall
5 5 not exceed an amount equal to five percent of the sales price
5 6 of the fuel used to create heat, power, and steam for
5 7 processing or generating electrical current or from the sale
5 8 price of electricity consumed by computers, machinery, or
5 9 other equipment for operation of the data center business
5 10 facility.

5 11 Sec. 3. Section 423.4, Code 2009, is amended by adding the
5 12 following new subsection:

5 13 NEW SUBSECTION. 9. a. The owner of a data center
5 14 business, as defined in section 423.3, subsection 95,
5 15 paragraph "e", located in this state that is not eligible for
5 16 the exemption under section 423.3, subsection 95, may make an
5 17 annual application to the department for the refund of fifty
5 18 percent of the sales or use tax upon all of the following:

5 19 (1) The sales price from the sale or rental of computers
5 20 and equipment that are necessary for the maintenance and
5 21 operation of a data center business and property whether
5 22 directly or indirectly connected to the computers, including
5 23 but not limited to cooling systems, cooling towers, and other
5 24 temperature control infrastructure; power infrastructure for
5 25 transformation, distribution, or management of electricity
5 26 used for the maintenance and operation of the data center
5 27 business including but not limited to exterior dedicated
5 28 business-owned substations, backup power generation systems,
5 29 battery systems, and related infrastructure; and racking
5 30 systems, cabling, and trays, which are necessary for the
5 31 maintenance and operation of the data center business.

5 32 (2) The sales price of backup power generation fuel that
5 33 is purchased by a data center business for use in the items
5 34 listed in subparagraph (1).

5 35 (3) The sales price of electricity purchased for use in
6 1 providing data center services.

6 2 b. A data center business shall qualify for the partial
6 3 refund in this subsection if all of the following criteria are
6 4 met:

6 5 (1) The data center business shall have a physical
6 6 location in the state which is at least five thousand square
6 7 feet in size.

6 8 (2) The data center business shall make a minimum
6 9 investment of at least ten million dollars, in the case of new
6 10 construction, or at least five million dollars in the case of
6 11 a rehabilitated building, in an Iowa physical location within
6 12 the first six years of operation in Iowa, beginning with the
6 13 date on which the data center business initiates site
6 14 preparation activities. The minimum investment includes the
6 15 initial investment, including the value of a lease agreement
6 16 or the amount invested in land and subsequent acquisition of
6 17 additional adjacent land and subsequent investment at the Iowa
6 18 location.

6 19 (3) If the data center business is leasing a building to
6 20 house operations, the data center business shall enter into a
6 21 lease that is at least five years in duration.

6 22 (4) The data center business shall comply with the
6 23 sustainable design and construction standards established by
6 24 the state building code commissioner pursuant to section
6 25 103A.8B.

6 26 c. The refund allowed under this subsection shall be
6 27 available for the following periods of time:

6 28 (1) For an investment of at least ten million dollars, in
6 29 the case of new construction, or at least five million
6 30 dollars, in the case of a rehabilitated building, but less
6 31 than seventy-three million dollars, fifteen years.

6 32 (2) For an investment of at least seventy-three million
6 33 dollars but less than one hundred thirty-six million dollars,
6 34 ten years.

6 35 (3) For an investment of at least one hundred thirty-six
7 1 million dollars, but less than two hundred million dollars,
7 2 seven years.

7 3 d. The refund may be obtained only in the following manner

7 4 and under the following conditions:

7 5 (1) The applicant shall use forms furnished by the
7 6 department.

7 7 (2) The applicant shall separately list the amounts of
7 8 sales and use tax paid during the reporting period.

7 9 (3) The applicant may request when the refund begins, but
7 10 it must start on the first day of a month and proceed for a
7 11 continuous twelve-month period.

7 12 e. In determining the amount to be refunded, if the dates
7 13 of the utility billing or meter reading cycle for the sale or
7 14 furnishing of metered gas and electricity are on or after the
7 15 first day of the first month through the last day of the last
7 16 month of the refund year, fifty percent of the amount of tax
7 17 charged in the billings shall be refunded. In determining the
7 18 amount to be refunded, if the dates of the sale or furnishing
7 19 of fuel for purposes of commercial energy and the delivery of
7 20 the fuel are on or after the first day of the first month
7 21 through the last day of the last month of the refund year,
7 22 fifty percent of the amount of tax charged in the billings
7 23 shall be refunded.

7 24 f. To receive refunds during the applicable refund period,
7 25 the applicant shall file a refund claim within three months
7 26 after the end of each refund year.

7 27 g. The refund in this subsection applies only to state
7 28 sales and use tax paid and does not apply to local option
7 29 sales and services taxes imposed pursuant to chapter 423B.
7 30 Notwithstanding the state sales tax imposed in section 423.2,
7 31 a refund issued pursuant to this section shall not exceed an
7 32 amount equal to five percent of the sales price of the items
7 33 listed in paragraph "a", subparagraphs (1), (2), and (3).

7 34 Sec. 4. Section 427.1, Code 2009, is amended by adding the
7 35 following new subsection:

8 1 NEW SUBSECTION. 37. DATA CENTER BUSINESS PROPERTY.

8 2 a. Property, other than land and buildings and other
8 3 improvements, that is utilized by a data center business as
8 4 defined in and meeting the requirements of section 423.3,
8 5 subsection 95, including computers and equipment that are
8 6 necessary for the maintenance and operation of a data center
8 7 business and other property whether directly or indirectly
8 8 connected to the computers, including but not limited to
8 9 cooling systems, cooling towers, and other temperature control
8 10 infrastructure; power infrastructure for transformation,
8 11 distribution, or management of electricity, including but not
8 12 limited to exterior dedicated business-owned substations, and
8 13 power distribution systems which are not subject to assessment
8 14 under chapter 437A; racking systems, cabling, and trays; and
8 15 backup power generation systems, battery systems, and related
8 16 infrastructure all of which are necessary for the maintenance
8 17 and operation of the data center business.

8 18 b. This data center business exemption applies beginning
8 19 with the assessment year the investment in or construction of
8 20 the facility utilizing the materials, equipment, and systems
8 21 set forth in paragraph "a" are first assessed.

8 22 Sec. 5. IMPLEMENTATION. Section 25B.7 does not apply to
8 23 the property tax exemption enacted in this Act.

8 24 Sec. 6. APPLICABILITY DATE PROVISION. The sections of
8 25 this Act providing sales and use tax refunds apply to sales
8 26 and use tax paid on or after July 1, 2009.

8 27 EXPLANATION

8 28 This bill provides tax incentives to certain data center
8 29 businesses.

8 30 Current law provides a number of tax incentives for
8 31 businesses that would qualify as "data centers", but the
8 32 current incentives are specifically targeted to internet and
8 33 web-search-oriented businesses. The following incentives are
8 34 available:

8 35 1. Sales tax exemptions for certain web search portal
9 1 businesses. The exemptions apply to the sales price on the
9 2 computers and other related equipment necessary to operate
9 3 such businesses. To qualify, a business must invest more than
9 4 \$200 million and must purchase, option, or lease land in the
9 5 state before the project before December 31, 2008.

9 6 2. Property tax exemptions for certain web search
9 7 property. These exemptions apply to property other than land
9 8 and buildings, including computers and related equipment, but
9 9 the property must be utilized by a business that qualifies for
9 10 a web search portal sales tax exemption.

9 11 3. A sales tax refund for certain information technology
9 12 facilities. The sales tax refund applies to the sales price
9 13 on fuel and electricity used to operate a facility. To
9 14 qualify, a business must have a certain industry

9 15 classification code particular to information technology
9 16 facilities, make an investment of \$1 million, and have a
9 17 facility that meets leadership in energy and environmental
9 18 design (LEED) standards.

9 19 Because of the requirement that a web search portal
9 20 business purchase land in the state before December 31, 2008,
9 21 no more businesses can qualify for the exemption. In
9 22 addition, the existing exemptions are specific to web search
9 23 portal businesses and do not necessarily cover businesses in
9 24 closely related industries. Similarly, the existing refund
9 25 for information technology facilities does not cover all
9 26 businesses in data-center-related industries.

9 27 The bill provides a set of incentives for data center
9 28 businesses. The incentives are provided on a graduated scale,
9 29 based on the relative size of the investment a business makes
9 30 in the state. To be eligible for the incentives, the business
9 31 must be operating a data center. A data center is a building
9 32 rehabilitated or constructed to house a group of networked
9 33 server computers in one physical location in order to
9 34 centralize the storage, management, and dissemination of data
9 35 and information pertaining to a particular business, taxonomy,
10 1 or body of knowledge. Data centers also typically include
10 2 certain physical and security infrastructure necessary to
10 3 operate and protect the computers.

10 4 A business investing at least \$200 million is eligible for
10 5 a permanent sales tax exemption and a property tax exemption.
10 6 The property tax exemption does not include land or buildings.
10 7 The sales tax exemption covers the sales price of certain
10 8 computer-related equipment, backup power generation fuel, and
10 9 electricity. To qualify, the data center must have a physical
10 10 location in the state that is at least 5,000 square feet in
10 11 size and that is used for the operations and maintenance of
10 12 the data center business. The data center must comply with
10 13 the sustainable design and construction standards set by the
10 14 state building code commissioner (instead of the LEED
10 15 standards).

10 16 A business investing more than \$5 million in a
10 17 rehabilitated building or \$10 million in new construction, but
10 18 less than \$200 million, is eligible for a 50 percent sales tax
10 19 refund. The refund is available for varying periods of time,
10 20 with the length of time determined by the amount of the
10 21 investment:

- 10 22 1. If the investment is at least \$136 million but less
10 23 than \$200 million, the refund period is seven years.
- 10 24 2. If the investment is at least \$73 million but less than
10 25 \$136 million, the refund period is 10 years.
- 10 26 3. If the investment is at least \$5 million for a
10 27 rehabilitated building or at least \$10 million for new
10 28 construction, but less than \$73 million, the refund period is
10 29 15 years.

10 30 The refund for a business investing more than \$5 million in
10 31 a rehabilitated building or \$10 million in new construction,
10 32 but less than \$200 million, covers the same items as the sales
10 33 tax exemption available to businesses investing more than \$200
10 34 million (i.e., the sales price of computers and related
10 35 equipment, backup power generation fuel, and electricity). To
11 1 qualify for the refund, a data center business must have a
11 2 physical location in the state that is at least 5,000 square
11 3 feet and must comply with the sustainable design and
11 4 construction standards set by the state building code
11 5 commissioner.

11 6 A business investing at least \$1 million but less than \$5
11 7 million for a rehabilitated building or \$10 million for new
11 8 construction is also eligible for a 50 percent refund, but the
11 9 refund period is five years and the refund covers the sales
11 10 price of fuel and electricity, but does not cover the
11 11 computers and related equipment included in the refund for
11 12 larger investments.

11 13 Code section 25B.7, which provides for state funding of
11 14 local property tax exemptions, does not apply to the property
11 15 tax exemption for data center businesses. This is similar to
11 16 the existing exemptions for web search portal businesses which
11 17 also except web search property tax exemptions from the state
11 18 funding requirement.

11 19 The sales and use tax refunds provided in the bill apply to
11 20 sales and use taxes paid on or after July 1, 2009.

11 21 LSB 1207HZ 83

11 22 tw/mg:sc/5