

Senate File 302 - Introduced

SENATE FILE _____
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO SSB 1087)

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

A BILL FOR

1 An Act providing a sales and use tax exemption, sales and use tax
2 refunds, and a property tax exemption to certain data center
3 businesses and including an applicability date provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1435SV 83
6 tw/mg:sc/8

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1 1 Section 1. Section 423.3, Code 2009, is amended by adding
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 ~~(3) (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~~.

5 4 Sec. 3. Section 423.4, Code 2009, is amended by adding the
5 5 following new subsection:

5 6 NEW SUBSECTION. 9. a. The owner of a data center
5 7 business, as defined in section 423.3, subsection 95,
5 8 paragraph "e", located in this state that is not eligible for
5 9 the exemption under section 423.3, subsection 95, may make an
5 10 annual application to the department for the refund of fifty
5 11 percent of the sales or use tax upon all of the following:

5 12 (1) The sales price from the sale or rental of computers
5 13 and equipment that are necessary for the maintenance and
5 14 operation of a data center business and property whether
5 15 directly or indirectly connected to the computers, including
5 16 but not limited to cooling systems, cooling towers, and other
5 17 temperature control infrastructure; power infrastructure for
5 18 transformation, distribution, or management of electricity
5 19 used for the maintenance and operation of the data center
5 20 business including but not limited to exterior dedicated
5 21 business-owned substations, backup power generation systems,
5 22 battery systems, and related infrastructure; and racking
5 23 systems, cabling, and trays, which are necessary for the
5 24 maintenance and operation of the data center business.

5 25 (2) The sales price of backup power generation fuel that
5 26 is purchased by a data center business for use in the items
5 27 listed in subparagraph (1).

5 28 (3) The sales price of electricity purchased for use in
5 29 providing data center services.

5 30 b. A data center business shall qualify for the partial
5 31 refund in this subsection if all of the following criteria are
5 32 met:

5 33 (1) The data center business shall have a physical
5 34 location in the state which is at least five thousand square
5 35 feet in size.

6 1 (2) The data center business shall make a minimum
6 2 investment of at least ten million dollars, in the case of new
6 3 construction, or at least five million dollars in the case of
6 4 a rehabilitated building, in an Iowa physical location within
6 5 the first six years of operation in Iowa, beginning with the
6 6 date on which the data center business initiates site
6 7 preparation activities. The minimum investment includes the
6 8 initial investment, including the value of a lease agreement
6 9 or the amount invested in land and subsequent acquisition of
6 10 additional adjacent land and subsequent investment at the Iowa
6 11 location.

6 12 (3) If the data center business is leasing a building to
6 13 house operations, the data center business shall enter into a
6 14 lease that is at least five years in duration.

6 15 (4) The data center business shall comply with the
6 16 sustainable design and construction standards established by
6 17 the state building code commissioner pursuant to section
6 18 103A.8B.

6 19 c. The refund allowed under this subsection shall be
6 20 available for the following periods of time:

6 21 (1) For an investment of at least ten million dollars, in
6 22 the case of new construction, or at least five million
6 23 dollars, in the case of a rehabilitated building, but less
6 24 than seventy-three million dollars, fifteen years.

6 25 (2) For an investment of at least seventy-three million
6 26 dollars but less than one hundred thirty-six million dollars,
6 27 ten years.

6 28 (3) For an investment of at least one hundred thirty-six
6 29 million dollars, but less than two hundred million dollars,
6 30 seven years.

6 31 d. The refund may be obtained only in the following manner
6 32 and under the following conditions:

6 33 (1) The applicant shall use forms furnished by the
6 34 department.

6 35 (2) The applicant shall separately list the amounts of
7 1 sales and use tax paid during the reporting period.

7 2 (3) The applicant may request when the refund begins, but
7 3 it must start on the first day of a month and proceed for a
7 4 continuous twelve-month period.

7 5 e. In determining the amount to be refunded, if the dates
7 6 of the utility billing or meter reading cycle for the sale or
7 7 furnishing of metered gas and electricity are on or after the
7 8 first day of the first month through the last day of the last
7 9 month of the refund year, fifty percent of the amount of tax
7 10 charged in the billings shall be refunded. In determining the
7 11 amount to be refunded, if the dates of the sale or furnishing
7 12 of fuel for purposes of commercial energy and the delivery of
7 13 the fuel are on or after the first day of the first month
7 14 through the last day of the last month of the refund year,
7 15 fifty percent of the amount of tax charged in the billings
7 16 shall be refunded.

7 17 f. To receive refunds during the applicable refund period,
7 18 the applicant shall file a refund claim within three months
7 19 after the end of each refund year.

7 20 g. The refund in this subsection applies only to state
7 21 sales and use tax paid and does not apply to local option
7 22 sales and services taxes imposed pursuant to chapter 423B.

7 23 Sec. 4. Section 427.1, Code 2009, is amended by adding the
7 24 following new subsection:

7 25 NEW SUBSECTION. 37. DATA CENTER BUSINESS PROPERTY.

7 26 a. Property, other than land and buildings and other
7 27 improvements, that is utilized by a data center business as
7 28 defined in and meeting the requirements of section 423.3,
7 29 subsection 95, including computers and equipment that are
7 30 necessary for the maintenance and operation of a data center
7 31 business and other property whether directly or indirectly
7 32 connected to the computers, including but not limited to
7 33 cooling systems, cooling towers, and other temperature control
7 34 infrastructure; power infrastructure for transformation,
7 35 distribution, or management of electricity, including but not
8 1 limited to exterior dedicated business-owned substations, and
8 2 power distribution systems which are not subject to assessment
8 3 under chapter 437A; racking systems, cabling, and trays; and
8 4 backup power generation systems, battery systems, and related
8 5 infrastructure all of which are necessary for the maintenance
8 6 and operation of the data center business.

8 7 b. This data center business exemption applies beginning
8 8 with the assessment year the investment in or construction of
8 9 the facility utilizing the materials, equipment, and systems
8 10 set forth in paragraph "a" are first assessed.

8 11 Sec. 5. IMPLEMENTATION. Section 25B.7 does not apply to
8 12 the property tax exemption enacted in this Act.

8 13 Sec. 6. APPLICABILITY DATE PROVISION. The sections of
8 14 this Act providing sales and use tax refunds apply to sales
8 15 and use tax paid on or after July 1, 2009.

8 16 EXPLANATION

8 17 This bill relates to tax incentives for data center
8 18 businesses. A data center business is a business that
8 19 operates a data center which is a building rehabilitated or
8 20 constructed to house a group of networked server computers in
8 21 one physical location in order to centralize certain services
8 22 related to information management.

8 23 The bill creates a new sales tax exemption for large data
8 24 center projects, modifies the existing sales tax refund for
8 25 information technology facilities to cover data center
8 26 businesses, and creates a new sales tax refund schedule for
8 27 certain data center businesses based on the size of the
8 28 investment made by the business.

8 29 The new sales tax exemption for data center businesses is
8 30 substantially similar in many respects to the existing
8 31 exemptions for web search portal businesses. The exemption is
8 32 for the sale or rental of computers and related equipment that
8 33 are necessary for the maintenance and operation of a data
8 34 center business, the sales price of backup power generation
8 35 fuel, and the sales price of electricity. To claim the
9 1 exemption, a data center business must have a physical
9 2 location in the state that is at least 5,000 square feet in
9 3 size, must make a minimum investment of \$200 million within
9 4 six years, and must comply with the sustainable design and
9 5 construction standards of the state building code
9 6 commissioner.

9 7 As with the existing sales tax exemptions for web search
9 8 portal businesses, the bill provides that data center
9 9 businesses investing at least \$200 million qualify for a
9 10 property tax exemption on property other than land and
9 11 buildings.

9 12 The bill changes the eligibility and incentives for the

9 13 existing sales tax refund for information technology
9 14 facilities. Currently, the refund provides for a full refund
9 15 of the sales tax upon the sales price of fuel and electricity
9 16 used in operation of a facility which has a certain North
9 17 American industry classification system number for a period of
9 18 five years if the business invests at least \$1 million and
9 19 complies with LEED standards. The bill provides for a 50
9 20 percent refund of the sales tax upon the sales price of fuel
9 21 and electricity used in operation of a data center business
9 22 for a period of five years, if the data center business makes
9 23 an investment of a certain amount in a physical location in
9 24 the state within three years and complies with the design and
9 25 construction standards of the state building code
9 26 commissioner. The amount of an investment under the bill must
9 27 be at least \$1 million and less than \$5 million for a
9 28 rehabilitated building or less than \$10 million for a newly
9 29 constructed building. Investments over \$5 million or \$10
9 30 million, respectively, are required in order to qualify for
9 31 the new sales tax refunds created in the bill.

9 32 The bill creates a graduated schedule of sales tax refunds
9 33 based on the relative size of the investment a data center
9 34 business makes in the state. The amount of the incentive is
9 35 equal to 50 percent of the sales tax paid upon the sale or
10 1 rental of computers and related equipment that are necessary
10 2 for the maintenance and operation of a data center business,
10 3 the sales price of backup power generation fuel, and the sales
10 4 price of electricity, but the refund is available for an
10 5 increasingly shorter period of time as the size of the
10 6 qualifying investment increases. Thus, investments greater
10 7 than \$5 million for a rehabilitated facility or \$10 million
10 8 for a newly constructed facility but less than \$73 million
10 9 receive the refund for a period of 15 years, investments of at
10 10 least \$73 million but less than \$136 million receive the
10 11 refund for a period of 10 years, and investments of at least
10 12 \$136 million but less than \$200 million receive the refund for
10 13 a period of seven years.

10 14 In addition to the minimum investments of \$5 million and
10 15 \$10 million, to be eligible for the graduated schedule of
10 16 refunds, a data center business must have a physical location
10 17 in the state of at least 5,000 square feet in size and must
10 18 comply with the sustainable design and construction standards
10 19 of the state building code commissioner. If a business is
10 20 leasing a facility instead of buying one, the business must
10 21 enter into a lease of at least five years in length.

10 22 The sales tax refunds apply to sales and use taxes paid on
10 23 or after July 1, 2009.

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