Sixty-seventh Legislative Assembly of North Dakota

SENATE BILL NO. 2137

Introduced by

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Senators Myrdal, Oehlke, Patten

Representatives Damschen, Mock, Monson

- 1 A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota
- 2 Century Code, relating to a sales and use tax exemption for enterprise information technology
- 3 equipment and computer software purchased for use in a qualified data center; to provide an
- 4 effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:
- Sales and use tax exemption for enterprise information technology equipment and
 computer software used in a qualified data center.
- 1. Gross receipts from sales of enterprise information technology equipment and

 computer software purchased for use by a qualifying business in a qualified data

 center are exempt from the tax imposed by this chapter. To qualify for the exemption,

 the enterprise information technology equipment or computer software must be

 incorporated into or physically located within the qualified data center. Purchases of

 upgraded or replacement enterprise information technology equipment and computer

 software for use in a qualified data center also are exempt.
 - 2. The future owner of a proposed data center shall apply to the tax commissioner to be certified as a qualified data center. The exemption provided in this section is limited to the first four facilities approved by the tax commissioner as qualified data centers in each region and facilities with capital investments exceeding one hundred fifty million dollars. Applications must be processed in the order received by the tax commissioner. An applicant shall respond to a request for additional information from the tax commissioner within thirty days of the request or the application may no longer be considered.

1 To receive the exemption at the time of purchase, the qualified business shall obtain 2 from the tax commissioner a certificate that the enterprise information technology 3 equipment or computer software the qualified business intends to purchase qualifies 4 for the exemption. If a certificate is not received before the purchase, the qualified 5 business shall pay the applicable tax imposed by this chapter and apply to the tax 6 commissioner for a refund. 7 If the enterprise information technology equipment is purchased or installed by a 8 contractor subject to the tax imposed by this chapter, the qualified business may apply 9 for a refund of the difference between the amount remitted by the contractor and the 10 exemption imposed or allowed by this section. Application for a refund must be made 11 at the times and in the manner directed by the tax commissioner and must include 12 sufficient information to permit the tax commissioner to verify the sales and use taxes 13 paid and the exempt status of the sale or use. 14 For purposes of this section: 5. 15 "Computer software" includes software used or loaded at a qualified data center, <u>a.</u> 16 software maintenance, software licensing, and software customization. 17 "Data center" means a centralized repository for the storage, management, and <u>b.</u> 18 dissemination of electronic data and information organized around a particular 19 body or bodies of knowledge. 20 "Enterprise information technology equipment" includes: <u>C.</u> 21 (1) Computer hardware, servers, routers, cooling systems, and cooling towers. 22 (2) Temperature control infrastructure and power infrastructure used for 23 transformation, distribution, or management of electricity used for the 24 maintenance and operation of a qualified data center. 25 (3) Exterior dedicated business-owned substations, backup power generation 26 systems, battery systems, or other related infrastructure. 27 <u>(4)</u> Racking systems, raised flooring, cabling, or trays necessary for the 28 maintenance and operation of a qualified data center. 29 "Qualified business" means the owner, operator, or tenants of a qualified data d. 30 center.

1		<u>e.</u>	"Qualified data center" means a newly constructed or substantially refurbished			
2			facility located in this state:			
3			<u>(1)</u>	Com	prised of one or more buildings, the primary purpose of which is to	
4				cont	ain a data center, consisting of an aggregate amount of fifteen thousand	
5				<u>squa</u>	re feet [1394 square meters] or more, no fewer than fifty percent of	
6				whic	h is used for data processing;	
7			<u>(2)</u>	Loca	ted on a single parcel or on contiguous parcels;	
8			<u>(3)</u>	<u>On v</u>	which construction is completed or which is substantially refurbished	
9				<u>after</u>	December 31, 2020;	
10			<u>(4)</u>	<u>Havi</u>	ng the following attributes:	
11				<u>(a)</u>	Sophisticated fire suppression and prevention systems:	
12				<u>(b)</u>	Enhanced security with security features including permanent security	
13					guards; video camera surveillance; an electronic system requiring	
14					pass codes, key cards, or biometric scans such as hand scans or	
15					retinal or fingerprint recognition to restrict access to selected	
16					personnel; or other similar security features; and	
17			<u>(5)</u>	<u>Certi</u>	ified by the tax commissioner as a qualified data center.	
18		<u>f.</u>	<u>"Reg</u>	gion" l	has the same meaning provided in section 54-40.1-02.	
19		<u>g.</u>	<u>"Sul</u>	<u>ostant</u>	ially refurbished" means a data center used to house enterprise	
20			<u>infor</u>	rmatio	n technology equipment in which fifteen thousand square feet [1394]	
21			<u>squ</u>	are m	eters] or more has been rebuilt, modified, or improved through methods	
22			inclu	uding	energy efficiency improvements, building improvements, and the	
23			insta	allatio	n of enterprise information technology equipment, environmental	
24			cont	trols, a	and computer software.	
25	<u>6.</u>	<u>In d</u>	<u>eterm</u>	nining	the total square footage of a qualified data center, the square footage	
26		of o	ffice s	space.	meeting space, mechanical space, and other support facility spaces	
27		mus	st be i	includ	ed if those spaces are used to support the operation of enterprise	
28		<u>info</u>	rmatio	on tec	hnology equipment.	
29	<u>7.</u>	<u>Qua</u>	alified	data	center owners that intend to collocate operators or tenants within the	
30		<u>cen</u>	ter sh	all pro	ovide the operators or tenants with documentation from the tax	
31		con	nmissi	ioner 1	that the center meets the definition of a qualified data center under this	

1	section. Operators or tenants shall obtain and submit a copy of the documentation with
2	all applications for sales tax exemption on information technology equipment and
3	computer software purchased for use in the qualified data center.
4	SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after
5	June 30, 2021.
6	SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2030, and after that
7	date is ineffective.