

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Commerce and Economic
5 Opportunity Law of the Civil Administrative Code of Illinois
6 is amended by changing Section 605-1025 as follows:

7 (20 ILCS 605/605-1025)

8 Sec. 605-1025. Data center investment.

9 (a) The Department shall issue certificates of exemption
10 from the Retailers' Occupation Tax Act, the Use Tax Act, the
11 Service Use Tax Act, and the Service Occupation Tax Act, all
12 locally-imposed retailers' occupation taxes administered and
13 collected by the Department, the Chicago non-titled Use Tax,
14 and a credit certification against the taxes imposed under
15 subsections (a) and (b) of Section 201 of the Illinois Income
16 Tax Act to qualifying Illinois data centers.

17 (b) For taxable years beginning on or after January 1,
18 2019, the Department shall award credits against the taxes
19 imposed under subsections (a) and (b) of Section 201 of the
20 Illinois Income Tax Act as provided in Section 229 of the
21 Illinois Income Tax Act.

22 (c) For purposes of this Section:

23 "Data center" means a facility: (1) whose primary

1 services are the storage, management, and processing of
2 digital data; and (2) that is used to house (i) computer
3 and network systems, including associated components such
4 as servers, network equipment and appliances,
5 telecommunications, and data storage systems, (ii) systems
6 for monitoring and managing infrastructure performance,
7 (iii) Internet-related equipment and services, (iv) data
8 communications connections, (v) environmental controls,
9 (vi) fire protection systems, and (vii) security systems
10 and services.

11 "Qualifying Illinois data center" means a new or
12 existing data center that:

13 (1) is located in the State of Illinois, is
14 located within a 5-mile geographic radius, and is
15 connected by common infrastructure;

16 (2) in the case of an existing data center, made a
17 capital investment of at least \$250,000,000
18 collectively by the data center operator and the
19 tenants of the data center over the 60-month period
20 immediately prior to January 1, 2020 or committed to
21 make a capital investment of at least \$250,000,000
22 over a 60-month period commencing before January 1,
23 2020 and ending after January 1, 2020; or

24 (3) in the case of a new data center, or an
25 existing data center making an upgrade, makes a
26 capital investment of at least \$250,000,000 over a

1 60-month period beginning on or after January 1, 2020;
2 and

3 (4) in the case of both existing and new data
4 centers, results in the creation of at least 20
5 full-time or full-time equivalent new jobs over a
6 period of 60 months by the data center operator and the
7 tenants of the data center, collectively, associated
8 with the ~~operation or maintenance of the~~ data center;
9 all jobs associated with a qualifying data center
10 meeting its job creation requirements ~~those jobs~~ must
11 have a total compensation equal to or greater than
12 120% of the average wage paid to full-time employees
13 in the county where the data center is located, as
14 determined by the U.S. Bureau of Labor Statistics; and

15 (5) within 2 years ~~90 days~~ after being placed in
16 service, certifies to the Department that it is carbon
17 neutral or has attained certification under one or
18 more of the following green building standards:

19 (A) BREEAM for New Construction or BREEAM
20 In-Use;

21 (B) ENERGY STAR;

22 (C) Envision;

23 (D) ISO 50001-energy management;

24 (E) LEED for Building Design and Construction
25 or LEED for Operations and Maintenance;

26 (F) Green Globes for New Construction or Green

1 Globes for Existing Buildings;

2 (G) UL 3223; or

3 (H) an equivalent program approved by the
4 Department of Commerce and Economic Opportunity,
5 except that entering into an agreement with an
6 independent business or entity unrelated to the
7 data center for the purchase, sale, or transfer of
8 carbon credits that would not result in carbon
9 neutral outcomes at the actual site of the data
10 center shall not qualify as an eligible program
11 for the purposes of this Section.

12 "Full-time equivalent job" means a job in which the
13 new employee works for the owner, operator, contractor, or
14 tenant of a data center or for a corporation under
15 contract with the owner, operator or tenant of a data
16 center at a rate of at least 35 hours per week. An owner,
17 operator or tenant who employs labor or services at a
18 specific site or facility under contract with another may
19 declare one full-time, permanent job for every 1,820 man
20 hours worked per year under that contract. Vacations, paid
21 holidays, and sick time are included in this computation.
22 Overtime is not considered a part of regular hours.

23 "Qualified tangible personal property" means:
24 electrical systems and equipment; climate control and
25 chilling equipment and systems; mechanical systems and
26 equipment; monitoring and secure systems; emergency

1 generators; hardware; computers; servers; data storage
2 devices; network connectivity equipment; racks; cabinets;
3 telecommunications cabling infrastructure; raised floor
4 systems; peripheral components or systems; software;
5 mechanical, electrical, or plumbing systems; battery
6 systems; cooling systems and towers; temperature control
7 systems; other cabling; and other data center
8 infrastructure equipment and systems necessary to operate
9 qualified tangible personal property, including fixtures;
10 and component parts of any of the foregoing, including
11 installation, maintenance, repair, refurbishment, and
12 replacement of qualified tangible personal property to
13 generate, transform, transmit, distribute, or manage
14 electricity necessary to operate qualified tangible
15 personal property; and all other tangible personal
16 property that is essential to the operations of a computer
17 data center. "Qualified tangible personal property" also
18 includes building materials physically incorporated in to
19 the qualifying data center.

20 "Tenant" means an entity that leases, subleases, or
21 licenses with the owner or operator of a qualified data
22 center that is certified under this Section to use or
23 occupy all or part of the data center for a period of at
24 least one year.

25 To document the exemption allowed under this Section, the
26 retailer must obtain from the purchaser a copy of the

1 certificate of eligibility issued by the Department.

2 (d) New and existing data centers seeking a certificate of
3 exemption for new or existing facilities shall apply to the
4 Department in the manner specified by the Department. The
5 Department shall determine the duration of the certificate of
6 exemption awarded under this Act. The duration of the
7 certificate of exemption may not exceed 20 calendar years. The
8 Department and any data center seeking the exemption,
9 including a data center operator on behalf of itself and its
10 tenants, must enter into a memorandum of understanding that at
11 a minimum provides:

12 (1) the details for determining the amount of capital
13 investment to be made;

14 (2) the number of new jobs created;

15 (3) the timeline for achieving the capital investment
16 and new job goals;

17 (4) the repayment obligation should those goals not be
18 achieved and any conditions under which repayment by the
19 qualifying data center or data center tenant claiming the
20 exemption will be required;

21 (5) the duration of the exemption; and

22 (6) other provisions as deemed necessary by the
23 Department.

24 A data center and an associated tenant may also enter into
25 an ancillary memorandum of understanding, as prescribed by the
26 Department, for purposes of receipt of the exemption.

1 (e) Beginning July 1, 2021, and each year thereafter, the
2 Department shall annually report to the Governor and the
3 General Assembly on the outcomes and effectiveness of Public
4 Act 101-31 that shall include the following:

5 (1) the name of each recipient business;

6 (2) the location of the project;

7 (3) the estimated value of the credit;

8 (4) the number of new jobs and, if applicable,
9 retained jobs pledged as a result of the project; and

10 (5) whether or not the project is located in an
11 underserved area.

12 (f) New and existing data centers seeking a certificate of
13 exemption related to the rehabilitation or construction of
14 data centers in the State shall require the contractor and all
15 subcontractors to comply with the requirements of Section
16 30-22 of the Illinois Procurement Code as they apply to
17 responsible bidders and to present satisfactory evidence of
18 that compliance to the Department.

19 (g) New and existing data centers seeking a certificate of
20 exemption for the rehabilitation or construction of data
21 centers in the State shall require the contractor to enter
22 into a project labor agreement approved by the Department.

23 (h) Any qualifying data center issued a certificate of
24 exemption under this Section must annually report to the
25 Department the total data center tax benefits that are
26 received by the business. Reports are due no later than May 31

1 of each year and shall cover the previous calendar year. The
2 first report is for the 2019 calendar year and is due no later
3 than May 31, 2020.

4 To the extent that a business issued a certificate of
5 exemption under this Section has obtained an Enterprise Zone
6 Building Materials Exemption Certificate or a High Impact
7 Business Building Materials Exemption Certificate, no
8 additional reporting for those building materials exemption
9 benefits is required under this Section.

10 Failure to file a report under this subsection (h) may
11 result in suspension or revocation of the certificate of
12 exemption. Factors to be considered in determining whether a
13 data center certificate of exemption shall be suspended or
14 revoked include, but are not limited to, prior compliance with
15 the reporting requirements, cooperation in discontinuing and
16 correcting violations, the extent of the violation, and
17 whether the violation was willful or inadvertent.

18 (i) The Department shall not issue any new certificates of
19 exemption under the provisions of this Section after July 1,
20 2029. This sunset shall not affect any existing certificates
21 of exemption in effect on July 1, 2029.

22 (j) The Department shall adopt rules to implement and
23 administer this Section.

24 (k) The Department is authorized to conform existing
25 memorandums of understanding with the provisions of this
26 Section.

1 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 12-13-19.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.