

SB3643



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3643

Introduced 1/21/2022, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

20 ILCS 605/605-1025

Amends the Civil Administrative Code of Illinois. Defines "cryptocurrency" and "cryptocurrency mining." Modifies "qualifying Illinois Data center" to include data centers engaged in cryptocurrency mining over a 60-month period that may begin no earlier than 60 months prior the effective date of this Act; or data centers engaged in cryptocurrency commencing before the effective date of this Act and ending after the effective date of this Act in the case of a data center. Effective immediately.

LRB102 24144 HLH 33370 b

A BILL FOR

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 "Cryptocurrency" means a type of virtual currency that

1 utilizes cryptography to secure transactions that are
2 digitally recorded on a distributed ledger, such as a
3 blockchain.

4 "Cryptocurrency mining" means the process whereby
5 computers, also known as nodes or mining rigs, validate
6 blockchain transactions for a specific cryptocurrency and, in
7 turn, receive a mining reward for their computational efforts.

8 "Data center" means a facility: (1) whose primary
9 services are the storage, management, ~~and~~ processing of
10 digital data and cryptocurrency mining; and (2) that is
11 used to house (i) computer and network systems, including
12 associated components such as servers, network equipment
13 and appliances, telecommunications, and data storage
14 systems, (ii) systems for monitoring and managing
15 infrastructure performance, (iii) Internet-related
16 equipment and services, (iv) data communications
17 connections, (v) environmental controls, (vi) fire
18 protection systems, and (vii) security systems and
19 services.

20 "Qualifying Illinois data center" means a new or
21 existing data center that:

22 (1) is located in the State of Illinois;

23 (2) in the case of an existing data center, made a
24 capital investment of at least \$250,000,000
25 collectively by the data center operator and the
26 tenants of the data center over the 60-month period

1 immediately prior to January 1, 2020, or in the case of
2 a data center engaged in cryptocurrency mining over a
3 60-month period that may begin no earlier than 60
4 months prior the effective date of this amendatory act
5 of 2022, or committed to make a capital investment of
6 at least \$250,000,000 over a 60-month period
7 commencing before January 1, 2020 and ending after
8 January 1, 2020, or commencing before the effective
9 date of this amendatory Act of 2022 and ending after
10 the effective date of this amendatory Act of 2022 in
11 the case of a data center engaged in cryptocurrency;
12 or

13 (3) in the case of a new data center, or an
14 existing data center making an upgrade, makes a
15 capital investment of at least \$250,000,000 over a
16 60-month period beginning on or after January 1, 2020;
17 and

18 (4) in the case of both existing and new data
19 centers, results in the creation of at least 20
20 full-time or full-time equivalent new jobs over a
21 period of 60 months by the data center operator and the
22 tenants of the data center, collectively, associated
23 with the operation or maintenance of the data center;
24 those jobs must have a total compensation equal to or
25 greater than 120% of the average wage paid to
26 full-time employees in the county where the data

1 center is located, as determined by the U.S. Bureau of
2 Labor Statistics; and

3 (5) within 2 years after being placed in service,
4 certifies to the Department that it is carbon neutral
5 or has attained certification under one or more of the
6 following green building standards:

7 (A) BREEAM for New Construction or BREEAM
8 In-Use;

9 (B) ENERGY STAR;

10 (C) Envision;

11 (D) ISO 50001-energy management;

12 (E) LEED for Building Design and Construction
13 or LEED for Operations and Maintenance;

14 (F) Green Globes for New Construction or Green
15 Globes for Existing Buildings;

16 (G) UL 3223; or

17 (H) an equivalent program approved by the
18 Department of Commerce and Economic Opportunity.

19 "Full-time equivalent job" means a job in which the
20 new employee works for the owner, operator, contractor, or
21 tenant of a data center or for a corporation under
22 contract with the owner, operator or tenant of a data
23 center at a rate of at least 35 hours per week. An owner,
24 operator or tenant who employs labor or services at a
25 specific site or facility under contract with another may
26 declare one full-time, permanent job for every 1,820 man

1 hours worked per year under that contract. Vacations, paid
2 holidays, and sick time are included in this computation.
3 Overtime is not considered a part of regular hours.

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

1 To document the exemption allowed under this Section, the
2 retailer must obtain from the purchaser a copy of the
3 certificate of eligibility issued by the Department.

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

14 (1) the details for determining the amount of capital
15 investment to be made;

16 (2) the number of new jobs created;

17 (3) the timeline for achieving the capital investment
18 and new job goals;

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

23 (5) the duration of the exemption; and

24 (6) other provisions as deemed necessary by the
25 Department.

26 (e) Beginning July 1, 2021, and each year thereafter, the

1 Department shall annually report to the Governor and the
2 General Assembly on the outcomes and effectiveness of Public
3 Act 101-31 that shall include the following:

4 (1) the name of each recipient business;

5 (2) the location of the project;

6 (3) the estimated value of the credit;

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

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

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

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

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

1 first report is for the 2019 calendar year and is due no later
2 than May 31, 2020.

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

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

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

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

23 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 12-13-19;
24 102-427, eff. 8-20-21; 102-558, eff. 8-20-21.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.