

PROPOSED AMENDMENTS TO SENATE BILL NO. 2137

Page 1, line 3, replace “an” with “for a retroactive”

Page 1, line 19, remove “approved by the tax commissioner as qualified data centers”

Page 1, line 20, after “region” insert “with a capital investment of one hundred fifty million dollars or less”

Page 1, line 20, replace “facilities” with “any facility”

Page 4, line 4, after “**EFFECTIVE DATE**” insert “- **RETROACTIVE APPLICATION**”

Page 4, line 4, after “is” insert “retroactively”

Page 4, line 4, after “effective” insert “, and applies to”

Page 4, line 4, remove “for”

Page 4, line 5, replace “June 30, 2021” with “December 31, 2020”

Renumber accordingly

SENATE BILL NO. 2137

Introduced by

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 ~~for a retroactive~~ effective date; and to provide an expiration date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Sales and use tax exemption for enterprise information technology equipment and**
9 **computer software used in a qualified data center.**

- 10 1. Gross receipts from sales of enterprise information technology equipment and
11 computer software purchased for use by a qualifying business in a qualified data
12 center are exempt from the tax imposed by this chapter. To qualify for the exemption,
13 the enterprise information technology equipment or computer software must be
14 incorporated into or physically located within the qualified data center. Purchases of
15 upgraded or replacement enterprise information technology equipment and computer
16 software for use in a qualified data center also are exempt.
- 17 2. The future owner of a proposed data center shall apply to the tax commissioner to be
18 certified as a qualified data center. The exemption provided in this section is limited to
19 the first four facilities ~~approved by the tax commissioner as qualified data centers~~ in
20 each region ~~with a capital investment of one hundred fifty million dollars or less and~~
21 ~~facilities~~ ~~any facility~~ with capital investments exceeding one hundred fifty million dollars.
22 Applications must be processed in the order received by the tax commissioner. An
23 applicant shall respond to a request for additional information from the tax commissioner
24 within thirty days of the request or the application may no longer be considered.

- 1 e. "Qualified data center" means a newly constructed or substantially refurbished
2 facility located in this state:
- 3 (1) Comprised of one or more buildings, the primary purpose of which is to
4 contain a data center, consisting of an aggregate amount of fifteen thousand
5 square feet [1394 square meters] or more, no fewer than fifty percent of
6 which is used for data processing;
- 7 (2) Located on a single parcel or on contiguous parcels;
- 8 (3) On which construction is completed or which is substantially refurbished
9 after December 31, 2020;
- 10 (4) Having the following attributes:
- 11 (a) Sophisticated fire suppression and prevention systems;
- 12 (b) 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 (5) Certified by the tax commissioner as a qualified data center.
- 18 f. "Region" has the same meaning provided in section 54-40.1-02.
- 19 g. "Substantially refurbished" means a data center used to house enterprise
20 information technology equipment in which fifteen thousand square feet [1394
21 square meters] or more has been rebuilt, modified, or improved through methods
22 including energy efficiency improvements, building improvements, and the
23 installation of enterprise information technology equipment, environmental
24 controls, and computer software.
- 25 6. In determining the total square footage of a qualified data center, the square footage
26 of office space, meeting space, mechanical space, and other support facility spaces
27 must be included if those spaces are used to support the operation of enterprise
28 information technology equipment.
- 29 7. Qualified data center owners that intend to collocate operators or tenants within the
30 center shall provide the operators or tenants with documentation from the tax
31 commissioner that the center meets the definition of a qualified data center under this