



Sen. Laura M. Murphy

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10400SB3120sam001

LRB104 19414 HLH 34792 a

1 AMENDMENT TO SENATE BILL 3120

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3120 by replacing  
3 everything after the enacting clause with the following:

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.

1 (b) For taxable years beginning on or after January 1,  
2 2019, the Department shall award credits against the taxes  
3 imposed under subsections (a) and (b) of Section 201 of the  
4 Illinois Income Tax Act as provided in Section 229 of the  
5 Illinois Income Tax Act.

6 (c) For purposes of this Section:

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

18 "Qualifying Illinois data center" means a new or  
19 existing data center that:

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

21 (2) in the case of an existing data center, made a  
22 capital investment of at least \$250,000,000  
23 collectively by the data center operator and the  
24 tenants of the data center over the 60-month period  
25 immediately prior to January 1, 2020 or committed to  
26 make a capital investment of at least \$250,000,000

1 over a 60-month period commencing before January 1,  
2 2020 and ending after January 1, 2020; or

3 (3) in the case of a new data center, or an  
4 existing data center making an upgrade, makes a  
5 capital investment of at least \$250,000,000 over a  
6 60-month period beginning on or after January 1, 2020;  
7 and

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

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

23 (A) BREEAM for New Construction or BREEAM  
24 In-Use;

25 (B) ENERGY STAR;

26 (C) Envision;

1 (D) ISO 50001-energy management;

2 (E) LEED for Building Design and Construction  
3 or LEED for Operations and Maintenance;

4 (F) Green Globes for New Construction or Green  
5 Globes for Existing Buildings;

6 (G) UL 3223; or

7 (H) an equivalent program approved by the  
8 Department of Commerce and Economic Opportunity; ~~and~~

9 (6) implements a water stewardship strategy that  
10 uses a closed-loop cooling system or that uses treated  
11 municipal wastewater exclusively; and

12 (7) provides to the Department details regarding  
13 the water stewardship strategy that it uses,  
14 including:

15 (A) records demonstrating whether a  
16 closed-loop cooling system or treated municipal  
17 wastewater is used;

18 (B) records demonstrating when the water  
19 stewardship strategy was adopted; and

20 (C) records demonstrating sustained use of the  
21 adopted water stewardship strategy.

22 "Full-time equivalent job" means a job in which the  
23 new employee works for the owner, operator, contractor, or  
24 tenant of a data center or for a corporation under  
25 contract with the owner, operator or tenant of a data  
26 center at a rate of at least 35 hours per week. An owner,

1 operator or tenant who employs labor or services at a  
2 specific site or facility under contract with another may  
3 declare one full-time, permanent job for every 1,820 man  
4 hours worked per year under that contract. Vacations, paid  
5 holidays, and sick time are included in this computation.  
6 Overtime is not considered a part of regular hours.

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

1 data center. "Qualified tangible personal property" also  
2 includes building materials physically incorporated in to  
3 the qualifying data center.

4 To document the exemption allowed under this Section, the  
5 retailer must obtain from the purchaser a copy of the  
6 certificate of eligibility issued by the Department.

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

17 (1) the details for determining the amount of capital  
18 investment to be made;

19 (2) the number of new jobs created;

20 (3) the timeline for achieving the capital investment  
21 and new job goals;

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

26 (5) the duration of the exemption; and

1 (6) other provisions as deemed necessary by the  
2 Department.

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

7 (1) the name of each recipient business;

8 (2) the location of the project;

9 (3) the estimated value of the credit;

10 (4) the number of new jobs and, if applicable,  
11 retained jobs pledged as a result of the project; ~~and~~

12 (5) whether or not the project is located in an  
13 underserved area; and ~~—~~

14 (6) beginning July 1, 2027, details regarding the  
15 water stewardship strategies used by each recipient  
16 business, including:

17 (A) records demonstrating whether a closed-loop  
18 cooling system or treated municipal wastewater is  
19 used;

20 (B) records demonstrating when the water  
21 stewardship strategy was adopted; and

22 (C) records demonstrating sustained use of the  
23 adopted water stewardship strategy.

24 (f) New and existing data centers seeking a certificate of  
25 exemption related to the rehabilitation or construction of  
26 data centers in the State shall require the contractor and all

1 subcontractors to comply with the requirements of Section  
2 30-22 of the Illinois Procurement Code as they apply to  
3 responsible bidders and to present satisfactory evidence of  
4 that compliance to the Department.

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

9 (h) Any qualifying data center issued a certificate of  
10 exemption under this Section must annually report to the  
11 Department the total data center tax benefits that are  
12 received by the business. Reports are due no later than May 31  
13 of each year and shall cover the previous calendar year. The  
14 first report is for the 2019 calendar year and is due no later  
15 than May 31, 2020.

16 To the extent that a business issued a certificate of  
17 exemption under this Section has obtained an Enterprise Zone  
18 Building Materials Exemption Certificate or a High Impact  
19 Business Building Materials Exemption Certificate, no  
20 additional reporting for those building materials exemption  
21 benefits is required under this Section.

22 Failure to file a report under this subsection (h) may  
23 result in suspension or revocation of the certificate of  
24 exemption. Factors to be considered in determining whether a  
25 data center certificate of exemption shall be suspended or  
26 revoked include, but are not limited to, prior compliance with

1 the reporting requirements, cooperation in discontinuing and  
2 correcting violations, the extent of the violation, and  
3 whether the violation was willful or inadvertent.

4 (i) The Department shall not issue any new certificates of  
5 exemption under the provisions of this Section after July 1,  
6 2029. This sunset shall not affect any existing certificates  
7 of exemption in effect on July 1, 2029.

8 (j) The Department shall adopt rules to implement and  
9 administer this Section.

10 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 12-13-19;  
11 102-427, eff. 8-20-21; 102-558, eff. 8-20-21.)".