

HOUSE _____ AMENDMENT NO. _____

Offered By

AMEND House Committee Substitute for Senate Committee Substitute
for Senate Bill No. 591, Page 10, Section 34.057, Line 152, by
after all of said line inserting the following:

"67.2050. 1. As used in this section, unless the context
clearly indicates otherwise, the following terms mean:

1. (1) "Facility", a location composed of real estate, buildings,
fixtures, machinery, and equipment;

(2) "Municipality", any county, city, incorporated town, or
village of the state;

(3) "NAICS", the 2007 edition of the North American Industry
Classification System developed under the direction and guidance
of the federal Office of Management and Budget. Any NAICS sector,
subsector, industry group, or industry identified in this section
shall include its corresponding classification in previous and
subsequent federal industry classification systems;

(4) "Technology business facility", a facility purchased,
constructed, extended, or improved under this section, provided
that such business facility is engaged in:

(a) Wired telecommunications carriers (NAICS 517110); or

(b) Data processing, hosting, and related services (NAICS
518210); or

(c) Internet publishing and broadcasting and web search portals
(NAICS 519130), at the business facility;

(5) "Technology business facility project" or "project", the
purchase, construction, extension, and improvement of technology
business facilities, whether of the facility as a whole or of any
one or more of the facility's components of real estate,
buildings, fixtures, machinery, and equipment.

2. The governing body of any municipality may:

(1) Carry out technology business facility projects for economic
development under this section;

(2) Accept grants from the federal and state governments for technology business facility project purposes, and may enter into such agreements as are not contrary to the laws of this state and which may be required as a condition of grants by the federal government or its agencies; and

(3) Receive gifts and donations from private sources to be used for technology business facility project purposes.

3. The governing body of the municipality may enter into loan agreements, sell, lease, or mortgage to private persons, partnerships, or corporations any one or more of the components of a facility received, purchased, constructed, or extended by the municipality for development of a technology business facility project. The loan agreement, installment sale agreement, lease, or other such document shall contain such other terms as are agreed upon between the municipality and the obligor, provided that such terms shall be consistent with this section. When, in the judgment of the governing body of the municipality, the technology business facility project will result in economic benefits to the municipality, the governing body may lawfully enter into an agreement that includes nominal monetary consideration to the municipality in exchange for the use of one or more components of the facility.

4. Transactions involving the lease or rental of any components of a project under this section shall be specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761, and from the computation of the tax levied, assessed, or payable under the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745.

5. Leasehold interests granted and held under this section shall not be subject to property taxes.

6. Any payments in lieu of taxes expected to be made by any lessee of the project shall be applied in accordance with this section. The lessee may reimburse the municipality for its actual costs of administering the plan. All amounts paid in excess of such actual costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer or other financial officer to each affected taxing entity in proportion to the current ad valorem tax levy of each affected taxing entity.

7. The county assessor shall include the current assessed value of all property within the affected taxing entities in the aggregate valuation of assessed property entered upon the assessor's book and verified under section 137.245, and such value shall be used for the purpose of the debt limitation on local government under section 26(b), article VI, Constitution of Missouri.

1 8. The governing body of any municipality may sell or otherwise
2 dispose of the property, buildings, or plants acquired under this
3 section to private persons or corporations for technology
4 business facility project purposes upon approval by the governing
5 body. The terms and method of the sale or other disposal shall be
6 established by the governing body so as to reasonably protect the
7 economic well-being of the municipality and to promote the
8 development of technology business facility projects. A private
9 person or corporation that initially transfers property to the
10 municipality for the purposes of a technology business facility
11 project and does not charge a purchase price to the municipality
12 shall retain the right, upon request to the municipality, to have
13 the municipality retransfer the donated property to the person or
14 corporation at no cost.

15 9. The provisions of this section shall not be construed to allow
16 political subdivisions to provide telecommunications services or
17 telecommunications facilities to the extent that they are
18 prohibited from doing so by section 392.410.

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21 Further amend said bill by amending Page 21, Section 144.757,
22 Line 103, by after all of said line inserting the following:
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24 "144.810. 1. As used in this section, unless the context
25 clearly indicates otherwise, the following terms mean:

26 1. (1) "Commencement of commercial operations", shall be deemed
27 to occur during the first calendar year for which the data
28 storage center is first available for use by the operating
29 taxpayer, or first capable of being used by the operating
30 taxpayer, as a data storage center;

31 (2) "Constructing taxpayer", where more than one taxpayer is
32 responsible for a project, a taxpayer responsible for the
33 construction of the facility, as opposed to a taxpayer
34 responsible for the equipping and ongoing operations of the
35 facility;

36 (3) "County average wage", the average wage in each county as
37 determined by the department for the most recently completed full
38 calendar year. However, if the computed county average wage is
39 above the statewide average wage, the statewide average wage
40 shall be deemed the county average wage for such county for the
41 purpose of determining eligibility;

42 (4) "Data storage center" or "facility", a facility constructed,
43 extended, improved, or operating under this section, provided
44 that such business facility is engaged primarily in:

45 (a) Data processing, hosting, and related services (NAICS
46 518210); or

(b) Internet publishing and broadcasting and web search portals (NAICS 519130), at the business facility;

(5) "Existing facility", a data storage center in this state as it existed prior to the effective date of this act, as determined by the department;

(6) "Expanding facility" or "expanding data storage center", an existing facility or replacement facility that expands its operations in this state on or after the effective date of this act, and has net new investment related to the expansion of operations in this state of at least five million dollars during a period of up to twelve consecutive months and results in the creation of at least five new jobs during a period of up to twenty-four consecutive months from the date of conditional approval for an exemption under this section, if the average wage of the new jobs equals or exceeds one hundred and fifty percent of the county average wage. An expanding facility shall continue to be an expanding facility regardless of a subsequent change in or addition of operating taxpayers or constructing taxpayers;

(7) "Expanding facility project" or "expanding data storage center project", the construction, extension, improvement, equipping, and operation of an expanding facility;

(8) "Investment" shall include the value of real and depreciable personal property, acquired as part of the new or expanding facility project which is used in the operation of the facility following conditional approval of an exemption under this section;

(9) "NAICS", the 2007 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group, or industry identified in this section shall include its corresponding classification in previous and subsequent federal industry classification systems;

(10) "New facility" or "new data storage center", a facility in this state meeting the following requirements:

(a) The facility is acquired by, or leased to, an operating taxpayer on or after the effective date of this act. A facility shall be deemed to have been acquired by, or leased to, an operating taxpayer on or after the effective date of this act, if the transfer of title to an operating taxpayer, the transfer of possession under a binding contract to transfer title to an operating taxpayer, or the commencement of the term of the lease to an operating taxpayer occurs on or after the effective date of this act, or, if the facility is constructed, erected, or installed by or on behalf of an operating taxpayer, such construction, erection, or installation is commenced on or after the effective date of this act;

1 (b) If such facility was acquired by an operating or constructing
2 taxpayer from another person or persons on or after the effective
3 date of this act, and such facility was employed prior to the
4 effective date of this act, by any other person or persons in the
5 operation of a data storage center the facility shall not be
6 considered a new facility;

7 (c) Such facility is not an expanding or replacement facility, as
8 defined in this section;

9 (d) The new facility project investment is at least thirty-seven
10 million dollars during a period of up to thirty-six consecutive
11 months from the date of the conditional approval for an exemption
12 under this section. Where more than one taxpayer is responsible
13 for a project, the investment requirement may be met by an
14 operating taxpayer, a constructing taxpayer, or a combination of
15 constructing taxpayers and operating taxpayers;

16 (e) At least thirty new jobs are created at the new facility
17 during a period of up to thirty-six consecutive months from the
18 date of conditional approval for an exemption under this section
19 if the average wage of the new jobs equals or exceeds one hundred
20 fifty percent of the county average wage; and

21 (f) A new facility shall continue to be a new facility regardless
22 of a subsequent change in or addition of operating taxpayers or
23 constructing taxpayers;

24 (11) "New data storage center project" or "new facility project",
25 the construction, extension, improvement, equipping, and
26 operation of a new facility;

27 (12) "New job" in the case of a new data center project, the
28 total number of full-time employees located at a new data storage
29 center for a period of up to thirty-six consecutive months from
30 the date of conditional approval for an exemption under this
31 section. In the case of an expanding data storage center project,
32 the total number of full-time employees located at the expanding
33 data storage center that exceeds the greater of the number of
34 full-time employees located at the project facility on the date
35 of the submission of a project plan under this section or for the
36 twelve-month period prior to the date of the submission of a
37 project plan, the average number of full-time employees located
38 at the expanding data storage center facility. In the event the
39 expanding data storage center facility has not been in operation
40 for a full twelve-month period at the time of the submission of a
41 project plan, the average number of full-time employees for the
42 number of months the expanding data storage center facility has
43 been in operation prior to the date of the submission of the
44 project plan;

45 (13) "Operating taxpayer", where more than one taxpayer is
46 responsible for a project, a taxpayer responsible for the

1 equipping and ongoing operations of the facility, as opposed to a
2 taxpayer responsible for the purchasing or construction of the
3 facility;

4 (14) "Project taxpayers", each constructing taxpayer and each
5 operating taxpayer for a data storage center project;

6 (15) "Replacement facility", a facility in this state otherwise
7 described in subdivision (7) of this subsection, but which
8 replaces another facility located within the state, which the
9 taxpayer or a related taxpayer previously operated but
10 discontinued operating within one year prior to the commencement
11 of commercial operations at the new facility;

12 (16) "Taxpayer", the purchaser of tangible personal property or a
13 service that is subject to state or local sales or use tax and
14 from whom state or local sales or use tax is owed. Taxpayer shall
15 not mean the seller charged by law with collecting the sales tax
16 from the purchaser.

17 2. In addition to the exemptions granted under chapter 144,
18 project taxpayers for a new data storage center project shall be
19 entitled, for a project period not to exceed fifteen years from
20 the date of conditional approval under this section and subject
21 to the requirements of subsection 3 of this section, to an
22 exemption of one hundred percent of the state and local sales and
23 use taxes defined, levied, or calculated under section 32.085,
24 sections 144.010 to 144.525, sections 144.600 to 144.761, or
25 section 238.235, limited to the net fiscal benefit of the state
26 calculated over a ten year period, on:

27 (1) All electrical energy, gas, water, and other utilities
28 including telecommunication and internet services used in a new
29 data storage center;

30 (2) All machinery, equipment, and computers used in any new data
31 storage center; and

32 (3) All sales at retail of tangible personal property and
33 materials for the purpose of constructing any new data storage
34 center.

35 The amount of any exemption provided under this subsection shall
36 not exceed the projected net fiscal benefit to the state over a
37 period of ten years, as determined by the department of economic
38 development using the Regional Economic Modeling, Inc. dataset or
39 comparable data.

40 3. Any data storage center project seeking a tax exemption under
41 subsection 2 of this section shall submit a project plan to the
42 department of economic development, which shall identify each
43 known constructing taxpayer and known operating taxpayer for the
44 project and include any additional information the department of
45 economic development may require to determine eligibility for the

1 exemption. The department of economic development shall review
2 the project plan and determine whether the project is eligible
3 for the exemption under subsection 2 of this section, conditional
4 upon subsequent verification by the department that the project
5 meets the requirements in subsection 1 of this section for a new
6 facility. The department of economic development shall convey
7 such conditional approval to the department of revenue and the
8 identified project taxpayers. After a conditionally approved new
9 facility has met the requirements in subsection 1 of this section
10 for a new facility and the execution of the agreement specified
11 in subsection 6 of this section, the project taxpayers shall
12 provide proof of the same to the department of economic
13 development. Upon verification of such proof, the department of
14 economic development shall certify the new facility to the
15 department of revenue as being eligible for the exemption dating
16 retroactively to the first day of the thirty-six month period.
17 The department of revenue, upon receipt of adequate proof of the
18 amount of sales taxes paid since the first day of the thirty-six
19 month period, shall issue a refund of taxes paid but eligible for
20 exemption under subsection 2 of this section to each operating
21 taxpayer and each constructing taxpayer and issue a certificate
22 of exemption to each new project taxpayer for ongoing exemptions
23 under subsection 2 of this section.

24 4. In addition to the exemptions granted under chapter 144, upon
25 approval by the department of economic development, project
26 taxpayers for expanding data center projects may, for a period
27 not to exceed ten years, be specifically exempted from state and
28 local sales and use taxes defined, levied, or calculated under
29 section 32.085, sections 144.010 to 144.525, sections 144.600 to
30 144.761, or section 238.235 on:

31 (1) All electrical energy, gas, water, and other utilities
32 including telecommunication and internet services used in an
33 expanding data storage center which, on an annual basis, exceeds
34 the amount of electrical energy, gas, water, and other utilities
35 including telecommunication and internet services used in the
36 existing facility or the replaced facility prior to the
37 expansion. For purposes of this subdivision only, "amount" shall
38 be measured in kilowatt hours, gallons, cubic feet, or other
39 measures applicable to a utility service as opposed to in
40 dollars, to account for increases in utility rates;

41 (2) All machinery, equipment, and computers used in any expanding
42 data storage center, the cost of which, on an annual basis,
43 exceeds the average of the previous three years' expenditures on
44 machinery, equipment, and computers at the existing facility or
45 the replaced facility prior to the expansion. Existing facilities
46 or replaced facilities in existence for less than three years
47 shall have the average expenditures calculated based upon the
48 applicable time of existence; and

49 (3) All sales at retail of tangible personal property and

1 materials for the purpose of constructing, repairing, or
2 remodeling any expanding data storage center.

3 The amount of any exemption provided under this subsection shall
4 not exceed the projected net fiscal benefit to the state over a
5 period of ten years, as determined by the department of economic
6 development.

7 5. Any data storage center project seeking a tax exemption under
8 subsection 4 of this section shall submit a project plan to the
9 department of economic development, which shall identify each
10 known constructing taxpayer and each known operating taxpayer for
11 the project and include any additional information the department
12 of economic development may reasonably require to determine
13 eligibility for the exemption. The department of economic
14 development shall review the project plan and determine whether
15 the project is eligible for the exemption under subsection 4 of
16 this section, conditional upon subsequent verification by the
17 department that the project meets the requirements in subsection
18 1 of this section for an expanding facility project and the
19 execution of the agreement specified in subsection 6 of this
20 section. The department of economic development shall convey such
21 conditional approval to the department of revenue and the
22 identified project taxpayers. After a conditional approved
23 facility has met the requirements in subsection 1 of this
24 section, the project taxpayers shall provide proof of the same to
25 the department of economic development. Upon verification of such
26 proof, the department of economic development shall certify the
27 project to the department of revenue as being eligible for the
28 exemption dating retroactively to the first day of the thirty-six
29 month period. The department of revenue, upon receipt of adequate
30 proof of the amount of sales taxes paid since the first day of
31 the thirty-six month period, shall issue a refund of taxes paid
32 but eligible for exemption under subsection 4 of this section to
33 any applicable project taxpayer and issue a certificate of
34 exemption to any applicable project taxpayer for ongoing
35 exemptions under subsection 4 of this section.

36 6. (1) The exemptions in subsections 2 and 4 of this section
37 shall be tied to the new or expanding facility project. A
38 certificate of exemption in the hands of a taxpayer that is no
39 longer an operating or constructing taxpayer of the new or
40 expanding facility project shall be invalid as of the date the
41 taxpayer was no longer an operating or constructing taxpayer of
42 the new or expanding facility project. New certificates of
43 exemption shall be issued to successor constructing taxpayers and
44 operating taxpayers at such new or expanding facility projects.
45 The right to the exemption by successor taxpayers shall exist
46 without regard to subsequent levels of investment in the new or
47 expanding facility by successor taxpayers.

48 (2) As a condition of receiving an exemption under subsection 2
49 or 4 of this section, the project taxpayers shall enter into an

1 agreement with the department of economic development providing
2 for repayment penalties in the event the data storage center
3 project fails to comply with any of the requirements of this
4 section.

5 (3) The department of revenue shall credit any amounts remitted
6 by the project taxpayers under this subsection to the fund to
7 which the sales and use taxes exempted would have otherwise been
8 credited.

9 7. The department of economic development and the department of
10 revenue shall cooperate in conducting random audits to ensure
11 that the intent of this section is followed.

12 8. Notwithstanding any other provision of law to the contrary, no
13 recipient of an exemption pursuant to this section shall be
14 eligible for benefits under any business recruitment tax credit,
15 as defined in section 135.800.

16 9. The department of economic development and the department of
17 revenue shall jointly prescribe such rules and regulations
18 necessary to carry out the provisions of this section. Any rule
19 or portion of a rule, as that term is defined in section 536.010,
20 that is created under the authority delegated in this section
21 shall become effective only if it complies with and is subject to
22 all of the provisions of chapter 536 and, if applicable, section
23 536.028. This section and chapter 536 are nonseverable and if any
24 of the powers vested with the general assembly pursuant to
25 chapter 536 to review, to delay the effective date, or to
26 disapprove and annul a rule are subsequently held
27 unconstitutional, then the grant of rulemaking authority and any
28 rule proposed or adopted after the effective date of this act,
29 shall be invalid and void."; and

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33 Further amend said bill by amending the title, enacting clause,
34 and intersectional references accordingly.