

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2018

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Legislative Document

No. 1722

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H.P. 1202

House of Representatives, December 22, 2017

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### **An Act To Encourage Computer Data Center Development by Providing a Sales Tax Refund or Exemption**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 19, 2017. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STANLEY of Medway.  
Cosponsored by Senator DILL of Penobscot and  
Representatives: GOLDEN of Lewiston, HERBIG of Belfast, HILLIARD of Belgrade,  
NADEAU of Winslow, Senators: JACKSON of Aroostook, MASON of Androscoggin,  
MIRAMANT of Knox.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 36 MRSA §2021** is enacted to read:

3 **§2021. Refund of sales tax for computer data center purchases**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6 A. "Computer data center" or "center" means a facility comprising one or more  
7 buildings, occupied by one or more businesses, with a combined square footage of at  
8 least 20,000 square feet constructed or refurbished to be used primarily to house  
9 working servers and having:

10 (1) An uninterruptible power supply or generator backup power;

11 (2) Sophisticated fire prevention and suppression systems; and

12 (3) Enhanced building security measures, such as restricted access to the facility,  
13 permanent security guards, video camera surveillance, electronic passcode  
14 systems, keycards, biometric scans or similar security features.

15 For a computer data center comprising multiple buildings, each separate building is  
16 considered a computer data center if the building has all of the characteristics listed in  
17 subparagraphs (1) to (3).

18 B. "Electronic data storage and data management services" includes, but is not  
19 limited to:

20 (1) Providing data storage and backup services;

21 (2) Providing computer power and hosting enterprise software applications;

22 (3) Hosting websites; and

23 (4) Providing online services such as e-mail, website browsing and searching,  
24 media applications and other services, regardless of whether a charge is made for  
25 those services.

26 C. "Eligible computer data center" means a computer data center located in the State  
27 for which a building permit is issued before October 1, 2021 and that has a space of  
28 at least 20,000 square feet dedicated to housing working servers that was not  
29 dedicated to housing working servers before October 1, 2018.

30 D. "Eligible power infrastructure" means all fixtures and equipment necessary for the  
31 transformation, distribution or management of the electricity required to operate  
32 eligible server equipment within an eligible computer data center, including electrical  
33 substations, generators, wiring and cogeneration equipment.

34 E. "Eligible server equipment" means server equipment installed in an eligible  
35 computer data center on or after October 1, 2018 and server equipment that replaces  
36 existing server equipment, if the sale or use of the server equipment being replaced  
37 qualifies for a sales tax refund or exemption under this section and is installed and put  
38 into regular use before October 1, 2021.

1           F. "Qualifying business" means a business entity that exists for the primary purpose  
2           of engaging in commercial activity for profit and that is the owner or lessee of an  
3           eligible computer data center that certifies that it will add at least 20 qualifying jobs  
4           at that center within 6 years after the date the qualifying business first becomes  
5           eligible for a sales tax refund or exemption under this section.

6           G. "Qualifying job" means a full-time job with an average weekly wage that exceeds  
7           the average weekly wage for the county in which the job is located.

8           H. "Server" means a blade or rack-mounted server computer used in a computer data  
9           center exclusively to provide electronic data storage and data management services  
10          for internal use by the owner or lessee of the computer data center, for the clients of  
11          the owner or lessee of the computer data center or for both. "Server" does not include  
12          a personal computer.

13          I. "Server equipment" means the server chassis and all computer hardware contained  
14          within the server chassis. "Server equipment" also includes computer software, other  
15          than custom computer software, necessary to operate the server. "Server equipment"  
16          does not include the rack upon which the server chassis is installed and computer  
17          peripheral equipment such as keyboards, monitors, printers and other devices.

18          **2. Sales tax refund authorized.** A qualifying business is eligible for a refund of  
19          sales tax paid by that business on the purchase of the following services or items upon  
20          presenting to the State Tax Assessor evidence that the transaction is eligible for refund  
21          under this section:

22                A. Eligible server equipment;

23                B. Eligible power infrastructure; and

24                C. Electronic data storage and data management services.

25          An application for a refund must be filed with the assessor within 36 months after the  
26          date of purchase.

27          **3. Sales tax exemption; certificate.** A purchaser is not required to pay sales tax on  
28          the purchase of services or items eligible for a refund under this section if the purchaser  
29          has obtained a certificate from the State Tax Assessor stating that the purchaser is eligible  
30          to purchase services or items eligible for a refund without paying sales tax. The seller is  
31          required to obtain a copy of the certificate together with an affidavit as prescribed by the  
32          assessor, to be maintained in the seller's records, attesting to the qualification of the  
33          purchase for a sales tax exemption pursuant to this section. In order to qualify for this  
34          sales tax exemption, the items or services must be used directly and primarily in an  
35          eligible computer data center.

36          **4. Recapture.** A qualifying business that fails to add at least 20 new full-time  
37          employees within 6 years after the qualifying business first becomes eligible for a sales  
38          tax refund or exemption under this section must be assessed the amount of sales tax  
39          refunded or forgone by the State plus interest at the rate specified in section 186.

40          **5. Audit.** The State Tax Assessor has the authority to audit any claim filed under  
41          this section. If the assessor determines that the amount claimed for a sales tax refund or

1 exemption is incorrect, the assessor shall redetermine the claim and notify the claimant in  
2 writing of the redetermination. If the claimant has received reimbursement of an amount  
3 that the assessor concludes should not have been reimbursed, the assessor may issue an  
4 assessment for that amount within 3 years from the date the reimbursement claim was  
5 filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek  
6 reconsideration, pursuant to section 151, of the redetermination or assessment.

7

## SUMMARY

8 This bill provides a sales tax refund or exemption for the purchase of eligible server  
9 equipment, eligible power infrastructure and electronic data storage and data management  
10 services by an eligible computer data center that begins operation between October 1,  
11 2018 and October 1, 2021. A qualifying business must add at least 20 full-time jobs with  
12 above-average wages within 6 years after the business first becomes eligible or the  
13 amount of refunded or exempt taxes plus interest will be recaptured by the State.