

Amend **CSSB 1** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.4292 to read as follows:

Sec. 151.4292. TAX REFUNDS FOR QUALIFIED DATA CENTERS. (a)  
In this section:

(1) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a data center creates a job used to qualify under this section.

(2) "Data center" means a facility:

(A) located in this state on or after September 1, 2011;

(B) composed of one or more buildings specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff;

(C) used or to be used primarily by a business engaged in:

(i) data processing, hosting, and related services described by industry code 518210 of the North American Industry Classification System; or

(ii) an Internet activity described by industry code 519130 of the North American Industry Classification System; and

(D) that as an uninterruptible power source, a generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, permanent security guards, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will exist for at least five years after the date the job is created.

(4) "Qualifying data center" means a data center that meets the qualifications prescribed by Subsection (d).

(5) "Qualifying job" means a full-time, permanent job

that pays at least 150 percent of the county average weekly wage in the county in which the job is based.

(b) Except as provided by Subsection (c), a qualifying data center is entitled to receive a refund in the amount provided by this section of the taxes imposed by this chapter on tangible personal property purchased by the data center that is necessary to manage or operate the data center, including:

- (1) electricity;
- (2) an electrical system;
- (3) a cooling system;
- (4) an emergency generator;
- (5) hardware or a distributed mainframe computer or server;
- (6) a data storage device;
- (7) network connectivity equipment;
- (8) a peripheral component or system; and
- (9) a component part of tangible personal property described by Subdivisions (2) - (8).

(c) This section does not apply to:

- (1) office equipment or supplies; or
- (2) equipment or supplies used in sales or distribution activities or in transportation activities.

(d) A data center is a qualifying data center for purposes of this section if the data center has:

- (1) created, on or after September 1, 2011, at least 25 qualifying jobs in the county in which the data center is located; and

- (2) invested, on or after September 1, 2011, at least \$100 million in the data center facility over a five-year period after initial construction of the data center facility.

(e) Beginning on the date a data center becomes a qualifying data center, the data center is entitled to receive a refund as provided by this section for the purchase of tangible personal property occurring on or after the date the center made the initial investment described by Subsection (d)(2) and before the 10th anniversary of that date.

(f) The amount of the refund authorized by this section with

respect to the taxes imposed on the purchase of an item of tangible personal property to which this section applies is equal to the greater of:

(1) an amount equal to the amount by which the taxes paid under this chapter exceed the amount of taxes that would have been imposed under this chapter on the purchase of the item if the rate of the tax imposed under this chapter were one percent; or

(2) the amount by which the taxes paid under this chapter exceed \$80.

(g) To receive a refund as provided by this section, a data center must apply to the comptroller.

(h) The comptroller shall adopt rules necessary to implement this section, including rules relating to the:

(1) qualification of a data center under this section;

(2) determination of the date a data center initially qualifies for a refund as provided by this section; and

(3) reporting and other procedures necessary to ensure that the qualifying data center complies with this section and remains entitled to receive a refund as provided by this section.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect September 1, 2011.