# Georgia Suspends Tax Break and Creates Special Committee to Study Energy-Intensive Data Centers

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A bill suspending Georgia's sales tax exemption for certain high-technology data center equipment was recently passed by both houses of the Georgia state legislature on March 14, 2024. House Bill 1192 (House Bill) cleared the Georgia House of Representatives by a vote of 96-71. The House Bill subsequently passed in the Georgia Senate by a slim vote of 29-22 with five members absent; 29 votes being the minimum number of votes necessary to pass the 56-member Georgia Senate.

If signed by Georgia Governor Brian Kemp, the measure may create an unintended chilling effect on the economic development of data centers across the state. Developers of data centers may no longer pay premium prices to acquire underutilized land to build a data center or buy unused buildings to convert to data centers, given the pause in the sales tax exemption and the uncertainty as to whether the exemption will be available in the future when their potential project would otherwise come online.

When the legislature enacted the tax break in 2018, companies flocked to Georgia to build data centers. Currently, Atlanta is a nearly 400-megawatt market. JLL's Data Center 2024 Global Outlook has listed Atlanta as a Secondary Market in which markets have become "the focus of attention as investors, lenders and developers seek new opportunities in less crowded markets." According to real estate group CBRE, in 2023 Atlanta had the highest increase in data center construction across the country, having grown by 211% to a total of 732.6MW being under construction in the city.

Enacting the tax exemption and the subsequent influx of data centers into the state ultimately created a double-edged sword effect. Georgia Power, the state's largest utility company, testified before the state Public Service Commission (PSC) that 80% of the additional electrical power requested from the PSC will be consumed by the data centers. Ultimately, the strain exerted by these data centers on the state's electrical supply prompted the enactment of the House Bill.

The suspension will be in effect from July 1, 2024, to June 30, 2026. However, certificates of exemption will continue to be issued to any data center customer that is subject to a contract entered into *prior* to July 1, 2024.

The House Bill creates the Special Commission on Data Center Energy Planning. The commission will use the time during the two-year suspension to, among other things, review the currently existing grid and supply in the state, recommend future data center locations, and propose legislation related thereto. The commission is required to produce a written report of its findings no later than June 2026.

Proponents of the House Bill lean on the fact that the House Bill will not affect any currently operating data centers in the state. Additionally, the House Bill is expected to increase state revenue by approximately $5.5 Million in fiscal year 2025 and increase annually thereafter, according to Georgia State University's Fiscal Research Center.

However, those on the opposite side of the argument stress that the change in the law effected in 2018 and extended in 2022 is generally bad for business and would "send the wrong message." Representative Matthew Gambill, R-Cartersville, states, "[w]e have signaled to this industry that Georgia is open for business…Please don't change the game at midstream and say Georgia is closed to business." The Director of Public Policy for the Data Center Coalition is quoted by Capital Beat stating that "[n]inety percent of the investment in

Georgia since 2018 wouldn't have happened but for the incentive."

In conclusion, the passing of House Bill 1192 marks a significant turning point in Georgia's approach to data center development. The state's decision to suspend the sales tax exemption for certain high-technology data center equipment reflects a growing concern over the strain these energy-consuming facilities place on the state's electrical supply. While proponents argue that the bill will generate increased state revenue and foster more careful planning, opponents fear it may deter future investment and send a negative message to the industry. As the Special Commission on Data Center Energy Planning begins its work, the future of data center development in Georgia remains uncertain.

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