

HB1389_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT
 Committee on Business, Labor, Economic, & Workforce Development.
HB14-1389 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
 2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** 39-26-727 as
 4 follows:

5 **39-26-727. Qualified data centers - legislative declaration -**
 6 **definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND
 7 DECLARES THAT:

8 (I) COLORADO'S ADVANCED TECHNOLOGY INDUSTRY DIRECTLY
 9 PROVIDES AND CONTRIBUTES BILLIONS OF DOLLARS TO THE STATE'S
 10 ECONOMY;

11 (II) AS A COMPONENT OF THAT INDUSTRY, DATA CENTERS ARE AN
 12 IMPORTANT ASSET AND CREATE A SIGNIFICANT AMOUNT OF ECONOMIC
 13 BENEFIT TO THE STATE, INCLUDING HIGH-END INFORMATION TECHNOLOGY,
 14 CONSULTING, AND CONSTRUCTION EMPLOYMENT;

15 (III) THESE ASSETS, ONCE BUILT, ARE A KEY COMPONENT OF A
 16 COMPANY'S OVERALL OPERATING ENVIRONMENT AND CAN CREATE A
 17 LONG-TERM INVESTMENT IN A COMMUNITY;

18 (IV) STUDIES INDICATE THAT THE STATE WOULD BENEFIT
 19 SIGNIFICANTLY FROM STATE-IMPLEMENTED INCENTIVES DESIGNED TO
 20 STIMULATE PRIVATE-SECTOR INDUSTRY GROWTH;

21 (V) DATA CENTERS CAN BE A SIGNIFICANT SOURCE OF NEW
 22 REVENUE, EVEN MORE SO THAN TYPICAL ECONOMIC GROWTH SUCH AS
 23 MANUFACTURING, HEADQUARTERS, AND DISTRIBUTION CENTERS; AND

24 (VI) SINCE 2005, APPROXIMATELY SEVENTEEN STATES HAVE
 25 PASSED LEGISLATION TO PROVIDE CUSTOMIZED INCENTIVES FOR DATA
 26 CENTERS, AND THOSE STATES ARE ACTIVELY RECRUITING DATA CENTER
 27 INVESTMENTS.

28 (b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
 29 ENACTING A TAX INCENTIVE TO ENCOURAGE THE EXPANSION OF CURRENT
 30 DATA CENTER BUSINESSES, ENCOURAGE NEW DATA CENTER BUSINESSES TO
 31 LOCATE TO THE STATE, AND INVIGORATE THE STATE'S CURRENT
 32 ADVANCED TECHNOLOGY INDUSTRY'S BUSINESS ACTIVITIES IS SOUND
 33 PUBLIC POLICY.

34 (2) AS USED IN THIS SECTION:

35 (a) "FACILITY" MEANS A FACILITY AND THE RELATED PREMISES
 36 THAT IS PRIMARILY USED TO HOUSE INFORMATION TECHNOLOGY
 37 EQUIPMENT IN A DATA CENTER AND THAT HAS ALL OF THE FOLLOWING



1 CHARACTERISTICS:

2 (I) SOPHISTICATED FIRE SUPPRESSION AND PREVENTION SYSTEMS
3 AND ENHANCED SYSTEMS TO CONTROL THE CLIMATE WITHIN THE
4 FACILITY; AND

5 (II) ENHANCED SECURITY MEASURES. A FACILITY IS CONSIDERED
6 TO HAVE ENHANCED SECURITY IF IT HAS RESTRICTED ACCESS TO SELECTED
7 PERSONNEL, PERMANENT SECURITY GUARDS, VIDEO CAMERA
8 SURVEILLANCE, AN ELECTRONIC SYSTEM REQUIRING PASS CODES,
9 KEYCARDS, OR BIOMETRIC SCANS, SUCH AS HAND SCANS OR RETINAL OR
10 FINGERPRINT RECOGNITION, OR SIMILAR ENHANCED SECURITY FEATURES.

11 (b) (I) "INFORMATION TECHNOLOGY EQUIPMENT" MEANS
12 EQUIPMENT THAT IS LOCATED AT A FACILITY, INCLUDING:

13 (A) COMPUTERS AND EQUIPMENT SUPPORTING COMPUTING,
14 NETWORKING, OR DATA STORAGE, INCLUDING SERVERS, TABLETS,
15 SWITCHES, CROSS-CONNECTS, ROUTERS, AND THE APPLICATION SYSTEMS
16 AND OPERATING SYSTEMS THAT ENABLE THE INFORMATION TECHNOLOGY
17 EQUIPMENT;

18 (B) COOLING SYSTEMS, COOLING TOWERS, AND OTHER
19 TEMPERATURE CONTROL INFRASTRUCTURE;

20 (C) POWER INFRASTRUCTURE FOR TRANSFORMATION,
21 DISTRIBUTION, OR MANAGEMENT OF ELECTRICITY USED FOR THE
22 MAINTENANCE AND OPERATION OF A QUALIFIED DATA CENTER OR
23 QUALIFIED REFURBISHED DATA CENTER, INCLUDING BUT NOT LIMITED TO
24 EXTERIOR DEDICATED BUSINESS-OWNED SUBSTATIONS, ON-SITE POWER
25 GENERATION SYSTEMS, BACKUP POWER GENERATION SYSTEMS, BATTERY
26 SYSTEMS, UNINTERRUPTIBLE POWER SUPPLIES, STRUCTURES ERECTED TO
27 PROTECT ALL INFORMATION TECHNOLOGY EQUIPMENT FROM ANY
28 ENVIRONMENTAL CONDITIONS, AND OTHER RELATED INFRASTRUCTURE;
29 AND

30 (D) RACKING SYSTEMS, CABLING, AND TRAYS, WHICH ARE
31 NECESSARY FOR THE MAINTENANCE AND OPERATION OF THE QUALIFIED
32 DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER.

33 (II) "INFORMATION TECHNOLOGY EQUIPMENT" INCLUDES ANY
34 EQUIPMENT THAT HAS THE CAPABILITY TO REPLACE THE FUNCTIONALITY
35 OF ANY OF THE EQUIPMENT SPECIFIED IN SUBPARAGRAPH (I) OF THIS
36 PARAGRAPH (b).

37 (c) "QUALIFIED DATA CENTER" MEANS A FACILITY THAT IS
38 LOCATED IN THE STATE THAT SATISFIES THE FOLLOWING CRITERIA:

39 (I) THE FACILITY IS COMPRISED OF ONE OR MORE BUILDINGS THAT
40 CONSIST IN THE AGGREGATE OF AT LEAST TWENTY-FIVE THOUSAND
41 SQUARE FEET. IN DETERMINING WHETHER THE FACILITY HAS THE



1 REQUIRED SQUARE FOOTAGE, THE SQUARE FOOTAGE OF OFFICE SPACE,
2 MEETING SPACE, AND MECHANICAL AND OTHER SUPPORT FACILITIES SHALL
3 BE INCLUDED IF THE SPACES ARE IN DIRECT SUPPORT OF THE OPERATION OF
4 INFORMATION TECHNOLOGY EQUIPMENT LOCATED AT THE FACILITY.

5 (II) THE FACILITY IS LOCATED ON A SINGLE PARCEL OR ON
6 CONTIGUOUS OR ADJACENT PARCELS;

7 (III) INVESTMENT IN THE FACILITY COMMENCED ON OR AFTER
8 JUNE 30, 2010; AND

9 (IV) THE TOTAL COST OF CONSTRUCTION OF THE FACILITY AND
10 INVESTMENT IN INFORMATION TECHNOLOGY EQUIPMENT FOR THE FACILITY
11 IS AT LEAST THIRTY MILLION DOLLARS WITHIN A FIVE-YEAR PERIOD. THE
12 TOTAL COST OF CONSTRUCTION AND INVESTMENT INCLUDES THE
13 INVESTMENTS BY THE OWNER OF THE FACILITY AND ALL OTHER
14 TAXPAYERS THAT OWN INFORMATION TECHNOLOGY EQUIPMENT LOCATED
15 AT THE FACILITY.

16 (d) "QUALIFIED REFURBISHED DATA CENTER" MEANS A FACILITY
17 THAT IS LOCATED IN THE STATE THAT SATISFIES THE FOLLOWING CRITERIA:

18 (I) THE FACILITY IS COMPRISED OF ONE OR MORE BUILDINGS THAT
19 CONSIST IN THE AGGREGATE OF AT LEAST TWENTY-FIVE THOUSAND
20 SQUARE FEET. IN DETERMINING WHETHER THE FACILITY HAS THE
21 REQUIRED SQUARE FOOTAGE, THE SQUARE FOOTAGE OF OFFICE SPACE,
22 MEETING SPACE, AND MECHANICAL AND OTHER SUPPORT FACILITIES SHALL
23 BE INCLUDED IF THE SPACES ARE IN DIRECT SUPPORT OF THE OPERATION OF
24 INFORMATION TECHNOLOGY EQUIPMENT LOCATED AT THE FACILITY.

25 (II) THE FACILITY IS LOCATED ON A SINGLE PARCEL OR ON
26 CONTIGUOUS OR ADJACENT PARCELS;

27 (III) THE FACILITY IS SUBSTANTIALLY REFURBISHED AFTER JUNE
28 30, 2013. A FACILITY WILL BE CONSIDERED SUBSTANTIALLY REFURBISHED
29 IF AT LEAST TWENTY-FIVE THOUSAND SQUARE FEET IN THE FACILITY HAS
30 BEEN REBUILT OR MODIFIED, INCLUDING THE INSTALLATION OF
31 INFORMATION TECHNOLOGY EQUIPMENT, ENVIRONMENTAL CONTROL,
32 ENERGY EFFICIENCY IMPROVEMENTS, AND OTHER BUILDING
33 IMPROVEMENTS.

34 (IV) THE TOTAL COST OF REFURBISHMENT OF THE FACILITY AND
35 INVESTMENT IN INFORMATION TECHNOLOGY EQUIPMENT IS AT LEAST
36 FIFTEEN MILLION DOLLARS WITHIN A TWO-YEAR PERIOD. THE TOTAL COST
37 OF REFURBISHMENT AND INVESTMENT INCLUDES THE INVESTMENTS BY
38 THE OWNER OF THE FACILITY AND ALL OTHER TAXPAYERS THAT OWN
39 INFORMATION TECHNOLOGY EQUIPMENT LOCATED AT THE FACILITY.

40 (3) (a) SUBJECT TO THE LIMITATIONS IN PARAGRAPHS (b) AND (c)
41 OF THIS SUBSECTION (3), ON AND AFTER JULY 1, 2015, ALL SALES,

1 STORAGE, AND USE OF INFORMATION TECHNOLOGY EQUIPMENT THAT IS
2 USED IN A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA
3 CENTER, INCLUDING INFORMATION TECHNOLOGY EQUIPMENT THAT IS
4 PURCHASED TO REPLACE OR UPGRADE INFORMATION TECHNOLOGY
5 EQUIPMENT IN A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED
6 DATA CENTER AND INFORMATION TECHNOLOGY EQUIPMENT THAT IS
7 RELOCATED TO A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED
8 DATA CENTER FROM OUTSIDE OF THE STATE, ARE EXEMPT FROM TAXATION
9 UNDER THE PROVISIONS OF PARTS 1 AND 2 OF THIS ARTICLE. THE
10 EXEMPTION APPLIES TO ALL INFORMATION TECHNOLOGY EQUIPMENT THAT
11 IS USED AND MAINTAINED AT THE QUALIFIED DATA CENTER OR QUALIFIED
12 REFURBISHED DATA CENTER, REGARDLESS OF WHETHER THE OWNER OF
13 THE INFORMATION TECHNOLOGY EQUIPMENT IS THE OWNER OF THE
14 QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER.

15 (b) THE EXEMPTION ALLOWED IN PARAGRAPH (a) OF THIS
16 SUBSECTION (3) APPLIES TO ANY INFORMATION TECHNOLOGY EQUIPMENT
17 THAT IS SOLD, STORED, USED, OR RELOCATED TO THE STATE TO BE USED IN
18 A QUALIFIED DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER
19 WITHIN TWENTY YEARS AFTER THE DATE OF THE FIRST INVESTMENT IN THE
20 FACILITY FOR THE PURPOSE OF BECOMING A QUALIFIED DATA CENTER OR
21 A QUALIFIED REFURBISHED DATA CENTER.

22 (c) INFORMATION TECHNOLOGY EQUIPMENT MUST BE USED IN A
23 QUALIFIED DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER FOR
24 AT LEAST ONE YEAR DURING THE PERIOD THAT THE FACILITY IS A
25 QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER.

26 (4)(a) FOR PURPOSES OF THE EXEMPTION SPECIFIED IN SUBSECTION
27 (3) OF THIS SECTION, THE OWNER OF A FACILITY SHALL CERTIFY ON A FORM
28 PRESCRIBED BY THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT THAT
29 THE FACILITY MEETS THE CRITERIA TO BE A QUALIFIED DATA CENTER OR
30 A QUALIFIED REFURBISHED DATA CENTER. THE OWNER SHALL INCLUDE
31 DETAILED INFORMATION REGARDING:

32 (I) THE COST TO CONSTRUCT OR REFURBISH THE FACILITY, AS
33 APPLICABLE, AND THE AMOUNT OF THE INVESTMENT IN INFORMATION
34 TECHNOLOGY EQUIPMENT; AND

35 (II) WHEN THE COSTS TO CONSTRUCT OR REFURBISH THE FACILITY
36 WERE INCURRED AND WHEN THE INVESTMENT COSTS IN INFORMATION
37 TECHNOLOGY WERE INCURRED.

38 (b) IN SUBMITTING THE INFORMATION REQUIRED BY PARAGRAPH
39 (a) OF THIS SUBSECTION (4), IF THE OWNER IS NOT ABLE TO OBTAIN
40 ORIGINAL PURCHASE DOCUMENTATION FROM THIRD PARTIES THAT
41 MAINTAIN EQUIPMENT WITHIN THE FACILITY, THE OWNER MAY USE



1 REASONABLE ESTIMATION METHODS TO PROJECT THE INVESTMENT COSTS.
2 (c) DURING THE CERTIFICATION PROCESS PURSUANT TO THIS
3 SUBSECTION (4), THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT
4 MAY REQUIRE THAT THE OWNER OF A FACILITY OR THE OWNER OF
5 INFORMATION TECHNOLOGY EQUIPMENT THAT IS HOUSED IN A FACILITY
6 SUBMIT CERTAIN INFORMATION TO THE OFFICE REGARDING THE IMPACT
7 THAT THE EXEMPTION ALLOWED IN THIS SECTION HAD ON THE OWNER'S
8 DECISION TO LOCATE OR EXPAND A BUSINESS, MAKE INVESTMENTS, AND
9 HIRE EMPLOYEES IN THE STATE.

10 (5) (a) BASED ON THE INFORMATION PROVIDED PURSUANT TO
11 SUBSECTION (4) OF THIS SECTION, THE COLORADO OFFICE OF ECONOMIC
12 DEVELOPMENT SHALL DETERMINE WHETHER A FACILITY IS A QUALIFIED
13 DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER FOR PURPOSES
14 OF THIS SECTION. PRIOR TO FINALIZING THE CERTIFICATION OF A
15 QUALIFIED DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER,
16 THE OFFICE SHALL CONSULT WITH THE ECONOMIC DEVELOPMENT
17 COMMISSION CREATED IN SECTION 24-46-102, C.R.S., REGARDING
18 WHETHER THE FACILITY SATISFIES THE CRITERIA TO BE A QUALIFIED DATA
19 CENTER OR A QUALIFIED REFURBISHED DATA CENTER.

20 (b) IF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT
21 DETERMINES THAT A FACILITY IS A QUALIFIED DATA CENTER OR A
22 QUALIFIED REFURBISHED DATA CENTER, THE FACILITY SHALL RETAIN ITS
23 QUALIFIED STATUS FOR TWENTY YEARS FROM THE DATE OF THE FIRST
24 EXEMPTION ALLOWED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

25 (c) AFTER MAKING A DETERMINATION THAT A FACILITY IS A
26 QUALIFIED DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER,
27 THE OFFICE SHALL NOTIFY THE DEPARTMENT OF REVENUE AND ISSUE A
28 CERTIFICATION TO THE OWNER OF THE QUALIFIED DATA CENTER OR
29 QUALIFIED REFURBISHED DATA CENTER STATING THAT INFORMATION
30 TECHNOLOGY EQUIPMENT THAT IS STORED IN THE QUALIFIED DATA CENTER
31 OR QUALIFIED REFURBISHED DATA CENTER IS ELIGIBLE FOR THE
32 EXEMPTION ALLOWED PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR
33 TWENTY YEARS AFTER THE DATE OF THE FIRST INVESTMENT IN THE
34 FACILITY FOR THE PURPOSE OF BECOMING A QUALIFIED DATA CENTER OR
35 A QUALIFIED REFURBISHED DATA CENTER.

36 (6) NOTWITHSTANDING THE PROVISIONS OF SECTION 39-26-703 (2)
37 (d), ALL SALES, STORAGE, AND USE OF INFORMATION TECHNOLOGY
38 EQUIPMENT THAT IS USED IN A QUALIFIED DATA CENTER IS ELIGIBLE FOR
39 THE EXEMPTION ALLOWED PURSUANT TO SUBSECTION (3) OF THIS SECTION
40 FOR FIVE YEARS AFTER THE DATE OF THE SALE, STORAGE, OR USE OF SUCH
41 INFORMATION TECHNOLOGY EQUIPMENT. UNDER NO CIRCUMSTANCES

1 SHALL THE EXEMPTION ALLOWED PURSUANT TO SUBSECTION (3) OF THIS
2 SECTION BE ALLOWED FOR THE SALE, STORAGE, OR USE OF INFORMATION
3 TECHNOLOGY EQUIPMENT PRIOR TO JANUARY 1, 2015.

4 (7) (a) ON OR BEFORE NOVEMBER 1, 2021, AND ON OR BEFORE
5 NOVEMBER 1 EVERY SIX YEARS THEREAFTER, THE COLORADO OFFICE OF
6 ECONOMIC DEVELOPMENT SHALL SUBMIT A REPORT TO THE MEMBERS OF
7 THE GENERAL ASSEMBLY THAT ANALYZES AND ESTIMATES THE ECONOMIC
8 BENEFITS OF THE EXEMPTION ALLOWED IN THIS SECTION.

9 (b) ANY QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED
10 DATA CENTER SHALL SUBMIT TO THE COLORADO OFFICE OF ECONOMIC
11 DEVELOPMENT INFORMATION REQUESTED BY THE OFFICE FOR THE PURPOSE
12 OF TRACKING AND MONITORING QUALIFIED DATA CENTERS AND QUALIFIED
13 REFURBISHED DATA CENTERS AND FOR THE PURPOSE OF THE REPORT
14 REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (7).

15 **SECTION 2.** In Colorado Revised Statutes, 29-2-105, **add** (1) (d)

16 (I) (M) as follows:

17 **29-2-105. Contents of sales tax ordinances and proposals.**

18 (1) The sales tax ordinance or proposal of any incorporated town, city,
19 or county adopted pursuant to this article shall be imposed on the sale of
20 tangible personal property at retail or the furnishing of services, as
21 provided in paragraph (d) of this subsection (1). Any countywide or
22 incorporated town or city sales tax ordinance or proposal shall include the
23 following provisions:

24 (d) (I) A provision that the sale of tangible personal property and
25 services taxable pursuant to this article shall be the same as the sale of
26 tangible personal property and services taxable pursuant to section
27 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).
28 The sale of tangible personal property and services taxable pursuant to
29 this article shall be subject to the same sales tax exemptions as those
30 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
31 the following may be exempted from a town, city, or county sales tax only
32 by the express inclusion of the exemption either at the time of adoption
33 of the initial sales tax ordinance or resolution or by amendment thereto:

34 (M) THE EXEMPTION FOR SALES, STORAGE, AND USE OF
35 INFORMATION TECHNOLOGY EQUIPMENT USED IN A QUALIFIED DATA
36 CENTER OR QUALIFIED REFURBISHED DATA CENTER AS SPECIFIED IN
37 SECTION 39-26-727, C.R.S.

38 **SECTION 3. Act subject to petition - effective date.** This act
39 takes effect at 12:01 a.m. on the day following the expiration of the
40 ninety-day period after final adjournment of the general assembly (August
41 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a



1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2014 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor."

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