

7
HB1158_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.HB15-1158 be amended as follows:

1 Strike the House Business Affairs and Labor Committee Report, dated
2 February 26, 2015, and substitute:

3 "Amend printed bill, strike everything below the enacting clause and
4 substitute:

5 "SECTION 1. In Colorado Revised Statutes, add 39-26-729 as
6 follows:

7 **39-26-729. Information technology equipment in a qualified**
8 **data center. (1) Legislative declaration. (a) THE GENERAL ASSEMBLY**
9 **HEREBY FINDS AND DECLARES THAT:**

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

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

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

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

23 (V) DATA CENTERS CAN BE A SIGNIFICANT SOURCE OF NEW
24 REVENUE ALONG WITH TYPICAL ECONOMIC GROWTH DRIVERS SUCH AS
25 MANUFACTURING, HEADQUARTERS, AND DISTRIBUTION CENTERS; AND

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

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

36 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (a) "CO-LOCATION FACILITY" MEANS A FACILITY WHERE
3 EQUIPMENT, SPACE, OR BANDWIDTH ARE AVAILABLE FOR LEASE OR
4 RENTAL TO TENANTS.

5 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

6 (c) "FACILITY" MEANS A FACILITY AND THE RELATED PREMISES
7 THAT IS USED TO HOUSE AND OPERATE INFORMATION TECHNOLOGY
8 EQUIPMENT AND THAT HAS THE FOLLOWING CHARACTERISTICS:

9 (I) SOPHISTICATED FIRE SUPPRESSION AND PREVENTION SYSTEMS
10 AND ENHANCED SYSTEMS TO CONTROL THE CLIMATE WITHIN THE
11 FACILITY; AND

12 (II) ENHANCED SECURITY MEASURES. A FACILITY IS CONSIDERED
13 TO HAVE ENHANCED SECURITY IF IT HAS RESTRICTED ACCESS TO SELECTED
14 PERSONNEL, PERMANENT SECURITY GUARDS, VIDEO CAMERA
15 SURVEILLANCE, AN ELECTRONIC SYSTEM REQUIRING PASS CODES,
16 KEYCARDS, OR BIOMETRIC SCANS, SUCH AS HAND SCANS OR RETINAL OR
17 FINGERPRINT RECOGNITION, OR SIMILAR ENHANCED SECURITY FEATURES.

18 (d) (I) "INFORMATION TECHNOLOGY EQUIPMENT" MEANS
19 EQUIPMENT THAT IS PHYSICALLY LOCATED AT A QUALIFIED DATA CENTER
20 OR A QUALIFIED REFURBISHED DATA CENTER AND THAT IS NECESSARY FOR
21 THE MAINTENANCE AND DIRECT OPERATION OF A QUALIFIED DATA CENTER
22 OR QUALIFIED REFURBISHED DATA CENTER, INCLUDING:

23 (A) COMPUTERS AND EQUIPMENT SUPPORTING COMPUTING,
24 NETWORKING, OR DATA STORAGE, INCLUDING SERVERS, SWITCHES,
25 CROSS-CONNECTS, ROUTERS, AND THE APPLICATION SYSTEMS AND
26 OPERATING SYSTEMS THAT ENABLE THE INFORMATION TECHNOLOGY
27 EQUIPMENT;

28 (B) COOLING SYSTEMS, COOLING TOWERS, AND OTHER
29 TEMPERATURE CONTROL INFRASTRUCTURE;

30 (C) POWER INFRASTRUCTURE FOR TRANSFORMATION,
31 DISTRIBUTION, OR MANAGEMENT OF ELECTRICITY USED FOR THE
32 MAINTENANCE AND OPERATION OF A QUALIFIED DATA CENTER OR
33 QUALIFIED REFURBISHED DATA CENTER, INCLUDING BUT NOT LIMITED TO
34 EXTERIOR DEDICATED SUBSTATIONS, ON-SITE POWER GENERATION
35 SYSTEMS, BACKUP POWER GENERATION SYSTEMS, BATTERY SYSTEMS,
36 UNINTERRUPTIBLE POWER SUPPLIES, STRUCTURES ERECTED TO PROTECT
37 ALL INFORMATION TECHNOLOGY EQUIPMENT FROM ANY ENVIRONMENTAL
38 CONDITIONS, AND OTHER RELATED INFRASTRUCTURE; AND

39 (D) RACKING SYSTEMS, SECURITY CAGES, CABINETS, CABLING,
40 AND TRAYS, WHICH ARE NECESSARY FOR THE MAINTENANCE AND
41 OPERATION OF THE QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED

1 DATA CENTER.

2 (II) "INFORMATION TECHNOLOGY EQUIPMENT" INCLUDES ANY
3 EQUIPMENT THAT HAS THE CAPABILITY TO REPLACE THE FUNCTIONALITY
4 OF ANY OF THE EQUIPMENT SPECIFIED IN SUBPARAGRAPH (I) OF THIS
5 PARAGRAPH (d).

6 (e) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
7 DEVELOPMENT CREATED IN SECTION 24-48.5-101, C.R.S.

8 (f) "OPERATOR" MEANS ANY PERSON WHO EXERCISES THE RIGHT
9 TO CONTROL THE CONDUCT OF QUALIFIED DATA CENTER OPERATIONS OR
10 QUALIFIED REFURBISHED DATA CENTER OPERATIONS.

11 (g) "QUALIFIED DATA CENTER" MEANS A FACILITY THAT IS
12 LOCATED IN THE STATE THAT SATISFIES THE FOLLOWING CRITERIA:

13 (I) THE FACILITY IS COMPRISED OF ONE OR MORE BUILDINGS THAT
14 CONSIST IN THE AGGREGATE OF AT LEAST TWENTY-FIVE THOUSAND
15 SQUARE FEET THAT HOUSE INFORMATION TECHNOLOGY EQUIPMENT OR
16 PROVIDE DIRECT SUPPORT FOR THE DATA CENTER OPERATIONS. IN
17 DETERMINING WHETHER THE FACILITY HAS THE REQUIRED SQUARE
18 FOOTAGE, THE SQUARE FOOTAGE OF OFFICE SPACE, MEETING SPACE, AND
19 MECHANICAL AND OTHER SUPPORT FACILITIES IS INCLUDED IF THE SPACES
20 ARE IN DIRECT SUPPORT OF THE OPERATION OF INFORMATION TECHNOLOGY
21 EQUIPMENT LOCATED AT THE FACILITY.

22 (II) THE FACILITY IS LOCATED ON A SINGLE PARCEL OR ON
23 CONTIGUOUS OR ADJACENT PARCELS. SEPARATION OF PARCELS BY A
24 PUBLIC ROAD OR EASEMENT DOES NOT PRECLUDE THE PARCELS FROM
25 BEING CONTIGUOUS OR ADJACENT.

26 (III) (A) THE TOTAL COST OF CONSTRUCTING THE PORTION OF THE
27 FACILITY THAT HOUSES INFORMATION TECHNOLOGY EQUIPMENT OR THAT
28 PROVIDES DIRECT SUPPORT FOR DATA CENTER OPERATIONS AND THE
29 TOTAL COST OF INVESTMENT IN INFORMATION TECHNOLOGY EQUIPMENT
30 FOR THE FACILITY IS AT LEAST FORTY MILLION DOLLARS WITHIN A
31 FIVE-YEAR PERIOD.

32 (B) FOR PURPOSES OF THIS PARAGRAPH (g), IN THE CASE OF A
33 CO-LOCATION FACILITY, THE TOTAL COST OF CONSTRUCTION AND
34 INVESTMENT IN THE FACILITY INCLUDES THE INVESTMENTS BY THE OWNER
35 OR OPERATOR OF THE FACILITY AND ALL TENANTS OF THE FACILITY.

36 (IV) INVESTMENT IN THE FACILITY COMMENCED ON OR AFTER
37 JANUARY 1, 2011.

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

40 (I) THE FACILITY IS COMPRISED OF ONE OR MORE BUILDINGS THAT
41 CONSIST IN THE AGGREGATE OF AT LEAST TWENTY-FIVE THOUSAND



1 SQUARE FEET THAT HOUSE INFORMATION TECHNOLOGY EQUIPMENT OR
2 PROVIDE DIRECT SUPPORT FOR DATA CENTER OPERATIONS. IN
3 DETERMINING WHETHER THE FACILITY HAS THE REQUIRED SQUARE
4 FOOTAGE, THE SQUARE FOOTAGE OF OFFICE SPACE, MEETING SPACE, AND
5 MECHANICAL AND OTHER SUPPORT FACILITIES IS INCLUDED IF THE SPACES
6 ARE IN DIRECT SUPPORT OF THE OPERATION OF INFORMATION TECHNOLOGY
7 EQUIPMENT LOCATED AT THE FACILITY.

8 (II) THE FACILITY IS LOCATED ON A SINGLE PARCEL OR ON
9 CONTIGUOUS OR ADJACENT PARCELS. SEPARATION OF PARCELS BY A
10 PUBLIC ROAD OR EASEMENT DOES NOT PRECLUDE THE PARCELS FROM
11 BEING CONTIGUOUS OR ADJACENT.

12 (III) (A) ALL OR A PORTION OF THE FACILITY IS SUBSTANTIALLY
13 REFURBISHED AND THE TOTAL COST OF REFURBISHMENT OF THE FACILITY
14 AND INVESTMENT IN INFORMATION TECHNOLOGY EQUIPMENT IS AT LEAST
15 TWENTY MILLION DOLLARS WITHIN A TWO-YEAR PERIOD.

16 (B) FOR PURPOSES OF THIS SUBPARAGRAPH (III), A FACILITY IS
17 CONSIDERED SUBSTANTIALLY REFURBISHED IF ALL OR A PORTION OF THE
18 FACILITY HAS BEEN REBUILT OR MODIFIED AND IS USED TO HOUSE
19 INFORMATION TECHNOLOGY EQUIPMENT OR PROVIDE DIRECT SUPPORT FOR
20 DATA CENTER OPERATIONS. THE INSTALLATION OF INFORMATION
21 TECHNOLOGY EQUIPMENT, ENVIRONMENTAL CONTROL, ENERGY
22 EFFICIENCY IMPROVEMENTS, AND OTHER BUILDING IMPROVEMENTS ARE
23 CONSIDERED REFURBISHMENTS AND MAY BE INCLUDED WHEN
24 DETERMINING IF A PORTION OF A FACILITY HAS BEEN REFURBISHED.

25 (C) FOR PURPOSES OF THIS SUBPARAGRAPH (III), IN THE CASE OF
26 A CO-LOCATION FACILITY, THE TOTAL COST OF REFURBISHMENT AND
27 INVESTMENT INCLUDES THE INVESTMENTS BY THE OWNER OR OPERATOR
28 OF THE FACILITY AND ALL DATA CENTER TENANTS OF THE FACILITY.

29 (IV) INVESTMENT IN THE REFURBISHMENT OF THE FACILITY
30 COMMENCED ON OR AFTER JANUARY 1, 2014.

31 (i) "QUALIFIED TENANT" MEANS A TENANT THAT LEASES OR RENTS
32 SPACE, EQUIPMENT, OR BANDWIDTH FROM THE OWNER OR OPERATOR OF
33 A CO-LOCATION FACILITY, THAT USES, MAINTAINS, AND PAID SALES AND
34 USE TAX ON INFORMATION TECHNOLOGY EQUIPMENT IN A QUALIFIED DATA
35 CENTER OR QUALIFIED REFURBISHED DATA CENTER BUT IS NOT THE OWNER
36 OR OPERATOR OF THE FACILITY, AND THAT IS CERTIFIED TO BE A QUALIFIED
37 TENANT OF THE FACILITY BY THE OFFICE PURSUANT TO THIS SECTION.

38 (3) **Exemption allowed - criteria.** (a) SUBJECT TO THE
39 LIMITATIONS IN PARAGRAPHS (b), (c), AND (d) OF THIS SUBSECTION (3),
40 BEGINNING JANUARY 1, 2016, ALL SALES, STORAGE, AND USE OF
41 INFORMATION TECHNOLOGY EQUIPMENT THAT IS USED AND MAINTAINED

1 IN A QUALIFIED DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER
2 ARE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PARTS 1 AND 2
3 OF THIS ARTICLE. THE EXEMPTION ALLOWED ALSO INCLUDES INFORMATION
4 TECHNOLOGY EQUIPMENT THAT IS PURCHASED TO REPLACE OR UPGRADE
5 INFORMATION TECHNOLOGY EQUIPMENT IN A QUALIFIED DATA CENTER OR
6 QUALIFIED REFURBISHED DATA CENTER AND INFORMATION TECHNOLOGY
7 EQUIPMENT THAT IS RELOCATED TO A QUALIFIED DATA CENTER OR
8 QUALIFIED REFURBISHED DATA CENTER FROM OUTSIDE THE STATE.

9 (b) THE EXEMPTION ALLOWED IN PARAGRAPH (a) OF THIS
10 SUBSECTION (3) APPLIES TO ANY INFORMATION TECHNOLOGY EQUIPMENT
11 THAT IS SOLD, STORED, USED, OR RELOCATED TO THE STATE ON OR AFTER
12 JANUARY 1, 2016, THAT IS USED AND MAINTAINED IN A QUALIFIED DATA
13 CENTER OR QUALIFIED REFURBISHED DATA CENTER WITHIN TWENTY YEARS
14 AFTER THE DATE OF THE FIRST INVESTMENT IN THE FACILITY FOR THE
15 PURPOSE OF BECOMING A QUALIFIED DATA CENTER OR QUALIFIED
16 REFURBISHED DATA CENTER.

17 (c) INFORMATION TECHNOLOGY EQUIPMENT MUST BE USED AND
18 MAINTAINED IN A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED
19 DATA CENTER FOR AT LEAST ONE YEAR, WHETHER EXPENSED OR
20 CAPITALIZED FOR ACCOUNTING PURPOSES, DURING THE PERIOD THAT THE
21 FACILITY IS A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA
22 CENTER; EXCEPT THAT THE REQUIREMENT THAT THE EQUIPMENT BE USED
23 AND MAINTAINED IN A QUALIFIED DATA CENTER OR QUALIFIED
24 REFURBISHED DATA CENTER FOR AT LEAST ONE YEAR DOES NOT APPLY TO
25 INFORMATION TECHNOLOGY EQUIPMENT THAT FAILS OR IS DESTROYED.

26 (d) FOR THE PURPOSE OF THE EXEMPTION ALLOWED PURSUANT TO
27 THIS SECTION, THE SALE, STORAGE, USE, OR CONSUMPTION OF
28 INFORMATION TECHNOLOGY EQUIPMENT THAT IS USED AND MAINTAINED
29 IN A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER:

30 (I) DOES NOT INCLUDE BASIC CONSTRUCTION AND BUILDING
31 MATERIALS USED IN STRUCTURES THAT WERE ERECTED TO PROTECT
32 INFORMATION TECHNOLOGY EQUIPMENT FROM ENVIRONMENTAL
33 CONDITIONS; AND

34 (II) DOES INCLUDE ELECTRONIC EQUIPMENT PERMANENTLY
35 INSTALLED WITHIN THE FACILITY FOR PURPOSES OF OPERATING THE
36 FACILITY OR THE EQUIPMENT WITHIN THE FACILITY EITHER DIRECTLY OR
37 INDIRECTLY.

38 (4) **Affidavit - supporting documentation to Colorado office of**
39 **economic development - certification.** (a) THE OWNER OR OPERATOR OF
40 A FACILITY OR A DATA CENTER TENANT IN A FACILITY THAT WISHES TO
41 CLAIM THE EXEMPTION ALLOWED PURSUANT TO THIS SECTION SHALL

1 SUBMIT AN AFFIDAVIT TO THE OFFICE, ALONG WITH SUPPORTING
2 DOCUMENTATION, STATING THAT THE FACILITY SATISFIES THE CRITERIA TO
3 BE A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER
4 OR THAT THE DATA CENTER TENANT IS A QUALIFIED TENANT. THE OFFICE
5 SHALL DETERMINE THE TIME AND MANNER IN WHICH THE AFFIDAVITS ARE
6 SUBMITTED. THE OFFICE SHALL BEGIN ACCEPTING AFFIDAVITS ON JULY 1,
7 2016, AND SHALL PROVIDE AN OPPORTUNITY AT LEAST ONCE EVERY THREE
8 MONTHS FOR OWNERS, OPERATORS, AND DATA CENTER TENANTS OF
9 FACILITIES TO SUBMIT AFFIDAVITS AND SUPPORTING DOCUMENTATION
10 PURSUANT TO THIS SUBSECTION (4).

11 (b) (I) THE OFFICE SHALL DETERMINE WHAT SUPPORTING
12 DOCUMENTATION THE OWNER OR OPERATOR OF A FACILITY IS REQUIRED
13 TO SUBMIT ALONG WITH THE AFFIDAVIT PURSUANT TO PARAGRAPH (a) OF
14 THIS SUBSECTION (4). AT A MINIMUM, THE OFFICE SHALL REQUIRE THAT
15 THE OWNER OR OPERATOR OF A FACILITY PROVIDE THE FOLLOWING TO THE
16 OFFICE:

17 (A) THE COST TO CONSTRUCT OR REFURBISH THE FACILITY OR THE
18 COST TO RELOCATE A FACILITY FROM OUTSIDE THE STATE, AS APPLICABLE,
19 AND THE AMOUNT OF THE INVESTMENT IN INFORMATION TECHNOLOGY
20 EQUIPMENT; AND

21 (B) WHEN THE COSTS TO CONSTRUCT OR REFURBISH THE FACILITY
22 OR THE COSTS TO RELOCATE A FACILITY FROM OUTSIDE THE STATE WERE
23 INCURRED AND WHEN THE INVESTMENT COSTS IN INFORMATION
24 TECHNOLOGY EQUIPMENT WERE INCURRED.

25 (II) THE OFFICE SHALL DETERMINE WHAT SUPPORTING
26 DOCUMENTATION A TENANT NEEDS TO SUBMIT TO THE OFFICE TO
27 ESTABLISH THAT THE TENANT IS A QUALIFIED TENANT OF A QUALIFIED
28 DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER. A TENANT IS
29 REQUIRED TO SUBMIT SUCH DOCUMENTATION TO THE OFFICE IN A FORM
30 AND MANNER TO BE DETERMINED BY THE OFFICE.

31 (c) IN SUBMITTING THE INFORMATION REQUIRED BY PARAGRAPH
32 (b) OF THIS SUBSECTION (4), IF THE OWNER OR OPERATOR OF A
33 CO-LOCATION FACILITY IS NOT ABLE TO OBTAIN ORIGINAL PURCHASE
34 DOCUMENTATION FROM DATA CENTER TENANTS OF THE CO-LOCATION
35 FACILITY THAT USE AND MAINTAIN INFORMATION TECHNOLOGY
36 EQUIPMENT WITHIN THE FACILITY, THE OWNER OR OPERATOR MAY USE
37 REASONABLE ESTIMATION METHODS AS DETERMINED BY THE OFFICE TO
38 PROJECT THE INVESTMENT COSTS.

39 (d) IN ADDITION TO THE SUPPORTING DOCUMENTATION TO BE
40 SUBMITTED WITH THE AFFIDAVIT PURSUANT TO PARAGRAPH (a) OF THIS
41 SUBSECTION (4), THE OFFICE MAY REQUIRE THE OWNER OR OPERATOR OF

1 A FACILITY OR THE DATA CENTER TENANT OF A CO-LOCATION FACILITY TO
2 SUBMIT INFORMATION TO THE OFFICE REGARDING THE IMPACT THAT THE
3 EXEMPTION ALLOWED IN THIS SECTION HAD ON THE OWNER, OPERATOR, OR
4 DATA CENTER TENANT'S DECISION TO LOCATE OR EXPAND A BUSINESS,
5 MAKE INVESTMENTS, AND HIRE EMPLOYEES IN THE STATE. IF THE OWNER,
6 OPERATOR, OR DATA CENTER TENANT OF A CO-LOCATION FACILITY FAILS
7 TO PROVIDE THE INFORMATION REQUESTED BY THE OFFICE, THE OFFICE
8 MAY DENY STATUS AS A QUALIFIED DATA CENTER, QUALIFIED
9 REFURBISHED DATA CENTER, OR QUALIFIED TENANT, AS APPLICABLE.

10 (e) PRIOR TO MAKING A FINAL DETERMINATION OF WHETHER A
11 FACILITY IS A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA
12 CENTER, OR WHETHER A DATA CENTER TENANT OF A CO-LOCATION
13 FACILITY IS A QUALIFIED TENANT, THE OFFICE SHALL CONSULT WITH THE
14 COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION
15 24-46-102, C.R.S., REGARDING WHETHER THE FACILITY OR THE DATA
16 CENTER TENANT SATISFIES THE CRITERIA TO BE A QUALIFIED DATA
17 CENTER, QUALIFIED REFURBISHED DATA CENTER, OR QUALIFIED TENANT,
18 AS APPLICABLE.

19 (f) IF, BASED ON THE INFORMATION PROVIDED TO THE OFFICE
20 PURSUANT TO THIS SECTION, THE OFFICE DETERMINES THAT A FACILITY
21 SATISFIES THE CRITERIA TO BE A QUALIFIED DATA CENTER OR QUALIFIED
22 REFURBISHED DATA CENTER OR DETERMINES THAT A DATA CENTER
23 TENANT SATISFIES THE CRITERIA TO BE A QUALIFIED TENANT, THE OFFICE
24 SHALL NOTIFY THE DEPARTMENT AND ISSUE A CERTIFICATION TO THE
25 OWNER OR OPERATOR OF THE FACILITY OR THE DATA CENTER TENANT OF
26 A FACILITY STATING THAT THE OWNER OR OPERATOR OR THE DATA CENTER
27 TENANT, AS APPLICABLE, IS ELIGIBLE FOR THE EXEMPTION ALLOWED
28 PURSUANT TO THIS SECTION FROM STATE SALES AND USE TAX ON
29 INFORMATION TECHNOLOGY EQUIPMENT THAT IS USED AND MAINTAINED
30 IN THE FACILITY.

31 (g) (I) IF THE OFFICE DETERMINES THAT A FACILITY IS A QUALIFIED
32 DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER, THE FACILITY
33 RETAINS ITS QUALIFIED STATUS FOR TWENTY YEARS FROM THE DATE OF
34 THE FIRST INVESTMENT IN THE FACILITY FOR THE PURPOSE OF BECOMING
35 A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER
36 SUBJECT TO COMPLIANCE BY THE DATA CENTER OWNER OR OPERATOR
37 WITH THE ONGOING REPORTING REQUIREMENTS SPECIFIED IN PARAGRAPH
38 (b) OF SUBSECTION (7) OF THIS SECTION.

39 (II) IF, AFTER BECOMING A QUALIFIED DATA CENTER OR QUALIFIED
40 REFURBISHED DATA CENTER, BUT PRIOR TO THE EXPIRATION OF THE
41 TWENTY-YEAR CERTIFICATION PERIOD SPECIFIED IN SUBPARAGRAPH (I) OF

1 THIS PARAGRAPH (g), A FACILITY MAKES AN ADDITIONAL INVESTMENT TO
2 SUBSTANTIALLY REFURBISH THE FACILITY AND THE NEW INVESTMENT
3 SATISFIES THE CRITERIA SPECIFIED IN PARAGRAPH (h) OF SUBSECTION (2)
4 OF THIS SECTION, THE QUALIFIED DATA CENTER OR THE QUALIFIED
5 REFURBISHED DATA CENTER MAY FOLLOW THE PROCEDURES SPECIFIED IN
6 THIS SECTION TO BE CERTIFIED AS A QUALIFIED REFURBISHED DATA
7 CENTER BY THE OFFICE. IF THE OFFICE DETERMINES THAT THE FACILITY
8 HAS SATISFIED THE CRITERIA TO BE A QUALIFIED REFURBISHED DATA
9 CENTER, THE FACILITY'S TWENTY YEAR PERIOD TO RETAIN ITS QUALIFIED
10 STATUS RESTARTS AND WILL LAST FOR TWENTY YEARS FROM THE DATE OF
11 THE FIRST INVESTMENT IN THE FACILITY FOR THE PURPOSE OF BECOMING
12 A QUALIFIED REFURBISHED DATA CENTER PURSUANT TO THIS
13 SUBPARAGRAPH (II).

14 (h) A FACILITY THAT IS CERTIFIED AS A QUALIFIED DATA CENTER
15 OR QUALIFIED REFURBISHED DATA CENTER PURSUANT TO THIS SECTION
16 RETAINS ITS QUALIFIED STATUS REGARDLESS OF ANY DIRECT OR INDIRECT
17 FUTURE TRANSFER, SALE, OR DISPOSITION OF THE FACILITY.

18 (5) **Limitations - exemption not allowed.** WITH RESPECT TO
19 INFORMATION TECHNOLOGY EQUIPMENT THAT IS PURCHASED OR INITIALLY
20 USED IN A DATA CENTER PRIOR TO ITS DESIGNATION AS A QUALIFIED DATA
21 CENTER OR QUALIFIED REFURBISHED DATA CENTER PURSUANT TO
22 PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION, IF SUCH
23 INFORMATION TECHNOLOGY EQUIPMENT WAS INCLUDED IN THE
24 INVESTMENT COSTS TO BECOME A QUALIFIED DATA CENTER OR A
25 QUALIFIED REFURBISHED DATA CENTER, THEN THE STATUTE OF
26 LIMITATIONS CONTAINED IN SECTION 39-26-703(2) (d) SHALL BE TOLLED
27 FROM THE DATE SUCH EQUIPMENT WAS FIRST USED, STORED, OR
28 MAINTAINED IN SUCH DATA CENTER TO THE DATE THAT THE OFFICE ISSUES
29 ITS CERTIFICATION PURSUANT TO PARAGRAPH (f) OF SUBSECTION (4) OF
30 THIS SECTION.

31 (6) **Confidentiality.** PROPRIETARY BUSINESS INFORMATION THAT
32 A QUALIFIED DATA CENTER, QUALIFIED REFURBISHED DATA CENTER, OR
33 QUALIFIED TENANT SUBMITS TO THE OFFICE OR TO THE DEPARTMENT
34 PURSUANT TO THIS SECTION, EITHER BEFORE OR AFTER OBTAINING
35 CERTIFICATION, IS CONFIDENTIAL AND THE OFFICE AND THE DEPARTMENT
36 SHALL NOT DISCLOSE SUCH INFORMATION TO THE PUBLIC; EXCEPT THAT
37 THE OFFICE MAY TRANSMIT INFORMATION TO THE DEPARTMENT AS
38 NECESSARY AND THE OFFICE AND THE DEPARTMENT MAY DISCLOSE TO THE
39 PUBLIC THE NAME OF A FACILITY THAT HAS BEEN CERTIFIED AS A
40 QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER
41 PURSUANT TO THIS SECTION.

1 (7) **Report.** (a) NOTWITHSTANDING THE PROVISIONS OF SECTION
2 24-1-136 (11) (a) (I), C.R.S., ON OR BEFORE NOVEMBER 1, 2017, AND ON
3 OR BEFORE NOVEMBER 1 EVERY YEAR THEREAFTER, THE OFFICE SHALL
4 SUBMIT A REPORT TO THE MEMBERS OF THE GENERAL ASSEMBLY THAT
5 ANALYZES AND ESTIMATES THE ECONOMIC BENEFITS OF THE EXEMPTION
6 ALLOWED IN THIS SECTION.

7 (b) (I) TO ASSIST THE OFFICE IN PREPARING THE REPORT REQUIRED
8 BY PARAGRAPH (a) OF THIS SUBSECTION (7), ON AN ANNUAL BASIS OR AS
9 OTHERWISE REQUIRED BY THE OFFICE, THE OWNER OR OPERATOR OF A
10 QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER OR A
11 QUALIFIED TENANT OF A FACILITY IS REQUIRED TO SUBMIT A REPORT TO
12 THE OFFICE THAT CONTAINS INFORMATION REQUESTED BY THE OFFICE FOR
13 THE PURPOSE OF TRACKING AND MONITORING QUALIFIED DATA CENTERS,
14 QUALIFIED REFURBISHED DATA CENTERS, AND QUALIFIED TENANTS OF
15 FACILITIES.

16 (II) THE INFORMATION REQUESTED BY THE OFFICE PURSUANT TO
17 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) MAY INCLUDE, IF AVAILABLE,
18 REPORTS ON THE NUMBER OF EMPLOYEES OR CONTRACTORS AT THE
19 FACILITY, THE AVERAGE SALARY OF THE EMPLOYEES OR CONTRACTORS AT
20 THE FACILITY, FACILITY OPERATING EXPENSES, CAPITAL INVESTMENTS,
21 INFORMATION REGARDING TRAVEL TO COLORADO BY OUT-OF-STATE
22 EMPLOYEES OR CONTRACTORS TO VISIT THE FACILITY, AND OTHER
23 ECONOMIC BENEFITS THAT THE FACILITY PROVIDES. THE OWNER OR
24 OPERATOR OF A QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED
25 DATA CENTER OR A QUALIFIED TENANT SHALL USE REASONABLE EFFORTS
26 TO OBTAIN OR ESTIMATE THE INFORMATION FOR ITS REPORT TO THE
27 OFFICE.

28 (III) IF THE OWNER OR OPERATOR OF A QUALIFIED DATA CENTER
29 OR QUALIFIED REFURBISHED DATA CENTER OR A QUALIFIED TENANT FAILS
30 TO SUBMIT A REPORT TO THE OFFICE PURSUANT TO THIS PARAGRAPH (b),
31 THE OFFICE MAY REVOKE CERTIFICATION AS A QUALIFIED DATA CENTER,
32 QUALIFIED REFURBISHED DATA CENTER, OR QUALIFIED TENANT.

33 (8) **Rules.** THE DEPARTMENT SHALL PROMULGATE RULES FOR THE
34 IMPLEMENTATION OF THIS SECTION IN ACCORDANCE WITH THE "STATE
35 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

36 **SECTION 2.** In Colorado Revised Statutes, 29-2-105, **add** (1) (d)
37 (I) (O) as follows:

38 **29-2-105. Contents of sales tax ordinances and proposals -**
39 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,
40 city, or county adopted pursuant to this article shall be imposed on the
41 sale of tangible personal property at retail or the furnishing of services,

1 as provided in paragraph (d) of this subsection (1). Any countywide or
2 incorporated town or city sales tax ordinance or proposal shall include the
3 following provisions:

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

14 (O) THE EXEMPTION FOR SALES, STORAGE, AND USE OF
15 INFORMATION TECHNOLOGY EQUIPMENT USED AND MAINTAINED IN A
16 QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER AS
17 SPECIFIED IN SECTION 39-26-729, C.R.S.

18 **SECTION 3. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2016 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor."

28 Page 1 of the bill, strike line 101 and substitute "CONCERNING A STATE
29 SALES AND USE TAX EXEMPTION FOR".

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