

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-1016.01 Nicole Myers x4326

HOUSE BILL 14-1389

HOUSE SPONSORSHIP

Pabon and DelGrosso, Gerou, Holbert, Lebsock, Melton, Moreno, Ryden, Singer,
Williams, Wright, Joshi, Young

SENATE SPONSORSHIP

Scheffel, Newell

House Committees

Business, Labor, Economic, & Workforce Development
Finance
Appropriations

Senate Committees

Business, Labor, & Technology
State, Veterans, & Military Affairs
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A SALES AND USE TAX EXEMPTION FOR INFORMATION**
102 **TECHNOLOGY EQUIPMENT THAT IS USED IN CERTAIN DATA**
103 **CENTERS, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Beginning July 1, 2015, the bill allows a sales and use tax exemption for the sale, storage, and use of information technology

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 5, 2014

HOUSE
Amended 2nd Reading
May 2, 2014

equipment (IT equipment) that will be used in a qualified data center or a qualified refurbished data center. The bill includes IT equipment that is purchased to replace or upgrade IT equipment and IT equipment that is relocated to the state. The bill requires that the IT equipment be used in a qualified data center or qualified refurbished data center within 20 years of the date of the sale, use, storage, or relocation of the IT equipment. The exemption applies to all IT equipment that is used and maintained within a qualified data center or qualified refurbished data center, regardless of whether the owner of the IT equipment is the owner of the qualified data center or qualified refurbished data center.

The bill specifies the criteria to be a qualified data center or a qualified refurbished data center and requires the owner of such a data center to certify to the Colorado office of economic development (office) that the data center satisfies that criteria. The office is required to determine whether a data center is a qualified data center or qualified refurbished data center and notify the department of revenue and the data center owner of such determination.

The office is required to submit a periodic report to the general assembly regarding the economic benefits of the sales and use tax exemption on IT equipment used in qualified data centers or qualified refurbished data centers. In addition, the office is required to make a presentation to the joint technology committee of the general assembly prior to finalizing the certification for any qualified data center or qualified refurbished data center.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 8 to article
3 26 of title 39 as follows:

4 **PART 8**

5 **SALES AND USE TAX REFUND FOR INFORMATION**

6 **TECHNOLOGY EQUIPMENT IN A QUALIFIED DATA CENTER**

7 **39-26-801. Qualified data centers - legislative declaration -**

8 **definitions.** (1) (a) **THE GENERAL ASSEMBLY HEREBY FINDS AND**
9 **DECLARES THAT:**

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

1 ECONOMY;

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

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

9 (IV) STUDIES INDICATE THAT THE STATE WOULD BENEFIT
10 SIGNIFICANTLY FROM STATE-IMPLEMENTED INCENTIVES DESIGNED TO
11 STIMULATE PRIVATE-SECTOR INDUSTRY GROWTH;

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

15 (VI) SINCE 2005, APPROXIMATELY SEVENTEEN STATES HAVE
16 PASSED LEGISLATION TO PROVIDE CUSTOMIZED INCENTIVES FOR DATA
17 CENTERS, AND THOSE STATES ARE ACTIVELY RECRUITING DATA CENTER
18 INVESTMENTS.

19 (b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
20 ENACTING A TAX INCENTIVE TO ENCOURAGE THE EXPANSION OF CURRENT
21 DATA CENTER BUSINESSES, ENCOURAGE NEW DATA CENTER BUSINESSES TO
22 LOCATE TO THE STATE, AND INVIGORATE THE STATE'S CURRENT
23 ADVANCED TECHNOLOGY INDUSTRY'S BUSINESS ACTIVITIES IS SOUND
24 PUBLIC POLICY.

25 (2) AS USED IN THIS SECTION:

26 (a) "FACILITY" MEANS A FACILITY AND THE RELATED PREMISES
27 THAT IS PRIMARILY USED TO HOUSE INFORMATION TECHNOLOGY

1 EQUIPMENT IN A DATA CENTER AND THAT HAS ALL OF THE FOLLOWING
2 CHARACTERISTICS:

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

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

12 (b) (I) "INFORMATION TECHNOLOGY EQUIPMENT" MEANS
13 EQUIPMENT NECESSARY FOR THE MAINTENANCE AND OPERATION OF A
14 QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER,
15 INCLUDING:

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

21 (B) COOLING SYSTEMS, COOLING TOWERS, AND OTHER
22 TEMPERATURE CONTROL INFRASTRUCTURE;

23 (C) POWER INFRASTRUCTURE FOR TRANSFORMATION,
24 DISTRIBUTION, OR MANAGEMENT OF ELECTRICITY USED FOR THE
25 MAINTENANCE AND OPERATION OF A QUALIFIED DATA CENTER OR
26 QUALIFIED REFURBISHED DATA CENTER, INCLUDING BUT NOT LIMITED TO
27 EXTERIOR DEDICATED BUSINESS-OWNED SUBSTATIONS, ON-SITE POWER

1 GENERATION SYSTEMS, BACKUP POWER GENERATION SYSTEMS, BATTERY
2 SYSTEMS, UNINTERRUPTIBLE POWER SUPPLIES, STRUCTURES ERECTED TO
3 PROTECT ALL INFORMATION TECHNOLOGY EQUIPMENT FROM ANY
4 ENVIRONMENTAL CONDITIONS, AND OTHER RELATED INFRASTRUCTURE;
5 AND

6 (D) RACKING SYSTEMS, CABLING, AND TRAYS, WHICH ARE
7 NECESSARY FOR THE MAINTENANCE AND OPERATION OF THE QUALIFIED
8 DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER.

9 (II) "INFORMATION TECHNOLOGY EQUIPMENT" INCLUDES ANY
10 EQUIPMENT THAT HAS THE CAPABILITY TO REPLACE THE FUNCTIONALITY
11 OF ANY OF THE EQUIPMENT SPECIFIED IN SUBPARAGRAPH (I) OF THIS
12 PARAGRAPH (b).

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

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

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

24 (III) INVESTMENT IN THE FACILITY COMMENCED ON OR AFTER
25 JANUARY 1, 2010; AND

26 (IV) THE TOTAL COST OF CONSTRUCTION OF THE FACILITY AND
27 INVESTMENT IN INFORMATION TECHNOLOGY EQUIPMENT FOR THE FACILITY

1 IS AT LEAST THIRTY MILLION DOLLARS WITHIN A FIVE-YEAR PERIOD. THE
2 TOTAL COST OF CONSTRUCTION AND INVESTMENT INCLUDES THE
3 INVESTMENTS BY THE OWNER OF THE FACILITY AND ALL OTHER
4 TAXPAYERS THAT OWN INFORMATION TECHNOLOGY EQUIPMENT LOCATED
5 AT THE FACILITY.

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

8 (I) THE FACILITY IS COMPRISED OF ONE OR MORE BUILDINGS THAT
9 CONSIST IN THE AGGREGATE OF AT LEAST TWENTY-FIVE THOUSAND
10 SQUARE FEET. IN DETERMINING WHETHER THE FACILITY HAS THE
11 REQUIRED SQUARE FOOTAGE, THE SQUARE FOOTAGE OF OFFICE SPACE,
12 MEETING SPACE, AND MECHANICAL AND OTHER SUPPORT FACILITIES SHALL
13 BE INCLUDED IF THE SPACES ARE IN DIRECT SUPPORT OF THE OPERATION OF
14 INFORMATION TECHNOLOGY EQUIPMENT LOCATED AT THE FACILITY.

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

17 (III) THE FACILITY IS SUBSTANTIALLY REFURBISHED AFTER
18 JANUARY 1, 2013. A FACILITY WILL BE CONSIDERED SUBSTANTIALLY
19 REFURBISHED IF AT LEAST TWENTY-FIVE THOUSAND SQUARE FEET IN THE
20 FACILITY HAS BEEN REBUILT OR MODIFIED, INCLUDING THE INSTALLATION
21 OF INFORMATION TECHNOLOGY EQUIPMENT, ENVIRONMENTAL CONTROL,
22 ENERGY EFFICIENCY IMPROVEMENTS, AND OTHER BUILDING
23 IMPROVEMENTS.

24 (IV) THE TOTAL COST OF REFURBISHMENT OF THE FACILITY AND
25 INVESTMENT IN INFORMATION TECHNOLOGY EQUIPMENT IS AT LEAST
26 FIFTEEN MILLION DOLLARS WITHIN A TWO-YEAR PERIOD. THE TOTAL COST
27 OF REFURBISHMENT AND INVESTMENT INCLUDES THE INVESTMENTS BY

1 THE OWNER OF THE FACILITY AND ALL OTHER TAXPAYERS THAT OWN
2 INFORMATION TECHNOLOGY EQUIPMENT LOCATED AT THE FACILITY.

3 (e) "QUALIFIED TENANT" MEANS A TAXPAYER THAT USES AND
4 MAINTAINS INFORMATION TECHNOLOGY EQUIPMENT IN A QUALIFIED DATA
5 CENTER OR A QUALIFIED REFURBISHED DATA CENTER BUT IS NOT THE
6 OWNER OF THE FACILITY AND THAT IS CERTIFIED TO BE A QUALIFIED
7 TENANT OF THE FACILITY BY THE COLORADO OFFICE OF ECONOMIC
8 DEVELOPMENT PURSUANT TO THIS SECTION.

9 (3) **Refund allowed.** (a) SUBJECT TO THE LIMITATIONS IN
10 PARAGRAPHS (b), (c), AND (d) OF THIS SUBSECTION (3), FOR THE CALENDAR
11 YEAR COMMENCING JANUARY 1, 2016, AND FOR EACH CALENDAR YEAR
12 THEREAFTER, A QUALIFIED DATA CENTER, QUALIFIED REFURBISHED DATA
13 CENTER, OR A QUALIFIED TENANT OF A FACILITY MAY CLAIM A REFUND OF
14 STATE SALES AND USE TAX PAID BY THE QUALIFIED DATA CENTER,
15 QUALIFIED REFURBISHED DATA CENTER, OR QUALIFIED TENANT OF A
16 FACILITY PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE ON THE SALE,
17 STORAGE, USE, OR CONSUMPTION OF INFORMATION TECHNOLOGY
18 EQUIPMENT THAT IS USED AND MAINTAINED IN A QUALIFIED DATA CENTER
19 OR QUALIFIED REFURBISHED DATA CENTER, INCLUDING INFORMATION
20 TECHNOLOGY EQUIPMENT THAT IS PURCHASED TO REPLACE OR UPGRADE
21 INFORMATION TECHNOLOGY EQUIPMENT IN A QUALIFIED DATA CENTER OR
22 QUALIFIED REFURBISHED DATA CENTER AND INFORMATION TECHNOLOGY
23 EQUIPMENT THAT IS RELOCATED TO A QUALIFIED REFURBISHED DATA
24 CENTER OR QUALIFIED REFURBISHED DATA CENTER FROM OUTSIDE THE
25 STATE.

26 (b) THE REFUND ALLOWED IN PARAGRAPH (a) OF THIS SUBSECTION
27 (3) APPLIES TO ANY INFORMATION TECHNOLOGY EQUIPMENT THAT IS SOLD,

1 STORED, USED, OR RELOCATED TO THE STATE TO BE USED IN A QUALIFIED
2 DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER WITHIN
3 TWENTY YEARS AFTER THE DATE OF THE FIRST INVESTMENT IN THE
4 FACILITY FOR THE PURPOSE OF BECOMING A QUALIFIED DATA CENTER OR
5 A QUALIFIED REFURBISHED DATA CENTER.

6 (c) INFORMATION TECHNOLOGY EQUIPMENT MUST BE USED IN A
7 QUALIFIED DATA CENTER OR A QUALIFIED REFURBISHED DATA CENTER FOR
8 AT LEAST ONE YEAR DURING THE PERIOD THAT THE FACILITY IS A
9 QUALIFIED DATA CENTER OR QUALIFIED REFURBISHED DATA CENTER.

10 (d) THE TOTAL AMOUNT OF ALL REFUNDS ALLOWED TO ALL
11 QUALIFIED DATA CENTERS, QUALIFIED REFURBISHED DATA CENTERS, AND
12 QUALIFIED TENANTS COMBINED SHALL NOT EXCEED ONE MILLION FIVE
13 HUNDRED THOUSAND DOLLARS IN ANY CALENDAR YEAR.

14 (4) **Affidavit.** (a) THE OWNER OR TENANT OF ANY FACILITY THAT
15 WISHES TO CLAIM THE REFUND ALLOWED PURSUANT TO THIS SECTION
16 SHALL SUBMIT AN AFFIDAVIT TO THE COLORADO OFFICE OF ECONOMIC
17 DEVELOPMENT, ALONG WITH SUPPORTING DOCUMENTATION, STATING
18 THAT THE FACILITY SATISFIES THE CRITERIA TO BE A QUALIFIED DATA
19 CENTER OR A QUALIFIED REFURBISHED DATA CENTER OR THAT THE
20 TENANT SATISFIES THE CRITERIA TO BE A QUALIFIED TENANT, AS
21 APPLICABLE. THE OFFICE SHALL DETERMINE THE TIME AND MANNER IN
22 WHICH THE AFFIDAVITS ARE SUBMITTED. THE OFFICE SHALL BEGIN
23 ACCEPTING AFFIDAVITS ON JULY 1, 2015, AND SHALL PROVIDE AN
24 OPPORTUNITY AT LEAST ONCE EVERY THREE MONTHS FOR OWNERS AND
25 TENANTS OF FACILITIES TO SUBMIT AFFIDAVITS AND SUPPORTING
26 DOCUMENTATION PURSUANT TO THIS SUBSECTION (4).

27 (b) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL

1 DETERMINE WHAT SUPPORTING DOCUMENTATION THE OWNER OF A
2 FACILITY OR A TENANT OF A FACILITY IS REQUIRED TO SUBMIT ALONG WITH
3 THE AFFIDAVIT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4). AT
4 A MINIMUM, THE OFFICE SHALL REQUIRE THAT THE OWNER OF A FACILITY
5 PROVIDE THE FOLLOWING TO THE OFFICE:

6 (I) THE COST TO CONSTRUCT OR REFURBISH THE FACILITY, AS
7 APPLICABLE, AND THE AMOUNT OF THE INVESTMENT IN INFORMATION
8 TECHNOLOGY EQUIPMENT; AND

9 (II) WHEN THE COSTS TO CONSTRUCT OR REFURBISH THE FACILITY
10 WERE INCURRED AND WHEN THE INVESTMENT COSTS IN INFORMATION
11 TECHNOLOGY WERE INCURRED.

12 (c) IN SUBMITTING THE INFORMATION REQUIRED BY PARAGRAPH
13 (b) OF THIS SUBSECTION (4), IF THE OWNER OF A FACILITY IS NOT ABLE TO
14 OBTAIN ORIGINAL PURCHASE DOCUMENTATION FROM TENANTS THAT USE
15 AND MAINTAIN INFORMATION TECHNOLOGY EQUIPMENT WITHIN THE
16 FACILITY, THE OWNER MAY USE REASONABLE ESTIMATION METHODS TO
17 PROJECT THE INVESTMENT COSTS.

18 (d) IN ADDITION TO THE SUPPORTING DOCUMENTATION TO BE
19 SUBMITTED WITH THE AFFIDAVIT PURSUANT TO PARAGRAPH (a) OF THIS
20 SUBSECTION (4), THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT
21 MAY REQUIRE THE OWNER OF A FACILITY OR THE TENANT OF A FACILITY TO
22 SUBMIT INFORMATION TO THE OFFICE REGARDING THE IMPACT THAT THE
23 REFUND ALLOWED IN THIS SECTION HAD ON THE OWNER OR TENANT'S
24 DECISION TO LOCATE OR EXPAND A BUSINESS, MAKE INVESTMENTS, AND
25 HIRE EMPLOYEES IN THE STATE. IF THE OWNER OR TENANT OF A FACILITY
26 FAILS TO PROVIDE THE INFORMATION REQUESTED BY THE OFFICE, THE
27 OFFICE MAY DENY STATUS AS A QUALIFIED DATA CENTER, A QUALIFIED

1 REFURBISHED DATA CENTER, OR A QUALIFIED TENANT, AS APPLICABLE.

2 (e) PRIOR TO MAKING A FINAL DETERMINATION OF WHETHER A
3 FACILITY IS A QUALIFIED DATA CENTER, OR A QUALIFIED REFURBISHED
4 DATA CENTER, OR WHETHER A TENANT OF A FACILITY IS A QUALIFIED
5 TENANT, THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL
6 CONSULT WITH THE COLORADO ECONOMIC DEVELOPMENT COMMISSION
7 CREATED IN SECTION 24-46-102, C.R.S., REGARDING WHETHER THE
8 FACILITY OR THE TENANT SATISFIES THE CRITERIA TO BE A QUALIFIED
9 DATA CENTER, QUALIFIED REFURBISHED DATA CENTER, OR QUALIFIED
10 TENANT, AS APPLICABLE.

11 (f) IF, BASED ON THE INFORMATION PROVIDED PURSUANT TO THE
12 COLORADO OFFICE OF ECONOMIC DEVELOPMENT PURSUANT TO THIS
13 SUBSECTION (4), THE OFFICE DETERMINES THAT A FACILITY HAS SATISFIED
14 THE CRITERIA TO BE A QUALIFIED DATA CENTER OR QUALIFIED
15 REFURBISHED DATA CENTER OR DETERMINES THAT A TENANT HAS
16 SATISFIED THE CRITERIA TO BE A QUALIFIED TENANT, THE OFFICE SHALL
17 NOTIFY THE DEPARTMENT OF REVENUE AND ISSUE A CERTIFICATION TO THE
18 OWNER OF THE FACILITY OR THE TENANT OF A FACILITY STATING THAT THE
19 OWNER OF THE FACILITY OR THE TENANT OF THE FACILITY MAY CLAIM A
20 REFUND PURSUANT TO THIS SECTION FOR THE SALES AND USE TAX PAID ON
21 INFORMATION TECHNOLOGY EQUIPMENT THAT IS STORED AND
22 MAINTAINED IN THE FACILITY. IN THE CERTIFICATION ISSUED PURSUANT TO
23 THIS PARAGRAPH (f), THE OFFICE SHALL INCLUDE NOTIFICATION TO THE
24 QUALIFIED DATA CENTER, QUALIFIED REFURBISHED DATA CENTER, OR
25 QUALIFIED TENANT THAT THE CERTIFICATION ISSUED BY THE OFFICE IS NOT
26 A GUARANTEE THAT IT WILL BE ALLOWED TO CLAIM A REFUND PURSUANT
27 TO THIS SECTION DUE TO THE MAXIMUM TOTAL AMOUNT OF REFUNDS THAT

1 THE DEPARTMENT IS AUTHORIZED TO ALLOW PURSUANT TO PARAGRAPH (d)
2 OF SUBSECTION (5) OF THIS SECTION.

3 (g) IF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT
4 DETERMINES THAT A FACILITY IS A QUALIFIED DATA CENTER OR A
5 QUALIFIED REFURBISHED DATA CENTER, THE FACILITY SHALL RETAIN ITS
6 QUALIFIED STATUS FOR AS LONG AS THIS SECTION IS IN EFFECT PURSUANT
7 TO SUBSECTION (9) OF THIS SECTION.

8 (5) **Refund application.** (a) TO CLAIM THE REFUND ALLOWED BY
9 THIS SECTION, A QUALIFIED DATA CENTER, QUALIFIED REFURBISHED DATA
10 CENTER, OR QUALIFIED TENANT SHALL SUBMIT A REFUND APPLICATION
11 AND A COPY OF ITS CERTIFICATION FROM THE COLORADO OFFICE OF
12 ECONOMIC DEVELOPMENT TO THE DEPARTMENT OF REVENUE IN A FORM
13 AND MANNER DETERMINED BY THE DEPARTMENT. SUCH APPLICATION
14 SHALL BE SUBMITTED NO EARLIER THAN JANUARY 1 AND NO LATER THAN
15 APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE CALENDAR YEAR FOR
16 WHICH THE REFUND IS CLAIMED; EXCEPT THAT, FOR REFUNDS CLAIMED FOR
17 CALENDAR YEARS PRIOR TO THE FIRST CALENDAR YEAR IN WHICH A
18 FACILITY IS CERTIFIED AS A QUALIFIED DATA CENTER OR A QUALIFIED
19 REFURBISHED DATA CENTER, THE APPLICATION FOR ALL SUCH YEARS
20 SHALL BE SUBMITTED NO EARLIER THAN JANUARY 1 AND NO LATER THAN
21 APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN
22 WHICH THE FACILITY WAS CERTIFIED AS A QUALIFIED DATA CENTER OR A
23 QUALIFIED REFURBISHED DATA CENTER.

24 (b) THE APPLICATION REQUIRED BY PARAGRAPH (a) OF THIS
25 SUBSECTION (5) SHALL BE ACCOMPANIED BY PROOF OF PAYMENT OF STATE
26 SALES AND USE TAXES PAID BY THE QUALIFIED DATA CENTER, QUALIFIED
27 REFURBISHED DATA CENTER, OR QUALIFIED TENANT IN THE IMMEDIATELY

1 PRECEDING CALENDAR YEAR; EXCEPT THAT, IN THE FIRST YEAR IN WHICH
2 A FACILITY IS A CERTIFIED AS A QUALIFIED DATA CENTER OR A QUALIFIED
3 REFURBISHED DATA CENTER, THE APPLICATION FOR REFUND SHALL
4 INCLUDE ALL PURCHASES FOR WHICH THE REFUND IS CLAIMED IN UP TO
5 THE PRIOR FIVE CALENDAR YEARS FOR INFORMATION TECHNOLOGY
6 EQUIPMENT USED AND MAINTAINED IN A QUALIFIED DATA CENTER OR UP
7 TO THE PRIOR TWO CALENDAR YEARS FOR INFORMATION TECHNOLOGY
8 EQUIPMENT USED AND MAINTAINED IN A QUALIFIED REFURBISHED DATA
9 CENTER, AS APPLICABLE.

10 (c) THE APPLICATION REQUIRED BY PARAGRAPH (a) OF THIS
11 SUBSECTION (5) SHALL ALSO INCLUDE ANY ADDITIONAL INFORMATION
12 THAT THE DEPARTMENT OF REVENUE MAY REQUIRE BY RULE, WHICH MAY
13 INCLUDE, WITHOUT LIMITATION, A DETAILED LIST OF ALL EXPENDITURES
14 THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND ADDRESS OF AN
15 INDIVIDUAL WHO MAINTAINS RECORDS OF SUCH EXPENDITURES, AND A
16 STATEMENT THAT THE QUALIFIED DATA CENTER, QUALIFIED REFURBISHED
17 DATA CENTER, OR QUALIFIED TENANT AGREES TO FURNISH RECORDS OF
18 ALL SUCH EXPENDITURES TO THE DEPARTMENT OF REVENUE UPON
19 REQUEST. NO REFUND SHALL BE ALLOWED IF THE QUALIFIED DATA
20 CENTER, QUALIFIED REFURBISHED DATA CENTER, OR QUALIFIED TENANT
21 HAS NOT COMPLIED WITH THE REQUIREMENT OF THIS SUBSECTION (5).

22 (d) THE DEPARTMENT OF REVENUE SHALL ENSURE THAT THE
23 TOTAL AMOUNT OF ALL REFUNDS ALLOWED PURSUANT TO THIS SECTION TO
24 ALL QUALIFIED DATA CENTERS, QUALIFIED REFURBISHED DATA CENTERS,
25 AND QUALIFIED TENANTS COMBINED DOES NOT EXCEED ONE MILLION FIVE
26 HUNDRED THOUSAND DOLLARS IN ANY CALENDAR YEAR. IN
27 ADMINISTERING THE LIMIT ON THE TOTAL AMOUNT OF REFUNDS ALLOWED

1 PURSUANT TO THIS SECTION, THE DEPARTMENT OF REVENUE MAY
2 PRIORITIZE REFUNDS USING PURCHASE DATES, RECEIVED DATES,
3 PRORATION, OR ANY OTHER METHOD DEEMED REASONABLY
4 ADMINISTRABLE BY THE DEPARTMENT. THE DEPARTMENT SHALL
5 PRIORITIZE REFUNDS OF TAX PAID IN THE IMMEDIATELY PRECEDING
6 CALENDAR YEAR OVER REFUNDS OF TAX PAID IN CALENDAR YEARS PRIOR
7 TO THE IMMEDIATELY PRECEDING CALENDAR YEAR.

8 (6) **Limitations.** NOTWITHSTANDING THE PROVISIONS OF SECTION
9 39-26-703 (2) (d), ALL SALES, STORAGE, AND USE OF INFORMATION
10 TECHNOLOGY EQUIPMENT THAT IS USED IN A QUALIFIED DATA CENTER IS
11 ELIGIBLE FOR THE REFUND ALLOWED PURSUANT TO THIS SECTION FOR FIVE
12 YEARS AFTER THE DATE OF THE SALE, STORAGE, OR USE OF SUCH
13 INFORMATION TECHNOLOGY EQUIPMENT. UNDER NO CIRCUMSTANCES
14 SHALL THE REFUND ALLOWED PURSUANT THIS SECTION BE ALLOWED FOR
15 THE SALE, STORAGE, OR USE OF INFORMATION TECHNOLOGY EQUIPMENT
16 PRIOR TO JANUARY 1, 2016.

17 (7) **Report.** (a) ON OR BEFORE NOVEMBER 1, 2017, AND ON OR
18 BEFORE NOVEMBER 1 EVERY YEAR THEREAFTER, THE COLORADO OFFICE
19 OF ECONOMIC DEVELOPMENT SHALL SUBMIT A REPORT TO THE MEMBERS
20 OF THE GENERAL ASSEMBLY THAT ANALYZES AND ESTIMATES THE
21 ECONOMIC BENEFITS OF THE REFUND ALLOWED IN THIS SECTION. THE
22 OFFICE SHALL ALSO MAKE A RECOMMENDATION TO THE GENERAL
23 ASSEMBLY REGARDING WHETHER THE TOTAL AMOUNT OF THE REFUND
24 ALLOWED PURSUANT TO THIS SECTION TO ALL QUALIFIED DATA CENTERS,
25 QUALIFIED REFURBISHED DATA CENTERS, AND QUALIFIED TENANTS
26 COMBINED IN ANY CALENDAR YEAR SHOULD BE INCREASED TO ENSURE
27 THAT THE STATE RECEIVES THE MAXIMUM POSSIBLE BENEFIT FROM

1 ALLOWING THE REFUNDS.

2 (b) ANY QUALIFIED DATA CENTER, QUALIFIED REFURBISHED DATA
3 CENTER, OR QUALIFIED TENANT OF A FACILITY SHALL SUBMIT TO THE
4 COLORADO OFFICE OF ECONOMIC DEVELOPMENT INFORMATION
5 REQUESTED BY THE OFFICE FOR THE PURPOSE OF TRACKING AND
6 MONITORING QUALIFIED DATA CENTERS, QUALIFIED REFURBISHED DATA
7 CENTERS, AND QUALIFIED TENANTS OF FACILITIES FOR THE PURPOSE OF
8 THE REPORT REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (7). IF A
9 QUALIFIED DATA CENTER, QUALIFIED REFURBISHED DATA CENTER, OR
10 QUALIFIED TENANT OF A FACILITY FAILS TO PROVIDE THE INFORMATION
11 REQUESTED BY THE OFFICE, THE OFFICE MAY REVOKE CERTIFICATION AS
12 A QUALIFIED DATA CENTER, QUALIFIED REFURBISHED DATA CENTER, OR
13 QUALIFIED TENANT OF A FACILITY.

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

18 (9) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1,
19 2026.

20 **SECTION 2. Appropriation.** (1) In addition to any other
21 appropriation, there is hereby appropriated, out of any moneys in the
22 general fund, not otherwise appropriated, to the governor - lieutenant
23 governor - state planning and budgeting, for the fiscal year beginning July
24 1, 2014, the sum of \$71,307 and 0.5 FTE, or so much thereof as may be
25 necessary, to be allocated to economic development programs for the
26 implementation of this act as follows:

27 (a) \$33,480 and 0.5 FTE for personal services; and

1 (b) \$37,827 for operating expenses.

2 (2) In addition to any other appropriation, there is hereby
3 appropriated, out of any moneys in the general fund, not otherwise
4 appropriated, to the department of revenue, for the fiscal year beginning
5 July 1, 2014, the sum of \$19,570, or so much thereof as may be necessary,
6 for CITA annual maintenance and support related to the implementation
7 of this act.

8 **SECTION 3. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2014 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.