

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1654

5 By: Representative Pilkington
6 By: Senator J. Dismang
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE SALES AND USE TAX EXEMPTIONS FOR
10 DATA CENTERS; TO PROVIDE A SALES AND USE TAX
11 EXEMPTION FOR DATA CENTER EQUIPMENT, DATA CENTER
12 COSTS, CERTAIN SERVICES PROVIDED TO A DATA CENTER,
13 AND ELECTRICITY USED BY A DATA CENTER; AND FOR OTHER
14 PURPOSES.
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Subtitle

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18 TO PROVIDE SALES AND USE TAX EXEMPTIONS
19 FOR DATA CENTERS; AND TO PROVIDE A SALES
20 AND USE TAX EXEMPTION FOR DATA CENTER
21 EQUIPMENT, DATA CENTER COSTS, CERTAIN
22 SERVICES PROVIDED TO A DATA CENTER, AND
23 ELECTRICITY USED BY A DATA CENTER.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4, is
29 amended to add an additional section to read as follows:

30 26-52-455. Data centers.

31 (a) As used in this section:

32 (1) "Data center equipment" means computer equipment or software
33 purchased or leased for the processing, storage, retrieval, or communication
34 of data, including without limitation:

35 (A) A server, router, connection, and other enabling
36 machinery, equipment, software, and hardware, regardless of whether the



1 property is affixed to or incorporated into real property;

2 (B) Equipment used in the operation of a computer or
3 computer software or for the benefit of a qualified data center, including
4 without limitation a component part, installation, refreshment, replacement,
5 and upgrade, regardless of whether the property is affixed to or incorporated
6 into real property;

7 (C) Equipment necessary for the transformation,
8 generation, distribution, or management of electricity that is required to
9 operate a computer server, including without limitation a substation,
10 generator, uninterruptible energy equipment, supply, conduit, fuel piping and
11 storage, cabling, duct bank, switch, switchboard, battery, testing equipment,
12 and backup generator;

13 (D) Equipment necessary to cool and maintain a controlled
14 environment for the operation of the computer servers and other components of
15 the qualified data center, including without limitation a chiller, mechanical
16 equipment, refrigerant piping, fuel piping and storage, adiabatic and free
17 cooling system, cooling tower, water softener, air handling unit, indoor
18 direct exchange unit, fan, ducting, and filter;

19 (E) Water conservation systems, including without
20 limitation a facility or mechanism that is designed to collect, conserve, and
21 reuse water;

22 (F) Computer server equipment, chassis, networking
23 equipment, switches, racks, fiber optic and copper cabling, trays, and
24 conduit;

25 (G) Conduit, ducting, and fiber optic and copper cabling
26 that may be located outside the qualified data center that is directly
27 related to connecting one (1) or more distributed qualified data center
28 locations;

29 (H) Monitoring equipment and security systems;

30 (I) Software;

31 (J) Other tangible personal property and intangible
32 personal property that is essential to the operation of a qualified data
33 center, excluding property used in the administration of the facility;

34 (K) Modular data centers and preassembled components of an
35 item described in subdivisions (a)(1)(A)-(J) of this section, including
36 without limitation components used in the manufacturing of modular data

1 centers; and

2 (L) Labor services to install, apply, repair, service,
3 alter, or maintain items described in subdivisions (a)(1)(A)-(K) of this
4 section;

5 (2) "Eligible data center costs" means expenditures for the
6 development, acquisition, construction, expansion, renovation, refurbishment,
7 and operation of a qualified data center, including without limitation costs
8 of land, buildings, site improvements, modular data centers, computer data
9 center equipment acquisition and permitting, lease payments, site
10 characterization and assessment, engineering, and design used directly and
11 exclusively in a qualified data center;

12 (3) "Facility" means one (1) or more contiguous tracts of land
13 in the state and any structure and tangible personal property contained on
14 that land that is for the operation of a qualified data center;

15 (4) "Qualified data center" means a facility that:

16 (A) Is developed, acquired, constructed, expanded,
17 rehabilitated, renovated, repaired, or operated to house a group of networked
18 computer servers in one (1) physical location or multiple contiguous
19 locations to centralize the storage, management, and dissemination of data
20 and information pertaining to a particular business or classification or body
21 of knowledge; and

22 (B) Is owned or operated by a qualified firm that:

23 (i) Creates a qualified investment of at least five
24 hundred million dollars (\$500,000,000) within five (5) years of the issuance
25 of a certificate of occupancy by the relevant local building authority; and

26 (ii) Pays an aggregate annualized compensation of at
27 least one million dollars (\$1,000,000) to employees within the state over the
28 two (2) calendar years following the commencement of operations;

29 (5) "Qualified firm" means a for-profit business establishment
30 that is:

31 (A) Subject to state income, sales, or property taxes;

32 (B) The owner or operator of a qualified data center; and

33 (C) Engaged in data processing, storage, and
34 dissemination; and

35 (6) "Qualified investment" means, with respect to a qualified
36 data center, the aggregate nonduplicative eligible data center costs expended

1 by an entity with an interest in a qualified data center in the state.

2 (b) The gross receipts or gross proceeds from the sale of the
3 following are exempt from the gross receipts tax levied by this chapter and
4 the compensating use tax levied by the Arkansas Compensating Tax Act of 1949,
5 § 26-53-101 et seq.:

6 (1) Data center equipment;

7 (2) Eligible data center costs;

8 (3) Services purchased for the purpose of and in conjunction
9 with developing, acquiring, constructing, expanding, renovating,
10 refurbishing, and operating a qualified data center; and

11 (4) Electricity used by a qualified data center.

12 (c)(1) A qualified firm shall submit an application for the exemption
13 provided under this section for a qualified data center to the Arkansas
14 Economic Development Commission.

15 (2) Eligibility for the exemption under this section is
16 dependent on the minimum qualified investment and aggregate compensation
17 stated in subdivision (a)(5) of this section being met within five (5) years
18 from the commencement of construction of the qualified data center.

19 (3)(A) Within thirty (30) days after receipt of a completed
20 application under this section, the commission shall grant or deny the
21 application in whole or in part.

22 (B) If an application submitted under this section is
23 denied as incomplete and the qualified firm provides the additional
24 information or documentation required by the commission or otherwise
25 completes its application within fifteen (15) days of the notice of denial,
26 the application shall be considered completed as of the original date of
27 submission.

28 (C) If a qualified firm fails to provide the information
29 or complete its application within the fifteen-day cure period provided in
30 subdivision (c)(3)(B) of this section, the application shall remain denied
31 and may be resubmitted in full with a new submission date if the qualified
32 firm wants to proceed with the application.

33 (D) If an application is complete and meets the
34 requirements of this section, the commission shall certify the qualified data
35 center that is eligible for the exemption provided in this section.

36 (d) Once an application is approved, the commission shall transmit an

1 approved financial incentive certificate to the qualified firm.

2 (e)(1) After receiving an approved financial incentive certificate
3 from the commission, a qualified firm shall certify annually to the
4 commission the qualified data center's minimum qualified investment and
5 aggregate annualized compensation at the qualified data center during the
6 preceding calendar year for the term of the financial incentive certificate.

7 (2) All data reported to the commission under this subsection
8 shall be used only to determine eligibility.

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10 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on the
11 first day of the calendar quarter following the effective date of this act.
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