

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
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As Engrossed: H2/27/25 S3/20/25

A Bill

HOUSE BILL 1444

By: Representative Pilkington

By: Senator J. Dismang

For An Act To Be Entitled

AN ACT TO AMEND THE SALES AND USE TAX EXEMPTION FOR
DATA CENTERS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE SALES AND USE TAX EXEMPTION
FOR DATA CENTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 26-52-456 is amended to read as follows:
26-52-456. Data centers – Definitions.

(a) As used in this section:

(1) “Data center equipment” means computer equipment, ~~or~~ software, and related equipment and services purchased or leased either for immediate use or stored for future use in this state for the processing, storage, retrieval, or communication of data, including without limitation:

(A) A server, router, connection, and other enabling machinery, equipment, software, and hardware, regardless of whether the property is affixed to or incorporated into real property;

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

(C) Equipment necessary for the transformation, generation, distribution, storage, or management of electricity that is required to operate a computer server or other data center equipment,



including without limitation a substation, generator, uninterruptible energy equipment, supply, conduit, fuel piping and storage, cabling, duct bank, switch, switchboard, battery, testing equipment, and backup generator;

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

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

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

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

(H) Monitoring equipment and security systems;

(I) Software;

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

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

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

(2) "Eligible data center costs" means expenditures for the development, acquisition, construction, expansion, renovation, refurbishment, maintenance, and operation of a qualified data center or a qualified large

data center, including without limitation costs of land, buildings, site improvements, modular data centers, computer data center equipment acquisition and permitting, lease payments, site characterization and assessment, engineering, and design used directly and exclusively in a qualified data center or a qualified large data center;

(3) “Facility” means ~~one (1) or more contiguous~~ a tract or adjacent tracts of land in the state and any structure and tangible personal property contained on that land that is for the operation of a qualified data center or a qualified large data center;

(4) “Qualified data center” means a facility, including any addition to or expansion of the facility, that:

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

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

(i) Creates a qualified investment of at least ~~five hundred million dollars (\$500,000,000)~~ within one hundred million dollars (\$100,000,000) at the facility no later than five (5) years ~~of the issuance of a certificate of occupancy by the relevant local building authority~~ after construction of the facility commences; ~~and~~

(ii) Pays, directly or indirectly, an aggregate annualized compensation of at least one million dollars (\$1,000,000), including compensation paid by the contractors of the qualified firm, to ~~employees~~ individuals performing services within the state over the two (2) calendar years following the ~~commencement of~~ calendar year in which the facility commenced operations; and

(iii) Is not primarily engaged in adding transactions involving virtual currency to a distributed ledger at the facility; ~~and~~

(C) *Has received a positive cost-benefit analysis from the Arkansas Economic Development Commission*;

(5) “Qualified firm” means a for-profit business establishment that is:

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

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

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

(6) "Qualified investment" means, with respect to a qualified data center or a qualified large data center, the aggregate nonduplicative eligible data center costs expended by an entity with an interest in a qualified data center or a qualified large data center in the state; and

(7) "Qualified large data center" means a facility, including any addition to or expansion of the facility, that:

(A) Is developed, acquired, constructed, expanded, rehabilitated, renovated, repaired, or operated to house a group of networked computer servers in two (2) or more nonadjacent physical locations that are connected to each other by fiber and associated equipment required for operating a fiber transmission network between the location and upstream internet peering points for the qualified firm that owns or operates the facility and its affiliates;

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

(i) Creates a qualified investment of at least two billion dollars (\$2,000,000,000) at the facility no later than ten (10) years after construction of the facility commences;

(ii) Pays, directly or indirectly, an aggregate annualized compensation of at least three million dollars (\$3,000,000), including compensation paid by the contractors of the qualified firm, to individuals performing services within the state over the two (2) calendar years following the calendar year in which the facility commenced operations; and

(iii) Is not primarily engaged in adding transactions involving virtual currency to a distributed ledger at the facility; and

(C) Has received a positive cost-benefit analysis from the commission.

(b) The gross receipts or gross proceeds from the sale of the following are exempt from the gross receipts tax levied by this chapter and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949,

§ 26-53-101 et seq.:

- (1) Data center equipment;
- (2) Eligible data center costs;
- (3) Services purchased for the purpose of and in conjunction with developing, acquiring, constructing, expanding, renovating, refurbishing, and operating a qualified data center or a qualified large data center; and
- (4) Electricity used by a qualified data center or a qualified large data center.

(c)(1) A qualified firm shall submit an application for the exemption provided under this section for a qualified data center or a qualified large data center to the ~~commission~~ Department of Finance and Administration.

(2) Eligibility for the exemption under this section ~~is dependent~~ commences on:

(A) For a qualified data center, the minimum qualified investment and aggregate compensation stated in subdivision (a)(4) of this section being met within five (5) years from the commencement of construction of the qualified data center the time period required under subdivision (a)(4) of this section; and

(B) For a qualified large data center, the minimum qualified investment and aggregate compensation stated in subdivision (a)(7) of this section being met within the time period required under subdivision (a)(7) of this section.

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

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

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

firm wants to proceed with the application.

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

(d)(1) Once an application is approved, the: ~~commission~~

(A) Department shall transmit an approved financial incentive certificate to the qualified firm; and

(B) Exemption provided in this section may be claimed by the qualified data center or the qualified large data center.

(2)(A) If, after a qualified data center is certified as being eligible for the exemption provided in this section, the qualified firm that owns or operates the qualified data center intends to own or operate additional facilities in this state that would meet the requirements of a qualified large data center when combined with the qualified data center that has been certified as being eligible for the exemption under this section, the qualified firm may request that the department recertify that the qualified data center together with the other facilities is eligible for the exemption provided under this section as a qualified large data center.

(B) If the department recertifies a qualified data center as a qualified large data center under subdivision (d)(2)(A) of this section, the department shall update the approved financial certificate to reflect the recertification.

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

(1) For a qualified data center:

(A) When the minimum qualified investment required under subdivision (a)(4)(B)(i) of this section has been met; and

(B) For each calendar year in which the qualified firm is subject to the aggregate compensation requirement under subdivision (a)(4)(B)(ii) of this section, the aggregate annualized compensation at the qualified data center for the calendar year; and

(2) For a qualified large data center:

(A) When the minimum qualified investment required under subdivision (a)(7)(B)(i) of this section has been met; and

(B) For each calendar year in which the qualified firm is subject to the aggregate compensation requirement under subdivision (a)(7)(B)(ii) of this section, the aggregate annualized compensation at the qualified large data center for the calendar year.

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

(f) If the aggregate annualized compensation at a qualified data center or a qualified large data center falls below the required aggregate compensation required under this section, the approved financial incentive certificate for the qualified firm that owns or operates the qualified data center or the qualified large data center shall be revoked.

(g)(1) Except as provided in subdivision (g)(2) of this section, if a qualified large data center fails to meet the requirements of subdivision (a)(7)(B)(i) of this section, the approved financial incentive certificate for the qualified firm that owns or operates the qualified data center or the qualified large data center shall be revoked.

(2)(A) Each facility within a qualified large data center that independently meets the requirements of a qualified data center under subdivision (a)(4) of this section continues to be eligible for an exemption under this section.

(B) The department shall:

(i) Certify each facility that independently meets the requirements of a qualified data center as being eligible for the exemption provided in this section; and

(ii) Transmit an approved financial incentive certificate to the qualified firm that owns or operates the facilities that independently meet the requirements of a qualified data center.

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

/s/Pilkington