

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 11, 2023
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

SB23-207 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 6, line 25, after "SOFTWARE;" insert "AND".
- 2 Page 6, line 27, strike "CENTER; AND" and substitute "CENTER."
- 3 Page 7, strike lines 1 through 3.
- 4 Page 7, line 10, strike "TWENTY-FIVE" and substitute "ONE HUNDRED".
- 5 Page 8, line 4, strike "2034," and substitute "2032,".
- 6 Page 9, line 17, after "CENTER." add "THE COMMISSION MAY APPROVE,
7 DENY, OR LIMIT A REFUND CERTIFICATION TO A DOLLAR AMOUNT BASED
8 ON THE FOLLOWING ECONOMIC DEVELOPMENT PRIORITIES:
9 (I) THE CAPITAL INVESTMENT THAT WAS REQUIRED TO BUILD THE
10 ELIGIBLE OPERATING DATA CENTER;
11 (II) THE SALES AND USE TAXES THAT WERE ABATED IN THE FIRST
12 TWO YEARS OF CONSTRUCTION;
13 (III) THE AMOUNT OF LOCAL INCENTIVES PROVIDED TO ATTRACT
14 THE DATA CENTER TO THE LOCAL COMMUNITY;
15 (IV) THE ECONOMIC HEALTH OF THE STATE;
16 (V) A COMPETITIVE ANALYSIS BETWEEN COLORADO AND OTHER
17 STATES INCLUDING, BUT NOT LIMITED TO, IDENTIFICATION OF THE COST
18 DIFFERENTIAL IN THE COSTS OF THE PROJECT IN COLORADO COMPARED TO
19 THE PROJECTED COSTS IF THE PROJECT HAD COMMENCED IN A COMPETING
20 STATE. THE COST DIFFERENTIAL INCLUDES ANY IMPACT OF THE COMPETING
21 STATE'S INCENTIVE PROGRAMS INCLUDING:
22 (A) SPECIFIC COSTS FOR LABOR, UTILITIES, TAXES, AND ANY OTHER
23 COSTS OF A COMPETING STATE'S SITE; AND

1 (B) THE COST STRUCTURE OF THE TAXPAYER'S INDUSTRY IN THE
2 COMPETING STATE;
3 (VI) CERTIFIED DOCUMENTATION FROM THE TAXPAYER TO
4 DEMONSTRATE THAT THE CREDIT ALLOWED PURSUANT TO THIS SECTION
5 WAS A SUBSTANTIAL FACTOR IN THE DECISION TO LOCATE THE PROJECT IN
6 THE STATE. THE DOCUMENTATION MUST INCLUDE INFORMATION
7 INDICATING THAT:
8 (A) THE TAXPAYER COULD HAVE REASONABLY AND EFFICIENTLY
9 LOCATED THE PROJECT OUTSIDE OF THE STATE;
10 (B) AT LEAST ONE OTHER STATE WAS CONSIDERED FOR THE
11 PROJECT;
12 (C) RECEIPT OF THE CREDIT ALLOWED IN THIS SECTION WAS A
13 MAJOR FACTOR IN THE TAXPAYER'S DECISION; AND
14 (D) WITHOUT THE CREDIT ALLOWED PURSUANT TO THIS SECTION,
15 THE TAXPAYER WAS NOT LIKELY TO COMMENCE THE PROJECT IN THE
16 STATE;
17 (VII) THE DATA CENTER'S ENERGY EFFICIENCY AND WATER USAGE;
18 AND
19 (VIII) THE NUMBER OF FULL-TIME PERMANENT JOBS CREATED TO
20 OPERATE THE DATA CENTER ON AN ONGOING BASIS AND THE AVERAGE
21 ANNUAL WAGE OF THOSE JOBS.
22 (d) IN EACH STATE FISCAL YEAR THAT A SALES AND USE TAX
23 REFUND IS ALLOWED PURSUANT TO THIS SECTION, THE COMMISSION MAY
24 APPROVE CERTIFICATION FOR UP TO THREE DATA CENTERS TO CLAIM A
25 SALES AND USE TAX REFUND PURSUANT TO THIS SECTION."

26 Page 9, line 21, strike "CENTER," and substitute "CENTER AND THE
27 COMMISSION HAS APPROVED THE CERTIFICATION,".

28 Page 9, line 25, strike "CENTER." and substitute "CENTER UP TO THE
29 AMOUNT APPROVED BY THE COMMISSION.".

30 Page 11, line 23, strike "2039." and substitute "2037.".

** ** ** ** **