

REFERENCE TITLE: **cost responsibility agreements; data centers**

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2738

Introduced by
Representatives Crews: Austin, Garcia, Mathis, Villegas, Volk

AN ACT

AMENDING SECTION 41-1519, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA COMMERCE AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1519, Arizona Revised Statutes, is amended to
3 read:

4 41-1519. Computer data center tax relief; definitions

5 A. ~~From and after August 31, 2013,~~ Tax relief is allowed for the
6 owner or operator of a computer data center certified pursuant to this
7 section. The same tax relief is allowed for qualified colocation tenants
8 of the computer data center. All tax relief applies during the
9 qualification period.

10 B. To qualify for the tax relief, the owner or operator shall
11 submit **BOTH OF THE FOLLOWING** to the authority:

12 1. An application on a form prescribed by the authority that
13 includes all of the following:

14 ~~1.~~ (a) The owner's or operator's name, address and telephone
15 number.

16 ~~2.~~ (b) The address of the site where the facility is or will be
17 located, including, if applicable, information sufficient to identify the
18 specific portion or portions of the facility composing the computer data
19 center.

20 ~~3.~~ (c) If the computer data center is to qualify under subsection
21 E, paragraph 1 of this section, both of the following:

22 ~~(a)~~ (i) The anticipated investment associated with the computer
23 data center for which the tax relief is being sought and whether the
24 computer data center is anticipated to qualify as a sustainable
25 redevelopment project.

26 ~~(b)~~ (ii) An affirmation, signed by an authorized executive
27 representing the owner or operator, that the computer data center is
28 expected to satisfy one of the certification requirements prescribed in
29 subsection E, paragraph 1 of this section and that the computer data
30 center will not violate subsection M of this section.

31 ~~4.~~ (d) If the computer data center is to qualify under subsection
32 E, paragraph 2 of this section, an affirmation, signed by an authorized
33 executive representing the owner or operator, that the computer data
34 center has satisfied the certification requirements prescribed in
35 subsection E, paragraph 2 of this section, whether the computer data
36 center qualifies as a sustainable redevelopment project and that the
37 computer data center will not violate subsection M of this section.

38 2. **A COPY OF THE COST RESPONSIBILITY AGREEMENT BETWEEN THE OWNER OR**
39 **OPERATOR AND THE ELECTRIC UTILITY SERVING THE COMPUTER DATA CENTER. THE**
40 **COST RESPONSIBILITY AGREEMENT SHALL REQUIRE THAT THE OWNER OR OPERATOR PAY**
41 **ALL COSTS THAT ARE ASSOCIATED WITH DEDICATED UPGRADES THAT ARE REQUIRED TO**
42 **SERVE THE COMPUTER DATA CENTER.**

43 C. Within sixty days after receiving a complete and correct
44 application **AND THE COST RESPONSIBILITY AGREEMENT**, the authority shall
45 review the application and either issue a written certification that the

1 computer data center qualifies for the tax relief or provide written
2 reasons for its denial. Failure to approve or deny the application within
3 sixty days after the date the owner or operator submits the application to
4 the authority constitutes approval of the computer data center, and the
5 authority shall issue written certification to the owner or operator
6 within fourteen days. The effective date of the certification is either
7 the date on which the application was submitted to the authority or a
8 prospective date stated in the application that does not exceed five years
9 after the date on which the application was submitted. The authority
10 shall send a copy of the certification, including its effective date, to
11 the department of revenue. The authority shall not certify any new
12 computer data center that submits an application to the authority after
13 December 31, 2033.

14 D. An owner or operator may separate a facility into one or more
15 computer data centers, which may each receive a separate certification if
16 each computer data center individually meets the requirements prescribed
17 in subsection E of this section. A portion of a facility or an article of
18 computer data center equipment shall not be deemed to be a part of more
19 than one computer data center. The owner or operator may aggregate one or
20 more of the parcels, buildings, condominiums or modular data centers in a
21 facility into a single computer data center if, in the aggregate, the
22 parcels, buildings, condominiums and modular data centers meet the
23 requirements of subsection E of this section.

24 E. A computer data center must meet one of the following
25 requirements after taking into account the combined investments made by
26 the owner, operator or qualified colocation tenants of a computer data
27 center:

28 1. On or before the fifth anniversary of certification, the
29 computer data center creates a minimum investment of at least:

30 (a) \$25,000,000 of new investment, including costs of land,
31 buildings, improvements, modular data centers and computer data center
32 equipment, whether owned or leased or paid for pursuant to a right to use
33 agreement, if the computer data center is located in a county with a
34 population of eight hundred thousand or less persons.

35 (b) \$50,000,000 of new investment, including costs of land,
36 buildings, improvements, modular data centers and computer data center
37 equipment, whether owned or leased or paid for pursuant to a right to use
38 agreement, if the computer data center is located in a county with a
39 population of more than eight hundred thousand persons.

40 2. During the seventy-two months immediately before September 1,
41 2013, the computer data center created an investment of at
42 least \$250,000,000, including costs of land, buildings, improvements,
43 modular data centers and computer data center equipment, whether owned or
44 leased or paid for pursuant to a right to use agreement.

1 F. On or before the fifth anniversary of the certification of a new
2 computer data center, the owner or operator shall notify the authority in
3 writing that the computer data center for which the certification is
4 requested has or has not satisfied the requirements prescribed in
5 subsection E, paragraph 1 of this section. Until a new computer data
6 center satisfies the requirements prescribed in subsection E, paragraph 1
7 of this section, the owner or operator shall keep detailed records of all
8 investment created by the new computer data center, including costs of
9 land, buildings, improvements, modular data centers and computer data
10 center equipment, and all tax relief directly received by the owner or
11 operator. This subsection does not apply to an existing computer data
12 center.

13 G. If the authority determines that:

14 1. A new computer data center that is certified under subsection E,
15 paragraph 1 of this section has not complied with the requirements and
16 time periods prescribed by subsection E, paragraph 1 of this section, the
17 authority shall revoke the computer data center's certification. If the
18 certification is revoked, the qualification period of any owner, operator
19 or qualified colocation tenant of the computer data center automatically
20 terminates, and the department of revenue may recapture all or part of the
21 tax relief provided directly to the owners and operators. A qualified
22 colocation tenant is not subject to recapture of any part of tax relief
23 received pursuant to this section, except that a contributing qualified
24 colocation tenant may be subject to recapture if it is located in a
25 computer data center that is certified from and after August 31, 2016. An
26 owner or operator may appeal any revocation under this paragraph pursuant
27 to chapter 6, article 10 of this title.

28 2. There has been a violation of subsection M of this section with
29 respect to a computer data center:

30 (a) The authority shall revoke the computer data center's
31 certification and, if revoked, the qualification period of any owner,
32 operator or qualified colocation tenant of the computer data center
33 automatically terminates.

34 (b) The department of revenue may not recapture any tax relief
35 provided directly to the owner, operator or qualified colocation tenant
36 before the date of revocation.

37 (c) An owner or operator may appeal any revocation under this
38 paragraph pursuant to chapter 6, article 10 of this title.

39 H. The authority and the department of revenue shall adopt rules
40 and prescribe forms and procedures as necessary for the purposes of this
41 section. The authority and the department shall collaborate in adopting
42 rules as necessary to avoid duplication and inconsistencies while
43 accomplishing the purposes of this section. The authority has exclusive
44 authority over issues related to certification, including determinations
45 as to whether a computer data center has satisfied the requirements of

1 subsection E of this section, constitutes a qualified sustainable
2 redevelopment project or has committed a violation of this section. The
3 department of revenue has exclusive authority over the administration of
4 tax relief.

5 I. Proprietary business information contained in the application
6 described in subsection B of this section, the written notice described in
7 subsection F of this section and the list described in subsection J of
8 this section are confidential and shall not be disclosed to the public
9 except that the information shall be transmitted to the department of
10 revenue. The authority or the department may disclose the name of a
11 computer data center that has been certified pursuant to this section.

12 J. The owner or operator shall provide the authority and the
13 department of revenue with a list of qualified colocation tenants,
14 including the commencement and expiration dates of each qualified
15 colocation tenant's agreement to use or occupy all or part of the computer
16 data center, and shall notify the authority and the department of any
17 changes within thirty days. The failure of an owner or operator to
18 provide the list or notify the authority and department of revenue of
19 changes within the required time is not grounds for termination of the
20 computer data center's certification, but may preclude unlisted colocation
21 tenants from receiving tax relief until the list is provided or updated.

22 K. Except as provided in subsection G of this section, if a
23 computer data center has been certified, the certification remains in
24 effect, even in the event of a future transfer, sale or disposition,
25 directly or indirectly, of the computer data center.

26 L. For the purposes of qualifying and continuing as a sustainable
27 redevelopment project:

28 1. After receiving certification, an owner may substantially
29 demolish all or part of an existing building to the extent reasonably
30 necessary to accommodate future computer data center use, and the
31 demolition is not cause for loss of certification as a sustainable
32 redevelopment project. An existing building that has been substantially
33 demolished before certification is not eligible to qualify as a
34 sustainable redevelopment project.

35 2. An owner or operator may expand the boundaries of a certified
36 computer data center by increasing the size of an existing building within
37 a sustainable redevelopment project or by building additional improvements
38 in an unlimited manner to the extent the expansion is constructed on the
39 same parcel of land on which the original sustainable redevelopment
40 project is located or on a contiguous parcel, regardless of whether the
41 contiguous parcel was within the original description of the boundaries of
42 the certified computer data center. Expansion activities do not prevent a
43 facility from maintaining its classification as a sustainable
44 redevelopment project.

1 3. All construction activities and investments related to
2 demolition and expansion activities described in this subsection are
3 considered to be a part of the sustainable redevelopment project.

4 M. This section does not allow a computer data center to do either
5 of the following:

- 6 1. Generate electricity for resale purposes.
- 7 2. Generate, provide or sell electricity outside of the computer
8 data center.

9 N. The owner or operator may be a single individual or entity or
10 multiple affiliated entities.

11 O. WITHIN ONE YEAR AFTER CERTIFICATION AND EACH YEAR THEREAFTER,
12 THE OWNER OR OPERATOR SHALL SUBMIT TO THE AUTHORITY A REPORT THAT DETAILS
13 ALL OF THE FOLLOWING:

14 1. THE NUMBER OF FULL-TIME EMPLOYEES WHO WERE CONTINUOUSLY EMPLOYED
15 BY THE CERTIFIED COMPUTER DATA CENTER IN THE PRECEDING CALENDAR YEAR.

16 2. THE COMPUTER DATA CENTER'S TOTAL ENERGY USE IN THE PRECEDING
17 CALENDAR YEAR.

18 3. THE AMOUNT THE CERTIFIED COMPUTER DATA CENTER HAS SPENT ON
19 CAPITAL INVESTMENTS IN THE PRECEDING CALENDAR YEAR AND CUMULATIVELY SINCE
20 CERTIFICATION.

21 4. THE AMOUNT OF WATER THAT WAS USED BY THE COMPUTER DATA CENTER IN
22 THE PRECEDING CALENDAR YEAR.

23 5. THE SOURCES OF THE ENERGY AND WATER THAT WERE USED BY THE
24 COMPUTER DATA CENTER IN THE PRECEDING CALENDAR YEAR.

25 6. COMPLIANCE WITH THE COST RESPONSIBILITY AGREEMENT PRESCRIBED IN
26 SUBSECTION B, PARAGRAPH 2 OF THIS SECTION.

27 P. IF AN OWNER OR OPERATOR DOES NOT SHOW COMPLIANCE WITH THE COST
28 RESPONSIBILITY AGREEMENT AS REQUIRED BY SUBSECTION O, PARAGRAPH 6 OF THIS
29 SECTION, THE AUTHORITY SHALL NOTIFY THE DEPARTMENT OF REVENUE. IF THE
30 DEPARTMENT OF REVENUE DETERMINES THAT THE OWNER OR OPERATOR WAS NOT IN
31 COMPLIANCE WITH THE COST RESPONSIBILITY AGREEMENT PRESCRIBED IN SUBSECTION
32 B, PARAGRAPH 2 OF THIS SECTION AND THAT THE OWNER OR OPERATOR RECEIVED TAX
33 RELIEF, THE DEPARTMENT OF REVENUE SHALL RECAPTURE ALL OF THE TAX RELIEF
34 PROVIDED TO THE OWNER OR OPERATOR.

35 ~~O.~~ Q. For the purposes of this section:

36 1. "Computer data center" means all or part of a facility that may
37 be composed of multiple businesses or owners, that is or will be
38 predominantly used to house working servers and that may have
39 uninterrupted energy supply or generator backup power, or both, cooling
40 systems, towers and other temperature control infrastructure.

41 2. "Computer data center equipment" means equipment that is used to
42 outfit, operate or benefit a computer data center and component parts,
43 installations, refreshments, replacements and upgrades to this equipment,
44 regardless of whether affixed to or incorporated into real property, and

1 whether owned, leased or used by the owner or operator pursuant to a
2 contract for the right to use the equipment, including:

3 (a) All equipment necessary for the transformation, generation,
4 distribution or management of electricity that is required to operate
5 computer server equipment, including generators, uninterruptible energy,
6 supplies, conduit, gaseous fuel piping, cabling, duct banks, switches,
7 switchboards, batteries and testing equipment.

8 (b) All equipment necessary to cool and maintain a controlled
9 environment for the operation of the computer server and other components
10 of the computer data center, including mechanical equipment, refrigerant
11 piping, gaseous fuel piping, adiabatic and free cooling systems, cooling
12 towers, water softeners, air handling units, indoor direct exchange units,
13 fans, ducting and filters.

14 (c) All water conservation systems, including facilities or
15 mechanisms that are designed to collect, conserve and reuse water.

16 (d) All enabling software, computer server equipment, chassis,
17 networking equipment, switches, racks, cabling, trays and conduit.

18 (e) All monitoring equipment and security systems.

19 (f) Modular data centers and preassembled components of any item
20 described in this paragraph, including components used in the
21 manufacturing of modular data centers.

22 (g) Other tangible personal property that is essential to the
23 operations of a computer data center.

24 3. "Contributing qualified colocation tenant" means a qualified
25 colocation tenant that is an operator or that had its anticipated
26 investment included in an application for certification for the purposes
27 of satisfying subsection E, paragraph 1 of this section.

28 4. "Existing building" means any existing vertical building
29 improvement located at a facility used for commercial purposes at the time
30 of its acquisition by an owner, but not including single family
31 residential structures, barns or other agricultural structures.

32 5. "Existing computer data center" means a computer data center
33 that is certified under subsection E, paragraph 2 of this section.

34 6. "Facility" means one or more parcels of land in this state and
35 any structures and personal property contained on the land.

36 7. "Investment" means all monies spent to acquire a facility
37 regardless of prior use and all monies spent to construct or expand a
38 computer data center, including costs of land, buildings, improvements,
39 modular data centers and computer data center equipment. For new data
40 centers, investment includes all costs incurred on or after a date that is
41 thirty days before the date the application is submitted to the authority.

42 8. "Modular data center" means a portable system of information
43 technology, climate control, energy supply and energy distribution
44 machinery, equipment and related tangible personal property contained in
45 an intermodal freight container or similar structure.

1 9. "New computer data center" means a computer data center that is
2 certified under subsection E, paragraph 1 of this section.

3 10. "Operator" means any individual or entity that operates a
4 computer data center as an operator or lessor or pursuant to a contract
5 with an owner or lessor. Operator includes a licensed property management
6 company, a property lessor or any other individual or entity responsible
7 for the control, oversight or maintenance of a facility.

8 11. "Qualification period" means:

9 (a) With respect to the owner or operator of a computer data
10 center, a period of time beginning on the effective date of the computer
11 data center's certification and expiring at the end of the tenth full
12 calendar year following the calendar year containing the effective date,
13 except, if a computer data center is a sustainable redevelopment project,
14 qualification period means a period of time beginning on the effective
15 date of the computer data center's certification and expiring at the end
16 of the twentieth full calendar year following the calendar year containing
17 the effective date.

18 (b) With respect to the qualified colocation tenant of the owner or
19 operator of a computer data center certified under this section, a period
20 of time beginning on the date that the qualified colocation tenant enters
21 into an agreement concerning the use or occupancy of the computer data
22 center and expiring at the earlier of the expiration of the term of the
23 agreement or the tenth full calendar year following the calendar year in
24 which the qualified colocation tenant entered into the agreement, except,
25 if a computer data center is a sustainable redevelopment project,
26 qualification period means a period of time beginning on the date that the
27 qualified colocation tenant enters into an agreement concerning the use or
28 occupancy of the computer data center and expiring at the earlier of the
29 expiration of the term of the agreement or the twentieth full calendar
30 year following the calendar year in which the tenant entered into the
31 agreement. The qualification period for a qualified colocation tenant may
32 not extend beyond the qualification period for the owner or operator of
33 the computer data center.

34 12. "Qualified colocation tenant" means an entity that contracts
35 with the owner, the operator or another qualified colocation tenant of a
36 computer data center that is certified pursuant to this section to use or
37 occupy all or part of the computer data center for at least five hundred
38 kilowatts per month for a period of two or more years.

39 13. "Sustainable redevelopment project" means a computer data
40 center that satisfies the requirements in subsection E of this section and
41 is either:

42 (a) A newly constructed data center, with at least a \$200,000,000
43 investment, that attains certification under the energy star or green
44 globes standard, the leadership in energy and environmental design green
45 building rating standard developed by the United States green building

1 council or an equivalent green building standard and was not previously
2 certified under these standards.

3 (b) A data center that occupies an existing facility that either:

4 (i) Was at least fifty percent vacant for six of the twelve
5 consecutive months before the acquisition by purchase or lease of or with
6 respect to the facility.

7 (ii) Attains certification under the energy star or green globes
8 standard, the leadership in energy and environmental design green building
9 rating standard developed by the United States green building council or
10 an equivalent green building standard and was not previously certified
11 under these standards.

12 14. "Tax relief" means the deductions of the gross proceeds of sale
13 or gross income from the sale, use, installation, assembly, repair or
14 maintenance of computer data center equipment as prescribed by sections
15 42-5061, 42-5075, 42-5159 and 42-6004 for use at a computer data center.