

# Legislative Analysis



## EXEMPT ENTERPRISE DATA CENTERS FROM SALES AND USE TAXES

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5127 as introduced**  
**Sponsor: Rep. Bronna Kahle**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 5128 as introduced**  
**Sponsor: Rep. Rebekah Warren**

**Committee: Commerce and Tourism**  
**Complete to 10-23-19**

### SUMMARY:

House Bills 5127 and 5128 would amend the Use Tax Act and the General Sales Tax Act, respectively, to exempt an *enterprise data center* from sales and use taxes by including them in the exemption currently applied to data center equipment that is sold to, or used by, a qualified data center.<sup>1</sup> The bills would also extend the qualified data center exemption for twenty more years, to expire in 2055 rather than 2035.

Under the bills, *enterprise data center* would mean a facility composed of one or more buildings located in Michigan that meet all of the following requirements:

- The facility is owned and operated by an entity operating a group of networked computers to centralize data storage and processing. [Note: As written, the bills do not require that the facility be used for centralizing data storage and processing.]
- The capital investment in the facility is at least \$250.0 million. [Note: As written, the bills do not require that this be new capital investment.]
- The facility employs at least 30 full-time equivalent employees at wage rates that exceed 120% of the average annual wage for the county where the facility is located (based on the most recent data made available by the Michigan Bureau of Labor Market Information and Strategic Initiatives).

The bills would amend the definition of “qualified data center” to include an enterprise data center, thus entitling an enterprise data center to the same exemption for data center equipment sold to or used by a qualified data center.

In addition, the bills would extend the sunset (expiration date) of the exemption for qualified data centers from December 31, 2035, to December 31, 2055.

MCL 205.94cc (HB 5127) and MCL 205.54ee (HB 5128)

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<sup>1</sup> This exemption was added by 2015 PAs 251 and 252. See: <http://legislature.mi.gov/doc.aspx?2015-SB-0616>

## **FISCAL IMPACT:**

To the extent that an entity qualifies as an enterprise data center, sales and use tax revenue would decline relative to current law. However, without knowing the amount of capital investment that would qualify under the bills, the extent of the revenue loss cannot be determined. Purely as a frame of reference, 6% of \$250 million is \$15 million.

About 73% of sales tax revenue is earmarked to the School Aid Fund, and an additional 10% is dedicated to constitutional revenue sharing. The remainder accrues to the general fund. Similarly, one-third of use tax revenue is earmarked to the School Aid Fund, while the remainder accrues to the general fund. It is anticipated that most of the revenue loss would be sales taxes as opposed to use taxes.

The stipulation that wages must exceed the average county wage by at least 120% is unlikely to have a significant economic impact. The highest average county wage in 2018 was just under \$63,000 (Oakland County), the lowest was just under \$26,000 (Keweenaw County), and the overall average was \$53,800. In contrast, the statewide average wage in 2018 for computer systems analysts was \$83,900, almost 30% higher than 120% of the average statewide annual wage. While some specific employees might benefit from this provision, it would not be expected to have wide-ranging effects.

Legislative Analyst: Nick Kelly  
Fiscal Analyst: Jim Stansell

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.