

HOUSE BILL NO. 5128

October 17, 2019, Introduced by Reps. Warren, Kahle, Marino, Sheppard, Lilly, Vaupel, Lasinski, Chirkun, Byrd and Liberati and referred to the Committee on Commerce and Tourism.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4ee (MCL 205.54ee), as added by 2015 PA 251.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4ee. (1) Subject to subsections (2) and (3), beginning
2 January 1, 2016 through December 31, ~~2035~~, **2055**, a sale of data
3 center equipment to the owner or operator of a qualified data
4 center or a colocated business for assembly, use, or consumption in
5 the operations of the qualified data center or a sale of data
6 center equipment to a person engaged in the business of



1 constructing, altering, repairing, or improving real estate for
2 others to the extent the data center equipment is to be affixed to
3 or made a structural part of a qualified data center is exempt from
4 the tax under this act.

5 (2) The exemption under this section only continues to apply
6 after January 1, 2022, if the numbers gathered by the local
7 economic development corporations are certified and reported to the
8 department of ~~talent and economic development~~ **labor and economic**
9 **opportunity** and subsequently forwarded to the department and
10 demonstrate that the qualified data centers, the colocated
11 businesses, and the contractors of the qualified data centers,
12 collectively, have, in aggregate, established in this state at
13 least 400 data center industry jobs or data center industry related
14 jobs, or a combination of both, since January 1, 2016. The
15 department of ~~talent and economic development~~ **labor and economic**
16 **opportunity** shall submit a report no later than April 1, 2022
17 related to the number of data center industry jobs or data center
18 industry related jobs that have been established since January 1,
19 2016 to the speaker and minority leader of the house of
20 representatives, the majority and minority leaders of the senate,
21 and the governor.

22 (3) The exemption under this section only continues to apply
23 after January 1, 2026, if the numbers gathered by the local
24 economic development corporations are certified and reported to the
25 department of ~~talent and economic development~~ **labor and economic**
26 **opportunity** and subsequently forwarded to the department and
27 demonstrate that the qualified data centers, the colocated
28 businesses, and the contractors of the qualified data centers,
29 collectively, have, in aggregate, established in this state at



1 least 1,000 data center industry jobs or data center industry
2 related jobs, or a combination of both, since January 1, 2016. The
3 department of ~~talent and economic development~~ **labor and economic**
4 **opportunity** shall submit a report no later than April 1, 2026
5 related to the number of data center industry jobs or data center
6 industry related jobs that have been established since January 1,
7 2016 to the speaker and minority leader of the house of
8 representatives, the majority and minority leaders of the senate,
9 and the governor.

10 (4) As used in this section:

11 (a) "Affiliate" means a person that directly, or indirectly
12 through 1 or more intermediaries, controls, is controlled by, or is
13 under common control with a specified person.

14 (b) "Colocated business" means a person that has entered into
15 a contract with the owner or operator of a qualified data center to
16 use or deploy data center equipment physically located within the
17 qualified data center for a period of 1 or more years.

18 (c) "Data center equipment" means only computers, servers,
19 routers, switches, peripheral computer devices, racks, shelving,
20 cabling, wiring, storage batteries, back-up generators,
21 uninterrupted power supply units, environmental control equipment,
22 other redundant power supply equipment, and prewritten computer
23 software used in operating, managing, or maintaining the qualified
24 data center or the business of the qualified data center or a
25 colocated business. Data center equipment also includes any
26 construction materials used or assembled under the qualified data
27 center's proprietary method for the construction or modification of
28 a qualified data center, including, but not limited to, building
29 materials, infrastructure, machinery, wiring, cabling, devices,



1 tools, and equipment that would otherwise be considered a fixture
 2 or related equipment. Data center equipment does not include any
 3 equipment owned by a third party that is used to supply the
 4 qualified data center's primary power.

5 (d) "Enterprise data center" means a facility composed of 1 or
 6 more buildings located in this state that meets all of the
 7 following requirements:

8 (i) The facility is owned and operated by an entity operating a
 9 group of networked computers for the purpose of centralizing the
 10 storage and processing of data.

11 (ii) The capital investment in the facility is at least
 12 \$250,000,000.00.

13 (iii) The facility employs 30 or more full-time equivalent
 14 employees at wage rates exceeding 120% of the county average wage.
 15 As used in this subparagraph, "county average wage" means the
 16 average annual wage for the county where the facility is located
 17 based on the most recent data made available by the Michigan bureau
 18 of labor market information and strategic initiatives.

19 (e) ~~(d)~~ "Qualified data center" means ~~a~~ either of the
 20 following:

21 (i) A facility composed of 1 or more buildings located in this
 22 state and the facility is owned or operated by an entity engaged at
 23 that facility in operating, managing, or maintaining a group of
 24 networked computers or networked facilities for the purpose of
 25 centralizing, or allowing 1 or more colocated businesses to
 26 centralize, the storage, processing, management, or dissemination
 27 of data of 1 or more other persons who is not an affiliate of the
 28 owner or operator of a qualified data center or of a colocated
 29 business and that entity receives 75% or more of its revenue from



1 colocated businesses that are not an affiliate of the owner or
2 operator of the qualified data center.

3 (ii) **An enterprise data center.**

