

HOUSE BILL NO. 5306

September 21, 2021, Introduced by Reps. Hertel and Bellino and referred to the Committee on Commerce and Tourism.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending section 4cc (MCL 205.94cc), as added by 2015 PA 252.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4cc. (1) Subject to subsections (2) and (3), beginning
2 January 1, 2016 through December 31, 2035, the tax under this act
3 does not apply to the storage, use, or consumption of data center
4 equipment sold to the owner or operator of a qualified data center
5 or a colocated business for assembly, use, or consumption in the

1 operations of the qualified data center or data center equipment
2 sold or provided to a person engaged in the business of
3 constructing, altering, repairing, or improving real estate for
4 others to the extent the data center equipment is to be affixed to
5 or made a structural part of a qualified data center.

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

26 (3) The exemption under this section only continues to apply
27 after January 1, 2026, if the numbers gathered by the local
28 economic development corporations are certified and reported to the
29 ~~department of talent and economic development~~ **Michigan strategic**

1 **fund** and subsequently forwarded to the department and demonstrate
2 that the qualified data centers, the colocated businesses, and the
3 contractors of the qualified data centers, collectively, have, in
4 aggregate, established in this state at least 1,000 data center
5 industry jobs or data center industry related jobs, or a
6 combination of both, since January 1, 2016. The ~~department of~~
7 ~~talent and economic development~~ **Michigan strategic fund** shall
8 submit a report no later than April 1, 2026 related to the number
9 of data center industry jobs or data center industry related jobs
10 that have been established since January 1, 2016 to the speaker and
11 minority leader of the house of representatives, the majority and
12 minority leaders of the senate, and the governor. **The information**
13 **gathered and reported under this subsection must also include**
14 **information regarding the wages paid for the data center industry**
15 **jobs and data center industry related jobs established since**
16 **January 1, 2016.**

17 (4) As used in this section:

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

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

25 (c) "Data center equipment" means only computers, servers,
26 routers, switches, peripheral computer devices, racks, shelving,
27 cabling, wiring, storage batteries, back-up generators,
28 uninterrupted power supply units, environmental control equipment,
29 other redundant power supply equipment, and prewritten computer

1 software used in operating, managing, or maintaining the qualified
2 data center or the business of the qualified data center or a
3 colocated business. Data center equipment also includes any
4 construction materials used or assembled under the qualified data
5 center's proprietary method for the construction or modification of
6 a qualified data center, including, but not limited to, building
7 materials, infrastructure, machinery, wiring, cabling, devices,
8 tools, and equipment that would otherwise be considered a fixture
9 or related equipment. Data center equipment does not include any
10 equipment owned by a third party that is used to supply the
11 qualified data center's primary power.

12 (d) "Enterprise data center" means a facility located in this
13 state that meets all of the following requirements:

14 (i) The facility is composed of 1 or more buildings.

15 (ii) The facility houses data center equipment and is
16 developed, owned, and operated by an entity or any of the entity's
17 affiliates substantially for the entity's or any of the entity's
18 affiliates' own use.

19 (iii) The initial capital investment in the facility is at least
20 \$250,000,000.00. As used in this subparagraph, "initial capital
21 investment" means the investment in a facility in this state that
22 is in excess of any or all investment that the entity or any of the
23 entity's affiliates maintained in this state before the facility's
24 creation or expansion.

25 (iv) The entity and any of the entity's affiliates create and
26 maintain 30 or more qualified new jobs with wage rates exceeding
27 120% of the county average wage. As used in this subparagraph:

28 (A) "County average wage" means the average annual wage for
29 the county where the facility is located based on the most recent

1 data made available by the Michigan bureau of labor market
2 information and strategic initiatives.

3 (B) "Qualified new jobs" means full-time jobs created by the
4 facility in this state that are in excess of the number of full-
5 time jobs that the facility maintained in this state before the
6 facility's creation or expansion.

7 (e) "Michigan strategic fund" means the Michigan strategic
8 fund as described in the Michigan strategic fund act, 1984 PA 270,
9 MCL 125.2001 to 125.2094.

10 (f) ~~(d)~~ "Qualified data center" means ~~a~~ either of the
11 following:

12 (i) A facility composed of 1 or more buildings located in this
13 state and the facility is owned or operated by an entity engaged at
14 that facility in operating, managing, or maintaining a group of
15 networked computers or networked facilities for the purpose of
16 centralizing, or allowing 1 or more colocated businesses to
17 centralize, the storage, processing, management, or dissemination
18 of data of 1 or more other persons who is not an affiliate of the
19 owner or operator of a qualified data center or of a colocated
20 business and the entity receives 75% or more of its revenue from
21 colocated businesses that are not an affiliate of the owner or
22 operator of the qualified data center.

23 (ii) Beginning on the effective date of the amendatory act that
24 added this subparagraph, an enterprise data center.

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.