

**SUBSTITUTE FOR
HOUSE BILL NO. 5128**

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, a sale of data center
3 equipment to the owner or operator of a qualified data center or a
4 colocated business for assembly, use, or consumption in the
5 operations of the qualified data center or a sale of data center
6 equipment to a person engaged in the business of constructing,
7 altering, repairing, or improving real estate for others to the
8 extent the data center equipment is to be affixed to or made a
9 structural part of a qualified data center is exempt from the tax



1 under this act.

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

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~~ **Michigan strategic**
 26 **fund** and subsequently forwarded to the department and demonstrate
 27 that the qualified data centers, the colocated businesses, and the
 28 contractors of the qualified data centers, collectively, have, in
 29 aggregate, established in this state at least 1,000 data center



1 industry jobs or data center industry related jobs, or a
2 combination of both, since January 1, 2016. The ~~department of~~
3 ~~talent and economic development~~ **Michigan strategic fund** shall
4 submit a report no later than April 1, 2026 related to the number
5 of data center industry jobs or data center industry related jobs
6 that have been established since January 1, 2016 to the speaker and
7 minority leader of the house of representatives, the majority and
8 minority leaders of the senate, and the governor. **The information**
9 **gathered and reported under this subsection must also include**
10 **information regarding the wages paid for the data center industry**
11 **jobs and data center industry related jobs established since**
12 **January 1, 2016.**

13 (4) As used in this section:

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

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

21 (c) "Data center equipment" means only computers, servers,
22 routers, switches, peripheral computer devices, racks, shelving,
23 cabling, wiring, storage batteries, back-up generators,
24 uninterrupted power supply units, environmental control equipment,
25 other redundant power supply equipment, and prewritten computer
26 software used in operating, managing, or maintaining the qualified
27 data center or the business of the qualified data center or a
28 colocated business. Data center equipment also includes any
29 construction materials used or assembled under the qualified data



1 center's proprietary method for the construction or modification of
2 a qualified data center, including, but not limited to, building
3 materials, infrastructure, machinery, wiring, cabling, devices,
4 tools, and equipment that would otherwise be considered a fixture
5 or related equipment. Data center equipment does not include any
6 equipment owned by a third party that is used to supply the
7 qualified data center's primary power.

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

10 (i) The facility is composed of 1 or more buildings located in
11 the same municipality. As used in this subparagraph, "municipality"
12 means a county, township, city, or village.

13 (ii) The facility is owned and operated by an entity operating
14 a group of networked computers for the purpose of centralizing the
15 storage and processing of the entity's own data.

16 (iii) The initial capital investment in the facility is at least
17 \$250,000,000.00. As used in this subparagraph, "initial capital
18 investment" means the investment in a facility in this state that
19 is in excess of any or all investment that the entity maintained in
20 this state before the facility's creation or expansion.

21 (iv) The entity creates and maintains 30 or more qualified new
22 jobs with wage rates exceeding 120% of the county average wage. As
23 used in this subparagraph:

24 (A) "County average wage" means the average annual wage for
25 the county where the facility is located based on the most recent
26 data made available by the Michigan bureau of labor market
27 information and strategic initiatives.

28 (B) "Qualified new jobs" means full-time jobs created by the
29 facility in this state that are in excess of the number of full-



1 time jobs that the facility maintained in this state before the
2 facility's creation or expansion.

3 (e) ~~(d)~~—"Qualified data center" means ~~a~~**either of the**
4 **following:**

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

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

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

20 Enacting section 2. This amendatory act does not take effect
21 unless House Bill No. 5187 of the 100th Legislature is enacted into
22 law.

