

# Legislative Analysis



## ENTERPRISE DATA CENTERS

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

**House Bill 5127 (H-5) as referred to second committee**  
**Sponsor: Rep. Bronna Kahle**

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

**House Bill 5128 (H-5) as referred to second committee**  
**Sponsor: Rep. Rebekah Warren**

**1st Committee: Commerce and Tourism**

**2nd Committee: Ways and Means**

**Complete to 1-30-20**

## 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 it in the exemption currently applied to data center equipment that is sold to, or used by, a qualified data center.<sup>1</sup> Each bill would take effect 90 days after enactment.

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

- The facility is composed of one or more buildings located in the same county, township, city, or village.
- The facility is owned and operated by an entity operating a group of networked computers to centralize data storage and processing of the entity's own data.
- The *initial capital investment* in the facility is at least \$250.0 million. (*Initial capital investment* would mean the investment in a facility in this state that is in excess of any or all investment that the entity maintained in this state before the facility's creation or expansion.)
- The entity creates and maintains at least 30 *qualified new jobs* 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. (*Qualified new jobs* would mean full-time jobs created by the facility in this state that are in excess of the number of full-time jobs that the facility maintained in this state before the facility's creation or expansion.)

Each bill would amend the definition of "qualified data center" to include an enterprise data center beginning on the bill's effective date, thus entitling an enterprise data center to the same exemption for data center equipment sold to or used by a qualified data center.

In order for the exemption under each act to continue to apply, local economic development centers must certify and report information in 2022 and 2026 on the number of jobs created by qualified data centers since January 1, 2016, to determine whether the qualified data

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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>

centers are meeting certain employment requirements. The bills would also require the information gathered and reported to include information regarding the wages paid for these jobs.

## **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. 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.

## **POSITIONS:**

A representative of NetChoice testified in support of the bills. (10-24-19)

The following entities indicated support for the bills (10-31-19):  
Michigan Regional Council of Carpenters and Millwrights  
Operating Engineers  
Cornerstone Alliance

The following organizations indicated a neutral position on the bills:  
Michigan Bankers Association (10-24-19)  
AFSCME Council 25 (1-16-20)  
Michigan Laborers Union District Council (10-31-19)

Representatives of the following entities testified in opposition to the bills (10-31-19):  
Oakland Schools  
Michigan Association of Superintendents and Administrators

The following entities indicated opposition to the bills:

Department of Treasury (10-24-19)  
Wayne RESA (10-31-19)  
Middle Cities Education Association (10-24-19)  
Michigan Association of Secondary School Principals (10-31-19)  
Michigan Association of School Boards (10-31-19)  
American Federation of Teachers – Michigan (10-31-19)  
West Michigan Talent Triangle (10-31-19)  
Macomb ISD (10-31-19)  
Michigan Elementary and Middle School Principals Association (10-31-19)  
School Equity Caucus (10-31-19)

The following entities indicated opposition to HB 5127 (H-3):

Michigan League for Public Policy (1-16-20)  
Michigan Education Association (11-7-19)  
Mackinac Center for Public Policy (11-7-19)

Legislative Analyst: Rick Yuille  
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.