

**HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4906**

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~~, **2050**, 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  
7       constructing, altering, repairing, or improving real estate for  
8       others to the extent the data center equipment is to be affixed to  
9       or made a structural part of a qualified data center is exempt from



1 the tax under this act.

2 (2) The exemption under ~~this section only~~ **subsection (1)**  
 3 continues to apply after January 1, 2022, **only** if the numbers  
 4 gathered by the local economic development corporations are  
 5 certified and reported to the ~~department of talent and economic~~  
 6 ~~development~~ **Michigan strategic fund** and subsequently forwarded to  
 7 the department and demonstrate that the qualified data centers, the  
 8 colocated businesses, and the contractors of the qualified data  
 9 centers, collectively, have, in aggregate, established in this  
 10 state at least 400 data center industry jobs or data center  
 11 industry related jobs, or a combination of both, since January 1,  
 12 2016. The ~~department of talent and economic development~~ **Michigan**  
 13 **strategic fund** shall submit a report no later than April 1, 2022  
 14 related to the number of data center industry jobs or data center  
 15 industry related jobs that have been established since January 1,  
 16 2016 to the speaker and minority leader of the house of  
 17 representatives, the majority and minority leaders of the senate,  
 18 and the governor. **As used in this subsection and subsection (3),**  
 19 **"data center industry jobs" and "data center industry related jobs"**  
 20 **do not include qualified new jobs as that term is defined in**  
 21 **subsection (10) (e) (v) (C).**

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



1 state at least 1,000 data center industry jobs or data center  
2 industry related jobs, or a combination of both, since January 1,  
3 2016. The ~~department of talent and economic development~~ **Michigan**  
4 **strategic fund** 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) Subject to subsections (5) and (6), beginning on the  
11 effective date of the amendatory act that added this subsection  
12 through December 31, 2050 or, with respect to an enterprise data  
13 center subject to a certificate that is located on the property  
14 included in a brownfield plan under the brownfield redevelopment  
15 financing act, 1996 PA 381, MCL 125.2651 to 125.2670, or on  
16 property that was once an industrial site used primarily as a power  
17 plant to generate electricity for sale, through December 31, 2065,  
18 the sale of data center equipment to either of the following is  
19 exempt from the tax imposed by this act:

20 (a) A qualified entity or its affiliates for assembly, use, or  
21 consumption in the operations of an enterprise data center subject  
22 to a certificate.

23 (b) A person engaged in the business of constructing,  
24 altering, repairing, or improving real estate for others to the  
25 extent the data center equipment is to be affixed to or made a  
26 structural part of an enterprise data center subject to a  
27 certificate.

28 (5) In order for a purchaser to claim an exemption under  
29 subsection (4), at the time the data center equipment is sold to



1 the purchaser, the qualified entity must have received a  
2 certificate for that facility which is in good standing.

3 (6) All of the following apply with respect to the exemption  
4 under subsection (4):

5 (a) A person seeking a certificate for an enterprise data  
6 center must apply to the Michigan strategic fund on a form and in  
7 the manner prescribed by the Michigan strategic fund. The  
8 application must include an affirmation signed by the applicant  
9 stating that it expects the facility to satisfy each of the  
10 criteria for an enterprise data center under subsection (10)(e) and  
11 the anticipated time frame for doing so, which must not exceed 6  
12 years. Subject to subsection (9), not later than 120 days after  
13 receiving a complete and correct application, the Michigan  
14 strategic fund or its designees, which may include authorized  
15 employees, officers, and agents of the Michigan strategic fund and  
16 employees of the Michigan economic development corporation, shall  
17 review the application and either issue a certificate to the  
18 applicant or provide written reasons for its denial. The  
19 certificate must specify a time frame for a facility to satisfy  
20 each of the criteria for an enterprise data center under subsection  
21 (10)(e), which time frame must be the lesser of 6 years or the time  
22 frame identified by the applicant on the application. The Michigan  
23 strategic fund shall provide the department with a copy of each  
24 certificate issued under this subdivision.

25 (b) The qualified entity of a facility for which a certificate  
26 has been issued shall report to the Michigan strategic fund  
27 purchases for which an exemption is claimed under subsection (4),  
28 and employment, tax withholding, capital investment, and other  
29 information required by the Michigan strategic fund to determine



1 whether the facility continues to qualify as an enterprise data  
2 center. The Michigan strategic fund shall provide the department  
3 with a copy of each report received under this subdivision from a  
4 qualified entity. The report required by this subdivision is  
5 subject to audit and must be made on an annual basis following  
6 issuance of the certificate. The report required by this  
7 subdivision must not include any remittance for tax and does not  
8 constitute a return or otherwise alleviate any obligations under  
9 section 6. Except for the provision of a copy of each report to the  
10 department as required under this subdivision and the provision of  
11 each certificate to the department as required under subdivision  
12 (a), the Michigan strategic fund shall not disclose any information  
13 that is not aggregated or any information that could be used to  
14 identify a specific person or data center.

15 (c) All of the following apply regarding certifications to the  
16 Michigan strategic fund:

17 (i) Not later than 3 years after a facility for which a  
18 certificate has been issued is placed in service, the qualified  
19 entity of the facility shall certify to the Michigan strategic  
20 fund, in the form and manner prescribed by the Michigan strategic  
21 fund, that the facility has attained certification under 1 or more  
22 of the green building standards described in subsection (10) (e) (vii) .

23 (ii) At the time an exemption is claimed under subsection (4) ,  
24 a qualified entity or its affiliates claiming the exemption shall  
25 certify to the Michigan strategic fund, in the form and manner  
26 prescribed by the Michigan strategic fund, that the facility is in  
27 compliance with subsection (10) (e) (viii) .

28 (iii) At the time an exemption is claimed under subsection (4) ,  
29 a qualified entity or its affiliates claiming the exemption shall



1 certify to the Michigan strategic fund, in the form and manner  
2 prescribed by the Michigan strategic fund, that the facility has  
3 procured or will procure clean energy as described in section 51 of  
4 the clean and renewable energy and energy waste reduction act, 2008  
5 PA 295, MCL 460.1051, equivalent to 90% of the facility's  
6 forecasted electricity usage on an annual basis as required under  
7 subsection (10) (e) (ix) .

8 (d) The Michigan strategic fund shall revoke a certificate  
9 issued under subdivision (a) if it determines a facility no longer  
10 meets the definition of an enterprise data center. If the Michigan  
11 strategic fund determines revocation is appropriate, it shall  
12 provide written notice to the qualified entity and the department  
13 not less than 60 days, but not more than 180 days, before  
14 revocation, notifying the qualified entity of its preliminary  
15 determination to revoke the certificate and providing the qualified  
16 entity an opportunity to demonstrate, within the time period  
17 specified in the notice, that the facility continues to meet the  
18 definition of an enterprise data center. Following the expiration  
19 of the time period specified in the notice, if the Michigan  
20 strategic fund determines that the facility does not meet the  
21 definition of an enterprise data center, the Michigan strategic  
22 fund shall revoke the certificate. If revocation occurs not more  
23 than 10 years after issuance of the certificate, the former  
24 qualified entity shall pay to the department an amount equal to the  
25 entire amount of the tax exemptions stemming from the certificate  
26 that have been received under subsection (4) by all persons, plus  
27 interest as specified in section 23(2) of 1941 PA 122, MCL 205.23,  
28 calculated from January 1 of the year the exemption was received  
29 until the amount is paid to the department under this subdivision.



1 If revocation occurs more than 10 years after issuance of the  
2 certificate, the former qualified entity shall pay to the  
3 department an amount equal to the entire amount of the tax  
4 exemptions stemming from the certificate that have been received  
5 under subsection (4) by all persons, plus interest as specified in  
6 section 23(2) of 1941 PA 122, MCL 205.23, calculated from January 1  
7 of the year the exemption was received until the amount is paid to  
8 the department under this subdivision, unless the Michigan  
9 strategic fund determines, pursuant to published guidelines, that a  
10 lesser amount, but not less than an amount equal to 50% of the  
11 entire amount of the tax exemptions stemming from the certificate  
12 that have been received by all persons under subsection (4), is  
13 appropriate after evaluating the circumstances. During the time  
14 period specified in the notice described in this subdivision, all  
15 persons must cease claiming a tax exemption stemming from the  
16 certificate under subsection (4). If a certificate is revoked, the  
17 Michigan strategic fund shall notify the department not later than  
18 5 days after the revocation.

19 (e) The Michigan strategic fund may charge and collect  
20 reasonable administrative fees to effectuate the purpose of this  
21 section.

22 (7) A person engaged in the business of constructing,  
23 altering, repairing, or improving real estate for others that has  
24 claimed an exemption under subsection (4)(b) for a particular  
25 facility must submit an annual summary report to the qualified  
26 entity or former qualified entity to which a certificate for that  
27 facility was issued on or before January 1 of each year that  
28 provides, at a minimum, information sufficient to identify the  
29 person that made the purchases and the sales price of all items



1 purchased each month of that year. That person must also maintain  
2 all invoices, bills of sale, or similar documents for all claimed  
3 exempt purchases that indicate the date of purchase, the items  
4 purchased, and the sales price of the property that is identified  
5 in the summary report for 4 years after the date of the purchase.  
6 Except as otherwise provided in subsection (6) (a) and (b), the  
7 Michigan strategic fund shall not disclose any information that is  
8 not aggregated or any information that could be used to identify a  
9 specific person or data center.

10 (8) The legislature encourages a person claiming an exemption  
11 under this section to take direct steps to adopt practices to  
12 mitigate negative environmental impacts resulting from expanded use  
13 of data centers, including through all of the following:

14 (a) To the extent possible, procuring or contracting for power  
15 from renewable sources.

16 (b) Adopting practices to improve the energy efficiency of  
17 existing data centers, including through upgrading and  
18 consolidating technology, managing data center airflow, and  
19 adjusting and improving heating, ventilation, and air conditioning  
20 systems.

21 (c) Taking actions to conserve, reuse, and replace water,  
22 including, but not limited to, all of the following:

23 (i) Using water efficient fixtures and practices.

24 (ii) Treating, infiltrating, and harvesting rainwater.

25 (iii) Recycling water before discharging.

26 (iv) Partnering with local water utilities to use discharged  
27 water for irrigation and other water conservation purposes.

28 (v) Using reclaimed water if possible for data center  
29 operations.





(vi) Supporting water restoration in local watersheds.

(9) The Michigan strategic fund shall not issue any new certificates under subsection (6) (a) after December 31, 2029. This subsection does not affect any existing certificates that are in effect on December 31, 2029.

(10) ~~(4)~~—As used in this section:

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

(b) "Certificate" means the document issued by the Michigan strategic fund to an applicant under subsection (6) (a) that certifies or otherwise establishes that the facility developed, owned, and operated by the applicant or an affiliate of the applicant, or to be developed, owned, and operated by the applicant or an affiliate of the applicant, and identified in that document qualifies as an enterprise data center under this section.

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

(d) ~~(c)~~—"Data center equipment" means only computers, servers, routers, switches, peripheral computer devices, racks, shelving, cabling, wiring, storage batteries, back-up generators, uninterrupted power supply units, environmental control equipment, other redundant power supply equipment, and prewritten computer software used in operating, managing, or maintaining the qualified data center **or enterprise data center** or the business of the qualified data center or a colocated business. Data center equipment also includes any construction materials used or



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

10 (e) "Enterprise data center" means, subject to subdivision  
11 (f), a facility that the Michigan strategic fund determines meets,  
12 or is expected to meet within the time frame set forth in the  
13 certificate, all of the following requirements:

14 (i) The facility is located in this state.

15 (ii) The facility is composed of 1 or more buildings.

16 (iii) The facility is designed and intended for housing, and  
17 does house, data center equipment to centralize the storage and  
18 processing of data.

19 (iv) The aggregate capital investment in the facility described  
20 in this subdivision made by the qualified entity, and any of its  
21 affiliates that will develop, own, and operate the facility, is not  
22 less than \$250,000,000.00. As used in this subparagraph, "aggregate  
23 capital investment" means the capital investment made and  
24 maintained in the facility to the extent that investment results in  
25 an increase in the total capital investment that the qualified  
26 entity and its affiliates, in the aggregate, maintain in this state  
27 when compared to the total capital investment that the qualified  
28 entity and its affiliates, in the aggregate, maintained in this  
29 state before issuance of the certificate, as determined and



1 verified by the Michigan strategic fund.

2 (v) The qualified entity and any of its affiliates, in the  
3 aggregate, create and maintain a minimum of 30 qualified new jobs  
4 in this state with an annual wage that is equal to 150% or more of  
5 the prosperity region median wage through December 31, 2050 or, for  
6 a facility that is located on the property included in a brownfield  
7 plan under the brownfield redevelopment financing act, 1996 PA 381,  
8 MCL 125.2651 to 125.2670, or on property that was once an  
9 industrial site used primarily as a power plant to generate  
10 electricity for sale, through December 31, 2065. As used in this  
11 subparagraph:

12 (A) "Prosperity region" means each of the 10 prosperity  
13 regions identified by the department of technology, management, and  
14 budget on August 25, 2017.

15 (B) "Prosperity region median wage" means the median annual  
16 wage for the prosperity region where the facility is located based  
17 on the most recent data made available by the Michigan bureau of  
18 labor market information and strategic initiatives.

19 (C) "Qualified new job" means a full-time job created by the  
20 qualified entity or its affiliates at the facility that is in  
21 excess of the number of full-time jobs that the applicant and its  
22 affiliates maintained in this state before issuance of the  
23 certificate, as determined and verified by the Michigan strategic  
24 fund.

25 (vi) Except as otherwise provided in this subparagraph, the  
26 facility does not receive and, through the applicable date, will  
27 not receive any state or local property tax benefit, including, but  
28 not limited to, property tax benefits available under the general  
29 property tax act, 1893 PA 206, MCL 211.1 to 211.155, the Michigan



1 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, and  
2 1974 PA 198, 207.551 to 207.572. This subparagraph does not apply  
3 if the governing body of each local unit of government affected by  
4 the property tax benefit approves the receipt of the property tax  
5 benefit by resolution. As used in this subparagraph:

6 (A) "Applicable date" means the date specified in sub-sub-  
7 subparagraph (I) or (II), as applicable:

8 (I) For a facility that is located on the property included in  
9 a brownfield plan under the brownfield redevelopment financing act,  
10 1996 PA 381, MCL 125.2651 to 125.2670, or on property that was once  
11 an industrial site used primarily as a power plant to generate  
12 electricity for sale, December 31, 2065.

13 (II) For any facility not described in sub-sub-subparagraph  
14 (I), December 31, 2050.

15 (B) "Governing body" means the body in which the legislative  
16 powers of a local unit of government are vested.

17 (C) "Local unit of government" means a city, village,  
18 township, or county.

19 (D) "Property tax benefits" means any benefits that reduce the  
20 property tax burden on the facility for purposes of encouraging  
21 economic development, such as property tax exemptions, millage rate  
22 or valuation reductions, and property tax capture, other than  
23 property tax capture under a brownfield plan that has been approved  
24 by the governing board under the brownfield redevelopment financing  
25 act, 1996 PA 381, MCL 125.2651 to 125.2670, and that is in effect  
26 at the time of the application under subsection (6)(a).

27 (vii) Not later than 3 years after being placed in service, the  
28 facility will attain certification under, and the qualified entity  
29 of the facility will certify to the Michigan strategic fund in



1 accordance with subsection (6)(c) that the facility has obtained  
2 certification under, 1 or more of the following green building  
3 standards:

4 (A) BREEAM for New Construction or BREEAM for In-Use.

5 (B) ENERGY STAR.

6 (C) Envision.

7 (D) ISO 50001 - energy management.

8 (E) LEED for Building Design and Construction or LEED for  
9 Operations and Maintenance.

10 (F) Green Globes for New Construction or Green Globes for  
11 Existing Buildings.

12 (G) UL 3223.

13 (viii) On being placed in service, the facility will use  
14 municipal water sourced from a municipal water system that has  
15 available capacity to serve the facility, and a qualified entity or  
16 its affiliates claiming the exemption will certify to the Michigan  
17 strategic fund in accordance with subsection (6)(c) that this  
18 requirement is met.

19 (ix) At the time an exemption is claimed under subsection (4),  
20 the facility will have procured or will procure clean energy as  
21 that term is defined in section 51 of the clean and renewable  
22 energy and energy waste reduction act, 2008 PA 295, MCL 460.1051,  
23 equivalent to 90% of the facility's forecasted electricity usage on  
24 an annual basis, and a qualified entity or its affiliates claiming  
25 the exemption will certify to the Michigan strategic fund in  
26 accordance with subsection (6)(c) that this requirement is met.  
27 Demonstration that this requirement is met may be made by any of  
28 the following and electric utilities, cooperative electric  
29 utilities, and municipal utilities shall identify and, if



1 necessary, develop tariffs, contracts, and other mechanisms that  
2 support the enterprise data center in making this demonstration:

3 (A) Self-supply through on-site generation that meets the  
4 definition of renewable energy as that term is defined in section  
5 11 of the clean and renewable energy and energy waste reduction  
6 act, 2008 PA 295, MCL 460.1011.

7 (B) Long-term contract with the electric utility, cooperative  
8 electric utility, or municipal utility serving the geographic area  
9 where the facility is located, which ensures no costs to serve the  
10 facility are passed onto other customers of the electric utility,  
11 cooperative electricity utility, or municipal utility. This sub-  
12 subparagraph shall not be interpreted to require the facility to be  
13 allocated costs of network transmission upgrades that would  
14 otherwise be allocated to other customers through the electric  
15 utility, cooperative electric utility, or municipal utility's  
16 generally applicable rate-making processes for the recovery of such  
17 costs, such as power supply cost recovery proceedings under section  
18 6j of 1939 PA 3, MCL 460.6j.

19 (C) Participation in a voluntary green pricing program as set  
20 forth in section 61 of the clean and renewable energy and energy  
21 waste reduction act, 2008 PA 295, MCL 460.1061.

22 (f) Enterprise data center does not include a facility that  
23 the Michigan strategic fund determines no longer meets, or is no  
24 longer expected to meet within the time frame set forth in the  
25 certificate, the requirements in subdivision (e).

26 (g) "Michigan economic development corporation" means that  
27 term as defined in section 4 of the Michigan strategic fund act,  
28 1984 PA 270, MCL 125.2004.

29 (h) "Michigan strategic fund" means the Michigan strategic



1 fund as described in the Michigan strategic fund act, 1984 PA 270,  
2 MCL 125.2001 to 125.2094.

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

15 (j) "Qualified entity" means an applicant to whom a  
16 certificate is issued for a particular enterprise data center  
17 project under subsection (6)(a) and who is in compliance with the  
18 requirements of subsections (5) and (6).

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

