

HOUSE BILL NO. 6559

December 07, 2022, Introduced by Reps. Rabhi, Camilleri, Pohutsky, Aiyash, Sowerby, Steven Johnson, Allor and Carra and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending sections 4ee and 25 (MCL 205.54ee and 205.75), section
4ee as added by 2015 PA 251 and section 25 as amended by 2020 PA
29.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4ee. (1) ~~Subject to subsections (2) and (3), beginning~~
2 **Beginning** January 1, 2016 through December 31, ~~2035,~~ **2021**, a sale
3 of data center equipment to the owner or operator of a qualified
4 data center or a colocated business for assembly, use, or

1 consumption in the operations of the qualified data center or a
2 sale of data center equipment to a person engaged in the business
3 of 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 is exempt from
6 the tax under this act.

7 ~~(2) The exemption under this section only continues to apply~~
8 ~~after January 1, 2022, if the numbers gathered by the local~~
9 ~~economic development corporations are certified and reported to the~~
10 ~~department of talent and economic development and subsequently~~
11 ~~forwarded to the department and demonstrate that the qualified data~~
12 ~~centers, the colocated businesses, and the contractors of the~~
13 ~~qualified data centers, collectively, have, in aggregate,~~
14 ~~established in this state at least 400 data center industry jobs or~~
15 ~~data center industry related jobs, or a combination of both, since~~
16 ~~January 1, 2016. The department of talent and economic development~~
17 ~~shall submit a report no later than April 1, 2022 related to the~~
18 ~~number of data center industry jobs or data center industry related~~
19 ~~jobs that have been established since January 1, 2016 to the~~
20 ~~speaker and minority leader of the house of representatives, the~~
21 ~~majority and minority leaders of the senate, 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 and subsequently~~
26 ~~forwarded to the department and demonstrate that the qualified data~~
27 ~~centers, the colocated businesses, and the contractors of the~~
28 ~~qualified data centers, collectively, have, in aggregate,~~
29 ~~established in this state at least 1,000 data center industry jobs~~

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

9 (2) ~~(4)~~ As used in this section:

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

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

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

1 or related equipment. Data center equipment does not include any
2 equipment owned by a third party that is used to supply the
3 qualified data center's primary power.

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

16 Sec. 25. (1) All money received and collected under this act
17 must be deposited by the department in the state treasury to the
18 credit of the general fund, except as otherwise provided in this
19 section.

20 (2) Fifteen percent of the collections of the tax imposed at a
21 rate of 4% must be distributed to cities, villages, and townships
22 pursuant to the Glenn Steil state revenue sharing act of 1971, 1971
23 PA 140, MCL 141.901 to 141.921.

24 (3) Sixty percent of the collections of the tax imposed at a
25 rate of 4% must be deposited in the state school aid fund
26 established in section 11 of article IX of the state constitution
27 of 1963 and distributed as provided by law. In addition, all of the
28 collections of the tax imposed at the additional rate of 2%
29 approved by the electors on March 15, 1994 must be deposited in the

1 state school aid fund.

2 (4) Not less than 27.9% of 25% of the collections of the
3 general sales tax imposed at a rate of 4% directly or indirectly on
4 fuels sold to propel motor vehicles upon highways, on the sale of
5 motor vehicles, and on the sale of the parts and accessories of
6 motor vehicles by new and used car businesses, used car businesses,
7 accessory dealer businesses, and gasoline station businesses as
8 classified by the department must be deposited each year into the
9 comprehensive transportation fund created in section 10b of 1951 PA
10 51, MCL 247.660b.

11 (5) Beginning October 1, 2016 and the first day of each
12 calendar quarter thereafter, an amount equal to the collections for
13 the calendar quarter that is 2 calendar quarters immediately
14 preceding the current calendar quarter of the tax imposed under
15 this act at the additional rate of 2% approved by the electors on
16 March 15, 1994 from the sale at retail of aviation fuel must be
17 distributed as follows:

18 (a) An amount equal to 35% of the collections of the tax
19 imposed at a rate of 2% on the sale at retail of aviation fuel must
20 be deposited in the state aeronautics fund and must be expended, on
21 appropriation, only for those purposes authorized in the
22 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1
23 to 259.208.

24 (b) An amount equal to 65% of the collections of the tax
25 imposed at a rate of 2% on the sale at retail of aviation fuel must
26 be deposited in the qualified airport fund and must be expended, on
27 appropriation, only for those purposes authorized under section 35
28 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL
29 259.35.

1 (6) The department shall, on an annual basis, reconcile the
2 amounts distributed under subsection (5) during each fiscal year
3 with the amounts actually collected for a particular fiscal year
4 and shall make any necessary adjustments, positive or negative, to
5 the amounts to be distributed for the next successive calendar
6 quarter that begins January 1. The state treasurer or his or her
7 designee shall annually provide to the operator of each qualified
8 airport a report of the reconciliation performed under this
9 subsection. The reconciliation report is subject to the
10 confidentiality restrictions and penalties provided in section
11 28(1)(f) of 1941 PA 122, MCL 205.28.

12 (7) An amount equal to the collections of the tax imposed at a
13 rate of 4% under this act from the sale at retail of computer
14 software must be deposited in the Michigan health initiative fund
15 created in section 5911 of the public health code, 1978 PA 368, MCL
16 333.5911, and must be considered in addition to, and is not
17 intended as a replacement for any other money appropriated to the
18 department of health and human services. The funds deposited in the
19 Michigan health initiative fund on an annual basis must not be less
20 than \$9,000,000.00 or more than \$12,000,000.00.

21 ~~(8) An amount equal to all revenue lost to the state school~~
22 ~~aid fund as a result of the exemption under section 4ee, as~~
23 ~~determined by the department, must be deposited into the state~~
24 ~~school aid fund established in section 11 of article IX of the~~
25 ~~state constitution of 1963. Money deposited into the state school~~
26 ~~aid fund under this subsection must not include and must be~~
27 ~~considered in addition to money deposited in the state school aid~~
28 ~~fund under subsection (3). A person that claims an exemption under~~
29 ~~section 4ee shall report the sales price of the data center~~

~~equipment as defined in section 4ee and any other information
necessary to determine the amount of revenue lost to the school aid
fund as a result of the exemption under section 4ee annually on a
form at the time and in a manner prescribed by the department. The
report required under this subsection shall not include any
remittance for tax, and does not constitute a return or otherwise
alleviate any obligations under section 6.~~

(8) ~~(9)~~—The balance in the state general fund shall be
disbursed only on an appropriation or appropriations by the
legislature.

(9) ~~(10)~~—As used in this section:

(a) "Aviation fuel" means fuel as that term is defined in
section 4 of the aeronautics code of the state of Michigan, 1945 PA
327, MCL 259.4.

(b) "Qualified airport" means that term as defined in section
109 of the aeronautics code of the state of Michigan, 1945 PA 327,
MCL 259.109.

(c) "Qualified airport fund" means the qualified airport fund
created in section 34(2) of the aeronautics code of the state of
Michigan, 1945 PA 327, MCL 259.34.

(d) "State aeronautics fund" means the state aeronautics fund
created in section 34(1) of the aeronautics code of the state of
Michigan, 1945 PA 327, MCL 259.34.

Enacting section 1. This amendatory act takes effect December
31, 2021.