

HOUSE BILL NO. 6561

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

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 4cc and 21 (MCL 205.94cc and 205.111), section
4cc as added by 2015 PA 252 and section 21 as amended by 2020 PA
30.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4cc. (1) ~~Subject to subsections (2) and (3), beginning~~
2 **Beginning** January 1, 2016 through December 31, ~~2035,~~ **2021**, the tax
3 under this act does not apply to the storage, use, or consumption
4 of data center equipment sold to the owner or operator of a

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

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 the 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. 21. (1) Except as provided in subsections (2), (3), (4),
17 and (5), all money received and collected under this act must be
18 deposited by the department of treasury in the state treasury to
19 the credit of the general fund, to be disbursed only by
20 appropriations by the legislature.

21 (2) The collections from the use tax imposed at the additional
22 rate of 2% approved by the electors on March 15, 1994 must be
23 deposited in the state school aid fund established in section 11 of
24 article IX of the state constitution of 1963.

25 (3) From the money received and collected under this act for
26 the state share, an amount equal to all revenue lost under the
27 state education tax act, 1993 PA 331, MCL 211.901 to 211.906, **as a**
28 **result of the exemption of personal property under sections 9m, 9n,**
29 **and 9o of the general property tax act, 1893 PA 206, MCL 211.9m,**

211.9n, and 211.9o, and all revenue lost from basic school operating mills as a result of the exemption of personal property under sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o, ~~and all revenue lost to the school aid fund as a result of the exemption under section 4cc, as determined by the department, must be deposited into the state school aid fund established by section 11 of article IX of the state constitution of 1963. Funds deposited into the state school aid fund under this subsection must not include the portion of the state share of the use tax imposed at the additional rate of 2% approved by the electors of this state on March 15, 1994 and dedicated for aid to schools under subsection (2). A person that claims an exemption under section 4cc shall report the purchase price of the data center equipment as defined in section 4cc 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 4cc 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 the person's obligations under section 6.~~

(4) Money received and collected under this act for the local community stabilization share is not state funds, must not be credited to the state treasury, and must be transmitted to the authority for deposit in the treasury of the authority, to be disbursed by the authority only as authorized under the local community stabilization authority act, 2014 PA 86, MCL 123.1341 to 123.1362. The local community stabilization share is a local tax, not a state tax, and money received and collected for the local

1 community stabilization share is money of the authority and not
2 money of this state.

3 (5) Beginning October 1, 2016 and the first day of each
4 calendar quarter thereafter, from the money received and collected
5 under this act for the state share, an amount equal to the
6 collections for the calendar quarter that is 2 calendar quarters
7 immediately preceding the current calendar quarter of the tax
8 imposed under this act at the additional rate of 2% approved by the
9 electors on March 15, 1994 from the use, storage, or consumption of
10 aviation fuel must be distributed as follows:

11 (a) An amount equal to 35% of the collections of the tax
12 imposed at a rate of 2% on the use, storage, or consumption of
13 aviation fuel must be deposited in the state aeronautics fund and
14 must be expended, on appropriation, only for those purposes
15 authorized in the aeronautics code of the state of Michigan, 1945
16 PA 327, MCL 259.1 to 259.208.

17 (b) An amount equal to 65% of the collections of the tax
18 imposed at a rate of 2% on the use, storage, or consumption of
19 aviation fuel must be deposited in the qualified airport fund and
20 must be expended, on appropriation, only for those purposes
21 authorized under section 35 of the aeronautics code of the state of
22 Michigan, 1945 PA 327, MCL 259.35.

23 (6) The department shall, on an annual basis, reconcile the
24 amounts distributed under subsection (5) during each fiscal year
25 with the amounts actually collected for a particular fiscal year
26 and shall make any necessary adjustments, positive or negative, to
27 the amounts to be distributed for the next successive calendar
28 quarter that begins January 1. The state treasurer or his or her
29 designee shall annually provide to the operator of each qualified

1 airport a report of the reconciliation performed under this
2 subsection. The reconciliation report is subject to the
3 confidentiality restrictions and penalties provided in section
4 28(1)(f) of 1941 PA 122, MCL 205.28.

5 (7) As used in this section:

6 (a) "Aviation fuel" means fuel as that term is defined in
7 section 4 of the aeronautics code of the state of Michigan, 1945 PA
8 327, MCL 259.4.

9 (b) "Qualified airport" means that term as defined in section
10 109 of the aeronautics code of the state of Michigan, 1945 PA 327,
11 MCL 259.109.

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

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

18 Enacting section 1. This amendatory act takes effect December
19 31, 2021.