

HOUSE BILL No. 1088

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-15.

Synopsis: Sales tax exemption for data warehouse equipment. Provides a state sales and use tax exemption (exemption) for the purchase of certain enterprise information technology equipment and the sale of electricity used to operate the enterprise information technology equipment. Provides that, to be eligible for the exemption, a business must invest in the aggregate at least \$10,000,000 in enterprise information technology equipment that will be located at one or more data centers in Indiana. Requires the Indiana economic development corporation (IEDC) to take applications for the exemption and certify an entity as a business eligible for the exemption. Provides that the IEDC may not certify eligible businesses after June 30, 2029. Provides that a business once certified by the IEDC may use the exemption for purchases of enterprise information technology equipment after June 30, 2029. Sunsets the sales and use tax exemption for the sale of electricity used to operate the enterprise information technology equipment on June 30, 2029.

Effective: July 1, 2019.

Pressel, Heaton

January 3, 2019, read first time and referred to Committee on Ways and Means.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1088

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-15 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]:

4 **Chapter 15. Gross Retail and Use Tax Exemption For**
5 **Enterprise Information Technology Equipment**

6 **Sec. 1. As used in this chapter, "eligible business" means an**
7 **entity that is certified for the exemption by the IEDC under section**
8 **6 of this chapter.**

9 **Sec. 2. As used in this chapter, "enterprise information**
10 **technology equipment" means any of the following tangible**
11 **personal property:**

12 **(1) Hardware that supports computing, networking, or data**
13 **storage functions, including servers and routers.**

14 **(2) Networking systems that have an industry designation as**
15 **equipment within the "enterprise" or "data center" class of**
16 **networking systems that support the computing, networking,**
17 **or data storage functions.**



1 **(3) Generators and other equipment that are used exclusively**
 2 **to ensure an uninterrupted power supply to equipment**
 3 **described in subdivision (1) or (2).**

4 **(4) Heating, ventilation, and cooling equipment used**
 5 **exclusively to heat, ventilate, or cool the property described**
 6 **in subdivisions (1) through (3) and the space in which it is**
 7 **located.**

8 **The term does not include computer hardware designed for single**
 9 **user, workstation, or departmental level use.**

10 **Sec. 3. As used in this chapter, "IEDC" refers to the Indiana**
 11 **economic development corporation established by IC 5-28-3-1.**

12 **Sec. 4. As used in this chapter, "qualified investment" means the**
 13 **purchase of enterprise information technology equipment that:**

14 **(1) in the aggregate is at least ten million dollars (\$10,000,000)**
 15 **during the time period specified by the IEDC;**

16 **(2) will be located at one (1) or more data centers in Indiana;**
 17 **and**

18 **(3) is approved by the IEDC under section 6 of this chapter.**

19 **Sec. 5. (a) An entity must apply to be certified as an eligible**
 20 **business on a form prescribed by the IEDC. An entity may not be**
 21 **approved as an eligible business after June 30, 2029.**

22 **(b) The application required under subsection (a) must include:**

23 **(1) the name and address of the entity;**

24 **(2) the amount of the proposed investment in enterprise**
 25 **technology equipment;**

26 **(3) the location of the enterprise technology equipment; and**

27 **(4) any other information required by the IEDC.**

28 **Sec. 6. (a) The IEDC shall review each entity's application and**
 29 **determine whether the entity meets all of the following**
 30 **requirements:**

31 **(1) The entity is engaged in a business that:**

32 **(A) operates;**

33 **(B) owns; or**

34 **(C) leases;**

35 **enterprise information technology equipment for use in a data**
 36 **center that is dedicated to computing, networking, or data**
 37 **storage activities.**

38 **(2) The entity will make a qualified investment within a**
 39 **reasonable time period.**

40 **The IEDC shall specify in its determination the time period during**
 41 **which the entity must complete its qualified investment to qualify**
 42 **as an eligible business under this chapter.**



1 (b) Upon making the qualified investment, the entity shall
2 provide proof of the qualified investment to the IEDC.

3 (c) Upon receiving proof of an entity's qualified investment, the
4 IEDC shall issue the entity a certificate indicating that the entity
5 has fulfilled the requirements of the IEDC and that the entity is an
6 eligible business under this chapter.

7 (d) An entity forfeits the right to become an eligible business
8 under this chapter if the entity fails to make the proposed qualified
9 investment within the time period required by the IEDC.

10 (e) If an entity is certified as an eligible business under this
11 section, a copy of the certification shall be provided by the IEDC
12 to the department and to the utility serving the eligible business.

13 Sec. 7. (a) An eligible business is entitled to make purchases of
14 enterprise information technology equipment that are exempt from
15 the state gross retail and use tax as follows:

16 (1) For the enterprise information technology equipment that
17 comprises the qualified investment, an eligible business is
18 entitled to claim a refund after the date the eligible business
19 is certified by the IEDC.

20 (2) For the enterprise information technology equipment that
21 is not part of the qualified investment, the exemption from the
22 state gross retail and use tax provided by this chapter may be
23 obtained by the eligible business by applying for either a
24 specific transaction exemption certificate or a refund after
25 paying the state gross retail or use tax on the transaction.

26 (b) In addition, during the period beginning July 1, 2019, and
27 ending June 30, 2029, an eligible business may purchase electricity
28 that is exempt from the state gross retail and use tax if:

29 (1) the electricity is sold to the eligible business from an
30 electricity supplier (as defined in IC 8-1-2.3-2(b)) and used by
31 the eligible business to operate enterprise information
32 technology equipment at a location in Indiana; and

33 (2) the enterprise information technology equipment operated
34 by the electricity is exempt from the state gross retail and use
35 tax under subsection (a).

