



March 20, 2019

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# ENGROSSED HOUSE BILL No. 1405

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DIGEST OF HB 1405 (Updated March 19, 2019 12:21 pm - DI 125)

**Citations Affected:** IC 6-1.1; IC 6-2.5.

**Synopsis:** Taxation of data centers. Provides that a county or municipal fiscal body may designate an area in which a property tax exemption will be provided for certain enterprise information technology equipment. Provides a state sales and use tax exemption (exemption) for the purchase of certain data center equipment that is located in a data center that results in a minimum qualified investment within five years, ranging from at least \$25,000,000 to more than \$150,000,000 depending on the population of the county in which the data center is located. Requires that 75% or more of the materials, professional services, and labor used for the rehabilitation or construction of a facility to be used as a qualified data center must be purchased from Indiana vendors. Provides that costs that meet the requirement are exempt from the state gross retail tax. Requires a qualified data center user to apply to the Indiana economic development corporation (IEDC) for a specific transaction exemption certificate (exemption certificate). Requires a qualified data center user to enter into an agreement with the IEDC as a condition of receiving an exemption certificate.

**Effective:** January 1, 2019 (retroactive); July 1, 2019.

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## Soliday, Pressel, Lehman, Jackson, Harris, Huston

(SENATE SPONSORS — MESSMER, HOLDMAN, CHARBONNEAU,  
RANDOLPH LONNIE M, HOUCHIN)

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January 14, 2019, read first time and referred to Committee on Ways and Means.  
February 14, 2019, amended, reported — Do Pass.  
February 18, 2019, read second time, ordered engrossed.  
February 19, 2019, engrossed. Read third time, passed. Yeas 95, nays 1.

SENATE ACTION

March 4, 2019, read first time and referred to Committee on Tax and Fiscal Policy.  
March 19, 2019, amended, reported favorably — Do Pass.

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EH 1405—LS 7399/DI 58





March 20, 2019

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.

## ENGROSSED HOUSE BILL No. 1405

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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 6-1.1-10-44, AS AMENDED BY P.L.158-2012,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 44. (a) As used in this section, "designating body"  
4 means the fiscal body of:  
5 (1) a county that does not contain a consolidated city; or  
6 (2) a municipality.  
7 (b) As used in this section, "eligible business" means an entity that  
8 meets the following requirements:  
9 (1) The entity is engaged in a business that:  
10 (A) operates; or  
11 (B) leases qualified property for use in;  
12 one (1) or more facilities or data centers dedicated to computing,  
13 networking, or data storage activities.  
14 (2) The entity's qualified property is located at a facility or data  
15 center in ~~Indiana that is located in an area designated as a high~~  
16 ~~technology district area.~~ **Indiana.**  
17 (3) The entity, the lessor of qualified property (if the entity is a

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1 lessee), and all lessees of qualified property invest in the  
 2 aggregate at least ~~ten million dollars (\$10,000,000)~~ **twenty-five**  
 3 **million dollars (\$25,000,000)** in real and personal property at the  
 4 facility or data center after June 30, 2012.

5 (4) The average wage of employees who are located in the county  
 6 or municipality and engaged in the operation of the facility or data  
 7 center is at least one hundred twenty-five percent (125%) of the  
 8 county average wage for the county in which the facility or data  
 9 center operates.

10 (c) As used in this section, "enterprise information technology  
 11 equipment" means the following:

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

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

18 (3) Generators and other equipment used to ensure an  
 19 uninterrupted power supply to equipment described in subdivision  
 20 (1) or (2).

21 The term does not include computer hardware designed for single user,  
 22 workstation, or departmental level use.

23 (d) As used in this section, "fiscal body" has the meaning set forth  
 24 in IC 36-1-2-6.

25 (e) As used in this section, "high technology district area" means all  
 26 or any part of the area that:

27 (1) is within the corporate limits of a county or municipality; and  
 28 (2) has been designated as a high technology district area by the  
 29 appropriate designating body under subsection (h):

30 (f) (e) As used in this section, "municipality" has the meaning set  
 31 forth in IC 36-1-2-11.

32 (g) (f) As used in this section, "qualified property" means enterprise  
 33 information technology equipment purchased after June 30, 2012, and  
 34 any additions to or replacements to such property.

35 (h) Before adopting a final resolution to designate a high technology  
 36 district area, a designating body must first adopt a declaratory  
 37 resolution provisionally finding that all or a part of the area within the  
 38 designating body's jurisdiction is a high technology district area. The  
 39 declaratory resolution must include a description of the affected area  
 40 and must be filed with the county assessor. The designating body shall  
 41 then publish notice of the adoption and the substance of the declaratory  
 42 resolution in accordance with IC 5-3-1 and file a copy of the notice and



1 the declaratory resolution with each taxing unit in the county. The  
 2 notice must specify a date when the designating body will receive and  
 3 hear all remonstrances and objections from interested persons. The  
 4 designating body shall file the notice and the declaratory resolution  
 5 with the officers of the taxing units who are authorized to fix budgets,  
 6 tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days  
 7 before the date for the public hearing. After the designating body  
 8 considers the testimony presented at the public hearing, the designating  
 9 body may adopt a second and final resolution before January 1, 2017,  
 10 determining whether to designate a high technology district area and  
 11 modifying, confirming, or rescinding the declaratory resolution. This  
 12 determination of the designating body is final.

13 ~~(i) A designating body may, after adopting a final resolution under~~  
 14 ~~subsection (h) designating an area as a high technology district area,~~

15 **(g) A designating body may** enter into an agreement with an  
 16 eligible business to grant the eligible business a property tax  
 17 exemption. In the case of a county, the exemption applies only to  
 18 qualified property that is located in unincorporated territory of the  
 19 county. In the case of a municipality, the exemption applies only to  
 20 qualified property that is located in the municipality. The property tax  
 21 exemption applies to the qualified property only if the designating body  
 22 and the eligible business enter into an agreement concerning the  
 23 property tax exemption. The agreement must specify the duration of the  
 24 property tax exemption. The agreement may specify that if the  
 25 ownership of qualified property is transferred by an eligible business,  
 26 the transferee is entitled to the property tax exemption on the same  
 27 terms as the transferor. If a designating body ~~adopts a final resolution~~  
 28 ~~under subsection (h) and~~ enters into an agreement with an eligible  
 29 business, the qualified property owned by the eligible business is  
 30 exempt from property taxation as provided in the resolution and the  
 31 agreement.

32 ~~(j) (h) If a designating body adopts a final resolution under~~  
 33 ~~subsection (h) and~~ enters into an agreement under subsection ~~(i)~~ **(g)** to  
 34 provide a property tax exemption, the property tax exemption continues  
 35 for the period specified in the agreement, ~~notwithstanding the January~~  
 36 ~~1, 2017, deadline to adopt a final resolution under subsection (h).~~  
 37 **agreement.**

38 SECTION 2. IC 6-2.5-15 IS ADDED TO THE INDIANA CODE  
 39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 40 JANUARY 1, 2019 (RETROACTIVE)]:

41 **Chapter 15. Gross Retail and Use Tax Exemption For Data**  
 42 **Center Equipment**

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1           **Sec. 1. As used in this chapter, "data center equipment" means**  
2 **computer equipment or software purchased or leased for the**  
3 **processing, storage, retrieval, or communication of data that is**  
4 **preapproved by the corporation with consultation from the**  
5 **department of state revenue. The term includes the following:**

6           **(1) Servers, routers, connections, monitoring and security**  
7 **systems, and other enabling machinery, equipment, and**  
8 **hardware, regardless of whether the property is affixed to or**  
9 **incorporated into real property.**

10           **(2) Equipment used in the operation of computer equipment**  
11 **or software or for the benefit of the qualified data center,**  
12 **including component parts, installations, refreshments,**  
13 **replacements, and upgrades, regardless of whether the**  
14 **property is affixed to or incorporated into real property.**

15           **(3) All equipment necessary for the transformation,**  
16 **generation, distribution, or management of electricity that is**  
17 **required to operate computer server equipment, including**  
18 **substations, generators, uninterruptible energy equipment,**  
19 **supplies, conduit, fuel piping and storage, cabling, duct banks,**  
20 **switches, switchboards, batteries, testing equipment, and**  
21 **backup generators.**

22           **(4) All equipment necessary to cool and maintain a controlled**  
23 **environment for the operation of the computer servers and**  
24 **other components of the data center, including chillers,**  
25 **mechanical equipment, refrigerant piping, fuel piping and**  
26 **storage, adiabatic and free cooling systems, cooling towers,**  
27 **water softeners, air handling units, indoor direct exchange**  
28 **units, fans, ducting, and filters.**

29           **(5) All water conservation systems, including facilities or**  
30 **mechanisms that are designed to collect, conserve, and reuse**  
31 **water.**

32           **(6) All computer server equipment, chassis, networking**  
33 **equipment, switches, racks, fiber optic and copper cabling,**  
34 **trays, and conduit.**

35           **(7) All conduit, ducting, and fiber optic and copper cabling**  
36 **that may be located outside the data center, directly related to**  
37 **connecting one (1) or more distributed qualified data center**  
38 **locations.**

39           **(8) All monitoring equipment and security systems.**

40           **(9) Modular data centers and preassembled components of**  
41 **any item described in this section, including components used**  
42 **in the manufacturing of modular data centers.**



- 1           **(10) All software.**
- 2           **(11) Other tangible and intangible personal property that is**  
3           **essential to the operations of a data center.**
- 4           **(12) All electricity used by qualified data center equipment,**  
5           **excluding electricity used in the administration of the facility.**
- 6           **Sec. 2. As used in this chapter, "eligible data center costs"**  
7           **means expenditures made after December 31, 2018, for the**  
8           **development, acquisition, construction, and operation of a facility**  
9           **to be used as a qualified data center, including costs of land,**  
10           **buildings, site improvements, modular data centers, computer data**  
11           **center equipment acquisition and permitting, lease payments, site**  
12           **characterization and assessment, engineering, and design used**  
13           **directly and exclusively in a qualified data center.**
- 14           **Sec. 3. As used in this chapter, "entity" means an individual, an**  
15           **estate, a trust, a receiver, a cooperative association, a corporation,**  
16           **a company, a firm, a partnership, a limited liability company, a**  
17           **limited liability partnership, or a joint venture.**
- 18           **Sec. 4. As used in this chapter, "facility" means one (1) or more**  
19           **tracts of land in Indiana and any structures and personal property**  
20           **contained on the land for the operation of a data center in either a**  
21           **single location or multiple distributed locations.**
- 22           **Sec. 5. As used in this chapter, "corporation" refers to the**  
23           **Indiana economic development corporation established under**  
24           **IC 5-28-3, unless context clearly denotes otherwise.**
- 25           **Sec. 6. As used in this chapter, "interest in a qualified data**  
26           **center" means an entity that is the owner, operator, or qualified**  
27           **colocation tenant in a qualified data center.**
- 28           **Sec. 7. As used in this chapter, "operator" means an entity,**  
29           **other than an owner or a qualified colocation tenant, operating a**  
30           **data center pursuant to a lease or other contract with the owner or**  
31           **a lessor. The term "operator" includes a licensed property**  
32           **management company, a property lessor, or any other individual**  
33           **or entity responsible for the control, oversight, or maintenance of**  
34           **a facility. The term "operator" also includes an affiliate of an**  
35           **operator.**
- 36           **Sec. 8. As used in this chapter, "owner" means an entity holding**  
37           **fee title to a facility. The term "owner" also includes an affiliate of**  
38           **an owner.**
- 39           **Sec. 9. As used in this chapter, "qualified colocation tenant"**  
40           **means an entity that contracts with the owner or operator of a**  
41           **qualified data center that is certified under this chapter to use or**  
42           **occupy all or part of the data center for a period of two (2) or more**



- 1 years.
- 2 **Sec. 10. As used in this chapter, "qualified data center" means**  
 3 **one (1) or more buildings that:**
- 4 (1) are rehabilitated or constructed to house a group of  
 5 networked server computers in one physical location in order  
 6 to centralize the storage, management, and dissemination of  
 7 data and information pertaining to a particular business,  
 8 taxonomy, or body of knowledge; and
- 9 (2) create a minimum qualified investment on or before the  
 10 fifth anniversary of the issuance of the specific transaction  
 11 exemption certificate by the department of at least:
- 12 (A) one hundred fifty million dollars (\$150,000,000), if it is  
 13 located in a county having a population greater than one  
 14 hundred thousand (100,000);
- 15 (B) one hundred million dollars (\$100,000,000), if it is  
 16 located in a county having a population greater than fifty  
 17 thousand (50,000) and not more than one hundred  
 18 thousand (100,000); or
- 19 (C) twenty-five million dollars (\$25,000,000), if it is located  
 20 in a county having a population of not more than fifty  
 21 thousand (50,000).
- 22 **Sec. 11. As used in this chapter, "qualified data center**  
 23 **equipment" means data center equipment located at a qualified**  
 24 **data center.**
- 25 **Sec. 12. As used in this chapter, "qualified data center user"**  
 26 **means an entity that is using qualified data center equipment.**
- 27 **Sec. 13. As used in this chapter, "qualified investment" means,**  
 28 **with respect to a qualified data center, the aggregate**  
 29 **nonduplicative eligible data center costs expended by any entity**  
 30 **with an interest in the qualified data center.**
- 31 **Sec. 14. (a) A qualified data center user that holds an interest in**  
 32 **a qualified data center may apply to the corporation for a specific**  
 33 **transaction exemption certificate to make purchases that are**  
 34 **exempt under this chapter. The request must be on a form**  
 35 **prescribed by the corporation.**
- 36 (b) The corporation has exclusive authority over issues related  
 37 to issuing a specific transaction exemption certificate.
- 38 (c) If the corporation issues a specific transaction exemption  
 39 certificate under this chapter, the certificate must state that the  
 40 facility is a qualified data center.
- 41 (d) A specific transaction exemption certificate issued by the  
 42 corporation shall expire not later than twenty-five (25) years after





1 the date of issuance.

2 **Sec. 15. The following apply if the corporation approves an**  
 3 **application for a specific transaction exemption certificate:**

4 (1) The corporation shall require the qualified data center  
 5 user to enter into an agreement with the corporation as a  
 6 condition of receiving a specific transaction exemption  
 7 certificate under this chapter.

8 (2) The agreement with the corporation must include:

9 (A) a detailed description of the project that is the subject  
 10 of the agreement;

11 (B) the duration of the specific transaction exemption  
 12 certificate and the first taxable year for which the  
 13 exemption provided by this chapter may be used; and

14 (C) a requirement that the qualified data center user  
 15 annually report to the corporation on the amount of taxes  
 16 that were not paid by the qualified data center user in  
 17 connection with the purchase of data center equipment.

18 **Sec. 16. (a) This section does not apply to a qualified data center**  
 19 **user that is a qualified colocation tenant.**

20 (b) If the corporation determines that a qualified data center  
 21 user that did not pay taxes as a result of the exemption provided  
 22 under this chapter is not entitled to the exemption because of the  
 23 qualified data center user's noncompliance with the requirements  
 24 of the sales tax exemption certificate agreement or any of the  
 25 provisions of this chapter, the corporation shall, after giving the  
 26 qualified data center user an opportunity to explain the  
 27 noncompliance:

28 (1) notify the department of the noncompliance; and

29 (2) request the department to impose an assessment on the  
 30 qualified data center user in an amount that may not exceed  
 31 the sum of the taxes not paid as a result of the exemption  
 32 provided under this chapter together with interest and  
 33 penalties required or permitted by law.

34 (c) Notwithstanding the provisions of IC 6-8.1-5-2, an  
 35 assessment under subsection (b) is considered timely if the  
 36 department issues a proposed assessment:

37 (1) not later than one hundred eighty (180) days from the date  
 38 the department is notified of the noncompliance; or

39 (2) the date on which a proposed assessment could otherwise  
 40 be issued in a timely manner under IC 6-8.1-5-2;

41 whichever is later.

42 **Sec. 17. Except as provided in section 16 of this chapter, if the**



1 corporation approves a qualified data center user's application to  
2 receive a specific transaction exemption certificate and enters into  
3 an agreement with the qualified data center user for a specific  
4 transaction exemption certificate, the corporation's certification of  
5 the qualified data center remains in effect, even if there is a future  
6 transfer, sale, or disposition, directly or indirectly, of the qualified  
7 data center. A subsequent owner shall enter into an agreement  
8 with the corporation before the subsequent owner is entitled to  
9 receive a specific transaction exemption certificate for the  
10 remainder of the eligibility period.

11 Sec. 18. Beginning in 2030, and every ten (10) years thereafter,  
12 the corporation shall submit to the legislative council in an  
13 electronic format under IC 5-14-6 an economic and fiscal impact  
14 study evaluating the statewide impact of data center investments  
15 in Indiana.

16 Sec. 19. The sale of qualified data center equipment is exempt  
17 from the state gross retail tax if the qualified data center  
18 equipment:

- 19 (1) is sold to a qualified data center user; and  
20 (2) will be located in a qualified data center.

21 Sec. 20. Expenditures for the rehabilitation or construction costs  
22 of a facility to be used as a qualified data center made after  
23 December 31, 2018, are exempt from the state gross retail tax only  
24 if seventy-five percent (75%) or more of the materials, professional  
25 services, and labor used for the rehabilitation or construction of  
26 the facility are purchased from Indiana vendors.

27 SECTION 3. An emergency is declared for this act.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1405, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 15, strike "Indiana that is located in an area designated as a high".

Page 1, line 16, strike "technology district area." and insert "**Indiana.**".

Page 2, line 2, strike "ten million dollars (\$10,000,000)" and insert "**twenty-five million dollars (\$25,000,000)**".

Page 2, strike lines 24 through 28.

Page 2, line 29, strike "(f)" and insert "(e)".

Page 2, line 31, strike "(g)" and insert "(f)".

Page 2, strike lines 34 through 42.

Page 3, strike lines 1 through 8.

Page 3, line 9, delete "or after June 30, 2019, and before January 1, 2021,".

Page 3, line 9, strike "determining".

Page 3, strike lines 10 through 14.

Page 3, line 15, before "enter" insert "(g) **A designating body may**".

Page 3, line 27, strike "adopts a final resolution under subsection (h) and".

Page 3, line 31, strike "(j)" and insert "(h)".

Page 3, line 31, strike "adopts a final resolution under subsection".

Page 3, line 32, strike "(h) and".

Page 3, line 32, strike "(i)" and insert "(g)".

Page 3, line 34, strike "agreement, notwithstanding the January 1, 2017,".

Page 3, line 35, strike "deadline".

Page 3, line 35, delete "or the January 1, 2021, deadline".

Page 3, line 35, strike "to adopt a final resolution".

Page 3, line 36, strike "under subsection (h)." and insert "**agreement.**".

Page 5, delete lines 2 through 3, begin a new line block indented and insert:

**"(12) All electricity used by qualified data center equipment, excluding electricity used in the administration of the facility."**

Page 5, delete line 42.

Page 6, line 1, delete "or existing facility that:" and insert "**one (1)**



**or more buildings that:"**

Page 6, delete lines 2 through 4, begin a new line block indented and insert:

**"(1) are rehabilitated or constructed to house a group of networked server computers in one physical location in order to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge; and"**

Page 6, line 5, delete "(3)" and insert "(2)".

Page 6, line 8, delete "one hundred million dollars (\$100,000,000)" and insert **"one hundred fifty million dollars (\$150,000,000)"**.

Page 6, line 9, delete "fifty" and insert **"one hundred thousand (100,000);"**

Page 6, delete line 10.

Page 6, line 11, delete "seventy-five million dollars (\$75,000,000)," and insert **"one hundred million dollars (\$100,000,000),"**

Page 6, line 12, delete "thirty" and insert **"fifty thousand (50,000) and not more than one hundred thousand (100,000); or"**

Page 6, delete lines 13 through 14.

Page 6, line 15, delete "fifty million dollars (\$50,000,000)," and insert **"twenty-five million dollars (\$25,000,000),"**

Page 6, line 16, delete "thirty" and insert **"fifty thousand (50,000)."**

Page 6, delete line 17.

Page 6, between lines 41 and 42, begin a new paragraph and insert:

**"(d) The certificate of eligibility issued by the IEDC must be in effect for:**

**(1) twenty-five (25) years if the qualified investment is less than seven hundred fifty million dollars (\$750,000,000); or**

**(2) fifty (50) years if the qualified investment is seven hundred fifty million dollars (\$750,000,000) or greater.**

**Upon the expiration of the original certificate of eligibility, the IEDC may, at the agency's discretion, extend the certificate of eligibility for any number of subsequent periods not to exceed ten (10) years, if the data center continues to meet the requirements outlined in this chapter."**

Page 6, line 42, delete "(d)" and insert "(e)".

Page 7, line 5, delete "(e)" and insert "(f)".

Page 8, between lines 9 and 10, begin a new paragraph and insert:

**"Sec. 18. For each data center that has received a certificate of eligibility issued by the IEDC, on each ten (10) year anniversary of the issuance of the certificate, the IEDC shall submit to the legislative council an economic and fiscal impact study in an**



**electronic format under IC 5-14-6 for each data center project."**

Page 8, line 10, delete "18." and insert "19."

Page 8, delete line 15.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1405 as introduced.)

HUSTON

Committee Vote: yeas 20, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1405, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 40, delete "JULY 1, 2019]:" and insert "JANUARY 1, 2019 (RETROACTIVE)]:".

Page 4, line 3, delete "data." and insert "**data that is preapproved by the corporation with consultation from the department of state revenue.**".

Page 5, line 6, after "expenditures" insert "**made after December 31, 2018,**".

Page 5, line 21, delete "As used in this chapter, "IEDC" refers to the Indiana" and insert "**As used in this chapter, "corporation" refers to the Indiana economic development corporation established under IC 5-28-3, unless context clearly denotes otherwise.**".

Page 5, delete line 22.

Page 6, line 7, delete "creates" and insert "**create**".

Page 6, delete lines 29 through 42, begin a new paragraph and insert:

**"Sec. 14. (a) A qualified data center user that holds an interest in a qualified data center may apply to the corporation for a specific transaction exemption certificate to make purchases that are exempt under this chapter. The request must be on a form prescribed by the corporation.**

**(b) The corporation has exclusive authority over issues related to issuing a specific transaction exemption certificate.**

**(c) If the corporation issues a specific transaction exemption**

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certificate under this chapter, the certificate must state that the facility is a qualified data center.

(d) A specific transaction exemption certificate issued by the corporation shall expire not later than twenty-five (25) years after the date of issuance.

**Sec. 15.** The following apply if the corporation approves an application for a specific transaction exemption certificate:

(1) The corporation shall require the qualified data center user to enter into an agreement with the corporation as a condition of receiving a specific transaction exemption certificate under this chapter.

(2) The agreement with the corporation must include:

(A) a detailed description of the project that is the subject of the agreement;

(B) the duration of the specific transaction exemption certificate and the first taxable year for which the exemption provided by this chapter may be used; and

(C) a requirement that the qualified data center user annually report to the corporation on the amount of taxes that were not paid by the qualified data center user in connection with the purchase of data center equipment.

**Sec. 16.** (a) This section does not apply to a qualified data center user that is a qualified colocation tenant.

(b) If the corporation determines that a qualified data center user that did not pay taxes as a result of the exemption provided under this chapter is not entitled to the exemption because of the qualified data center user's noncompliance with the requirements of the sales tax exemption certificate agreement or any of the provisions of this chapter, the corporation shall, after giving the qualified data center user an opportunity to explain the noncompliance:

(1) notify the department of the noncompliance; and

(2) request the department to impose an assessment on the qualified data center user in an amount that may not exceed the sum of the taxes not paid as a result of the exemption provided under this chapter together with interest and penalties required or permitted by law.

(c) Notwithstanding the provisions of IC 6-8.1-5-2, an assessment under subsection (b) is considered timely if the department issues a proposed assessment:

(1) not later than one hundred eighty (180) days from the date the department is notified of the noncompliance; or



(2) the date on which a proposed assessment could otherwise be issued in a timely manner under IC 6-8.1-5-2; whichever is later.

**Sec. 17.** Except as provided in section 16 of this chapter, if the corporation approves a qualified data center user's application to receive a specific transaction exemption certificate and enters into an agreement with the qualified data center user for a specific transaction exemption certificate, the corporation's certification of the qualified data center remains in effect, even if there is a future transfer, sale, or disposition, directly or indirectly, of the qualified data center. A subsequent owner shall enter into an agreement with the corporation before the subsequent owner is entitled to receive a specific transaction exemption certificate for the remainder of the eligibility period.

**Sec. 18.** Beginning in 2030, and every ten (10) years thereafter, the corporation shall submit to the legislative council in an electronic format under IC 5-14-6 an economic and fiscal impact study evaluating the statewide impact of data center investments in Indiana."

Delete page 7.

Page 8, delete lines 1 through 27.

Page 8, after line 32, begin a new paragraph and insert:

**"Sec. 20.** Expenditures for the rehabilitation or construction costs of a facility to be used as a qualified data center made after December 31, 2018, are exempt from the state gross retail tax only if seventy-five percent (75%) or more of the materials, professional services, and labor used for the rehabilitation or construction of the facility are purchased from Indiana vendors.

**SECTION 3.** An emergency is declared for this act."

and when so amended that said bill do pass.

(Reference is to HB 1405 as printed February 15, 2019.)

HOLDMAN, Chairperson

Committee Vote: Yeas 14, Nays 0.

