

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1476

By: Representative Pilkington
By: Senator Gilmore

For An Act To Be Entitled

AN ACT TO PROVIDE TAX INCENTIVES FOR DATA CENTERS; TO
CREATE A SALES AND USE TAX EXEMPTION FOR ELECTRICITY
SOLD TO A DATA CENTER; TO DECLARE AN EMERGENCY; AND
FOR OTHER PURPOSES.

Subtitle

TO CREATE A SALES AND USE TAX EXEMPTION
FOR ELECTRICITY SOLD TO A DATA CENTER;
AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4, is amended to add an additional section to read as follows:

26-52-455. Electricity sold to data center.

(a)(1) As used in this section, "data center" means a data center that:

(A) Is classified within codes 516210, 517111, 518210, 519290, 541512, or 541513 of the North American Industry Classification System, as in effect on January 1, 2023;

(B) Makes a capital investment in the state of at least one hundred million dollars (\$100,000,000); and

(C) Creates at least fifty (50) new full-time permanent jobs in the state that have an average hourly wage, as defined in § 15-4-2703, of at least one hundred fifty percent (150%) of the lesser of the county or state average hourly wage, as defined in § 15-4-2703, for the



county in which the data center is located.

(2) "Data center" does not include a facility that is used for cryptocurrency operations.

(b)(1) The gross receipts or gross proceeds derived from the sale of electricity to a data center are exempt from the gross receipts tax levied by this chapter and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(2) Electricity sold for a purpose other than the purpose stated in subdivision (b)(1) of this section is subject to the full gross receipts tax levied by this chapter and the full compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(c)(1) Except as provided in subdivision (c)(2) of this section, electricity subject to the exemption provided in this section shall be metered separately from electricity used for any other purpose by the data center.

(2) The Secretary of the Department of Finance and Administration may establish additional or alternate requirements for the metering of electricity under this section.

(d) Before allowing the exemption of electricity under this section, the secretary may require a seller of electricity to obtain a certificate from the consumer, in the form prescribed by the secretary, certifying that the taxpayer is eligible for the exemption provided under this section.

(e) The secretary shall promulgate rules for the proper administration of this section.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that it is in the best interest of the state to attract and incentivize the data center industry to locate in Arkansas by supporting pending economic development projects that are time-sensitive to site selection and market price determinants in the data center industry; that the data center industry is heavily reliant on and highly sensitive to electric utility costs; that this act will make Arkansas more attractive and prepared to accept large-scale development of data center industry; and that this act is immediately necessary because this act will provide economic development efforts involved with data center projects with the flexibility and expeditious support required to establish the industry in

Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.