General Assembly

**Bill No. 6514**

***January Session, 2021***

LCO No. **4004**

*04004 *

Referred to Committee on No Committee

Introduced by:
REP. RITTER M., 1st Dist.
SEN. LOONEY, 11th Dist.
REP. ROJAS, 9th Dist.
SEN. DUFF, 25th Dist.

## *AN ACT CONCERNING INCENTIVES FOR QUALIFIED DATA CENTERS TO LOCATE IN THE STATE.*

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2021*) (a) As used in this section:

(1) "Colocation tenant" means a person that contracts with the owner or operator of a qualified data center to use or occupy all or part of a qualified data center for a period of at least two years;

(2) "Eligible qualified data center costs" means expenditures made on or after July 1, 2021, for the development, acquisition, construction, rehabilitation, renovation, repair or operation of a facility to be used as a qualified data center, including the cost of land, buildings, site improvements, modular data centers, lease payments, site characterization and assessment, engineering services, design services and data center equipment acquisition and permitting related to such

data center equipment acquisitions. "Eligible qualified data center costs" does not include expenditures made in connection with real or personal property that is located outside the boundaries of the facility to be used as a qualified data center;

(3) "Enterprise information technology equipment" means:

(A) Hardware that support computing, networking or data storage functions, including servers and routers;

(B) Networking systems equipment that support computing, networking or data storage functions and have an industry designation as equipment within the enterprise class or data center class of networking systems; and

(C) Generators and other equipment used to ensure an uninterrupted power supply for the hardware and networking systems equipment under subparagraph (A) or (B) of this subdivision;

(4) "Facility" means one or more contiguous tracts of land in the state and any structure and personal property contained on such land;

(5) "Operator" means a person that contracts with the owner of a qualified data center to operate such qualified data center;

(6) "Owner" means a person that holds a leasehold estate in excess of fifty years or a fee title to a facility;

(7) "Person" means an individual, an estate, a trust, a receiver, a cooperative association, a corporation, a company, a firm, a partnership, a limited partnership, a limited liability company, a limited liability partnership or a joint venture;

(8) "Qualified data center" means a facility that is developed, acquired, constructed, rehabilitated, renovated, repaired or operated, to house a group of networked computer servers in one physical location or multiple contiguous locations to centralize the storage, management

and dissemination of data and information pertaining to a particular business or classification or body of knowledge;

(9) "Qualified data center equipment" means computer equipment, software and hardware purchased or leased for the processing, storage, retrieval or communication of data, including:

(A) Computer servers, routers, connections, chassis, networking equipment, switches, racks, fiber optic and copper cables, trays, conduits and other enabling machinery, equipment and hardware, regardless of whether such personal property is affixed to or incorporated into real property;

(B) Equipment used in the operation of computer equipment or software for the benefit of a qualified data center, including component parts, replacement parts and upgrades, regardless of whether the personal property is affixed to or incorporated into real property;

(C) Equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer servers and related equipment, including substations, generators, uninterruptible energy equipment, supplies, conduits, fuel piping and storage, cabling, duct banks, switches, switchboards, batteries and testing equipment;

(D) Equipment necessary to cool and maintain a controlled environment for the operation of computer servers and other equipment of a qualified data center, including chillers, mechanical equipment, refrigerant piping, fuel piping and storage, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters;

(E) Water conservation systems, including equipment designed to collect, conserve and reuse water;

(F) Conduit, ducting and fiber optic and copper cables located outside the qualified data center, that are directly related to connecting one or more qualified data center locations;

(G) Monitoring equipment and security systems;

(H) Modular data centers and preassembled components of any item described in this subsection, including components used in the manufacturing of modular data centers; and

(I) Any other personal property, exclusive of motor vehicles, that is essential to the operations of a qualified data center or that is acquired for incorporation into or used or consumed in the operation of the qualified data center; and

(10) "Qualified investment" means the aggregate, nonduplicative eligible qualified data center costs expended by an owner, operator and colocation tenant of a qualified data center.

(b) Any person that anticipates it will own, operate or be a colocation tenant in a qualified data center in this state may apply to the Commissioner of Economic and Community Development to enter into an agreement in accordance with the provisions of subsection (c) of this section, for exemption from the taxes imposed under chapters 203 and 219 of the general statutes as set forth in subsections (d) and (e) of this section.

(c) (1) Any person described in subsection (b) of this section that seeks an exemption under subsection (b) of this section shall submit an application to the Commissioner of Economic and Community Development, in a manner and form prescribed by the commissioner. If the commissioner approves such application, the commissioner shall enter into an agreement with such person, provided such person demonstrates to the satisfaction of the commissioner that:

(A) The facility to be developed, acquired, constructed, rehabilitated, renovated, repaired or operated will be used as a qualified data center;

and

(B) The qualified data center will make, on or before the fifth anniversary of the date an agreement entered into pursuant to this section becomes effective, a qualified investment of at least (i) fifty million dollars if such qualified data center is located in an enterprise zone designated pursuant to section 32-70 of the general statutes or a federal qualified opportunity zone designated pursuant to the Tax Cuts and Jobs Act of 2017, P.L. 115-97, as amended from time to time, or (ii) two hundred million dollars if such qualified data center is not located in an enterprise zone or a federal qualified opportunity zone.

(2) Any agreement entered into pursuant to this subsection shall:

(A) Be for a period of twenty years, unless extended under the provisions of subdivision (3) of this subsection, from the date an agreement entered into pursuant to this section becomes effective, which may be in the year in which the construction, rehabilitation, renovation or repair of a qualified data center commences;

(B) Include a five-year qualifying period, from the date an agreement entered into pursuant to this section becomes effective, for the applicable qualified investment amount set forth in subparagraph (B) of subdivision (1) of this subsection to be reached;

(C) Include the payment of an annual fee by the qualified data center, to be determined annually by the commissioner and not to exceed fifty thousand dollars, for the administrative and operational costs of the Office of Data Infrastructure Administration and Security established under subdivision (5) of this subsection. Such fee shall be paid by the qualified data center to the commissioner during each year of such qualifying period or until the applicable qualified investment amount set forth in subparagraph (B) of subdivision (1) of this subsection is reached, whichever is sooner;

(D) Include a detailed description of the capital project that is the subject of the agreement;

(E) Provide that the provisions of the agreement shall be applicable, within the time period such agreement is effective and for the remaining duration of such time period, to any (i) subsequent owner of the qualified data center, (ii) operator or affiliate of the operator of the qualified data center, or (iii) colocation tenant, provided the facility continues to be used as a qualified data center; and

(F) Include provisions for the assessment and payment of the taxes exempted pursuant to such agreement and the rates or amounts of penalties and interest to be imposed thereon, if the commissioner determines that the requirements of the agreement or of a qualified data center are not being met or have not been met.

(3) If a qualified data center makes a qualified investment of at least (A) two hundred million dollars if such qualified data center is located in an enterprise zone designated pursuant to section 32-70 of the general statutes or a federal qualified opportunity zone designated pursuant to the Tax Cuts and Jobs Act of 2017, P.L. 115-97, as amended from time to time, or (B) four hundred million dollars if such qualified data center is not located in an enterprise zone or a federal qualified opportunity zone, the commissioner shall extend to thirty years the period for which an agreement entered into pursuant to this section is effective.

(4) Any qualified data center that enters into an agreement pursuant to this section and makes the applicable qualified investment amount set forth in subdivision (3) of this subsection, and any operator or affiliate of and colocation tenant of such qualified data center, shall be exempt from any financial transactions tax or fee that may be imposed by the state on trades of stocks, bonds, derivatives and other financial products. The exemption under this subdivision shall be effective for a period of thirty years from the date the construction, rehabilitation, renovation or repair of a facility is completed, as determined by the commissioner. The commissioner may incorporate the provisions of this

subdivision into the agreement entered into pursuant to this section or amend an existing agreement with a qualified data center to incorporate the provisions of this subdivision.

(5) There is established an Office of Data Infrastructure Administration and Security within the Department of Economic and Community Development. The office shall (A) serve as the liaison between applicants and qualified data centers and other state agencies, (B) provide assistance to applicants and qualified data centers from the preapplication phase to the post-operational stage, and (C) seek to ensure coordinated, efficient and timely responses to applicants and qualified data centers.

(d) (1) With respect to the exemption from the taxes imposed under chapter 219 of the general statutes, the Commissioner of Economic and Community Development shall notify the Commissioner of Revenue Services of any person that has entered into an agreement pursuant to this section. The Commissioner of Revenue Services shall provide to such person a certificate that exempts such person, and any contractor or subcontractor of such person, from such taxes for (A) the sale of and the storage, use or other consumption in this state of qualified data center equipment acquired for incorporation into or used and consumed in the development, acquisition, construction, rehabilitation, renovation, repair or operation of a facility that is used or to be used as a qualified data center, (B) the sale of and the acceptance, use or other consumption in this state of any service described under subdivision (37) of subsection (a) of section 12-407 of the general statutes, that is used and consumed in the development, acquisition, construction, rehabilitation, renovation, repair or operation of a facility that is used or to be used as a qualified data center, and (C) all electricity used by a qualified data center. Such person, and any contractor or subcontractor of such person, may use such certificate for the purchase, storage, use or other consumption in this state of qualified data center equipment, services and electricity as set forth in this subsection and each seller of such equipment, services or electricity may rely on such certificate.

(2) The certificate provided pursuant to subdivision (1) of this subsection shall apply, during the time period the agreement is effective, to:

(A) Any additional building or structure at a qualified data center to be developed, acquired, constructed, rehabilitated, renovated, repaired or operated, to house a group of networked computer servers, regardless of whether such development, acquisition, construction, rehabilitation, renovation, repair or operation was contemplated at the time of entering into the agreement; and

(B) Any additional qualified data center equipment, services and electricity acquired or used by such qualified data center after the date the agreement was entered into.

(e) (1) With respect to the exemption from the tax imposed under chapter 203 of the general statutes, such exemption shall apply to (A) real property, buildings or structures, located within or at a qualified data center, and (B) enterprise information technology equipment used by a qualified data center.

(2) The exemption under this subsection shall apply, during the time period the agreement entered into pursuant to subsection (c) of this section is effective, to:

(A) Any additional building or structure at a qualified data center that is developed, acquired, constructed, rehabilitated, renovated, repaired or operated, to house a group of networked computer servers, regardless of whether any such development, acquisition, construction, rehabilitation, renovation, repair or operation was contemplated at the time of entering into the agreement;

(B) Any additional enterprise information technology equipment used by a qualified data center that is acquired after the date the agreement was entered into; and

(C) Any additional facility acquired by the owner of a qualified data center for the development, construction, rehabilitation, renovation, repair or operation of a qualified data center, after the date the agreement was entered into, provided such owner enters into a negotiated host municipality fee agreement as required under subdivision (4) of this subsection for each such additional facility.

(3) The Commissioner of Economic and Community Development shall notify each municipality in which such facility is located of any agreement entered into pursuant to this section and shall provide the identity of the person with which the commissioner has entered into such agreement, the date such agreement is effective and the terms of the agreement with respect to the exemption from the tax imposed under chapter 203 of the general statutes.

(4) (A) No developer or owner shall commence construction, rehabilitation, renovation or repair of a facility that will be a qualified data center unless such owner has entered into a negotiated host municipality fee agreement with the municipality in which such facility is located. Such owner shall enter into a negotiated host municipality fee agreement for each additional facility that will be a qualified data center that such owner acquires. If a facility is located in contiguous municipalities, such owner shall enter into a negotiated host municipality fee agreement with each such municipality.

(B) Each negotiated host municipality fee agreement shall include provisions for the assessment and payment of the tax under chapter 203 of the general statutes exempted pursuant to the agreement entered into pursuant to subsection (c) of this section, and the rates or amounts of penalties and interest to be imposed thereon, if the legislative body of the municipality in which the qualified data center is located determines that the requirements of the negotiated host municipality fee agreement are not being met or have not been met.

(5) The chief elected official of the municipality in which a qualified

data center is located shall notify the qualified data center if the legislative body of such municipality determines the requirements of a negotiated host municipality fee agreement entered into pursuant to subdivision (4) of this subsection are not being met or have not been met. The qualified data center shall cure such noncompliance not later than one hundred eighty days after the date of such notification. If the legislative body of such municipality determines the noncompliance has not been cured, the negotiated host municipality fee agreement shall be terminated.

(6) Upon the termination of a negotiated host municipality fee agreement pursuant to subdivision (5) of this subsection or subdivision (2) of subsection (f) of this section, the qualified data center, the owner of the property on which such qualified data center is located or such owner's successors or assigns shall be subject to the tax imposed under chapter 203 of the general statutes and shall be liable for payment of such taxes on the property that was exempted from such tax, from the date of noncompliance under subdivision (5) of this subsection or the date of termination under subdivision (2) of subsection (f) of this section, as applicable. Such liability shall attach to the property as a charge thereon. Such tax and any related penalty and interest shall be due, payable and collectible as other municipal taxes and subject to the same liens and processes of collection.

(f) (1) If the Commissioner of Economic and Community Development terminates an agreement entered into pursuant to subsection (c) of this section due to the commissioner's determination that the requirements of such agreement or of a qualified data center are not being met or have not been met, the commissioner shall notify the Commissioner of Revenue Services and the chief elected official of the municipality in which the applicable qualified data center is located of such termination.

(2) Any negotiated host municipality fee agreement entered into pursuant to subdivision (4) of subsection (e) of this section by such

qualified data center shall be terminated as of the date the agreement entered into pursuant to subsection (c) of this section is terminated. The municipality in which such qualified data center is located may use any remedy authorized by the general statutes to secure the interests of such municipality and recover the amount of any fee, tax, penalty and interest that become due and owing to such municipality due to such termination.

(3) The amount of any taxes under chapter 219 of the general statutes, penalty or interest that become due and owing pursuant to the termination by the Commissioner of Economic and Community Development of an agreement entered into pursuant to subsection (c) of this section may be collected by the Commissioner of Revenue Services under the provisions of section 12-35 of the general statutes. The warrant provided under section 12-35 of the general statutes shall be signed by the Commissioner of Revenue Services or the commissioner's authorized agent. The amount of any such tax, penalty or interest shall be a lien on the real estate of the qualified data center from the last day of the month next preceding the due date of such tax until such tax is paid. The Commissioner of Revenue Services may record such lien in the records of any municipality in which the real estate of such qualified data center is located but no such lien shall be enforceable against a bona fide purchaser or qualified encumbrancer of such real estate. When any tax with respect to which a lien has been recorded under the provisions of this subsection has been satisfied, the commissioner shall, upon request of any interested party, issue a certificate discharging such lien, which certificate shall be recorded in the same office in which the lien was recorded. Any action for the foreclosure of such lien shall be brought by the Attorney General in the name of the state in the superior court for the judicial district in which the real estate subject to such lien is located, or, if such property is located in two or more judicial districts, in the superior court for any one such judicial district, and the court may limit the time for redemption or order the sale of such real estate or make such other or further decree as it judges equitable.

| This act shall take effect as follows and shall amend the following sections: | | |
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| Section 1 | *July 1, 2021* | New section |