## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

## **SENATE BILL 1366**

	Short Title:	Datacenter	Sales	Tax Bill.
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Sponsors: Senator Hagan.

Referred to: Finance.

## March 26, 2007

1			A BILL TO BE ENTITLED
2	AN ACT TO M	IAKE	CERTAIN LARGE SCALE DATACENTER PURCHASES OF
3	MACHINE	RY AN	D EQUIPMENT SUBJECT TO THE PRIVILEGE TAX AND
4	EXEMPT FI	ROM S	ALES AND USE TAX.
5	The General As	sembly	of North Carolina enacts:
6	SECT	ΓΙΟΝ	1. G.S. 105-164.3 is amended by adding a new subdivision to
7	read:		
8	" <u>(8f)</u>	<u>Eligit</u>	ble datacenter A facility that satisfies each of the following
9		<u>condi</u>	tions:
10		<u>a.</u>	The facility is created and maintained to meet, is certified by a
11			third party as meeting, and does meet the standards for Tier 4
12			classification under the classification system promulgated by
13			the Uptime Institute, Inc., for datacenter site infrastructure
14			functionality as that classification existed as of January 1, 2007.
15		<u>b.</u>	The facility is located or to be located in a county that was
16			designated, at the time of application for the written
17			determination required under sub-subdivision c. of this
18			subdivision, either a development tier one, two, or three area
19			pursuant to G.S. 143B-437.08, regardless of any subsequent
20			change in county development tier status.
21		<u>c.</u>	The Secretary of Commerce has made a written determination
22			of the following:
23			1. For development tier one areas, that at least one hundred
24			fifty million dollars (\$150,000,000) in private funds has
25			been or will be invested in improvements to real property
26			or installed datacenter machinery and equipment, or a
27			combination of both, within five years after
28			commencement of construction of the facility.

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1 2 3 4 5 6 7	<ul> <li><u>For development tier two or three areas, that at least three hundred million dollars (\$300,000,000) in private funds has been or will be invested in improvements to real property or installed datacenter machinery and equipment, or a combination of both, within five years after commencement of construction of the facility.</u>"</li> <li>SECTION 2. G.S. 105-164.13 is amended by adding a new subdivision to</li> </ul>
8	read:
9	"(56) Sales of machinery and equipment to be located and used at an eligible
0	datacenter. If the level of investment required by G.S. 105-164.3(8f)c.
1	is not timely made, then the exemption provided under this subdivision
2	is forfeited. If the level of investment required by G.S. 105-164.3(8f)c.
3	is timely made but any machinery and equipment is not located and
4	used at an eligible datacenter, then the exemption provided for such
5	machinery and equipment under this subdivision is forfeited. A
6 7	taxpayer that forfeits an exemption under this subdivision is liable for
3	all past taxes avoided as a result of the forfeited exemption, computed from the data the taxes would have been due if the exemption had not
) )	from the date the taxes would have been due if the exemption had not been allowed, plus interest at the rate established under
)	G.S. 105-241.1(i). If the forfeiture is triggered due to the lack of a
	timely investment required by G.S. 105-164.3(8f)c., then interest is
	computed from the date the taxes would have been due if the
	exemption had not been allowed. For all other forfeitures, interest is
	computed from the time as of which the machinery or equipment was
	put to a disqualifying use. The past taxes and interest are due 30 days
	after the date the exemption is forfeited. A taxpayer that fails to pay
	the past taxes and interest by the due date is subject to the provisions
	<u>of G.S. 105-236.</u> "
	<b>SECTION 3.</b> Article 5F of Chapter 105 of the General Statutes is amended
	by adding a section to read:
	" <u>§ 105-187.51C. Tax imposed on datacenter machinery and equipment.</u>
	(a) Tax. – A privilege tax is imposed on an eligible datacenter that purchases
	machinery or equipment to be located and used at the datacenter.
	(b) Rate. – The tax is one percent (1%) of the sales price of the equipment and
	machinery to be located and used at the datacenter. The maximum tax is eighty dollars
	(\$80.00) per article." SECTION 4. Section 2 of this act becomes effective July 1, 2007, and
	applies to sales made on or after that date. Section 3 of this act becomes effective July
	1, 2007. The remainder of this act is effective when it becomes law.
	1, 2007. The follumetries of this act is chechye when it becomes faw.