

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 2639

Short Title: Internet Data Center Facilities Tax Exemption. (Public)

Sponsors: Representatives Starnes, Frye (Primary Sponsors); and Capps.

Referred to: Rules, Calendar, and Operations of the House.

May 25, 2006

A BILL TO BE ENTITLED  
AN ACT TO EXEMPT CERTAIN INTERNET DATA CENTER FACILITIES FROM  
SALES AND USE TAXES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-164.3 is amended by adding a new subdivision to read:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(8e) Eligible Internet data center. – A facility that satisfies each of the following conditions:

- a. The facility is used or is to be used primarily by a business primarily engaged in Internet service providers and Web search portals industry 51811, as defined by the December 31, 2002, edition of the North American Industry Classification System published by the Office of Management and Budget.
- b. The facility is located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the operator of that facility.
- c. The facility is located or to be located in a county that was designated, at the time of application for the written determination required under sub-subdivision d. of this subdivision, an enterprise tier one area pursuant to G.S. 105-129.3.
- d. The Secretary of Commerce has made a written determination that at least two hundred fifty million dollars (\$250,000,000) in private funds has been or will be invested in real property or eligible business property at the facility within five years after the commencement of construction of the facility."

1           SECTION 2. G.S. 105-164.13 is amended by adding a new subdivision to  
2 read:

3 **"§ 105-164.13. Retail sales and use tax.**

4           The sale at retail and the use, storage, or consumption in this State of the following  
5 tangible personal property and services are specifically exempted from the tax imposed  
6 by this Article:

7           ...

8           (54) Sales of electricity and eligible business property to be located and  
9 used at an eligible Internet data center. As used in this subdivision,  
10 'eligible business property' is property that is capitalized for tax  
11 purposes under the Code and is used either:

- 12           a. For the provision of Internet service or Web search portal  
13 services as contemplated by G.S. 105-164.3(8e)a., including  
14 equipment cooling systems for managing the performance of  
15 such property.  
16           b. For the generation, transformation, transmission, distribution, or  
17 management of electricity, including exterior substations and  
18 other business personal property that are used for such  
19 purposes.  
20           c. To support related computer engineering or computer science  
21 research.

22           If the level of investment required by G.S. 105-164.3(8e)d. is not  
23 timely made, then the exemption provided under this subdivision is  
24 forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is  
25 timely made but the eligible business property is not located and used  
26 at an eligible Internet data center, then the exemption provided for  
27 such eligible business property under this subdivision is forfeited. If  
28 the level of investment required by G.S. 105-164.3(8e)d. is timely  
29 made but electricity is not used at an eligible Internet data center, then  
30 the exemption provided for such electricity under this subdivision is  
31 forfeited. A taxpayer that forfeits an exemption under this subdivision  
32 is liable for all past taxes avoided as a result of the exemption plus  
33 interest at the rate established under G.S. 105-241.1(i), computed from  
34 the date the taxes would have been due if the exemption had not been  
35 allowed. If the forfeiture is triggered due to the lack of a timely  
36 investment required by G.S. 105-164.3(8e)d., then interest shall be  
37 computed from the date the taxes would have been due if the  
38 exemption had not been allowed. For all other forfeitures, interest shall  
39 be computed from the time as of which the eligible business property  
40 or electricity was put to a disqualifying use. The past taxes and interest  
41 are due 30 days after the date the exemption is forfeited; a taxpayer  
42 that fails to pay the past taxes and interest by the due date is subject to  
43 the provisions of G.S. 105-236."

1                   **SECTION 3.** This act becomes effective July 1, 2006, and applies to sales  
2 made on or after that date.