

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2645*

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

Sponsors: Representatives Cole; Starnes, Frye, Current, Clary, and Rayfield.

Referred to: Finance.

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 primarily or is to be used primarily by a business 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, two, or three 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.