2026 Special Session I

Budget Bill - HB30 (Enrolled)

Data center Electricity Consumption Tax

Item 3-5.24

§ 3-5.24 DATA CENTER ELECTRICITY CONSUMPTION TAX

A.1 Beginning on and after July 1, 2026, but before July 1, 2028, there is hereby levied and imposed upon every data center operator, in addition to all other taxes and fees of every kind now imposed by law, an electricity consumption tax at the rate of $0.011/kWh of all electricity consumed at each data center per month.

2. For the purposes of this Item:

"Data center" means a facility whose primary services are to centralize the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services. “Data center" does not include a facility whose primary function is to facilitate the provision of internet access service, a communication service as defined in § 58.1-647, or any combination thereof.

“Data center operator" means any person who (i) owns, operates, or occupies a data center in the Commonwealth, or (ii) owns or operates a data center in the Commonwealth that utilizes self-supplied electricity generation. Where multiple persons qualify as data center operators with respect to a single data center, the person responsible for payment of the electric utility account for the applicable service point shall be liable for the tax imposed under this Item with respect to electricity delivered through that account, and the person responsible for the self-supplied generation shall be liable for the tax imposed under this Item with respect to self-supplied electricity.

“Electricity consumption tax" means the amount that each data center operator shall pay for each kWh used pursuant to this Item, regardless of whether the electricity is provided through an incumbent electric utility, an incumbent electric cooperative, a competitive service provider, or is self-supplied. For electricity that is self-supplied, the data center operator shall report its usage quarterly to the Department of Environmental Quality, who shall verify such usage with the State Corporation Commission.

“Self-supplied" means electricity that is (i)(a) generated at a data center, (b) for use at such data center, and (c) not provided through an incumbent electric utility, an incumbent electric cooperative, or a competitive service provider or (ii)(a) otherwise generated for use at a data center and (b) capable of lawful delivery to such data center without an incumbent electric utility, an incumbent electric cooperative, or a competitive service provider.

B. The tax imposed by this Item shall be collected monthly by the State Corporation Commission. All provisions of Chapter 29 of Title 58.1 of the Code of Virginia (§58.1-2900 et seq.), including those governing assessment, collection, audit, interest, penalties, and appeal, shall apply mutatis mutandis to the tax imposed under this Item,

except that the Commission may issue such additional rules and guidelines that it finds necessary to administer this Item. For self-supplied electricity, the data center operator shall remit the tax imposed under subsection A on such self-supplied electricity directly to the State Corporation Commission on a monthly return, in the form and manner prescribed by the Commission, due on or before the last day of the month following the month in which the electricity was consumed.

C. During any fiscal year, no more than $600,000,000 of the revenues from the tax imposed under this Item shall be deposited to the general fund. Any revenues from the tax imposed under this Item in excess of $600,000,000, less any costs incurred by the State Corporation Commission to administer the tax under this Item, shall be deposited to a special, nonreverting fund where (i) any moneys remaining in such fund at the end of each fiscal year shall not revert to the general fund and shall remain in the fund and (ii) interest earned on moneys in such fund shall accrue to the general fund. Moneys in the fund shall be used solely for the purpose of providing the refunds authorized in subsection D below. The fund shall be administered by the State Corporation Commission.

D. In every fiscal year beginning on and after July 1, 2027, the State Corporation Commission shall allocate and distribute refunds from any excess revenue collections deposited to the fund, established in subsection C, in the prior fiscal year. The refund amount for each data center operator paying the tax under this Item shall be determined by the data center operator's pro rata share of tax collections in the fiscal year for which such refund is made. Any refund due to a data center operator from the tax remitted by an incumbent electric utility or electric cooperative or a competitive service provider shall be credited to the account of the data center operator by the incumbent electric utility or electric cooperative or a competitive service provider. Any refund due to a data center operator with respect to self-supplied electricity shall be paid directly to the data center operator by the State Corporation Commission. In no case shall any interest be paid on any refund due pursuant to this subsection by the Commonwealth, any incumbent electric utility or electric cooperative, or a competitive service provider.

E. The State Corporation Commission shall issue guidelines to effectuate the provisions of this Item 60 days after the passage of this act. Notwithstanding section B of this Item, (i) the first collection of the tax imposed under this Item shall occur in September of 2026, and (ii) the payment due for such first collection, shall include all taxes owed for the period beginning on and after July 1, 2026, through September 1, 2026. Collections shall be made pursuant to section B of this Item after such first collection.