

119TH CONGRESS
2D SESSION

S. _____

To exempt AI data centers from bonus depreciation and require data center operators to submit certain information relating to electricity and water use by data centers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To exempt AI data centers from bonus depreciation and require data center operators to submit certain information relating to electricity and water use by data centers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Data Center Tax Ac-
5 countability and Disclosure Act of 2026”.

1 **SEC. 2. EXEMPTING AI DATA CENTERS FROM BONUS DE-**
2 **PRECIATION.**

3 (a) IN GENERAL.—Section 168(k) of the Internal
4 Revenue Code of 1986 is amended—

5 (1) in paragraph (9)—

6 (A) in subparagraph (A), by striking “or”
7 at the end,

8 (B) in subparagraph (B), by striking the
9 period at the end and inserting “, or”, and

10 (C) by adding at the end the following new
11 subparagraph:

12 “(C) any property used in an AI data cen-
13 ter.”, and

14 (2) by adding at the end the following new
15 paragraph:

16 “(11) AI DATA CENTER.—

17 “(A) IN GENERAL.—For purposes of para-
18 graph (9)(C), the term ‘AI data center’ means
19 a permanent or semipermanent structure, or
20 group of such structures, which—

21 “(i) is dedicated to—

22 “(I) the centralized accommoda-
23 tion, interconnection, and operation of
24 information technology and network
25 telecommunications equipment (in-

1 including not less than 1 graphics proc-
2 essing unit), and

3 “(II) providing data storage,
4 processing, and transport services,
5 and

6 “(ii) at least 20 percent of which is
7 used for developing or operating artificial
8 intelligence.

9 “(B) EXCLUSION.—

10 “(i) IN GENERAL.—For purposes of
11 paragraph (9)(C), the term ‘AI data cen-
12 ter’ shall not include any structure or
13 group of structures described in subpara-
14 graph (A) which has obtained the LEED
15 Green Building Rating System certification
16 at the Platinum or Gold level.

17 “(ii) ALTERNATE STANDARD.—The
18 Secretary of Energy and the Administrator
19 of the Environmental Protection Agency
20 may jointly—

21 “(I) establish or identify an alter-
22 nate standard that is equivalent to or
23 exceeds the standard described in
24 clause (i), and

1 “(II) as an alternative to the
2 standard described in clause (i), allow
3 the use of such alternate standard for
4 purposes of the exclusion provided
5 under such clause.

6 “(C) DEFINITIONS.—For purposes of this
7 paragraph—

8 “(i) ARTIFICIAL INTELLIGENCE.—The
9 term ‘artificial intelligence’ has the mean-
10 ing given such term in section 5002 of the
11 National Artificial Intelligence Initiative
12 Act of 2020 (15 U.S.C. 9401).

13 “(ii) GRAPHICS PROCESSING UNIT.—
14 The term ‘graphic processing unit’ means
15 a specialized electronic circuit designed to
16 accelerate image rendering, graphics proc-
17 essing, and parallel computation tasks.

18 “(iii) LEED GREEN BUILDING RAT-
19 ING SYSTEM.—The term ‘LEED Green
20 Building Rating System’ means the most
21 recent version of the Leadership in Energy
22 and Environmental Design green building
23 rating system for—

24 “(I) Building Design and Con-
25 struction, or

1 “(II) Operations and Maintenance,
2 nance,
3 as developed by the U.S. Green Building
4 Council.”.

5 (b) APPLICATION OF LEASED PROPERTY RULES TO
6 AI DATA CENTERS.—Section 168 of the Internal Revenue
7 Code of 1986 is amended by adding at the end the fol-
8 lowing new subsection:

9 “(o) APPLICATION OF LEASED PROPERTY RULES TO
10 AI DATA CENTERS.—In the case of any AI data center
11 (as defined in subsection (k)(11)) which is subject to a
12 lease, the depreciation deduction provided by section
13 167(a) shall be determined pursuant to the rules under
14 section 1.167(a)–11(e)(3)(iii) of title 26, Code of Federal
15 Regulations (as in effect on the date of enactment of this
16 subsection).”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service after
19 the date of enactment of this Act.

20 **SEC. 3. DATA CENTER DISCLOSURES.**

21 (a) DEFINITIONS.—In this section:

22 (1) ADMINISTRATOR.—The term “Adminis-
23 trator” means the Administrator of the Environ-
24 mental Protection Agency.

1 (2) AFFECTED COMMUNITY.—The term “af-
2 fected community” means a community that—

3 (A) is subject to the jurisdiction of the
4 same unit of local government as a covered data
5 center; or

6 (B) is served by the same electric utility,
7 water authority, or drinking water utility as a
8 covered data center.

9 (3) AFFECTED UNIT OF LOCAL GOVERN-
10 MENT.—The term “affected unit of local govern-
11 ment” means any unit of local government within
12 the jurisdiction of which a covered data center or af-
13 fected community is located.

14 (4) APPLICABLE RECIPIENT.—The term “appli-
15 cable recipient”, with respect to a disclosure under
16 subsection (b) or a report under subsection (c),
17 means—

18 (A) if the applicable covered data center is
19 located in an electing State, the electing State;
20 and

21 (B) if the applicable covered data center is
22 not located in an electing State, the Secretary
23 and the Administrator.

24 (5) COVERED DATA CENTER.—

1 (A) IN GENERAL.—The term “covered
2 data center” means a data center, including a
3 dual-use data center and a data center that is
4 co-located or otherwise shares commercial space
5 with a dedicated Federal data center, the power
6 demand of which is 25 megawatts or more.

7 (B) EXCLUSION.—The term “covered data
8 center” does not include a dedicated Federal
9 data center.

10 (6) DATA CENTER.—The term “data center”
11 has the meaning given the term in section 453(a) of
12 the Energy Independence and Security Act of 2007
13 (42 U.S.C. 17112(a)).

14 (7) DATA CENTER OPERATOR.—The term “data
15 center operator” means any person that operates a
16 covered data center.

17 (8) DEDICATED FEDERAL DATA CENTER.—The
18 term “dedicated Federal data center” means a data
19 center that is owned and operated exclusively by or
20 for the Federal Government (including any element
21 of the intelligence community (as defined in section
22 3 of the National Security Act of 1947 (50 U.S.C.
23 3003))).

24 (9) DUAL-USE DATA CENTER.—The term
25 “dual-use data center” means a data center that

1 provides services to both the Federal Government
2 and 1 or more non-Federal interests.

3 (10) DIRECTOR.—The term “Director” means
4 the Director of the Office of Management and Budget.
5 et.

6 (11) ELECTING STATE.—The term “electing
7 State” means a State that—

8 (A) has elected to receive disclosures and
9 reports under this section;

10 (B) has established a system for receiving
11 those disclosures and reports; and

12 (C) has notified the Secretary and the Ad-
13 ministrator that the State will—

14 (i) receive those disclosures and re-
15 ports; and

16 (ii) submit to the Secretary and the
17 Administrator an annual compilation of
18 those disclosures and reports under sub-
19 section (d)(1).

20 (12) POWER USAGE EFFECTIVENESS.—The
21 term “power usage effectiveness” has the meaning
22 given the term in the document published in 2026
23 by the International Organization for Standardiza-
24 tion and the International Electrotechnical Commis-
25 sion entitled “Information technology — Data cen-

1 tres key performance indicators — Part 2: Power
2 usage effectiveness (PUE)” and numbered ISO/IEC
3 30134–2:2026 (or a successor document).

4 (13) SECRETARY.—The term “Secretary”
5 means the Secretary of Energy.

6 (14) STATE.—The term “State” means—

7 (A) each of the several States of the
8 United States;

9 (B) the District of Columbia;

10 (C) the Commonwealth of Puerto Rico;

11 (D) the United States Virgin Islands;

12 (E) Guam;

13 (F) American Samoa;

14 (G) the Commonwealth of the Northern
15 Mariana Islands;

16 (H) an Indian tribe included on the list
17 published by the Secretary of the Interior under
18 section 104 of the Federally Recognized Indian
19 Tribe List Act of 1994 (25 U.S.C. 5131);

20 (I) the Federated States of Micronesia;

21 (J) the Republic of the Marshall Islands;

22 and

23 (K) the Republic of Palau.

24 (15) WATER USAGE EFFECTIVENESS.—The
25 term “water usage effectiveness” has the meaning

1 given the term in the document published in 2022
2 by the International Organization for Standardiza-
3 tion and the International Electrotechnical Commis-
4 sion entitled “Information technology — Data cen-
5 tres key performance indicators — Part 9: Water
6 usage effectiveness (WUE)” and numbered ISO/IEC
7 30134–9:2022 (or a successor document).

8 (b) INITIAL DISCLOSURES.—

9 (1) IN GENERAL.—Not later than 180 days be-
10 fore the date on which a covered data center com-
11 mences operations, the data center operator shall
12 submit to the applicable recipient an initial disclo-
13 sure that includes an estimate of the information de-
14 scribed in paragraphs (1) through (4) of subsection
15 (c) for the 1-year period beginning on the date on
16 which the covered data center is expected to com-
17 mence operations.

18 (2) EXISTING DATA CENTERS.—Not later than
19 180 days after the date of enactment of this Act,
20 each covered data center operating as of that date
21 of enactment shall submit to the applicable recipient
22 an initial disclosure that includes the information re-
23 quired to be included in an annual mandatory report
24 under subsection (c) for the most recent calendar
25 year ending before that date of enactment.

1 (3) FEDERAL DATA CENTERS.—

2 (A) DUAL-USE DATA CENTERS.—With re-
3 spect to a dual-use data center—

4 (i) this subsection and subsection (c)
5 shall only apply to the extent prescribed by
6 the Director under subsection (e)(1)(D);
7 and

8 (ii) in providing initial disclosures
9 under this subsection or submitting an an-
10 nual report under subsection (c) as so pre-
11 scribed, the data center operator shall
12 comply with all applicable requirements es-
13 tablished under subsection (e), including
14 the standards established under paragraph
15 (1)(D) of that subsection and any exemp-
16 tions from disclosure established under
17 paragraph (2)(C) of that subsection.

18 (B) DEDICATED FEDERAL DATA CEN-
19 TERS.—This subsection and subsection (c) shall
20 not apply to a dedicated Federal data center.

21 (c) ANNUAL MANDATORY REPORT.—Not later than
22 December 31 of each year, each data center operator shall
23 submit to the applicable recipient an annual report that
24 describes, for the most recent preceding calendar year, the

1 following information for each applicable covered data cen-
2 ter operated by the data center operator:

3 (1) WATER ACCESS AND USAGE.—

4 (A) The total number of gallons of water
5 withdrawn or consumed each month by the cov-
6 ered data center during the year covered by the
7 report.

8 (B) The source of the water so withdrawn
9 or consumed by the covered data center, such
10 as a municipal drinking water system, ground-
11 water, surface water, or reclaimed water.

12 (C) The annual average water usage effec-
13 tiveness of the covered data center.

14 (D) Any water rights, permits, or long-
15 term supply agreements held by a data center
16 operator for a covered data center, including
17 the term and quantity of water subject to those
18 rights, that permit, or that agreement.

19 (2) ELECTRICITY ACCESS AND USAGE.—

20 (A) The total electricity contracted for or
21 consumed by the covered data center each
22 month during the year covered by the report,
23 measured in megawatt-hours, and the peak
24 electricity demand of the covered data center
25 during that year, measured in megawatts.

1 (B) If the covered data center uses behind-
2 the-meter power generation, the method used to
3 generate that power, including the percentage
4 of total electricity consumed by the covered
5 data center from each behind-the-meter genera-
6 tion source type, calculated on an actual-dis-
7 patch basis.

8 (C) The total greenhouse gas emissions of
9 the covered data center in carbon dioxide-equiv-
10 alent metric tons (calculated on the basis of en-
11 ergy consumption).

12 (D) The annual average power usage effec-
13 tiveness of the covered data center.

14 (E) Any long-term power purchase agree-
15 ments or utility service agreements to which the
16 covered data center operator was a party during
17 the year covered by the report, including—

18 (i) the term of the power purchase
19 agreement; and

20 (ii) the quantity of power covered by
21 the power purchase agreement.

22 (3) BACKUP POWER.—

23 (A) The types of backup power maintained
24 for the covered data center, including genera-

1 tors, batteries, and all other sources of backup
2 power.

3 (B) The total backup capacity maintained
4 for the covered data center.

5 (C) The quantity of fuel stored on-site for
6 backup power.

7 (D) The total hours that the covered data
8 center operated using backup power during the
9 year covered by the report.

10 (E) The annual emissions of carbon diox-
11 ide, and criteria pollutants for which there are
12 national ambient air quality standards under
13 section 109 of the Clean Air Act (42 U.S.C.
14 7409), from backup power during the year cov-
15 ered by the report.

16 (4) PROPERTY SETBACK.—The setback require-
17 ments for data center facilities in the State in which
18 the covered data center is located, including any zon-
19 ing variances, special use permits, or conditional ap-
20 provals relating to the use of a facility or setback by
21 the data center operator.

22 (d) REPORTS TO EPA AND DOE.—

23 (1) IN GENERAL.—Each electing State shall an-
24 nually submit to the Secretary and the Adminis-
25 trator a compilation of—

1 (A) the disclosures submitted to the elect-
2 ing State under subsection (b); and

3 (B) the reports submitted to the electing
4 State under subsection (c).

5 (2) PUBLICATION.—The Secretary and the Ad-
6 ministrator shall make publicly available on the
7 website of the Department of Energy and the Envi-
8 ronmental Protection Agency, respectively, an an-
9 nual report that includes each of—

10 (A) the disclosures submitted directly to
11 the Secretary and the Administrator under sub-
12 section (b);

13 (B) the reports submitted directly to the
14 Secretary and the Administrator under sub-
15 section (c);

16 (C) the compilations submitted to the Sec-
17 retary and the Administrator under paragraph
18 (1); and

19 (D) any information submitted to the Sec-
20 retary and the Administrator under subsection
21 (e)(3), in accordance with any standards estab-
22 lished under subsection (e)(1)(C).

23 (e) DISCLOSURES FOR FEDERAL DATA CENTERS.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Director
3 shall establish standards for—

4 (A) the compilation by appropriate Federal
5 officials, as determined by the Director, of in-
6 formation relating to each dedicated Federal
7 data center and dual-use data center utilized by
8 the Federal Government;

9 (B) the submission of that information to
10 the committees of Congress with jurisdiction
11 over those Federal officials;

12 (C) the publication of that information
13 pursuant to subsection (d)(2)(D), if applicable;
14 and

15 (D) with respect to dual-use data centers,
16 disclosure and reporting by the applicable data
17 center operator under subsections (b) and (c).

18 (2) REQUIREMENTS.—The standards estab-
19 lished under paragraph (1) shall—

20 (A) to the maximum extent practicable, re-
21 quire the disclosure of information consistent
22 with the information required to be disclosed
23 under subsection (c) with respect to covered
24 data centers;

25 (B) simultaneously—

- 1 (i) promote data center accountability
2 and transparency; and
3 (ii) protect national security; and
4 (C) include exemptions from disclosure to
5 protect national security, as appropriate.

6 (3) SUBMISSION OF INFORMATION FOR PUBLI-
7 CATION.—If the Director determines appropriate,
8 the standards established under paragraph (1) may
9 require appropriate Federal officials, as determined
10 by the Director, to submit to the Secretary and the
11 Administrator for publication under subsection
12 (d)(2)(D) such information as is appropriate for
13 publication under that subsection.

14 (4) COORDINATION.—In carrying out this sub-
15 section, including the development of exemptions
16 under paragraph (2)(C), the Director shall coordi-
17 nate with appropriate officials of—

- 18 (A) the Office of the Director of National
19 Intelligence;
20 (B) the Central Intelligence Agency;
21 (C) the Department of Defense;
22 (D) the Department of Homeland Security;
23 (E) the Department of Justice;
24 (F) the Department of Energy;
25 (G) the Department of Commerce;

1 (H) the Department of the Treasury; and

2 (I) any other relevant Federal agency, as
3 determined by the Director, including any Fed-
4 eral agency utilizing a data center for purposes
5 relating to national security.

6 (f) PROHIBITION ON USE OF NONDISCLOSURE
7 AGREEMENTS OR CONFIDENTIALITY AGREEMENTS TO
8 CONCEAL INFORMATION OR AVOID REQUIRED DISCLO-
9 SURES.—

10 (1) IN GENERAL.—Notwithstanding any provi-
11 sion of State contract law or any agreement to the
12 contrary, no nondisclosure agreement, confidentiality
13 agreement, or similar contract or agreement shall
14 operate—

15 (A) to prevent, limit, delay, or penalize dis-
16 closure by any party to the contract or agree-
17 ment to the Secretary, the Administrator, or an
18 electing State of any information required to be
19 disclosed to the Secretary, the Administrator, or
20 the electing State under this section;

21 (B) to prevent, limit, delay, or penalize dis-
22 closure by an electing State to—

23 (i) the Secretary or the Administrator
24 of any information required to be disclosed

1 to the Secretary or the Administrator
2 under this section; or

3 (ii) an affected unit of local govern-
4 ment of any information provided to the
5 electing State under this section; or

6 (C) to require any party to the contract or
7 agreement to seek approval from a data center
8 operator before responding to a request for in-
9 formation from the Secretary, the Adminis-
10 trator, or an electing State made pursuant to
11 subsection (g)(4).

12 (2) VOIDABILITY.—Any provision of a non-
13 disclosure agreement, confidentiality agreement, or
14 similar contract or agreement that purports to re-
15 strict disclosure in a manner prohibited under para-
16 graph (1) is void as against public policy and unen-
17 forceable to the extent of such restriction.

18 (3) NO LIABILITY FOR COMPLIANCE.—No elec-
19 tric utility, water authority, drinking water utility,
20 unit of local government, or State agency shall be
21 liable to a data center operator under any nondisclo-
22 sure agreement, confidentiality agreement, or similar
23 contract or agreement for any disclosure made in
24 compliance with the requirements of this section.

1 (4) FEDERAL PREEMPTION.—To the extent
2 that any provision of State contract law would
3 render enforceable a provision of a nondisclosure
4 agreement, confidentiality agreement, or similar con-
5 tract or agreement prohibited or rendered unenforce-
6 able under this subsection, such provision of State
7 law is preempted by this Act.

8 (5) RULE OF CONSTRUCTION.—Nothing in this
9 section prohibits a data center operator from enter-
10 ing into a nondisclosure agreement, confidentiality
11 agreement, or similar contract or agreement cov-
12 ering information that is not required to be disclosed
13 to the Secretary, the Administrator, or an electing
14 State under this section.

15 (g) ENFORCEMENT.—

16 (1) NEGLIGENT VIOLATIONS.—Any data center
17 operator that negligently fails to submit a disclosure
18 required under subsection (b) or a report required
19 under subsection (c) shall be subject to a civil pen-
20 alty of not more than \$50,000 for each day of non-
21 compliance.

22 (2) KNOWING VIOLATIONS.—Any data center
23 operator that knowingly fails to submit a disclosure
24 required under subsection (b) or a report required
25 under subsection (c), or that knowingly submits a

1 false or materially misleading disclosure or report,
2 shall be subject to a civil penalty of not more than
3 \$100,000 for each day of noncompliance.

4 (3) STATE ENFORCEMENT.—An electing State
5 may impose fines and engage in other enforcement
6 activities consistent with this section and applicable
7 State law.

8 (4) REQUESTS FOR INFORMATION.—The Sec-
9 retary and the Administrator, acting jointly, or an
10 electing State may issue to an electric utility, water
11 authority, or drinking water utility a request for in-
12 formation relating to matters required to be dis-
13 closed by a data center operator under subsection
14 (b) or (c).

15 (h) RULEMAKING.—Not later than 180 days after the
16 date of enactment of this Act, the Secretary and the Ad-
17 ministrator shall jointly promulgate such regulations as
18 are necessary to carry out this section, including regula-
19 tions establishing—

20 (1) standardized formatting for the disclosures
21 under subsection (b) and the reports under sub-
22 section (c); and

23 (2) procedures for submission to, and review by,
24 the Secretary and the Administrator of disclosures

- 1 under subsection (b), reports under subsection (c),
- 2 and compilations under subsection (d)(1).