

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require data center operators to submit to States or the Administrator of the Environmental Protection Agency and the Secretaries of Energy and Agriculture reports on data center energy and water use.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. 1383

To establish the Veterans Advisory Committee on Equal Access, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DURBIN

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . DATA CENTER WATER AND ENERGY TRANS-**
3 **PARENCY.**

4 (a) DEFINITIONS.—In this section:

5 (1) ADMINISTRATOR.—The term “Adminis-
6 trator” means the Administrator of the Environ-
7 mental Protection Agency.

8 (2) DATA CENTER TERMS.—The terms “data
9 center” and “data center operator” have the mean-
10 ings given those terms in section 453(a) of the En-

1 ergy Independence and Security Act of 2007 (42
2 U.S.C. 17112(a)).

3 (3) ENERGY USE.—The term “energy use”,
4 with respect to data centers, means the total quan-
5 tity of electricity and other forms of energy con-
6 sumed on site by that data center, as measured in
7 kilowatt-hours.

8 (4) POWER USAGE EFFECTIVENESS.—The term
9 “power usage effectiveness” has the meaning given
10 the term in ISO/IEC 30134–2:2026 of the Inter-
11 national Organization for Standardization (or a suc-
12 cessor standard).

13 (5) SECRETARIES.—The term “Secretaries”
14 means the Secretary of Energy and the Secretary of
15 Agriculture.

16 (6) STATE.—The term “State” means—
17 (A) each of the several States;
18 (B) a territory of the United States;
19 (C) the Federated States of Micronesia;
20 (D) the Republic of the Marshall Islands;
21 (E) the Republic of Palau;
22 (F) an Indian tribe included on the list
23 most recently published by the Secretary of the
24 Interior under section 104 of the Federally Rec-

1 ognized Indian Tribe List Act of 1994 (25
2 U.S.C. 5131); and

3 (G) the District of Columbia.

4 (7) UNIT OF LOCAL GOVERNMENT.—The term
5 “unit of local government” means any county, par-
6 ish, city, town, township, village, or other general
7 purpose political subdivision of a State with the
8 power to levy taxes, expend Federal, State, and local
9 funds, and exercise governmental powers.

10 (8) WATER USAGE EFFECTIVENESS.—The term
11 “water usage effectiveness” has the meaning given
12 the term in ISO/IEC 30134–9:2022 of the Inter-
13 national Organization for Standardization (or a suc-
14 cessor standard).

15 (9) WATER USE.—The term “water use”, with
16 respect to a data center, means the total amount of
17 water consumed on-site by a data center, including
18 water used for cooling, as measured in gallons.

19 (b) DATA CENTER MANDATORY REPORTING AND IN-
20 FORMATION REQUIREMENT.—

21 (1) DATA COLLECTION.—

22 (A) REPORT TO STATE.—

23 (i) IN GENERAL.—Beginning not later
24 than 1 year after the date of enactment of
25 this Act but subject to subparagraph (B),

1 each data center operator with 1 or more
2 data centers in a State shall submit to that
3 State an annual report that, with respect
4 to each data center in the State with a
5 peak demand of not less than 25
6 megawatts operated by that data center
7 operator, describes—

8 (I) on-site energy use and water
9 use for the preceding calendar year,
10 including—

11 (aa) total energy use during
12 each month of that calendar
13 year;

14 (bb) if the data center relies
15 on behind-the-meter power gen-
16 eration, the method to generate
17 that power;

18 (cc) total water use and the
19 source of that water during each
20 month of that calendar year; and

21 (dd) annual average power
22 usage effectiveness and water
23 usage effectiveness;

24 (II) projected on-site energy use
25 and water use for not less than the

1 following 5 calendar years, which shall
2 include proposals for reducing the en-
3 ergy use and water use of the data
4 center and the increases in efficiency
5 that are anticipated to result from
6 those proposals; and

7 (III) such other information as
8 the State may require.

9 (ii) FORM.—A data center operator
10 shall submit a report under clause (i) in
11 such form and in such manner as the ap-
12 plicable State may require.

13 (iii) FEES AUTHORIZED.—A State
14 may, in requiring the reports described in
15 this subparagraph, assess fees on data cen-
16 ter operators to support data collection
17 under this subparagraph.

18 (B) REPORT TO ADMINISTRATOR AND SEC-
19 RETARIES.—

20 (i) IN GENERAL.—If a State does not
21 have a program to collect the information
22 described in subclauses (I) and (II) of sub-
23 paragraph (A)(i)—

6

1 (I) the State shall inform the Ad-
2 ministrator and the Secretaries joint-
3 ly; and

4 (II) a data center operator with
5 data centers in such a State shall sub-
6 mit to the Administrator and Secre-
7 taries jointly a report that, with re-
8 spect to each data center in such a
9 State with a peak demand of not less
10 than 25 megawatts operated by that
11 data center operator, describes—

12 (aa) the information de-
13 scribed in those subclauses; and

14 (bb) such other information
15 as the Administrator and Secre-
16 taries may jointly require.

17 (ii) FORM.—A data center operator
18 shall submit a report under clause (i) in
19 such form and in such manner as the Ad-
20 ministrator and Secretaries may jointly re-
21 quire.

22 (C) REPORTS TO LOCAL GOVERNMENTS.—
23 A report to a State or the Administrator and
24 the Secretaries jointly under subparagraph (A)
25 or (B) shall be made available to an affected

1 unit of local government on request and, if ap-
2 plicable, in compliance with any program estab-
3 lished by the State for the collection of those
4 reports.

5 (2) REPORTS ON PROSPECTIVE AND EXPANDED
6 DATA CENTERS.—

7 (A) REPORT TO STATE.—

8 (i) IN GENERAL.—Subject to subpara-
9 graph (B), each person seeking to con-
10 struct a data center with a projected en-
11 ergy use of not less than 25 megawatts
12 and each data center operator seeking to
13 expand a data center with a projected en-
14 ergy use of not less than 25 megawatts
15 shall submit to the State in which the new
16 or expanded data center would operate a
17 report that describes—

18 (I) as applicable—

19 (aa) the projected energy
20 use and water use and the
21 sources of energy and water of
22 the new data center during the
23 first 5 calendar years after the
24 data center begins operation; or

1 (bb) the projected increase
2 in energy use and water use as a
3 result of the expansion of a data
4 center during the first 5 calendar
5 years after completion of the ex-
6 pansion; and

7 (II) proposals for reducing the
8 energy use and water use of the data
9 center and the increases in efficiency
10 that are anticipated to result from
11 those proposals.

12 (ii) FORM.—A report submitted under
13 clause (i) shall be submitted in such form
14 and in such manner as the applicable State
15 may require.

16 (B) REPORT TO ADMINISTRATOR AND SEC-
17 RETARIES.—

18 (i) IN GENERAL.—If a State does not
19 have a program to collect the information
20 described in subparagraph (A)(i)—

21 (I) the State shall inform the Ad-
22 ministrator and the Secretaries joint-
23 ly; and

24 (II) a person seeking to construct
25 a data center and each data center

1 operator seeking to expand a data
2 center in such a State shall submit to
3 the Administrator and the Secretaries
4 jointly a report that describes, with
5 respect to the proposed data center or
6 the expansion of the data center, the
7 information described in that subpara-
8 graph.

9 (ii) FORM.—A person or data center
10 operator shall submit a report under clause
11 (i) in such form and in such manner as the
12 Administrator and Secretaries may jointly
13 require.

14 (C) REPORTS TO LOCAL GOVERNMENTS.—
15 A report to a State or the Administrator and
16 the Secretaries jointly under subparagraph (A)
17 or (B) shall be made available to an affected
18 unit of local government on request and, if ap-
19 plicable, in compliance with any program estab-
20 lished by the State for the collection of those
21 reports.

22 (3) AGGREGATED REPORTS.—

23 (A) REPORTS FROM STATES.—

24 (i) IN GENERAL.—Each State that re-
25 ceives a report under paragraph (1)(A) or

1 (2)(A) shall submit to the Administrator
2 and the Secretaries jointly an annual re-
3 port that describes the data collected pur-
4 suant to all such reports submitted to the
5 State under paragraph (1)(A) or (2)(A), as
6 applicable, during the previous year in
7 such a manner as may be required jointly
8 by the Administrator and the Secretaries.

9 (ii) ANONYMIZED DATA.—The reports
10 submitted under clause (i) shall only in-
11 clude anonymized and aggregated informa-
12 tion.

13 (B) PUBLIC REPORT.—The Administrator
14 and the Secretaries shall jointly make publicly
15 available on an annual basis a report that—

16 (i) describes—

17 (I) using information collected
18 from the reports under paragraphs
19 (1)(B) and (2)(B) and subparagraph
20 (A)(i), the aggregated total energy use
21 and water use of data centers in the
22 United States, by region, during the
23 calendar year covered by the report;

11

1 (II) regional impacts of data cen-
2 ters on water and electricity rates for
3 consumers and communities;

4 (III) the environmental impacts
5 resulting from the operation of data
6 centers, including—

7 (aa) water and energy
8 sources, supply, quality, and reli-
9 ability impacts on consumers and
10 communities; and

11 (bb) other direct or indirect
12 impacts; and

13 (IV) recommendations for best
14 practices to limit the impacts de-
15 scribed in subclauses (II) and (III);

16 (ii) includes, based on the reports re-
17 ceived by the Administrator and the Secre-
18 taries jointly under paragraphs (1)(B) and
19 (2)(B) and subparagraph (A)(i) for the
20 calendar year covered by the report, the
21 aggregated projection of energy use and
22 water use by data centers for the 5 years
23 following that calendar year; and

1 (iii) does not include any information
2 that the Administrator and the Secretaries
3 jointly determine is proprietary.

4 (4) RULEMAKING.—

5 (A) FEDERAL AUTHORITY.—The Adminis-
6 trator and the Secretaries may jointly promul-
7 gate such regulations as may be necessary to
8 carry out this subsection.

9 (B) STATE AUTHORITY.—A State may pro-
10 mulgate such regulations in accordance with the
11 laws of the State as may be necessary to carry
12 out this subsection.

13 (5) ENFORCEMENT.—

14 (A) STATE ENFORCEMENT.—If a State es-
15 tablishes a program for collecting data pursuant
16 to paragraphs (1)(A) and (2)(A), the State may
17 issue fines and otherwise engage in other en-
18 forcement activities to comply with the require-
19 ments of this section and applicable State laws.

20 (B) FEDERAL ENFORCEMENT.—

21 (i) IN GENERAL.—Subject to clause
22 (ii), the Administrator and the Secretaries
23 shall jointly fine a data center operator
24 that negligently violates a requirement of
25 paragraph (1)(B) or (2)(B) \$20,000 for

1 each day that the data center operator is
2 in violation of that requirement.

3 (ii) INFLATION ADJUSTMENT.—On
4 the date that is 3 years after the date of
5 enactment of this Act, and every 3 years
6 thereafter, the Administrator and the Sec-
7 retaries shall jointly adjust the amount de-
8 scribed in clause (i) to reflect changes for
9 the 36-month period ending the preceding
10 November 30 in the Consumer Price Index
11 for All Urban Consumers published by the
12 Bureau of Labor Statistics of the Depart-
13 ment of Labor.

14 (c) FEES.—The Administrator and the Secretaries
15 shall jointly assess fees on data center operators that sub-
16 mit a report under paragraph (1)(B) or (2)(B) of sub-
17 section (b) in an amount necessary to carry out this sec-
18 tion and may, without further appropriation, use the
19 amounts collected to carry out those paragraphs.