manatt

STATE AND LOCAL GOVERNMENT ADVOCACY AND PUBLIC-PRIVATE PARTNERSHIPS GROUP

AI / Data Centers Newsletter – November 2026

Overview

- The 2026 midterm elections demonstrated how concerns about AI and data center expansion can resonate with voters, particularly around jobs, electricity costs, and community impacts. There have been bipartisan calls for a pause on advanced AI development, congressional testimony from leading AI executives, and restrictions on the development of superintelligence, while others have emphasized worker protections, consumer safeguards, and greater public oversight without limiting AI's potential economic benefits.

- House Minority Leader Hakeem Jeffries (D-NY) has assembled the Democratic AI Commission to develop a broader oversight and policy agenda focused on Big Tech, AI, and data centers following Democrats' victories in the 2026 midterm elections. Potential areas of congressional scrutiny in the 120th Congress include AI's effects on workers and automation, the energy and infrastructure demands associated with data center growth, environmental impacts, consumer protections, and the safety and national security implications of advanced AI models.

- Congressional policy debates are unfolding amid growing scrutiny of the environmental footprint of data centers. A peer-reviewed study published in Nature Sustainability by Harvard researchers estimated that 403 hyperscale data centers, representing roughly two-thirds of U.S. hyperscalers, generated 25.7 million metric tons of carbon dioxide emissions between May 2024 and April 2025, comparable to Denmark's annual emissions. The study provides the first peer-reviewed facility-level estimate of U.S. data center carbon emissions since the AI-driven buildout began.

manatt

STATE AND LOCAL GOVERNMENT ADVOCACY AND PUBLIC-PRIVATE PARTNERSHIPS GROUP

2026 Midterms Update

Read Manatt's analysis of where Congress might be headed on data centers

Data center development was a significant issue in the 2026 midterm elections, with voters backing restrictions on data center development in local ballot measures and voting against candidates who supported the buildout. As Democrats assume the majority in the House and Senate in the 120th Congress, they are expected to use subpoenas and hearing to conduct oversight of the industry and debate the array of legislative proposals.

- Voters backed restrictions on data center development in 40 of 41 local ballot measures across 10 states, with Harwood, North Dakota as the sole exception. Ohio accounted for more than half of the measures, with 21 on the ballot. Most were decided by wide margins, with the side favoring restrictions receiving more than 70 percent of the vote in 30 of the 41 contests. The measures varied considerably, including megawatt caps, often applying to facilities exceeding 25 megawatts, temporary moratoriums, rezoning referendums, advisory questions, and outright bans.

- An exit poll found that 56 percent of voters considered data centers a crucial or major factor in their voting decisions, with Democrats placing greater importance on the issue than Republicans.

- Democrats who campaigned on pausing or regulating new projects won key races in Ohio, Wisconsin, Georgia, and Texas.

    - **Texas:** Texas accounts for more than a quarter of planned American data center capacity growth. Senator-elect James Talarico campaigned on his "Hold Data Centers Accountable Plan" which would repeal the state's data center sales tax exemption and require developers to pay for their own

power and water. Governor-elect Gina Hinojosa pledged an immediate statewide moratorium until the Texas Legislature enacts protections.

- **Ohio:** Ohio had 21 of the 41 local ballot measures on data centers – all of which voters decided in favor of restrictions. Senator-elect Sherrod Brown made data centers a major issue in his campaign calling his opponent "the face of data centers in Ohio."

- **South Carolina:** Senator-elect Annie Andrews called for a two-year moratorium on new data center projects and branded her opponent "Data Center Darline."

- Several newly elected officials made data center and technology policy prominent parts of their campaigns. Proposals included temporary moratoriums, eliminating data center tax incentives, requiring developers to cover their own power and water costs, preserving local authority over siting decisions, and increasing transparency around data center agreements. Other incoming members advanced broader proposals addressing AI accountability and oversight:

  - **Senator-elect Abdul El-Sayed (D-MI):** released an AI Under Democracy plan with 22 proposals, including a democratically-elected board control at AI companies, an AI wealth dividend, and a series of actions centered around testing and guardrails.

  - **Representative-elect Manny Rutinel (D-CO):** argued that AI companies should be made liable for harms and require independent safety reviews before releases

  - **Representative-elect Matt Little (D-MN):** emphasized data center NDA bans, and deepfakes.

- The election results have fueled calls for greater congressional scrutiny of the AI industry. Notably, Rep. Greg Casar (D-TX), Chair of the Congressional Progressive

Caucus said, "The House Democratic majority must make it a top priority to protect Americans' jobs, freedom, and lives from AI billionaires…AI company CEOs should be called to testify under oath."

Administration Updates

The Trump administration has faced growing concerns over the impact of data centers' rapidly increasing electricity demand on grid reliability and consumer energy costs. The Army has sought to address community concerns surrounding proposed projects on military lands. Meanwhile, President Trump has continued to speak in support of data centers as a national security imperative.

- On October 13, Jordan Gillis, Assistant Secretary of the Army for Installations, Energy, and Environment, stated that the Army plans to host roundtables and open houses to engage families living on military installations regarding proposed data center projects. In March, the Army announced the selection of two global investment firms to develop and manage commercial data centers on underused land at Fort Bliss, Texas, and Dugway Proving Ground, Utah. Assistant Secretary Gillis noted that neither the Army nor its private-sector partners have begun construction and that the projects remain in the agreement phase. He added that the Army has no additional projects to announce at this time but will continue to evaluate potential opportunities.

- On October 3, during a campaign rally in Ohio, President Trump spoke in support of data centers, saying "We want them…Look, there's so much money to be made for Ohio, you can't just turn them off. They'll go to China."

Legislative Updates

Members of Congress have been introducing legislation to protect consumers from rising electricity bills caused by increased energy usage from data centers in communities.

These proposals are expected to carry into the 120th Congress but will need to be reintroduced.

- On November 11, Sen. Josh Hawley (R-MO) endorsed a temporary pause on data center construction. Sen. Hawley is the first Senate Republican to back a national data center moratorium.

- On Monday, November 16, the Senate voted 70-27 to advance the updated BAAJA (S. 5653). The updated bill would create a new Data Center Community Assistance Program within the U.S. Department of Energy (DOE). Under this program, entities would be able to request technical assistance from DOE about potential energy, water, and economic development impacts of data center developments.

- On November 5, Rep. Bill Foster released a legislative proposal that would direct the Federal Reserve and other financial regulators to develop, test, and release open-source software to help combat risks from AI-driven financial services systems.

- On October 30, Sens. Alex Padilla (D-CA), Ron Wyden (D-OR), and Jeff Merkley (D-OR) sent a letter to Department of the Interior (DOI) Secretary Doug Burgum asking that he cease efforts to use public lands for the development of data centers.

- On October 23, Sen. Ron Wyden (D-OR), the presumptive Chair of the Finance Committee in the 120th Congress, released a plan to create a new, as-yet-undetermined excise tax on the gross receipts attributable to data center services. His plan also limits data centers' ability to claim tax breaks for depreciation, research and development, investments in Opportunity Zones, and benefits associated with real estate investment trusts.

- On October 15, Sen. Bernie Moreno (R-OH) introduced the Recapturing Excessive Corporate Largesse through Accountability and Incentive Measures (RECLAIM)

Act (S. 5689), which would impose a 100 percent tax on any state or local incentive for AI-powering data centers. The bill would impose the tax on any loans, grants, cooperative agreements or tax deductions, credits, and abatements given by localities to covered data centers.

  - The bill would also ban federal incentives for data centers and establish a sense of Congress, a nonbinding opinion of the legislative body, that "States and political subdivisions thereof should promptly repeal or reform any tax incentive programs that are specific to data centers."

- On October 7, Sen. Maria Cantwell (D-WA), Ranking Member of the Senate Commerce, Science, and Transportation Committee, released an Artificial Intelligence (AI) governance framework built upon six principles. Sen. Cantwell argues that clear safety standards, continuous testing, and reporting of serious failures are required to manage risks from advanced AI systems. The framework's six principles are:
  - Clear, Enforceable Federal Safety Standards for Frontier AI Development and Deployment
  - Continuous Testing, Reviewing and Auditing to Verify Standards are Met
  - Transparency and Accountability Through Disclosure, Oversight and Consequences
  - Public Private Partnerships to Benefit the Public Good
  - Protections for Children, Support for Workers and Human Oversight of Consequential AI
  - U.S. Led Global Cooperation in Adopting and Upholding Common AI Safety and Security Standards

- On September 30, the Senate failed to advance the Ratepayer Protection Act (H.R. 9340 / S. 5028) in a 57-32 vote, with only four Democrats in favor. The bill requires states to consider adopting a federal standard directing data centers to pay the full cost of new generation and transmission upgrades needed to serve their facilities. Democrats opposed the bill, arguing it does not go far enough to

address rising energy costs tied to data centers. The House had passed the legislation 417-3 shortly before leaving Washington for recess.

- Also on September 30, Sens. Lee (R-UT), Shelley Moore Capito (R-WV), Martin Heinrich (D-NM), and Sheldon Whitehouse (D-RI) released the Bipartisan American Affordability and Jobs Act permitting reform package. The legislation contains two provisions on data centers and will reportedly receive a vote after the midterms.
    - **Section 2107. Ratepayer Protection:** This provision directs FERC to update its transmission pricing policies and authorizes states and utilities to ensure that large data centers, AI facilities, cryptocurrency mining operations, and other high-density computing loads pay the full costs associated with serving their demand, including transmission, generation, distribution, storage, and other infrastructure upgrades. It prohibits shifting those incremental costs onto other ratepayers, requires financial assurances and continued cost recovery if a facility exits service early, and gives states broad authority to impose specialized rates, require new generation resources, conduct competitive service solicitations, and prioritize protections for existing customers and industrial users.
    - **Section 2114. Collection of Data on Computation Load Entities**: This provision requires the Energy Information Administration (EIA) to begin collecting and reporting electricity load data from data centers and other large computational facilities, including those used for artificial intelligence, cloud computing, and cryptocurrency mining.
- On September 29, Sen. Ruben Gallego (D-AZ) introduced a resolution (S.Res.918) to establish an artificial intelligence (AI) select committee. The committee would have a broad jurisdiction over AI legislation and oversight, including subpoena power. However, all AI-related bills would not be required to go through the committee, allowing some to also be referred to other panels that exercise

jurisdiction over the technology, such as the Senate Commerce, Science, and Transportation Committee.

- On September 24th, Senators Mark Kelly (D-AZ) and Ruben Gallego (D-AZ), along with Reps. Yassamin Ansari (D-AZ-03), Greg Stanton (D-AZ-04) and Adelita Grijalva (D-AZ-07) sent a letter to Department of the Interior (DOI) Secretary Doug Burgum to request additional information following reporting that the Bureau of Land Management (BLM) is considering four data center projects on federal lands in the State of Arizona. BLM has not yet issued a public response.

- On September 23, Sens. Elizabeth Warren (D-MA), Richard Blumenthal (D-CT), and Chris Van Hollen (D-MD) released a report showing data center operators covered only some of the costs associated with data center buildout despite commitments to pay for the full energy costs. The senators said they found that while the data center operators have said they support fronting the "full energy costs" associated with their projects, they are in fact referring to the cost of infrastructure needed to support their facilities, not the downstream cost impacts for ratepayers.

Summary of Pertinent Legislation

Many of the bills introduced in the 119th Congress are intended to serve as starting points for negotiations during the lame-duck session in November and December and into the 120th Congress.

Bill	Name	Sponsor(s)	Description	Status of Legislation
H.R. 9340 / S. 5028	Ratepayer Protection Act	Reps. Gabe Evans (R-CO) and Kathy Castor (D-FL); Sen.	Establishes a Federal standard relating to the recovery of the full, incremental costs of upgrades that serve large-load customers,	Passed in House on Sept. 16 (417-3 vote); Failed to advance in the Senate

		Jon Husted (R-OH)	and for other purposes.	
S. 5689	RECLAIM Act	Sen. Bernie Moreno (R-OH)	Imposes a 100 percent tax on any state or local incentive for AI-powering data centers.	Introduced on October 15; Referred to the Senate Finance Committee
H.R.___ (Discussion Draft)	CLAIM Act	Rep. Lori Trahan (D-MA)	Holds developers liable for AI conduct that would constitute negligence, an intentional tort, or a crime if committed by a person	Introduced on October 7
S. 5645	Data Center Community Empowerment Act of 2026	Sens. John Curtis (R-UT) and Lisa Blunt Rochester (D-DE)	Establishes a program within the Department of Energy to give communities access to technical expertise to better understand the costs and benefits of proposed data center developments	Introduced on October 1; Referred to the Senate Energy and Natural Resources Committee
S. 5640	Data Center Transparency Act of 2026	Sens. John Curtis (R-UT) and Lisa Blunt Rochester (D-DE)	Requires federal reporting on the environmental impacts of large data centers that consume at least 50 megawatts of power every day	Introduced on October 1; Referred to the Senate Environment and Public

				Works Committee
S. 5518	Make AI Work for Americans Act	Sen. Mark Kelly (D-AZ)	Places three excise taxes, including a 5 percent digital advertising tax, an AI usage tax, and a 50 percent excess profits tax, on AI companies to fund a federal trust fund dedicated to retraining the American workforce.	Introduced on September 24; Referred to the Senate Finance Committee
H.R. 10448	Reverse Big Ugly Tax Breaks for Data Centers Act	Reps. Kristen McDonald Rivet (D-MI-8) and Don Davis (D-NC-1)	Excludes data centers from being eligible for Opportunity Zone tax benefits and from being able to take the 100 percent bonus depreciation tax deduction.	Introduced on September 16; Referred to House Ways and Means Committee
H.R. 10118	No Data Center NDAs Act	Rep. Tom Barrett (R-MI)	This bill would prohibit Members of Congress from signing any nondisclosure agreement with any state or local government entity as a condition of receiving access to information on the planning/development	Introduced on August 20; Referred to House Administration Committee

			of a data center, including information with respect to planned/received investments, location planning, construction designed, or water or energy resource consumption.	
H.R. _____ (Discussion Draft)	Water Cost Accountability Act	House E&C Committee	This bill would require states receiving DWSRF grants to prohibit public water systems from passing on the costs of connecting data centers or expanding water system capacity to serve data centers to other customers. Instead, those costs would be borne by the data center owner or operator. This bill applies to water infrastructure required for the construction of data centers.	Discussion draft considered in House E&C Environment Subcommittee hearing on Sept. 3.

manatt

STATE AND LOCAL GOVERNMENT ADVOCACY AND PUBLIC-PRIVATE PARTNERSHIPS GROUP

S. 5199	Guarding Ratepayers from Increased Demand-costs (GRID) Savings Act of 2026	Sen. Martin Heinrich (D-NM)	Amends the Federal Power Act to clarify the jurisdiction of the Federal Energy Regulatory Commission over the interconnection of large loads to the transmission system, to provide for standards and procedures for the interconnection of large loads, and for other purposes.	Introduced on July 30; Referred to the Senate Energy and Natural Resources Committee
S. 4559	Energy Cost Fairness and Reliability Act of 2026	Adam Schiff (D-CA)	Requires large electricity users such as AI data centers to pay the full cost of power grid upgrades needed to support their operations.	Introduced on June 20; Referred to Senate Energy and Natural Resources Committee
H.R. 8516	The American Leadership in AI Act	Reps. Ted Lieu (D-CA-36) and Hay Obernolte (R-CA-23)	Improves AI standards and evaluation, expands research infrastructure and R&D, modernizes federal AI adoption and risk management, and expands AI education and	Introduced on April 27; Referred to multiple committees, including the House Science, Space, and

			workforce opportunities.	Technology Committee
S. 4214	Artificial Intelligence (AI) Data Center Moratorium Act	Sen. Bernie Sanders (I-VT)	Imposes a moratorium on the construction of new data centers until legislation is enacted that safeguards the public from the dangers of artificial intelligence.	Introduced on March 25; referred to the Senate Commerce, Science, and Transportation Committee
H.R. 8037	Protect American AI Act of 2026	Rep. Michael Baumgartner (R-WA-5)	Limits the effect of litigation on the environmental application process for data centers and associated infrastructure.	Introduced on March 24; Referred to the House Judiciary and Energy and Commerce Committees
H.R. 7858	Data Center Community Impact Act	Rep. Bonnie Watson Coleman (D-NJ-12)	Authorizes a federal study on the environmental, economic, and public health impacts of data centers, with a focus on communities of color and low-income communities.	Introduced on March 5; Referred to the House Energy and Commerce Committee
S. 3852	Guaranteeing Rate Insulation from Data	Sens. Josh Hawley (R-MO) and Richard	This bill, referred to the Senate Energy and Natural Resources Committee, is one of	Introduced on February 11; Referred to Senate Energy

	Centers (GRID) Act	Blumenthal (D-CT)	the only bipartisan efforts aimed at keeping data center growth from raising consumer electricity costs. The bill would prohibit new data centers with power demand of 20 megawatts or more from drawing any power, including backup power, from the electric grid. Existing facilities would have ten years to migrate off-grid and could stay grid-connected in the interim.	and Natural Resources Committee
S. 3682	Power for the People Act	Sen. Chris Van Hollen (D-MD)	Prevents data center costs from being passed on to households and small businesses. It would allow data centers to remain on the grid as long as they're paying for the needed increased capacity.	Introduced on January 15; Referred to Senate Energy and Natural Resources Committee

manatt

STATE AND LOCAL GOVERNMENT ADVOCACY AND PUBLIC-PRIVATE PARTNERSHIPS GROUP

H.R. 7066	Stopping Hikes in Electricity from Large Load Demands (SHIELD) Act	Rep. Mike Levin (D-CA-49)	Directs state public utilities commissions to consider new federal standards to ensure residential customers are shielded from data center power costs.	Introduced on January 14; Referred to the House Energy and Commerce Committee
S. 3585	Decentralized Access to Technology Alternatives (DATA) Act	Sen. Tom Cotton (R-AR)	Incentivizes, rather than mandates, data center operators to build their own energy supplies by loosening federal regulations.	Introduced on January 7; Referred to Senate Energy and Natural Resources Committee