manatt

STATE AND LOCAL GOVERNMENT ADVOCACY AND PUBLIC-PRIVATE PARTNERSHIPS GROUP

AI / Data Centers Newsletter – September 2026

Overview

- The administration, Congress, political candidates, and state and local governments are continuing to grapple with accelerating data center development, as public opposition grows and policymakers increasingly diverge over how best to respond.
- Some lawmakers and candidates have recently referenced data center development in discussions about federal tax policy, including the Opportunity Zone program that was extended in the One Big Beautiful Bill (H.R.1) (OBBB). Originally created to encourage investment in economically distressed communities, the program has also been cited by some policymakers as a mechanism that could support data center development.
- House Minority Leader Hakeem Jeffries (D-NY) has criticized the provision, arguing that "every single House Republican but one or two voted to unleash data centers on the American people in an unfettered fashion," House Ways and Means Chair Jason Smith (R-MO) noted that data centers are just one of many possible uses of a program that was never designed to support one industry specifically. Currently, approximately 14 percent of data centers and 17 percent of planned facilities are located within Opportunity Zones.
- With the midterm elections approaching and public sentiment toward data centers becoming increasingly negative, Democrats have focused their political messaging on the issue. House Democrats' campaign arm recently updated a webpage it uses to communication with donors, signaling them to focus on data centers in 11 different battleground races, either by calling for negative ads that connect data centers with candidate corruption or resource scarcity or requesting more polling on the issue.
- State governments have also increasingly taken steps to strengthen oversight of data center and AI development. For example, Virginia Governor Abigail Spanberger signed an executive order implementing data center accountability

standards; Texas Governor Greg Abbott ordered state environmental regulators to pause their review of data center permit applications until audits can be performed to evaluate how the projects affect the power grid and water supplies; California Governor Gavin Newsom issued an executive order to accelerate independent oversight of AI companies; and Maryland Governor Wes Moore signed an executive order to tighten oversight of new data centers.

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. However, federal agencies, such as the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) have submitted proposals that would accelerate development of data centers. President Trump also recently posted on social media in support of data center development.

- On September 10, Department of Transportation (DOT) Secretary Sean Duffy published an op-ed, proposing to turn highway and railway rights of way owned by states and cities into shared utility corridors through public-private partnerships. The initiative aims to streamline the deployment of energy infrastructure, potentially accelerating the development of data centers and manufacturing facilities.

- On September 4, the Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) announced a Supplemental Notice of Proposed Rulemaking, entitled "Updated Definition of 'Waters of the United States.'" Under the supplemental proposal, Clean Water Act permitting requirements would apply only to waterways that flow year-round and the wetlands directly connected to them. By reducing federal permitting requirements, the proposal could make it easier to build data centers, energy pipelines, mines, and other developments.

- On August 31, President Trump posted on Truth Social, saying that "The only reason that communities throughout the U.S.A. should not want Data Centers is if

they want to end up being backwards and poor. If they want to be successful and rich, with far lower taxes and jobs all over the place, let Data Reign."

- On August 12, the U.S. Environmental Protection Agency (EPA) announced the revitalization of the Local Government Advisory Committee (LGAC), an advisory group comprised of state and local officials. The LGAC will discuss the challenges local governments face when navigating the siting and development of AI infrastructure and data centers in a sustainable manner. The Committee's work will be discussed at a virtual public meeting this September.

Congressional 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. The debate over data centers has become increasingly tense before the midterm elections, as both parties seek to assuage voters' concerns.

House Passes Ratepayer Protection Act; Senate Movement Stalled

- On September 16, the House passed the Ratepayer Protection Act (H.R.9340) in a 417-3 vote under suspension of the rules, a procedure that allows for expedited passage and requires a two-thirds majority for passage. The next day, Sen. Jon Husted's (R-OH) attempt to pass an identical measure in the Senate (S.5028) by unanimous consent failed due to Senate Energy and Natural Resources Ranking Member Martin Heinrich's (D-NM) objection. Ranking Member Heinrich argued that the measure did not go far enough to force data centers to pay for their energy costs.

- The Ratepayer Protection Act would ensure that any company looking to build a data center would be required to pay for the related costs of building new power generation, transmission lines, and other upgrades. State regulators would be required to consider the new large-load standard but could ultimately reject it. States with comparable policies in place could be exempt.

- Ranking Member Heinrich offered his own bill, the GRID Savings Act of 2026 (S.5199), as an alternative but Sen. Bernie Moreno (R-OH) objected. The GRID

Savings Act of 2026 would go further than the Ratepayer Protection Act by directing the Federal Energy Regulatory Commission to issue rules for large electricity customers connecting to the grid to pay for necessary grid upgrades. The bill would force companies seeking to get linked to the grid to go through a detailed review process, pay for the upgrades needed to connect, and submit financial commitments to do so.

House E&C Committee Considers Discussion Draft of Water Cost Accountability Act

- On September 3, the House Energy and Commerce (E&C) Environment Subcommittee held a hearing, entitled *Reliable Water in the Digital Age: Examining Legislation to Strengthen Drinking Water Systems and Protect Ratepayers*. During the hearing, lawmakers examined a discussion draft of the Water Cost Accountability Act of 2026.
    - The Water Cost Accountability Act of 2026 aims to ensure ratepayers do not bear infrastructure and water consumption costs generated by large-scale data centers, similar to the Ratepayer Protection Act (H.R. 9340) for electric utility customers. The bill would require each state receiving a capitalization grant through the Drinking Water State Revolving Fund (DWSRF) to prohibit public water systems in their state from recovering incremental costs associated with connecting a data center or expanding system capacity to serve a data center from any customer other than the data center's owner or operator.
    - Full Committee Chairman Brett Guthrie (R-KY) characterized the measure as a proposal designed to ensure that data centers, rather than households and small businesses, bear the costs of infrastructure investments needed to serve them. Chair Guthrie emphasized that decisions regarding whether to host data centers should remain local but argued that ratepayers deserve protection from data center-related water costs.
    - Full Committee Ranking Member Frank Pallone (D-NJ) supported the bill's intent but argued that it does not adequately address broader concerns surrounding data center development, including environmental and PFAS-

related impacts on local communities. He suggested Congress should consider additional federal guardrails governing data center projects.

Summary of Pertinent Legislation

Bill	Name	Sponsor(s)	Description	Status of Legislation
H.R. 9340	Ratepayer Protection Act	Reps. Gabe Evans (R-CO) and Kathy Castor (D-FL)	Establishes a Federal standard relating to the recovery of the full, incremental costs of upgrades that serve large-load customers, and for other purposes.	Passed in House on Sept. 16 (417-3 vote)
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 of a data center, including information with respect to planned/received investments, location planning, construction designed, or water or	Introduced on August 20; Referred to House Administration Committee

			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.
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	Introduced on July 30; Referred to the Senate Energy and Natural Resources Committee

			procedures for the interconnection of large loads, and for other purposes.	
S.3852	Guaranteeing Rate Insulation from Data Centers (GRID) Act	Sens. Josh Hawley (R-MO) and Richard Blumenthal (D-CT)	This bill, referred to the Senate Energy and Natural Resources Committee, is one of 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.	Introduced on February 11; Referred to 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

manatt

STATE AND LOCAL GOVERNMENT ADVOCACY AND PUBLIC-PRIVATE PARTNERSHIPS GROUP

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
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
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.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

manatt

STATE AND LOCAL GOVERNMENT ADVOCACY AND PUBLIC-PRIVATE PARTNERSHIPS GROUP

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.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
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
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 workforce opportunities.	Introduced on April 27; Referred to multiple committees, including the House Science, Space, and Technology Committee