

2026 South Dakota Legislature

Senate Bill 235**AMENDMENT 235A
FOR THE INTRODUCED BILL**

1 **An Act to protect residents from increased utility costs and utility shortages caused**
2 **by data centers, and to clarify authority to regulate data centers, ~~and to~~**
3 **~~modify provisions pertaining to the purchasing of goods and services by a~~**
4 **~~data center.~~**

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 ~~Section 1. This Act is known as the "Data Center Bill of Rights for Citizens."~~

7 ~~Section 2. That a NEW SECTION be added to chapter 10-45:~~

8 ~~There are exempted from the provisions of this chapter, and the tax imposed by it, the gross~~
9 ~~receipts from a purchase made by a data center, as defined in section 4 of this Act.~~

10 ~~Section 3. That a NEW SECTION be added to chapter 10-46:~~

11 ~~There are exempted from the provisions of this chapter, and the tax imposed by it, the gross~~
12 ~~receipts from a purchase made by a data center, as defined in section 4 of this Act.~~

13 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

14 For purposes of this chapter, "data center" means a centralized repository for the
15 dissemination, management, processing, and storage of electronic data and information
16 with a total design load greater than one hundred megawatts.

17 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

18 The operator of a data center shall pay for all fair, just, and reasonable costs
19 associated with the provision of electricity to the data center.

20 A provider of electricity ~~may not:~~

~~(1) Increase fees, rates, or surcharges imposed on residential customers for the purpose of financing, offsetting, or subsidizing a data center's infrastructure costs, service demands, or utility consumption; or~~

~~(2) Allocate to residential customers any cost associated with the distribution, generation, or transmission infrastructure, or any other cost, attributable to the data center shall establish and maintain separate terms and conditions for electric service applicable to a data center. The terms and conditions must require that the data center reimburse any provider of electricity for all costs fairly attributed to the data center for service demand and utility consumption, including costs incurred to serve the data center if the data center departs the system or materially reduces its load.~~

Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 49:

The state may not preempt or otherwise limit the authority of the governing body of a county, municipality, or other political subdivision to adopt ordinances and resolutions limiting, prohibiting, or otherwise regulating the construction, development, or operation of data centers.

Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 49:

Prior to commencing operation in this state, the operator of a data center shall provide notice of projected water consumption to each local water provider in the area in which the data center is proposed to be located. Each water provider receiving notice pursuant to this section shall determine whether the data center's projected water consumption is compatible with the local water supply and issue that determination in writing to the operator. The operator shall present a copy of each notice and determination to the Board of Water Management.

If the board receives a determination from each applicable water provider that the data center's projected water consumption is compatible with the local water supply, the board must issue, to the operator and the general public, a written statement that the operator has satisfied the requirements of this section.

Notwithstanding the board's issuance of a written statement pursuant to this section, the data center may not consume an amount of the local water supply exceeding limits established by order of the board, after allocation to residential and essential public services. In establishing allocation limits under this section, the board shall seek to ensure water availability and prevent disproportionate use of water by data centers.

1 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

2 The operator of a data center that is authorized to operate in this state pursuant
3 to this chapter, shall, at the time and in the manner prescribed by the Board of Water
4 Management, submit to the board a semi-annual report regarding the data center's water
5 use. The report must contain average usage data and certify compliance with this section.
6 The board shall make the usage data contained in the report available to the public.

AMENDED