STATE OF NEW YORK

10852--A

IN ASSEMBLY

April 8, 2026

Introduced by M. of A. KELLES, SHIMSKY, GLICK, SIMON, STIRPE -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the economic development law, the general municipal law and the environmental conservation law, in relation to enacting the "stop subsidizing data centers act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "stop subsidizing data centers act".

§ 2. Section 2 of the public authorities law is amended by adding a new subdivision 7 to read as follows:

7. "data center" shall mean a facility primarily housing computer systems of the kind typically associated with telecommunications and/or data storage infrastructure.

§ 3. Section 187 of the economic development law is amended by adding a new subdivision (h) to read as follows:

(h) Notwithstanding any other provision of law, no application for economic power allocation shall be approved under this section where such allocation would be for the operation of a data center, as defined by section two of the public authorities law.

§ 4. Paragraph (a) of subdivision 13-a of section 1005 of the public authorities law, as added by section 3 of part CC of chapter 60 of the laws of 2011, is amended to read as follows:

(a) Notwithstanding any other provision of law to the contrary, but subject to the terms and conditions of federal energy regulatory commission licenses, to allocate, reallocate or extend, directly or by sale for resale, up to nine hundred ten megawatts of recharge New York power to eligible applicants located within the state of New York upon the recommendation of the New York state economic development power allocation board pursuant to section one hundred eighty-eight-a of the economic development law**; provided, however, that no such allocation**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14850-05-6

shall be approved where such allocation would be for the operation of a data center.

§ 5. The opening paragraph of paragraph (a) of subdivision 13 of section 1005 of the public authorities law, as amended by chapter 645 of the laws of 2006, is amended to read as follows:

Criteria for eligibility for expansion, replacement and preservation power. Each application for an allocation for expansion, replacement or preservation power shall be evaluated by the trustees under the criteria [~~which~~] provided under this paragraph; provided, however, that no application for allocation for expansion, replacement or preservation power shall be approved where such allocation would be for the operation of a data center. The criteria to be evaluated by the trustees for applications for allocation for expansion, replacement or preservation power shall include but need not be limited to:

§ 6. Section 874 of the general municipal law is amended by adding a new subdivision 13 to read as follows:

(13) (a) Any agreement executed by an agency providing financial assistance to a data center project shall include provisions requiring the return of all or part of such financial assistance, including all or part of the amount of any tax exemptions, where the recipient fails to create or maintain the number of full-time jobs identified in the project application or agreement within five years of project completion. Such agreement shall provide for mandatory claw back of financial assistance upon a material shortfall in job creation or retention, as determined by the agency pursuant to written standards adopted by such agency.

(b) Any recipient of financial assistance for a data center project shall submit an annual certification of compliance with the applicable job creation and retention requirements established pursuant to paragraph (a) of this subdivision for a period of five years following project completion.

(c) Financial assistance shall not be awarded for any data center project in an amount exceeding twenty-five thousand dollars for each full-time job anticipated to be created by such project, as indicated in the project application.

(d) Financial assistance shall not be awarded for any data center project that, upon completion, is capable of consuming more than twenty megawatts during normal operations.

(e) For the purposes of this subdivision:

(i) the term "financial assistance" shall include, but not be limited to, sales tax exemptions, mortgage recording tax exemptions, and real property tax exemptions; and

(ii) the term "data center" shall have the same meaning as defined by section two of the public authorities law.

§ 7. Subdivision 6 of section 8-0111 of the environmental conservation law, as added by chapter 612 of the laws of 1975, is amended to read as follows:

6. Lead Agency. When an action is to be carried out or approved by two or more agencies, the determination of whether the action may have a significant effect on the environment shall be made by the lead agency having principal responsibility for carrying out or approving such action and such agency shall prepare, or cause to be prepared by contract or otherwise, the environmental impact statement for the action if such a statement is required by this article. In the event that there is a question as to which is the lead agency, any agency may submit the question to the commissioner and the commissioner shall designate the

lead agency, giving due consideration to the capacity of such agency to fulfill adequately the requirements of this article. **The department shall be the mandatory lead agency for any action capable of consuming over fifty megawatts during normal operations.**

§ 8. Section 8-0109 of the environmental conservation law is amended by adding a new subdivision 10 to read as follows:

10. An environmental impact statement shall be prepared for any action found to be located within ten miles of a federally recognized Indian nation's territory. Prior to the preparation of such environmental impact statement, the applicant shall consult with such Indian nation, and include any comments submitted by such Indian nation pursuant to such consultation in its environmental impact statement.

§ 9. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.