

119TH CONGRESS
1ST SESSION

S. 1475

To amend the Clean Air Act to establish requirements on the collection of electricity consumption data and emissions standards for servers and other computing equipment used for cryptocurrency mining, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2025

Mr. WHITEHOUSE (for himself and Mr. FETTERMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to establish requirements on the collection of electricity consumption data and emissions standards for servers and other computing equipment used for cryptocurrency mining, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Cloud Act of
5 2025”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) data centers are estimated to account for
2 approximately—

3 (A) 1 percent of global electricity demand;
4 and

5 (B) 4 percent of United States electricity
6 use;

7 (2) the growing demand for information tech-
8 nology and artificial intelligence will increase the de-
9 mand for data center services;

10 (3) the global COVID–19 pandemic has further
11 increased the demand described in paragraph (2) be-
12 yond previous projections;

13 (4) data centers are projected to account for up
14 to 12 percent of United States electricity use by
15 2028;

16 (5) future electricity consumption and efficiency
17 trends will be determined by management practices,
18 demand for services, and adoption of efficient tech-
19 nologies;

20 (6) proof-of-work cryptocurrencies are by design
21 an increasingly energy intensive process;

22 (7) studies estimate that—

23 (A) the total network hashrate for Bitcoin
24 mining in the United States has increased 739

1 percent between September 2020 and January
2 2022; and

3 (B) as of July 2021, the greatest share of
4 Bitcoin mining occurs in the United States;

5 (8) there is a lack of transparency regarding
6 the energy sources used to power domestic
7 cryptomining and many data center operations; and
8 (9) retired and retiring fossil fuel plants in the
9 United States are being brought back online to
10 power cryptomining facilities and data centers,
11 which increases associated carbon emissions.

12 **SEC. 3. EMISSIONS FROM POWER CONSUMPTION OF DATA**
13 **CENTERS AND CRYPTOMINING FACILITIES.**

14 Part A of title I of the Clean Air Act (42 U.S.C. 7401
15 et seq.) is amended by adding at the end the following:

16 **“SEC. 139. EMISSIONS FROM POWER CONSUMPTION OF**
17 **DATA CENTERS AND CRYPTOMINING FACILI-**
18 **TIES.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COVERED FACILITY.—The term ‘covered
21 facility’ means a data center or cryptomining facility
22 that has more than 100 kilowatts of installed infor-
23 mation technology nameplate power.

24 “(2) CRYPTOMINING FACILITY.—The term
25 ‘cryptomining facility’ means a facility used to mine

1 or create cryptocurrencies or other blockchain based
 2 digital assets, which may be—

3 “(A) a freestanding structure; or

4 “(B) a facility within a larger structure
 5 that uses environmental control equipment to
 6 maintain the proper conditions for the oper-
 7 ation of electronic equipment.

8 “(3) DATA CENTER.—The term ‘data center’
 9 has the meaning given the term in section 453(a) of
 10 the Energy Independence and Security Act of 2007
 11 (42 U.S.C. 17112(a)).

12 “(4) ELECTRIC UTILITY.—The term ‘electric
 13 utility’ has the meaning given the term in section 3
 14 of the Federal Power Act (16 U.S.C. 796).

15 “(5) REGION.—The term ‘region’ means a geo-
 16 graphic region described in the National Trans-
 17 mission Needs Study of the Department of Energy,
 18 dated October 30, 2023.

19 “(b) ANNUAL DATA COLLECTION OF ENERGY CON-
 20 SUMPTION OF DATA CENTERS AND CRYPTOMINING FA-
 21 CILITIES.—

22 “(1) IN GENERAL.—The Administrator, in con-
 23 junction with the Administrator of the Energy Infor-
 24 mation Administration, shall annually collect—

1 “(A) the information described in para-
2 graph (2) from the owners of covered facilities,
3 including federally owned data centers located
4 within the United States and territories of the
5 United States; and

6 “(B) the information described in para-
7 graph (3) from the electric utilities that serve
8 covered facilities.

9 “(2) INFORMATION DESCRIBED FOR COVERED
10 FACILITIES.—The information referred to in para-
11 graph (1)(A), with respect to a covered facility, is—

12 “(A) the location of the covered facility, in-
13 cluding in which balancing authority area the
14 covered facility is located;

15 “(B) whether the covered facility is a data
16 center or a cryptomining facility;

17 “(C) the owner of the covered facility;

18 “(D) the electric utility, if any, that pro-
19 vides power to the covered facility;

20 “(E) the total annual electricity consump-
21 tion of the covered facility;

22 “(F) the total annual electricity consumed
23 by the covered facility from electricity genera-
24 tion assets located behind the power meter of
25 the covered facility;

“(G) subject to paragraph (5), the percentage of electricity consumed annually by the covered facility from electricity generation assets located behind the power meter of the covered facility that is generated from wind, solar, hydropower, nuclear, coal, gas, and any other power source;

“(H) the terms of any power purchase agreements or other contractual mechanisms for procuring power from an electricity generator that the covered facility is party to; and

“(I) any other relevant information, as reasonably determined by the Administrator and the Administrator of the Energy Information Administration.

“(3) INFORMATION DESCRIBED FOR ELECTRIC UTILITIES.—The information referred to in paragraph (1)(B), with respect to each covered facility served by an electric utility, is—

“(A) the total annual electricity consumed by the covered facility from the electric grid;

“(B) subject to paragraph (4), the percentage of electricity consumed annually by the covered facility from the electric grid that is gen-

erated from wind, solar, hydropower, nuclear,
coal, gas, and any other power source;

“(C) the rates charged by the electric utility for each class of electric consumer for the current year and each of the 3 prior years; and

“(D) any other relevant information, as reasonably determined by the Administrator and the Administrator of the Energy Information Administration.

“(4) ELECTRICITY CONSUMED FROM THE ELECTRIC GRID.—For purposes of collecting the information described in paragraph (3)(B) with respect to a covered facility—

“(A) the Administrator, in conjunction with the Administrator of the Energy Information Administration, shall consider the average resource mix of the electric utilities that serve the covered facility to be the resource mix for the portion of electricity consumed annually from the electric grid by a covered facility that is not described in subparagraph (B); and

“(B) if the covered facility or the owner of the covered facility is party to a power purchase agreement or other contractual mechanism for procuring power from an electricity generation

1 asset (such as the voluntary higher rate de-
2 scribed in subsection (c)(4)(C)(iii)(I)(aa)), or
3 purchases and retires energy attribute certifi-
4 cates, the Administrator, in conjunction with
5 the Administrator of the Energy Information
6 Administration, shall consider the electricity
7 generation represented by those instruments as
8 part of the electricity consumed annually by the
9 covered facility from the electric grid only if the
10 owner of the covered facility can demonstrate
11 that—

12 “(i)(I) the electricity generation asset
13 began commercial operations not more
14 than 36 months before the date on which
15 operations began at the covered facility;

16 “(II) the electricity generation asset
17 would otherwise be retired and the retire-
18 ment could not be prevented by the use of
19 existing public funding programs;

20 “(III) the electricity provided by the
21 electricity generation asset would otherwise
22 be curtailed;

23 “(IV) the power that the electricity
24 generation asset provides to the covered fa-
25 cility resulted from an uprate that oc-

1 curred not more than 36 months before
2 the date on which operations began at the
3 covered facility;

4 “(V) the power purchase agreement or
5 other contractual mechanism was finalized
6 before the date of enactment of this sec-
7 tion; or

8 “(VI)(aa) the electricity generation
9 asset has undergone or will undergo a ret-
10 rofit that reduces the greenhouse emissions
11 intensity of the electricity generation asset,
12 expressed in terms of metric tons of carbon
13 dioxide-equivalent of greenhouse gases per
14 kilowatt-hour, by not less than 75 percent,
15 as compared to before the retrofit; and

16 “(bb) the retrofit otherwise would not
17 have occurred, even after the use of exist-
18 ing public funding programs, without the
19 power purchase agreement or other con-
20 tractual mechanism;

21 “(ii) the electricity is generated—

22 “(I) in the same calendar year as
23 the electricity is consumed by the cov-
24 ered facility, in the case of electricity

1 that is generated before January 1,
2 2028; and

3 “(II) in the same hour as the
4 electricity is consumed by the covered
5 facility or an energy storage asset
6 that serves the covered facility, in the
7 case of electricity that is generated
8 after December 31, 2027;

9 “(iii)(I) the electricity generation
10 asset that produced the electricity is elec-
11 trically interconnected to a balancing au-
12 thority located in the same region as the
13 covered facility; or

14 “(II) the owner of the electricity gen-
15 eration asset can demonstrate that the
16 power produced by the electricity genera-
17 tion asset is physically delivered to the cov-
18 ered facility, as determined by the Admin-
19 istrator, in coordination with the Secretary
20 of Energy; and

21 “(iv) the electricity generation rep-
22 resented by the power purchase agreement
23 or other contractual mechanism for pro-
24 curing power from an electricity generation
25 asset are claimed exclusively by the covered

1 facility through the retirement of an equiv-
2 alent quantity of energy attribute certifi-
3 cates.

4 “(5) ELECTRICITY CONSUMED FROM ASSETS
5 BEHIND THE METER.—For purposes of collecting
6 the information described in paragraph (2)(G) with
7 respect to a covered facility—

8 “(A) the Administrator, in conjunction
9 with the Administrator of the Energy Informa-
10 tion Administration, shall consider the average
11 resource mix of the electric utilities that serve
12 the covered facility to be the resource mix for
13 the portion of electricity consumed annually by
14 the covered facility from electricity generation
15 assets located behind the power meter of a cov-
16 ered facility that is not described in subpara-
17 graph (B); and

18 “(B) the Administrator, in conjunction
19 with the Administrator of the Energy Informa-
20 tion Administration, shall consider the elec-
21 tricity generated by electricity generation assets
22 located behind the power meter of the covered
23 facility as part of the electricity consumed an-
24 nually by the covered facility from electricity

1 generation assets located behind the power
2 meter of the covered facility only if—

3 “(i) the owner of the covered facility
4 can demonstrate that—

5 “(I) the electricity generation
6 asset began operations not more than
7 36 months before the date on which
8 operations began at the covered facil-
9 ity; or

10 “(II) the electricity generation
11 asset would otherwise be retired and
12 the retirement could not be prevented
13 by the use of existing public funding
14 programs; or

15 “(ii) the Administrator determines
16 that the greenhouse gas emissions inten-
17 sity, expressed in terms of metric tons of
18 carbon dioxide-equivalent of greenhouse
19 gases per kilowatt-hour, of the electricity
20 generation asset is higher than the green-
21 house gas emissions intensity of the elec-
22 tric utilities that serve the covered facility,
23 based on the average resource mix of those
24 electric utilities.

1 “(6) GREENHOUSE GAS EMISSIONS INTEN-
 2 SITY.—Based on the information collected under
 3 paragraph (1), for each covered facility, the Admin-
 4 istrator shall determine the greenhouse gas emission
 5 intensity, expressed in terms of metric tons of car-
 6 bon dioxide-equivalent of greenhouse gases per kilo-
 7 watt-hour, of—

8 “(A) the total annual electricity consumed
 9 by the covered facility from the electric grid;
 10 and

11 “(B) the total annual electricity consumed
 12 by the covered facility from electricity genera-
 13 tion assets located behind the power meter of
 14 the covered facility.

15 “(7) PUBLICLY AVAILABLE.—The Adminis-
 16 trator shall make publicly available on an annual
 17 basis—

18 “(A) for each covered facility—

19 “(i) the information described in each
 20 of subparagraphs (A), (B), (C), and (D) of
 21 paragraph (2);

22 “(ii) the percent of electricity con-
 23 sumed annually by the covered facility that
 24 is generated from wind, solar, hydropower,

1 nuclear, coal, gas, and any other power
2 source; and

3 “(iii) the greenhouse gas emissions in-
4 tensity of the total annual electricity con-
5 sumed by the covered facility, as deter-
6 mined under paragraph (6); and

7 “(B) for each owner of a covered facility,
8 the aggregate annual electricity consumption of
9 all covered facilities owned by that owner.

10 “(8) CONFIDENTIAL BUSINESS INFORMA-
11 TION.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), of the information collected
14 under paragraph (1), the Administrator and the
15 Administrator of the Energy Information Ad-
16 ministration shall treat the information de-
17 scribed in each of subparagraphs (E) and (F)
18 of paragraph (2) and subparagraph (A) of
19 paragraph (3) as confidential business informa-
20 tion.

21 “(B) EXCEPTION.—Subparagraph (A)
22 does not apply to information that is required
23 to be made publicly available pursuant to para-
24 graph (7)(C).

25 “(c) EMISSIONS PERFORMANCE STANDARD.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) BASELINE.—The term ‘baseline’,
3 with respect to a covered facility in a calendar
4 year, means the baseline of the region the cov-
5 ered facility is located in for that calendar year
6 as determined under paragraph (2).

7 “(B) GREENHOUSE GAS.—

8 “(i) IN GENERAL.—The term ‘green-
9 house gas’ means the air pollutants carbon
10 dioxide, any hydrofluorocarbon, methane,
11 nitrous oxide, any perfluorocarbon, and
12 sulfur hexafluoride.

13 “(ii) GLOBAL WARMING POTENTIAL.—
14 For purposes of the term ‘methane’ in
15 clause (i), the Administrator shall use the
16 20-year global warming potential of meth-
17 ane, as determined in accordance with the
18 Sixth Assessment Report of the Intergov-
19 ernmental Panel on Climate Change.

20 “(2) DETERMINATION OF BASELINE.—

21 “(A) PUBLICATION OF BASELINE.—Not
22 later than December 31, 2025, the Adminis-
23 trator shall determine and publish in the Fed-
24 eral Register the greenhouse gas emissions in-
25 tensities of the electric grid of each region, ex-

1 pressed in terms of metric tons of carbon diox-
2 ide-equivalent of greenhouse gases per kilowatt-
3 hour.

4 “(B) INITIAL BASELINE.—For purposes of
5 calendar year 2026, the baseline of each region
6 shall be the baseline of that region published
7 under subparagraph (A).

8 “(C) BASELINES THROUGH 2034.—For
9 each of calendar years 2027 through 2034, the
10 baseline of each region for that calendar year
11 shall be determined by reducing the baseline
12 from the previous calendar year by 11 percent
13 of the baseline of that region for calendar year
14 2026.

15 “(D) BASELINE IN 2035 AND THERE-
16 AFTER.—For calendar year 2035 and each cal-
17 endar year thereafter, the baseline for each re-
18 gion shall be 0 metric tons of carbon dioxide-
19 equivalent of greenhouse gases per kilowatt-
20 hour.

21 “(3) ASSESSMENT OF FEES.—

22 “(A) FEE ON UTILITIES.—

23 “(i) IMPOSITION OF FEE ON UTILI-
24 TIES.—Beginning on January 1, 2026, the
25 Administrator shall, in accordance with

1 this subparagraph and using the informa-
 2 tion collected under subsection (b) but sub-
 3 ject to subparagraphs (C) and (D), assess
 4 on the owner of any electric utility pro-
 5 viding power to a covered facility a fee
 6 with respect to the greenhouse gas emis-
 7 sions of the electricity consumed by the
 8 covered facility from the electric grid above
 9 the baseline of the region the covered facil-
 10 ity is located in for that calendar year.

11 “(ii) AMOUNT OF FEE.—The amount
 12 of a fee assessed under clause (i) with re-
 13 spect to an electric utility for a calendar
 14 year shall be the sum obtained by adding,
 15 for each covered facility served by the elec-
 16 tric utility, the product (rounded to the
 17 nearest dollar) obtained by multiplying—

18 “(I) the total electricity con-
 19 sumed by the covered facility from the
 20 electric grid during the calendar year,
 21 as expressed in kilowatt-hours;

22 “(II) subject to clause (iii), \$20;
 23 and

24 “(III) the amount, if any, that
 25 the greenhouse gas emissions intensity

1 of the electricity consumed by the cov-
 2 ered facility from the electric grid, ex-
 3 pressed in terms of metric tons of car-
 4 bon dioxide-equivalent of greenhouse
 5 gases per kilowatt-hour, exceeds the
 6 baseline of the region the covered fa-
 7 cility is located in for the calendar
 8 year.

9 “(iii) FREE ADJUSTMENT.—Beginning
 10 in calendar year 2027, the Administrator
 11 shall annually increase the amount de-
 12 scribed in clause (ii)(II) by the sum ob-
 13 tained by adding—

14 “(I) the product obtained by mul-
 15 tiplying—

16 “(aa) the applicable amount
 17 under clause (ii)(II) during the
 18 previous calendar year; and

19 “(bb) the rate of inflation,
 20 as determined by the Adminis-
 21 trator using the changes for the
 22 12-month period ending the pre-
 23 ceding November 30 in the Con-
 24 sumer Price Index for All Urban
 25 Consumers published by the Bu-

1 reau of Labor Statistics of the
2 Department of Labor; and

3 “(II) \$10.

4 “(iv) NOTIFICATION OF FEE
5 AMOUNT.—Not later than January 31,
6 2027, and not later than January 31 of
7 each calendar year thereafter, the Adminis-
8 trator shall notify—

9 “(I) the owner of each electric
10 utility subject to a fee under clause (i)
11 of the amount of the fee that is as-
12 sessed with respect to the electric util-
13 ity for the previous calendar year
14 under clause (i); and

15 “(II) the owner of each covered
16 facility of the total amount of any fee
17 assessed for the previous calendar
18 year under clause (i) that is attrib-
19 utable, pursuant to clause (ii), to the
20 electricity consumed by the covered
21 facility.

22 “(v) REMITTANCE OF FEE AMOUNT.—
23 A fee assessed under clause (i) for a cal-
24 endar year shall be due and payable to the
25 Administrator not later than March 31 of

1 the calendar year after the calendar year
2 for which the fee is assessed.

3 “(vi) PASS-THROUGH LIMITATION.—

4 “(I) IN GENERAL.—Any electric
5 utility assessed a fee under clause (i)
6 may not recoup the cost of the fee by
7 raising rates or assessing fees on any
8 customer that is not a covered facility.

9 “(II) MONITORING COMPLI-
10 ANCE.—The Administrator, in con-
11 junction with the Administrator of the
12 Energy Information Administration,
13 shall use the best available data, in-
14 cluding the information collected pur-
15 suant to subsection (b)(1)(B) and de-
16 scribed in subsection (b)(3)(C), to
17 monitor the compliance of electric
18 utilities with subclause (I).

19 “(III) PENALTY.—If the Admin-
20 istrator, in conjunction with the Ad-
21 ministrator of the Energy Information
22 Administration, determines that an
23 electric utility has violated subclause
24 (I), the Administrator shall assess a
25 fine on the electric utility in an

1 amount equal to 2 times the amount
2 recouped by the electric utility, as de-
3 scribed in subclause (I), from cus-
4 tomers that are not covered facilities.

5 “(B) FEE ON COVERED FACILITIES.—

6 “(i) IMPOSITION OF FEE ON COVERED
7 FACILITIES.—Beginning on January 1,
8 2026, the Administrator shall, in accord-
9 ance with this subparagraph and using the
10 information collected under subsection (b)
11 but subject to subparagraphs (C) and (D),
12 assess on the owner of any covered facility
13 a fee with respect to the greenhouse gas
14 emissions of the electricity consumed by
15 the covered facility from electricity genera-
16 tion assets located behind the power meter
17 of the covered facility above the baseline of
18 the region the covered facility is located in
19 for that calendar year.

20 “(ii) AMOUNT OF FEE.—The amount
21 of a fee assessed under clause (i) with re-
22 spect to a covered facility for a calendar
23 year shall be the product (rounded to the
24 nearest dollar) obtained by multiplying—

1 “(I) the total electricity con-
2 sumed by the covered facility from
3 electricity generation assets located
4 behind the power meter of the covered
5 facility during the calendar year, as
6 expressed in kilowatt-hours;

7 “(II) subject to clause (iii), \$20;
8 and

9 “(III) the amount, if any, that
10 the greenhouse gas emissions intensity
11 of the electricity consumed by the cov-
12 ered facility from electricity genera-
13 tion assets located behind the power
14 meter of the covered facility, ex-
15 pressed in terms of metric tons of car-
16 bon dioxide-equivalent of greenhouse
17 gases per kilowatt-hour, exceeds the
18 baseline of the region the covered fa-
19 cility is located in for the calendar
20 year.

21 “(iii) FEE ADJUSTMENT.—Beginning
22 in calendar year 2027, the Administrator
23 shall annually increase the amount de-
24 scribed in clause (ii)(II) by the sum ob-
25 tained by adding—

1 “(I) the product obtained by mul-
 2 tiplying—

3 “(aa) the applicable amount
 4 under clause (ii)(II) during the
 5 previous calendar year; and

6 “(bb) the rate of inflation,
 7 as determined by the Adminis-
 8 trator using the changes for the
 9 12-month period ending the pre-
 10 ceeding November 30 in the Con-
 11 sumer Price Index for All Urban
 12 Consumers published by the Bu-
 13 reau of Labor Statistics of the
 14 Department of Labor; and

15 “(II) \$10.

16 “(iv) NOTIFICATION OF FEE
 17 AMOUNT.—Not later than January 31,
 18 2027, and not later than January 31 of
 19 each calendar year thereafter, the Adminis-
 20 trator shall notify the owner of each cov-
 21 ered facility the amount of the fee that is
 22 assessed with respect to the covered facility
 23 for the previous calendar year under clause
 24 (i).

1 “(v) REMITTANCE OF FEE AMOUNT.—

2 A fee assessed under clause (i) for a cal-
 3 endar year shall be due and payable to the
 4 Administrator not later than March 31 of
 5 the calendar year after the calendar year
 6 for which the fee is assessed.

7 “(C) APPLICABILITY TO ZERO-CARBON
 8 ELECTRICITY GENERATION ASSETS.—This
 9 paragraph shall not apply to a covered facility
 10 if the Administrator, in conjunction with the
 11 Administrator of the Energy Information Ad-
 12 ministration, determines, pursuant to the infor-
 13 mation collected under subsection (b), that the
 14 covered facility is powered entirely by zero-car-
 15 bon electricity generation assets during all
 16 hours of the operation of the covered facility.

17 “(D) ALTERNATIVE BASELINE.—If the Ad-
 18 ministrator determines at any point that the
 19 greenhouse gas emissions intensity of the elec-
 20 tric grid of any region falls below the baseline
 21 of that region, during the period beginning on
 22 the date of that determination and ending on
 23 the date on which the Administrator determines
 24 that the determination is no longer applicable,
 25 subparagraphs (A) and (B) shall be applied to

1 covered facilities located in that region by sub-
2 stituting ‘greenhouse gas emissions intensity of
3 the electric grid’ for ‘baseline’.

4 “(4) USE OF FUNDS.—

5 “(A) ADMINISTRATION.—For fiscal year
6 2028 and each fiscal year thereafter, there are
7 appropriated, out of any funds in the Treasury
8 not otherwise appropriated, to the Adminis-
9 trator an amount equal to 3 percent of the
10 amounts collected pursuant to fees and pen-
11 alties assessed under paragraph (3) during the
12 previous calendar year to support the adminis-
13 tration of the reporting program under sub-
14 section (b) and the assessment of the fees and
15 penalties under this subsection.

16 “(B) CONSUMER ENERGY COSTS.—For fis-
17 cal year 2028 and each fiscal year thereafter,
18 there are appropriated, out of any funds in the
19 Treasury not otherwise appropriated, to the Ad-
20 ministrator an amount equal to 25 percent of
21 the amounts collected pursuant to fees and pen-
22 alties assessed under paragraph (3) during the
23 previous calendar year to award grants to
24 States, Indian Tribes, municipalities, and elec-
25 tric utilities to support programs that lower res-

1 idential electricity consumer energy costs, such
2 as through energy use savings or direct rebates,
3 to offset cost increases resulting from increased
4 data center electricity consumption.

5 “(C) CLEAN FIRM GRANTS.—

6 “(i) IN GENERAL.—For fiscal year
7 2028 and each fiscal year thereafter, there
8 are appropriated, out of any funds in the
9 Treasury not otherwise appropriated, to
10 the Administrator an amount equal to 70
11 percent of the amounts collected pursuant
12 to fees and penalties assessed under para-
13 graph (3) during the previous calendar
14 year to award to eligible entities, as deter-
15 mined by the Administrator, grants, re-
16 bates, advanced market commitments, or
17 low-interest loans, as determined appro-
18 priate by the Administrator, for the re-
19 search, development, demonstration, and
20 deployment of—

21 “(I) zero-carbon electricity gen-
22 eration assets that are capable of gen-
23 erating electricity throughout the
24 year, with the exception of planned
25 outages for maintenance, refueling, or

1 retrofits, at capacity factors greater
2 than 70 percent; or

3 “(II) long-duration energy stor-
4 age assets that are capable of continu-
5 ously discharging energy at their
6 rated power output for at least 10
7 hours.

8 “(ii) APPLICATION.—An eligible entity
9 seeking an award under clause (i) shall
10 submit to the Administrator an application
11 at such time, in such manner, and con-
12 taining such information as the Adminis-
13 trator may require.

14 “(iii) CERTIFICATION AND
15 CLAWBACK.—

16 “(I) CERTIFICATION.—An eligi-
17 ble entity that receives an award
18 under clause (i) for the purpose of fi-
19 nancing the construction or operation
20 of an electricity generation asset or
21 energy storage asset shall certify that
22 any electric utility selling or con-
23 tracted to sell electricity generated or
24 stored by the asset shall—

1 “(aa) not later than 2 years
2 after the date on which the eligi-
3 ble entity receives the award,
4 allow the customers of the elec-
5 tric utility to voluntarily pay a
6 higher rate for the purchase of
7 electricity service that is sourced
8 from zero-carbon electricity gen-
9 eration, including long-duration
10 energy storage assets charged by
11 zero-carbon electricity, in all
12 hours of the year; and

13 “(bb) exclusively use the ad-
14 ditional amounts collected pursu-
15 ant to those higher rates to sup-
16 port the financing, development,
17 or acquisition of—

18 “(AA) zero-carbon elec-
19 tricity generation assets that
20 are capable of generating
21 electricity throughout the
22 year, with the exception of
23 planned outages for mainte-
24 nance, refueling, or retrofits,

1 at capacity factors greater
 2 than 70 percent; or

3 “(BB) long-duration
 4 energy storage assets that
 5 are capable of continuously
 6 discharging energy at their
 7 rated power output for at
 8 least 10 hours.

9 “(II) CLAWBACK.—If the Admin-
 10 istrator determines that a recipient of
 11 an award described in subclause (I)
 12 has violated the certification required
 13 under that subclause, the Adminis-
 14 trator shall seek reimbursement of the
 15 full amount of the award from the re-
 16 cipient.

17 “(d) APPLICABILITY TO LEASED FACILITIES.—For
 18 purposes of this section—

19 “(1) if a covered facility is leased to a tenant,
 20 the tenant shall be considered the owner of the facil-
 21 ity; and

22 “(2) if a portion of a covered facility is leased
 23 to a tenant and the leased space also meets the re-
 24 quirements described in subsection (a)(1)—

1 “(A) the leased space shall be considered
2 to be a separate covered facility from the rest
3 of the larger facility; and

4 “(B) the tenant shall be considered the
5 owner of the covered facility that comprises the
6 leased space.”.

7 **SEC. 4. SEVERABILITY.**

8 If any provision of this Act, an amendment made by
9 this Act, or the application of such provision or amend-
10 ment to any person or circumstance is held to be unconsti-
11 tutional, the remainder of this Act and the amendments
12 made by this Act, and the application of the provision or
13 amendment to any other person or circumstance, shall not
14 be affected by the holding.

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