



GIBSON DUNN

Data Centers and Digital Infrastructure Update

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## When Data Center Developers Have Options, State Regulatory Treatment Is Key to Success

*The Gibson Dunn [Data Centers and Digital Infrastructure Practice Group](#) is closely monitoring legislative, regulatory, and political developments regarding the growth of data centers. We are prepared to assist clients regarding all aspects of data center development. Please contact one of the Gibson Dunn attorneys listed below or the attorney with whom you usually work if you have any questions.*

With the growing use of generative AI and quantum computing technology, clients are increasingly interested in the opportunities and challenges presented by the accelerating demand for data centers and the electricity that powers them. While the federal government [considers setting ground rules](#) for power plants looking to co-locate with data centers as an end-run around long waits for transmission grid upgrades, state governments too are grappling with the growing demand for data centers—sometimes by providing tax incentives for their developments, but at other times by imposing regulations that typically apply only to public utilities. This client alert provides a snapshot of recent developments in key states for data center development on topics ranging from real estate to tax to energy to foreign investment. We first discuss what are seen as the most dominant states for data center development in 2025—longtime hegemon Virginia and emerging leaders Arizona, Georgia, Illinois and Texas—and round out our discussion with other states that are in the data center mix in their own way, including longtime players (California, Oregon, Washington), rising markets (Indiana, Kentucky, Mississippi, Nevada, Ohio, Pennsylvania), and smaller markets that are proving to be regulatory trendsetters (Minnesota, Utah).

State legislatures, governors, and utility regulators have squarely trained their focus on ensuring long-term sustainable pathways to data center development in their states. As discussed in more detail below, most jurisdictions that have found success in attracting more data centers are focusing now on continuing to incentivize data centers while formalizing their processes for adding these large loads to their electricity grids, and on ensuring that other customer classes, such as residential customers, do not bear undue costs of these load service expansions. Although state lawmakers and regulators appear to be mostly bullish on data centers, many states have nonetheless begun adopting more rigorous requirements for data centers sourcing power supply, largely in response to concerns that further load increases may mean rate increases for other customer classes or shortages in energy supply. And once data centers are up and running, local taxing authorities are knocking on the door and demanding big tax checks employing clever and novel approaches.

As discussed in more detail below, recent state actions on data centers have included:

1. The adoption of data center-specific utility tariffs, rate schedules, and procedures aimed at increasing financial requirements for data center developments to ensure grid infrastructure improvements being installed for data centers will be utilized and paid for by the data centers themselves, including specific provisions outlining requirements for load being co-located with behind-the meter generation;
2. Continued availability of tax incentives for data center development, notwithstanding pressure in some states to revisit these incentives, but also tax increases for data centers in some jurisdictions;
3. Increasing opportunities for data centers to source power supply from competitive suppliers, especially in Utah;
4. State and utility moves toward building new gas-fired generation to support data center load growth;
5. Proposed legislation in Arizona to allow siting small modular nuclear reactors at data center sites without obtaining a public utility commission certificate of environmental compatibility;
6. But also, in the case of Minnesota, regulatory action to treat large backup generators like other types of generation, notwithstanding their lack of grid connection, accompanied swiftly by proposed legislation by data center supporters to ensure that backup generation is not subject to increased regulatory burdens;
7. Enhanced (for some) or streamlined (for others) zoning and siting requirements for data centers; and
8. In Illinois and Indiana, proposed legislation to restrict foreign investment in data centers when the foreign investor hails from a country unfriendly to the United States, echoing similar actions and proposals at the [federal level](#).

**Dominant Jurisdictions: Virginia, Arizona, Georgia, Illinois, and Texas**

### **Virginia**

*Data Center Regulatory Outlook: Addition of generation is encouraging but some counties are seeking revenue opportunities or zoning limitations, which could negatively impact some projects*

- Virginia historically supports data center expansion and Governor Youngkin continues to endorse their growth. In his January 2025 [State of the Commonwealth](#) speech, Youngkin highlighted the need for Virginia's energy supply to grow as data centers, which contribute \$9.1 billion to Virginia's GDP, enter the state. He stated that "Richmond should not stop [Virginia communities] from capitalizing on these incredible economic opportunities."
- That said, the Virginia General Assembly and some local governments are working to limit or impose conditions on new data centers. Currently pending approval by the governor is [H.B. 1601](#) (Del. Joshua E. Thomas-D), which would require site assessments before new data centers are approved. A handful of [other bills to regulate data centers](#) failed this legislative session, which adjourned in late February 2025.
- In early March 2025, Dominion Energy, the largest electricity utility in the state, [filed for a certificate of public convenience and necessity](#) with the Virginia State Corporation Commission to construct the Chesterfield Energy Reliability Center, a [944 MW](#) natural gas-fired power plant to be located in Chesterfield County adjacent to another operational power plant, the Chesterfield Power Station. The Chesterfield Energy Reliability Center has long been part of the [discussion](#) of the state's strategy to accommodate load growth from data centers.
- [Loudon County](#) is considering changes to the county's comprehensive plan and zoning ordinance which would increase the regulatory hurdles applicable to data centers in the county. The comprehensive plan amendment would make data centers a "conditional use" in locations where they are now a core or complementary use, and a zoning ordinance amendment would make data centers a "Special Exception" use in areas whether they are currently permitted by right. If approved, these changes would require data centers to go through a public hearing process and meet certain conditions to be constructed. A February board vote moved the issue forward, and a second vote is expected in March 2025.
- The city of Manassas is considering a [67% tax increase](#) for "computer equipment and peripherals used in a data center." The city [will approve](#) its final budget following a public hearing on April 28, 2025.
- [Henrico County](#) is considering a 550% increase in tax on data center computers and related equipment. County supervisors are expected to review the budget during March 2025.
- [Fairfax County](#) enacted a requirement in September 2024 that data centers be built at least 200 feet from abutting property and undergo a noise study.

## **Arizona**

*Data Center Regulatory Outlook: Pending legislation could mean significant opportunities for development of small modular nuclear reactors; zoning modifications could negatively impact some projects*

- Arizona [has extended](#) its data center tax breaks to data centers certified before December 31, 2033 for the “use, installation, assembly, repair or maintenance” of data center equipment, not just the sale of such equipment.
- [H.B. 2774](#) (Rep. Michael Carbone-R), which has been passed by the Arizona House and currently sits before the Senate, would reduce state regulation of data centers, allowing them to place a small modular nuclear reactor (SMR) at a data center without a certificate of environmental compatibility. Additionally, in counties with a population of 500,000 or less, a new SMR co-located with a large energy user would be exempted from the certificate of environmental compatibility process and county zoning restrictions.
- During a December 2024 [meeting](#) in which Arizona’s largest utility obtained permission to build new transmission lines for a data center, an ACC commissioner asked the utility to confirm that the costs of the transmission line “would be borne by the data center,” which the utility confirmed.
- In October 2024, the ACC [endorsed](#) the Integrated Resource Plans of three large utilities: Arizona Public Service, Tucson Electric Power, and UniSource Energy. To meet the growing energy demand posed by data centers in the state, these utilities [plan](#) to add thousands of megawatts of new capacity from solar, wind, battery storage, and natural gas sources.
- In December 2024, the [Phoenix City Council approved](#) a series of data center regulations, including regulations on external design specifications and location, approving zoning changes that seek to locate future data centers away from employment centers. The regulations were motivated by concerns over land and power demand, and job creation.
- In January 2023, the City of Chandler [adopted](#) a zoning code amendment that specifically addressed data centers, classifying them as a “primary use only permitted in planning area development . . . zoning designations,” and requiring a sound study, noise mitigation measures, and a detailed communications protocol to notify impacted residents about the construction process.

## **Georgia**

*Data Center Regulatory Outlook: Greater formalization of major utility interconnection procedures means additional process but also predictability*

- Georgia has a tax exemption for certain data center equipment, and although the Georgia legislature attempted to suspend new exemptions from July 2024 through June 2026 with [H.B. 1192](#), the Governor [vetoed](#) that bill in May 2024.
- In January 2025, Georgia state senator Chuck Hufstetler (R) proposed [S.B. 34](#), which would require costs of data center-related utility infrastructure to be recovered in a way that is “designed to recover such costs solely from commercial data centers or are prorated based on electric demand.” Provisions like this respond to concerns that data center-related utility costs could be allocated to other types of customers.
- In January 2025, the Georgia Public Service Commission [unanimously approved](#) new rules that allow Georgia Power Company, the largest utility in Georgia, to require additional terms and conditions of service for new customers with more than 100 MW of load, including data centers. The new rules specifically allow the utility to impose minimum billing requirements and longer contract terms for these large load

customers. According to Georgia Power's [filing](#), these new rules are meant "to protect Georgia Power's customers and ensure that the cost to serve new large load customers are appropriately born[e] by those customers."

- Georgia Power Company has also been enhancing and formalizing its ten-step interconnection process for large load, such as data centers, including by requiring that data center developers provide affidavits attesting to their level of site control and who will be the end user of their facilities, as well as increased vetting requirements for financial guarantors.

## **Illinois**

*Data Center Regulatory Outlook: Notable incentives for large projects indicate a state welcoming of data centers*

- Since Illinois's 2019 enactment of [exemptions](#) from certain sales, use, and occupation taxes, and an additional 2021 [exemption](#) from certain construction employment taxes, data centers have grown rapidly in the state. In addition to those tax incentives, proximity to a major population center and fiberoptic networks, aggressive redevelopment plans for retired [corporate campuses](#) in greater Chicagoland, and access to flexible power purchase options through Illinois's retail electric competition program have made Illinois an attractive alternative to the established Northern Virginia data center hub.
- In [December 2024](#), Governor Pritzker, alongside key industry stakeholders, announced a collaboration to establish the new National Quantum Algorithm Center in the Illinois Quantum and Microelectronics Park in Chicago. "[Quantum computers](#) have the potential to solve the complex problems and grand challenges that companies and society face," said Governor Pritzker, noting that deployment of this advanced "quantum system in Illinois will help spur additional commercialization opportunities for entrepreneurs—making the State an even more desirable destination for leading global technology companies spurring job creation and private investment."
- In January, state senator Sue Rezin (R) introduced [S.B. 0094](#), which would establish that no foreign company may construct or cause to be constructed a data center in the state unless the Illinois Commerce Commission, the Illinois Power Agency, and the Department of Commerce and Economic Opportunity conduct a joint study of the energy consumption of the prospective data center and certify to the governor and the General Assembly that the energy used by the new data center is a new self-generated load and does not affect the load supply of PJM Interconnection or the Midcontinent Independent System Operator. The bill defines a "foreign company" as an entity that (i) is at least 51% owned by a foreign adversary or (ii) is headquartered in a country with a government that is a foreign adversary.

## **Texas**

*Data Center Regulatory Outlook: Proposed legislation could lead to greater formalization of interconnection procedures for large generator co-location; passage could mean additional process but also predictability*

- In addition to Texas's state sales tax [exemption](#) on certain equipment for qualifying data centers, individual counties also [provide](#) property tax abatements to data center developers.

- [S.B. 6](#) (Sens. Phil King-R & Charles Schwertner-R), introduced in February 2025, would prepare the grid for increased power demand and address certain challenges posed by large loads by requiring (i) the Public Utility Commission of Texas (PUCT) to implement a new transmission charge to be paid by all retail customers served by generation located behind-the-meter (e.g., data centers that have entered into co-location arrangements to avoid transmission costs) to ensure that all users of the Electric Reliability Council of Texas (ERCOT) transmission system contribute to transmission cost recovery; (ii) PUCT to establish standards for interconnecting large (i.e., over 75 MW, as may be lowered by PUCT as necessary) load customers at ERCOT transmission voltage; (iii) co-located power generation companies, municipally-owned utilities and electric cooperatives to notify, and seek approval of, PUCT and ERCOT before implementing a new net metering arrangement between an existing registered generation resource and an unaffiliated retail customer if such customer's demand exceeds 10% of the generation facility's nameplate capacity and the facility owner has not proposed to construct an equal amount of replacement capacity in the same area; (iv) large loads to install equipment that would allow the load to be disconnected remotely during firm load shed; and (v) ERCOT to develop a reliability service to competitively procure demand reductions from large loads in advance of a projected energy emergency alert event.

## **Rising Markets: Indiana, Kentucky, Mississippi, Nevada, Ohio, Pennsylvania**

### **Indiana**

*Data Center Regulatory Outlook: Greater formalization of some utility interconnection procedures means additional process but also predictability; proposed legislation could provide incentives for small modular nuclear reactors*

- Since 2019, Indiana has offered tax incentives for data centers providing property, sales, and use tax exemptions for data centers for a term of up to 50 years.
- The Indiana General Assembly is currently considering two proposed bills that would affect data centers. [H.B. 1007](#) (Rep. Edmond Soliday-R) would provide additional tax credits for small modular nuclear reactors in Indiana that could be combined with the tax incentives for data centers. The bill passed the Indiana House of Representatives in February 2025 and is now before the Senate.
- [S.B. 431](#) (Sen. Eric Koch-R) would ban construction of data centers in Indiana by or for foreign companies without a study showing that the data center would use self-generated electricity and would not affect the load supply of Indiana's regional transmission organizations. Like a similar bill in Illinois, the bill defines a "foreign company" as an entity that (i) is at least 51% owned by a foreign adversary or (ii) is headquartered in a country with a government that is a foreign adversary. The bill passed the Indiana Senate in February 2025 and is now before the House.
- In February 2025, the Indiana Utility Regulatory Commission issued an [order](#) approving a settlement between Indiana Michigan Power Company, the Indiana Office of Utility Consumer Counselor, and other intervenors including data center developers, that governs how large loads, including data centers, connect to the grid in Indiana. The settlement agreement approved in the [order](#) imposes minimum contract terms on these

large load customers as well as exit fees if a large-load customer reduces its capacity more than 20% or terminates its contract, but did not address cost allocation.

## **Kentucky**

*Data Center Regulatory Outlook: Planned additions of generation and new incentives indicate a state welcoming of data centers*

- Data center investment and siting is expected to boom in Kentucky as the state offers generous tax incentives, water access, and aligned stakeholders (state government, local utilities, and public service commission) in a friendly business environment.
- In April 2024, Kentucky lawmakers passed [H.B. 8](#), which created a fifty-year sales and use tax exemption for “qualified data center projects.” Qualified data center projects are defined as entities that provide qualified data center infrastructure, are located within a consolidated local government with a population greater than 500,000, and, in the case of owners, operators, or colocation tenants, invest at least \$450 million within five years.
- In February 2025, in expectation of significant load growth through 2032 and 1,750 MW of “high load factor, energy intensive data centers,” the Kentucky Utilities Company and Louisville Gas and Electric Company [applied](#) to the Kentucky Public Service Commission for permission to construct two 645 MW natural gas plants, one 400-MW/1,600-MWh battery storage project, and one selective catalytic reduction facility for an existing coal plant. The Kentucky Public Service Commission is [expected to rule on the request](#) by November.

## **Mississippi**

*Data Center Regulatory Outlook: New incentives and a supportive utility regulator indicate a state welcoming of data centers*

- Data center investment in Mississippi has rapidly increased since Mississippi’s legislature enacted tax incentives. As discussed in more detail below, the legislature is now considering exempting data centers from certain sales and use taxes. The state is well-situated for growth as it offers a [robust network](#) of fiber connectivity and is situated at the [crossroads of two major fiber cables](#) stretching across the southeast United States from Atlanta to Dallas and into the Midwest from New Orleans to Chicago.
- In February 2025, the Mississippi Senate [unanimously passed S.B. 3168](#), a bill aimed at attracting data center investment through tax incentives. The proposed bill is now pending in the Mississippi House of Representatives. The bill would allow eligible “business enterprises” to apply for exemption from certain sales and use taxes related to the purchase, lease, or expansion of data centers. “Business enterprises” are defined as certain for-profit businesses that are the owner, operator, tenant or affiliate of a data center with a minimum capital investment of (i) \$250 million in the case of newly constructed data centers that will create thirty five full time jobs with a minimum average annual salary of 125% the average annual state wage or (ii) \$100 million in the case of an addition or expansion of a data center that meets the same criteria. The bill also provides for two automatic ten-year extensions of the tax exemptions for such business enterprises.

- In January 2025, a data center developer [announced](#) a \$10 billion data center investment in Lauderdale County, Mississippi. In February 2025, the Mississippi Public Service Commission [approved](#) a special contract between that developer and Mississippi Power Company (MPC), a local utility company that serves approximately 192,000 customers, with MPC agreeing to provide electric service. In its order approving the special contract, the Mississippi Public Service Commission found the special contract to be in the best interest of the MPC and its customers.
- In January 2024, both houses of the Mississippi legislature nearly unanimously passed tax incentives in [S.B. 2001](#) as well as two bills appropriating money, in anticipation of significant data center development. Thereafter, Governor Tate Reeves announced the [single largest capital investment in Mississippi history](#) to build two data centers in Madison County.

## **Nevada**

*Data Center Regulatory Outlook: Proposed new incentives and a supportive utility regulator indicate a state welcoming of data centers*

- In March 2025, the Public Utilities Commission of Nevada [approved](#) a stipulation agreement that would allow a developer to power its data center in Nevada with only clean energy under a new clean transition tariff with its interconnecting utility, NV Energy. This new model could offer data centers greater choice in where they receive power from in Nevada.
- Nevada allows for a partial abatement of certain taxes for new or expanded data centers in Nevada, but these abatements are subject to [eligibility requirements](#), including requirements to invest a certain amount of capital investment in the data center and employ a certain number of Nevada citizens at the data center depending on the length of the requested abatement period.
- Introduced by Assemblymember Erica Mosca (D) in February 2025, [A.B. 226](#) would require all businesses seeking tax abatements, including data centers, to develop and implement a community benefits plan, would allow the Nevada Office of Economic Development to investigate whether a business is following its community benefits plan, and would require a business to repay any abatements with interest if the business is found not to substantially have complied with the terms of its community benefits plans.
- Pending [S.B. 69](#) would require companies with tax abatements for certain projects with capital investments of \$1 billion or more to enter into agreements with the city's or county's governing body and fire protection district to defray the cost of local governmental services and infrastructure that will service the project.

## **Ohio**

*Data Center Regulatory Outlook: Legislative changes support data centers while outcome of important regulatory proceeding is unknown*

- Ohio offers a [tax exemption](#) for the sale, storage, use, or other consumption of equipment for data centers. In January 2025, some legislators expressed [support](#) for eliminating that

the sales tax exemption, but that proposal has not yet materialized as a bill in either house of the legislature.

- In January 2025, Ohio lawmakers proposed [H.B. 15](#) (Rep. Roy Klopfenstein-R) and [S.B. 2](#) (Sen. Bill Reineke-R). Both bills propose changes to Ohio's energy regulatory regime that are meant to support data center growth while protecting other ratepayers. Among other things, both proposals would repeal legislation that currently allows electric utilities to increase certain components of electricity rates without specific Public Utilities Commission of Ohio (PUCO) review under programs known as electric security plans, a move expected to help moderate rate changes applicable to large loads like data centers. In addition, S.B. 2 proposes to codify the right of electric utilities to provide behind-the-meter generation service (i.e., co-location with load) subject to proposed safeguards to ensure that behind-the-meter service costs are not allocated to customers not receiving that service.
- In 2024, AEP Ohio, Ohio's largest electric utility, proposed a special data center tariff that would, among other things, set increased customer requirements for data center and cryptocurrency loads, such as minimum contract terms, exit fees, and minimum demand charges. In late October 2024, AEP Ohio filed a [settlement proposal](#) at the PUCO; hyperscalers and generators filed a [competing proposal](#) in the same docket. Key differences between the proposals include the size of load that will be subject to the new tariff and the minimum rates a data center could be required to pay under the new tariff. This proceeding is ongoing.

## **Pennsylvania**

*Data Center Regulatory Outlook: Incentives and permitting reform initiative indicate a state welcoming of data centers*

- In 2021, Pennsylvania created the [Computer Data Center Equipment Exemption Program](#), which exempts computer data center equipment from sales and use tax when sold to, used, or consumed in a data center.
- In January 2025, Pennsylvania Governor Josh Shapiro [announced](#) his "Lightning Plan" focused on meeting energy and infrastructure needs within the state. The plan includes a proposal to establish a Pennsylvania Reliable Energy Siting and Electric Transition Board (RESET Board) to streamline permitting and support for new energy projects and offer tax breaks for projects providing electricity to the grid. The announcement emphasized that Pennsylvania is one of only 12 states without a state entity that administers major energy project siting decisions. Creation of the RESET Board would require legislation, which Shapiro's office in mid-March [announced](#) would soon be introduced for consideration in both houses.

## **Longtime Leaders: California, Oregon, Washington**

### **California**

*Data Center Regulatory Outlook: Greater formalization of utility interconnection procedures and tariffs means additional process but also predictability, while pending legislation would increase*

*incentives while also increasing reporting requirements and regulatory requirements, which could increase costs to data centers*

- [S.B. 57](#) (Sen. Steve Padilla-D), currently before the California Senate, proposes the “Ratepayer and Technological Innovation Protection Act,” which would require (i) the California Public Utilities Commission (CPUC) to establish a special electrical corporation tariff for transmission and distribution services to data centers to, among other things, (a) provide protections for residential, agricultural, and small business ratepayers and prevent cost shifting to those ratepayers, (b) meet certain sustainability requirements, and (c) ensure that electrical grid investments to serve data centers are fully recovered from the data centers through the use of a services contract to repay an electrical corporation’s investment costs to serve the data center; and (ii) 100% of electricity delivered to data centers is provided by zero-carbon resources by 2030.
- [S.B. 58](#) (Sen. Steve Padilla-D), currently before the California Senate, would provide a partial exemption from certain taxes on data center equipment with respect to data centers that meet certain sustainability requirements, including, but not limited to, creating at least 20 qualifying jobs and investing at least \$200 million, using a skilled and trained workforce for constructing the data center facility, utilizing at least 70% carbon-free energy for the first year of the data center’s operations and a specified percentage of carbon-free energy determined for each subsequent year thereafter, sourcing at least 50% of their energy supply from behind-the-meter sources, avoiding diesel fuel, using water-efficient cooling systems, and employing an onsite battery storage.
- [A.B. 222](#) (Assemblymember Rebecca Bauer-Kahan-D), currently before the California State Assembly, would introduce reporting and disclosure requirements with respect to energy use by data center operators that provide computing resources to AI developers. It would authorize CPUC to require data center operators to annually report energy consumption and performance data and to adopt energy efficiency performance standards for data centers.
- Pacific Gas & Electric (PG&E), the largest utility company in California and in the U.S., has proposed [Electric Rule 30](#), which aims to create a streamlined approach for interconnecting new transmission-level electric retail customers, including data centers, into PG&E’s existing transmission system. Electric Rule 30 includes provisions that would address design and construction specifications, ownership of facilities, the location of facilities, land rights, contracts required to receive electric retail service, the installation of facilities to provide service to new transmission-level customers, and customer’s responsibilities for PG&E facilities.

## **Oregon**

*Data Center Regulatory Outlook: Legislation and utility rules setting data center-specific requirements mean additional process but also predictability; if legislation passes, it could increase costs to data centers*

- Oregon lawmakers introduced the POWER Act, [H.B. 3546](#) (Rep. Pam Marsh-D) on February 11, 2025, to regulate data centers. The bill aims to protect consumers from rising energy costs and reduce greenhouse gas emissions. Among other things, the bill would place data centers and cryptocurrency miners into a new class of utility customers. It also would authorize energy regulators to make rules to ensure that homes and small businesses in the state will not shoulder the energy costs of data centers.

- H.B. 3546 only applies to data centers served by investor-owned utilities, like Portland General Electric and PacifiCorp. Electric cooperatives that serve data centers in eastern Oregon already have similar authority. The bill would require large energy users to sign a 10-year contract to pay for a minimum amount of energy used and the cost of new transmission. Some legislators, like Representative Virgle Osborne (R) voiced concerns with the bill while Bob Jenks, executive director of the [Citizens Utility Board](#), [testified](#) at a recent legislative hearing in support of the bill.
- In December 2024, [the Oregon Public Utility Commission ruled in favor of a PacifiCorp proposal](#) that would penalize large-load customers, such as data centers, whose energy use at new facilities is not in line with forecasted needs. The new rules, which PacifiCorp argues will incentivize more accurate load forecasts and help avoid unnecessary or premature spending, will take effect in [February 2025](#).

## **Washington**

*Data Center Regulatory Outlook: New workgroup shows attention to data centers; outcome of workgroup not yet known*

- Washington law provides an [exemption](#) from taxes imposed on certain retail sales to qualifying businesses and to qualifying tenants of certain equipment in eligible data centers.
- In February 2025, Washington Governor Bob Ferguson [issued E.O. 25-05](#) directing the Washington Department of Revenue to establish a data center workgroup aimed at evaluating the impacts of data centers on Washington's tax revenue, economy, environment, and energy use. The workgroup is tasked with balancing “industry growth, tax revenue needs, energy constraints, and sustainability” and must submit its findings and policy recommendations to the governor by December 1, 2025.

## **Regulatory Trendsetters: Minnesota and Utah**

### **Minnesota**

*Data Center Regulatory Outlook: Agency decision adds to regulatory burden for data centers, but pending legislation could reverse the agency; other pending legislation, if passed, would provide helpful new incentives and but also new zoning requirements that could negatively impact some data center developments*

- Minnesota's [Public Utilities Commission](#) voted in February not to exempt a data center development from permitting rules for generators at a proposed data center facility. Under Minnesota [law](#), a “[large energy facility](#)”—that is, a generating plant or combination of plants at a single site with a combined capacity 50 [MW] or more” must obtain a certificate of need from the Public Utilities Commission. Although the data center developer [stated](#) that its diesel generators would be a backup power source and not connected to the grid, the Public Utilities Commission ruled that the project must obtain a certificate of need.
- The Minnesota Senate, during the 2025 legislative session, will consider [F. 1393](#) (Sen. Andrew Mathews-R), a bill clarifying that large data centers would not require a certificate of need for emergency backup generators not connected to the grid. When a data center

in Maryland faced a comparable certificate requirement in 2023, the Maryland government [passed](#) a [similar law](#) in May 2024 to provide an exemption from backup generators that do not connect to the grid.

- [H.F. 1277](#) (Rep. Greg Davids-R), before the Minnesota House this legislative session, would allow large-scale data centers to be eligible for a tax exemption for purchases of equipment, software, and electricity.
- [S.F. 608](#) (Sen. Bill Lieske-R), before the Minnesota Senate this legislative session, would restrict the placement of data centers in municipal zoning districts.

## **Utah**

*Data Center Regulatory Outlook: Innovative program will allow new options for data centers to secure competitive access to power purchases, which could mean cost savings*

- Although Utah has a vertically-regulated electricity regime—meaning that the electric utility is generally the only seller from which a customer can buy power—Utah recently adopted an innovative statute that would allow large energy users, like data centers, to purchase electricity directly from large-scale power generators when the utility and large load customer fail to agree to terms of service within 90 days of the utility completing its evaluation of the service request. In early March 2025, the Utah Senate passed [S.B. 132](#) (Sen. Scott D. Sandall-R), which “establishes alternative processes for providing electric service to customers with large electrical loads.”
- In addition to allowing the state’s large power generators to individually contract with new, large-load customers, the law contains provisions meant to ensure that the incremental costs associated with the large load energy requirements are paid by the large-load customer, rather than being offloaded to existing customers.

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