

HOUSE BILL NO. 1427

Introduced by

Representatives Novak, D. Anderson, Heinert, Porter

1 A BILL for an Act to amend and reenact sections 49-22-02, 49-22-03, 49-22-07, 49-22-07.2,
2 49-22-08, 49-22-08.2, 49-22-09, 49-22-09.2, 49-22-14, 49-22-16, 49-22-20, 49-22-21, 49-22-22,
3 49-22-24, and 49-22-25 of the North Dakota Century Code, relating to authorization for the
4 public service commission to regulate the siting compatibility for data centers; and to provide a
5 penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 49-22-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **49-22-02. Statement of policy.**

10 The legislative assembly finds ~~that~~ the construction of energy conversion facilities ~~and,~~
11 ~~transmission facilities,~~ and data centers affects the environment and the welfare of the citizens
12 of this state. Therefore, it is necessary to ensure ~~that~~ the location, construction, and operation of
13 energy conversion facilities ~~and,~~ transmission facilities, and data centers will produce minimal
14 adverse effects on the environment and upon the welfare of the citizens of this state by
15 providing that ~~nean~~ energy conversion facility ~~or,~~ transmission facility, or data center shall be
16 located, constructed, and operated within this state without a certificate of site compatibility or a
17 route permit acquired pursuant to this chapter. The legislative assembly hereby declares it to be
18 the policy of this state to site energy conversion facilities and data centers and to route
19 transmission facilities in an orderly manner compatible with environmental preservation and the
20 efficient use of resources. In accordance with this policy, sites and routes ~~shall~~ must be chosen
21 which minimize adverse human and environmental impact while ensuring continuing system
22 reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and
23 timely fashion.

1 **SECTION 2. AMENDMENT.** Section 49-22-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **49-22-03. Definitions.**

4 In this chapter, unless the context or subject matter otherwise requires:

5 1. "Certificate" means the certificate of site compatibility or the certificate of corridor
6 compatibility issued under this chapter.

7 2. "Commission" means the North Dakota public service commission.

8 3. "Construction" includes a clearing of land, excavation, or other action affecting the
9 environment of the site after April 9, 1975, but does not include activities:

10 a. Conducted wholly within the geographic location for which a utility or data center
11 has previously obtained a certificate or permit under this chapter, or on which a
12 facility was constructed before April 9, 1975, if:

13 (1) The activities are for the construction of the same type of facility or data
14 center as the existing type of facility or data center as identified in a
15 subdivision of subsection 57 or 68 or in subsection 4315 of this section and
16 the activities are:

17 (a) Within the geographic boundaries of a previously issued certificate or
18 permit;

19 (b) For an electric energy conversion facility constructed before April 9,
20 1975, within the geographic location on which the facility was built; or

21 (c) For an electric transmission facility constructed before April 9, 1975,
22 within a width of three hundred fifty feet [106.68 meters] on either side
23 of the centerline;

24 (2) Except as provided in subdivision b, the activities do not affect any known
25 exclusion or avoidance area;

26 (3) The activities are for the construction:

27 (a) Of a new electric energy conversion facility;

28 (b) Of a new electric transmission facility;

29 (c) Of a new data center or to improve or expand an existing data center
30 operation that involves energy consumption;

- 1 (d) To improve the existing electric energy conversion facility or electric
2 transmission facility; or
3 ~~(d)~~(e) To increase or decrease the capacity of the existing electric energy
4 conversion facility or electric transmission facility; and
5 (4) Before conducting any activities, the utility or data center certifies in writing
6 to the commission that:
7 (a) The activities will not affect a known exclusion or avoidance area;
8 (b) The activities are for the construction:
9 [1] Of a new electric energy conversion facility;
10 [2] Of a new electric transmission facility;
11 [3] Of a new data center or to improve or expand an existing data
12 center operation that involves energy consumption;
13 [4] To improve the existing electric energy conversion or electric
14 transmission facility; or
15 ~~[4]~~[5] To increase or decrease the capacity of the existing electric
16 energy conversion facility or electric transmission facility; and
17 (c) The utility or data center will comply with all applicable conditions and
18 protections in siting laws and rules and commission orders previously
19 issued for any part of the facility.
20 b. Otherwise qualifying for exclusion under subdivision a, except that the activities
21 are expected to affect a known avoidance area and the utility or data center
22 before conducting any activities:
23 (1) Certifies in writing to the commission that:
24 (a) The activities will not affect a known exclusion area;
25 (b) The activities are for the construction:
26 [1] Of a new electric energy conversion facility;
27 [2] Of a new electric transmission facility;
28 [3] Of a new data center or to improve or expand an existing data
29 center operation that involves energy consumption;
30 [4] To improve the existing electric energy conversion facility or
31 electric transmission facility; or

- 1 [4][5] To increase or decrease the capacity of the existing electric
2 energy conversion facility or electric transmission facility; and
- 3 (c) The utility or data center will comply with all applicable conditions and
4 protections in siting laws and rules and commission orders previously
5 issued for any part of the facility;
- 6 (2) Notifies the commission in writing that the activities are expected to impact
7 an avoidance area and provides information on the specific avoidance area
8 expected to be impacted and the reasons why impact cannot be avoided;
9 and
- 10 (3) Receives the commission's written approval for the impact to the avoidance
11 area, based on a determination that there is no reasonable alternative to the
12 expected impact. If the commission does not approve impacting the
13 avoidance area, the utility or data center must obtain siting authority under
14 this chapter for the affected portion of the site or route. If the commission
15 fails to act on the notification required by this subdivision within thirty days of
16 the utility's filing the notification by the utility or data center, the impact to the
17 avoidance area is deemed approved.
- 18 c. Incident to preliminary engineering or environmental studies.
- 19 4. "Corridor" means the area of land where a designated route may be established for an
20 electric transmission facility.
- 21 5. "Data center" means a structure that primarily contains electronic equipment used to
22 process, store, and transmit digital information, or conduct data mining, which may be:
- 23 a. A free-standing structure;
- 24 b. A portion of a larger structure which uses environmental control equipment to
25 maintain the proper conditions for the operation of electronic equipment; or
- 26 c. A structure that accommodates infrastructure, including servers, storage
27 systems, and networking equipment, ensuring access to information, operating
28 data mining, facilitating the operation of websites, applications, and services, and
29 maintaining optimal performance and uninterrupted data availability for an
30 enterprise or organization.

- 1 6. "Data mining" means a program involving pattern-based queries, searches, or other
2 analyses of one or more electronic databases, when:
- 3 a. A department or agency of the federal government, or a nonfederal entity acting
4 on behalf of the federal government, is conducting the queries, searches, or other
5 analyses to discover or locate a predictive pattern or anomaly indicative of
6 terrorist or criminal activity on the part of an individual;
- 7 b. The queries, searches, or other analyses are not subject based and do not use
8 personal identifiers of a specific individual, or inputs associated with a specific
9 individual, to retrieve information from the database or databases; and
- 10 c. The purpose of the queries, searches, or other analyses is not solely for:
- 11 (1) The detection of fraud, waste, or abuse in a government agency or program;
12 or
- 13 (2) The security of a government computer system.
- 14 7. "Electric energy conversion facility" means a plant, addition, or combination of plant
15 and addition, designed for or capable of:
- 16 a. Generation by wind energy conversion exceeding one-half megawatt of
17 electricity;
- 18 b. Generation by any means other than wind energy conversion exceeding fifty
19 megawatts of electricity; or
- 20 c. Utility-scale energy storage.
- 21 6.8. "Electric transmission facility" means an electric transmission line and associated
22 facilities with a design in excess of one hundred fifteen kilovolts. "Electric transmission
23 facility" does not include:
- 24 a. A temporary electric transmission line loop that is:
- 25 (1) Connected and adjacent to an existing electric transmission facility that was
26 sited under this chapter;
- 27 (2) Within the corridor of the sited facility and does not cross known exclusion
28 or avoidance areas; and
- 29 (3) In place for less than one year; or
- 30 b. An electric transmission line that is less than one mile [1.61 kilometers] long.

- 1 ~~7.9.~~ "Facility" means an electric energy conversion facility, electric transmission facility, or
2 both.
- 3 ~~8.10.~~ "Permit" means the permit issued under this chapter for the construction of a data
4 center or an electric transmission facility within a designated corridor ~~issued under this~~
5 chapter.
- 6 ~~9.11.~~ "Person" includes an individual, firm, association, partnership, cooperative,
7 corporation, limited liability company, or any department, agency, or instrumentality of
8 a state or of the federal government, or any subdivision thereof.
- 9 ~~10.12.~~ "Power emergency" means an electric transmission line and associated facilities that
10 have been damaged or destroyed by natural or manmade causes resulting in a loss of
11 power supply to consumers of the power.
- 12 ~~11.13.~~ "Repower" means construction activities to completely or partially dismantle and
13 replace turbine equipment at an existing wind energy conversion facility site that result
14 in an increase of the facility's generation output potential or turbine height. The term
15 does not include routine turbine maintenance or routine replacement of malfunctioning
16 turbines or turbine components.
- 17 ~~12.14.~~ "Route" means the location of an electric transmission facility within a designated
18 corridor.
- 19 ~~13.15.~~ "Site" means the location of an electric energy conversion facility or data center.
- 20 ~~14.16.~~ "Utility" means a person engaged in and controlling the electric generation, the
21 transmission of electric energy, or the transmission of water from or to any electric
22 energy conversion facility.
- 23 ~~15.17.~~ "Utility-scale energy storage" means a plant, addition, or combination of plant and
24 addition, designed for operation as a grid resource and capable of five megawatts or
25 more of rated power capacity.

26 **SECTION 3. AMENDMENT.** Section 49-22-07 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **49-22-07. Certificate of site compatibility or route permit required.**

- 29 1. A utility person may not begin construction of an electric energy conversion facility ~~or,~~
30 an electric transmission facility, or a data center in the state without first having
31 obtained a certificate of site compatibility or a route permit from the commission

1 pursuant to this chapter. The facility must be constructed, operated, and maintained in
2 conformity with the certificate or permit and any terms, conditions, or modifications of
3 the certificate or permit. A certificate or permit may be transferred, subject to the
4 approval of the commission, to any person who agrees to comply with its terms,
5 conditions, and modifications.

6 2. If a power emergency exists which necessitates the relocation of a portion of an
7 electric transmission line and associated facilities from the designated route, the
8 owner of the line shall give telephonic notice to the commission in advance of the
9 relocation. The line may then be relocated to restore power as soon as practicable.
10 After the line has been relocated, the owner shall file with the commission a request to
11 approve the relocated route.

12 3. A wind energy conversion facility that has not been issued a certificate of site
13 compatibility and exceeds five megawatts of electricity may not repower the wind
14 energy conversion facility without first having obtained a certificate of site compatibility.
15 A variance may be granted for impacts to exclusion and avoidance areas resulting
16 from the repowering of existing infrastructure upon a showing of good cause. A
17 requested variance must comply with local land use, zoning, building rules,
18 regulations, and ordinances.

19 **SECTION 4. AMENDMENT.** Section 49-22-07.2 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **49-22-07.2. Waiver of procedures and time schedules.**

22 ~~Any utility which~~ A person that proposes to construct an electric energy conversion facility, or
23 an electric transmission facility, or a data center within the state may ~~make an application~~ apply
24 to the commission for a waiver of any of the procedures or time schedules set forth in this
25 chapter or in the rules adopted pursuant to this chapter. The commission, upon a finding that
26 the proposed facility or data center is of such length, design, location, or purpose that it will
27 produce minimal adverse effects, or, upon a finding that a demonstrable emergency exists, may
28 issue an order waiving specified procedures and time schedules required by this chapter or by
29 the rules adopted pursuant to this chapter, including, ~~but not limited to,~~ applications, notices,
30 and hearings, and may ~~forthwith~~ with issue a certificate of site compatibility, a certificate of corridor
31 compatibility, or a route permit, with such conditions as the commission may require.

1 **SECTION 5. AMENDMENT.** Section 49-22-08 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **49-22-08. Application for a certificate - Notice of filing - Amendment - Designation of a**
4 **site or corridor.**

5 1. An application for a certificate must be in such form as the commission may prescribe,
6 containing the following information:

- 7 a. A description of the size and type of facility or data center.
- 8 b. A summary of any studies which have been made of the environmental impact of
9 the facility or data center.
- 10 c. A statement explaining the need for the facility or data center.
- 11 d. An identification of the location of the preferred site for any electric energy
12 conversion facility or data center.
- 13 e. An identification of the location of the preferred corridor for any electric
14 transmission facility.
- 15 f. A description of the merits and detriments of any location identified and a
16 comprehensive analysis with supporting data showing the reasons why the
17 preferred location is best suited for the facility or data center.
- 18 g. A description of mitigative measures that will be taken to minimize all foreseen
19 adverse impacts resulting from the location, construction, and operation of the
20 proposed facility or data center.
- 21 h. An evaluation of the proposed site or corridor with regard to the applicable
22 considerations set out in section 49-22-09 and the criteria established pursuant to
23 section 49-22-05.1.
- 24 i. Such other information as the applicant may consider relevant or the commission
25 may require.

26 2. After determining that the application is complete, the commission shall serve a notice
27 of filing of the application on such persons and agencies that the commission may
28 deem appropriate and shall publish a notice of filing of the application in the official
29 newspaper of each county in which any portion of the site or corridor is proposed to be
30 located.

- 1 3. A copy of the application ~~shall~~must be furnished to any person or agency, upon
2 request to the commission within thirty days of either service or publication of the
3 notice of filing.
- 4 4. Within thirty days following service of the notice of filing of a complete application by
5 the commission, the applicant shall provide a copy of the commission's notice of filing
6 of the application by first-class mail to the owner of record of any land located within
7 the requested site or corridor. For purposes of this subsection, the owner of record
8 means the owner identified by the county treasurer to receive the real estate tax
9 statement.
- 10 5. An application for an amendment of a certificate ~~shall~~must be in such form and contain
11 such information as the commission ~~shall prescribe~~prescribes.
- 12 6. The commission may designate a site for a data center or a site or corridor for a
13 proposed facility following the study and hearings provided for in this chapter. Any
14 designation ~~shall~~must be made in accordance with the evidence presented at the
15 hearings, an evaluation of the information provided in the application, the criteria
16 established pursuant to section 49-22-05.1, and the considerations set out in section
17 49-22-09 in a finding with reasons for the designation, and ~~shall~~must be made in a
18 timely manner no later than six months after the filing of a completed application for a
19 certificate of site compatibility or no later than three months after the filing of a
20 completed application for a certificate of corridor compatibility. The time for designation
21 of a site or corridor may be extended by the commission for just cause. The failure of
22 the commission to act within the time limits provided in this section ~~shall~~do not operate
23 to divest the commission of jurisdiction in any certification proceeding. The
24 commission shall indicate the reasons for any refusal of designation. Upon designation
25 of a site or corridor, the commission shall issue a certificate of site compatibility or a
26 certificate of corridor compatibility with such terms, conditions, or modifications
27 deemed necessary. The commission may not condition the issuance of a certificate or
28 permit on the applicant providing a mitigation payment assessed or requested by
29 another state agency or entity to offset a negative impact on wildlife habitat.

30 **SECTION 6. AMENDMENT.** Section 49-22-08.2 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **49-22-08.2. Combining application.**

2 A utility or data center may file a separate application for a certificate or a permit, or
3 combined into one application.

4 **SECTION 7. AMENDMENT.** Section 49-22-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **49-22-09. Factors to be considered in evaluating applications and designation of**
7 **sites, corridors, and routes.**

- 8 1. The commission shall be guided by, but is not limited to, the following considerations,
9 where applicable, to aid the evaluation and designation of sites, corridors, and routes:
- 10 a. Available research and investigations relating to the effects of the location,
11 construction, and operation of the proposed facility or data center on public
12 health and welfare, natural resources, and the environment.
 - 13 b. The effects of new data center, electric energy conversion, and electric
14 transmission technologies and systems designed to minimize adverse
15 environmental effects.
 - 16 c. The potential for beneficial uses of waste energy from a proposed electric energy
17 conversion facility.
 - 18 d. Adverse direct and indirect environmental effects that cannot be avoided should
19 the proposed site or route be designated.
 - 20 e. Alternatives to the proposed site, corridor, or route which are developed during
21 the hearing process and which minimize adverse effects.
 - 22 f. Irreversible and irretrievable commitments of natural resources should the
23 proposed site, corridor, or route be designated.
 - 24 g. The direct and indirect economic impacts of the proposed facility or data center.
 - 25 h. Existing plans of the state, local government, and private entities for other
26 developments at or in the vicinity of the proposed site, corridor, or route.
 - 27 i. The effect of the proposed site or route on existing scenic areas, historic sites
28 and structures, and paleontological or archaeological sites.
 - 29 j. The effect of the proposed site or route on areas unique because of biological
30 wealth or because the areas are habitats for rare and endangered species.
 - 31 k. Problems raised by federal agencies, other state agencies, and local entities.

1 2. The commission may not condition the issuance of a certificate or permit on the
2 applicant providing a mitigation payment assessed or requested by another state
3 agency or entity to offset a negative impact on wildlife habitat.

4 3. Before the commencement of operations of the proposed facility or data center, the
5 applicant shall inform the commission that the applicant has executed or filed an
6 unexecuted generation interconnection agreement, or comparable transmission
7 services agreement, with the affected regional transmission organization or
8 transmission owner.

9 **SECTION 8. AMENDMENT.** Section 49-22-09.2 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **49-22-09.2. Mitigating environmental impacts.**

12 If an applicant elects to provide a payment to mitigate the environmental impact of the
13 construction or operation of an energy conversion ~~or facility~~, transmission facility, or data center,
14 the payment must be made to the agriculture commissioner who shall deposit the payment into
15 the environmental impact mitigation fund under section 4.1-01-21.1. Nothing in this section shall
16 be construed to limit an applicant from conducting mitigation activities.

17 **SECTION 9. AMENDMENT.** Section 49-22-14 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **49-22-14. Advisory committees - Appointment - Compensation.**

20 The commission may appoint one or more advisory committees to assist it in carrying out its
21 duties under this chapter. Committees appointed to evaluate sites or corridors considered for
22 designation must be composed of as many persons as may be appointed by the commission,
23 but must include a majority of public representatives; at least one representative from the state
24 department of agriculture, a public or municipally owned utility, a private investor-owned utility,
25 and a cooperatively owned utility; and one representative from each county and city in which an
26 electric energy conversion facility ~~or~~, electric transmission facility, or data center is proposed to
27 be located. Members of advisory committees are entitled to be reimbursed, within the limits of
28 legislative appropriations, for any necessary expenses in the amounts provided by law for state
29 officials.

30 **SECTION 10. AMENDMENT.** Section 49-22-16 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **49-22-16. Effect of issuance of certificate or permit - Local land use, zoning, or**
2 **building rules, regulations, or ordinances - State agency rules.**

- 3 1. The issuance of a certificate of site compatibility or a route permit shall, subject to
4 subsections 2 and 3, be the sole site or route approval required to be obtained by the
5 utility or data center.
- 6 2. a. A certificate of site compatibility for an electric energy conversion facility or data
7 center may not supersede or preempt any local land use, zoning, or building
8 rules, regulations, or ordinances and a site may not be designated which violates
9 local land use, zoning, or building rules, regulations, or ordinances.
- 10 b. A permit for the construction of an electric transmission facility within a
11 designated corridor supersedes and preempts a local land use, zoning, or
12 building rule, regulation, or ordinance, upon a finding by the commission that the
13 rule, regulation, or ordinance, as applied to the proposed route, is unreasonably
14 restrictive in view of existing technology, factors of cost or economics, or needs of
15 consumers regardless of location. Without such a finding by the commission, a
16 route may not be designated which violates a local land use, zoning, or building
17 rule, regulation, or ordinance.
- 18 3. ~~Utilities~~Data centers or utilities subject to this chapter shall obtain state permits that
19 may be required to construct and operate digital information transmission systems,
20 electric energy conversion facilities, and electric transmission facilities. A state agency
21 in processing a data center's or utility's facility permit application ~~shall be~~ bound to
22 the decisions of the commission with respect to the site designation for the data center
23 or electric energy conversion facility or the corridor or route designation for the electric
24 transmission facility and with respect to other matters for which authority has been
25 granted to the commission by this chapter.
- 26 4. A site or route may not be designated which violates the rules of a state agency. A
27 state agency with jurisdiction over any aspect of a proposed facility shall present the
28 position of the agency at least thirty days before the public hearing on an application
29 for a certificate, a permit, or a waiver, which position clearly must state whether the
30 site, corridor, or route being considered for designation will be in compliance with the
31 agency's rules. For purposes of this chapter it is presumed a proposed facility or data

1 center will be in compliance with a state agency's rules if the agency fails to present its
2 position on the proposed site, corridor, or route at least thirty days before the
3 appropriate public hearing.

4 **SECTION 11. AMENDMENT.** Section 49-22-20 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **49-22-20. Revocation or suspension of certificate or permit.**

7 A certificate of site compatibility or permit for the construction of ~~ana~~ data center or electric
8 transmission facility may be revoked or suspended for:

- 9 1. Any material false statement in the application or in accompanying statements or
10 studies required of the applicant.
- 11 2. Failure to comply with the certificate or permit or any terms, conditions, or
12 modifications contained therein.
- 13 3. Violation of the provisions of this chapter or rules or regulations issued pursuant to this
14 chapter by the commission.
- 15 4. A determination by a district court pursuant to section 49-22-16.1.

16 **SECTION 12. AMENDMENT.** Section 49-22-21 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **49-22-21. Penalties.**

- 19 1. Any person required by this chapter to have a certificate or permit who willfully begins
20 construction of a data center, an electric energy conversion facility, or an electric
21 transmission facility without previously securing a certificate or permit as prescribed by
22 this chapter, or who willfully constructs, operates, or maintains a data center, an
23 electric energy conversion facility, or an electric transmission facility other than in
24 compliance with the certificate or permit and any terms, conditions, and modifications
25 contained therein is guilty of a class A misdemeanor.
- 26 2. Any person who willfully violates any regulation issued or approved pursuant to this
27 chapter or who willfully falsifies, tampers with, or renders inaccurate any monitoring
28 device or method required to be maintained under this chapter shall be guilty of a
29 class A misdemeanor.
- 30 3. Any person who willfully engages in any of the following conduct is subject to a civil
31 penalty of not to exceed ten thousand dollars for each such violation for each day the

1 violations persist, except that the maximum penalty may not exceed two hundred
2 thousand dollars for any related series of violations:

- 3 a. Begins construction of a data center, an electric energy conversion facility, or an
4 electric transmission facility without having been issued a certificate or permit
5 pursuant to this chapter.
- 6 b. Constructs, operates, or maintains a data center, an electric energy conversion
7 facility, or an electric transmission facility other than in compliance with the
8 certificate or permit and any terms, conditions, or modifications contained therein.
- 9 c. Violates any provision of this chapter or any rule adopted by the commission
10 pursuant to this chapter.
- 11 d. Falsifies, tampers with, or renders inaccurate any monitoring device or method
12 required to be maintained pursuant to a certificate or permit issued pursuant to
13 this chapter.

14 The civil penalty provided for in this subsection may be compromised by the
15 commission. The amount of the penalty when finally determined or agreed upon in
16 compromise must be deposited in the general fund and, if not paid, may be recovered
17 in a civil action in the courts of the state.

- 18 4. Notwithstanding any other provision of this chapter, the commission, by injunctive
19 procedures, without bond or other undertaking, may proceed against any person who
20 willfully engages in any conduct described in subsection 3. ~~No liability shall~~Liability
21 may not accrue to the commission or its authorized representative in proceeding
22 against any person pursuant to this section.

23 **SECTION 13. AMENDMENT.** Section 49-22-22 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **49-22-22. Siting process expense recovery - Deposit in special fund - Continuing**
26 **appropriation.**

- 27 1. Every applicant under this chapter shall pay to the commission an application fee:
- 28 a. An applicant for a certificate of site compatibility shall pay an amount equal to five
29 hundred dollars for each one million dollars of investment in the facility or data
30 center structure.

- 1 b. An applicant for a certificate of corridor compatibility shall pay an amount equal to
2 five thousand dollars for each one million dollars of investment in the facility.
- 3 c. An applicant for a waiver shall pay the amount which would be required for an
4 application for a certificate of site or corridor compatibility for the proposed facility
5 or data center. If a waiver is not granted for a proposed facility or data center,
6 ~~such~~the application fee paid ~~shall~~must be allowed as a credit against fees
7 payable under this section in connection with an application under this chapter for
8 a certificate or permit for the proposed facility or data center.
- 9 d. An applicant requesting an amendment to a certificate or permit or for a transfer
10 of a certificate or permit shall pay an amount to be determined by the commission
11 to cover anticipated expenses of processing the application.
- 12 e. An applicant certifying to the commission under subsection 3 of section 49-22-03
13 shall pay an amount to be determined by the commission to cover anticipated
14 expenses of processing the application.
- 15 f. The application fee under subdivision a, b, or c may not be less than
16 ten thousand dollars nor more than one hundred thousand dollars.
- 17 g. An applicant may agree to pay additional fees that are reasonably necessary for
18 completion of the site, corridor, or route evaluation and designation process.
- 19 2. If an applicant does not agree to pay additional fees reasonably necessary for
20 completion of the site, corridor, or route evaluation and designation process, with the
21 approval of the emergency commission, the applicant shall pay such additional fees as
22 are reasonably necessary for completion of the electric energy conversion facility, data
23 center site, electric transmission facility corridor, or electric transmission facility route
24 evaluation and designation process by the commission. The application fee under
25 subsection 1 and any additional fees required of the applicant under this subsection
26 may not exceed an amount equal to one thousand dollars for each one million dollars
27 of investment in a proposed energy conversion facility or data center, or ten thousand
28 dollars for each one million dollars of investment in a proposed electric transmission
29 facility.
- 30 3. A siting process expense recovery fund is established in the state treasury. The
31 commission shall deposit payments received under subsections 1 and 2 in the siting

1 process expense recovery fund. All moneys deposited in the fund are appropriated on
2 a continuing basis to the commission to pay expenses incurred in the siting process.
3 The commission shall specify the time and method of payment of any fees and shall
4 refund the portion of fees collected under subsections 1 and 2 which exceeds the
5 expenses incurred for the evaluation and designation process.

6 4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility
7 and route permit, and transfer of a certificate or permit under this chapter shall pay to
8 the commission an administrative fee equal to two hundred dollars for each one million
9 dollars of original investment, not to exceed fifty thousand dollars. The administrative
10 fee must be deposited in the public service commission program fund.

11 **SECTION 14. AMENDMENT.** Section 49-22-24 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **49-22-24. Safety.**

14 1. Every utility that owns or operates electric generation of any size for the primary
15 purpose of resale shall comply with the standards of the national electrical safety code
16 in effect at the time of construction of the generation.

17 2. Every data center that owns or operates digital information transmission systems of
18 any size shall comply with the standards of data center design and implementation
19 best practices formulated by the American national standards institute and adhere to
20 the state fire code under North Dakota Administrative Code chapter 45-18-01.

21 **SECTION 15. AMENDMENT.** Section 49-22-25 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **49-22-25. Approval for temporary operation or variance.**

24 1. The commission may approve temporary operation of facilities or data centers, or a
25 temporary variance from approved construction, operation, or maintenance of facilities
26 or data centers upon a showing of good cause and receipt of a utility or data center
27 certification that the activities will have no adverse impacts upon the welfare of the
28 citizens of this state or the environment.

29 2. The commission may issue a temporary approval or variance without the necessity of
30 notice, publication, or public hearing with any additional terms, conditions, or
31 modifications deemed necessary to minimize impacts.