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OTHER STATES' REGULATIONS ON DATA CENTER DEVELOPMENT

This memorandum provides an overview of proposed and enacted state legislation regarding the regulation and development of data centers, highlighting recent policy trends involving tax incentives, statewide moratoriums, nondisclosure agreements, utility cost allocation and ratepayer protections, community benefit agreements, and local land use authority.

BACKGROUND

The rapid growth of artificial intelligence has prompted state lawmakers across the country to consider new legislation addressing the expanding demand for data centers. According to a report prepared by MultiState associates, lawmakers in more than 40 states considered 267 bills related to data centers in 2025. Within the first 6 weeks of 2026, lawmakers in more than 30 states introduced over 300 bills related to data centers.

Energy policy remains the primary focus of legislative efforts. States are considering how to accommodate the growing demand for data center electricity while protecting existing customers from increased utility costs. State legislatures also have focused on the role of local governments in regulating data center siting, zoning, and permitting decisions. Several states have introduced legislation proposing statewide moratoriums on data center development. Most proposals have faced legislative resistance and have not advanced. At the same time, numerous municipalities have adopted or considered temporary moratoriums on new data centers, reflecting a growing emphasis on local control. Land use authority also has been a focus of data center policy discussions, with most states emphasizing the role of municipalities and counties in regulating data center siting through existing zoning, permitting, and planning processes.

Transparency in data center development agreements has received increased legislative attention, with several states considering legislation prohibiting the use of nondisclosure agreements. In addition, tax incentives for data centers are receiving renewed legislative scrutiny as states reevaluate existing incentive programs in light of increasing construction costs, expanding infrastructure demands, and growing community concerns.

Community benefit agreements have emerged as a legislative tool to address the local impacts associated with data center development. These agreements establish legally binding commitments between data center developers, local governments, and communities regarding infrastructure improvements, workforce development, economic benefits, and other community priorities.

ECONOMIC AND TAX INCENTIVES

With more than 4,000 data centers operating nationwide, states continue to compete for new development through a variety of economic and tax incentives. According to the National Conference of State Legislatures (NCSL), data centers in Virginia, Texas, and California account for nearly one-third of all United States data centers. As states compete to attract additional data center investment and expansion, many states have adopted tax incentives intended to reduce development costs and encourage economic growth. At least 38 states offer dedicated tax incentives for data centers, ranging from sales and use tax exemptions to property tax abatements. Sales tax exemptions, the most common incentive, significantly reduce the cost of purchasing servers, computers, and other necessary equipment to construct and operate data centers. Fourteen states provide sales tax exemptions for electricity used by qualifying data centers and 11 states offer partial property tax abatements for qualifying facilities.

During the 2026 legislative sessions, lawmakers in at least 28 states introduced proposals to modify existing data center tax incentives, often by incorporating additional requirements intended to control costs or manage energy demand. Several states have considered fully repealing their data center tax incentives, including Arizona, Connecticut, Georgia, Maryland, Michigan, Pennsylvania, and Virginia.

Rather than eliminating incentives altogether, Connecticut, Georgia, and Washington have proposed legislation that would narrow eligibility for future data center development while preserving eligibility for existing facilities. Conversely, other states, including Colorado, New Hampshire, Rhode Island, and South Dakota, considered legislation establishing new incentive programs for data centers. Unlike earlier incentive programs adopted by many states, these proposals pair financial incentives with broader policy requirements on energy, the environment, and workforce standards designed to ensure public benefits accompany future data center development.

DATA CENTER MORATORIUMS

State legislatures have increasingly considered measures to temporarily restrict the development of large-scale data centers. According to NCSL, 15 states have introduced legislation establishing moratoriums on the approval of new data centers during the 2025-26 legislative session.

On June 4, 2026, the New York Legislature passed Assembly Bill 11560 and Senate Bill 10642, imposing a 1-year moratorium on state permits for data centers with peak demand exceeding 20 megawatts. If signed by the Governor, New York will become the first state to enact legislation imposing a statewide moratorium on data centers.

Prior to the moratorium lifting, the bills would require the New York Department of Environmental Conservation to prepare a statewide environmental impact report. The report would examine data center energy use, water consumption, land use, and impacts on disadvantaged communities. Data center developers would be required to hold at least one in-person public hearing in the host community, provide 30 days' advance notice, and provide a detailed disclosure regarding the proposed data center's energy and water use, wastewater, and financial benefits. Utilities also would be required to create a separate service classification for large data centers.

On July 14, 2026, New York Governor Kathy Hochul signed Executive Order No. 62, implementing the Governor's own temporary 1-year moratorium on data centers with peak demand exceeding 50 megawatts. The Governor's executive order directs state agencies to develop a long-term regulatory framework to protect ratepayers, the environment, the energy grid, and communities across the state.

According to NCSL, state legislatures in Delaware, Georgia, Maine, Maryland, Minnesota, New Hampshire, Oklahoma, Pennsylvania, South Carolina, South Dakota, Vermont, Virginia, and Wisconsin have introduced legislation to temporarily prohibit local governments from issuing permits for new data centers. Proposed legislation has failed in Maryland, Minnesota, New Hampshire, Oklahoma, South Dakota, and Wisconsin. In Maine, Governor Janet Mills vetoed a proposed moratorium after raising concerns that the measure could restrict economic development opportunities, including a proposed data center project intended to support a community impacted by the closure of a local mill.

NONDISCLOSURE AGREEMENTS

Transparency in data center development has become a growing concern as states and local governments evaluate the balance between protecting confidential business information and ensuring public access to information regarding data center development. Several states have introduced legislation aimed at restricting or prohibiting nondisclosure agreements between data centers and local and state government officials involved in data center development. Legislation remains active in Delaware, Michigan, Ohio, and Pennsylvania. Similar legislation introduced in Florida, Georgia, Illinois, Maryland, Minnesota, New Jersey, Oklahoma, South Dakota, and Wisconsin did not advance or otherwise stalled during the legislative process.

The following states have introduced or advanced legislation addressing the use of nondisclosure agreements in connection with data center development. The proposed legislation varies in scope, with some directly prohibiting government entities from entering nondisclosure agreements and others conditioning eligibility for tax incentives on transparency requirements.

Delaware

On June 24, 2026, the Delaware General Assembly passed Senate Bill 312 (2026) to prohibit state agencies, counties, and municipalities from entering nondisclosure agreements that would restrict the public from accessing information regarding potential or actual large-scale data center development. The bill is before the Governor for signature.

Michigan

Michigan Senate Bill 1049 (2026) was introduced and referred to the Senate Energy and Environmental Committee on June 28, 2026. The bill would prohibit state and local public employees or public officers from entering nondisclosure agreements with data centers and would impose a fine of not more than $1,000 if violated. The bill also would grant the Michigan Attorney General authority to bring an action to collect the fine.

Ohio

Ohio House Bill 695 (2026) was introduced and referred to the House Local Government Committee on February 18, 2026. The bill would prohibit local government officials from entering any nondisclosure agreements with data centers and would impose a fine of not more than $1,000 if violated. Additionally, any agreement or contract entered in violation of the bill would be void. The bill also would grant the Ohio Attorney General authority to bring an action to collect the fine.

Pennsylvania

Pennsylvania House Bill 2359 (2026) was referred to the Senate Finance Committee on July 10, 2026. The bill would establish new eligibility requirements for the sales tax exemption on computer equipment used in data centers by prohibiting state and local government agencies from entering nondisclosure agreements related to the construction, development, or location of data centers. The bill also would impose additional certification, disclosure, reporting, and other compliance requirements on qualifying data center projects.

UTILITY COST PROTECTION

According to information published by MultiState associates, roughly one-third of the data center energy legislation enacted this biennium includes ratepayer protection requirements. Power demand thresholds for when these laws apply to data centers vary widely across states, ranging from facilities with a peak demand threshold of 10 megawatts in South Dakota to facilities with a threshold of 150 megawatts in Alabama.

The following states have enacted or advanced legislation addressing the allocation of costs associated with large-load data centers. While the specific approaches vary, these measures generally focus on requiring data centers to bear costs associated with their electricity demand, requiring utilities to establish separate utility rates or service classifications, and protecting existing utility customers from increased costs.

Alabama

The Alabama Legislature enacted Senate Bill 270 (2026) to establish criteria for the Public Service Commission's review and approval of retail electric service contracts between a utility and a data center customer with a total peak demand of 150 megawatts or greater. The bill requires the contracts to ensure the incremental costs associated with providing retail electric service to the data center are recovered from the data center customer rather than existing utility ratepayers. The contracts also must provide benefits to other retail electric customers of the utility. In determining whether a contract provides such benefits, the commission must consider whether the contract's pricing and terms could reduce costs for other customers, improve the efficiency of the utility's electric system, and promote economic growth within the community.

Florida

The Florida Legislature enacted Senate Bill 484 (2026) to establish new requirements for ratepayer protection, environmental considerations, and local government authority related to large-scale data centers. The bill prohibits utilities from allocating costs associated with data center operations, including electricity costs, to residential and small business customers. The bill requires large-scale customers to pay their full cost of service attributable to their operations and prevents utilities from shifting financial risk associated with serving large-load customers onto the public. The bill also preserves local government authority over zoning, permitting, and land use decisions by allowing communities to establish stricter standards, deny projects, and impose additional regulatory requirements applicable to large-scale data centers. The bill increases transparency and security by requiring the public disclosure of data center development agreements after a 12-month exemption period. The bill also strengthens infrastructure and environmental standards by creating a dedicated permitting process for large-scale data centers and requires major modifications to be treated as new applications.

Oklahoma

The Oklahoma Legislature passed House Bill 2992 (2026), the Data Center Consumer Ratepayer Protection Act, to establish greater transparency requirements and community input for new data center development. The Act requires all electric utilities to establish and maintain separate terms and conditions of service applicable to any large-load customer using 75 megawatts or greater of peak electrical load, and to create and maintain separate tariffs applicable to such large-load customers. The terms of service for a large-load customer must be for a minimum of 10 years. The Act also requires any large-load customer that purchases land to notify the Oklahoma Corporation Commission, the county commissioners of the county, and any adjacent property owners within 60 days after the land is purchased.

South Dakota

The South Dakota Legislature enacted Senate Bill 135 (2026) to require utility providers to establish and maintain separate terms and conditions for electric services to data centers with a peak demand of 10 megawatts or greater. The terms and conditions must require the data center to reimburse any provider of electricity for all costs attributed to the data center for electric service demand and utility consumption, including costs incurred to serve the data center if the data center departs the system or materially reduces its load. The bill also prohibits the state from preempting or limiting the authority of the local government to adopt ordinances and resolutions limiting, prohibiting, or otherwise regulating the construction, development, or operation of data centers.

Tennessee

The Tennessee General Assembly enacted House Bill 1847 (2026) to require owners and operators of existing or proposed data centers to pay the full cost of infrastructure required to support data center operations, including expansion or upgrades to existing utility infrastructure. The bill prohibits electric utilities from allocating the costs of infrastructure or increased electrical demand caused by data centers to electric membership organizations, power distribution groups, or other utility customers. A utility may create a new customer class for a data center if necessary to effectuate the bill. Before a utility imposes a rate increase, the utility is required to make a written finding that the rate increase is not attributable to any data centers and must make the written finding publicly available.

Texas

Texas Governor Greg Abbott directed the Public Utility Commission of Texas to take immediate action to ensure data center interconnections do not increase residential electrical costs. The directive requires the commission to establish rules that would require data centers to pay for all electric infrastructure costs. The Governor pledged to work with the legislature next session to codify the commission's actions and to require annual reporting from data centers regarding electricity and water usage.

COMMUNITY BENEFIT AGREEMENTS

Several states have considered community benefit agreements as part of a broader effort to address the local impacts of data center development. These community benefit agreements are legally binding contracts between data center operators and local governments, utility providers, or other community stakeholders, and require the operator to pay for or provide resources to benefit the local community. Seven states have introduced legislation for community benefit agreements including Alaska, Colorado, Illinois, Michigan, Nebraska, New Jersey, and Pennsylvania. The following states have introduced or enacted legislation requiring community benefit agreements as a condition of data center development.

Michigan

The Michigan Legislature introduced House Bill 6137 (2026) and Senate Bill 1050 (2026) to require data center operators to enter community benefit agreements before constructing or operating a data center within the state. The agreements would create legally binding contracts between operators and local governments, utility providers, and other community stakeholders. The agreement also would require the operator to pay for or provide resources to benefit the local community. If enacted, local governments would be prohibited from issuing site plan approvals or permits. Additionally, the Michigan Public Service Commission would be prohibited from approving any data center interconnection until a community benefit plan has been signed by the local government in the jurisdiction in which the data center will operate. The agreement must accommodate and benefit the interests of other ratepayers and must address topics relating to hiring local workers and contractors, water usage, cost allocation for electrical and water infrastructure upgrades, and home efficiency improvements.

Nebraska

The Nebraska Legislature enacted Legislative Bill 1010 (2026) to establish requirements for large-load electric customers, including data centers, and to provide advanced planning, annual reporting, and regulatory review to maintain grid reliability and ensure infrastructure costs are assigned to the appropriate customers. The bill also requires the owner or operator of a data center to enter a community benefit agreement with communities affected by the data center and requires the owners or operators of data centers to bear all costs associated with decommissioning their facility.

DATA CENTER ZONING AND LOCAL LAND USE AUTHORITY

While several states have considered legislation addressing data center siting, most proposals have focused on preserving or expanding local government authority rather than establishing a uniform statewide zoning classification for data centers. State legislatures have generally avoided requiring local governments to approve or deny data center developments through a specific zoning designation, instead allowing municipalities and counties to regulate data centers through existing land use, permitting, and comprehensive planning processes. Recent legislative activity has focused on utility regulation, transparency requirements, environmental review, and community impacts rather than directing municipalities to establish specific zoning districts for data center development.

LEGISLATIVE OUTLOOK

Overall, legislative activity reflects a shift from broad opposition to data center development toward targeted regulatory frameworks addressing energy costs, infrastructure responsibility, transparency, and community impacts. However, the legislative landscape governing data centers continues to evolve rapidly. New legislation is introduced and existing proposals are frequently amended throughout the legislative session. Consequently, the policy trends and legislative activity described in this memorandum reflect a rapidly changing area of state law and should be viewed as a snapshot of developments at the time of publication.