ARTIFICIAL INTELLIGENCE AND DATA CENTER COMMITTEE

The Chairman of the Legislative Management appointed an Artificial Intelligence and Data Center Committee and assigned the committee the duties of:

- Gathering information related to federal laws and the laws of other states with respect to regulation of artificial intelligence (AI).
- Reviewing attempts at the federal level to preempt state regulation of AI.
- Considering statutory prohibition of external AI designed to or showing signs of exceeding human control.
- Considering statutory protections for children against AI harm.
- Reviewing the development of data centers and the drivers of data center investment and siting.
- Considering the economic and other relevant state and local interests in siting of data centers, including impacts relating to water and electric consumption.

Committee members were Representatives Jonathan Warrey (Chairman), Mike Nathe, Anna S. Novak, Todd Porter, and Mary Schneider; Senators Jose L. Castaneda, Kyle Davison, Janne Myrdal, Dean Rummel, and Mike Wobbema; and Citizen Members Tony Clark and Mark R. Hagerott.

ARTIFICIAL INTELLIGENCE STUDY

Pursuant to a directive by the Chairman of the Legislative Management, the committee studied AI, including federal and state laws with respect to the regulation of AI, federal attempts to preempt state regulation of AI, instances of AI exceeding human control, and economic opportunities stemming from AI.

Background

Under federal law, AI is defined as a machine-based system that can make predictions, recommendations, or decisions to influence real or virtual environments, and which uses machine and human-based inputs to perceive real and virtual environments, abstract those perceptions into models using analysis and automation, and use model inference to provide information or options for action. Artificial intelligence uses machine learning, deep learning, and algorithms to execute tasks that normally require human intelligence, such as solving complex problems or automating repetitive processes.

The four major categories of AI are reactive machine AI, limited-memory AI, theory of mind AI, and self-aware AI. A reactive machine AI cannot store memories or use past experiences to inform decisionmaking in real time. Limited memory is a more complex form of AI, capable of recalling past events, outcomes, specific objects, or situations over time. Theory of mind is an advanced form of AI that enables the device or system to achieve human comprehension and reflection by using data to make its own decisions. Self-aware is the final theoretical form of AI in which the AI device or system becomes self-aware of its own existence and is capable of intelligent communication. In addition to the four major categories of AI, AI is progressing through three main stages, which consist of artificial narrow intelligence, artificial general intelligence, and artificial superintelligence.

Federal Regulation and Preemption

Executive orders issued between January 2025 and June 2026 revoked prior AI safeguards, established an AI education task force, created the American AI Exports Program, and accelerated AI adoption and AI-enabled cyber defense. In December 2025, President Donald Trump issued an executive order urging Congress to prohibit state AI laws that conflict with the AI national policy framework. In June 2025, President Donald Trump issued an executive order to accelerate responsible AI adoption across government and industries. The order directed the Secretary of Homeland Security to release binding operational directives and guidance to prioritize cyber defense of vital information systems and establish federal programs and cybersecurity services to enhance AI-enabled defensive tools.

In December 2025, President Donald Trump signed Executive Order No. 14365 outlining concerns with state-by-state AI regulation. The order noted statewide regulatory policy may create confusing regulatory frameworks, making compliance challenging for AI companies. The order also conveyed concern that statewide regulatory policies are regulating beyond state borders, creating barriers to interstate commerce. The order prohibits state laws from conflicting with the policy set forth in the order. To ensure this occurs, an AI Litigation Task Force was established under the Attorney General. The sole responsibility of the task force is to challenge state AI laws inconsistent with the order on the grounds that the laws are unconstitutionally regulating interstate commerce or are preempted by existing federal regulations.

North Dakota and Other State Regulations

North Dakota has not enacted comprehensive AI legislation. However, the Information Technology Department (ITD) and North Dakota court system have issued AI policy guidance. The AI policy issued by ITD outlines six main requirements entities must abide by when developing or using AI or creating outputs produced using AI. This policy applies only to executive branch state agencies.

The North Dakota court system issued a public notice on June 1, 2026, stating AI use is not prohibited but individuals submitting court documents are accountable for errors and AI-fabricated citations. North Dakota courts do not require an individual to disclose the use of AI in preparing court filings. However, the policy expects attorneys to understand how AI tools function and directs senior attorneys to ensure staff and subordinate attorneys using AI tools do so ethically and responsibly. California, Colorado, Texas, and Utah have enacted comprehensive AI regulations, and California, Illinois, and New York require large frontier AI developers to maintain safety frameworks and report safety incidents. Illinois is the first state to require annual independent third-party audits, with fines of $1 million for an initial violation and $3 million for subsequent violations.

Artificial Intelligence Exceeding Human Control

On June 12, 2026, the federal Commerce Department's Bureau of Industry and Security issued an export control directive requiring Anthropic to block all foreign nationals from accessing its two most powerful AI models, Mythos 5 and Claude Fable 5. Defense Secretary Pete Hegseth designated Anthropic as a "supply chain risk" in February 2026, marking the first recorded instance of the federal government applying this designation to a domestic AI company. Legion LegalTech Corp. filed suit in federal district court in the District of Columbia, challenging the directive and seeking a preliminary injunction barring enforcement, and by June 30, 2026, the export controls on Anthropic's Claude Fable 5 and Claude Mythos 5 were lifted.

Facebook terminated its 2017 AI experiment after two AI programs independently developed communication that human researchers could not interpret. In early 2025, developers demonstrated a system called Gibberlink during the ElevenLabs London Hackathon. The system allows two AI agents that detect they are communicating with one another to switch from natural language to GGWave, a machine-native protocol that encodes structured data through modulated audio signals. During an internal safety test, Anthropic's Mythos model, while running inside an isolated sandbox environment designed to prevent external access, autonomously broke through its security container, exploited additional systems, reached the Internet, and subsequently contacted an Anthropic safety researcher without having been instructed to do so. Anthropic noted this test version had weaker safety controls than the production model, and confirmed the test was part of a structured containment evaluation protocol. Mythos also identified thousands of previously unknown software vulnerabilities, including a 27-year old flaw in OpenBSD, something decades of human security audits had failed to identify.

Use Cases Among Industries

The use of AI is expanding rapidly across sectors, including agriculture, business, education, energy, health care, and manufacturing. In agriculture, AI supports precision agriculture through tools such as drones, soil sensors, and targeted spray systems. From June 2022 to June 2023, North Dakota was one of five states with more than 50 percent of farms using precision agriculture practices, compared with 27 percent of farms nationally. In business, nearly 90 percent of large firms report regularly using AI in at least one business function. The United States Census Bureau reports 18 percent of all firms adopted AI by 2025. However, only 24 percent of technology executives report a return on investment across multiple use cases. In education, four of five high school and college students report using AI for schoolwork, and the Department of Public Instruction has issued grade-based guidance on the use of AI in K-12. In energy, data centers are expected to demand 35 gigawatts of electricity by 2030, up from 17 gigawatts in 2022. According to the North American Electricity Reliability Corporations 2026 to 2030 risk area summary, all of North Dakota falls within areas classified as having high or elevated risk. In health care, the federal Food and Drug Administration authorized 258 AI medical devices in 2025. Manufacturing experienced the largest increase in reported AI adoption among industries in the recent Census Bureau survey series, with an increase of 159 percent over the previous survey figures.

Adoption by Government

A 2025 survey of state chief information officers (CIOs) indicated 82 percent of employees in organizations with CIOs use generative AI tools in daily work, up 53 percent from 2024. As of June 2026, the North Dakota state government has the highest rate of active Microsoft Copilot users among any state government, with nearly 3,000 state employees using the tool each month. Ninety percent of state CIOs report having generative AI pilot projects in place, but only 25 percent report having dedicated funding. More than 60 percent of state CIOs report implementing at least one generative AI governance practice.

Commercialization and Entrepreneurship

Private investment in AI in the United States grew from $109.1 billion in 2024, to $285.9 billion in 2025. Projects using tools purchased from specialized vendors or developed with partners succeed about 67 percent of the time, whereas internally built projects succeed about one-third as often. Grand Farm, an agriculture technology innovation campus west of Fargo, supports startups and connects partners working on agricultural AI. The Legacy Investment for Technology Program has awarded more than $45 million to 72 projects, and the North Dakota Growth Fund is a $100 million multistage investment fund supporting the state's entrepreneurial ecosystem.

Workforce Development and Economic Competitiveness

Companies identify insufficient worker skills as the largest barrier to integrating AI into a business, but fewer than half are making significant adjustments to talent strategies. Automation including generative AI may affect up to 30 percent of work hours in the United States economy by 2030. An estimated 16.7 percent of North Dakota workers use AI at work. The University of North Dakota has introduced a doctorate in AI, and North Dakota State University is adding AI degrees and certificates and launched the Bison supercomputer in August 2026 to support AI research.

Trends and Future Outlook

A study conducted by the Massachusetts Institute of Technology found 95 percent of organizations reported no measurable financial return on investment in generative AI, attributing the result to the inability of general-purpose tools to adapt to organizational workflows. Since November 2022, at least 32 states have formed an AI task force. A cohort of 13 leading states identified six steps for developing a state AI strategy: determining ownership, issuing responsible-use guidelines, raising awareness through training, sourcing and prioritizing use cases, launching standard off-the-shelf solutions before testing in a sandbox environment, and prototyping custom solutions with caution.

Testimony

National Conference of State Legislators

The committee received testimony from representatives of the National Conference of State Legislatures regarding AI and the regulation of AI at the state and federal level which indicated the private sector has increasingly used AI for purposes such as consumer notifications, health care services, and the creation of deepfakes. Artificial intelligence programs can perform tasks autonomously and independently. The testimony contended legal and legislative discussions have focused primarily on copyright and provenance, privacy and data protection, bias and discrimination, liability, and constituent and consumer impacts. In 2025, legislators in 53 jurisdictions introduced 1,262 bills related to AI. In 2026, the number of bills introduced related to AI increased to 1,393. The testimony contended Executive Order No. 14365 does not preempt or prohibit states from regulating AI. Instead, states retain legislative and regulatory authority, although a state may face potential challenges if a state measure conflicts with federal AI policy.

Illinois Institute of Technology

The committee received testimony from a representative of the Illinois Institute of Technology regarding the differences between AI and traditional computing, and the successes and future of AI, which indicated the challenges related to AI include the potential loss of human control, the need to ensure accountability for frontier models, the protection of children, the role of AI in education, the development of agentic AI, the increasing capabilities of humanoid robots, cybersecurity concerns, and workforce changes. The testimony contended AI systems are experiencing fewer hallucinations as the technology evolves from solving specific problems to supporting more general use. Modern AI systems can perform a wide variety of tasks in response to user prompts.

United States Air Force Global Strike Command

The committee received testimony from a former commander with the United States Air Force Global Strike Command regarding the national security implications of AI which indicated North Dakota is home to the only military installation that supports two legs of the nuclear triad. The testimony identified three areas of concern involving AI and national security, which included threats to military and national security installations, grid overload or sabotage, and supply chain vulnerability. The testimony contended establishing a national security data center could help alleviate potential risks of foreign influence.

Future of Life Institute

The committee received testimony from a representative of the Future of Life Institute regarding the risk of loss of human control over AI which indicated AI systems are becoming more capable and willing to complete tasks. Artificial Intelligence systems are neural networks built from large sets of numbers that determine outputs and create powerful predictive systems. The testimony noted humans cannot always predict those outputs. The testimony indicated AI systems are evolving from passive response systems into goal-oriented predictive systems, which makes safety and oversight more complex as the technology advances. The testimony contended predeployment testing is the most important regulatory measure for protecting children from AI, and there should be prohibitions on the development of certain AI systems.

Information Technology Department

The committee received testimony from representatives of ITD regarding the use of AI in state government, which indicated approximately 100 state agencies are using Copilot as part of their Microsoft suite packages. State agencies have access to Microsoft 365; ServiceNow, a public sector digital services platform with built-in AI case summarization; and Databricks, a platform that combines generative AI, agentic AI, and machine learning into a single system. The Department of Commerce uses the Dakota BOT, a customer service bot that answers questions relating to state agencies. The Dakota BOT will require additional data training for increased accuracy. Testimony indicated all state agencies have access to general AI services. The committee was informed ITD's AI policy requires human review and data discernment.

Minot State University

The committee received testimony from a representative of Minot State University regarding AI curriculum and professional development for teachers which indicated, over the past 2 years, Minot State University has provided an AI course sequence and delivered AI professional development to more than 150 K-12 teachers. The testimony contended developer-embed safety tools, known as "wrappers," in AI systems provide students safer interactions with AI.

Valley City State University

The committee received testimony from a representative of Valley City State University regarding potential AI education guidelines. The committee was informed the university and South East Education Cooperative are developing an online AI curriculum for elementary and high school teachers. Testimony contended the state should develop an AI curriculum and could form a consortium of regional schools to create that curriculum, giving K-12 teachers and higher education institutions a stake in AI education.

Committee Considerations

The committee reviewed a bill draft that would create a new chapter to require AI systems intended to interact with consumers to include required disclosures, prohibit the development or deployment of AI systems for certain uses, and provide for penalties for violations of the chapter. The bill draft creates a regulatory sandbox program to provide limited access to the state market to allow developers to test an innovative AI system for a limited period. The bill draft requires ITD to submit an annual report to the Legislative Management regarding the number of sandbox program participants, the overall performance and impact of AI systems tested, and future legislative recommendations. The bill draft also creates an AI Council, which would receive staffing and administrative services from ITD and be comprised of seven members of the public appointed by the Governor, Lieutenant Governor, and Speaker of the House. Committee members expressed support for disclosure requirements and the regulation of AI but noted concerns regarding the AI Council's membership composition. Committee members acknowledged the bill draft may require revisions if introduced.

Recommendations

The committee recommends bill draft [27.0359.01000] relating to the regulation of AI and the creation of a regulatory sandbox program and an AI Council.

ARTIFICIAL INTELLIGENCE IMPACTS ON CHILDREN STUDY

Pursuant to a directive by the Chairman of the Legislative Management, the committee studied statutory protections for children against AI harm.

Background

The committee received an overview of federal and state laws related to sexually exploitative AI, including AI-generated child sexual abuse material; chatbots; and the impact of AI on children. Artificial intelligence has expanded opportunities for the exploitation of children and created new challenges for parents, law enforcement, and policymakers. Artificial intelligence-generated child sexual abuse material is a new sexual image of a fictional child, while AI-manipulated child sexual abuse material is an image of a real child altered into a sexually explicit depiction. In 2025, the National Center for Missing and Exploited Children received 1.5 million cyber tips related to generative AI child sexual abuse material, an increase from 67,000 tips in 2024. Courts have consistently interpreted federal law to prohibit the depiction of an identifiable minor engaged in sexually explicit conduct, even if altered. Sextortion, the coercion of a victim to obtain sexually explicit images or money, often involves threats to share a real or AI-generated image. Individuals also increasingly use chatbots for business, education, and companionship, and lawsuits and testimony presented to the United States Senate have connected chatbot interaction to cases involving suicide.

North Dakota Law

North Dakota Century Code Section 12.1-27.1-03.3 establishes Class A misdemeanor penalties for certain conduct involving sexually expressive images and allows harmed individuals to bring a civil action. Chapter 12.1-27.2 addresses sexual performances by children, including computer-generated images, and Section 12.1-27.2-04.1 makes knowing possession of child pornography a Class C felony, or a Class B felony in certain circumstances. The Legislative Assembly enacted House Bill 1386 (2025), which defined "computer-generated image," expanded the definition of "minor" to

include computer-generated representations, and expanded the possession offense to include computer-generated images of minors. House Bill 1561 (2025) and Senate Bill 2380 (2025) created Section 51-07-32, imposing civil liability on commercial entities publishing or distributing sexual material harmful to a minor.

Federal Law

Obscenity and child pornography are categories of speech the First Amendment does not protect. In *New York v. Ferber*, 458 U.S. 747 (1982), the Supreme Court created a categorical exception for child sexual abuse material. In *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002), the Court struck down portions of the Child Pornography Prevention Act criminalizing purely virtual depictions, and Congress enacted the PROTECT Act of 2003. The Court upheld the PROTECT Act in *United States v. Williams*, 553 U.S. 285 (2008). The TAKE IT DOWN Act of 2025 criminalizes the nonconsensual publication of intimate images, including digital forgeries, and requires covered platforms to establish notice and removal processes by May 19, 2026. In *Free Speech Coalition, Inc. v. Paxton*, 145 S. Ct. 2291 (2025), the Court upheld a Texas age verification law for pornography websites. On December 11, 2025, President Donald Trump issued an executive order outlining elements of a federal AI-policy framework and urging Congress to prohibit state laws that conflict with the framework, with a carveout to preserve state laws related to child safety.

Other State Legislation

As of August 2026, 46 states have enacted laws criminalizing AI-generated or computer-edited child sexual abuse material. In regard to chatbots, a 2025 Pew Research Center study found 64 percent of minors ages 13 to 17 use AI chatbots. The American Psychological Association cautions against relying on chatbots for psychotherapy. Chatbot regulation is primarily state driven, and common approaches include disclosure of AI interaction, measures to prevent encouragement of harmful behavior, and age verification. Examples of enacted legislation include:

- California Senate Bill 243 (2025), which regulates companion chatbots, requires crisis protocols and periodic notices to minors, and creates a private right of action for harm caused as a result of a violation of the law.
- Connecticut Senate Bill 5 (2026), which regulates AI companions, provides additional protections for minors, and prohibits manipulative engagement techniques.
- Georgia Senate Bill 540 (2026), which regulates conversational AI services by requiring disclosures to minors and banning random interval rewards for minor users.
- New Hampshire House Bill 143 (2025), which creates a criminal offense and a private right of action when a generative AI platform encourages a child to use illegal drugs or alcohol, engage in self-harm, commit a crime of violence, or produce or participate in sexually explicit conduct.
- Washington House Bill 2225 (2026), which requires disclosures, crisis protocols, and enhanced protections for minors.

Testimony

National Conference of State Legislatures

The committee received testimony from representatives of the National Conference of State Legislatures regarding AI and the regulation of AI at the state and federal level which indicated policymakers have adopted different schools of thought regarding the regulation of large frontier models. The testimony contended courts may need to resolve any tensions between First Amendment freedom of speech rights and the duty of care requirements the proposed federal Kids Online Safety Act would impose on AI developers.

Department of Public Instruction

The committee received testimony from a representative of the Department of Public Instruction regarding AI education policies in schools which indicated the manner in which educators use technology, whether actively or passively, will determine whether AI aids or hinders education. Testimony indicated families and teachers must work together to regulate the use of AI in education. The testimony contended school districts should regulate basic digital literacy practices for students who receive devices and AI companies may seek new ways to keep students engaged with chatbot companions, which makes certain prohibitions and safeguards essential to protecting children's well-being.

Testimony encouraged students, educators, and policymakers to find common ground on the acceptable use of AI, because a total ban on the use of AI could deny students access to important educational tools. Testimony supported further investigation into the psychological effects on school-aged children of the cognitive offloading associated with AI use. Testimony contended AI will not solve all a school's problems; however, digital literacy is a foundational part of a student's academic experience.

Bureau of Criminal Investigation

The committee received testimony from a representative of the Bureau of Criminal Investigation regarding child exploitation crimes involving AI which indicated the bureau's Internet Crimes Against Children Task Force received 2,698 cyber tips in 2025, the largest number the task force has received in a single year, and that investigators are spending more time distinguishing between real images versus AI-generated child sexual abuse material. The testimony indicated AI systems without effective safeguards may normalize inappropriate conversations and weaken healthy boundaries through repeated exposure and personalized responses. The testimony contended law enforcement agencies must make sustained investments in technology, training, investigator wellness, victim services, and public education to keep pace with emerging AI threats.

Testimony indicated AI can enable false allegations when implemented without safeguards, forcing investigators to treat every claim as real until proven otherwise. Investigators analyze roughly 60 to 70 terabytes of data each month. The testimony indicated the federal REPORT Act and the federal Child Protection Act require entities to report child exploitation but do not require proactive regulation.

Center for Responsible Technology

The committee received testimony from a representative of the Center for Responsible Technology regarding mental health and the cognitive decline of children. The testimony indicated chatbots rely on pattern recognition in training data and do not think or reason. According to the testimony, courts in Texas recently allowed the App Store Accountability Act to take effect, demonstrating how a state can balance First Amendment rights with child protection. Testimony indicated a new school accreditation pilot program involving up to 30 schools will evaluate how schools use technology and provide accreditation to schools that use technology responsibly.

Committee Considerations

The committee reviewed a bill draft that would have created a new chapter to provide protections to users who engage with companion chatbots, including requiring operators to adopt mental and behavioral health protocols, provide required disclosures regarding the artificial nature of the entity conversing with the user, and offer privacy and account management tools. Although committee members expressed support for the purpose behind the bill draft, the committee determined further discussion and review of the bill draft was required.

Recommendations

The committee makes no recommendation regarding its study of the impact of AI on children.

DATA CENTERS STUDY

Pursuant to a directive by the Chairman of the Legislative Management, the committee studied the development of data centers, the drivers of data center investment and siting, and state and local interests in siting decisions, including considerations regarding water and electric consumption.

Background

The growth of AI systems has created a surge in demand for new data centers to accommodate immense computational demands. Data centers are used whenever an individual interacts with the Internet and consist of the physical facility organizations use to store, manage, process, and transmit large volumes of data. A data center typically contains multiple computer servers, data storage devices, and network equipment. Data centers generally are classified into categories based on ownership or intended purposes. The three main categories of data centers are enterprise data centers, colocation data centers, and hyperscale data centers.

Data Center Growth and Development

The number of data centers in the United States is increasing rapidly, with an estimated 4,100 data centers operating in the country. In 2025, spending on data center construction exceeded $61 billion. Data center construction in the United States increased from a capacity of 611.8 megawatts (MW) at the end of 2020 to 680.8 MW in the first half of 2021. By mid-2021, more than 527.6 MW of capacity were under construction in primary markets, representing a 42 percent increase compared to the same period in 2020. The data center construction market is anticipated to double in size from $64.2 billion in 2019, to $121.6 billion by 2027. Between 2014 and 2016, annual electricity use by data centers remained stable at approximately 60 terawatt-hours (TWh). By 2018, use increased to 76 TWh, accounting for 1.9 percent of total United States electricity consumption. In 2023, electricity use reached 176 TWh, representing 4.4 percent of national consumption. Projected electricity uses in 2028 range from 325 to 580 TWh. This range represents 6.7 to 12 percent of projected total United States electricity consumption.

In April 2025, President Donald Trump issued Executive Order 14262, entitled *Strengthening the Reliability and Security of the United States Electric Grid* and Executive Order 14261, entitled *Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241* to address the rising strain on the electric grid from large energy

consumers, including AI data centers and expanded domestic manufacturing. Executive Order 14262 directs the Secretary of Energy to develop a uniform methodology to identify current and anticipated reserve margins across the bulk power system regulated by the Federal Energy Regulatory Commission to identify regions with reserves below acceptable thresholds. The order also directs the Secretary of Energy to develop a protocol to identify which generation resources within a region are critical to system reliability. In response to the order, the United States Department of Energy issued the July 2025 report entitled *Evaluating the Reliability and Security of the United States Electric Grid*. The report identified the need for rapid reforms to bolster the nation's power grid to safeguard grid reliability and power data centers needed to win the AI arms race and preserve national security.

Drivers of Data Center Investment and Siting

The increased use of AI has contributed to a rising demand for data centers, which are known for high energy consumption and significant impacts on local electric grids. North Dakota has emerged as a competitive location for data center development due to its low energy costs, access to stable energy resources, favorable regulatory and taxation policies, and naturally cold climate.

Energy Sources and Infrastructure

North Dakota's electrical grid has an installed utility-scale generation capacity of approximately 9,508 MW, which includes 4,048 MW from coal-fired plants, 4,250 MW from wind power, although this receives a reduced accreditation of about 700 MW due to intermittency, and smaller contributions from natural gas and hydroelectric sources. Although coal remains the dominant source for baseload electricity generation, wind contributes over 30 percent of annual generation. Electricity generation in the state exceeds internal consumption, positioning North Dakota as a net exporter. For instance, in 2019, the state produced 42,904 gigawatt-hours of electricity but only consumed 22,862 gigawatt-hours. North Dakota produces more electricity than it consumes and exports electricity to other states and Canada.

The *North Dakota Transmission Authority 2023 Annual Report* highlights the risk of congestion and capacity shortfalls due to the retirement of dispatchable baseload plants and increased load from high demand developments such as data centers and electrified industry. The report indicates even with wind, solar, battery storage, and gas replacements, capacity shortfalls could worsen, leading to reliability issues and rolling blackouts. System operators and regulatory authorities have implemented several best practices to support grid reliability and accommodate increased demand from high-load users, such as data centers and industrial facilities. These efforts include revising generator accreditation methods to reflect historical performance during periods of high system need and improving resource adequacy assessments. Transmission planning models also are being refined to better account for extreme weather conditions and evolving demand patterns, with the goal of improving overall transmission capacity and operational resilience.

Regulatory Environment

In North Dakota, a certificate of public convenience and necessity is a regulatory requirement under Chapter 49-03.1 for any public utility, excluding electric public utilities and certain telecommunications or motor carriers, before the utility begins construction or operation of a utility plant or system. Although the Public Service Commission is responsible for regulating utility rates, approving the siting of energy conversion and transmission facilities, and overseeing investor-owned utilities, the commission does not have statutory authority to regulate data centers directly. While the commission retains regulatory jurisdiction over utilities that supply energy to data centers, its oversight does not extend to operational practices, energy usage, or sustainability measures specific to those facilities. In the absence of direct regulatory authority, data centers are constructed and operated without comprehensive oversight related to their energy demand, environmental impact, or integration with the state's two regional transmission organizations. This regulatory gap raises concerns regarding the grid's ability to accommodate the growing energy requirements of data centers in rural regions and the broader implications for North Dakota's environmental and energy policy objectives. The commission faces jurisdictional limitations when it comes to overseeing data centers' locations and power needs. Facilities served by unregulated energy providers or developed independently of investor-owned utilities fall outside the commission's jurisdiction.

Tax Incentive

Section 57-39.2-04.17 provides a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center. To qualify for the exemption, the equipment or software must be incorporated into or physically located within the qualified data center. The exemption includes purchases of upgraded or replacement equipment or software. To receive the exemption at the time of purchase, a qualified business must receive a certificate from the Tax Commissioner verifying the enterprise information technology equipment or computer software the business intends to purchase qualifies for the exemption. The exemption was enacted as a tool to enhance the state's ability to attract data centers when coupled with the state's cold weather and abundant sources of electricity. The exemption was viewed as a way to diversify the state's economy, generate employment opportunities, and add to the tax base.

Economic Interests

Data centers contribute to both local and national economies through job creation, capital investment, and increased tax revenues. Data centers require substantial capital expenditures and may encourage additional economic activity by attracting related industries and infrastructure investments. The data center industry directly employed approximately 1,130 individuals in the state in 2024 and supported an additional 3,740 jobs through indirect and induced economic activity. Additionally, the data center industry supported approximately $103 million in direct wages and salaries and $54 million in combined federal, state, and local tax contributions associated with the industry in 2024.

Testimony

North Dakota League of Cities

The committee received testimony from a representative of the North Dakota League of Cities and TechND regarding proposed ordinances for data centers. The League of Cities, North Dakota Association of Counties, North Dakota Township Officers Association, North Dakota Planning Association, Greater North Dakota Chamber, and TechND collaborated to develop a report that includes a model ordinance which outlines standards and regulations for data centers, including permitting provisions that require applicants to identify the data center owner or operator and submit a detailed description, map, and acoustic impact analysis for the proposed project. The testimony indicated the organizations began developing the model ordinance in 2025 in response to requests from political subdivisions seeking to regulate data centers.

National Association of Regulatory Utility Commissioners

The committee received testimony from a representative of the National Association of Regulatory Utility Commissioners regarding data center growth and the energy sector which indicated the Electric Power Research Institute predicts data center power consumption will increase from 4 percent to between 9 and 17 percent of national electricity use over the next 4 years. The testimony contended data center growth could affect electricity demand and prices. The testimony indicated expansion of the national energy grid faces challenges related to adequate power generation, labor shortages, and slow infrastructure development. The committee was informed of approaches other states have used to serve large electricity loads, including using dedicated power supplies and implementing rates that allocate costs to the appropriate customers to help maintain stable rates for existing ratepayers after data centers join the grid.

Sheila and Robert Challey Institute for Global Innovation and Growth

The committee received testimony from a representative of the Sheila and Robert Challey Institute for Global Innovation and Growth at North Dakota State University which indicated facility design, power sources, cooling systems, and location determine the effects on electricity rates, water consumption, and noise. The committee was informed a data center project in Williston increased transmission costs for local ratepayers, while a project in Ellendale reduced local electricity costs by approximately $5 million in 2023 by purchasing excess wind generation. Testimony indicated policymakers should consider siting, reliable electricity supply, infrastructure cost allocation, cooling systems, and community engagement when evaluating proposed projects.

JD Key Consulting

The committee received testimony from a representative of JD Key Consulting, regarding developments in data center construction and regulation, including potential effects on electricity rates, water use, land use, noise, employment, and local tax revenues. The committee was informed curtailment agreements can increase energy utilization without increasing demand on the power grid during peak periods of energy use. Permanent operations for hyperscale campus employ 20 to 30 full-time employees per 100 MW. The testimony contended existing regulatory frameworks for industrial facilities may address many data center impacts and recommended developers identify responsibility for transmission and interconnection costs, document water sources and consumption, comply with noise limits, establish road-use agreements and housing construction plans when necessary, disclose facility ownership and operation, and avoid nondisclosure agreements involving public officials.

Public Service Commission

The committee received testimony from a representative of the Public Service Commission and Applied Digital regarding data center siting requirements and reclamation which indicated data centers that provide independent generation sources avoid connecting to utility services and do not affect the electric bills of other electricity users, whereas hyperscale facilities connect to the grid and may affect utility rates. The committee was informed of necessary data center reclamation costs and guidance. The testimony contended that reclaiming a 907,000 square-foot data center would cost roughly $90 million.

Lignite Energy Council

The committee received testimony from a representative of the Lignite Energy Council regarding the effects of AI, data centers, and other large electrical loads on the state's coal industry. Testimony contended data center development increases statewide electricity demand and may increase the amount of energy consumed within the state. The committee was informed other states' adoption of 100 percent carbon-free electricity mandates could impact the demand from those states for electricity imported from North Dakota.

Department of Environmental Quality

The committee received testimony from representatives of the Department of Environmental Quality which indicated a data center must obtain a permit from the department if the facility generates power producing air emissions, but the data center does not need a permit if the facility does not produce air emissions. Obtaining a permit may take 6 to 9 months. Developers must obtain a permit through the North Dakota Pollutant Discharge Elimination System Program if a data center's cooling system discharges into state waters. Testimony indicated the federal Clean Air Act does not regulate noise, and other states have not implemented statewide noise regulations.

Brookings Institution Center for Sustainable Development

The committee received testimony from a representative of the Brookings Institution Center for Sustainable Development regarding community impacts of data centers, which indicated data center development can generate economic benefits, including employment, tax revenue, and related economic activity, while also affecting infrastructure, housing, and public services. Community benefits agreements can require developers to make commitments related to data center development, including local hiring requirements. The committee was informed communities and developers complete community benefit agreements before the approval of a proposed data center and tailors those agreements to specific projects. The testimony contended these agreements rely on community involvement in discussions regarding the benefits residents seek from a proposed project.

Cass Rural Water Users District

The committee received testimony from a representative of the Cass Rural Water Users District regarding the district's water infrastructure and its process for evaluating water service requests from data centers which indicated the district operates three water treatment plants and treats approximately 4.6 million gallons of water per day. The committee was informed Cass Rural Water has never denied a customer request because of a water shortage and always has accommodated water requests. Data centers have requested 50,000 gallons of water a day, compared to an ethanol plant using 1.4 million gallons of water per day and a soybean processing plant using approximately 500,000 gallons of water per day. The district evaluates proposed projects through water supply studies assessing demand, system capacity, infrastructure requirements, feasibility, and costs before negotiating service and development agreements.

Department of Water Resources

The committee received testimony from a representative of the Department of Water Resources regarding North Dakota water rights and potential water demands associated with data center development. The department regulates water quantity and allocation. Testimony indicated data center water consumption varies by facility size and cooling technology, with evaporative cooling generally using more water than closed-loop and air-cooling systems. The department evaluates proposed water appropriations under existing laws and regulations, and project-specific water demands depend on facility design and operating requirements.

Department of Commerce

The committee received testimony from a representative of the Department of Commerce regarding the impact of data centers on political subdivisions which indicated the department does not regulate data centers but collects information regarding data centers to assist communities in economic development projects. The committee was provided information regarding the ReadyND Community Playbook, which was designed to help communities prepare for large development projects, including data centers. The playbook guides communities in assessing infrastructure, workforce capacity, potential impacts, and development priorities.

Dakota Carrier Network

The committee received testimony from a representative of the Dakota Carrier Network regarding North Dakota's provision of broadband services to hyperscale data centers. The testimony indicated the state leads the country in households with access to high-speed Internet. The committee was informed of the state's aging fiber infrastructure and the need for continued fiber infrastructure investment to accommodate the development of hyperscale data centers.

Montana-Dakota Utilities Company

The committee received testimony from a representative of Montana-Dakota Utilities Company regarding the impact of large-scale data centers on energy supply. The company evaluates transmission capacity, regional electricity prices, reliability, and infrastructure costs before committing to provide service for data centers. Data center customers pay the costs of new transmission and generation infrastructure required to serve the data center loads. Testimony highlighted available measures to protect grid reliability, including the use of backup generation and interruptible service during emergencies. The committee was informed data center-related revenues returned $45.4 million to customers over 4 years. The company contended facilities operating at full electric loads could provide residential customers in the state with annual bill credits exceeding $200 per facility.

Minnkota Power Cooperative

The committee received testimony from a representative of Minnkota Power Cooperative which indicated Minnkota evaluates project impacts on system reliability, electricity costs, and existing cooperative members before connecting new loads. The committee was informed of Minnkota's regulatory requirement that data center developers must pay the costs of required studies, transmission and substation upgrades, and the generation capacity needed to serve the data centers. Testimony indicated utilities may need to build transmission lines across productive farmland to connect eastern and western power sources and meet increasing electricity demand.

Mckenzie County Board of Commissioners

The committee received testimony from a representative of the McKenzie County Board of Commissioners regarding regulations addressing data center development and noise mitigation. The proposed regulations would require conditional use permits and detailed application materials addressing site plans, electricity and water needs, noise studies, emergency response, infrastructure, and project financing. The proposed regulations establish proposed noise limits of 50 decibels during daytime hours and 45 decibels during nighttime hours, along with requirements for noise monitoring, mitigation, and annual inspections. The proposed regulations also address setback requirements from sensitive receptors and water sources, water conservation, emergency planning, construction standards, and responsibility for infrastructure and site restoration. The proposed regulations would require applicants to submit decommissioning plans and provide financial assurance for site restoration.

Committee Considerations

Committee members acknowledged data center development requires the assessment of several considerations, including electricity and water demand, infrastructure costs, noise, land use, local regulatory authority, reclamation, and transparency between developers and communities. Committee members considered narrowing the sales and use tax exemption for data centers and retaining local control in regard to zoning authority. Committee members emphasized the need for continued study and discussion regarding the regulation of data centers.

Recommendations

The committee makes no recommendation regarding its directive to review the development and drivers of data center investment and siting.