State Data Center Policy 101

Legislative Trends, Key Terms, and What to Expect in 2026

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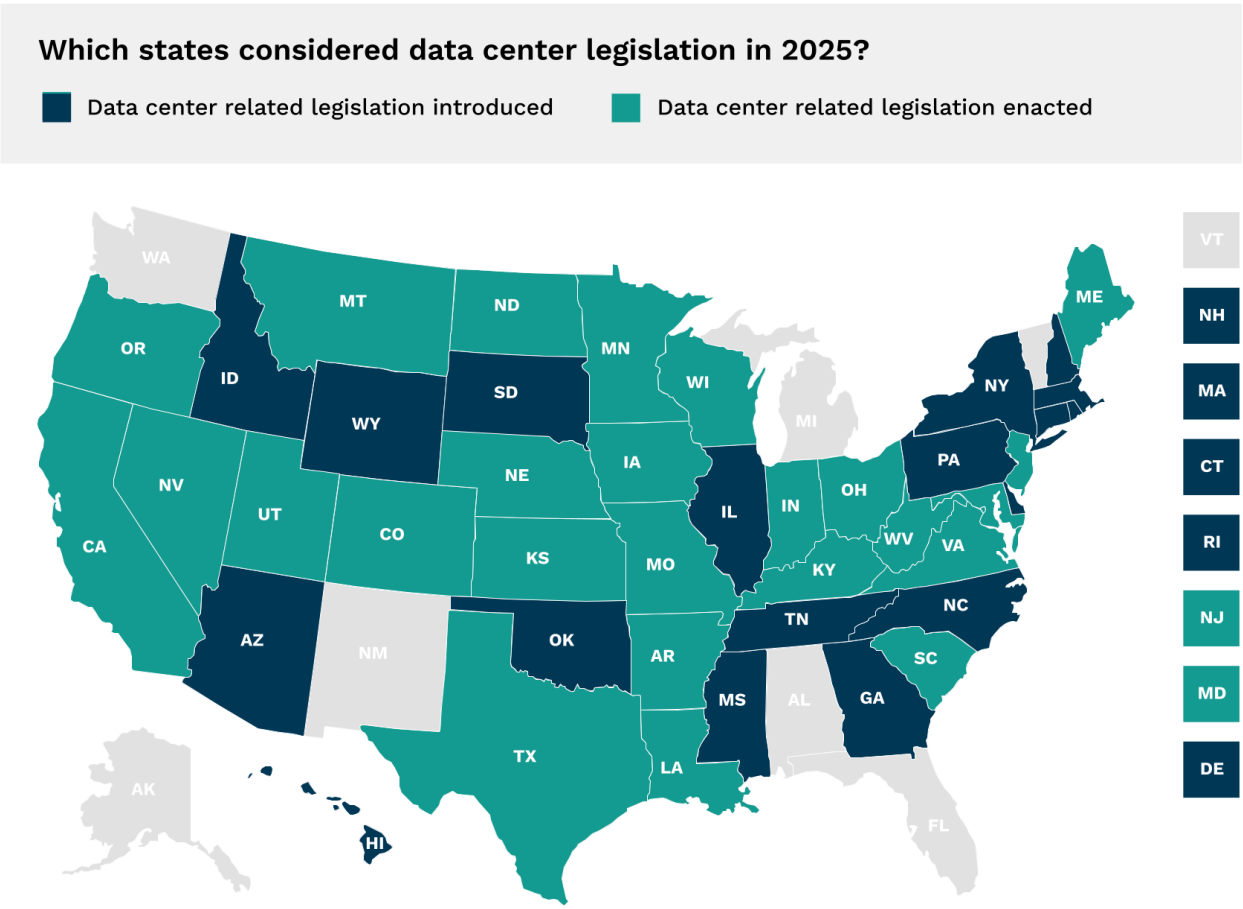
Data centers, which have long been the backbone of internet infrastructure, have increasingly captured the attention of lawmakers. This is due in large part to the proliferation of artificial intelligence (AI), which requires substantial processing power and a more urgent need for data centers. Data centers use large amounts of energy and rely on backup generators in the event of a power outage. This has prompted policymakers to consider how to provide sufficient electricity to data centers while minimizing the impact on residential customers.

Data centers are impacted by a wide variety of state policy issues, often sitting at the intersection between energy, environmental issues, zoning, and taxation. As such, it's difficult to be an expert in all of the issue areas. Our newest subscription, Policy Watch: Data Centers, will help government relations professionals make sense of the evolving policy landscape around data centers by summarizing major legislative trends, sharing deep dives on key issues, and offering a landing page for quick reference to previously covered topics, all from MultiState's seasoned policy experts. As these debates continue into 2026 and beyond, staying informed about legislative trends and regulatory developments will be critical for anyone working in this space.

2025 Recap: Developments In State Data Center Policy

In 2025, lawmakers in over 40 states considered a total of 267 data center-related bills. Of these bills, 126 addressed energy use, including topics such as negotiating special rates with large customers, nuclear energy, and requiring studies to better understand the impact data centers would have on the energy system. Notably, South Carolina enacted a law (SC HB 3309) allowing electric utilities to negotiate special rates for large customers, and Maryland enacted legislation (MD HB 1035/SB 937) aiming to prevent energy costs from data centers from being passed onto other customers. Additionally, to address power generation concerns, some technology companies have proposed providing their own energy to power data centers via small modular nuclear reactors, an issue touched on by both enacted bills in South Carolina and Maryland.

States also paid close attention to water and tax issues impacting data centers. Sixteen states considered 39 bills that could impact water usage in data centers, including a Minnesota law (MN HF 16) requiring a separate water use permit process for data centers. Many states have existing tax incentives that data centers are eligible for, but lawmakers in 32 states introduced 75 bills addressing data center tax incentives. While some states enacted legislation establishing new tax exemptions, others altered their existing incentives, such as Kentucky which enacted legislation (KY HB 775) creating a tiered system of reduced capital investment requirements in certain localities to qualify for the state's data center tax exemption.



Source: MultiState. Data as of October 2025.

Case Study: Virginia

The state to watch most closely when it comes to data centers is Virginia, where the Washington, DC, suburbs are home to the most data centers in the world and process approximately 70% of the world's internet traffic. However, tensions have begun to arise, with some residents expressing concern about the number of data centers. The Virginia Legislature considered 27 data center bills this year, aiming to continue making Virginia an appealing place for data center construction while also addressing concerns from the community. Ultimately, only one bill (VA HB 2084) was signed into law, which directs the State Corporation Commission to determine whether rate classifications are reasonable for all customers. Governor Youngkin (R) vetoed another bill (VA HB 1601/SB 1449) that would have required applicants for rezoning or special use permits to conduct assessments on the sound profile and the impact new buildings would have on water resources. However, Democrats gained a trifecta following the 2025 elections, and the new majority combined with Governor-elect Spanberger's demonstrated interest in regulating data centers will likely result in more aggressive policy action on data centers in 2026.

General Data Center Policy Terminology

Although data centers are dominating news cycles in many states, they've existed for decades. So what, exactly, is a data center? Put simply, a data center is a facility that houses computer systems and their associated components such as servers, storage systems, and routers. Data centers have long been essential to the operation of the internet. With the rise of AI, and the substantial computing power needed for AI applications to operate, the demand for data centers has exploded.

Below are some common data center terms, and understanding them is important because many bills that impact data centers do not explicitly mention them and may appear to be very general energy, environmental, tax, or siting bills.

Compute Power / Computational Resources

This term has appeared in a few bills, most notably in Montana, where a bill was signed into law addressing computing power and the right to harness computing power (MT SB 212). The Montana bill defined compute power as any tools, technologies, systems, or infrastructure, whether digital, analog, existing, or some other form, that facilitate any form of computation, data processing, storage, transmission, manipulation, control, creation, dissemination, or use of information and data.

Critical Infrastructure

This definition varies slightly from state to state, but generally includes infrastructure necessary to support public health and safety. This includes public utility services, communications services, electric generating facilities, water and sewage pipelines, and any facilities or equipment related to their support and maintenance. Data centers are largely considered to be critical infrastructure due to the essential information technology services they provide, which can subject them to stricter governmental oversight. The Cybersecurity & Infrastructure Security Agency (CISA) considers facilities in the information technology sector, such as data centers, to be one of sixteen critical infrastructure sectors.

Digital Asset Mining Operations

This term generally refers to organizations that use electricity to power a computer for the purpose of securing a blockchain network (essentially cryptomining operations). The digital assets referred to are various forms of cryptocurrencies, including stablecoins and nonfungible tokens. Cryptomining operations have come under scrutiny in some states, leading to increased legislative scrutiny around data centers used in cryptomining operations.

Liquid Cooling Technology

Liquid cooling technologies use liquid to transfer heat away from IT equipment such as servers, chips, and racks. These technologies are in contrast to other cooling systems that rely on water evaporation and consequently require more water in order to operate. Liquid cooling technologies do not rely on evaporation, making them far less water intensive than other cooling methods. Water consumption is one of the concerns frequently raised about data centers, so technology that can reduce the amount of water a data center uses may be of interest to lawmakers and regulators.

Qualified Data Center

"Qualified data center" is a term used to define what type of data center a bill is meant to apply to. This is typically measured by the amount of energy a data center uses, but is sometimes measured in computing power or the type of activities the data center is used to support, such as cryptomining.

Energy Terminology

Large Load Customer

Large load customers are customers of electric companies with large electricity demands. Utah, for example, defines large loads as those with 100 MW (megawatts) or more. But on average, large load customers start facing higher rates (large load tariffs) at 64 MW. Bills targeting large load customers often do not explicitly mention data centers, but data centers are one of the few facilities that would require such large power demands.

Small Modular Reactor (SMR)

Small modular reactors are advanced nuclear reactors that have a power capacity of up to 300 MW per unit. These reactors are a fraction of the size of conventional nuclear power reactors and are able to be built in a factory and transported and installed at specified locations. While SMRs have received a decent amount of attention from state lawmakers due to their potential to utilize carbon-free energy, there are currently no SMRs online in the United States. Although US Energy Secretary Chris Wright has said that at least one will be online by the summer of 2026.

Backup Generation / On-Site Generation

This term refers to generators located on-site at data centers in the event of a power outage or disruption. These generators are often powered by diesel and have become a flashpoint in communities with multiple data centers.

Miscellaneous Terminology

Foreign Company / Country of Concern

This term is not exclusive to data centers. It's appearing in all types of legislation addressing imported goods from certain countries. Typically, when legislation refers to a foreign company or country of concern, they are referencing companies located in countries viewed as hostile or presenting national security threats to the United States. In virtually all cases, this includes China, however, it also frequently includes other countries such as Russia, North Korea, Syria, Venezuela, or Cuba. This type of language may be of particular concern where it includes manufacturers who make various data center components, particularly chips, servers, and routers.

Societal Economic Benefits Test

This term is not currently common in data center legislation, but as data centers are increasingly under the microscope with policymakers, it could appear more often as legislators weigh the impact of data centers in their communities. This language was used in a bill that was enacted this year in Colorado making adjustments to the state economic development rate tariff. The bill defined a societal economic benefit test as a test that includes, but is not limited to, the economic benefits received by all customer classes served by a utility and the economic development benefits including the total amount of taxes to be paid by a qualifying commercial or industrial customer, the amount of full-time jobs created, and other economic growth or benefits that are brought to the community as a result of having a qualifying commercial customer with an economic development rate.

Special Use Permit

Special use permits allow for land uses that are only permitted if they have been reviewed and approved by a zoning commission. Data centers are often located in areas that are zoned for industrial uses, and special permits are often required because data centers have characteristics that differ from other industrial buildings.

Right to Compute

The concept of a right to compute refers to the right to harness computing power. This is the basis of the Montana bill discussed earlier in this resource. While this is a relatively new idea, it may be a more frequent topic in the future, particularly as it relates to the types of information that data centers are used to process or the amount of computing power used.

2026 Outlook: What To Expect

In 2026, we expect data center issues to continue to be of interest to lawmakers. This will likely include legislation specific to data centers and address issues such as siting, noise and air pollution, and energy and water usage. Data center legislation will also likely appear in less explicit ways, such as legislation addressing siting and safety issues related to small modular nuclear reactors, reexamining rates charged to electric customers, and requiring additional environmental studies. This interest from lawmakers will also likely coincide with increased public attention towards data centers.

MultiState Policy Watch: Data Centers

MultiState's new subscription, Policy Watch: Data Centers, will help you stay ahead of the curve as these debates continue into 2026. Reach out to our team to learn more or subscribe.