

FIELD GUIDE

FOR FEDERAL POLICYMAKERS

Federal Levers

Use the levers Congress and agencies already hold – EIA, FERC, NERC, DOE, and the EPA – to secure a responsible nationwide buildout.

While much of U.S. energy and AI infrastructure construction is regulated at the state and county levels, federal lawmakers have levers for securing a responsible nationwide data center buildout in support of their constituents.

Distinct state and local approaches to data center regulation and incentivization across the country have led to a race to the bottom, minimizing community benefits while maximizing hyperscaler gains. Even though many of the states in which data centers are currently clustered are the result of choices made by state and local governments, Congress faces increased constituent pressure to act, and twelve relevant bills were introduced between January 1, 2026 to March 31, 2026. This indicates an increased appetite for federal action to address these negative externalities, even though many of these siting decisions traditionally fall within state and local jurisdiction.

There are substantive issues related to federalism at play on this issue, but members of Congress have a number of pre-existing federal authorities they could utilize to help bring relief to their constituents:

Authorities

- ◆ **The Energy Information Administration (EIA)** has information collection authorities for major energy consumption, and has launched pilots to start collecting information on data centers' energy sources, electricity consumption, and cooling systems. The collection and publication of aggregated energy-use statistics can provide grid planners and lawmakers with insight into data center load behavior and utility needs. EIA also informs the public on energy-related concepts through "Energy Explained."
- ◆ **The Federal Energy Regulatory Commission (FERC)** regulates the wholesale interstate electricity market. FERC also has a statutory obligation to ensure all rates, charges, and jurisdiction of electric service are "just and reasonable," though what constitutes these terms is mostly up to the Commissioners' discretion and prevailing case law.
- ◆ **The North American Electric Reliability Corporation (NERC)** could set mandatory reliability standards to address data center loads' unique grid demand and novel load behavior. FERC would then approve these standards.
- ◆ **The Department of Energy (DOE)** conducts research into data centers' grid impacts; produces national resource adequacy and grid risk assessment reports; develops efficiency studies; protects the grid by serving as the Sector Risk Management Agency (SRMA) for energy; and, under recent executive orders, can select specific federal sites for AI data center construction and energy co-location.
- ◆ **The Environmental Protection Agency (EPA)** can set pollution standards in accordance with existing laws, such as the Clean Air Act.
- ◆ **The Nuclear Regulatory Commission (NRC)** licenses and oversees civilian nuclear reactors, which hyperscalers are increasingly considering as power sources for their data centers.

Areas for Potential Action

Hyperscalers Pay for Infrastructure Upgrade Costs

Condition federal tax benefits on states directing public utility commissions (PUCs) to allocate data center-driven transmission and grid modernization expenses directly to data centers; facilitate federal-local coordination to determine these costs.

Efficiency R&D Co-Investments

All data centers above a defined size and capacity threshold must co-invest in federal R&D programs for liquid cooling, advanced power distribution, and low-power chip design as a near-term alternative to grid expansion.

Incentivize Buildouts in Industrial Zones

Create a federal program to incentivize data center buildouts on commercial, industrial, brownfield, and disturbed land sites.

Enforceable Community Benefit Agreements (CBAs)

Enforce CBAs that include (1) a revenue-sharing floor, (2) NDA restrictions, and (3) local labor and wage requirements.

Electricity-Consumption Reporting to Improve Forecasting

Mandate public and federal disclosures on load behavior, energy consumption, and the prices paid for electricity consumed to inform operators' grid monitoring and the DOE's forecasting and demand models.

Flexible Load Requirements

Incentivize states to pass laws and NERC to recommend rules that direct PUCs to enforce flexible load requirements across utilities, including commitments to backup generation or storage and the ability to disconnect during peak demand without compromising internal operations.

Opportunity Zones with Enforceable Commitments

All Opportunity Zones must have enforceable CBAs (see above), with civil society organization (CSO) involvement to ensure communities benefit from buildouts.
