

Senate Election Law and Municipal Affairs Committee

Jessica Bourque 271-2104

SB 439, relative to municipal data center zoning.

Hearing Date: January 13, 2026

Time Opened: 10:01 a.m.

Time Closed: 10:27 a.m.

Members of the Committee Present: Senators Gray, Lang, Rochefort, Perkins Kwoka and Long

Members of the Committee Absent: None

Bill Analysis: This bill authorizes municipalities to regulate data centers in commercial and industrial zones.

Sponsors:

Sen. Altschiller

Rep. Damon

Who supports the bill: Kevin Condict (Senate Minority Caucus Director), Rep. Wendy Thomas

Who opposes the bill: DJ Burke (BIA)

Who is neutral on the bill: Jamie Burnett (Google), Phillip Jasak (NH Home Builders Association)

Summary of testimony presented:

Kevin Condict, Minority Caucus Director introduced the bill on behalf of Senator Altschiller.

- Data center development presents unique challenges that current zoning codes weren't designed to address.
- Data centers represent one of the fastest-growing sources of electricity demand in the United States.
- A 2024 analysis showed that utility load growth forecasts increased from 38 gigawatts in 2023 to 128 gigawatts in 2024.
- Data center noise pollution has become a major source of community opposition nationwide. SB 439 seeks to address this by limiting noise levels within 300 feet of residential areas to no more than five percent of ambient levels. For example, in Virginia, the noise levels of an Amazon facility exceeded 65 decibels when the

county limit was 55 decibels. Amazon implemented solutions that reduced the noise by 10 decibels.

- SB 439 provides local decision-makers with the tools they need to make informed choices that benefit their communities economically, protect residents, maintain appropriate land use, ensure electrical grid capacity, manage noise impacts, and safeguard transit-oriented development areas.
- These data centers cause substation shortages.
- Studies show that constant humming can lead to health concerns. Noise levels under this bill would not exceed specified limits.
- Data centers have fewer employees compared to manufacturing companies.
- Virginia has effective controls on data centers.
- Data centers could bring in tax revenue, but regulations are necessary to protect residents.

DJ Burke, NH Business & Industry Association

- BIA has concerns about this bill.
- Some of the definitions are imprecise and open to interpretation.
- Restrictions are completely arbitrary in the opinion of the BIA.
- Singles out a specific industry, which the BIA does not believe is appropriate.
- This is a bill for state control, not local control. Local boards often regulate warehousing, manufacturing, and other various types of industrial facilities without state intervention.

Senator Lang said that when he owned a computer company, he had a data center with 75 servers that served healthcare providers across the state. He added that if this bill had been in effect at the time, he wouldn't have been able to do that.

Mr. Burke said there are numerous gray areas in this bill. The way it is written, it says that data centers must provide services onsite. For example, if the University of New Hampshire had a center on campus, would that be considered on-site service? Several companies already have facilities; would they fall under this and be allowed to continue?

Senator Perkins Kwoka acknowledged Mr. Burke's point about industrial uses but noted that zoning rarely considers electricity generation and its supporting uses. She mentioned that, beyond this, we've observed that states struggle with regulation, and NH already has high electric prices. She asked how NH can balance these issues and whether Mr. Burke has any suggestions for what the state could do to address them.

Mr. Burke said Senator Perkins Kwoka makes a good point: some businesses need relief from their electricity costs, but when they look at the long term, the cost of energy in NH makes businesses question whether it is viable to stay and do business in the state.

Senator Lang expressed concern that this bill targets a specific industry and stated that the bill essentially says, “we don’t like this and we are going to regulate it.” He believes we should consider more industries than just this one.

Mr. Burke agreed with Senator Lang.

Representative Wendy Thomas, Hillsborough-District 12

- This is a concern nationwide, and we must proceed carefully.
- Merrimack is the poster child for industries that have operated without guidelines, citing Saint-Gobain.
- This bill safeguards neighborhoods and residents.
- Promotes economic growth by establishing sensible local standards.
- Improves transparency and predictable permitting.
- Gives residents a voice in land-use decisions.
- Page 1, line 10, discusses local decision-making and control delegated to local authorities.
- Lines 13 and 14 discuss transit and rail stations. Best practice is to place data centers half to one mile away from rail stations. This is because trains can have accidents, and you don’t want trains near that much electricity.
- Lines 15 and 16 discuss energy use and the need for an analysis to confirm that these centers can meet the projected energy needs.
- Lines 18 and 19 concern a noise study. She has spoken with neighbors of other data centers who struggle to sleep due to noise.
- Doesn't want to see NH look like a dystopian landscape.
- Local control is the NH way.
- Rep. Thomas proposed some modifications to the bill as currently written:
 - 2,640 feet should be changed to at least 2,640 feet to allow it to be up to a mile.
 - Include an impact analysis on animals and wetlands.
 - A water usage analysis should be conducted.
 - These companies should be responsible for the transmission costs, not the ratepayer.
 - During times of high usage, there should be some sort of switch that prioritizes residents and businesses, not the data centers.
 - Would like to see a job creation report. Data centers are not the job creators people think they are.

Senator Lang noted that Rep. Thomas said electricity transmission costs are typically passed on to ratepayers. He asked if Rep. Thomas was aware that when they undertake on-site projects, the expansion is generally paid for by the developer.

Rep. Thomas said the keyword in Senator Lang’s question was “generally,” and we need to ensure that these industries do pay for that.

Senator Perkins Kwoka asked whether Rep. Thomas believes that, even though developers are responsible for system upgrades, that doesn't necessarily guarantee a sufficient supply of electricity for everyone across the grid.

Rep. Thomas said she would believe that.

Phillip Jasak, NH Home Builders Association

- Neutral on this bill.
- Offered to work on an amendment with Senator Altschiller.

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Date Hearing Report completed: January 16, 2026