

# NORTH STAR DATA CENTER POLICY TOOLKIT

Policy Interventions to Stop  
Rampant AI Data Center Expansion

Updated: January 2026

**AINOW**

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# Endorsements

A draft version of this toolkit was published on December 3, 2025 outlining local and state policy recommendations. **The local and state policy recommendations in the December 3, 2025 North Star Policy toolkit were endorsed by the following organizations and community groups.** An updated version of this toolkit includes federal recommendations that were not formally reviewed or endorsed by these organizations.

- ❖ 7 Directions of Service
- ❖ 18 Million Rising
- ❖ Alliance for Affordable Energy
- ❖ Allies of the Tonawanda Seneca Nation
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- ❖ People's Action Institute
- ❖ People's Tech Project
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- ❖ Sustain South Jersey
- ❖ TechTonic Justice
- ❖ The People's Justice Council
- ❖ The Revolving Door Project
- ❖ Wilmington Data Center Discussion Forum

**To endorse:** If your community group or organization would like to endorse the toolkit, please fill out [this form](#).

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<sup>1</sup> The Piedmont Environmental Council endorses all local policy interventions, as well as the state and regional calls for moratoriums, oversight and transparency mechanisms, repeals or limits to tax incentives and subsidies, strong ratepayer protections, and acceleration of renewable energy infrastructure development and green energy usage.

# Introduction

## The Need for Transformative, North Star Policy to Stop Rampant Data Center Expansion

**This policy toolkit is primarily geared toward stopping, slowing, and restricting rampant data center development in the US.** Our approach recognizes the extractive relationship between data centers and local communities: Hyperscale data centers deplete scarce natural resources, pollute local communities and increase the use of fossil fuels, raise energy costs for everyday ratepayers, pull tax dollars away from community needs, and fail to deliver on overpromised economic developments.

Hyperscale data centers primarily benefit the wealthiest corporations in the world, not our everyday digital lives. It doesn't have to be this way.

Across the US and globally, communities are fighting back against the data center build-out in their backyards and regions. This resistance often starts as organic opposition to individual sites of data center development, expansion, or the build-out of associated energy infrastructure, channeled through public hearings and approval processes where those exist. In many places, public outcry builds upon or has catalyzed deep grassroots organizing, both to oppose specific developments and to more comprehensively change policies, laws, and the ways in which our regulatory systems operate.

As public awareness increases, a growing number of community groups and organizations are engaging in policymaking processes to demand more holistic protections. In our collaboration with local and state organizers, as well as in our conversations with policymakers, we found there is often a critical moment of opportunity in both site fights and long-term efforts for protective policy to be put in place or for transformative change to be made to existing laws and regulations. In these moments, it has not always been clear what to demand, since many of the existing or proposed regulations are highly specific to their jurisdiction or stop short of transformative policy.

**This toolkit is intended to address this gap, to help organizers and policymakers identify the strongest possible actions. Recognizing that the North Star policy may not always be feasible, we also offer scaffolded protections that put people above corporate profits.**

This work learns from and builds on many ongoing fights: Across Indiana, as of December 2025, at least 13 data centers have been rejected or withdrawn due to grassroots opposition, and Citizens Action Coalition has called for a statewide moratorium.<sup>2</sup> In Tucson, Arizona, outcry against Amazon Web Services' secretive Project Blue proposal created the popular will to push through a draft large-quantity water users ordinance, even as the developer's continuation with the project over a city council rejection shows the need for more comprehensive protections.<sup>3</sup> In Tennessee, Memphis Community Against Pollution is organizing against Elon Musk's xAI supercomputer and its pollution of historically Black neighborhoods in Memphis, part of a legacy of decades of opposition to extractive fossil fuels and corporate environmental racism.<sup>4</sup> Advocates in Louisiana, Texas, and New Mexico are mobilizing in defense of takeovers of their public utilities, including by private equity.<sup>5</sup> Organizers in Virginia, Georgia, and other states facing years of data center build-out are fighting both to reject new developments and to pass comprehensive regulations.<sup>6</sup> See our [Contributors](#) and [Additional Resources](#) for more.

As these efforts continue to multiply, we need holistic protections to ensure that restrictions on data centers in one locality don't simply push these developments onto our neighbors, but build collective power to redirect the industry's trajectory and the future of our public infrastructure, budgets, and environment.

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<sup>2</sup> Citizens Action Coalition, "CAC Calls for Data Center Moratorium," October 15, 2024, press release, <https://www.citact.org/news/cac-calls-data-center-moratorium>.

<sup>3</sup> Yana Kunichoff, "After Project Blue Outcry, Tucson Adopts Rules for Large Water Users," *Arizona Luminaria*, August 20, 2025, <https://azluminaria.org/2025/08/20/after-project-blue-outcry-tucson-adopts-rules-for-large-water-users>.

<sup>4</sup> Andrew R. Chow, "'We Are the Last of the Forgotten': Inside the Memphis Community Battling Elon Musk's xAI," *Time*, August 13, 2025, <https://time.com/7308925/elon-musk-memphis-ai-data-center>.

<sup>5</sup> See Center for Biological Diversity, "Federal Regulators Urged to Reject Blackstone's Bid to Control New Mexico's Energy System," press release, October 24, 2025, <https://biologicaldiversity.org/w/news/press-releases/federal-regulators-urged-to-reject-blackstones-bid-to-control-new-mexicos-energy-system-2025-10-24>; Alliance for Affordable Energy, *Our CLECO, Our Community: Louisiana's Utility in Peril*, August 6, 2015, [https://www.all4energy.org/wp-content/uploads/2024/09/cleco-report\\_aug-8-2015\\_ezread.pdf](https://www.all4energy.org/wp-content/uploads/2024/09/cleco-report_aug-8-2015_ezread.pdf); and Derek Seidman, "Data Centers Devour Electricity. Private Equity Is Buying Utilities to Cash In," *Truthout*, November 11, 2025, <https://truthout.org/articles/data-centers-devour-electricity-private-equity-is-buying-utilities-to-cash-in>.

<sup>6</sup> See Piedmont Environmental Council, "Four Pillars of Data Center Reform," January 8, 2025, <https://www.pecva.org/work/energy-work/four-pillars-of-data-center-reform>; and Tim Pratt, "Fears over Higher Rates as Georgia Moves to Provide More Electricity for AI Datacenters," *Guardian*, October 19, 2025, <https://www.theguardian.com/us-news/2025/oct/19/georgia-electricity-datacenters>.

## How to Use the Toolkit

The toolkit provides concrete policy recommendations, primarily targeted toward jurisdictions in the US that do not yet have a data center in their community, or that are working to strengthen existing legislation or regulation to account for new hyperscaler proposals. The resource is organized into local, state, and federal policy recommendations to stop and restrict data center development.

What to know:

- **The toolkit is intended as a menu of options** to be analyzed in relation to local and state conditions.
- **Not every intervention will be feasible in every locality, state, or region** due to differences in local and state laws, existing regulation, and political conditions.
- **The issue-specific recommendations** (water, energy, air quality, and so on) **can be used both to limit the impacts of data centers and to act as mechanisms to restrict data center development** when they do not work in the community's best interest.
- **We provide examples of existing or proposed policies**, with notes indicating that they are very strong, strong, or weak. Please note that inclusion in this toolkit does not mean we endorse the example or specific language used. In cases where there is no strong example, we have consulted experts and community advocates to identify the North Star policy action, threshold, or quantitative targets.

Please reach out to the AI Now Institute at [datacenters@ainowinstitute.org](mailto:datacenters@ainowinstitute.org) with questions or requests for policy support in your locality or state.

# The Problem of Data Centers

Data center construction has exploded in the US over the past few years both in numbers and in scale of facilities, driven by Big Tech’s speculative AI “boom” and its close ties to the fossil fuel industry, military and defense industries, and cryptocurrency mining.<sup>7</sup> Contrary to data center backers’ claims that this expansion serves everyday people, there is a deep lack of evidence of benefits—and even of any justification for the demand.

Tech firms are investing a tremendous amount of money in AI infrastructures based on projected future demand that is detached from demonstrated need. Bain & Company estimates that \$2 trillion in annual revenue will be required by 2030 to make the AI infrastructure build-out profitable—more than the combined 2024 revenue from Amazon, Alphabet, Apple, Meta, Microsoft, and Nvidia.<sup>8</sup> At present, however, AI firms are showing nothing remotely approaching this kind of scale on the near- or mid-term horizon. This ratcheted-up pressure to show a return on investment for shareholders and investors incentivizes AI firms to adopt increasingly toxic business models.<sup>9</sup>

The data center build-out reveals who truly benefits from the acceleration of AI across all sectors of society, and who is left to pay the price. More than a decade of evidence and community experience shows that data centers, particularly hyperscale facilities, operate as tangible sites of corporate extractivism, in the form of empty promises made to localities that are trying to survive austerity and legacies of deindustrialization. This rampant expansion has deep consequences for local communities, our regional infrastructure, our scarce natural resources, our public budgets writ large, and our futures. *See our recommendations to [prohibit or restrict data center development locally](#), [reject data centers that do not fit within a locality’s goals](#), and [pass statewide or regional moratoriums](#).*

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<sup>7</sup> “Hyperscale Data Center Count Hits 1,136; Average Size Increases; US Accounts for 54% of Total Capacity,” *Synergy Research Group*, March 19, 2025, <https://www.srgresearch.com/articles/hyperscale-data-center-count-hits-1136-average-size-increase-us-accounts-for-54-of-total-capacity>.

<sup>8</sup> See David Crawford, Anne Hoecker, and Dana Aulanier, *Technology Report 2025*, September 2025, <https://www.bain.com/insights/topics/technology-report>; and Meghan Bobrowsky, “Big Tech Is Spending More than Ever on AI and It’s Still Not Enough,” *Wall Street Journal*, October 30, 2025, <https://www.wsj.com/tech/ai/big-tech-is-spending-more-than-ever-on-ai-and-its-still-not-enough-f2398cfe>.

<sup>9</sup> Kashmir Hill and Jennifer Valentino-DeVries, “What OpenAI Did When ChatGPT Users Lost Touch with Reality,” *New York Times*, November 23, 2025, <https://www.nytimes.com/2025/11/23/technology/openai-chatgpt-users-risks.html>.

## Data Centers Are Bad for Economic Development

AI developers justify data centers' immense resource use and billions in tax breaks with promises of economic development that fail to materialize—and prevent investment in industries that are more sustainable.

Data centers are one of the most subsidized industries in the US, costing states billions of dollars in lost revenue annually through tax breaks and other corporate giveaways. They also threaten our public budgets, including for education and basic infrastructure.<sup>10</sup> According to Good Jobs First, at least 10 states lose more than \$100 million annually in tax revenue to data centers, with Texas losing over \$1 billion in 2025 and Virginia over \$700 million in 2024.<sup>11</sup> The few states that have calculated their returns on taxpayer investments have determined that they lose between 52 and 70 cents for every dollar they spend on data center sales tax exemptions<sup>12</sup>—only one type of tax break that data centers typically receive.

This stands in sharp contrast to the promises data center developers and tech companies make of billions in investments for localities, and their performative donations to local school districts and other institutions. Oregon public schools, for example, lost an estimated \$275 million to property tax abatements in 2024 alone.<sup>13</sup> Oregon's Crook County, home to numerous data centers including facilities operated by Meta and Apple, gave away \$29 million in 2024 in local revenue to property tax exemptions to corporations—orders of magnitude away from Meta's donation of roughly \$2 million to the county school district over the past decade.<sup>14</sup> Simultaneously, data centers require so much electricity—and have the power to negotiate preferential deals with utilities—that they crowd out more sustainable industries from the grid and thus the local economy. *See our recommendations to [repeal or limit tax incentives and subsidies at the local and state level](#).*

## Data Centers Are Not Significant Job Creators

The other justification for billions in tax breaks is the promise of job creation, despite the fact that most data centers create remarkably few permanent jobs.<sup>15</sup> A single facility can operate with only a few dozen employees, including both higher-paid technicians and lower-wage

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<sup>10</sup> Kasia Tarczyska, *Cloudy Data, Costly Deals: How Poorly States Disclose Data Center Subsidies*, Good Jobs First, November 2025,

<https://goodjobsfirst.org/cloudy-data-costly-deals-how-poorly-states-disclose-data-center-subsidies>.

<sup>11</sup> Tarczyska, *Cloudy Data, Costly Deals*.

<sup>12</sup> Tarczyska, *Cloudy Data, Costly Deals*.

<sup>13</sup> Brooklyn Ramirez, "Oregon Public Schools Missing Out on \$275 Million," Good Jobs First, August 21, 2025, <https://goodjobsfirst.org/oregon-public-schools-missing-out-on-275-million>.

<sup>14</sup> Alex Baumhardt, "Data Centers Drain Crook County's School Tax Base," *Bulletin*, August 21, 2025, <https://bendbulletin.com/2025/08/21/oregon-business-property-tax-breaks-cost-schools-275-million-last-year-study-finds>.

<sup>15</sup> Tom Dotan, "The AI Data-Center Boom Is a Job-Creation Bust," *Wall Street Journal*, February 25, 2025, <https://www.wsj.com/tech/ai-data-center-job-creation-48038b67>.

security, landscaping, and janitorial roles, who may be subcontractors.<sup>16</sup> The promised jobs numbers are often vastly inflated by temporary construction positions, with no guarantee these roles will go to local workers.<sup>17</sup> Subcontracting practices with specialized temp agencies hire data center workers in temporary positions without benefits, rather than as direct employees, as in the case of a Google facility in Council Bluffs, Iowa.<sup>18</sup> High-paid construction roles, such as electricians, are often filled by workers who travel from project to project across the country.<sup>19</sup> These numbers pale in comparison to other developments; Indiana Michigan Power's (I&M) own report shows that data centers create 100 times fewer jobs than other industries, by amount of power used.<sup>20</sup> In exchange for these jobs, states are paying almost \$2 million in tax breaks on average.<sup>21</sup> *See our recommendations to [establish fair labor requirements at the local](#) and [state level](#).*

## Data Centers Threaten Our Scarce Natural Resources, and Subsequently Our Public Health

Data center expansion is returning communities to reliance on fossil fuels and reversing our limited climate progress. States are keeping coal plants open, building new gas-fired power plants, and reopening nuclear plants solely for data center use.<sup>22</sup> According to the Center for Biological Diversity, carbon emissions from data center expansion, primarily powered by fracked gas and coal, are expected to triple by 2035, reaching 10 percent of our economy-wide emissions and 44 percent of the power-sector emissions allowable to meet

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<sup>16</sup> Kasia Tarczynska, "Will Data Center Job Creation Live up to Hype? I Have Some Concerns," Good Jobs First, February 12, 2025,

<https://goodjobsfirst.org/will-data-center-job-creation-live-up-to-hype-i-have-some-concerns>; Lulu Ramadan and Sydney Brownstone, "How a Washington Tax Break for Data Centers Snowballed into One of the State's Biggest Corporate Giveaways," ProPublica and *Seattle Times*, August 4, 2024, <https://www.propublica.org/article/washington-data-centers-tech-jobs-tax-break>.

<sup>17</sup> Tarczynska, "Will Data Center Job Creation Live up to Hype?"

<sup>18</sup> Alana Semuels, "Big Tech Is Coming to Small-Town America, But There's a Catch," *Time*, August 4, 2021, <https://time.com/6085525/big-tech-data-centers>.

<sup>19</sup> Karen Weise, "A.I., the Electricians and the Boom Towns of Central Washington," *New York Times*, December 25, 2024,

<https://www.nytimes.com/2024/12/25/technology/ai-data-centers-electricians.html>.

<sup>20</sup> Kerwin Olson, Ben Inskeep, Bryce Gustafson, and Kelly Hamman, "Data Centers in Indiana," August 26, 2025, slides,

<https://www.citact.org/sites/default/files/Data-Centers-in-Indiana-CAC-Webinar-slides-Aug-2025-1.pdf>.

<sup>21</sup> Jacob Whiton, "New Data on Data Center Subsidies, Same Old Problems," Good Jobs First, July 25, 2023, <https://goodjobsfirst.org/new-data-on-data-center-subsidies-same-old-problems>.

<sup>22</sup> Antonio Olivo, "Internet Data Centers Are Fueling Drive to Old Power Source: Coal," *Washington Post*, April 17, 2024,

<https://www.washingtonpost.com/business/interactive/2024/data-centers-internet-power-source-coal/>; Josh Saul, "Gas Power Roars Back to Drive Data-Center Boom," Bloomberg, September 16, 2024,

<https://www.bloomberg.com/news/newsletters/2024-09-16/us-gas-power-roars-back-to-drive-data-center-boom>; Adele Peters, "Is restarting Three Mile Island Really a Good Idea," *Fast Company*, October 8, 2024, <https://www.fastcompany.com/91204023/is-restarting-three-mile-island-really-a-good-idea>.

the US 2035 climate target.<sup>23</sup> See our recommendations to [regulate data centers' energy use at the local level](#) and [accelerate renewable energy infrastructure at the state level](#).

Carbon emissions threaten not only our planet's future, but the immediate health of communities, with air pollution leading to rising cancer and asthma rates. By 2030, air pollution from data centers alone could cause an additional 600,000 asthma cases annually in the US and an estimated 1,300 premature deaths.<sup>24</sup> As the electricity grid struggles to keep up with the immense demand of AI data centers, companies are increasingly turning to dirty behind-the-meter power sources, further exacerbating public health impacts. The diesel generators frequently used for backup power release additional pollutants and toxins that cause asthma, cancer, heart attacks, and cognitive decline.<sup>25</sup> Nitrogen oxide from gas turbines is making it hard for nearby residents to breathe: In the Boxtown neighborhood of Memphis, for example, xAI's supercomputer facility operates 35 turbines without pollution controls or adequate permits.<sup>26</sup> Noise pollution from data center construction, generators, heating and cooling systems, and energy sources can also result in negative health consequences for workers and nearby residents (including headaches, stress, and disrupted sleep, which in turn lead to cognitive impairment and cardiovascular risks), as well as impacts on local wildlife.<sup>27</sup> See our recommendations to [prevent air pollution and protect community health locally](#) and [institute strong noise-mitigation measures](#).

Data centers are using up precious water resources across the country, with a single data center consuming as much water as a city of 50,000 people.<sup>28</sup> Tech companies report record

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<sup>23</sup> John Fleming and Jean Su, *Data Crunch: How the AI Boom Threatens to Entrench Fossil Fuels and Compromise Climate Goals*, Center for Biological Diversity, Center for Biological Diversity, October 2025, [https://biologicaldiversity.org/programs/climate\\_law\\_institute/pdfs/DataCrunch\\_report.pdf](https://biologicaldiversity.org/programs/climate_law_institute/pdfs/DataCrunch_report.pdf).

<sup>24</sup> "Air Pollution and the Public Health Costs of AI" Caltech, December 10, 2024, <https://www.caltech.edu/about/news/air-pollution-and-the-public-health-costs-of-ai>; Cristina Criddle and Stephanie Stacy, "Big Tech Data Center Buildouts Have Led to \$5.4 Billion in Public Health Costs," *Ars Technica*, February 24, 2025, <https://arstechnica.com/health/2025/02/big-tech-data-center-buildouts-have-led-to-5-4-billion-in-public-health-costs>; Yuelin Han, Zhifeng Wu, Pengfei Li, Adam Wierman, and Shaolei Ren, "The Unpaid Toll: Quantifying the Public Health Impact of AI," *arXiv*, December 9, 2024, <https://arxiv.org/pdf/2412.06288>.

<sup>25</sup> Adam Wierman and Shaolei Ren, "We Need to Talk About AI's Impact on Public Health," *IEEE Spectrum*, May 1, 2025, <https://spectrum.ieee.org/data-centers-pollution>.

<sup>26</sup> Ariel Wittenberg, "How Come I Can't Breathe?: Musk's Data Company Draws a Backlash in Memphis," *Politico*, May 6, 2025, <https://www.politico.com/news/2025/05/06/elon-musk-xai-memphis-gas-turbines-air-pollution-permits-00317582>; Dara Kerr, "Elon Musk's xAI Powering Its Facility in Memphis with 'Illegal' Generators," *Guardian*, April 9, 2025, <https://www.theguardian.com/us-news/2025/apr/09/elon-musk-xai-memphis>.

<sup>27</sup> Yu Tao and Peng Gao, "Global Data Center Expansion and Human Health: A Call for Empirical Research," *Eco-Environment & Health* 4, no. 3 (2025): <https://doi.org/10.1016/j.eehl.2025.100157>; Kelly Richardson, "Understanding the Impact of Data Center Noise Pollution," *Tech Target*, December 3, 2024, <https://www.techtarget.com/searchdatacenter/tip/Understanding-the-impact-of-data-center-noise-pollution>.

<sup>28</sup> "Data Center Water Usage Challenges and Sustainability," *Sensorex*, August 16, 2022, <https://sensorex.com/data-center-water-usage-challenges>.

water consumption figures due to their growing data center footprints, even as they build more data centers in water-scarce locations.<sup>29</sup> These numbers are also likely an undercount, as water for construction, cooling, and energy infrastructure is rarely considered in projections of data center water use.<sup>30</sup> Claims that projects will be “water positive” do not replenish stressed aquifers, but refer to nominal fees paid by companies for water stewardship projects elsewhere.<sup>31</sup> See our recommendations to [regulate data centers’ water use](#).

The data center build-out is also a massive land grab that threatens historic sites and cultural landmarks, Tribal Nations and Indigenous communities, rural and agricultural communities, and affordable housing. Data center construction has encroached on wilderness areas, state parks, and historic sites, and has also damaged century-old Black cemeteries.<sup>32</sup> Recently, the federal government has opened up federal lands to data center construction.<sup>33</sup> Tribal Nations and Indigenous communities have raised alarms about the threats of data centers to their sovereignty, lands, water, and environment, as well as about the impact of nuclear energy projects and mining of critical minerals.<sup>34</sup> Data center proposals and expansion of energy infrastructure including transmission lines cut across and reduce working farmland.<sup>35</sup> Data

<sup>29</sup> Luke Barratt, “Revealed: Big Tech’s New Datacentres Will Take Water from the World’s Driest Areas,” *Guardian*, April 9, 2025,

<https://www.theguardian.com/environment/2025/apr/09/big-tech-datacentres-water>.

<sup>30</sup> Jake Bittle, “Amazon Says It’s Going ‘Water Positive’ – But There’s a Problem,” *Grist*, August 29, 2024

<https://grist.org/technology/amazon-data-centers-water-positive-energy>; Hannah Richerson, “Analysis: Offsite Water Use of Data Centers,” *Clean Wisconsin*, November 3, 2025, [https://www.cleanwisconsin.org/wp-content/uploads/2025/11/20251103\\_DateCenterOffsiteWaterUseAnalysis.pdf](https://www.cleanwisconsin.org/wp-content/uploads/2025/11/20251103_DateCenterOffsiteWaterUseAnalysis.pdf).

<sup>31</sup> Douglas Main, “‘The City That Draws the Line’: One Arizona Community’s Fight Against a Huge Datacenter,” *Guardian*, October 15th, 2025,

<https://www.theguardian.com/us-news/2025/oct/15/tucson-arizona-ai-data-center-project-blue>.

<sup>32</sup> Charlie Paullin, “Virginia Explained: Data Center Expansion, with All Its Challenges and Benefits,” *Virginia Mercury*, May 28, 2024,

<https://virginiamercury.com/2024/05/28/virginia-explained-data-center-expansion-with-all-its-challenges-and-benefits>;

Seth Freed Wessler, “Developers Found Graves in the Virginia Woods. Authorities Then Helped Erase the Historic Black Cemetery,” *ProPublica*, December 16, 2022,

<https://www.propublica.org/article/how-authorities-erased-historic-black-cemetery-virginia>.

<sup>33</sup> U.S. Department of Energy, “DOE Announces Site Selection for AI Data Center and Energy Infrastructure Development on Federal Lands,” July 24, 2025,

<https://www.energy.gov/articles/doe-announces-site-selection-ai-data-center-and-energy-infrastructure-development-federal>.

<sup>34</sup> Honor the Earth, “Joint Statement by Honor the Earth and the Indigenous Environmental Network on the National Congress of American Indians,” November 2025,

<https://www.honorearth.org/news/joint-statement-on-ncai-no-data-centers>; J. Dale Shoemaker,

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<https://www.investigativepost.org/2025/07/08/tonawanda-senecas-sierra-club-sue-over-stamp-data-center>;

Ty Beaver, “As SMRs Gain Momentum, Tribes Express Concern for Their Next Generation,” *Tri-Cities Area Journal of Business*, July 14, 2025,

<https://www.tricitybusinessnews.com/articles/tribes-smrs>; “Reports and Papers,” Sirge Coalition,

<https://www.sirgecoalition.org/reports>.

<sup>35</sup> Bracey Harris, “Farmers Fight an ‘Extension Cord’ for Data Centers,” *NBC News*, November 1, 2025,

<https://www.nbcnews.com/news/us-news/maryland-farmers-data-centers-extension-cord-power-lines-rcna233324>; Jarrett Renshaw and Laila Kearney, “Trump’s Push for More AI Data Centers Faces

centers lower quality of life for homeowners and residents close by—in some cases reducing potable water and increasing power outages, noise, and light pollution—and divert resources from affordable housing construction.<sup>36</sup> See our recommendations for [establishing conditional use permitting for data centers](#) and [passing zoning ordinances and municipal code amendments](#). Note: This toolkit does not yet include protections specific to Tribal Nations and Indigenous communities; for more information, please see [No Data Centers on Native Land](#).

## Data Centers Destabilize Our Energy Grid—and Pass Energy Costs Onto Everyday People

By 2030, data centers are expected to use 12 percent of US electricity consumption, triple the current 4 percent.<sup>37</sup> Even in lower estimates, this exceeds the amount of electricity needed to power 26 million households.<sup>38</sup> This energy grab is already destabilizing our energy grid, with the North American Electric Reliability Corporation (NERC) citing data center growth as one of the greatest reliability challenges for US power grids,<sup>39</sup> increasing the risk of power outages and bringing higher risks of energy shortfalls to virtually the whole country.<sup>40</sup> Near misses of blackouts are already increasingly common; for example, in July 2024, data center operators almost caused blackouts across Virginia as they prioritized their own facilities' continued operations following an equipment failure.<sup>41</sup>

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Backlash from His Own Voters,” Reuters, December 1, 2025,

<https://www.reuters.com/business/retail-consumer/trumps-push-more-ai-data-centers-faces-backlash-his-own-voters-2025-12-01>.

<sup>36</sup> Antonia Kladias, “We Need to Build Houses, Not Data Centers,” Pipe Dream, September 14, 2025, <https://www.bupipedream.com/opinions/we-need-to-build-houses-not-data-centers/169682>.

<sup>37</sup> John Fleming and Jean Su, *Data Crunch: How the AI Boom Threatens to Entrench Fossil Fuels and Compromise Climate Goals*, Center for Biological Diversity, Center for Biological Diversity, October 2025, [https://biologicaldiversity.org/programs/climate\\_law\\_institute/pdfs/DataCrunch\\_report.pdf](https://biologicaldiversity.org/programs/climate_law_institute/pdfs/DataCrunch_report.pdf) citing International Energy Agency, *Energy and AI*, April 2025,

<https://iea.blob.core.windows.net/assets/601eaec9-ba91-4623-819b-4ded331ec9e8/EnergyandAI.pdf>; Energy Information Administration, *Short-Term Energy Outlook*, November 2025; and Arman Shebabi et al., *2024 United States Data Center Energy Usage Report*, Energy Analysis and Environmental Impacts Division, Lawrence Berkeley National Laboratory, December 2024, <https://doi.org/10.71468/P1WC7Q>.

<sup>38</sup> See Srini Bangalore et al., “Investing in the Rising Data Center Economy,” McKinsey & Company, January 17, 2023,

<https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/investing-in-the-rising-data-center-economy>; and Kevin Hardy, “States Rethink Data Centers as ‘Electricity Hogs’ Strain the Grid,” Stateline, April 30, 2024, <https://stateline.org/2024/04/30/states-rethink-data-centers-as-electricity-hogs-strain-the-grid>.

<sup>39</sup> Peter Behr, “NERC: Data Center Growth Ranks Among ‘Greatest Near-Term Reliability Challenges,’ E&E News, June 13, 2025, <https://www.eenews.net/articles/nerc-data-center-growth-ranks-among-greatest-near-term-reliability-challenges>.

<sup>40</sup> Tim McLaughlin, “Big Tech’s Data Center Boom Poses New Risk to US Grid Operators,” Reuters, March 19, 2025, <https://www.reuters.com/technology/big-techs-data-center-boom-poses-new-risk-us-grid-operators-2025-03-19>.

<sup>41</sup> McLaughlin, “Big Tech’s Data Center Boom.”

As the wealthiest corporations in the world demand exponentially more power for their data centers, everyday people are regularly subsidizing the companies' energy costs. Across the country, energy bills have gone up for regular ratepayers (individual households and small businesses),<sup>42</sup> directly attributable to the buildout of data centers and associated energy infrastructure.<sup>43</sup> Despite promises to pay their fair share, the industry has fought against obligations to ensure its costs aren't passed along to ratepayers, in states including Georgia and Ohio.<sup>44</sup> See our recommendations to [establish strong ratepayer protections](#) and [promote grid stability](#).

## Data Centers Are Introducing Massive Risk into Our Infrastructure and Financial Markets

The AI market is increasingly based on speculative financial structures, with a growing reliance on private credit markets. If there is indeed an AI bubble and that bubble bursts, this dynamic could jeopardize the stability of our pensions, retirement savings, and insurance policies; it could also potentially produce stranded assets.

The data center build-out is largely built on demand *projections*—not actual demand—which works to the advantage of AI companies jockeying for investments and rapid access to energy infrastructure. Forecasters tend to overestimate electricity demand because they emphasize static load growth, increasing at similar rates over time, rather than efficiencies that are likely to develop.<sup>45</sup> Utilities companies are simultaneously incentivized to overproject energy demands to grab investors' attention;<sup>46</sup> this overestimated demand is likely further inflated, as

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<sup>42</sup> Peter Whoriskey, "The AI Explosion Means Millions Are Paying More for Electricity," *Washington Post*, July 27, 2025,

<https://www.washingtonpost.com/business/2025/07/27/electricity-rates-ohio-data-centers-ai/>.

<sup>43</sup> Cathay Kunkel, "Projected Data Center Growth Spurs PJM Capacity Prices by Factor of 10," Institute for Energy Economics & Financial Analysis, July 30, 2025,

<https://ieefa.org/resources/projected-data-center-growth-spurs-pjm-capacity-prices-factor-10/>.

<sup>44</sup> See Drew Kann and Zachary Hansen, "Data Centers Use Lots of Energy. Will Georgia Lawmakers Make Them Pay More?," *Atlanta Journal Constitution*, February 11, 2025,

<https://www.aic.com/news/business/data-centers-use-lots-of-energy-georgia-lawmakers-might-make-them-pay-more/YW3BUT7ISVDTFGS2BVVIUCY3FM>; and Ellen Thomas, "Here's How We All Ended Up Paying Big Tech's Power Bill," *Business Insider*, August 1, 2025,

<https://www.businessinsider.com/why-utility-customers-are-paying-big-tech-power-bill-2025-7>.

<sup>45</sup> Brian Deese (@BrianCDeese), "As data center demand for power increases, there has been a lot of chatter," X, June 3, 2024, <https://x.com/BrianCDeese/status/1797622407177613545>; *Ensuring Artificial Intelligence & Power Needs Serve the Public Interest, Before Subcommittee on Economic Growth, Energy Policy, & Regulatory Affairs of the House Committee on Oversight*, 119th Cong., page 5 (2025) (statement of Tyson Slocum, Energy Program Director, Public Citizen).

<sup>46</sup> Eliza Martin and Ari Peskoe, *Extracting Profits from the Public: How Utility Ratepayers are Paying for Big Tech's Power*, Harvard Electricity Law Initiative, March 5, 2025,

<https://eelp.law.harvard.edu/wp-content/uploads/2025/03/Harvard-ELI-Extracting-Profits-from-the-Public.pdf>.

data centers tend to request—but not use—services from multiple utilities.<sup>47</sup> All of this functions to benefit tech firms, which can use demand projections as a strategic policy lever to petition the government to bring more power sources, like natural gas plants and nuclear development, online quickly.<sup>48</sup> Not only does this harm communities by backtracking on decarbonization goals and increasing reliance on fossil fuels; it also significantly introduces the risk of stranded assets if and when actual demand fails to materialize.

Some firms are already walking back their data center commitments because the math simply doesn't add up. Microsoft has pulled back on multiple data center projects globally,<sup>49</sup> and a US Census Bureau study found that AI adoption rates are starting to decline for large companies.<sup>50</sup> This has stopped neither the proliferation of data center investment, nor a nationwide push to expand fossil fuel infrastructure and redirect energy infrastructure investments toward AI's insatiable ends.

This investment further consolidates corporate power and serves to expand a technology largely used to surveil everyday people and degrade the quality of our lives, access to resources, and basic rights. *See our recommendations to [protect constituents from AI harms at the local and state level](#).*

## **Data Center Developers Benefit from Economic Development Policies, Secrecy, and Regulatory Systems That Assume Corporate Interest Will Lead to Public Benefit**

More than a decade of existing data center development shows that the supposed gains from this trickle-down approach fail to materialize. Our local and state regulatory systems often prioritize attracting economic development regardless of the cost to residents, and largely do not take into account users operating at such a massive scale of resource consumption. Widespread corporate use of nondisclosure agreements, backroom deals, and secretive practices excludes the public—and in some cases local officials—from decisions about data

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<sup>47</sup> Martin and Peskoe, *Extracting Profits from the Public*; see also Constellation Energy Corporation (CEG) Q1 2025 Earnings Call Transcript, Seeking Alpha, May 6, 2025, <https://seekingalpha.com/article/4782279-constellation-energy-corporation-ceg-q1-2025-earnings-call-transcript>; “We know from conversations from our customers and end users that the same data center need is being considered in multiple jurisdictions across the United States at the same time. Just like fishing, if you're a fisherman, you put a bunch of lines in the water to try to catch fish. And the data center developers are doing exactly the same thing. So, sometimes the same project is showing up in multiple queues simultaneously.”

<sup>48</sup> OpenAI, “OpenAI's Infrastructure Blueprint for the US,” November 13, 2024, [https://media.datacenterdynamics.com/media/documents/OpenAI\\_Blueprint-DCD.pdf](https://media.datacenterdynamics.com/media/documents/OpenAI_Blueprint-DCD.pdf).

<sup>49</sup> Brody Ford, Dawn Lim, Olivia Solon, and Faris Mokhtar, “Microsoft Pulls Back on Data Centers From Chicago to Jakarta,” Bloomberg, April 3, 2025, <https://www.bloomberg.com/news/articles/2025-04-03/microsoft-pulls-back-on-data-centers-from-chicago-to-jakarta>.

<sup>50</sup> Conor Cawley, “US Census Bureau: AI Adoption Has Declined for Large Companies,” Tech.co, September 11, 2025, <https://tech.co/news/ai-adoptoin-declined-large-companies>.

centers in their backyards.<sup>51</sup> Corporate lobbying (which operates largely without spending limits) and campaign contributions from super PACs further exacerbate this dynamic, as tech companies pour millions into shaping elections and the outcomes of legislation to their benefit.<sup>52</sup>

Part of the work of opposing data centers is addressing these flaws in our systems, as much of data center development is governed by zoning processes, economic development boards and corporations, and local and state bureaucratic mechanisms. *See our recommendations to [establish statewide oversight and transparency mechanisms](#) and [limit corporate influence over processes and institutions involved in data center development](#).*

## The Current Trajectory of Data Center Development Is Not Inevitable

Data centers simply do not need to be built out at the size, scale, and level of acceleration currently pushed by AI firms, tech companies, and developers increasingly backed by private equity. We are facing a critical inflection point in the expansion of this infrastructure and the acceleration of AI technologies used to justify it, as the takeover of our electric grid, precious resources, public and Tribal lands, and infrastructure ramps up to previously unthinkable levels. We can choose another direction, following the lead of communities already living the impacts of these toxic developments and their visions for an alternative future.

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<sup>51</sup> Natalie Kainz, "How NDAs Keep AI Data Center Details Hidden from Americans," NBC News, October 28, 2025,

<https://www.nbcnews.com/tech/tech-news/data-center-ai-google-amazon-nda-non-disclosure-agreement-colossus-rcna236423>.

<sup>52</sup> See Justin Hendrix, "Amidst Boom, Data Center Lobby Expands Its Influence, Spending, and Tactics," *Tech Policy Press*, September 12, 2025,

<https://www.techpolicy.press/amidst-boom-data-center-lobby-expands-its-influence-spending-and-tactics>; Carolyn Neugarten, "Data Centers Are Fueling the Lobbying Industry, Not Just the Growth of AI," *Open Secrets*, November 5, 2025,

<https://www.opensecrets.org/news/2025/11/data-centers-are-fueling-the-lobbying-industry-not-just-the-growth-of-ai>; and Amrith Ramkumar and Brian Schwartz, "Silicon Valley Launches Pro-AI PACs to Defend Industry in Midterm Elections," *Wall Street Journal*, August 25, 2025,

<https://www.wsj.com/politics/silicon-valley-launches-pro-ai-pacs-to-defend-industry-in-midterm-elections-287905b3>.

# Key Considerations for Policymaking on Data Centers

The toolkit is intended as a menu of options; not every intervention will be feasible in every locality, state, or region due to differences in local and state laws, existing regulation, and political conditions. We have included three key considerations to help determine which policy actions will work for your context.

## 1. Beware of Preemption

Legal authority in the US is governed by a hierarchy. As a general principle, federal law supersedes and overrides state and local law, meaning that if the federal government passes a law or regulation on a certain issue, state and local laws, regulations, and ordinances cannot conflict with that law. This is known as *preemption*, because federal law preempts states and local governments from passing conflicting or competing laws and ordinances. Similarly, state law supersedes local law.

This is important to keep in mind when proposing ordinances or issuing demands to stop or limit data centers, since local and state governments may be limited in their ability to govern certain issues. For example, one of our recommendations is for local governments to repeal or limit tax exemptions for data centers. In many states, however, state-level sales and use-tax exemptions abate both state and local sales tax portions, meaning that a local government in those states could not require a data center to pay sales tax. Throughout this guide, we have indicated where advocates and policymakers could face preemption issues. **Before proposing ordinances or issuing demands around specific regulations or laws, it is important to consult with experts to understand what is legally possible in your jurisdiction.**

## 2. Consider What Level of Government Best Suits Each Intervention

Many of the local recommendations in this guide are targeted at regulating data center proposals. **As a general principle, it is useful to think of local ordinances governing the proposal, construction, expansion, operations, and resource use of data centers in that jurisdiction, whereas states are able to look more holistically at economic development, cross-state transparency, and cross-state capacity.**

The table below summarizes interventions at the local and state level, ordered from strongest to least strong in terms of their likely effectiveness at each jurisdictional level:

Local	State
<ul style="list-style-type: none"> <li>● Prohibitions, restrictions, moratoriums</li> <li>● Conditional use permits and rejections</li> <li>● Zoning ordinances and municipal code amendments</li> <li>● Water regulations</li> <li>● Energy regulations                             <ul style="list-style-type: none"> <li>○ Capacity commitments</li> <li>○ "Behind-the-meter"</li> <li>○ Backup generators</li> </ul> </li> <li>● Noise mitigation</li> <li>● Transparency measures</li> <li>● Community health protections (air pollution)</li> <li>● AI use regulation                             <ul style="list-style-type: none"> <li>○ Government use</li> <li>○ Procurement</li> <li>○ Local use</li> </ul> </li> <li>● Repeal and limit tax incentives (some)</li> <li>● Labor protections (some/limited)</li> <li>● Community benefits agreements (limited)</li> </ul>	<ul style="list-style-type: none"> <li>● Repeal and limit tax incentives</li> <li>● Transparency measures</li> <li>● Energy regulations                             <ul style="list-style-type: none"> <li>○ Public-utility commissions</li> <li>○ Ratepayer protections</li> <li>○ Mitigation of infrastructure risk</li> <li>○ Grid stability</li> <li>○ Renewable energy</li> </ul> </li> <li>● Limits to corporate influence</li> <li>● AI use regulation                             <ul style="list-style-type: none"> <li>○ Bright-line bans</li> <li>○ Regulate AI technology</li> </ul> </li> <li>● Special economic zones</li> <li>● Moratoriums</li> <li>● Environmental protections</li> <li>● Labor protections (some/limited)</li> </ul>

It is also important to consider how far each policy intervention can reach and how that may impact neighboring jurisdictions. The laws passed by a local or state government generally apply only within that government’s jurisdiction. For example, a local moratorium will not prohibit development in surrounding cities or counties, and could potentially spur additional development just across city or county lines, where fewer protections exist. Simultaneously, passing strong protections may embolden other jurisdictions to take on similar protections. **As much as possible, we encourage regional organizing and coordination, as the impacts of a data center are not limited to its immediate neighbors.**

### 3. Assess Where Your Community Is

Communities across the country are confronting data center deals at various stages of development, each with its unique challenges and opportunities. The applicability of recommendations in this toolkit will depend on:

- What stage of development your community is facing (a data center has been floated but not proposed, a data center has been proposed but not approved, there is an imminent hearing or approval process, data center or energy infrastructure is being expanded, or the harms of existing facilities are becoming clearer)
- What relevant local or state ordinances or regulations exist (both those that directly address data center development and those that apply more broadly)
- What issues are most urgent for your community to address, and where there is power and energy to move policy

## 4. Enforcement Power Is Key

It is critical that all policies be paired with strong enforcement mechanisms to ensure that data center operators abide by laws, ordinances, and regulations at all stages of data center development and operations. These must contain actual consequences for data center operators, including the ability to reject applications that don't meet standards, revocation of permits, revocation of certificates of occupancy, civil penalties, and fines at the scale of the richest companies in the world. Many current regulations include only nominal fines, such as \$1,000 for a violation, which have little consequence for these corporations.

# Local Interventions

This section maps out the possible local policy interventions to stop, slow, and restrict rampant data center development at the town, city, and county level. The interventions are generally ordered from what is most to least powerful to address locally, taking into account local versus state jurisdiction.

Due to differences in local and state laws, existing regulation, and political conditions, not every intervention will be feasible in every locality. What follows is intended as a menu of options that can then be analyzed in relation to local conditions.

## Overview of Local Interventions

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Enact a Temporary Pause on New Data Center Developments (Moratoriums)	22
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Pass Zoning Ordinances and Municipal Code Amendments	33
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Protect Water Resources	41
Regulate and Limit Energy Use	46
Repeal or Limit Tax Incentives and Subsidies	49
Implement Air Pollution and Community Health Measures	53
Establish Local Fair Labor Requirements	55
Considerations for Community Benefits Agreements	57
Protect Constituents from AI Harms	59

# Prohibit or Restrict Data Center Development

Towns, cities, and counties can issue ordinances that ban the construction of new data centers, prohibit the expansion of existing data centers, or restrict data center growth.

- **Strong example:** Data centers were banned in the Beltline Overlay District in Atlanta, Georgia.<sup>53</sup>
- **Strong example:** Groton, Connecticut, instituted a ban on data centers larger than 12,500 square feet.<sup>54</sup>

*Note that limiting or restricting data centers dovetails closely with zoning requirements, since many of the possible actions to directly limit or restrict where and how data centers can be built include limiting siting, setback rules, and distance requirements.*

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<sup>53</sup> City of Atlanta, Georgia, Ordinance 24-0-1218, September 3, 2024, [https://atlantacityga.igam2.com/Citizens/Detail\\_LegiFile.aspx?Frame=&MeetingID=4061&MediaPosition=&ID=35353&CssClass=](https://atlantacityga.igam2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=4061&MediaPosition=&ID=35353&CssClass=).

<sup>54</sup> Peter Judge, "Groton CT Blocks Large Scale Data Center Projects, Thwarting NE Edge," Data Center Dynamics, June 29, 2023, <https://www.datacenterdynamics.com/en/news/groton-ct-blocks-large-scale-data-center-projects-thwarting-ne-edge>.

# Enact a Temporary Pause on New Data Center Developments (Moratoriums)

Local governments can institute time-bound moratoriums on new data center approvals, usually to give the city or county time to update the municipal code, change zoning restrictions, or issue other regulations. This process may eventually lead to a ban, as was the case in Groton, Connecticut.

Moratoriums should last for at least 180 days to provide a meaningful opportunity for community notification and engagement.

- **Strong example:** A 180-day moratorium on data centers was instituted in Coweta County, Georgia.<sup>55</sup>
- **Strong example:** A one-year moratorium on data centers larger than 5,000 square feet was passed in Groton, Connecticut.<sup>56</sup> The town later instituted a ban on data centers larger than 12,500 square feet.<sup>57</sup>
- **Strong example:** A six-month moratorium was passed in September 2025 in Prince George's County, Maryland, pausing new data center development.<sup>58</sup>

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<sup>55</sup> Jeffrey Cullen-Dean, "180-Day Moratorium Placed on Data Centers in County," *Newnan Times-Herald*, May 7, 2025,

[https://www.times-herald.com/news/180-day-moratorium-placed-on-data-centers-in-county/article\\_108b1957-1b63-4650-8960-cae7aa16e51e.html](https://www.times-herald.com/news/180-day-moratorium-placed-on-data-centers-in-county/article_108b1957-1b63-4650-8960-cae7aa16e51e.html).

<sup>56</sup> Brendan Crowley, "Groton Approves One-Year Moratorium on Data Centers," *CT Examiner*, June 15, 2022, <https://ctexaminer.com/2022/06/15/groton-approves-one-year-moratorium-on-data-centers>.

<sup>57</sup> Judge, "Groton CT Blocks Large Scale Data Center Projects."

<sup>58</sup> Darcy Spencer, "Prince George's County to Pause Data Center Development," NBC4 Washington, September 16, 2025,

<https://www.nbcwashington.com/news/local/prince-georges-county-to-pause-data-center-development/3988847>.

# Reject Data Centers That Do Not Fit Within Locality's Goals

Due to existing laws or political conditions, not every local government can ban the development of data centers outright. Instead, local governments can build in mechanisms throughout the data center approval process to reject data center applications that fail to comply with established city or county goals. These may include the locality's

- water usage plan,
- energy usage plan,
- heat mitigation plan,
- economic development plan,
- environmental standards (such as air pollution and emissions),
- environmental justice goals,
- public health goals, and
- city equity plans.

Mechanisms to ensure that this process is feasible include the following:

## Establish Goals Developed and Passed by Local Governments

A necessary precursor to the strategy of rejecting data center applications that fail to comply with local government goals is to have strong city or county goals. These goals must be developed in consultation with community members, and should center disadvantaged communities.

- **Strong Example:** Phoenix, Arizona's 2050 Clean Air Goals<sup>59</sup> exceed all federal air quality standards and aim to maintain a visibility of "good" or "excellent" on at least 90 percent of days.

## Independent Review by Experts with Decision-Making Authority

Ensure that each major stage of the approval process is reviewed independently.

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<sup>59</sup> City of Phoenix Sustainability Department, "2050 Clean Air Goals," City of Phoenix Official Website, accessed December 2, 2025, <https://www.phoenix.gov/administration/departments/sustainability/2050-sustainability-goals/2050-clean-air-goals.html>.

## Shift Burden to the Developer

The burden should be on the data center developer to prove how the project will fit within city goals and limits, with clear and transparent timelines, plans, and accountability measures. Failure to effectively demonstrate this should result in a rejection.

## Establish Enforcement Mechanisms

Ensure that a city has the ability to enforce the agreements made throughout the approval process. Enforcement must occur after the data center is approved, at any point during development or implementation of the data center, and once the data center is in operation on a consistent basis. The local government must also create the ability to institute penalties that go beyond nominal fines, including revoking a data center's permit or certificate of occupancy.

- **Weak example:** In Benton County, Arkansas, violation of the data center ordinance is punishable by a fine of \$1,000.<sup>60</sup> This is not a sufficient penalty for a billion-dollar company.

*Note: The specific mechanisms for continued monitoring, enforcement, and penalties will depend on each component of the application and are outlined in each corresponding section below.*

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<sup>60</sup> Benton County, Arkansas, Planning Code §7.10, Data Centers, accessed December 2, 2025, <https://bentoncountyar.gov/wp-content/documents/2023/07/Planning-Code-Data-Center-Definition-Amendment.pdf>.

# Establish Conditional Use Permitting for Data Centers

The most important requirement, especially for local governments that do not yet have data centers within their jurisdiction, is to create a separate conditional use permit approval process for data centers. Conditional use permits require developers to apply to the zoning board for permission to use their property in special ways. Approval is *conditional*, meaning developers must meet specific conditions set by the local government before they receive approval. Importantly, conditional permits can be revoked if conditions are not met throughout the lifespan of the property. There are three critical stages to consider in this process: pre-approval, approval, and post-approval.

## Pre-Approval Transparency Mechanisms

Local governments must use the application process to demand as much transparency as possible.

### Specify Minimum Transparency Requirements as Part of the Application Process

The minimum transparency requirements as part of the application process include, but are not limited to

- water usage and mitigation;
- noise study and mitigation;
- energy usage and mitigation;
- on-site emissions;
- value of tax abatements developer is receiving for the project;
- name of all companies involved in data center project, including developer, shell companies, data center operators, and financiers;
- jobs (short-term and permanent, hiring efforts, permanent employee wages); and
- a displacement and holistic environmental impact report, centering environmental justice considerations (such as those emerging from redlined/fenceline communities) that establishes the data center will not exacerbate the displacement of residents and local businesses.

*Note: In some cases, data center developers are applying for permits without having tenants or end users in place. This can impede a city's ability to demand transparency measures. Cities should reject any application that cannot account for the data center's projected resource use or does not offer transparency into economic development terms.*

## Who Are the “End Users” of Data Centers?

A crucial part of the pre-approval application process is the requirement that data centers disclose the names of all companies involved in the data center project, including the developer, shell companies, data center operators, and financiers.

However, many more companies are implicated in the development of data centers than those involved in the up-front development process. Once a data center is built, a data center operator sells services to many different companies. For example, a data center operated by Amazon hosts its cloud platform, Amazon Web Services (AWS). AWS sells cloud computing services to companies like Palantir,<sup>61</sup> a surveillance-technology company that has contracted with ICE since 2011.<sup>62</sup> We might consider Palantir an “end user” of an Amazon data center because they use the data center’s services once it is built.

Because data centers can enable harmful use cases of AI technologies, data center ordinances, laws, and regulations should be passed hand in hand with AI regulations that ban harmful use cases and put critical accountability measures on the technology itself. See [Protect Constituents from AI Harms](#) for recommendations to ensure that data centers cannot be built in service of technology that harms communities.

## Mandate Public Notice and Community Hearings

Require a minimum number of public community hearings as a central part of the approval process. Upon receipt of a data center application, the appropriate public administrator must add discussion of the data center application to the agenda of an upcoming regular meeting.

Ensure there is adequate advertisement for the hearing, including but not limited to publication in officially designated newspapers, social media, and certified mailings to all households within the approving government’s jurisdiction. Jurisdictions that depend on key resources (e.g., watershed and energy infrastructure) planning to be used by the data center should also be notified. Clearly display the time and place of the hearing in all communications.

Ensure that educational information is provided to residents well in advance of any hearing, with materials from independent assessments rather than developers. Engage in proactive outreach to community leaders, community groups, and residents of areas both next to the

<sup>61</sup> “Palantir and AWS,” Palantir, <https://www.palantir.com/partnerships/aws>.

<sup>62</sup> Caroline Haskins, “ICE Is Paying Palantir \$30 Million to Build ‘ImmigrationOS’ Surveillance Platform,” *Wired*, April 18, 2025, <https://www.wired.com/story/ice-palantir-immigrationos>.

proposed site and that would be impacted more broadly by rate increases, pollution, or resource use.

- **Strong example:** Tucson, Arizona, requires all documents related to data center projects to be public 90 days before any public meeting.

## Reject Proposals Without Adequate Transparency Measures

Reject data center development or expansion proposals that do not have adequate transparency measures. Establish a waiting period before the rejected proposals can be submitted for reconsideration.

- **Strong example:** Commissioners in Mooresville, North Carolina, refused to support a \$30 billion data center project without knowing which company was behind it.<sup>63</sup>
- **Strong example:** Rejected applications will not be considered within 24 months after denial in Atlanta, Georgia.<sup>64</sup>

## Ban the Use of Nondisclosure Agreements in Data Center Development Deals

*Nondisclosure agreements* (NDAs) are secrecy contracts signed between a data center developer and local government(s) that prohibit the government from sharing information about the data center development deal with the broader public. These are widely used in data center development—in Virginia,<sup>65</sup> 25 out of 31 localities with an existing, approved, or proposed data center had an NDA—and impede the public's ability to make informed decisions about their community. Local governments should pass an ordinance prohibiting the city from entering into NDAs with data center developers, and in some jurisdictions may consider a broader prohibition on NDAs in large economic development projects. Local governments can also approve formal policies preventing or restricting the use of NDAs, and can institute sunshine periods that require public release of documents related to the data center development.

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<sup>63</sup> Joe Marusak, "Facing Opposition, Developer Pulls Planned \$30B Data Center in Mooresville, NC," Yahoo News, August 13, 2025,

<https://www.yahoo.com/news/articles/facing-opposition-developer-pulls-planned-192445841.html>.

<sup>64</sup> City of Atlanta, Georgia, Ordinance 25-0-1063, June 2, 2025,

[https://atlantacityga.igm2.com/Citizens/Detail\\_LegiFile.aspx?ID=37303](https://atlantacityga.igm2.com/Citizens/Detail_LegiFile.aspx?ID=37303).

<sup>65</sup> Eric Bonds and Viktor Newby, "Data Centers, Non-Disclosure Agreements and Democracy," *Virginia Mercury*, April 30, 2025,

<https://viriniamercury.com/2025/04/30/data-centers-non-disclosure-agreements-and-democracy/?utm>.

- **Strong example:** The board of trustees in Big Rapids Township, Michigan, approved a policy prohibiting employees and elected officials from signing NDAs around issues pertaining to the public interest or taxpayer funding.<sup>66</sup>
- **Example:** Supervisors in Pima County, Arizona, updated the county’s NDA policy to institute a 90-day sunshine period prior to approvals or votes by a county public body.<sup>67</sup> During this period, all NDAs expire and public disclosure of all details are required.

*Note: In some cases, banning or restricting NDAs might be done at the state level.*

- New York,<sup>68</sup> Michigan,<sup>69</sup> Indiana,<sup>70</sup> and Illinois<sup>71</sup> have introduced legislation banning the use of NDAs in economic development projects, but no legislation has passed as of writing.

## Establish Conditional Use Permits

Revise the jurisdiction’s zoning code to establish conditional use permits as the mechanism to receive approval.

### Set Distinct Class for Data Centers

By defining data centers as their own use class within zoning code, local governments can pass ordinances based on the unique characteristics of data centers. Without this step, data centers may fit within existing zoning laws that do not require special permits or applications (“by-right zoning”).

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<sup>66</sup> Cathie Crew, “Big Rapids Township Adopts Policy Prohibiting Officials to Sign NDAs,” *Big Rapids Pioneer*, January 14, 2025,

<https://www.bigrapidsnews.com/news/article/big-rapids-township-adopts-policy-prohibiting-20027108.php>.

<sup>67</sup> John Washington and Yana Kunichoff, “Pima County Votes to Change Two Policies – About NDAs and Environmental Impact Reviews – After ‘Lessons Learned’ from Project Blue,” *Arizona Luminaria*, September 3, 2025,

<https://azluminaria.org/2025/09/03/pima-county-votes-to-change-two-policies-about-ndas-and-environmental-impact-reviews-after-lessons-learned-from-project-blue>.

<sup>68</sup> New York State Senate, S373, 2025 Regular Session,

<https://www.nysenate.gov/legislation/bills/2025/S373>.

<sup>69</sup> Kyle Davidson, “Michigan House Approves Bipartisan Plan Barring Lawmakers from Signing Nondisclosure Agreements,” *Michigan Advance*, February 25, 2025,

<https://michiganadvance.com/2025/02/25/michigan-house-approves-bipartisan-plan-barring-lawmakers-from-signing-nondisclosure-agreements>.

<sup>70</sup> Indiana General Assembly, Assembly Bill 1264, 2025 Regular Session,

<https://iga.in.gov/legislative/2025/bills/house/1264/details?utm>.

<sup>71</sup> Illinois General Assembly, Senate Bill 1947, 2023–2024 Session,

<https://www.ilga.gov/Legislation/BillStatus?DocNum=1947&GAID=17&DocTypeID=SB&LegId=146807&SessionID=112&GA=103>.

## Define Data Centers

Define data centers in the most expansive possible way to avoid loopholes, currently and for future technological developments. Consider something like this:

“A facility, or portion of a facility, used or planned for use for the housing, operation, and/or co-location of computer and communication equipment and/or other associated components related to digital data operations for the purpose of storage, management, processing, and/or transmission of digital information.”

*Note: This definition was written in reference to existing data center definitions.*

- **Reference from Chandler, AZ:** “A facility or portion of a facility housing networked computer systems and telecommunications equipment used for remote storage, processing, and distribution of data.”<sup>72</sup>
- **Reference from Londonderry, PA:** “A facility used for the housing, operation, and/or co-location of computer and communication equipment for the purpose of storage, management, processing and/or transmission of digital information necessary for the operation of one of more business, commercial, or governmental entities.”<sup>73</sup>
- **Reference from Atlanta, GA:** “A facility engaged in the storage, management, processing, or transmission of digital data, which houses computer or network equipment, systems, servers, or appliances, and other associated components related to digital data operations.”<sup>74</sup>

### Should you define data centers as their own use class or within a broader industrial category?

Choosing how to define data centers in your permitting process matters. Some localities choose to decenter data center language by passing ordinances that capture data centers within a broader industrial category, such as “large-load customer” or “high-impact facility.”

<sup>72</sup> City of Chandler, Arizona, Ordinance 5033, December 5, 2022, <https://www.chandleraz.gov/sites/default/files/departments/development-services/PLH22-0053-Ordinance-No-5033-Data-Center.pdf>.

<sup>73</sup> Londonderry Township, Dauphin County, Pennsylvania, Ordinance 2025-02, May 27, 2025, [https://www.londonderry.pa.org/pdfs/uploaded/ordinances\\_recently\\_adopted/2025-05-27%20081608\\_Data%20Center%20Overlay%20Ord%202025-02%20with%20Exhibits.pdf](https://www.londonderry.pa.org/pdfs/uploaded/ordinances_recently_adopted/2025-05-27%20081608_Data%20Center%20Overlay%20Ord%202025-02%20with%20Exhibits.pdf).

<sup>74</sup> City of Atlanta, Ordinance 24-O-1218, September 3, 2024, [https://atlantacityga.igm2.com/Citizens/Detail\\_LegiFile.aspx?Frame=&MeetingID=4061&MediaPosition=&ID=35353&CssClass=](https://atlantacityga.igm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=4061&MediaPosition=&ID=35353&CssClass=).

**Benefits of Defining Data Centers Within a Broader Category:**

- For states facing preemption concerns or unable to pass data center-specific location, defining facilities by their resource use might be critical.
- Some tech companies and data center developers have argued that regulations targeting data centers specifically are discriminatory. If the regulation includes but is not specific to data centers, developers cannot argue that they are being singled out and discriminated against.
- “Large-load customers” is the term used at the federal level, so using this term provides consistency with federal regulations.

**Drawbacks of Defining Data Centers Within a Broader Category:**

- Defining data centers within a broader class such as “large-load customers” or “high-impact facility” will include other manufacturers and industrial customers; they may join forces to fight the regulation.
- A broader definition creates the possibility that data centers may find loopholes.
- Defining data centers by their resource use could create a loophole if data centers find efficiencies or creative ways to offload their resource use.

This will be a decision best made by those with specific knowledge of your jurisdiction.

**No Permit Unless Approved**

Currently in many jurisdictions, data center approvals are “by-right,” meaning that projects that meet zoning criteria are automatically approved without requiring special permits or additional review. This prevents local governments from attaching conditions to the permitting process. **To mitigate this, local governments must stipulate that data center development and expansion are not permitted unless approved through the conditional use permitting process.** This allows local governments to articulate the necessary requirements in order for data centers to receive approval, and to reject applications that don’t meet those requirements. This should include applications for existing data centers to expand (i.e., turning existing sites into hyperscalers).

- **Strong example:** The city of Chandler, Arizona, stipulates that “data centers are not permitted to operate unless explicitly approved.”<sup>75</sup>

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<sup>75</sup> City of Chandler, Ordinance 5033, 2022, <https://www.chandleraz.gov/sites/default/files/departments/development-services/PLH22-0053-Ordinance-No-5033-Data-Center.pdf>.

## Attach Binding Conditions on the Approval Process

The core mechanism of a conditional use permit is to condition the permit on the basis of clearly specified guidelines and requirements. These include:

- An approved water usage plan (*for details on how to structure the strongest possible local water regulations, see [Protect Water Resources](#)*)
- An approved energy-usage plan (*for details on how to structure the strongest possible local energy regulations, see [Regulate and Limit Energy Use](#)*)
- An approved noise-mitigation plan (*for details on how to structure the strongest possible noise-mitigation measures, see [Institute Strong Noise Mitigation Measures](#)*)
- Commitment to abide by zoning regulations (*for details on how to structure the strongest possible zoning regulations, see [Pass Zoning Ordinances and Municipal Code Amendments](#)*)
- A binding commitment to continued post-approval transparency requirements (*for details, see the next point on [Post-Approval Transparency Measures](#)*)
- A binding commitment to abide by job-quality standards and local, targeted hiring for construction and data center jobs (*for details on the strongest labor conditions, see [Establish Local Fair Labor Requirements](#)*)
- A displacement and holistic environmental impact report, centering environmental justice considerations (such as those emerging from redlined/fenceline communities) that establishes the data center will not exacerbate the displacement of residents and local businesses
- If called for by frontline communities, a binding commitment to enforce Community Benefits Agreements (*for our perspective and cautions on this process, see [Considerations for Community Benefits Agreements](#)*)

## Post-Approval Transparency Measures

It is equally important to ensure there are continued transparency mechanisms in place after the approval process. Without these, effective enforcement of conditions in data center approvals and addressing harms from construction and operation will be more difficult.

### Require Monthly Public Disclosure

Require data centers to give monthly reports on data centers' water and electricity usage.

Additionally, data centers must report the results of noise studies; the amount of tax incentives received from local and state governments; the number of jobs created, including

the wages and benefits offered to both construction and permanent employees; and the total amount of dollars invested into the community at minimum every year.

This information must be submitted to the local agency overseeing the permitting process to ensure compliance with the terms of the conditional permit. Information should also be reported to a state agency that gathers and discloses this information online. *For more information about how states can track and publish these metrics online, see [Establish a Statewide Clearinghouse](#). A state clearinghouse might not be politically feasible in all states.*

### **Ensure Continued Community Involvement**

The local government must establish mechanisms for continued community involvement, including a system of public reporting and a city response system to address community concerns. This should also include a post-approval hearing for additional transparency.

### **Establish Enforcement Mechanisms**

Local governments must build out an enforcement mechanism to ensure that data centers abide by transparency requirements contingent upon approval. Jurisdictions must reserve the right to revoke the conditional use permit or remove the certificate of occupancy if conditions are not met. Additional penalties for violation of application terms can include non-nominal fines and civil penalties.

*Note that cities may have to amend their zoning code to increase the acceptable fines, and that cities may need to consult the legality of occupancy removal.*

# Pass Zoning Ordinances and Municipal Code Amendments

A key vehicle to limit or restrict data center development is to update the municipal code, often including zoning requirements, usage requirements, and other siting decisions. Through these mechanisms, local governments can dictate where and how data centers can be constructed. Local governments can take one or multiple approaches, including the following:

## Specify Zoning Requirements

### Site Data Centers in Industrial Zones Only

Local jurisdictions take different approaches to siting data centers through zoning regulations. Some jurisdictions establish Data Center Overlay districts, defining specific zones where data centers can be built and prohibiting them in other zones. Other jurisdictions specify if and where data centers fit into existing zoning districts.

Regardless of the approach, jurisdictions should specify that data centers can only be built in areas zoned for heavy industrial activity, or create an overlay district in industrial areas only. Local governments should prohibit data center construction in residential zones, agricultural areas, commercial areas, and light industry zones where office, residential, and commercial buildings can be constructed.

**Note: Restricting data centers to industrial zones does not fully mitigate their harmful community impact.** *A data center's water and energy use impacts community resources regardless of where it is sited. Air pollution from industrial zones adversely affects surrounding communities, which is particularly concerning given that industrial zones are often sited next to Black and Brown neighborhoods, or other marginalized communities. Data centers have been built or are currently planned in the Frank C. Pigeon Industrial Park in Memphis, Tennessee;<sup>76</sup> the Bellwether District in Philadelphia, Pennsylvania;<sup>77</sup> and Kingsboro Industrial Park in Rocky Mount, North Carolina<sup>78</sup>—all of which are located near historically Black communities.*

If a jurisdiction must allow the development of data centers in areas zoned for light or mixed-use industry, stricter requirements and specifications should apply to those areas.

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<sup>76</sup> Chow, "We Are the Last of the Forgotten."

<sup>77</sup> Frank Kummer, "Bellwether District Could Soon Announce Its First Tenants," *Philadelphia Inquirer*, November 20, 2025,

<https://www.inquirer.com/real-estate/commercial/bellwether-district-refinery-site-hrp-warehouses-20251120.html>

<sup>78</sup> Brian Gordon, "The Developer Behind NC's Most Ambitious Data Center Sites Is Ready for a Fight," *News & Observer*, November 29, 2025,

<https://www.newsobserver.com/news/business/article313027720.html>.

- **Strong example:** In Atlanta, Georgia, the city code was amended to stipulate that data centers shall be excluded from permissible use in the Industrial Mixed Use District (I-Mix) zoning district.<sup>79</sup>
- **Strong example:** In Prince William County, Virginia, data centers are prohibited in agricultural districts.<sup>80</sup>

### Prohibit Variances and Special Use Permits

Variances allow zoning boards to approve use cases that are prohibited under existing zoning law, such as building height or minimum setback requirements. To receive a variance, the applicant must prove that they will suffer “hardship” without variance approval.<sup>81</sup> Data center developers have petitioned<sup>82</sup> zoning boards for variances from existing zoning regulations, such as restrictions on building heights, arguing that failure to provide a variance will lead to financial hardship. Consider prohibiting all applications for special use permits and variances for data center siting. If not prohibited, the threshold for data centers to apply for use variances to sidestep zoning applications should be exceedingly high.

### Establish Setback Requirements

Cities should specify the minimum distances that data centers must be from property lines, streets, or specific types of areas (e.g., transit hubs).

### Landscape Setbacks

Set minimum setback requirements for data centers.

- **Minimum viable example** from Phoenix, Arizona requires a 30-foot-wide perimeter landscape setback.<sup>83</sup>

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<sup>79</sup> City of Atlanta, Georgia, Ordinance 24-0-1222, September 4, 2024,

<https://mcclibraryfunctions.azurewebsites.us/api/ordinanceDownload/10376/1315360/pdf>.

<sup>80</sup> Prince William County, Virginia, Code of Ordinances § Sec. 32-509.01, Data Center Opportunity Zone Overlay District,

[https://library.municode.com/va/prince\\_william\\_county/codes/code\\_of\\_ordinances?nodeId=CH32Z0\\_ARTVQVDI\\_PT509DACEOPZ0QVDI](https://library.municode.com/va/prince_william_county/codes/code_of_ordinances?nodeId=CH32Z0_ARTVQVDI_PT509DACEOPZ0QVDI).

<sup>81</sup> Ryan Coffey, “Difference Between Special Use Permits and Variances,” Michigan State University Extension, March 22, 2013,

[https://www.canr.msu.edu/news/difference\\_between\\_special\\_use\\_permits\\_and\\_variances](https://www.canr.msu.edu/news/difference_between_special_use_permits_and_variances).

<sup>82</sup> James Engel, “Springdale Zoning Hearing Board Considers Data Center Developer’s Requests,” TribLIVE, October 23, 2025,

<https://triblive.com/local/valley-news-dispatch/springdale-zoning-board-considers-data-center-developers-requests>.

<sup>83</sup> City of Phoenix, Arizona, City Code § 507 Tab A, Guidelines for Design Review,

[https://phoenix.municipal.codes/ZO/507\\_TabA](https://phoenix.municipal.codes/ZO/507_TabA).

## Sidewalks

Require data centers to build sidewalks over a minimum size and landscape strips with large canopy shade trees.

## Distance from Residential Zones

If a city must permit data centers in a zoning district that abuts a residential zone, the city should require at the bare minimum 2,640 feet (one-half mile) between the data center and residential property line to minimize noise and air pollution.

- **Minimum viable example** from Tempe, Arizona: “Data center buildings shall not be located within 500 feet of the property line of a site containing a residential use or a residential district.”<sup>84</sup> *Note: This is the strongest example among data center ordinances that have been passed, but is not sufficient to minimize harm.*

## Distance from Transit Hubs

Restrict data centers near transit hubs in order to prioritize mixed-use development such as employment centers, healthcare facilities, grocery stores, and meaningful community services. At least 2,640 feet (one-half mile) should be the floor.

- **Minimum viable example:** In Atlanta, Georgia, data centers are prohibited from being built within 2,640 feet (one-half mile) from high-capacity transit stops.<sup>85</sup>
- **Minimum viable example:** In Phoenix, Arizona, data center development shall be no closer than 2,640 feet (one-half mile) from an approved high-capacity transit station.<sup>86</sup>

## Specify Design Requirements

Without aesthetic specifications, data centers tend to default to large and unwelcoming concrete buildings. The following requirements can help mitigate this default design.

### Facade and Principal Building Requirements

Cities can specify requirements for aesthetic elements of data centers and require data centers to incorporate specific design principles, such as changes in building height, building step-backs or recesses, windows, and use of accent materials.

- **Strong example:** The city of Phoenix, Arizona, specifies that building facades must contain architectural embellishments such as textural changes, pilasters, offsets,

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<sup>84</sup> City of Tempe, Arizona, Zoning and Development Code § 3-429, Data Centers [https://library.municode.com/az/tempe/codes/zoning\\_and\\_development\\_code?nodeId=ZONING\\_DEV\\_ELOPMENT\\_CODE\\_PT3\\_LAUS\\_CH4\\_SPUSST\\_S3-429DACE](https://library.municode.com/az/tempe/codes/zoning_and_development_code?nodeId=ZONING_DEV_ELOPMENT_CODE_PT3_LAUS_CH4_SPUSST_S3-429DACE).

<sup>85</sup> City of Atlanta, Georgia, Ordinance 24-0-1222 (2024).

<sup>86</sup> City of Phoenix, Arizona, City Code § 647, Special Permit Uses, [https://phoenix.municipal.codes/ZO/507\\_TabA](https://phoenix.municipal.codes/ZO/507_TabA).

windows, and overheads/canopies.<sup>87</sup> Buildings should include variations in colors, materials, patterns, and heights.

### Shielding Mechanical Equipment from View

Data centers should screen and shield mechanical equipment so it is not visible.

- **Strong example:** In Prince William County, Virginia, data centers are required to screen all ground-level and rooftop mechanical equipment from view.<sup>88</sup>

### Establish Landscape Requirements

Local governments can require pathways, open green space on property lines, vegetation, and specific types of fencing. (Chain-link and barbed-wire fencing may be prohibited, for instance.)

- **Strong example:** Phoenix, Arizona, requires two rows of large canopy shade trees, shrubs, and ground cover to mitigate the negative visual impact of data centers.<sup>89</sup>
- **Strong example:** Prince William County, Virginia, specifies fencing requirements for data centers, stipulating that fences cannot be chain-link or barbed-wire.<sup>90</sup>

### Limit Building Conversion

Limit buildings that can be converted into data centers to prioritize other building use cases, such as housing.

- **Strong example:** Atlanta, Georgia, stipulates that only buildings more than 50 years old may be converted.<sup>91</sup>
- **Cautionary example:** The Houston Funplex, a landmark community center in Houston, Texas, was purchased by a private developer amid speculation that it may be converted into a data center.<sup>92</sup>

### Require Green Building Standards

Localities should mandate that data centers be built utilizing green building standards such as

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<sup>87</sup> City of Phoenix, Arizona, City Code § 507 Tab A, Guidelines for Design Review, [https://phoenix.municipal.codes/ZO/507\\_TabA](https://phoenix.municipal.codes/ZO/507_TabA).

<sup>88</sup> Prince William County, VA, Ordinances § Sec. 32-509.01.

<sup>89</sup> Phoenix, AZ, Zoning Ord. § 507 Tab A.

<sup>90</sup> Prince William County, VA, Ordinances § Sec. 32-509.01.

<sup>91</sup> City of Atlanta, Ordinance 25-O-1063 (2025).

<sup>92</sup> Camille H, "Stop the Houston Funplex from Turning into a Data Center!" Change.org, July 26, 2025, <https://www.change.org/p/stop-the-houston-funplex-from-turning-into-a-data-center>.

LEED,<sup>93</sup> ISO 14001,<sup>94</sup> or ISO 50001.<sup>95</sup>

- **Strong example:** Minnesota introduced HF 4929,<sup>96</sup> requiring certification for sustainable design or green building standards within three years of construction.

## Prohibit Rezoning Processes That Threaten Historic Sites

Localities eager to bring economic development to their communities, including data centers, often have endangered historic sites. Localities must prohibit the rezoning of land near historically significant sites for the purposes of building data centers.

- **Strong example:** Thirty-seven data centers have been proposed near Manassas National Battlefield Park in Prince William County, Virginia, which involves rezoning 1,700 acres of homes and farms. Local communities sued the county for providing limited required information about the development, inadequate public notice and hearings, and failure to consider key environmental and historical facts. The judge overturned the rezoning decision because the county failed to make the development plans, ordinances, or amendments referenced in the public notices available to the public.<sup>97</sup>
- **Example:** In the spring of 2023, Orange County, Virginia, approved the rezoning of Wilderness Battlefield into industrial districts. The Wilderness Battlefield is a top endangered historic site that contains significant Civil War battlefield sites. Local communities and civil societies sued the county, arguing that the decision violated Virginia law governing rezoning processes, public hearings, and equal taxation of land. The lawsuit is ongoing.<sup>98</sup>
- **Cautionary example:** Two historic Black cemeteries in Prince William County, Virginia, were destroyed by the construction of a new data center, despite the county's required 25-foot buffer to protect cemeteries.<sup>99</sup>

<sup>93</sup> USGBC, "LEED Rating System," USGBC, accessed December 2, 2025, <https://www.usgbc.org/leed>.

<sup>94</sup> ISO, *ISO 14001:2015 – Environmental Management Systems – Requirements with Guidance for Use*, 2015, <https://www.iso.org/standard/60857.html>.

<sup>95</sup> ISO, "ISO 50001– Energy Management," ISO, accessed December 2, 2025, <https://www.iso.org/iso-50001-energy-management.html>.

<sup>96</sup> Minnesota House of Representatives, House File 4929, 2023–2024 Session, <https://www.revisor.mn.gov/bills/93/2024/0/HF/4929/versions/latest>.

<sup>97</sup> Cher Muzyk and Jill Palermo, "Judge Overturns Prince William Digital Gateway," *Prince William Times*, August 7, 2025, [https://www.princewilliamtimes.com/news/breaking-judge-overturns-prince-william-digital-gateway/article\\_951d6362-1bbd-416f-89c5-ff322bf49fa8.html](https://www.princewilliamtimes.com/news/breaking-judge-overturns-prince-william-digital-gateway/article_951d6362-1bbd-416f-89c5-ff322bf49fa8.html).

<sup>98</sup> Jared Herr and Jim Campi, "American Battlefield Trust and Allies Score Court Victory in Lawsuit to Protect Wilderness Battlefield," American Battlefield Trust, September 17, 2025, <https://www.battlefields.org/news/american-battlefield-trust-and-allies-score-court-victory-lawsuit-protect-wilderness>.

<sup>99</sup> Cher Muzyk, "Data Center Construction Damages 2 Black Cemeteries," *Prince William Times*, May 22, 2024,

## Prohibit Rezoning Processes That Transform Agricultural Districts into Data Center Developments

Data center developers are purchasing large swaths of land with the intention of rezoning agricultural districts into industrial zones. Communities must protect against this by prohibiting rezoning that transforms farmland into data center developments. To counter pressure to sell, communities can invest in farmland preservation funds.

- **Example:** In September 2025, the Township Board in Saline County, Michigan, voted four to one against rezoning 575 acres of farmland into land suitable for a data center development.<sup>100</sup> Immediately following the vote, the developer filed a lawsuit accusing the township of exclusionary zoning. A settlement agreement includes provisions specifying the project will use only 250 acres of farmland, preserving the remaining land as undeveloped or agricultural lands. There are also provisions requiring the developer to restore the land as a natural area with a decommissioning fund if the data center is decommissioned, as well as \$14 million given to the community for farmland preservation, community investment, and fire services.

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[https://www.princewilliamtimes.com/news/updated-data-center-construction-damages-2-black-cemeteries/article\\_1c4c35b4-18b8-11ef-bcaf-1bf876e8d0a2.html](https://www.princewilliamtimes.com/news/updated-data-center-construction-damages-2-black-cemeteries/article_1c4c35b4-18b8-11ef-bcaf-1bf876e8d0a2.html).

<sup>100</sup> K. R. Callaway, "Data Center Developer Takes a Small Michigan Farming Community to Court," *Michigan Advance*, October 27, 2025,

<https://michiganadvance.com/2025/10/27/data-center-developer-takes-a-small-michigan-farming-community-to-court>.

# Institute Strong Noise-Mitigation Measures

Local governments must institute strong noise-mitigation measures to protect residents from the noise emitted from data centers. These measures are implemented through zoning ordinances. They include the following:

## Require Sound-Modeling Studies

Require developers to complete a noise study and mitigation plan as part of the approval process. Require that sound studies account for impulse noise, continuous noise, and low-frequency noise levels, as well as for noise coming from emergency diesel generators. Require that studies be conducted during peak operations and include times when generators are running.

## Set Permissible Noise Levels

Set the lowest possible threshold for continuous noise. The ordinance currently with the lowest thresholds, from Divide County, North Dakota, establishes that the maximum continuous sound levels for data centers cannot exceed 50 dBA during the daytime and 45 dBA at night. These thresholds should include low-frequency noise levels and noise coming from ancillary data center usage (such as emergency diesel generators and construction). Thresholds may vary depending on zoning (for example, if a data center abuts a residential zone).

*Note: The National Institute for Occupational Safety and Health (NIOSH) threshold for requiring hearing protection is 85 dbA over eight hours. Noise around data centers can reach up to 92 dBa.*

- **Strong example:** Divide County, North Dakota, establishes the maximum continuous sound level for data centers during the daytime as 50 dBA, and 45 dBA at night.<sup>101</sup>
- **Strong example:** Marana, Arizona, stipulates that maximum sound levels for data centers cannot exceed 55 dBA in residential and mixed-use properties during both daytime and nighttime.<sup>102</sup>

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<sup>101</sup> Divide County, North Dakota, Divide County Zoning Ordinance and Subdivision Regulations, March 25, 2025, [https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server\\_11725438/File/March%202025%20Zoning%20Ordinance.pdf](https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server_11725438/File/March%202025%20Zoning%20Ordinance.pdf).

<sup>102</sup> Town of Marana, Arizona, Ordinance 2024. 029, December 17, 2024, <https://www.maranaaz.gov/files/assets/cityofmarana/v/1/town-clerk/documents/ordinances/ordinance-2024.029-adoption-amendments-to-marana-town-code-title-17-land-development-revising-section-17-1-6-definitions.pdf>.

- **Example:** Phoenix, Arizona,<sup>103</sup> and McPherson County, South Dakota,<sup>104</sup> stipulate that noise levels cannot exceed 55 dBA during the day and 45 dBA from 10 p.m. to 7 a.m. for data centers abutting residential zones.
- **Weak example:** Coweta County, Georgia, stipulates that noise levels for data centers cannot exceed 5 dBA above ambient from 10 p.m. to 7 a.m., or 10 dBA above ambient from 7 a.m. to 10 p.m.<sup>105</sup> Per the ordinance, the county will conduct an ambient noise survey. This strategy creates the risk that minimum thresholds could be set higher than recommended.

## Require Noise-Mitigation Measures

Require data centers to undergo mitigation measures to reduce noise pollution.

- **Example:** Tempe, Arizona, requires that “generators for data centers shall be located within an enclosed building with necessary ventilation to reduce impacts on noise to surrounding area.”<sup>106</sup>

## Establish Enforcement Mechanisms

The local government must build out an enforcement mechanism to ensure that data centers abide by noise regulations, including a complaint process for residents and regular monitoring. Some cities have recommended that a specially trained public works unit enforce the new noise ordinance. Penalties should involve non-nominal fines and civil penalties, including removal of the certificate of occupancy.

*Note: Cities may have to amend their zoning code to increase the acceptable fines, and may need to ascertain the legality of occupancy removal.*

- **Weak example:** In Prince William County, Virginia, the penalty for repeated violations of a noise ordinance tops out at \$5,000.<sup>107</sup> This is not a sufficient penalty for a billion-dollar company.

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<sup>103</sup> City of Phoenix, Arizona, City Code § 647, Special Permits Use <https://phoenix.municipal.codes/ZO/647>.

<sup>104</sup> McPherson County, South Dakota, Ordinance 24-1, 2025, <https://mcpherson.sdcounties.org/files/2025/02/Ordinance-2025-1-Data-Processing-Center-.pdf>.

<sup>105</sup> Coweta County, Georgia, “Data Center Ordinance,” accessed December 2, 2025, <https://www.coweta.ga.us/government/planning-development-ordinances/data-center-ordinance>.

<sup>106</sup> Tempe, AZ, Zoning and Development Code § 3-429.

<sup>107</sup> Peter Cary, “Regulating Data Center Noise via Land-Use Rules Raises Legal Questions,” *Prince William Times*, March 2, 2023, [https://www.princewilliamtimes.com/news/regulating-data-center-noise-via-land-use-rules-raises-legal-questions/article\\_8f1ed75e-a30c-11ed-8040-cf820b802bec.html](https://www.princewilliamtimes.com/news/regulating-data-center-noise-via-land-use-rules-raises-legal-questions/article_8f1ed75e-a30c-11ed-8040-cf820b802bec.html).

# Protect Water Resources

Data centers use significant amounts of water resources. This is particularly troubling as tech companies increasingly plan to build data centers in water-scarce locations.<sup>108</sup> Local governments must pass water ordinances that limit the impacts of data centers and restrict data center development when proposals do not work in the community's best interest.

## Define Large-Quantity Water Users

Large-quantity water users should be defined as those whose water use equals or exceeds 10,000 centum cubic feet (ccf), equivalent to 7,480,000 gallons per month.

- To give a benchmark, Project Blue, an Amazon hyperscaler data center in Tucson, Arizona, publicly projected<sup>109</sup> they would use an average of 283 million gallons of water per year. (This equates to approximately 23 million gallons, or 31,000 ccf, per month.) This calculation suggests that 10,000 ccf per month would capture hyperscaler data centers.

## Establish Application Process for Large-Quantity Water Users

Require all large-quantity water users to submit an application for substantial water usage. Cities must reserve the right to determine that the applicant's use would be incompatible with the city's available resources and reject the application. Data centers should be presumed rejected unless the developer is able to prove robust and effective water-sustainability measures.

- **Strong example:** Aurora, Colorado, stipulates that high-water-use industries projecting consumptive water demands above certain thresholds cannot be developed unless water sustainability measures are taken.<sup>110</sup>

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<sup>108</sup> Luke Barratt, "Revealed: Big Tech's New Datacentres Will Take Water from the World's Driest Areas," *Guardian*, April 9, 2025,

<https://www.theguardian.com/environment/2025/apr/09/big-tech-datacentres-water>.

<sup>109</sup> Craig Smith, "City of Tucson Shares Details on Project Blue Potential Water and Energy Use," KGUN 9 Tucson News, July 14, 2025,

<https://www.kgun9.com/news/community-inspired-journalism/southeast-side-news/city-of-tucson-shares-details-on-project-blue-potential-water-and-energy-use>.

<sup>110</sup> See Aurora Water Appendix F, "Large Water Users Guide," January 2025,

[https://cdnsm5hosted.civiclive.com/UserFiles/Servers/Server\\_1881137/File/Business%20Services/Development%20Center/Water%20&%20Other%20Utilities/2025/2025%20Water%20Sewer%20Drainage%20Standards/Appendix%20F%20Large%20Water%20Users%20Guide.pdf](https://cdnsm5hosted.civiclive.com/UserFiles/Servers/Server_1881137/File/Business%20Services/Development%20Center/Water%20&%20Other%20Utilities/2025/2025%20Water%20Sewer%20Drainage%20Standards/Appendix%20F%20Large%20Water%20Users%20Guide.pdf); and Deborah Kapiloff, Lindsay Rogers, and Stacy Tellinguisen, *Data Center Impacts in the West: Policy Solutions for Water and Energy Use*, Western Resources Advocates, July 2025, <https://westernresourceadvocates.org/wp-content/uploads/2025/07/Data-Center-Impacts-in-the-West.pdf>.

## Require Comprehensive Accounting of Projected Water Usage

Applications must include the data center's projected water usage. Applicants must be required to account for *all water uses*, including water used in data center construction, server cooling, facility cooling (including cooling towers), and other ancillary water uses. Most data center projections currently do not account for the water facilities will use to cool their infrastructure (including server cooling and facility cooling), which consumes a significant amount of water,<sup>111</sup> as well as construction.

- **Example:** Illinois proposed SB 2181,<sup>112</sup> requiring annual water consumption reporting for data centers broken out by month. The bill specifically calls out that water used for cooling must be included. (“‘Water consumption’ means the total amount of water consumed by a data center, including water used for cooling, measured in gallons.”)
- **Weak Example:** California AB 93<sup>113</sup> (signed into law) mandates that new data centers must provide an estimate of their expected water use when applying for a city or county license. However, the legislation does not specify that all water uses must be included in this report, creating a loophole to exclude water used for cooling, construction, or other ancillary use cases.

## Require Comprehensive Accounting of Projected Water Sources

Increasingly, data centers are tapping into freshwater resources. Applicants must specify their water footprint, including blue sources (surface water and groundwater), piped sources (municipal water), and gray sources (purified reclaimed water). For blue sources, data centers must break down their expected sourcing of surface water and groundwater.<sup>114</sup>

## Require Submission of a Water-Conservation Plan

Large-quantity water users must submit a water-conservation plan. Require independent review to evaluate whether the water-conservation plan will reduce the consumption of water, over what time period, and the impact this will have on residents and the environment.

Options include the following:

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<sup>111</sup> Pengfei Li et al., “Making AI Less ‘Thirsty’: Uncovering and Addressing the Secret Water Footprint of AI Models,” *arXiv*, March 26, 2025, <https://arxiv.org/pdf/2304.03271>.

<sup>112</sup> Illinois General Assembly, Senate Bill 2181, 2025–2026 Session, <https://www.billtrack50.com/billdetail/1825478>.

<sup>113</sup> California State Assembly, Assembly Bill 93, 2025–2026 Session, <https://legiscan.com/CA/text/AB93/2025>.

<sup>114</sup> Miguel Yañez-Barnuevo, *Data Centers and Water Consumption*, Environmental and Energy Study Institute, June 25, 2025, <https://www.eesi.org/articles/view/data-centers-and-water-consumption>.

## Water Efficiency Measures

Require data centers to minimize water demand through efficiency measures such as efficient airflow to reduce overall cooling needs, closed-loop cooling systems, and immersion cooling.

## Water Replacement

Ordinance must specify that water should be fully replaced. The water replacement should benefit the watershed that blue sources are being drawn from.

## Recycled Water Offset Requirements

Require large-quantity water users that consume on average more than 100,000 gallons of water per day for at least five days out of the year to offset their use by using recycled or conserved water for at least 50 percent of their water demand.

- **Minimum viable example:** Phoenix, Arizona, requires large-quantity water users that consume more than 500,000 gallons of water per day to offset this by using recycled or conserved water for 30 percent of their water demand.<sup>115</sup>

*Note: Cities can require data centers to invest in infrastructure to meet recycled water requirements. This requirement will depend on a jurisdiction's recycled water-treatment facilities, infrastructure, and goals.*

## Specify Requirements Around Liquid Cooling Versus Evaporative Air Cooling

Data centers in water-scarce areas may consider prohibiting evaporative air cooling techniques. This is because cooling data centers is extraordinarily resource intensive. There are generally two ways data centers can cool their servers: server liquid cooling (a process that delivers a liquid coolant directly to the graphics processing units, and that does not consume water) and air cooling (which uses water evaporation and is therefore a more water-intensive method). Some data centers also use cooling towers to cool their facilities; this method is very resource-intensive. *Note: This distinction is not intuitive! Liquid cooling techniques use little to no water, and air cooling techniques use significant amounts of water.* While technology may change over time, cities should first assess whether data centers are worth the resource extraction required.<sup>116</sup>

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<sup>115</sup> City of Phoenix, Arizona, City Code § 37-52.04, "Large Water Users," accessed December 2, 2025, <https://phoenix-proof.municipal.codes/CC/37-52.04>.

<sup>116</sup> Yañez-Barnuevo, *Data Centers and Water Consumption*.

- **Strong example:** The Southern Nevada Water Authority adopted a moratorium on new evaporative cooling systems in commercial and industrial buildings because they are highly water intensive.<sup>117</sup>

## Require Data Centers to Pay for All Upfront Infrastructure Costs Related to Their Water Usage

While certain jurisdictions may have the necessary water infrastructure in place to service large-quantity water customers such as data centers, other jurisdictions may need to extend water and sewer infrastructure to serve new customers. Public utilities often pass these costs onto ratepayers, which can lead to higher water bills. This is particularly relevant for rural communities, where existing water infrastructure may be lacking.

Cities must demand that each data center pay 100 percent of estimated public infrastructure costs related to its water usage, with a particular focus on infrastructure upgrades needed to support the data center. This can be done through an annual Infrastructure Impact Fee deposited into a restricted fund used for local water infrastructure, conservation, and drought resilience projects.<sup>118</sup>

## Require Water-Quality Testing and Reporting

Require that data centers test and publicly report water quality to ensure it remains safe, with a binding commitment to cleaning it up if it is not.

## Require Continued Transparency Mechanisms

Require that water consumption numbers and sourcing be made public in monthly reporting. Without transparency, effective enforcement of approvals based on water use and addressing harms will be more difficult. Reporting should include the following:

- Average monthly water usage, including cooling and ancillary uses
- Water-conservation-plan reporting
- An assessment of whether water demands require tapping surface or groundwater
- An assessment of whether potable water will be used

This information must be submitted to the local agency overseeing the permitting process to ensure compliance with the terms of the conditional permit. Information should also be reported to a state agency that gathers and discloses this information online. *For more information about how states can track and publish these metrics online, see [Establish a Statewide Clearinghouse](#).*

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<sup>117</sup> See “Understand Laws and Ordinances,” Southern Nevada Water Authority, accessed December 2, 2025, <https://www.snwa.com/conservation/understand-laws-ordinances/index.html>; and Kapiloff, Rogers, and Tellinguisen, *Data Center Impacts in the West*.

<sup>118</sup> Thanks to the Southeast Climate and Energy Network for crafting this policy recommendation.

## Ensure Water Applications and Plans Are a Matter of Public Record

Ensure that the water-service applications and water-conservation plan are public records subject to disclosure under the state's public records law. Stipulate that this information does not constitute a trade secret subject to exemption from disclosure.

## Levy Mandatory Taxes on Water Use

Tax the water usage with no exemptions, and increase the daily rate during droughts. Require that money be funneled into either water conservation projects or local infrastructure.

- **Weak example:** Corpus Christi, Texas, taxes water usage, but only in droughts with opt-out provisions for large-volume industrial customers.<sup>119</sup> This would allow data centers to opt out of drought surcharge fees and undermine the mitigation tactic.

## Establish Strong Enforcement Mechanisms for Violations

The large-quantity water user must not voluntarily pledge to have a water-conservation plan, but actually enact it. Water-conservation plans must be legally binding. The city must build in enforcement mechanisms to enforce water usage and water-conservation plans. To implement the strongest penalty, water service should be shut off for violations. Nominal fines for violating a water permit mean nothing to hyperscale data centers.

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<sup>119</sup> City of Corpus Christi, Texas, *Water Conservation Plan*, 2020, <https://www.corpuschristitx.gov/media/5jaleklj/water-conservation-plan.pdf?v=kbQQQPQwFbQ>.

# Regulate and Limit Energy Use

The amount of energy that data centers are projected to use is staggering. This escalating projected demand threatens to destabilize fragile energy grids, increase air pollution, and increase energy bills for everyday people. Local governments are empowered to pass ordinances limiting the harmful effects of this rapid energy rollout while rejecting proposals that do not work in the community's best interest.

*Note: The bulk of regulations designed to protect ratepayers from subsidizing the costs of data centers, mitigate the financial risk from data centers, and promote grid stability are best done at the state level. See [Establish Strong Ratepayer Protections](#) and [Promote Grid Stability and Accelerate Renewable Energy Infrastructure](#) for more.*

## Mandate 24/7 Renewable Energy Requirements

Require that data centers procure or subscribe to locally deliverable, additional, and zero-emissions renewable energy at all hours of the day, every day of the year, as a condition for receiving approval.<sup>120</sup> "Additional" is an important requirement to ensure that data centers do not take energy away from another project that would have used the available renewable energy to decarbonize.

## Prohibit Off-Grid and "Behind-the-Meter" Power Generation

Because local electrical grids have struggled to produce enough power for data center demand, data centers have searched for "behind-the-meter" solutions for power, including gas generation and nuclear power. This enables data centers to plug directly into independently provided power, sidestepping investments in energy infrastructure.

If feasible within your jurisdiction, localities should ban these power work-arounds, ensuring that data centers are only approved if and where local electric grids can support the data center demand without threatening grid reliability.

Data centers able to bring their own renewable power, such as solar, may receive an exemption to limitations on "behind-the-meter" power. **However, localities should scrutinize commitments from developers to bring their own renewable power, as these commitments often fail to sufficiently materialize in time (or at all).** Critically, if the data center is not entirely self-supported by its power generation and is interconnected with the electrical grid, the data center must appropriately pay for the services it receives.

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<sup>120</sup> Thanks to Sierra Club for this language. For more details, see Sierra Club, "State Policies to Mitigate Data Centers," January 2025, <https://docs.google.com/document/d/1ECA47CaiLwaL0STaon7Ng402i-Etd6E2mPfhqp-30TI/>.

- **Example:** Ohio SB 2<sup>121</sup> (proposed) specifies that utility companies will not be responsible for costs associated with supplying behind-the-meter electric generation services.

## Prohibit Backup Diesel Generators

Some data centers install backup generators, often diesel, to provide power in the event of power outages. Localities should prohibit data centers from running on-site diesel generators. *For more details, see the section on [Air Pollution and Community Health Measures](#).*

## Require Capacity Commitments and “Will Serve” Letters

As a condition for receiving approval, developers must provide a contractual agreement with the local utility company affirming that the local utility company has existing capacity to meet the energy demand of the data center. These “will serve” letters should also include information on whether the utility anticipates needing to invest in additional generation resources and infrastructure to serve the data center.

## Levy Mandatory Taxes on Electricity Use

Many sales and use-tax exemptions for data centers include exemptions on power purchases. Where localities are not preempted by state law, localities should tax all electricity use with no exemptions, increase the daily rate during energy emergencies (e.g., heatwaves), and require that a portion of tax be funneled into local projects and energy infrastructure.

## Establish Continued Energy Transparency Mechanisms as a Condition of Approval

Require that development projects make all electricity use public in monthly reporting, including whether or not a data center exceeds the energy capacity detailed in the will serve letter. This information must be submitted to the local agency overseeing the permitting process to ensure compliance with the terms of the conditional permit. Information should also be reported to a state agency that gathers and discloses this information online. *For more information about how states can track and publish these metrics online, see [Establish a Statewide Clearinghouse](#).*

## Retain the Right to Curb or Shut Down Energy During Citywide Emergencies\*

Local governments should institute a binding clause into the energy approval process stating that the city retains the power to curb or temporarily shut down a data center’s energy to

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<sup>121</sup> Ohio General Assembly, Senate Bill 2, 2025 Session, <https://www.legislature.ohio.gov/legislation/136/sb2>.

prevent disruptions in continuous service for residential, citywide needs in the event of an emergency (e.g., heatwave).

- **Strong example:** A bipartisan coalition of state legislators representing ratepayers across the PJM region (an area covering electricity for all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia) submitted a proposal demanding that data centers joining PJM's grid will be subject to interruptible service, meaning that PJM can force data centers to stop using electricity during times of peak demand.<sup>122</sup> Tech companies have pushed back.<sup>123</sup>

*Note: Cities may need to coordinate with utilities or state-run public utility commissions in order to retain this right.*

## Establish Strong Enforcement Mechanisms for Violations

Build in enforcement mechanisms for local governments to hold data centers liable for exceeding energy thresholds noted in the will serve letter. Remember that nominal fines for violations mean nothing to hyperscale data centers.

- **Weak example:** Phoenix, Arizona, requires will serve letters, but does not have a mechanism to ensure compliance once the data center is in operation.<sup>124</sup>

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<sup>122</sup> "Protecting Ratepayers Proposal: Executive Summary," Google Drive, November 10, 2025, [https://drive.google.com/file/d/1M1W65zLmRzn\\_U7mWQ2fhLyiy5\\_zTcs4h/view](https://drive.google.com/file/d/1M1W65zLmRzn_U7mWQ2fhLyiy5_zTcs4h/view).

<sup>123</sup> Jeff St. John, "Will PJM Do What It Takes to Get Data-Center Costs under Control?," Canary Media, November 17, 2025,

<https://www.canarymedia.com/articles/data-centers/pjm-electricity-affordability-load-flexibility>.

<sup>124</sup> See City of Phoenix, A Resolution Adopting an Amendment to the General Plan to Incorporate Design and Location Criteria for Data Centers, Application GPA-2-25-Y (draft resolution), "Attachment A," July 2025,

<https://phoenix.legistar.com/View.ashx?M=F&ID=14323372&GUID=5F1F2D14-03AB-4C65-93BC-A4B17B56E482>; and Jorge Ramos, "Phoenix Adopts Data Center Regulations, Sets Noise Limits and Zoning Requirements," ABC15 Arizona, July 7, 2025,

<https://www.abc15.com/news/business/phoenix-adopts-data-center-regulations-sets-noise-limits-and-zoning-requirements>.

# Repeal or Limit Tax Incentives and Subsidies

While sales and use-tax exemptions for data centers are granted at the state level, local jurisdictions may provide property tax abatements to data centers. This strips valuable tax money away from communities—especially public schools, since property taxes remain the largest source of K-12 funding. Because data centers are so extremely capital-intensive, exempting them from the corporate personal property tax is a very lucrative subsidy.<sup>125</sup>

Local governments must protect against this extraction through the following actions:

## Repeal or Limit Corporate Tax Exemptions

Cities may consider limiting or banning corporate tax subsidies for data centers, especially as such restrictions relate to local property and sales taxes.

If they have to be granted, local property-tax abatements should be short-term (research suggests not longer than three years<sup>126</sup>) and should grant no more than 50 percent abatement of tangible and intangible property. Before granting any tax breaks, local officials should commission or perform independent return-on-investment or cost-benefit analysis of proposed incentives. Those studies should be available for public inspection at minimum 90 days ahead of incentive approval.

- **Strong example:** Pima County Board of Supervisors voted to lobby against Arizona sales tax exemptions for data centers.<sup>127</sup>

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<sup>125</sup> For a comprehensive overview of how data center subsidies undermine state and local budgets, see Greg LeRoy and Kasia Tarczynska, *Cloudy With a Loss of Spending Control: How Data Centers are Endangering State Budgets*, Good Jobs First, April 2025, <https://goodjobsfirst.org/wp-content/uploads/2025/04/Cloudy-with-a-Loss-of-Spending-Control-How-Data-Centers-Are-Endangering-State-Budgets.pdf>.

<sup>126</sup> Timothy J. Bartik, "Rethinking State Economic Development Strategies: Or, How to Maximize Benefits for State Residents' Earnings per Capita," *W. E. Upjohn Institute for Employment Research*, December 18, 2019, <https://research.upjohn.org/cgi/viewcontent.cgi?article=1062&context=presentations>.

<sup>127</sup> John Washington, "Pima County Supervisors Vote to Lobby Against AZ Sales Tax Exemptions for Data Centers," *Arizona Luminaria*, August 5, 2025, <https://azluminaria.org/2025/08/05/pima-county-supervisors-vote-to-lobby-against-az-sales-tax-exemptions-for-data-centers>.

*Note: State-level sales and use-tax exemptions abate both state and local sales tax portions. Localities must consult state law to determine any preemption concerns or conflicts.*

## Require Job Quality Standards and Local, Targeted Hiring for Construction and Data Center Jobs

As a condition of tax breaks, localities, when there is no conflict with law, can require companies to abide by strong labor conditions. See [Establish Local Fair Labor Requirements](#) to learn more, including the limitations of labor requirements given that data centers are not significant job creators.

## Do Not Abate School Taxes

Property taxes are the largest single source of revenue for K-12 education, so localities should ideally prohibit abatements of property taxes that funnel into schools. At minimum, where there is no conflict with state law, localities should give school districts the power to opt in or out of any abatement deal, for a negotiated duration and percent.

- **Weak (cautionary) example:** In 2024, Morrow School District 1 in Oregon lost \$18 million because of tax breaks granted to Amazon data centers located in the district.<sup>128</sup>

## Speak Out Against State Tax Breaks

Because sales and use-tax exemptions for data centers are enacted at the state level, local community leaders can and should speak out against these tax breaks given that they pull valuable money away from communities. The state-enacted sales and use-tax exemptions abate both state and local portions of the tax, effectively preempting local control.

- **Strong example:** Kate Gallego, the mayor of Phoenix, Arizona, has spoken out<sup>129</sup> against Arizona's tax exemption laws.
- **Strong example:** A council member of St. Joseph County, Indiana, opposed the vote for a large subsidy package for an Amazon Web Services (AWS) data center.<sup>130</sup>

## Institute Aggressive Taxation on Hyperscaler Data Centers

Where legal, jurisdictions may consider instituting taxes on data centers or peripherals.

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<sup>128</sup> Anya Gizis, "The Cost of Tax Breaks on Oregon's Public Schools," Good Jobs First, July 2025, <https://goodjobsfirst.org/the-cost-of-tax-breaks-on-oregons-public-schools>.

<sup>129</sup> Jorge Ramos, "Mayor Gallego Calls to End 'Antiquated' Data Center Tax Incentives," *Phoenix Business Journal*, May 21, 2025, <https://www.bizjournals.com/phoenix/news/2025/05/21/phoenix-mayor-calls-end-to-data-center-tax-break.html>.

<sup>130</sup> SJCIndiana Commissioners "County Council Public Hearing 8/13/2024," YouTube video, 1:28:34, August 14, 2024, <https://www.youtube.com/watch?v=PD78JOfQ47I>.

- **Strong example:** Prince William County, Virginia, raised the tax for “computer and peripherals” from \$2.15 per \$100 in assessed value to \$3.70 (a 72 percent increase).<sup>131</sup>  
*Note: This tax applies to all businesses; it is not a separate tax for data centers. Other counties like Manassas, Virginia, considered a similar 67 percent tax increase on peripherals.*<sup>132</sup>
- **Strong example:** In 2025, Henrico County, Virginia, passed a 550 percent increase in tax on data center computers and related equipment (from \$0.40 per \$100 of assessed value to \$2.60).<sup>133</sup>

## Use Fees to Invest in Communities

If a company pays a fee rather than taxes to a local jurisdiction (for example, “payments in lieu of taxes,” also known as PILOT agreements) demand that revenue be invested directly into the community, including housing, renewable energy infrastructure, broadband, and schools.

*Note: Revenue generated from PILOT agreements is significantly less than what would be generated from full taxation, so local governments should force data centers to pay fair taxes and deprioritize PILOT programs.*

## Practice Full Disclosure

Report at least annually to the public the name of the subsidized company, the amount and type of tax breaks each project is getting, the number of jobs created, and wages paid to workers by job type, as well as the total amounts of property tax and local portion of the sales tax abated for all projects.

- **Strong example:** Most school districts are required to disclose these measures under Statement No. 77 of the Governmental Accounting Standards Board.<sup>134</sup>

<sup>131</sup> Jill Palermo, “Supervisors Consider Raising Taxes on Data Centers – Again,” *Prince William Times*, March 13, 2025,

[https://www.princewilliamtimes.com/news/supervisors-consider-raising-taxes-on-data-centers-again/article\\_e3a130e2-fff8-11ef-97f5-33a0fe1e4d7e.html](https://www.princewilliamtimes.com/news/supervisors-consider-raising-taxes-on-data-centers-again/article_e3a130e2-fff8-11ef-97f5-33a0fe1e4d7e.html).

<sup>132</sup> Cher Muzyk, “City of Manassas Budget Would Hike Tax Bills for Residents, Data Centers,” *Prince William Times*, February 27, 2025,

[https://www.princewilliamtimes.com/news/city-of-manassas-budget-would-hike-tax-bills-for-resident-s-data-centers/article\\_1e40ee3c-f530-11ef-9a8a-f3ae38b28ba5.html](https://www.princewilliamtimes.com/news/city-of-manassas-budget-would-hike-tax-bills-for-resident-s-data-centers/article_1e40ee3c-f530-11ef-9a8a-f3ae38b28ba5.html).

<sup>133</sup> Tom Lappas, “Proposed Henrico Budget Would Cut Key Tax Rates, Raise Data Center Tax, Provide 6% Pay Raise for Employees,” *Henrico Citizen*, February 25, 2025,

<https://www.henricocitizen.com/proposed-henrico-budget-would-cut-key-tax-rates-raise-data-center-tax-provide-6-pay-raise-for-employees>; Henrico County Office of Management and Budget, “Approved Budget – Fiscal Year 26,” 2025, <https://henrico.gov/pdfs/finance/ApprovedBudgetFY26/FY26%20Approved%20Henrico%20County%20Budget%20Full%20Book.pdf>.

<sup>134</sup>

rep[https://www.gasb.org/page/ShowPdf?path=gasbs77\\_final--Cropped.pdf&title=GASB%20STATEMENT%20NO.%2077,%20TAX%20ABATEMENT%20DISCLOSURES](https://www.gasb.org/page/ShowPdf?path=gasbs77_final--Cropped.pdf&title=GASB%20STATEMENT%20NO.%2077,%20TAX%20ABATEMENT%20DISCLOSURES); New York State Office of the State

# Implement Air Pollution and Community Health Measures

Data centers are significant producers of carbon emissions, which threaten the health of local communities. Local governments must protect community members from the harmful and irreversible effects of data centers, including degraded air quality and worsening quality of community life.

## Prohibit Backup Diesel Generators

Some data centers are installing backup generators, often diesel, to provide power in the event of power outages. Localities should prohibit data centers from running on-site diesel generators. Localities should also protect against developer work-arounds, such as developers acquiring permits from adjacent jurisdictions.

If it is necessary to enable data centers to provide backup power generation, the following measures should be taken:

### Notification

Communities must be notified when backup generators are being used or tested.

### Permit Control

Permits for backup generators must be strictly controlled and regulated through a local agency, such as the local health department. Compliance must be routinely investigated and violators should have their permits revoked.

### Require Pollution Control Equipment

Require data center operators to install pollution control equipment on all back-up generators.

### Jurisdiction Requirements

Specify that permits from other localities are not valid.

### Cumulative Impact Reporting

Require permitting decisions to consider existing air-pollution burdens and determine whether the addition of another source will exacerbate these impacts to an unacceptable degree.

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Comptroller, "Reporting Tax Abatements as Required by GASB Statement No. 77," September 2017, <https://www.osc.ny.gov/files/local-government/publications/pdf/tax-abatements.pdf>.

- **Strong example:** Colorado’s Energy and Carbon Management Commission rules require oil and gas operators to consider cumulative impacts when applying for permits.<sup>135</sup>

## Prohibit Exemptions from Emissions Standards

Prohibit data center applications from requesting an exemption of the state’s emission rules.

*Note: If localities cannot legally prohibit exemptions from state emissions regulations, they should speak out against this practice.*

- **Strong (state) example:** Maryland Public Service Commission (PSC) rejected a data center application’s request for an exemption from the state’s emission rules.<sup>136</sup>

## Prohibit Data Centers in Commercial and Mixed-Use Zoning

This prohibition should be framed as a community health measure to ensure that communities are investing first and foremost in development that will sustain and nourish the community, including housing, grocery stores, and businesses that can bring long-term jobs into the community.

## Require Fenceline Air Quality Monitoring

Require the installation and use of best-in-class technology to continuously monitor air quality, surface water quality and groundwater quality at facility boundaries for air pollutants, thermal impacts, salinity, cooling-system chemicals, and metals.

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<sup>135</sup> Colorado Energy & Carbon Management Commission, “Cumulative Impacts,” State of Colorado, accessed December 2, 2025, <https://ecmc.colorado.gov/programs/cumulative-impacts>.

<sup>136</sup> David Chernicoff, “Maryland Reboots Data Center Business with New Critical Infrastructure Streamlining Act,” Data Center Frontier, May 14, 2024, <https://www.datacenterfrontier.com/site-selection/article/55039349/maryland-reboots-data-center-business-with-new-critical-infrastructure-streamlining-act>.

# Establish Local Fair Labor Requirements

*Note: Data centers are not significant job creators and many of the promised jobs tend to be temporary construction positions or low-paid, temporary, subcontracted data center operations roles. Establishing fair labor requirements could offset some harm, but would not address the underlying reality.*

## Provide High-Quality, Stable, and Local Jobs

Localities should ensure that the limited jobs that data centers provide are high-quality, stable, and local.

### Hiring

Localities should require data centers to hire full-time data center staff from the local population or partner with community organizations on first-source hiring programs. These employees should be directly employed by the data center operator and not hired as subcontractors. For construction jobs, localities should demand project labor agreements with a commitment that construction projects will employ local building trade union workers. Localities may also require prioritizing the hiring of underrepresented groups in specific industries or labor markets—such as women in construction or veterans.

### Wages

Jobs should pay, at a minimum, a living wage adjusted annually for inflation. Ideally, wages should align with market-based standards tied to the state or regional median wage for the data center industry. There must be pay equity for equal work between contractors and the data center company's own employees.

### Benefits

Employers should be required to provide health insurance and cover at least 50 percent of the premium cost for each worker. Localities should also demand that data centers provide child care to all workers.

### Health, Safety, and Well-being

Localities should regulate working conditions, including ensuring there is an adequate break room with strong health and safety standards.

### Transparency

Localities should require data centers to give annual reports on labor demographic data, including number of full-time employees, subcontractors, and temporary workers. Include demographics such as race, gender identity, sexual orientation, education level, and pay and

benefits data for each represented group. Include client overhead cost for the bill-rate per headcount of subcontracted worker, organized by job title.

## Enshrine Local Labor Demands into Law

There are four pathways that local policymakers can take to enshrine these demands into law.

### Pass a County Labor Ordinance

Where it does not conflict with state or federal law, cities can pass labor ordinances codifying these provisions into law. This is the strongest possible vehicle because it would apply to all workers in a jurisdiction.

### Require Job-Quality Standards as a Condition on Permitting Approval

As a next-best step, localities should condition permitting on data center proposals abiding by strong labor standards. Crucially, these must be legally binding and include a clawback provision that specifies failure to meet the agreed-upon standards will result in the revocation of the permit and certificate of occupancy. See [Establish Conditional Use Permitting for Data Centers](#) for more details.

### Require Job-Quality Standards as a Condition of Tax Breaks or Subsidies

If attaching labor conditions to the conditional permitting process is not possible, localities can attach labor conditions to tax breaks where there is no conflict with state law. *Note: This is less preferable to permitting because localities should repeal tax breaks for data centers.* These must be legally binding and include a clawback provision that specifies failure to meet the agreed-upon standards will require repayment. See [Repeal or Limit Tax Incentives and Subsidies](#) for more details.

### Institute Legally Binding Community Benefits Agreements

Labor conditions can also be attached to community benefits agreements (CBAs). This is the least preferable vehicle because CBAs are limited in scope and do not apply to all data center development projects within a community. See [Considerations for Community Benefits Agreements](#) for more details.

# Considerations for Community Benefits Agreements

*Note: Community benefits agreements (CBAs) are not suited to comprehensively protect communities from data center development. CBAs negotiate projects at an individual project level—meaning that terms in one CBA do not apply to all projects or future projects. Community benefits agreements also have the potential to significantly dilute the power of grassroots organizing when a limited set of community members trades away concessions without the buy-in from and participation of all community members. This means that policymakers must be as concerned with the process of CBA development as they are with the substantive provisions.*

*For these reasons, CBAs pale in comparison to legislation or other forms of regulation. We strongly recommend pursuing policy actions that codify protection for all community members.*

Community benefits agreements are contracts traditionally negotiated between developers and community members intended to ensure that benefits from a specific development project accrue to the communities that reside near the project.<sup>137</sup> They are limited in scope and do not apply to data center development projects more broadly.

The following recommendations are focused on where and how local governments can introduce policy guardrails to facilitate the CBA process in service of broader community participation from frontline communities.

## Ensure That CBAs Are Legally Binding and Enforceable

Ensure that any commitments made as part of the process are legally binding and publicly disclosed.<sup>138</sup> Binding commitments can be referenced as a necessary condition within the conditional use permitting process to give CBAs stronger enforcement potential (see [Establish Conditional Use Permitting for Data Centers](#) for more details). Establish continued tracking and enforcement mechanisms in the event that developers do not follow through on commitments to communities, with non-nominal penalties for violations.

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<sup>137</sup> Marisa Sotolongo, “Energy Justice in Community Benefit Agreements and Plans,” Initiative for Energy Justice, June 26, 2024,

<https://iejusa.org/energy-justice-in-community-benefit-agreements-and-plans>.

<sup>138</sup> NAACP, “Frontline Framework Community Guiding Principles,” September 4, 2025,

<https://naacp.org/resources/frontline-framework-community-guiding-principles>.

## Prohibit CBA Processes Without Metrics Attached to Full Community Participation and Outreach

Ensure that the community members who are most directly impacted by the effects of data center development (including air pollution or displacement) are the primary voices in negotiation.<sup>139</sup> Establish and attach binding metrics to outreach and participation to ensure that all community members—not just those with existing connections to the government or developers—are able to meaningfully participate.

*Note: Achieving meaningful community participation is challenging. Effective outreach must consider community members' time availability, access to and comfort with technology, childcare needs, and varied modes of communication for different audiences.*

## Enable Partial Ownership or Carried Shares of Profit Provisions

If requested from frontline communities, certify community stakeholders as partial owners in data center infrastructure. Establish measures to mitigate community risk and liability (such as free equity or no-interest loans).<sup>140</sup> *Note that this might only be possible if the CBA process involves stakeholders with well-established structures to receive or manage payments.*

- **Strong example:** The Morongo Band of Mission Indians near Palm Springs, California, is a part-investor in the transmission line owned by Morongo Transmission LLC and plans to use direct payments to upgrade renewable energy infrastructure for the grid.<sup>141</sup>

## Embed CBA Requirement into the Permitting Process

If requested from frontline community members, integrate a CBA requirement into the conditional permitting process. Reject any permits that have not successfully engaged in a CBA process. *Note that this should not replace, but complement, other conditions [included in the conditional permitting process](#).*

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<sup>139</sup> NAACP, "Frontline Framework Community Guiding Principles."

<sup>140</sup> James J. A. Blair et al., *Building Community Power: Community Benefits Agreements Across the Global Energy Supply Chain*, Climate and Community Institute, October 2025, <https://climateandcommunity.org/research/cbas>.

<sup>141</sup> Morongo Band of Mission Indians, "Morongo Becomes First Native American Tribe to Be Approved as a Participating Transmission Owner in Nation," July 19, 2021, <https://morongonation.org/news/morongo-becomes-first-native-american-tribe-to-be-approved-as-a-participating-transmission-owner-in-nation>.

# Protect Constituents from AI Harms

The significant resources (capital, energy, land, and water) going into data center expansion are being deployed in service of largely unproven artificial intelligence technologies—whose purported “productivity benefits” have yet to reach millions of consumers and workers across the country, and whose harmful effects are materially reshaping our institutions in ways that ratchet up inequality.

Local governments are empowered to protect their constituents, particularly communities of color, immigrants, and low-income and working-class people, from the harms of AI technologies.

## Ban or Restrict Local Government Use of Harmful AI Technologies

Algorithmic decision systems are frequently sold to city agencies with promises of efficiency or cost reduction. Instead, algorithms are overwhelmingly used to reduce people’s access to critical and life-saving resources,<sup>142</sup> from healthcare to unemployment assistance. These outcomes persist even when abiding by best-in-class mitigation techniques,<sup>143</sup> leading to some decisions that are impossible to remedy after the fact. Local governments should avoid using AI and algorithmic decision systems, especially where critical decisions are made about people’s lives and livelihoods.

Where AI technology is used by local agencies, governments must guarantee the right to opt out, the right to request a timely appeal, and the right to remedy decisions. This can be achieved through the following mechanisms:

### Disclosures

Offer pre-decision disclosures that give individuals the right to opt out from the use of an AI system making decisions about them.

### Timely Notification

Provide timely notification after a decision is made, including what decision or recommendation was made using AI, a clear description of the parameters and logic of how

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<sup>142</sup> Kevin De Liban, *Inescapable AI: The Ways AI Decides How Low-Income People Work, Live, Learn, and Survive*, TechTonic Justice, November 2024,

<https://www.techtonicjustice.org/reports/inescapable-ai>.

<sup>143</sup> Eileen Guo, Gabriel Geiger, and Justin-Casimir Braun, “Inside Amsterdam’s High-Stakes Experiment to Create Fair Welfare AI,” *MIT Technology Review*, June 11, 2025,

<https://www.technologyreview.com/2025/06/11/1118233/amsterdam-fair-welfare-ai-discriminatory-algorithms-failure>.

the AI impacted the decision or recommendation, and clear description of what personal information was used to make the decision, including both the input and output data.

### **Appeal**

Provide timely and clear instructions for appealing the decision to a human reviewer, including the ability to correct any inaccurate information used in the decision.

### **Accessibility**

All information must be delivered in an accessible format and language.

## **Prohibit or Limit the Use of Surveillance Technologies**

People are subject to numerous harmful surveillance technologies by public agencies, workplaces, and private companies. Mounting evidence shows that the use of biometric technologies by police departments, including facial recognition systems, is flawed and error-prone, and can lead to irreparable harm, such as wrongful arrests. Private companies currently exploit the extraordinary amounts of data they collect to set individualized prices for the goods and services we need to survive, driving up the cost of living. Algorithmic pricing schemes on app platforms artificially deflate wages and exacerbate the affordability crisis. Local governments can protect against these uses of surveillance technology by banning the use of biometric technologies, banning algorithmic rental price-fixing, and banning the use of surveillance wage-setting for everyone.

- **Strong example:** Jersey City, New Jersey;<sup>144</sup> Philadelphia, Pennsylvania;<sup>145</sup> Minneapolis, Minnesota;<sup>146</sup> and San Francisco, California,<sup>147</sup> banned algorithmic rental price-fixing.

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<sup>144</sup> Stephanie Loder, "This N.J. City Just Banned Secret Rent Software Landlords Use to Jack Up Prices," NJ.com, May 22, 2025, <https://www.nj.com/hudson/2025/05/this-nj-city-just-banned-secret-rent-software-landlords-use-to-jack-up-prices.html>.

<sup>145</sup> Khara Garcia, "Councilmember O'Rourke's Algorithmic Rental Price-Fixing Ban Passes Council, Heads to Mayor Parker's Desk," Philadelphia City Council, October 24, 2024, <https://phlcouncil.com/councilmember-orourkes-algorithmic-rental-price-fixing-ban-passes-council-heads-to-mayor-parkers-desk>.

<sup>146</sup> Robbie Sequeira, "Cities — Including Minneapolis — Lead Bans on Algorithmic Rent Hikes as States Lag Behind," *Minnesota Reformer*, April 2, 2025, <https://minnesotareformer.com/2025/04/02/cities-including-minneapolis-lead-bans-on-algorithmic-rent-hikes-as-states-lag-behind>.

<sup>147</sup> City and County of San Francisco, "Algorithmic Devices That Set Rent Are Prohibited in San Francisco," accessed December 2, 2025, <https://www.sf.gov/information--algorithmic-devices-set-rent-are-prohibited-san-francisco>.

## Attach Strong Conditions to Government Procurement of AI Technology

Increasingly, governments are turning to third-party tech vendors to outsource technical skills and automate key government functions. This in turn depletes in-house technical expertise and diminishes the quality of government services for all people. In the event that a local government agency must pilot, purchase, or otherwise use AI technology, local governments should attach conditions to ensure that vendors, products, and city agencies abide by these strong accountability measures.<sup>148</sup> Conditions must be binding and legally enforceable, and must exist as grounds to reject or void contracts if and where tech firms cannot abide by accountability measures.

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<sup>148</sup> For guidance, see Accountable Tech et al., *Zero Trust AI Governance*, August 10, 2023, <https://ainowinstitute.org/wp-content/uploads/2023/08/Zero-Trust-AI-Governance.pdf>; Roya Pakzad and Cynthia Conti-Cook, *Key Considerations When Procuring AI in the Public Sector*, Taraaz and The Collaborative Research Center for Resilience (CRCR), 2025, [https://static1.squarespace.com/static/5d159d288addab0001036c45/t/6890f9066bf93951bedd9485/1754331401682/AI\\_Procurement\\_Taraaz\\_CRCR\\_2025.pdf](https://static1.squarespace.com/static/5d159d288addab0001036c45/t/6890f9066bf93951bedd9485/1754331401682/AI_Procurement_Taraaz_CRCR_2025.pdf); and Rashida Richardson, *Best Practices for Government Procurement of Data-Driven Technologies*, May 2021, <https://riipl.rutgers.edu/files/2021/05/Best-Practices-for-Government-Technology-Procurement-May-2021.pdf>.

# State and Regional Interventions

This section maps out the possible state and regional policy interventions to stop, slow, and restrict rampant data center development. These recommendations primarily target interventions at the state level, but may span multiple counties or several states. Recommendations that address public-utility commissions often fall into the latter category. These interventions are generally ordered from what is most to least powerful to address at the state or regional level, taking into account local versus state versus federal jurisdictions.

Not every intervention will be feasible in every state or region, due to differences in state laws, existing regulations, and political conditions. This is intended as a menu of options that can be analyzed in relation to local conditions.

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# Enact a Statewide or Regional Moratorium on Data Center Development

The public impacts of data centers are not limited to the city or county where they are located. When a new data center connects to the grid in one city, utility bills can increase for all customers of that service region (and often across state lines). While strong and important, city- and county-wide moratoriums may simultaneously push data center development into an adjacent area with weaker protections.

A statewide or regional moratorium allows states and public utility commissions to adequately evaluate the risks of data centers and pass widely applicable regulations to protect everyone from the harms of hyperscaler development.

- **Strong example:** Citizens Action Coalition is calling for a statewide moratorium on new hyperscaler data centers used to power AI across Indiana.<sup>149</sup>
- **Strong example:** Honor the Earth, Indigenous Environmental Network, and the No Data Centers on Native Land Coalition have called for a three-year data center moratorium on tribal lands.<sup>150</sup>
- **Strong example:** A moratorium on new data center connections to AEP Ohio's power grid was in effect until July 2025.<sup>151</sup>
- **Strong example:** Food and Water Watch is calling for a national moratorium on all new data centers.<sup>152</sup>

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<sup>149</sup> Citizens Action Coalition, "CAC Calls for Data Center Moratorium," press release, October 15, 2024, <https://www.citact.org/news/cac-calls-data-center-moratorium>.

<sup>150</sup> Honor the Earth, "Joint Statement by Honor the Earth and the Indigenous Environmental Network on the National Congress of American Indians."

<sup>151</sup> Renee Fox, "AEP Ohio to Adopt Separate Rates for Data Centers, End Moratorium to Bring New Data Centers Online," WOSU 89.7 NPR News, July 10, 2025, <https://www.wosu.org/politics-government/2025-07-10/aep-ohio-to-adopt-separate-rates-for-data-centers-end-moratorium-to-bring-new-data-centers-online>.

<sup>152</sup> "Environmental Group Calls for Nationwide Moratorium on All New Data Centers," Food and Water Watch, October 23, 2025, [https://www.foodandwaterwatch.org/2025/10/23/environmental-group-calls-for-nationwide-moratorium-on-all-new-data-centers/?ms=some\\_bk\\_10232025\\_NAT-c3-ai-data-center-moratorium-pr&oms=some\\_bk\\_10232025\\_NAT-c3-ai-data-center-moratorium-pr](https://www.foodandwaterwatch.org/2025/10/23/environmental-group-calls-for-nationwide-moratorium-on-all-new-data-centers/?ms=some_bk_10232025_NAT-c3-ai-data-center-moratorium-pr&oms=some_bk_10232025_NAT-c3-ai-data-center-moratorium-pr).

# Establish Statewide Oversight and Transparency Mechanisms

Data center developers and operators often want to keep information about their deals secret, obscuring details from the public and arguing that transparency can tip off competitors and affect negotiations for tax incentives. States must develop oversight and transparency mechanisms to ensure that data center developers cannot hide critical information from the public.

## **Amend State Transparency Laws to Ensure Public Disclosure**

Public-record and agency disclosure laws grant the public the right to inspect government records. This is a critical way for the public to learn about the industry moving into their communities.

States can protect against workarounds data centers try to take by specifying what data center developers must reveal as a matter of public interest, and how they must do so. This includes:

### **Prohibit Trade Secret Exceptions to Transparency**

Clearly specify that information collected during the application process does not constitute sensitive information or trade secrets and cannot be redacted or exempted from public disclosure. Such information includes:

- Noise study and mitigation
- Projected and actual energy usage and mitigation
- On-site energy emissions
- Projected and actual water usage and mitigation
- Value of tax abatements developer is receiving for the project
- Name of all companies involved in data center project (including developer, shell companies, data center operators and/or end users, and financiers)
- Jobs (short-term and permanent, hiring efforts, permanent employee wages)
- The results of a displacement and holistic environmental impact report, centering environmental justice considerations (such as those emerging from redlined/fenceline communities), and establishing that the data center will not exacerbate the displacement of residents and local businesses

### **Require Submission of Documents, Specifically Digital Copies**

Require data centers to provide documents, including digital copies, for review. This protects against data centers solely providing information for review in person or during video calls, which would prevent the public from examining records.

## Protect Against Anonymity

Prohibit the use of a special-purpose entity (SPE), subsidiaries, shell companies, and/or a third party to provide anonymous information. This protects against data center companies remaining anonymous.

## Beware of Bad-Faith Litigation

In Oregon, Google sued a newspaper to avoid release of records detailing the amount of water the tech giant used to cool a data center, claiming that the records would reveal trade secrets.<sup>153</sup> This in spite of Oregon's public-record laws, which require real trade secrets to be released when they are in the public's interest.

## Ban Nondisclosure Agreements (NDAs) in Economic Development

NDAs are secrecy contracts signed between a data center developer and local governments that prohibit the government from sharing information about the data center development deal with the broader public. These are widely used in data center development—in Virginia, 25 out of 31 localities with an existing, approved, or proposed data center had an NDA—and impede the public's ability to make informed decisions about their community. States should pass laws prohibiting the localities from entering into NDAs with data center developers.

- **Examples:** New York,<sup>154</sup> Michigan,<sup>155</sup> Indiana,<sup>156</sup> and Illinois<sup>157</sup> have introduced legislation banning the use of NDAs in economic development projects, but no legislation has passed as of writing.

## Establish a Statewide Clearinghouse

Require states to design, implement, and maintain a publicly accessible website to provide information about all data center facilities in the state.

## Require Monthly Reporting

Require all large-load customers to report monthly on energy and water usage.

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<sup>153</sup> Seth Stern, "It's Time for Open Records Laws to Promote Transparency," Freedom of the Press Foundation, December 22, 2022.

<https://freedom.press/issues/its-time-for-open-records-laws-to-promote-transparency>.

<sup>154</sup> New York State Senate, Senate Bill S373, 2025–2026 Legislative Session,

<https://www.nysenate.gov/legislation/bills/2025/S373>.

<sup>155</sup> Davidson, "Michigan House Approves Bipartisan Plan."

<sup>156</sup> Indiana General Assembly, HB 1264 (2025),

<https://iga.in.gov/legislative/2025/bills/house/1264/details>.

<sup>157</sup> Illinois General Assembly, SB 1947 (2023–2024), <https://legiscan.com/IL/text/SB1947/id/2692474>.

- **Strong example:** California AB1577<sup>158</sup> (introduced) requires monthly reporting to a state agency of total energy consumption, water consumption, waste heat, and onsite electricity generation as a condition for permitting.
- **Example:** Virginia introduced a bill<sup>159</sup> in 2025 establishing a statewide clearinghouse funded by data center developers.

### **Require Additional Reporting**

Data centers must also provide information on noise studies, tax incentives, job creation, local hiring, construction and permanent employee wages and benefits, and dollars invested into the community to the clearinghouse.

### **Funding**

The project should be funded through a fee charged to each owner or operator of a large-load customer.

## **Require Statewide Review of Data Center Projects**

Statewide review of data center projects is important to adequately track and evaluate resources that go into data center development, including interconnection requests, energy use, water usage, emissions from on-site generation, tax subsidies, and jobs. This process can and should evaluate all projects that use, plan to use, or are able to use 20 megawatts (MW) or more, even if those projects are powered with behind-the-meter energy, since they would not interconnect to the electric grid.

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<sup>158</sup> California Legislature, Assembly Bill 1755, 2025-2026 Regular Session, [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202520260AB1577](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB1577).

<sup>159</sup> Virginia State Legislature, House Bill 2035, 2025 Regular Session, <https://lis.virginia.gov/bill-details/20251/HB2035>.

# Repeal or Limit Tax Incentives and Subsidies

Sales and use-tax exemptions for data centers are often granted at the state level. This strips valuable tax money away from communities—especially public schools, since property taxes remain the largest source of K-12 funding. Because data centers are so extremely capital-intensive, exempting them from the corporate personal property tax is a very lucrative subsidy.<sup>160</sup>

## Repeal or Limit Corporate Tax Exemptions

As stated by Good Jobs First:<sup>161</sup> “Explicitly disqualify data centers from sales and use-tax exemptions, corporate income tax credits (for investment or hiring), personal income tax diversions, and utility tax exemptions.”

States should also disqualify data centers from local property tax abatements, millage rate preferences, and exemptions on power purchases.

- **Strong example:** Minnesota SF3265 repealed electricity sales-tax exemption for data centers.<sup>162</sup>

## Require Job Quality Standards and Local, Targeted Hiring for Construction and Data Center Jobs

As a condition of tax breaks, states can require companies to abide by strong labor conditions. See [Establish State Fair Labor Requirements](#) to learn more, including the limitations of labor requirements, since data centers are not significant job creators.

- **Weak example:** Colorado proposed SB 25<sup>163</sup> to allow tax and utility benefits to data centers under the condition of creating 25 full-time jobs.

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<sup>160</sup> For a comprehensive overview of how data center subsidies undermine state budgets, see LeRoy and Tarczynska, *Cloudy With a Loss of Spending Control*.

<sup>161</sup> Kasia Tarczynska, “Data Centers: Key Reforms for State Subsidy Legislation,” Good Jobs First, September 23, 2025,

<https://goodjobsfirst.org/data-centers-best-reforms-for-state-subsidy-legislation>.

<sup>162</sup> Peter G. Pupke, “Minnesota Omnibus Tax Bill Increases Cannabis Tax, Makes Other Tax Changes,” Thomas Reuters, June 17, 2025,

<https://tax.thomsonreuters.com/news/minnesota-omnibus-tax-bill-increases-cannabis-tax-makes-other-tax-changes>.

<sup>163</sup> Colorado General Assembly, Senate Bill 25-280, 2025 Regular Session, <https://leg.colorado.gov/bills/sb25-280>.

## Do Not Abate School Taxes

Property taxes are the largest single source of revenue for K-12 education, so states should ideally prohibit abatements of property taxes that funnel into schools. At minimum, states should give school districts the power to opt in or out of any abatement deal, for a negotiated duration and percent.

- **Weak (cautionary) example:** In 2024, Morrow School District 1 in Oregon lost \$18 million because of tax breaks granted to Amazon data centers located in the district.<sup>164</sup>

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<sup>164</sup> Gizis, "The Cost of Tax Breaks."

# Oppose State “Special Economic Zones”

*Special economic zones*, also known as enterprise zones or tax-financing districts, are geographic areas where corporations receive lucrative tax breaks in exchange for investment in a particular community. In theory, these zones are intended to stimulate economic growth in depressed areas. In reality,<sup>165</sup> these zones lack community accountability measures and the benefits rarely accrue to the residents of the community. AI firms<sup>166</sup> and states<sup>167</sup> are pitching the development of special economic zones to fast-track the development of data centers.

## Ban or Reject Special Economic Zones for Data Centers

States should reject the development of special economic zones designed to spur data centers.

## Prohibit the Application of Existing Special Economic Zones to Data Center Development

If and where special economic zones provide favorable tax conditions to data centers, states should proactively exempt data center development from existing special economic zone legislation.

## Investigate and Improve Locally Specific Terms

Where special economic zones do exist, states can update the locally specific terms or requirements to give full approval power to localities over data center developments. This would allow localities to use the requirements of special economic zones to impose or negotiate conditions, accountability standards, or community benefits on data center developers, such as through a payments in lieu of taxes (PILOT) agreement.

*Note: While this can potentially mitigate harm, revenue generated from PILOT agreements is significantly less than what would be generated from full taxation, so states should instead force data centers to pay fair taxes and deprioritize special economic zones, including those with PILOT programs.*

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<sup>165</sup> “Opportunity Zones Resource Center,” Good Jobs First, accessed December 2, 2025, <https://goodjobsfirst.org/opportunity-zones>.

<sup>166</sup> Sebastian Moss, “OpenAI Pitches AI Economic Zones for Data Center Permitting, a National Transmission Highway Act, and More Government Support,” Data Center Dynamics, November 14, 2024, <https://www.datacenterdynamics.com/en/news/openai-pitches-ai-economic-zones-for-data-center-permitting-a-national-transmission-highway-act-and-more-government-support>.

<sup>167</sup> Massachusetts Office of Energy Transformation, “Enabling Sustainable Economic Development Work Group,” Commonwealth of Massachusetts, accessed December 2, 2025, <https://www.mass.gov/orgs/enabling-sustainable-economic-development-work-group>.

# Establish Strong Ratepayer Protections

The staggering power-demand projections driven by increased demands from data centers pose significant challenges to our electric system. In many cases, this increased demand cannot be met with existing capacity, requiring new energy generation and infrastructure development. Without proper protections in place, the costs associated with this expansion are frequently passed on to ordinary consumers.

## Protect Ratepayers from Subsidizing the Costs of Data Centers

Utilities must ensure that the costs of energy infrastructure to serve data centers are not unfairly passed on to ordinary customers. Special consideration should be paid to ensure that all costs associated with the development of data centers—including construction and energy generation—are paid for by data centers, not taxpayers.

### Require Data Centers to Pay Separately for 100 Percent of the Necessary Costs to Service Them

Data centers must be required to pay separately for 100 percent of the costs necessary to service them, including transmission, energy generation, capacity, and financing costs.<sup>168</sup>

Transmission lines are the network of high-voltage power lines that carry energy from power generation stations (power plants) to local distribution systems (the local wires that enter our homes and schools). The *cost-causation principle*, which guides ratemaking, says that customer prices should align with the costs necessary to provide service to that customer—meaning that customers can and should pay proportionally for the transmission lines that service them. However, recently, ratepayers have disproportionately paid for regional transmission costs tied to data center growth. States must pass legislation that directly allocates costs to data center customers that use or are able to use more than 20 megawatts (MW). For recommendations on defining data centers and setting rate classes, see [Develop Separate Rate Classes for Large-Load Customers](#) below.

- **Example:** A bill proposed in Georgia, SB34,<sup>169</sup> prohibits electric utility companies from including costs necessary to service commercial data centers in their rates, unless

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<sup>168</sup> For more on the importance of establishing separate payments for data centers, see David M. Klaus and Mark MacCarthy, *Boom or Bust: How to Protect Ratepayers from the AI Bubble*, Brookings, October 30, 2025,

<https://www.brookings.edu/articles/boom-or-bust-how-to-protect-ratepayers-from-the-ai-bubble/>; and David M. Klaus and Mark MacCarthy, “Tech Companies Building Massive AI Data Centers Should Pay to Power Them,” *The Hill*, July 26, 2025,

<https://thehill.com/opinion/energy-environment/5420210-data-centers-power-demand-ai>.

<sup>169</sup> Georgia State Legislature, SB 34, 2025–2026 Session, <https://www.billtrack50.com/billdetail/1806137>.

costs are charged exclusively to data centers or prorated based on demand. The bill specifically calls out costs associated with increased fuel requirements, generation costs, and transmission costs.

- **Example:** SB 6<sup>170</sup> in Texas requires large-load customers (75 MW or more) to fund transmission fees and upfront costs in the data center development process. However, the bill explicitly greenlights new behind-the-meter gas-powered power generation for data centers, which we recommend states prohibit.

## Institute an Equitable Tariff Schedule

A tariff schedule, the official pricing structure set by utility companies, includes rates per unit of energy and other charges (such as service fees). Large-load customers must be subject to a tariff schedule that is equal or proportional to the costs of serving them, mitigating the risk that other classes of retail consumers are paying unwarranted costs. This may include instituting a new tariff schedule or amending an existing tariff schedule.

- **Strong example:** Previously in Oregon,<sup>171</sup> large industrial users like data centers were paying about 8 cents per kilowatt hour (kWh), while residential customers paid 20 cents per kWh. The newly proposed tariff schedule<sup>172</sup> institutes a rate that will ensure data centers pay their fair share.

## Investigate or Revise Cost Allocation Methodology and Formulas

To assign costs to various ratepayer classes, utilities use a wide variety of methods, all of which lead to varying results.<sup>173</sup> Some utilities use methods that assign more costs to customers with peaking energy demand, like residential customers, and fewer costs to data center customers. Regulators must investigate whether existing cost-allocation methodologies are fair, and enact provisions to revise methodologies that unfairly burden ordinary ratepayers for the costs associated with data centers.

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<sup>170</sup> David Blackmon, "Gov. Greg Abbott Signs SB 6 To Improve Texas Grid Reliability," *Forbes*, June 22, 2025, <https://www.forbes.com/sites/davidblackmon/2025/06/22/gov-greg-abbott-signs-sb-6-to-improve-texas-grid-reliability>.

<sup>171</sup> Monica Samayoa, "Oregon Legislature Passes 'POWER Act,' Targeting Industrial Energy Users Like Data Centers," Oregon Public Broadcasting, June 5, 2025, <https://www.opb.org/article/2025/06/05/oregon-data-centers-cryptocurrency-business-environment-power-electricity>.

<sup>172</sup> PacifiCorp, "Advice 25-015--Schedule 401--Service to New Large Energy Use Facilities," filing with the Public Utility Commission of Oregon, October 2, 2025, <https://edocs.puc.state.or.us/efdocs/UAA/uaa340367027.pdf>.

<sup>173</sup> Eliza Martin and Ari Peskoe, *Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech's Power*, Harvard Law School, Environmental & Energy Law Program, March 2025, <https://eelp.law.harvard.edu/wp-content/uploads/2025/03/Harvard-ELI-Extracting-Profits-from-the-Public.pdf>.

- **Strong example:** In 2024, Virginia introduced a bill<sup>174</sup> that directs the State Corporation Commission to initiate proceedings to determine if the current allocation of costs among different customer classifications are fair, and to determine whether customers that are not data centers are subsidizing the costs of data center customers.

### Directly Allocate Additional Fees to Data Centers Where Applicable

Utilities are authorized to directly allocate costs in certain situations. These include fees for capacity studies, tracking cost allocation, revenue tracking, or purchased-power adjustments.

- **Strong example:** Ohio requires new data centers to pay study fees that range from \$10,000 to \$100,000.<sup>175</sup>

### Require Data Centers to Fund Independent Cost Studies

Require data centers to fund third-party, independent studies investigating whether additional costs are passed on to consumers throughout the data center generation process, including:

- Whether higher costs get passed on to all customers, as data centers are raising *capacity costs*
- Whether data center-created *supply constraints* are going to make energy projects more expensive
- Whether customers are paying for *financing or early construction costs* for new infrastructure before the large-load customers come online
- **Example:** California's SB 57<sup>176</sup> directs the California Public Utilities Commission (CPUC) to assess costs that could result in cost-shifting to other ratepayers, including costs related to utility procurement operations and installation of new transmission and distribution assets.

## Protect Ratepayers from the Risks of Data Center Uncertainty

Despite the push to develop energy infrastructure to meet data center demands, there remains significant uncertainty about whether demand projections will materialize. This introduces significant risk that developers will pull out of deals early, leaving communities to shoulder the costs of infrastructure rapidly built to serve data center needs. States can

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<sup>174</sup> Virginia State Legislature, House Bill 2101, 2025 Regular Session, <https://lis.virginia.gov/bill-details/20251/HB2101>.

<sup>175</sup> "Data Center Tariff," AEP Ohio, accessed December 2, 2025, <https://www.aepohio.com/company/about/rates/data-center-tariff>.

<sup>176</sup> Digital Democracy, CalMatters, "SB 57: Electrical Corporations: Data Centers: Report," 2025, [https://calmatters.digitaldemocracy.org/bills/ca\\_202520260sb57](https://calmatters.digitaldemocracy.org/bills/ca_202520260sb57).

protect against this risk by instituting strong compliance laws (also referred to as “compliance tariffs”) that insulate ratepayers from the risks of speculation and overprojection.<sup>177</sup>

### Develop Separate Rate Classes for Large-Load Customers

A large-load customer should be defined as a customer that uses or is able to use more than 20 megawatts (MW). A separate rate class for these customers should then be established. There are several ways to establish this separate rate class.

In some states, utilities have solicited approval from the Public Utility Commission (PUC) to create a new rate class specifically for data centers (or more broadly “large-load customers,” which are typically defined in such a way to apply almost exclusively to data centers, but designated via the amount of power used).

Advocates could also petition the state PUC to open such a proceeding in situations where the utility has not been proactive.

Utility rate cases may also provide an opening to advocate for the creation of a separate tariff class for large loads.

- **Strong example:** Oregon’s HB3546<sup>178</sup> law (passed) requires the PUC to create a new classification for industrial energy users that use or are able to use more than 20 megawatts (MW).
- **Strong example:** Maryland’s HB 900<sup>179</sup> bill (proposed) would require electric companies to create tariffs for data centers that have a monthly maximum demand of more than 2,500 kilowatts (kW).

### Require Protective Contract Guarantees

For large-load customers whose aggregate power exceeds a certain threshold, utilities can require that a special contract be in place. Therefore, any power-supply agreement with a data center (whether it is part of a large-load tariff or a customer-specific agreement) that uses or is able to use more than 20 megawatts (MW) should institute protective contract guarantees to reduce the risk that a data center developer will withdraw from its contract or not use the

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<sup>177</sup> For a detailed overview of contract provisions and tariff safeguards, see Stacy Sherwood, “Review of Large Load Tariffs to Identify Safeguards and Protections for Existing Ratepayers,” Energy Futures Group, January 28, 2025, <https://energyfuturesgroup.com/wp-content/uploads/2025/01/Review-of-Large-Load-Tariffs-to-Identify-Safeguards-and-Protections-for-Existing-Ratepayers-Report-Final.pdf>; see also Kapiloff, Rogers, and Tellinguisen, *Data Center Impacts in the West*.

<sup>178</sup> Oregon State Legislature, House Bill 3546, 2025 Regular Session, <https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/HB3546>.

<sup>179</sup> Maryland State Office of People’s Counsel, “House Bill 900 – Electricity – Data Centers – Rate Schedule and Requirements,” 2025, <https://opc.maryland.gov/Portals/0/Files/Bills/2025/House/OPC%20Testimony%20HB900.pdf>.

level of power originally expected—leaving ratepayers to pick up the costs of stranded assets.<sup>180</sup> These provisions can include:

### Minimum Contract Lengths

Most contract minimums are currently from three to five years. These minimums should be significantly increased. For large-load customers exceeding 20 MW require 20-year contract minimums to appropriately allocate costs.

- **Example:** Indiana Michigan Power Company settlement<sup>181</sup> agreement mandates that large-load customers (defined as those with contract capacity greater than or equal to 70 MW) must have an initial contract term of at least 12 years.
- **Example:** Kentucky Power Company requires<sup>182</sup> 20-year contract minimums for customers with large loads of 150 MW or greater.
- **Example:** Georgia Public Service Commission (PSC) approved a new rule<sup>183</sup> in January 2025 allowing, but not requiring, longer contract lengths (15 years) for high-load customers.
- **Example:** Oregon’s POWER Act requires a ten-year minimum contract between an electric company and a large-load customer (20 MW).

### Minimum Demand Requirements

Minimum monthly demand requirements are another way to ensure utilities can recover costs for infrastructure built to serve large-load customers by establishing a minimum monthly bill. These are a monthly floor imposed on data centers. They should be determined in relation to the overall demand from commercial and industrial customers, the overall service territory’s

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<sup>180</sup> For more information on protective contract terms, see David M. Klaus and Mark MacCarthy, *Boom or Bust: How to Protect Ratepayers from the AI Bubble*, Brookings, October 30, 2025, <https://www.brookings.edu/articles/boom-or-bust-how-to-protect-ratepayers-from-the-ai-bubble/>; and Jeremy Fisher et al., *Demanding Better: How Growing Demand for Electricity Can Drive a Cleaner Grid*, Sierra Club, September 2024, [https://www.sierraclub.org/sites/default/files/2024-09/demandingbetterreportfinal\\_sept2024.pdf](https://www.sierraclub.org/sites/default/files/2024-09/demandingbetterreportfinal_sept2024.pdf).

<sup>181</sup> Indiana Utility Regulatory Commission, “Docketed Case Details – Cause Number 46097,” July 19, 2024, <https://iurc.portal.in.gov/docketed-case-details/?id=b8cd5780-0546-ef11-8409-001dd803817e>.

<sup>182</sup> Stites & Harbinson PLLC, “Kentucky Power Company’s First Revised Tariff Sheet 1-1 (Index), First Revised Tariff Sheet 8-2 (Tariff I.G.S.), and Original Tariff Sheet 8-3 (Tariff I.G.S.),” filing with the Public Service Commission, August 30, 2024, [https://psc.ky.gov/pscscf/2024%20cases/2024-00305/20240830\\_Kentucky%20Power%20Tariff%20Filing.pdf](https://psc.ky.gov/pscscf/2024%20cases/2024-00305/20240830_Kentucky%20Power%20Tariff%20Filing.pdf).

<sup>183</sup> Georgia Public Service Commission, “PSC Approves Rule to Allow New Power Usage Terms for Data Centers,” press release, January 23, 2025, [https://psc.ga.gov/site/assets/files/8617/media\\_advisory\\_data\\_centers\\_rule\\_1-23-2025.pdf](https://psc.ga.gov/site/assets/files/8617/media_advisory_data_centers_rule_1-23-2025.pdf).

demand, and the available capacity in the system.<sup>184</sup> It is important that the tariff indicate whether the minimum demand is based upon location, service point, or customer—this is to ensure customers do not find workarounds such as having multiple meter points per customer.

- **Example:** AEP Ohio's initial settlement proposal was to increase minimum demand charge to 90–95 percent of the contracted demand. The agreed-upon amount establishes minimum monthly bills based on the percentage of large-load customers' highest previous monthly billing demand, which means data centers have to pay at least 85 percent of the energy they expect to use.<sup>185</sup>

### Require Up-Front Payments for Projected Energy Use

Required up-front payments provide another protective measure to ensure that utilities are able to recoup costs in the event of overprojections.

### Require Up-Front Security Deposits to Mitigate Failure to Pay

The requirement for data centers to pay 100 percent of costs necessary to service them should be accompanied by up-front security deposits, in the event that data center developers fail to make their required payment.

## Institute Early Termination Penalties and Exit Fees

Data center developers may want to exit their contract early. Without adequate protections in place, this abandonment could result in other customers shouldering the costs of the service build-out, including the utility's investment in distribution infrastructure, transmission infrastructure, or new power capacity. To mitigate this risk, PUCs should impose early-termination penalties and exit fees to recoup potential losses.

- **Strong example:** AEP Ohio's settlement<sup>186</sup> institutes an exit fee equal to minimum charges for 36 months after notice of termination.

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<sup>184</sup> Stacy Sherwood, *Review of Large Load Tariffs to Identify Safeguards and Protections for Existing Ratepayers*, Earthjustice, January 28, 2025, <https://energyfuturesgroup.com/wp-content/uploads/2025/01/Review-of-Large-Load-Tariffs-to-Identify-Safeguards-and-Protections-for-Existing-Ratepayers-Report-Final.pdf>.

<sup>185</sup> Meris Lutz, "Ohio Regulators Approve AEP Data Center Interconnection Rules," Utility Dive, July 10, 2025, <https://www.utilitydive.com/news/Ohio-regulators-approve-aep-data-center-interconnection-rules/752690>.

<sup>186</sup> "Data Center Tariff," AEP Ohio, accessed December 2, 2025, <https://www.aepohio.com/company/about/rates/data-center-tariff>.

- **Strong example:** Kentucky Power Company revised the Industrial General Service tariff, requiring loads over 150 MW commit to a 20-year contract and pay five years of minimum billing in the event the facility closes before the 20-year term is up.<sup>187</sup>

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<sup>187</sup> See Kentucky Public Service Commission Case No. 2024-03005; Order [filed March 18, 2025], <https://psc.ky.gov/Case/ViewCaseFilings/2024-00305>; and Kapiloff, Rogers, and Tellinguisen, *Data Center Impacts in the West*.

# Promote Grid Stability and Accelerate Renewable Energy Infrastructure

The staggering power-demand projections driven by data center development threaten to destabilize our fragile energy grids. This escalating demand for power is also prolonging our dependence on the fossil fuel industry and reversing our limited climate progress. States and regulators must pass laws and regulations designed to protect grid stability and end reliance on fossil fuels.

## Protect Grid Stability

### Institute Safeguards to Mitigate Inconsistent Monthly Energy Usage

Tariffs and special contracts can mitigate the harms that can occur when data center usage spikes. These inconsistencies make it harder for utilities to cover the fixed costs that serve the load. These protections include:

#### Demand Charges

These charges are based on the peak demand that may occur during the billing period. They ensure that utilities can recover the cost of providing reliable service during swings.

#### Demand Shedding

This is a safeguard imposed through a tariff or demand-response program (depending on size and utility type). This requires data centers to reduce their load during certain periods, such as during an emergency or peak time. Provisions to ensure that data centers can and do reduce load include making this participation mandatory and instituting penalties for failure to respond to an interruption event.

### Retain the Right to Curb or Shut Down Energy During Peak Demand or Emergencies

Utility companies must retain the power to interrupt service to prevent disruptions for ordinary ratepayers during times of peak demand or in the event of an emergency (e.g., heatwave).

- **Strong example:** A bipartisan coalition of state legislators representing ratepayers across the PJM region (an area covering electricity for all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia) submitted a proposal demanding that data centers joining PJM's grid will be subject to interruptible service, meaning that PJM can force data centers to stop using electricity during times of peak

demand.<sup>188</sup> Tech companies have pushed back.<sup>189</sup>

## **Institute Electricity Caps to Ensure Data Centers Are Not Consuming a Disproportionate Amount of Energy**

Limit the amount of electricity a service provider can provide to data centers in the course of a calendar year.

- **Example:** Maine caps the share of in-state electricity sales from the power provider to data centers at 25 percent.<sup>190</sup>

## **Require Data Centers to Abide by Energy Efficiency Standards and Best Practices**

States can require that data center projects abide by energy-efficiency standards.

- **Strong example:** In California, data centers must comply with Energy Code requirements, including the use of energy-efficient technologies.<sup>191</sup>

## **Accelerate Renewable Energy Infrastructure and Use**

### **Mandate 24/7 Renewable Energy Requirements**

Require that data centers procure or subscribe to locally deliverable, additional, and zero-emissions renewable energy in all hours of the day, every day of the year as a condition for receiving approval.<sup>192</sup> “Additional” is an important requirement to ensure that data centers do not take energy away from another project that would have used the available renewable energy to decarbonize. The requirement must also ensure that any demand-matching is legitimate and not just on paper.

- **Example:** New York State introduced a bill<sup>193</sup> offering a staged approach: By 2030, at least one-third of all energy used by data centers must be provided through power-purchase agreements for renewable energy; by 2035, at least two-thirds; and

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<sup>188</sup> “Protecting Ratepayers Proposal: Executive Summary,” Google Drive, November 10, 2025, [https://drive.google.com/file/d/1M1W65zLmRzn\\_U7mWQ2fhLyiy5\\_zTcs4h/view](https://drive.google.com/file/d/1M1W65zLmRzn_U7mWQ2fhLyiy5_zTcs4h/view).

<sup>189</sup> Jeff St. John, “Will PJM Do What It Takes to Get Data-Center Costs under Control?,” Canary Media, November 17, 2025,

<https://www.canarymedia.com/articles/data-centers/pjm-electricity-affordability-load-flexibility>.

<sup>190</sup> Maine State Legislature, Legislative Document No. 912 (S.P. 402), “An Act to Address the Use of Electricity by Data Centers,” 132nd Maine Legislature, 2025 Regular Session,

<https://legislature.maine.gov/backend/App/services/getDocument.aspx?documentId=111942>.

<sup>191</sup> California Code of Regulations, Title 24, Part 6, accessed December 2, 2025,

<https://codes.iccsafe.org/content/CAEC2022P3>.

<sup>192</sup> Sierra Club, “State Policies to Mitigate Data Centers,” January 2025,

<https://docs.google.com/document/d/1ECA47CaiLwaL0STaon7Ng402i-Etd6E2mPfhqp-30TI/edit?tab=t.0#heading=h.4gub98glhten>.

<sup>193</sup> New York State Senate, Senate Bill 6394A, 2025–2026 Legislative Session,

<https://www.nysenate.gov/legislation/bills/2025/S6394/amendment/A>.

by 2050, all energy. Thus it will take the state 25 years to reach a 100 percent renewable-energy commitment, during which time data center development will significantly expand the production of fossil-fuel energy.

### **Require “Clean-Energy Tariffs” for Utilities**

“Clean-energy tariffs”<sup>194</sup> are programs where large-load customers commit to purchasing carbon-free energy resources to meet their demand load. In these programs, data centers provide the up-front financial capital for utility companies to develop or procure renewable energy resources, then commit to purchasing the energy supply. States should require that large-load customers participate in this program for all energy needs (24/7). These can be multiyear or lifetime commitments.

### **Oppose Development of Fossil-Fuel-Based Generation and Transmission Infrastructure to Power Data Centers**

Utilities need to receive certificates of public convenience and necessity (CPCNs) from state PUCs in order to build new generation and transmission. Advocates can intervene in these cases to argue for

- not building new fossil-fuel power plants or transmission lines to power data centers, and/or
- requiring that the costs of such infrastructure should be fully borne by the data center customers.

### **Regulate Purchase Agreements Between Utility Company and Power Users**

Power-purchase agreements are agreements between a utility company and a data center operator or independent power producer stipulating that the utility agrees to provide electricity to the data center. States can dictate the terms of these purchase agreements, including incentivizing the purchase of renewable energy and prohibiting incentives or discounts for energy generated through fossil fuels.

- **Strong example:** A New York State bill<sup>195</sup> prohibits incentives in fossil fuel power-purchase agreements with utilities.

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<sup>194</sup> Note: While these are referred to as “clean energy tariffs,” they should be approached with a high level of scrutiny. States should ensure that tariffs are for renewable sources so that false solutions (nuclear, carbon capture, or biomass) are not captured within these programs. Lucia Amorelli, Dylan Gibson, and Tamra Gilbertson, eds., *Hoodwinked in the Hothouse: Resist False Solutions to Climate Change*, 2021,

[https://climatefalsesolutions.org/wp-content/uploads/HOODWINKED\\_ThirdEdition\\_On-Screen\\_version.pdf](https://climatefalsesolutions.org/wp-content/uploads/HOODWINKED_ThirdEdition_On-Screen_version.pdf)

<sup>195</sup> New York State Senate, Senate Bill 6394A (2025–2026).

## Prevent New Electricity Demand from Delaying or Compromising State Environmental Standards

States should require public-utility commissions to demonstrate that new electricity demand will not delay or compromise state environmental standards as a condition for approval.

- **Example:** Minnesota signed a law<sup>196</sup> requiring the state's public-utility commission to consider how electricity provided by utilities to large customers achieves state electricity standards, including solar energy standards. A stronger law would mandate that public-utility commissions can approve electricity *only if* large-load customers achieve state electricity standards.

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<sup>196</sup> Minnesota State Legislature, "Minnesota Session Laws - 2025, 1st Special Session," 2025, <https://www.revisor.mn.gov/laws/2025/1/Session+Law/Chapter/12>.

# Limit Corporate Influence over Processes and Institutions Involved in Data Center Development

The powerful corporate interests behind data center development can exercise outside influence over key institutions and processes governing data center developments and approvals, from elections and public-utility commissions to other regulatory processes. States must institute reforms over these democratic processes to check corporate influence throughout the data center development process.

## Regulate Public-Utility Commissions to Ensure Meaningful Public Participation

### Fund Public-Interest Intervenors in Public-Utility Ratepayer Cases

States have the ability to fund individuals and groups to participate in regulatory utility cases. This process is essential to ensure that the public's interest is represented in cases. Currently, 20 states have authorized intervenor compensation programs designed to provide funding for people to participate in utility proceedings.<sup>197</sup> States should build and/or strengthen these programs.

- **Strong example:** As of 2025, California's public-intervenor process has awarded over \$3 million to 14 unique intervenors.<sup>198</sup>

### Remove Barriers to Public Intervention

States can pass laws reforming the public-intervention process, including removing laws that allow private entities to challenge and throw out intervenors before proceedings and removing requirements that intervenors need a lawyer to intervene. States can also institute strong standing principles that allow any organization to participate in the intervention process.

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<sup>197</sup> Deanna Nussberger, "Intervenor Compensation: Supporting Public Participation in Utility Decisions," Environmental Defense Fund, May 20, 2025, <https://blogs.edf.org/energyexchange/2025/05/20/intervenor-compensation-supporting-public-participation-in-utility-decisions>.

<sup>198</sup> Nussberger, "Intervenor Compensation."

## Impose Political Spending Limits to Curb Corporate Influence in Elections

Key players in the data center development process are trying to influence key elections. In just one example, Virginia's state-regulated utility monopoly Dominion Energy spent \$650,000 backing a candidate in the attorney general race, a role designed to hold utility companies like Dominion accountable for harm to ratepayers.<sup>199</sup> The looming threat that individuals, corporations, or political action committees (PACs) may retaliate against legislators who regulate data centers by spending money in elections significantly influences how and when legislators choose to impose regulations. In 11 states (including Indiana, North Dakota, Pennsylvania, Texas, and Virginia), there are no contribution limits on individual donors. In five states (including Virginia) corporations can give unlimited amounts of money to candidates that meet certain conditions. Seven states allow PACs to contribute unlimited funds to candidates.<sup>200</sup>

### Establish Commonsense Limits for Individual and PAC Contributions

States can pass laws restricting the amount of money that individuals and political action committees can contribute to elections.

- **Strong example:** 38 states restrict the amount of money individuals can donate.<sup>201</sup>
- **Strong example:** 43 states also have laws imposing limitations on political action committees.<sup>202</sup>

### Prohibit Corporate Contributions to Political Campaigns

States can pass laws restricting the amount of money that corporations can contribute to elections.

- **Strong example:** 23 states prohibit corporations from contributing to political campaigns.<sup>203</sup>

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<sup>199</sup> Amy Waters, "Why Is Dominion Energy Trying to Buy the Attorney General's Office?," Clean Virginia, June 10, 2025,

<https://www.cleanvirginia.org/2025/06/10/blog-why-is-dominion-trying-to-buy-the-attorney-general-s-office>.

<sup>200</sup> "Campaign Contribution Limits: Overview," NCSL, updated July 09, 2025,

<https://www.ncsl.org/elections-and-campaigns/campaign-contribution-limits-overview>.

<sup>201</sup> Ibid.

<sup>202</sup> Ibid.

<sup>203</sup> Ibid.

# Establish State Fair-Labor Requirements

*Note: Data centers are not significant job creators, and many of the promised jobs tend to be temporary construction positions or low-paid, temporary, subcontracted data center operations roles. Establishing fair labor requirements could offset some harm, but would not address the underlying reality.*

## Provide High-Quality, Stable, and Local Jobs

States should ensure that the limited jobs that data centers provide are high-quality, stable, and local.

### Hiring

States should require data centers to hire full-time data center staff from the local population, or partner with community organizations on first-source hiring programs. These employees should be directly employed by the data center operator and not hired as subcontractors. For construction jobs, states should demand project labor agreements with a commitment that construction projects will employ local building-trade union workers. States may also require prioritizing the hiring of underrepresented groups in specific industries or labor markets—such as women in construction or veterans.

### Wages

Jobs should pay, at a minimum, a living wage adjusted annually for inflation. Ideally, wages should align with market-based standards tied to the state or regional median wage for the data center industry. There must be pay equity for equal work between contractors and the data center company's own employees.

### Benefits

Employers should be required to provide health insurance and cover at least 50 percent of the premium cost for each worker. States should also demand that data centers provide child care to all workers.

### Health, Safety, and Well-Being

States should regulate working conditions, including ensuring there is an adequate break room with strong health and safety standards.

### Collective Bargaining Neutrality

States must mandate neutrality in all firms benefiting from state subsidies.

## Transparency

Localities should require data centers to report annually labor demographic data, including number of full-time employees, subcontractors, and temporary workers. Include demographics such as race, gender identity, sexual orientation, education level, and pay and benefits data for each represented group. Include client overhead cost for the bill-rate per headcount of subcontracted workers, organized by job title.

## Enshrine Labor Demands into Law

There are four pathways that state lawmakers can take to enshrine these demands into law.

### Pass a State Law

Where it does not conflict with federal law, states can pass labor ordinances codifying these provisions into law. This is the strongest possible vehicle, since it would apply to all workers across the state.

### Require Job-Quality Standards as a Condition on Permitting Approval

As a next-best step, states should condition permitting on data center proposals abiding by strong labor standards. While permitting is typically controlled by local jurisdictions, states can pass a law requiring certain conditions as a requirement for permitting. Crucially, these conditions must be legally binding and include a clawback provision that specifies failure to meet the agreed-upon standards will result in the revocation of permit and certificate of occupancy. See [Establish Conditional Use Permitting for Data Centers](#) for more details.

### Require Job-Quality Standards as a Condition of Tax Breaks or Subsidies

If attaching labor conditions to the conditional permitting process is not possible, states can attach labor conditions to tax breaks. *Note: This is less preferable than permitting because states should repeal tax breaks for data centers.* These conditions must be legally binding and include a clawback provision that specifies that failure to meet the agreed-upon standards will require repayment. See [Repeal or Limit Tax Incentives and Subsidies](#) for more details.

### Institute Legally Binding Community Benefits Agreements

Labor conditions can also be attached to community benefits agreements (CBAs). This is the least preferable vehicle because CBAs are limited in scope and do not apply to all data center development projects within a community. See [Considerations for Community Benefits Agreements](#) for more details.

# Protect Constituents from AI Harms

The significant resources (capital, energy, land, and water) going into data center expansion are being deployed in service of largely unproven artificial intelligence technologies—whose purported “productivity benefits” have yet to reach millions of consumers and workers across the country, and whose harmful effects are materially reshaping our institutions in ways that ratchet up inequality.

State policymakers are uniquely positioned to pass legislation protecting constituents from the worst AI abuses: Even as federal legislation has lagged, state legislatures have moved to enact measures to meet the moment.

State policymakers must see that AI regulation goes hand in hand with data center regulation to ensure that if data centers are built, they cannot do so in service of technology that harms people.

## Bright-Line Rules That Restrict the Most Harmful AI Uses Wholesale

Bright-line rules that prohibit the most harmful use cases of AI send a clear message that the public determines whether, in what contexts, and how AI systems will be used. A growing list of ripe targets for these clear prohibitions include:

- AI cannot be used for emotion-detection systems.
- AI cannot be used for “social scoring,” i.e., scoring or ranking people based on their social behavior or predicted characteristics.
- Surveillance data cannot be used to set prices or wages.
- AI cannot be used to deny health insurance claims.
- Surveillance and monitoring data about workers cannot be sold to third-party vendors.
- AI cannot be used to replace public school teachers, nurses, mental health professionals, and school counselors.
- AI cannot be used to generate sexually explicit deepfake imagery or election-related deepfake imagery.
- AI cannot be used for the grooming and sexual exploitation of minors.
- AI cannot be used for predictive policing.
- AI cannot be used for military applications.
- AI cannot be used to aid oil, gas, and coal extraction.

## Regulate AI Throughout the Entire Life Cycle of Development

States should regulate AI throughout the entire life cycle of development, from how data is collected through the training process, to fine tuning and application development and deployment. Require AI companies to submit to independent third-party oversight and testing throughout the AI life cycle, and provide enforcement agencies with the resources and in-house staffing necessary to conduct oversight throughout the AI life cycle.

## Fight Against Federal Attempts to Block States from Regulating AI

Throughout 2025, the federal government has repeatedly attempted to block states from passing laws regulating AI,<sup>204</sup> most recently by threatening to put a provision limiting states' ability to pass AI laws into the National Defense Authorization Act (NDAA), a defense spending bill.<sup>205</sup> States must continue to speak out against attempts by the federal government to block their authority to protect constituents.

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<sup>204</sup> Cecilia Kang, "Defeat of a 10-Year Ban on State A.I. Laws Is a Blow to Tech Industry," *New York Times*, July 1, 2025, <https://www.nytimes.com/2025/07/01/us/politics/state-ai-laws.html>.

<sup>205</sup> Cristiano Lima-Strong, "It's Back. Congress Gears Up for Year-End Fight Over Moratorium on AI Laws," *Tech Policy Press*, November 18, 2025, <https://www.techpolicy.press/its-back-congress-gears-up-for-year-end-fight-over-moratorium-on-ai-laws>.

# Federal Recommendations

Much of the scope for data center development is set at the local and state level, where lawmakers have jurisdiction over permitting, land use, water, energy grids, and tax incentive structures. But Congress and other federal policymakers have jurisdiction over crucial lanes governing data center development, the associated energy infrastructure, and the industries behind the rapid buildout. In particular, federal policy can offer a coordinating function across the many otherwise fragmented moves happening at local, state, and regional levels.

Policymakers can check the jurisdictional shopping of data center builders hopping across town, county, or state borders in search of weaker regulatory regimes. They can more stringently regulate and ensure transparency on the part of the opaque circular investment structures fueling the buildout. And they can roll back the significant subsidies offered by the White House through executive orders (EOs). These federal measures are most potent when accomplished hand in hand with measures to strengthen state and local control.

The full-throttle push for data centers is a vivid case study in the growing nexus between our government, tech companies, oil companies, and private-equity firms, plainly revealing how decades of corporate entrenchment over our democratic systems routinely put private-industry interests over public welfare. Federal policymakers have an extraordinary opportunity to reassert authority over the democratic process and push for bold policy ideas that redefine not only the trajectory of data center development, but our approach to AI policy writ large. A robust federal policy agenda on data center expansion provides Congress and other federal policymakers with the ability to cut to the heart of corporate control over our regulatory systems and double down on investments that shift the balance of power away from private interests and toward public aims. In this way, Congress's actions can balance the overwhelming push by industry players driving the expansion of data centers while ensuring that local and state authorities can regulate data centers in ways attentive to community needs.

# Reject the Bailout for AI Firms

Bailouts occur when governments provide financial or other support to a company or industry to prevent its collapse. The US government has already started bailing out the AI industry. The Trump administration's executive actions lay out a set of extraordinary measures to boost the AI industry and its push to expand data center infrastructure across the country. These actions include directly investing in AI companies, providing federal tax subsidies and tax credits for data center infrastructure,<sup>206</sup> proposing financial support for qualifying data center projects,<sup>207</sup> accelerating government adoption of AI,<sup>208</sup> brokering sales deals with other countries on behalf of AI companies,<sup>209</sup> kick-starting an exports program to support sales to foreign markets,<sup>210</sup> and backing a \$1 billion loan to bring the Three Mile Island nuclear plant back online to power Microsoft's AI data centers.<sup>211</sup>

The federal government can make clear that it will not tolerate a bailout for the AI industry. Actions it can take include the following.

## Reassert Congressional Authority over White House AI Executive Order Overreach

The Trump administration has made its desire to use executive authority to boost the AI industry and fast-track data centers across the country extremely clear. This includes a drive

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<sup>206</sup> The Council of Economic Advisers, *Artificial Intelligence and the Great Divergence*, January 2026, <https://www.whitehouse.gov/wp-content/uploads/2026/01/Artificial-Intelligence-and-the-Great-Divergence-5.pdf>.

<sup>207</sup> Executive Order 14318 of July 23, 2025, Accelerating Federal Permitting of Data Center Infrastructure, 90 Fed. Reg. 35385 (2025), <https://www.federalregister.gov/documents/2025/07/28/2025-14212/accelerating-federal-permitting-of-data-center-infrastructure>.

<sup>208</sup> White House, *Winning the Race: America's AI Action Plan*, July 2025, <https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf>.

<sup>209</sup> Robbie Whelan and Amrith Ramkumar, "U.S. Approves Deal to Sell AI Chips to Middle East," *Wall Street Journal*, November 19, 2025, <https://www.wsj.com/tech/ai/u-s-approves-deal-to-sell-ai-chips-to-middle-east-79d68f36>.

<sup>210</sup> Executive Order 14320 of July 23, 2025, Promoting the Export of the American AI Technology Stack, title 3 (2025) 35393-95, <https://www.federalregister.gov/documents/2025/07/28/2025-14218/promoting-the-export-of-the-american-ai-technology-stack>; U.S. Department of State Office of the Spokesperson, "U.S. Department of State Pilots 'Concierge' Service for Pax Silica Signatories to Accelerate Core AI Infrastructure Exports," February 19, 2026, <https://www.state.gov/releases/office-of-the-spokesperson/2026/02/u-s-department-of-state-pilots-concierge-service-for-pax-silica-signatories-to-accelerate-core-ai-infrastructure-exports>.

<sup>211</sup> Costas Paris, "U.S. Backs \$1 Billion Loan to Restart the Three Mile Island Nuclear Plant," *Wall Street Journal*, November 18, 2025, <https://www.wsj.com/business/energy-oil/three-mile-island-nuclear-power-plant-ba857bc9>.

to preempt state and local authority<sup>212</sup> and sidestep congressional authority in service of AI data centers.<sup>213</sup> Congress can protect against such unilateral actions.

Moreover, the July 2025 executive order “Accelerating Federal Permitting of Data Center Infrastructure” orders the secretary of commerce to launch an initiative providing financial support for qualifying data center projects.<sup>214</sup> Congress, per its authority to control federal spending, can institute oversight over all federal investment in data center projects, including any loans, loan guarantees, grants, tax incentives, and offtake agreements suggested in the executive order.<sup>215</sup>

## Repeal or Roll Back Federal Tax Incentives and Subsidies Given to AI Firms and Data Center Speculators

Repeal or roll-back all federal tax subsidies and credits for data center infrastructure, such as the 100 percent bonus depreciation for IT infrastructure and data center equipment under Public Law 119–21<sup>216</sup> or the 45Q credit for carbon sequestration technologies.<sup>217</sup>

## Condition Future Federal Investment in AI on Guarantees for the Public

Congress can attach enforceable conditions to all federal investment into AI firms to ensure that any taxpayer support for the AI industry works to benefit the public. See “[Establish Public Benefit Conditions on All Federal Investment in AI](#)” for a comprehensive list of these conditions.

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<sup>212</sup> Executive Order 14365 of December 11, 2025, Ensuring a National Policy Framework for Artificial Intelligence, 90 Fed. Reg. 58499 (2025), <https://www.federalregister.gov/documents/2025/12/16/2025-23092/ensuring-a-national-policy-framework-for-artificial-intelligence>.

<sup>213</sup> Executive Order 14318, Accelerating Federal Permitting of Data Center Infrastructure.

<sup>214</sup> *Ibid.*

<sup>215</sup> The Appropriations Clause, Art. I, § 9, Cl. 7, reads that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” Congress has the authority to require that a financial program referenced in Sec. 3 of the Executive Order, “Accelerating Federal Permitting of Data Center Infrastructure,” proceed into Congressional appropriations. In that process of appropriations, Congress may impose conditions, limitations, or prohibitions on the use of the funds.

<sup>216</sup> Public Law 119–21, 119th Cong., 1st sess. (July 4, 2025), 139 Stat. 72.

<sup>217</sup> 26 U.S.C. § 45Q (2023).

## **Pursue Enforcement Strategy to Thwart Toxic Market Behavior**

Federal policymakers can pursue an enforcement strategy that utilizes competition, financial, fraud, and transparency regulations to surface and hold accountable toxic market behavior by AI companies.

## **Make Clear There Will Be No Bailout for AI Firms That Fail**

Congressional policymakers can message clearly that there will be no federal bailout for AI firms that fail.

# Fight Federal Preemption to Preserve Local and State Authority over AI Regulation

AI regulation goes hand in hand with data center regulation to ensure that if data centers are built, they cannot do so in service of technology that harms people. AI systems are increasingly deployed in ways that expand the power of bosses, landlords, and corporations at the expense of workers, tenants, and everyday people. As the data center boom serves to rapidly accelerate AI use across all sectors of our society, we need urgent actions to protect the public and hold tech companies accountable to the communities affected by these technologies, particularly communities of color, immigrants, and poor and working-class people.

And yet, the federal government has repeatedly attempted to block states from passing laws regulating AI,<sup>218</sup> encroaching upon local and state authority and endangering millions of people. The administration has also broadcast its desire to preempt state and local authority to pave the way for AI data center expansion.<sup>219</sup>

Federal policymakers can protect against this administration's attempts to preempt state and local power and sidestep congressional authority in service of AI data centers.

## Establish Federal Deference to State and Local Power

Congress can reject attempts to strip states of their ability to protect constituents from data centers through moratoriums or proposed national legislative frameworks, ensuring that permitting decisions for data centers remain firmly under state and local control. Congress can also make clear that the President cannot use emergency authorities to usurp state, county, or municipal laws and regulations—including zoning and permitting laws—with regard to data centers and associated energy infrastructure.<sup>220</sup>

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<sup>218</sup> Cecilia Kang, "Defeat of a 10-Year Ban on State A.I. Laws Is a Blow to Tech Industry," *New York Times*, July 1, 2025, <https://www.nytimes.com/2025/07/01/us/politics/state-ai-laws.html>; and White House, Ensuring a National Policy Framework for Artificial Intelligence, Executive Orders, December 11, 2025, <https://www.whitehouse.gov/presidential-actions/2025/12/eliminating-state-law-obstruction-of-national-artificial-intelligence-policy>.

<sup>219</sup> Under the December 2025 Executive Order, Ensuring a National Policy Framework for Artificial Intelligence, the administration plans to prepare a legislative recommendation for a uniform federal policy framework for AI that preempts state and local laws. This legislative recommendation will include preemption recommendations around "generally applicable permitting reforms" for AI data center infrastructure. See Executive Order 14365, Ensuring a National Policy Framework for Artificial Intelligence; and Executive Order 14318, Accelerating Federal Permitting of Data Center Infrastructure.

<sup>220</sup> Thanks to Public Citizen for this recommendation. See Deanna Noel and Meghan Pazik, "Reining in Big Tech: Policy Solutions to Address the Data Center Buildout," Public Citizen, December 3, 2025,

## Reject Federal Sandbox and Civil Immunity Bills

Reject federal sandbox<sup>221</sup> and civil immunity<sup>222</sup> bills that function as a moratorium by blocking states from passing and enforcing their own laws to regulate AI use cases.

## Resist Industry-Written Federal Standards

Resist passing weak and industry-written federal standards that effectively function as a moratorium, blocking states from passing stringent standards to protect their constituents.<sup>223</sup> In particular, the federal government can scrutinize the upcoming legislative recommendation establishing a federal policy framework for AI that preempts state AI laws prepared by the administration under the December 2025 Executive Order.<sup>224</sup>

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<https://www.citizen.org/article/reining-in-big-tech-policy-solutions-to-address-the-data-center-build-out>.

<sup>221</sup> S. 2750, SANDBOX Act, 119th Cong. (2025), introduced by Sen. Ted Cruz, <https://www.congress.gov/bill/119th-congress/senate-bill/2750>.

<sup>222</sup> S. 2081, RISE Act, 119th Cong. (2025), introduced by Sen. Cynthia Lummis, <https://www.congress.gov/bill/119th-congress/senate-bill/2081/text>.

<sup>223</sup> Kate Brennan, Amba Kak, and Sarah Myers West, "The Storm Clouds Looming Past the State Moratorium: Weak Regulation is as Bad as None," *Tech Policy Press*, June 10, 2025, <https://www.techpolicy.press/the-storm-clouds-looming-past-the-state-moratorium-weak-regulation-is-as-bad-as-none>.

<sup>224</sup> Executive Order 14365, Ensuring a National Policy Framework for Artificial Intelligence.

# Tackle Corporate Concentration Across the Entire AI Stack

Tech companies are riding the current AI boom to amass even more market power, relying on a permissive regulatory environment that rewards consolidation and market dominance. Big Tech firms have spent decades amassing unrestrained data access and economic power and then using those advantages to control key inputs at all levels of the AI stack. The industry, across all aspects of the AI supply chain, utilizes mergers, acquisitions, and inflated circular spending deals to further consolidate power. This trend toward monopolization in an already concentrated sector will only increase if we don't take action, with deep consequences for our innovation ecosystem, our economic stability, and our long-term prosperity.

## Promote a Sharp-Edged Competition Toolkit to De-Rig the AI Market

Federal policymakers can promote a robust competition toolkit, with a particular focus on abuse of dominance in the AI supply chain and energy sector.

### Structural Separation

*Structural separation* is a tool to break up big companies so they cannot own multiple stages of a supply chain. In the AI market, structural separation may look like preventing cloud companies from participating in the market for AI foundation models, requiring that Big Tech firms divest their cloud computing businesses from the rest of their corporate structure, preventing AI foundation model companies from participating in other markets related to AI, or preventing chip designers from investing in AI development companies. It also may look like preventing private-equity firms from owning energy utility companies and power companies, or Big Tech companies from owning energy companies and data centers.

### Heightened Scrutiny of Mergers, Acquisitions, and Partnerships

Require heightened scrutiny of mergers, acquisitions, and partnerships involving Big Tech hyperscalers and/or private-equity firms and their subsidiaries.

### Bright-Line Rules

Rather than rely exclusively on enforcement of antitrust laws after a harm has already occurred, *ex ante* rules proactively prevent harm before it can occur. Enforcers can use these proactive regulations to prevent Big Tech hyperscalers from self-preferencing their own products or engaging in discriminatory treatment.

## Put Firms on Notice

Quick measures to put market players on notice could include warning letters or use of subpoena power to scrutinize financial transactions within the sector, particularly those involving circular spending deals or those that use special-purpose vehicles (SPVs) to obscure information from investors.

# Enact a Federal Moratorium on New Data Centers Until Public Protections Are in Place

While much of the pushback against specific data centers is occurring within communities where proposed projects will be sited, the public impact of data centers is not limited to the immediate neighborhood where they are located—creating a collective action problem that can be addressed effectively at the federal level. When a new data center connects to the grid in one town, utility bills can increase for all customers of that service region. Data center developers are in some cases responding to local moratoriums or local opposition by targeting adjacent districts with weaker protections (as happened recently when a data center project that received pushback in Memphis was moved across the state line, nevertheless impacting the same constituents who breathe the same air and drink the same water).<sup>225</sup>

## Enact a Time-Bound Moratorium

A time-bound, national moratorium on the approval and construction of new data centers would allow local governments, states, and public utility commissions to pass widely applicable regulations to protect their constituents from unrestrained hyperscaler development. For a comprehensive list of state and local policy recommendations, see our [North Star Data Center Policy Toolkit: State and Local Policy Interventions to Stop Rampant AI Data Center Expansion](#).

- **Strong example:** Senator Bernie Sanders endorsed a national moratorium on new data centers.<sup>226</sup>
- **Strong example:** Over two hundred environmental groups have called for a national moratorium on new data center construction until regulations are put in place.<sup>227</sup>

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<sup>225</sup> Sophie Bates, “Elon Musk’s xAI to Build \$20 Billion Data Center in Mississippi,” ABC, January 8, 2026, <https://abcnews.go.com/Technology/wireStory/elon-musks-xai-build-20-billion-data-center-129038245>.

<sup>226</sup> Bernie Sanders, “It’s Time for a Moratorium on Data Centers,” YouTube video, 4:12, December 16, 2025, <https://www.youtube.com/watch?v=f40SFNcTOXo>.

<sup>227</sup> Food & Water Watch, “Organizational Letter: National Data Center Moratorium,” December 8, 2025, [https://www.foodandwaterwatch.org/wp-content/uploads/2025/12/Org-Letter\\_-\\_National-Data-Center-Moratorium.pdf](https://www.foodandwaterwatch.org/wp-content/uploads/2025/12/Org-Letter_-_National-Data-Center-Moratorium.pdf).

- **Strong example:** Honor the Earth, Indigenous Environmental Network, and the No Data Centers on Native Land Coalition have called for a three-year data center moratorium on tribal lands.<sup>228</sup>

## Include Anti-Federal Preemption Provisions

If federal moratorium legislation includes any federal regulations, it should include a provision specifying that federal laws will not preempt local and state authority to regulate data centers.

- **Strong example language:** “Nothing in this chapter shall preclude a state or local government or instrumentality thereof from establishing additional regulations requirements that are more stringent than federal standards. This chapter shall prohibit any federal agency from overriding or circumventing state, tribal, territorial, or local land use, water, environmental, or utility review processes.”

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<sup>228</sup> Honor the Earth, “Joint Statement by Honor the Earth and the Indigenous Environmental Network on the National Congress of American Indians,” n.d., accessed March 5, 2026, <https://www.honorearth.org/news/joint-statement-on-ncai-no-data-centers>.

# Restrict Data Centers on Federal Land

Given both the absence of clear public benefit from the AI boom and the unresolved risks around reliably supplying data centers with necessary resources, there exists little justification for turning over public land to private technology firms—by the Department of Energy or any other federal agency.<sup>229</sup> We must protect federal lands and waters from the development of data centers and the infrastructure needed to support them.

## No Private Data Centers on Federal Land

Prohibit the Department of Energy or any other federal agency from leasing land or providing easements to private developers to build AI infrastructure on public land. This includes actual data centers and the infrastructure to support them, like on-site electricity generation and backup electricity facilities, natural gas and carbon capture and storage pipelines, and off-site energy projects.

## Enact Enforceable Conditions on Data Center Development on Federal Land and Waters

If prohibition of data centers on public lands and waters is not possible, Congress can attach strong, enforceable conditions onto all data center development (including the infrastructure to support data centers) on federal lands to ensure data centers are publicly owned and are accountable to the public. This strategy opens up space to consider how technological development—including data centers—might unfold if it were guided by public interest objectives rather than private control over the AI stack. Beyond the limits of this administration's infrastructure approach, there remains significant opportunity to reimagine AI infrastructure development to support public objectives and fund best-in-class research trajectories sidelined by profit-driven incentives. The conditions that bring us closer to this technological future include the following:

### Data Centers Tapping into Local and State Resources Are Presumed Rejected Unless They Meet Local and State Approval Processes

While public infrastructure on federal land is generally exempt from local zoning laws, Congress can act to ensure that where data center development taps into local or state public resources—such as public aquifers or regional transmission lines—all development must abide

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<sup>229</sup> U.S. Department of Energy, "DOE Identifies 16 Federal Sites Across the Country for Data Center and AI Infrastructure Development," April 3, 2025, <https://www.energy.gov/articles/doe-identifies-16-federal-sites-across-country-data-center-and-ai-in-frastructure>.

by [state and local approval processes](#), including the ability for communities to reject incoming development where it does not abide by locally set standards.<sup>230</sup>

### **All Data Centers on Federal Land Must Be Publicly Owned and Used for the Benefit of Public Research**

All agencies (including land and water management agencies) must restrict data center development on federal lands and waters to advance work that supports, democratizes, or advances public R & D technology mandates. These facilities should be owned and operated by public research institutions and should provide computing and data initiatives to support alternative AI research trajectories outside the “bigger is better” scaling paradigm, alongside non-AI research that still requires access to large scale computing. Research housed in federal data centers cannot be used to support the defense industry, weapons research, military expansion, fossil-fuel extraction and combustion, nuclear permitting, predictive policing systems, surveillance, immigration enforcement, and other harms to be specified in the development process.

### **Specify That Federal Data Centers Are Not Exempt from State Utility Processes**

Federal and regional energy regulators, including the Federal Energy Regulatory Commission (FERC), can formalize clear rules for colocation of large loads from data centers and power generation. Colocation policies must not risk creating *de facto* pathways for AI data centers that preference their development over renewable-energy generation projects.<sup>231</sup> In other words, polluting power plants must not power AI data centers both behind and in front of the meter while the grid around it feels associated price fluctuations, reliability issues, and ambient regional system stress.<sup>232</sup>

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<sup>230</sup> Under the Property Clause in Art. IV, § 3, cl. 2, Congress has plenary authority over federal lands and may, through legislation, condition federal land use in compliance with state and local regulatory regimes. What’s more, federal facilities are generally immune from state permitting requirements under the Supremacy Clause in Art. VI, cl. 2. But Congress can waive that immunity with a clear directive. For example, Congress has expressly subjected federal development to state and local approval processes, as it has done under the Clean Air Act in 42 U.S.C. § 7418 and other cooperative federalism statutes. As such, Congress may require that data center development on public lands accessing aquifers or transmission infrastructure comply with state and local permitting requirements, including denial where locally adopted standards are not satisfied.

<sup>231</sup> Federal Energy Regulatory Commission, “FERC Orders Action on Co-Location Issues Related to Data Centers Running AI,” February 20, 2025, <https://www.ferc.gov/news-events/news/ferc-orders-action-co-location-issues-related-data-centers-running-ai>; Federal Energy Regulatory Commission, “Fact Sheet: FERC Directs Nation’s Largest Grid Operator to Create New Rules to Embrace Innovation and Protect Consumers,” December 18, 2025, <https://www.ferc.gov/news-events/news/fact-sheet-ferc-directs-nations-largest-grid-operator-create-new-rules-embrace>.

<sup>232</sup> Justin Kollar, “Planning Under Preemption: State Power and Local Authority in the AI Data Center Era,” *Journal of the American Planning Association*, February 18, 2026, <https://doi.org/10.1080/01944363.2026.2618221>.

Such policies must require full participation in state utility processes and include equity and sustainability guarantees. Federal data centers must participate in holistic transmission planning and cost burden analyses on local ratepayers, and must meet renewable energy mandates. Such state utility processes ensure both industry accountability to the public and grid accessibility, and safeguard progress toward state-level renewable-energy goals.

### **Institute Binding Renewable Energy Requirements**

Data centers serviced on federal land cannot be served by oil, gas, or nuclear energy. Require that data centers procure or subscribe to locally deliverable, additional, and zero-emissions renewable energy at all hours of the day, every day of the year, as a condition for receiving federal approval. All energy generation colocated on federal land must be renewable energy. Diesel backup generators are prohibited.

### **Data Centers Must Offset Tax Exemptions**

Because public land is not subject to local and state taxes, Congress can require a payment in lieu of taxes (also known as a PILOT agreement) equivalent to the full tax value of all property taxes and taxable assets (such as computer peripherals and electricity sales tax).

### **Require Comprehensive Transparency Mechanisms and Monthly Reporting**

Require all projects on federal land to abide by strict transparency requirements, reported monthly to a federal agency charged with monitoring, tracking, and enforcing transparency requirements. For a breakout of these recommendations, see "[Establish Federal Oversight and Transparency Mechanisms.](#)"

# Establish Public Benefit Conditions on All Federal Investment in AI

The federal government has for too long subsidized the largest companies in the world, offering billions of dollars in tax breaks and other vehicles of financial support while actively defunding institutions that shore up the broader public welfare. As a first measure, the federal government should repeal or roll back federal tax incentives and subsidies given to AI firms and data center speculators to prevent the government from backstopping the AI industry, as outlined in [Reject the Bailout for AI Firms](#).

Second, the federal government can play an important role in shaping the kinds of public infrastructure that private industry is not incentivized to develop. This strategy opens up space to consider how technological development—including data centers—might unfold if it were guided by public-interest objectives rather than private control over the AI stack.

Congress can achieve this by attaching bold, enforceable conditions onto all existing federal funding, grants, tax exemptions,<sup>233</sup> and financial support<sup>234</sup> going into data centers. This is a way for Congress to reassert congressional authority over federal investment and ensure taxpayer dollars are accountable to the public. These conditions would require any AI firm or data center company receiving federal funding to abide by the strictest possible requirements for data center development, including full deference to local and state authorities.

These conditions should not be used to justify additional federal funding for any aspect of the tech or data center industry, and include the following:

## Establish Binding Authority and a Mandate to Enforce

Conditions must be attached in clear, binding language and contain strong enforcement mechanisms, including a mandate to enforce.

## Automatic Clawback Provisions with Independent Verification

All assistance—tax expenditures, grants, loans, loan guarantees, preferential tariffs, expedited permitting, and federally backed infrastructure—must include automatic, proportional clawbacks for noncompliance and must be verified through independent data (e.g., unemployment insurance wage records for job claims; audited utility invoices and

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<sup>233</sup> Including 100 percent bonus depreciation for IT infrastructure and data center equipment under Public Law 119–21. Public Law 119–21, 119th Cong., 1st sess. (July 4, 2025), 139 Stat. 72.

<sup>234</sup> This includes “qualifying investment projects” under the July 2025 Executive Order 14318, *Accelerating Federal Permitting of Data Center Infrastructure*.

interconnection cost ledgers for cost-shifting claims; or verified tax expenditure schedules for abatements). Specify that company self-attestations do not satisfy compliance. Repeated noncompliance triggers termination of assistance, repayment with interest, and ineligibility for future support.

- **Strong example:** Specific legal enforcement measures already exist for certain portions of current industrial policy legislation, but these could be strengthened. In the CHIPS and Science Act, many conditions were not legally binding and were rolled back in the implementation process. However, in one provision, the Department of Commerce utilized the rulemaking process to determine enforcement mechanisms for program recipients that do not comply<sup>235</sup> with the Act's Technology Clawback provision, which prohibits fund recipients from engaging in research or licensing efforts with "foreign entities of concern."<sup>236</sup> The rule states that failure to comply with the provision "may result in recovery of up to the full amount of Federal financial assistance."<sup>237</sup>

## Condition: Deference to Local and State Authority

Data centers receiving federal funding must abide by all local and state approval requirements. The federal government cannot provide expedited approvals designed to sidestep local and state authority for data center projects.

## Condition: No Tax Abatements or Subsidies for Data Centers

Stipulate that any firms receiving federal funds, grants, tax credits, or investment for the purposes of data center development or accompanying infrastructure cannot abate local or state taxes. (Note: See recommendation for [repealing all federal tax subsidies and credits for data center projects](#).)

## Condition: Prohibition on Stock Buybacks

All companies receiving federal support for data center development are prohibited from using any funds to engage in stock buybacks within a set period of time. This prohibition must be stated explicitly and clearly, and must apply to all funds. Learnings from the IRA and CHIPS Act suggest that a mere "preference" for recipients that "commit" to not engage in stock buybacks is insufficient. During the early CHIPS Act implementation, the Department of Commerce had discretion to encourage recipients to refrain from stock buybacks as a

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<sup>235</sup> Department of Commerce, National Institute of Standards and Technology, *Preventing the Improper Use of CHIPS Act Funding*, 15 C.F.R. Part 231, RIN 0693-AB70, final rule, <https://public-inspection.federalregister.gov/2023-20471.pdf>.

<sup>236</sup> 15 U.S.C. § 4652(a)(5)(C) (2023), implementing *Preventing the Improper Use of CHIPS Act Funding*, 15 C.F.R. Part 231, RIN 0693-AB70, 88 Fed. Reg. 65600 (September 25, 2023) <https://www.federalregister.gov/documents/2023/09/25/2023-20471/preventing-the-improper-use-of-chips-act-funding>.

<sup>237</sup> *Preventing the Improper Use of CHIPS Act Funding*, 15 C.F.R. Part 231.

condition of receiving CHIPS Act subsidies. A 2024 report from the American Economic Liberties Project (AELP) highlighted that although the statute prohibits CHIPS funds for buybacks, firms with large prior buyback histories could still engage in buybacks while benefiting from federal subsidies.<sup>238</sup> Stronger implementation guidance and tighter federal guardrails are necessary to ensure incentives support real investment instead of freeing up capital for shareholder distributions.

## **Condition: Restrictions on Corporate Executive Compensation**

No executive and C-suite level staff of any company involved in the building, financing, or operating of data centers receiving federal investment should be allowed to make in excess of \$5 million (including equity and benefits) until robust, comprehensive regulations are in place protecting the public from data center harms.

## **Condition: Ratepayer Protection Requirements**

Data centers must pay for 100 percent of the costs necessary to service them, including transmission, energy generation, capacity, and financing costs.

## **Condition: Prohibition on Diesel Generators**

Stipulate that any data centers receiving federal funds cannot use on-site diesel generators.

## **Condition: Renewable Energy Requirements**

Data centers receiving federal support cannot be served by oil, gas, or nuclear energy. Require that data centers procure or subscribe to locally deliverable, additional, and zero-emissions renewable energy at all hours of the day, every day of the year, as a condition for receiving federal approval. All energy generation colocated on federal land must be renewable energy. Diesel backup generators are prohibited.

## **Condition: Fair Labor Requirements**

*Note: Data centers are not significant permanent job creators; many of the promised jobs tend to be temporary construction positions or low-paid, temporary, subcontracted data center operations roles. Establishing fair labor requirements could offset some harm, but would not address the underlying reality.*

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<sup>238</sup> American Economic Liberties Project, *Reshoring and Restoring: CHIPS Implementation for a Competitive Semiconductor Industry*, American Economic Liberties Project, page 6, February 6, 2024, [https://www.economicliberties.us/wp-content/uploads/2024/02/20240117-AELP-IndPolSeries-CHIPS-Paper\\_v4-1.pdf](https://www.economicliberties.us/wp-content/uploads/2024/02/20240117-AELP-IndPolSeries-CHIPS-Paper_v4-1.pdf). For example, BAE Systems, Inc., a subcontractor that received one of the first CHIPS awards (\$35 million), was in the midst of a multibillion-dollar stock repurchase program, including roughly \$3 billion in buybacks in 2021–22 and another \$1.9 billion authorized in 2023.

## **High-Quality, Stable, and Local Jobs**

Funding must require data centers to hire full-time data center staff from the local population or partner with community organizations on first-source hiring programs. These employees should be directly employed by the data center operator and not hired as subcontractors. Funding must also require neutrality agreements to provide space for union organizing on-site. For construction jobs, localities should demand project labor agreements with a commitment that construction projects will employ local building-trade union workers. Funding may also require prioritizing the hiring of underrepresented groups in specific industries or labor markets—such as women in construction or veterans.

## **Wages**

Jobs should pay, at a minimum, a living wage adjusted annually for inflation. Ideally, wages should align with market-based standards tied to the state or regional median wage for the data center industry. There must be pay equity for equal work between contractors and the data center company's own employees.

## **Benefits**

Employers should be required to provide health insurance and cover at least 50 percent of the premium cost for each worker. Localities should also demand that data centers provide childcare to all workers.

## **Health, Safety, and Well-Being**

Localities should regulate working conditions, including ensuring there is an adequate break room with strong health and safety standards.

## **Condition: Require Comprehensive Transparency Mechanisms and Monthly Reporting**

Require all projects receiving federal support to abide by strict transparency requirements, reported monthly to a federal agency charged with monitoring, tracking, and enforcing transparency requirements.

### **Before Operation Begins**

Require the following information to be certified in a public clearinghouse (a publicly available database). Federal agencies should retain the right to revoke or suspend data center permits for failure to adequately disclose the following metrics:

#### Financial Vehicles

Names of all companies involved in a data center project (including developer, shell companies, data center operators and/or end users, and financiers). Require disclosure of the

ultimate parent company and beneficial ownership for all entities involved. Require that any subsidy caps, eligibility limits, disclosure requirements, and enforcement actions apply to the parent company aggregated across all subsidiaries, affiliates, special purpose vehicles (SPVs), and joint ventures so that firms cannot evade limits by shifting ownership to SPVs.

### Water Usage

Comprehensive accounting of the data center's projected water usage (broken out by month), including projected water used in construction, server cooling, facility cooling (including cooling towers) and other ancillary water uses; projected water sources; anticipated water-conservation plan; and water infrastructure costs.

### Energy Usage and Infrastructure Needs

Comprehensive accounting of the data center's projected monthly energy usage; breakdown of all necessary costs to service them, including transmission, energy generation, capacity, and financing costs.

### Energy Emissions and Air Quality

Projected value of all on-site energy emissions. Require the installation and use of best-in-class technology to continuously monitor and report air quality.

### Labor

Require projected breakout of temporary and permanent jobs, including number of full-time employees, subcontractors, and temporary workers. Require union labor where possible.

## **After Operation Begins**

Federal agencies must monitor and enforce transparency metrics. Failure to properly disclose metrics will result in revocation of permit or operating license.

### Financial Vehicles

Annual reporting of all companies involved in a data center project (including developer, shell companies, data center operators and/or end users, and financiers).

### Water Usage

Monthly, comprehensive accounting of the data center's actual water usage, including projected water used in construction, server cooling, facility cooling (including cooling towers) and other ancillary water uses; projected water sources; anticipated water-conservation plan; and water infrastructure costs.

### Energy Usage and Infrastructure Needs

Comprehensive accounting of the data center's monthly energy usage; annual summary of costs necessary to service the data center, including costs arising from transmission, energy generation, capacity, and financing.

### Energy Emissions and Air Quality

Actual value of all on-site energy emissions and air-quality metrics, reported monthly.

### Labor

Require annual breakout of temporary and permanent jobs, including number of full-time employees, subcontractors, temporary workers, and unionization status of all. Include demographics such as race, gender identity, sexual orientation, education level, and pay and benefits data for each represented group. Include client overhead cost for the bill-rate per head count of subcontracted workers, organized by job title.

# Establish Federal Oversight and Transparency Mechanisms

Despite the staggering projections for energy and resource use coming from the data center industry, there is no comprehensive system for tracking and evaluating data center resource use. Data center developers and operators often try to keep information about their deals and resource use secret, obscuring details from the public and claiming that transparency can tip off competitors, threaten national security, and affect negotiations for tax incentives. While states should develop their own state oversight mechanisms—including the ability to intervene to stop data center proposals that threaten state resources—the effects from data centers are felt regionally and across state lines, requiring a federalized approach to data center transparency.

## Establish a Federal Clearinghouse

Require a federal agency to design, implement, and maintain a publicly accessible website to publicize information about all data center facilities across the country. Charge this agency with monitoring and enforcing the transparency requirements outlined below. The federal clearinghouse should work in tandem with state clearinghouses to standardize reporting.

## Require Comprehensive Reporting

Require all data center projects—whether or not they receive federal support—to report the following transparency measures to a federal agency charged with monitoring, tracking, and enforcing transparency requirements:

### Before Operation Begins

Require the following information to be certified in a public clearinghouse (a publicly available database). Federal agencies should retain the right to revoke or suspend data center permits for failing to adequately disclose the following metrics:

#### Financial Vehicles

Names of all companies involved in a data center project (including developer, shell companies, data center operators and/or end users, and financiers).

#### Water Usage

Comprehensive accounting of the data center's projected water usage (broken out by month), including projected water used in construction, server cooling, facility cooling (including cooling towers) and other ancillary water uses; projected water sources; anticipated water-conservation plan; and water infrastructure costs.

### Energy Usage and Infrastructure Needs

Comprehensive accounting of the data center's projected monthly energy usage; breakdown of all necessary costs to service the data center, including transmission, energy generation, capacity, and financing costs.

### Energy Emissions and Air Quality

Projected value of all on-site energy emissions. Require the installation and use of best-in-class technology to continuously monitor and report air quality.

### Labor

Require projected breakout of temporary and permanent jobs, including number of full-time employees, subcontractors, and temporary workers.

### Environmental Review

Mandate that the construction of each data center be treated (1) as a major federal action, and (2) as a major impact on the environment under the National Environmental Policy Act (NEPA), thereby making each subject to a few environmental impact statements (EIS). At a minimum, an EIS must evaluate

- water withdrawals, and sources
- water discharge and thermal pollution
- local and regional electricity-systems impacts
- backup generation emissions
- air pollution and particulate emissions
- chemicals used for cooling
- noise impacts
- cumulative impacts, and
- disparate impacts.

### **After Operation Begins**

Federal agencies must monitor and enforce transparency metrics. Failure to properly disclose metrics will result in revocation of permit or operating license.

### Financial Vehicles

Annual reporting of all companies involved in a data center project (including developer, shell companies, data center operators and/or end users, and financiers).

## Water Usage

Require monthly, comprehensive accounting of the data center's actual water usage, including projected water used in construction, server cooling, facility cooling (including cooling towers), and other ancillary water uses; projected water sources; anticipated water-conservation plan; and water infrastructure costs.

## Energy Usage and Infrastructure Needs

Require comprehensive accounting of the data center's monthly energy usage; and annual summary of costs necessary to service them, including from transmission, energy generation, capacity, and financing.

## Energy Emissions and Air Quality

Actual value of all on-site energy emissions and air quality metrics must be reported monthly.

## Labor

Require annual breakout of temporary and permanent jobs, including number of full-time employees, subcontractors, and temporary workers. Include demographics such as race, gender identity, sexual orientation, education level, and pay and benefits data for each represented group. Include client overhead cost for the bill-rate per head count of subcontracted workers, organized by job title.

## **Clearinghouse Transparency**

The clearinghouse must also publish the following information to ensure transparency about any federal agencies issuing permits for a data center project and its associated on- and off-site infrastructure:

### Lead Agency

There should be a lead agency designated for the project, and the contact information for the staff of that agency should be publicly accessible.

### Permit Status

All agencies issuing permits for a data center project and its associated on- and off-site infrastructure must regularly update the status of their respective permits for the project.

### Comment Period

All deadlines for the comment periods of each permit must be clearly communicated.

## Review

Estimated timelines for any necessary environmental review and transparent completion dates for any required permitting must be clearly communicated.

## Ban the Use of Nondisclosure Agreements in Economic Development

*Nondisclosure agreements* (NDAs) are secrecy contracts signed between a data center developer and local government(s) that prohibit the government from sharing information about the data center development deal with the broader public. These are widely used in data center development—in Virginia,<sup>239</sup> 25 out of 31 localities with an existing, approved, or proposed data center had an NDA—and impede the public’s ability to make informed decisions about their community. Congress can act to prohibit data center developers from entering into NDAs with state and local governments in large economic development projects.

## Prohibit Trade-Secret Exemptions From Public-Disclosure Laws

Public-record and agency disclosure laws grant the public the right to inspect government records. This is a critical way for the public to learn about industries that are attempting to move into their communities. Congress can act to clearly specify that information collected during local, state, and federal data center application processes does not constitute sensitive information or trade secrets and cannot be redacted or exempted from public-disclosure laws. Such information includes:

- noise study and mitigation
- projected and actual energy usage and mitigation
- on-site energy emissions
- projected and actual water usage and mitigation
- value of tax abatements developer is receiving for the project
- names of all companies involved in the data center project (including developer, shell companies, data center operators and/or end users, and financiers)
- jobs (short-term and permanent, hiring efforts, permanent employee wages)
- the results of a displacement and holistic environmental-impact report, centering environmental justice considerations (such as those emerging from redlined/fenceline communities), and establishing that the data center will not exacerbate the displacement of residents and local businesses

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<sup>239</sup> Eric Bonds and Viktor Newby, “Data Centers, Non-Disclosure Agreements and Democracy,” *Virginia Mercury*, April 30, 2025, <https://virginiamercury.com/2025/04/30/data-centers-non-disclosure-agreements-and-democracy/?utm>.

# Advance a Progressive Energy Agenda to Safeguard Our Energy Grid

Our energy sector has faced decades of consolidation and private takeover, with the regulatory processes designed to check abuses on corporate power captured by industry and marred by corruption. Data centers are bringing these issues home for households across the country that are facing rising electricity bills; policymakers and utilities are prioritizing the needs and interests of data center developers and oil and tech executives over those of everyday consumers. This opens up a significant opportunity to advance a progressive policy agenda for energy security and resilience—one that treats reliability, affordability, and sustainability as the bedrock of an innovative economy.

## Advance Bold Public Power Campaigns to Reassert Public, Democratic Control Over Our Power System

Private, for-profit monopolies currently provide 70 percent of electricity in the United States. The other 30 percent is provided by publicly or mutually owned utilities. Over the past three years, investor-owned utility (IOU) residential electricity rates have increased 49 percent more than inflation, whereas the rates from publicly owned utilities have increased 44 percent less than inflation.<sup>240</sup> Public power campaigns in Milwaukee,<sup>241</sup> New York,<sup>242</sup> Tucson, and other cities are demanding shifts to democratically controlled power systems to protect against rapidly rising electricity prices.<sup>243</sup> Legislators can and should support local and national public power campaigns, using federal power to intervene where appropriate.

## Tackle Concentrated Power Across the Energy Stack

Our energy sector is facing increased consolidation and private takeover, with Big Tech and private-equity companies moving to acquire energy companies, and private equity taking over investor-owned utility companies across the country. Blackstone, one of the world's largest private-equity firms, recently filed with the Public Utility Commission of Texas to acquire

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<sup>240</sup> Mark Ellis, *Rate of Return Equals Cost of Capital: A Simple, Fair Formula to Stop Investor-Owned Utilities From Overcharging the Public*, American Economic Liberties Project, page 2, January 2025, <https://www.economicliberties.us/wp-content/uploads/2025/01/20250102-aelp-ror-v5.pdf>.

<sup>241</sup> Power to the People Milwaukee, <https://www.powertothepeoplemke.org>.

<sup>242</sup> Public Power NY, <https://publicpowerny.org>.

<sup>243</sup> Derek Seidman, "As Electricity Bills Rise, Activists Are Demanding Public Control of Utilities," *Truthout*, January 2, 2026, <https://truthout.org/articles/as-electricity-bills-rise-activists-are-demanding-public-control-of-utilities>

Texas-New Mexico Power's parent company.<sup>244</sup> In Minnesota, the state's Public Utilities Commission (MN PUC) approved the \$6.2 billion sale of Allete, parent company of Minnesota Power, to a subsidiary of BlackRock and the Canada Pension Plan Investment Board.<sup>245</sup>

*Note: The water sector is also facing increased consolidation and threats of private-equity takeover. While this section specifically deals with the energy stack, it is critical for federal policymakers to address private takeover within the utility sector writ large.*

## Promote a Robust Antitrust Toolkit

Enforce antitrust laws that limit acquisitions and investments in key energy infrastructure that lead to undue corporate influence over public goods. Heightened scrutiny of mergers, acquisitions, and partnerships involving Big Tech hyperscalers and private-equity firms that have an interest in data center development and associated infrastructure.

## Prevent Private-Equity Takeover of Investor-Owned Utilities

The federal government can leverage authorities from FERC, the Department of Justice (DOJ), and the Federal Communications Commission (FCC) to prohibit the private-equity takeover of investor-owned utilities. Where that is not legally feasible, require strict scrutiny of any proposed acquisition where a private-equity firm seeks to acquire at least 10 percent or more of the voting securities of a regulated entity *and* apply a robust public interest standard to adjudicate the change of control request.

*Note: The 10 percent threshold stems from two 2022 FERC decisions establishing a rebuttable presumption that ownership of more than 10 percent of the voting securities of a regulated entity constitutes a change of control, but that ownership of less than 10 percent may still constitute a change of control if the investor's own officers or directors are appointed to the board of the regulated entity.<sup>246</sup> This suggests that 10 percent should be the ceiling.*

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<sup>244</sup> Texas-New Mexico Power, "Texas-New Mexico Power Files Acquisition Application with the Public Utility Commission of Texas," August 25, 2025, <https://tnmp.com/about-us/news-media/texas-new-mexico-power-files-acquisition-application-public-utility-commission>; Claire Hao, "Who Benefits If Wall Street Buys Your Utility? Texas-New Mexico Power Customers Could Soon Find Out," MSN, January 30, 2026, <https://www.msn.com/en-us/money/companies/who-benefits-if-wall-street-buys-your-utility-texas-new-mexico-power-customers-could-soon-find-out/ar-AA1Vk1rR>.

<sup>245</sup> Marc Levy, "Private Equity Sees Profits in Power Utilities as Electric Bills Rise and Big Tech Seeks More Energy," Associated Press, September 27, 2025, <https://apnews.com/article/big-tech-private-equity-electricity-utilities-power-energy-7c5d119142380b67a83bbe722f69f2a5>.

<sup>246</sup> TransAlta Energy Marketing (U.S.) Inc., 181 FERC 61,055 (2022); Evergy Kan. Central, Inc., 181 FERC 61,044 (2022).

## Mobilize Authority Under the Federal Energy Regulatory Commission (FERC) to Oversee Data Centers

### Reject Colocation Policies That Enable AI Data Centers to Soak Up Available Energy

In December 2025, FERC announced that PJM Interconnections's tariff governing the colocation of generation with large loads like AI data centers was unjust due to unclear and inconsistent rates and terms.<sup>247</sup> FERC directed PJM to create transparent, enforceable tariff rules for such arrangements and new transmission service options in order to protect consumers "by keeping electricity costs manageable."<sup>248</sup> Moving forward, FERC action can clarify that colocation policies not disproportionately ease barriers for such AI data center projects.

### Enshrine the 2024 FERC Order

Enshrine the November 2024 FERC order,<sup>249</sup> which determined that shifting existing generation away from the bulk power market to serve a data center is unjust and unreasonable.<sup>250</sup>

### Mandate Load Flexibility Programs and Interconnection Requirements

Direct FERC to mandate load flexibility programs and forced curtailment procedures for data centers<sup>251</sup> and update large-load interconnection requirements to prevent cascading outages.<sup>252</sup>

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<sup>247</sup> Federal Energy Regulatory Commission, "Fact Sheet: FERC Directs Nation's Largest Grid Operator to Create New Rules to Embrace Innovation and Protect Consumers," December 18, 2025, <https://www.ferc.gov/news-events/news/fact-sheet-ferc-directs-nations-largest-grid-operator-create-new-rules-embrace>.

<sup>248</sup> Ibid.

<sup>249</sup> PJM Interconnection, L.L.C., *Order Rejecting Amendments to Interconnection Service Agreement*, 189 FERC 61,078, November 1, 2024, [https://www.ferc.gov/sites/default/files/2024-11/20241101-3061\\_ER24-2172-000.pdf](https://www.ferc.gov/sites/default/files/2024-11/20241101-3061_ER24-2172-000.pdf).

<sup>250</sup> Thanks to Public Citizen for this recommendation. See Deanna Noel and Meghan Pazik, "Reining in Big Tech: Policy Solutions to Address the Data Center Buildout," Public Citizen, December 3, 2025, <https://www.citizen.org/article/reining-in-big-tech-policy-solutions-to-address-the-data-center-buildout>.

<sup>251</sup> Ibid.

<sup>252</sup> Matthew McHale and Hannah Wiseman, *Nine Ways to Address the Energy Impacts of AI Data Centers*, Vanderbilt Policy Accelerator, January 2026, <https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2026/01/12211201/Nine-Ways-to-Address-the-Energy-Impacts-of-AI-Data-Centers.pdf>.

## Compel the Collection and Publication of Energy-Use Data

Direct FERC and/or the U.S. Energy Information Administration (EIA) to compel the collection and publication of energy-use data by data centers, and compel FERC to require disclosure of when power sellers are affiliated with data centers.<sup>253</sup>

*Note: Although disclosure of water consumption is also important for data center transparency, FERC does not have jurisdiction over water usage. This recommendation should also be accompanied with provisions that assign appropriate authority over water transparency metrics. For more details, see "[Require Comprehensive Transparency Mechanisms and Monthly Reporting](#)."*

## Revise Cost-Allocation Methodologies

Direct FERC to mandate that regional transmission organizations (RTOs) such as PJM revise their transmission cost-allocation methodologies so that other customers are not subsidizing the construction of transmission lines that are needed solely to serve data centers.

## Reject Nondisclosure Agreements in Utility and RTO Proceedings

The federal government should prohibit the use of nondisclosure agreements (NDAs) in utility and RTO proceedings. If that is not possible, condition eligibility for any preferential rate tariffs or access to interconnection queues on not employing nondisclosure agreements related to development deals.

## Correct Misalignment Between Utility Incentive Structures and Public Interest

Direct FERC to undertake a systematic review of transmission incentive adders and to take other steps necessary to correct misalignment of utility incentive structures with the public interest to ensure that utilities are not overbuilding the transmission system in response to underscrutinized load growth projections.

## Protect Against Overbuild

Direct FERC to maintain and regularly update a national database of proposed data centers, working closely with utility commissions and regional transmission operators to accurately forecast load increases, predict accurate infrastructure needs, and protect against overbuilds.<sup>254</sup>

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<sup>253</sup> Thanks to Public Citizen for this recommendation.

<sup>254</sup> McHale and Wiseman, *Nine Ways to Address the Energy Impacts of AI Data Centers*.

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## **Promote Comprehensive Planning to Coordinate Infrastructure Projects That Do Not Fuel Data Centers**

Promote comprehensive federal planning to coordinate energy infrastructure projects that do not fuel data centers. For example, prioritize transmission paths for renewable energy projects that are unaffiliated with data center development.

# Prohibit Expansion of the Fossil Fuel Industry for AI Data Centers

Data center expansion is ensnaring us in our reliance on fossil fuels and reversing our limited climate progress. States are keeping coal plants open, building new gas-fired power plants, and reopening nuclear plants solely for data center use.<sup>255</sup> According to the Center for Biological Diversity, carbon emissions from data center expansion, primarily powered by fracked gas and coal, are expected to triple by 2035, reaching 10 percent of our economy-wide emissions.<sup>256</sup> Federal policymakers can act to stop this handout to Big Oil companies and prohibit the expansion of the fossil fuel industry for AI data centers.

## Data Centers Cannot Extend the Life of Coal Plants

Block expansion of new fossil fuel infrastructure and stop all new fossil fuel permits for data centers. Pass legislation specifying that data center development cannot be used to delay closure of coal plants.

## Repeal National Energy Emergency

In his first month in office, President Trump issued an executive order declaring a national energy emergency and ordering agencies to facilitate the identification, leasing, siting, production, transportation, and generation of domestic oil and gas resources to “power the next generation of technology.”<sup>257</sup> Notably, renewable energy projects were excluded, exposing the executive order as a handout to fossil fuel companies. Federal policymakers can use their authority to repeal or limit the effects of this so-called energy emergency.

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<sup>255</sup> Antonio Olivo, “Internet Data Centers Are Fueling Drive to Old Power Source: Coal,” *Washington Post*, April 17, 2024,

<https://www.washingtonpost.com/business/interactive/2024/data-centers-internet-power-source-coal/>; Josh Saul, “Gas Power Roars Back to Drive Data-Center Boom,” *Bloomberg*, September 16, 2024,

<https://www.bloomberg.com/news/newsletters/2024-09-16/us-gas-power-roars-back-to-drive-data-center-boom>; Adele Peters, “Is Restarting Three Mile Island Really a Good Idea,” *Fast Company*, October 8, 2024, <https://www.fastcompany.com/91204023/is-restarting-three-mile-island-really-a-good-idea>.

<sup>256</sup> John Fleming and Jean Su, *Data Crunch: How the AI Boom Threatens to Entrench Fossil Fuels and Compromise Climate Goals*, Center for Biological Diversity, Center for Biological Diversity, October 2025, [https://biologicaldiversity.org/programs/climate\\_law\\_institute/pdfs/DataCrunch\\_report.pdf](https://biologicaldiversity.org/programs/climate_law_institute/pdfs/DataCrunch_report.pdf).

<sup>257</sup> Executive Order 14156 of January 20, 2025, Declaring a National Energy Emergency, 90 Fed. Reg. 8433 (2025),

<https://www.federalregister.gov/documents/2025/01/29/2025-02003/declaring-a-national-energy-emergency>.

## Reinstate Emission Reduction Targets to Phase Out Fossil Fuels

The federal government can set and commit to “ambitious and legally binding emissions reduction targets”<sup>258</sup> to empower a fast and just transition to renewable energy deployment and phase out fossil fuels.

## Reject Carbon Capture and Storage for AI Data Centers

AI data centers have pointed to carbon capture and storage (CCS) technologies as techniques to reduce emissions for their energy infrastructure. CCS and direct air capture (DAC) technologies are propped up by the fossil fuel industry to artificially extend their lifespan. These technologies require significant energy use, negatively impact public health, and remain unproven. Congress should also roll back the 45Q federal tax credit to stop subsidizing these false solutions.<sup>259</sup>

## Phase Down Fossil Fuels on Federal Lands

Prohibit the extraction of fossil fuels on federal land (including drilling in the outer Continental Shelf) and coal leases on federal land.

- **Strong example:** The Keep It In The Ground Act of 2024 (proposed) prohibited fossil fuel extraction on public lands and in public waters.<sup>260</sup>

## Reject the Attack on Renewable Energy Investments and Reinstate Federal Funding for Community-Owned Solar and Wind Projects

In 2025, President Trump cut over \$7 billion in grants designed to support hundreds of clean-energy projects in sixteen states.<sup>261</sup> The federal government can use its power to reinstate funding for renewable projects, with a focus on community-owned solar and wind projects. The government can stipulate that any renewable energy funding provisions in the Bipartisan Infrastructure Law or Inflation Reduction Act cannot go into data center projects.

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<sup>258</sup> Johanna Bozuwa and Dustin Mulvaney, “A Progressive Take on Permitting Reform: Principles and Policies to Unleash a Faster, More Equitable Green Transition,” Roosevelt Institute, August 22, 2023, <https://rooseveltinstitute.org/publications/a-progressive-take-on-permitting-reform>.

<sup>259</sup> 26 U.S.C. § 45Q (2023).

<sup>260</sup> Office of Senator Jeff Merkley, *Keep It in the Ground Act*, n.d., accessed March 5, 2026, <https://www.merkley.senate.gov/wp-content/uploads/Keep-It-in-the-Ground-Act.pdf>.

<sup>261</sup> Matthew Daly and Michael Phillis, “Trump Administration Cuts Nearly \$8B in Clean Energy Projects in States That Backed Harris,” Associated Press, October 2, 2025, <https://apnews.com/article/trump-clean-energy-hydrogen-hub-newsom-0223cb4469508bcea4f689c18c9ab65d>.

## Permit Renewable Projects That Prioritize Community Protections and Agency Capacity

Investing in agency staff and experts across the federal government who specialize in renewable energy technologies, cumulative-impact analysis, and environmental justice review will strengthen environmental analysis while reducing review timelines. Ensure that renewable development does not facilitate data center expansion by requiring that all new renewable energy generation funded with public dollars be allocated to residential, municipal, and public-interest uses first.

- **Strong example:** The community-led Environmental Justice for All Act,<sup>262</sup> designed to update NEPA to work for communities while providing agency funding to train permitting personnel.

## Require all AI Data Center Development to Consider Impacts on Domestic Mining

Data center development must consider the impacts on domestic mining for critical minerals and rare earth elements. Congress can add conditions to relevant federal investment or research and development mandates<sup>263</sup> that minimize environmental harm, regional long-term economic impact, and require that local communities are included in the planning and approval of new mines.<sup>264</sup> Existing mines should be subject to heightened environmental remediation review.<sup>265</sup> Given an appropriate period of notice, the federal government can terminate existing stakes in mining companies that do not conform to the updated standards.

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<sup>262</sup> S.919 - A. Donald McEachin *Environmental Justice For All Act*, 118th Congress (2023–2024), <https://www.congress.gov/bill/118th-congress/senate-bill/919>.

<sup>263</sup> U.S. Department of Energy, "Energy Department Announces \$355 Million to Expand Domestic Production of Critical Minerals and Materials," *National Energy Technology Laboratory*, November 17, 2025, <https://netl.doe.gov/node/15113>; USA Rare Earth, "USA Rare Earth Announces Letter of Intent with the U.S. Government for Access to \$1.6 Billion in Funding to Accelerate the Domestic Heavy Rare Earth Value Chain. Concurrently, USA Rare Earth Raises \$1.5 Billion in Private Sector Investment," *USA Rare Earth*, January 26, 2026, <https://investors.usare.com/node/8221/pdf>.

<sup>264</sup> Danielle Riedl, Devashree Saha and Luke Balleny, "A New Era of US Mineral Mining Must Put Communities First," *World Resources Institute*, January 5, 2026, <https://www.wri.org/insights/us-critical-mineral-mining-community-impacts>.

<sup>265</sup> Nicole Pouy, "Issue Brief: Critical Minerals and the U.S. Clean Energy Transition," *Environmental and Energy Study Institute*, July 14, 2025, <https://www.eesi.org/papers/view/issue-brief-critical-minerals-and-the-u.s-clean-energy-transition>.

# Reject AI as Justification to Roll Back Nuclear Energy Regulations

*Note: This section is adapted from the AI Now Institute's November 2025 report Fission for Algorithms: The Undermining of Nuclear Regulation in Service of AI, written by Dr. Sofia Guerra and Dr. Heidy Khlaaf. [Read the full report.](#)*

Because the staggering demand for energy to power AI data centers cannot be met with capacity from our existing power grid, AI firms are turning to nuclear as a source for additional power. The reality is that nuclear development timelines—often ten to twenty years—cannot safely match the rapid pace of AI development, but the government is fast-tracking nuclear development in ways that raise serious safety and oversight concerns.<sup>266</sup> In this process, the US government is enforcing positions that have been independently deemed perilous for nuclear safety and security, threatening widespread, catastrophic risk to serve the demands of AI firms.<sup>267</sup> The federal government must reject the use of AI as justification to roll back nuclear energy safety regulations put in place *because* of nuclear's propensity for catastrophic risk.

## Reject the Expansion of the Nuclear Industry for the Benefit of AI Firms

The current revival of the nuclear industry almost exclusively serves the demands for AI power, raising "significant concerns about whether the risks associated with nuclear facilities and unsubstantiated, fast-tracked initiatives can be justified."<sup>268</sup> Ironically, the pretense of an AI arms race with China is being used to "discard the very risk and safety thresholds established by the nuclear-arms-race era amid the threats of the Cold War."<sup>269</sup> The government justifies this elevated risk level by arguing that accelerated adoption of AI will give the US a technological edge over its global adversaries and lead to widespread societal benefits—both claims undermined by the questionable efficacy of AI-based systems.<sup>270</sup> Given the untested and unproven nature of AI technologies and catastrophic risks of expanding nuclear power without robust safeguards, federal policymakers should reject efforts to rapidly scale the nuclear industry to meet the demands of AI firms.

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<sup>266</sup> Sofia Guerra and Heidy Khlaaf, "Fission for Algorithms: The Undermining of Nuclear Regulation in Service of AI," AI Now Institute, November 2025, <https://ainowinstitute.org/publications/fission-for-algorithms>.

<sup>267</sup> *Ibid* at 13.

<sup>268</sup> *Ibid* at 3.

<sup>269</sup> *Ibid* at 15.

<sup>270</sup> *Ibid* at 15; AI Now Institute, "Consulting the Record: AI Consistently Fails the Public," June 3, 2025, <https://ainowinstitute.org/publications/research/3-consulting-the-record-ai-consistently-fails-the-public>.

## Ban the Use of AI in the Nuclear-Energy Permitting Process

In addition to rolling back long-established safety thresholds, the government is concerningly using AI technologies to expedite regulatory processes, such as nuclear licensing and commissioning for civil and defense nuclear facilities. Nuclear licensing is a well-established process that requires nuclear operators to demonstrate that the risks arising from their lifetime operations will be adequately controlled, and to take responsibility for controlling and addressing these risks.<sup>271</sup> Introducing generative AI to “streamline” nuclear licensing increases the likelihood that mistakes will arise in the process. Research has consistently demonstrated the lack of accuracy of generative AI and LLMs, including a high rate of inaccurate results,<sup>272</sup> high hallucination rates,<sup>273</sup> and a demonstrated bias in widely used LLMs toward overgeneralizing scientific conclusions.<sup>274</sup> Even minute errors can compromise nuclear safety thresholds and lead to catastrophic consequences, including widespread radiation exposure.<sup>275</sup> The federal government must ban the use of generative AI systems in the nuclear-energy permitting process, where safety is at stake.

## Reinstate the Nuclear Regulatory Commission’s Independence

Established in 1974, the Nuclear Regulatory Commission (NRC) operated as an independent regulator, and thus was shielded from political or industry influence. Through a series of executive orders in 2025, the White House has slowly pulled back the NRC’s independence, first enabling the Office of Management and Budget to oversee the regulatory process<sup>276</sup> and

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<sup>271</sup> Guerra and Khlaaf, *Fission for Algorithms*, 22–23.

<sup>272</sup> *Ibid.*, 27; Jason Wei et al., “Measuring Short-Form Factuality in Large Language Models,” arXiv, November 7, 2024, <https://doi.org/10.48550/arXiv.2411.04368>.

<sup>273</sup> Jeremy Hsu, “AI Hallucinations Are Getting Worse – and They’re Here to Stay,” *New Scientist*, May 9, 2025, <https://www.newscientist.com/article/2479545-ai-hallucinations-are-getting-worse-and-theyre-here-to-stay>; Maxwell Zeff, “OpenAI’s New Reasoning AI Models Hallucinate More,” *TechCrunch*, April 18, 2025, <https://techcrunch.com/2025/04/18/openais-new-reasoning-ai-models-hallucinate-more>;

Gyana Swain, “OpenAI Admits AI Hallucinations Are Mathematically Inevitable, Not Just Engineering Flaws,” *ComputerWorld*, September 18, 2025, <https://www.computerworld.com/article/4059383/openai-admits-ai-hallucinations-are-mathematically-inevitable-not-just-engineering-flaws.html>; Guerra and Khlaaf, *Fission for Algorithms*, 27.

<sup>274</sup> Uwe Peters and Benjamin Chin-Yee, “Generalization Bias in Large Language Model Summarization of Scientific Research,” *Royal Society Open Science* 12 (March 2025): 241776, <https://royalsocietypublishing.org/doi/epdf/10.1098/rsos.241776>; Guerra and Khlaaf, *Fission for Algorithms*, 27.

<sup>275</sup> *Ibid.*, 23.

<sup>276</sup> *Ibid.*, 14; White House, “Ensuring Accountability for All Agencies,” February 18, 2025, <https://www.whitehouse.gov/presidential-actions/2025/02/ensuring-accountability-for-all-agencies>.

later requiring the NRC to establish shortened timelines on nuclear licensing.<sup>277</sup> The EOs also asked the NRC to consult about radiation exposure limits with the Department of Defense and the Department of Energy, two agencies that are incentivized to expedite AI adoption and lack relevant experience with radiation exposure limits.<sup>278</sup> Federal policymakers can reinstate the NRC's independence to ensure nuclear safety is not compromised by political aims.

## Reinstate Requirements That Nuclear Energy Permitting Meet Global Standards for Nuclear Regulation

Risk analysis frameworks for nuclear energy date back to the earliest moments of discovery at the height of the Cold War.<sup>279</sup> Risk and safety thresholds have developed and changed over time, substantially influenced by catastrophic disasters and the resulting shifts in public perception. President Harry S. Truman's decision to use atomic weapons against Japan and the 1945 Trinity test nuclear fallout, which reached forty-six states over ten days, led to the establishment of radiation dose limits and targets based on the concept of the *linear no-threshold model (LNT)*, which determined that risk increases linearly with dose, and that no level of exposure is risk-free. This model enjoys wide-ranging international consensus and is based on long-term, detailed studies. Safety analysis also developed the "as low as reasonably achievable" (ALARA) risk principle to ensure that catastrophic risks are kept within tolerable societal limits. Despite this, the White House's May 2025 Executive Order recommended dismantling LNT, a key safety pillar, and its consequential standard ALARA, rejecting long-standing international consensus and increasing the public's risk of exposure to ionizing radiation.

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<sup>277</sup> Guerra and Khlaaf, *Fission for Algorithms*, 14; White House, "Ordering the Reform of the Nuclear Regulatory Commission."

<sup>278</sup> Guerra and Khlaaf, *Fission for Algorithms*, 14.

<sup>279</sup> Guerra and Khlaaf, *Fission for Algorithms*, 7–8.

# Protect the Public from AI Data Center-Fueled Economic Collapse

Tech firms are investing an eye-watering amount of capital into AI infrastructure based on projected future demand that is detached from demonstrated need.<sup>280</sup> Firms are taking on record levels of debt to build data centers, raising the alarm for economists concerned with firms' ability to pay down their debts with a steady cash flow.<sup>281</sup> At the same time, AI firms are increasingly reliant on circular spending deals—where AI companies invest in and buy from one another—which can create skewed market incentives and distort decision-making.<sup>282</sup> Because only a handful of buyers represent a large share of the overall market, circular spending deals in a market downturn can drive cascading negative effects.<sup>283</sup> This instability threatens not only the health of our overall economy and financial institutions, but the pocketbooks of millions of Americans, including their life savings, retirement plans, pension funds, and life insurance policies.

## Repeal Tax Subsidies Given to AI Firms and Data Center Speculators

Data centers are incorrectly framed as “economic development” opportunities. The reality is that state and local governments are granting data centers sales and use-tax exemptions, stripping valuable tax money away from communities. This is especially true for public schools, since property taxes remain the largest source of K-12 funding. These subsidies pull valuable tax dollars away from governments and exacerbate municipal budget crises. At the same time, data centers are driving up utility rates, making people's bills more expensive, and exacerbating an affordability crisis. Federal policymakers can act to ensure that public dollars are not underwriting speculative AI growth while our households and government budgets are subject to increased austerity measures.

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<sup>280</sup> Sheryl Estrada, “MIT Report: 95% of Generative AI pilots at Companies Are Failing,” *Fortune*, August 18, 2025,

<https://fortune.com/2025/08/18/mit-report-95-percent-generative-ai-pilots-at-companies-failing-cfo>; David Crawford, Anne Hoecker, and Dana Aulanier, *Technology Report 2025*, September 2025, <https://www.bain.com/insights/topics/technology-report>; and Meghan Bobrowsky, “Big Tech Is Spending More than Ever on AI and It's Still Not Enough,” *Wall Street Journal*, October 30, 2025, <https://www.wsj.com/tech/ai/big-tech-is-spending-more-than-ever-on-ai-and-its-still-not-enough-f2398cfe>.

<sup>281</sup> Aaron Gregg, “Big Tech Is Taking On More Debt than Ever to Fund Its AI Aspirations,” *Washington Post*, January 23, 2026, <https://www.washingtonpost.com/business/2026/01/23/ai-corporate-debt-record>.

<sup>282</sup> Cedric Sam, Rachael Dottle, Agnee Ghosh, and Kyle Kim, “A Guide to the Circular Deals Underpinning the AI Boom,” *Bloomberg*, January 22, 2026, <https://www.bloomberg.com/graphics/2026-ai-circular-deals>.

<sup>283</sup> Ibid.

## Repeal or Roll Back Federal Tax Incentives and Subsidies Given to AI Firms and Data Center Speculators

Repeal or roll back all federal tax subsidies and credits for data center infrastructure, such as the 100 percent bonus depreciation for IT infrastructure and data center equipment under Public Law 119-21<sup>284</sup> or the 45Q credit for carbon sequestration technologies.<sup>285</sup>

## Prohibit Corporate Tax Abatements for Data Centers

Federal policymakers can explicitly disqualify data centers from economic development incentives, including sales and use-tax exemptions, corporate income tax credits (investment or job creation), personal income tax diversions, utility tax exemptions, and local property tax abatements or millage preferences, regardless of whether the subsidy is offered through a data-center-specific statute or a general economic development program.<sup>286</sup>

## Investigate Circular Spending Deals Across the AI Supply Chain

Federal policymakers can use their federal authority to investigate circular spending deals, clearly demarcating where deals turn from a sound investment strategy into a fraudulent *round-tripping transaction*,<sup>287</sup> “a term regulators have used for sham trades with no economic substance that are designed to inflate reported results.”<sup>288</sup>

- **Strong example:** Senators Warren, Blumenthal, Van Hollen, and Smith pressed the chair of the Financial Stability Oversight Council to launch a formal investigation into the financial stability risks posed by debt markets in the AI infrastructure buildout.<sup>289</sup>

## Require Full-Deal Transparency

Data center deals are becoming increasingly convoluted and opaque, with Big Tech firms using distinct legal entities known as special-purpose vehicles (SPVs) to fund and execute data center deals. These deals are “off-balance sheet,” meaning that the deal—and any debt

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<sup>284</sup> Public Law 119-21, 119th Cong., 1st sess. (July 4, 2025), 139 Stat. 72.

<sup>285</sup> 26 U.S.C. § 45Q (2023).

<sup>286</sup> Kasia Tarczynska, “Data Centers: Key Reforms for State Subsidy Legislation,” Good Jobs First, September 23, 2025,

<https://goodjobsfirst.org/data-centers-best-reforms-for-state-subsidy-legislation>.

<sup>287</sup> Alix Dunn, “Are AI Companies Cooking the Books?” (podcast), *Computer Says Maybe*, September 30, 2025,

<https://www.themaybe.org/podcast/are-ai-companies-cooking-the-books-w-sarah-myers-west>.

<sup>288</sup> Sam, Dottle, Ghosh, and Kim, “A Guide to the Circular Deals.”

<sup>289</sup> Sen. Elizabeth Warren, Sen. Richard Blumenthal, Sen. Chris Van Hollen, and Sen. Tina Smith, *Letter to Secretary Bessent Re AI Debt*, U.S. Senate Committee on Banking, Housing, and Urban Affairs, January 22, 2026,

[https://www.banking.senate.gov/imo/media/doc/20260122\\_final\\_letter\\_to\\_secretary\\_bessent\\_re\\_ai\\_debt.pdf](https://www.banking.senate.gov/imo/media/doc/20260122_final_letter_to_secretary_bessent_re_ai_debt.pdf).

the SPV has raised—is not listed on Big Tech firms’ balance sheets, thus masking a clear picture of a company’s financial health.<sup>290</sup> Federal policymakers should prohibit public firms from using SPVs and other financial vehicles to hide data center investments on balance sheets, or should fully investigate the terms of these deals.

## Institute Strong Firewalls That Avert Financial Risks

Data centers are increasingly financed through complex, opaque, and highly leveraged deals. Banks, insurance companies, private credit funds, real estate investment trusts (REITs), pensions, mutual funds, and retail investors are increasingly exposed to risk and could suffer significant losses in the event of a market downturn.<sup>291</sup> Federal policymakers should establish financial safeguards to prevent pension funds and other important institutional investors from acquiring or retaining exposure to speculative securities linked to data center infrastructure. Such safeguards might include mandated divestment (i.e., requiring pension funds to divest from securities whose underlying collateral depends on data centers), heightened fiduciary duties for the administrators of pension plans or the managers of other investment portfolios, or more stringent transparency and exposure reporting requirements.

## Promote an Economic Agenda That Decenters AI

AI companies comprised over 80 percent of US stock market gains in 2025, and stock market ownership represents nearly 30 percent of the net worth of American households.<sup>292</sup> We cannot build a successful and sustainable economy around one concentrated industry. The stock market gains attributed to AI mask a bleak economic picture: Across the US job growth is slowing,<sup>293</sup> daily life is becoming more unaffordable,<sup>294</sup> and many of the vital institutions that support our civic and social lives are facing budget cuts and austerity demands. We need to invest in industries that equip people with good jobs, pass strong regulations to check concentrated corporate power, and ensure the long-term sustainability of our economy.

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<sup>290</sup> Advait Arun, *Bubble or Nothing: Data Center Project Finance*, Center for Public Enterprise, November 2025, <https://publicenterprise.org/wp-content/uploads/Bubble-or-Nothing.pdf>.

<sup>291</sup> Warren et al., *Letter to Secretary Scott Bessent Re AI Debt*, U.S. Senate Committee on Banking, Housing, and Urban Affairs.

<sup>292</sup> Arun, *Bubble or Nothing*.

<sup>293</sup> Justin Lahart and Danny Dougherty, “America’s Job Market Has Entered the Slow Lane,” *Wall Street Journal*, January 10, 2026, <https://www.wsj.com/economy/jobs/jobs-employment-2025-df2fa311>.

<sup>294</sup> Madeleine Ngo, “Food Prices Were Stubbornly High Last Year,” *New York Times*, January 13, 2026, <https://www.nytimes.com/2026/01/13/business/economy/inflation-cpi-report-food-prices.html>.

# Protect Constituents from AI Harms

The significant resources (capital, energy, land, and water) going into data center expansion are being deployed in service of largely unproven artificial intelligence technologies—whose purported “productivity benefits” have yet to reach millions of consumers and workers across the country, and whose harmful effects are materially reshaping our institutions in ways that ratchet up inequality. Federal policymakers must see that AI regulation goes hand in hand with data center regulation to ensure that if data centers are built, they cannot do so in service of technology that harms people.

## Bright-Line Rules That Restrict the Most Harmful AI Uses Wholesale

Bright-line rules that prohibit the most harmful use cases of AI send a clear message that the public determines whether, in what contexts, and how AI systems will be used. A growing list of ripe targets for these clear prohibitions include the following:

- AI cannot be used for emotion-detection systems.
- AI cannot be used for “social scoring,” i.e., scoring or ranking people based on their social behavior or predicted characteristics.
- Surveillance data cannot be used to set prices or wages.
- AI cannot be used to deny health insurance claims.
- Surveillance and monitoring data about workers cannot be sold to third-party vendors.
- AI cannot be used to replace public-school teachers, nurses, mental-health professionals, and school counselors.
- AI cannot be used to generate sexually explicit deepfake imagery or election-related deepfake imagery.
- AI cannot be used for the grooming and sexual exploitation of minors.
- AI cannot be used for predictive policing.
- AI cannot be used for military applications.
- AI cannot be used to aid oil, gas, and coal extraction.

## Regulate AI Throughout the Entire Life Cycle of Development

The federal government should regulate AI throughout the entire life cycle of development, from how data is collected through the training process, to fine-tuning application development and deployment. Require AI companies to submit to independent third-party oversight and testing throughout the AI life cycle, and provide enforcement agencies with the resources and in-house staffing necessary to conduct oversight throughout the AI life cycle.

## Fight Against Attempts to Block States from Regulating AI

Throughout 2025, the federal government repeatedly attempted to block states from passing laws regulating AI,<sup>295</sup> most recently by threatening to put a provision limiting states' ability to pass AI laws into the National Defense Authorization Act (NDAA), a defense spending bill.<sup>296</sup> Legislators must continue to speak out against these attempts to block state authority to protect constituents.

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<sup>295</sup> Cecilia Kang, "Defeat of a 10-Year Ban on State A.I. Laws Is a Blow to Tech Industry," *New York Times*, July 1, 2025, <https://www.nytimes.com/2025/07/01/us/politics/state-ai-laws.html>.

<sup>296</sup> Cristiano Lima-Strong, "It's Back. Congress Gears Up for Year-End Fight Over Moratorium on AI Laws," *Tech Policy Press*, November 18, 2025, <https://www.techpolicy.press/its-back-congress-gears-up-for-year-end-fight-over-moratorium-on-ai-laws>.

# Additional Resources

The following reports outline additional policy recommendations for regulating data centers or critical resources, such as energy use.

- ❖ Alli Finn, Nicole Sugerman, Myaisha Hayes, and Jenna Ruddock, [\*The Costs of Data Centers to Our Communities—and How to Fight Back\*](#), Kairos and MediaJustice (2025).
- ❖ Ari Peskoe and Eliza Martin, [\*Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech’s Power\*](#), Harvard Law School Environmental and Energy Law Program, (2025).
- ❖ David Klaus and Mark MacCarthy, [\*Boom or Bust: How to Protect Ratepayers from the AI Bubble\*](#), Brookings (2025).
- ❖ Deanna Noel and Meghan Pazik, [\*Reining in Big Tech: Policy Solutions to Address the Data Center Buildout\*](#), Public Citizen, (2025).
- ❖ Deborah Kapiloff, Lindsay Rogers, and Stacy Tellinghuisen, [\*Data Center Impacts in the West: Policy Solutions for Water and Energy Use\*](#), Western Resource Advocates (2025).
- ❖ [\*Artificial Jobs: The Illusion of Big Tech’s Data Center Employment Claims\*](#), Food and Water Watch (2026).
- ❖ Greg LeRoy and Kasia Tarczynska, [\*Cloudy With a Loss of Spending Control: How Data Centers Are Endangering State Budgets\*](#), Good Jobs First (2025).
- ❖ Johanna Bozuwa and Dustin Mulvaney, [\*A Progressive Take on Permitting Reform: Principles and Policies to Unleash a Faster, More Equitable Green Transition\*](#), Roosevelt Institute (2023).
- ❖ John Fleming and Jean Su, [\*Data Crunch: How the AI Boom Threatens to Entrench Fossil Fuels and Compromise Climate Goals\*](#), Center for Biological Diversity (2025)..
- ❖ Kasia Tarczynska, [\*Data Centers: Key Reforms for State Subsidy Legislation\*](#), Good Jobs First (2025).
- ❖ Stacy Sherwood, [\*Review of Large Load Tariffs to Identify Safeguards and Protections for Existing Ratepayers\*](#), Energy Futures Group (2025).
- ❖ [\*State Policies to Mitigate Data Centers\*](#), Sierra Club (2025).