Date: July 27, 2026

To: Chairman Joan Huffman and the Members of the Senate Committee on Finance.

CC: Sen. Juan Hinojosa, Sen. Carol Alvarado, Sen. Paul Bettencourt, Sen. Donna Campbell, Sen. Pete Flores, Sen. Bob Hall, Sen. Phil King, Sen. Lois W. Kolkhorst, Sen. Angela Paxton, Sen. Charles Perry, Sen. Charles Schwertner, Sen. Royce West, Sen. Judith Zaffirini
Via hand delivery and by email.

From: Adrian Shelley, Public Citizen, ashelley@citizen.org, 512-477-1155

Re: Data Center Investment and State Fiscal Effects - testimony by Public Citizen

Dear Chairman Huffman and Members of the Committee:

Public Citizen's mission is to be the voice of the people in the halls of power. We have one million members and supporters across the United States Public Citizen appreciates the opportunity to testify before this committee on the subject of data center investment and state fiscal effects. We support the following changes to the current approach:

1. End the state sales and use tax exemption for qualifying data centers.
2. End or limit the use by data centers of local tax breaks such as JETI and local development agreements.
3. Grant counties more authority to regulate data centers so that they don't have to use local development agreements or other financial incentives as leverage. At least twenty-eight counties have asked for such authority from the legislature.

I. The State Sales and Use Tax Exemption is Not Needed and Should be Eliminated.

The state sales and use tax exemption cost Texas taxpayers $1.1 billion in 2025.[1] It is estimated to cost $3.2 billion during the 2026-2027 biennium. By 20230, it is expected to cost $1.7533 billion *every year*, although that number is probably low because it is based on a January 2025 report from the Comptroller that likely does not account for the explosive growth of proposed data centers since then.

It's not true that the United States is in a data center or artificial intelligence "war" with China.[2] The U.S. has around 5,000 data centers. China has about 500. Furthermore, AI investment from

[1] See Glenn Hegar, Texas Comptroller of Public Accounts, "Tax Exemptions and Tax Incidence: A Report to the Governor and the 89th Legislature" (January 2025) *available at* https://comptroller.texas.gov/transparency/reports/tax-exemptions-and-incidence/.
[2] *See* https://www.brookings.edu/articles/are-the-us-and-china-really-in-an-ai-race/.

U.S. tech companies has outspent China for years, with the U.S. spend 4 or 5 five times more in recent years.[3]

The sales and use tax exemption was passed in 2013 (HB 1223 (83R)) at a time when lawmakers felt we need to attract data centers to Texas.

This worked. It worked so well that we now have more data centers trying to locate in Texas than we can possibly accommodate.

Texas is already home to at least 334 data centers, with at least another 248 planned.[4] More than 160 data centers take advantage of the state sales and use tax exemption.[5] The exemption is applied to certain equipment purchased to build and operate a data center, as well as the energy used in the data center. Long term, for an individual facility, the energy tax break may prove to cost more, as data centers have a continuous demand for lots of energy.

Data center water and energy demand is unrealistic and unsustainable.

All of these energy-hungry projects have led to growth projections for demand on the ERCOT grid that are completely unrealistic and unsustainable. The current large load projection in ERCOT is 438,595 megawatts, around 90% of which is data centers. This is *4.8 times* ERCOT's demand record (set last Wednesday) of 91,308 MW. Even the recently approved "Batch Zero" is reckoning with some 100 GW of projects.

The water demand from data centers is also unsustainable. Water demand from data centers in 2025 exceeded 25 billion gallons.[6] Although it is true that many new data centers are planning to use closed loop cooling that will reduce water use, many do not. And new closed loop system require more energy, which is also water hungry if it comes from fossil fuels. A data center powered by a gas plant is using perhaps two-thirds of its water for energy production.

Data centers are not significant employers.

The exemption is found at Tax Code Sec. 151.359 and 151.3595. The size requirements for qualifying data center and qualifying large data centers demonstrate that data centers are not big employers. The requirements are, for a "qualifying data center":

- single-occupant facility,
- at least 100,000 square feet,
- 20 qualifying jobs, and
- $200 million in investment over a five-year period.

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[3] *See* https://www.bcg.com/publications/2026/us-and-china-ai-strategy-causing-global-ai-divide,
[4] *See* https://www.texastribune.org/2026/06/08/texas-regulation-data-centers-electricity-power-water/. *See also* https://www.houstonchronicle.com/projects/2026/tx-data-centers-map/,
[5] *The complete list is available at* https://comptroller.texas.gov/taxes/data-centers/data-center-lists.php.
[6] *See* Margaret Cook "Thirsty Data: The Hidden Water and Energy Costs of Texas' Data Center Boom" (January 2026) *available at* https://harcresearch.org/news/thirsty-data-the-hidden-water-and-energy-costs-of-texas-data-center-boom/.

For a "qualifying *large* data center":

- single-occupant facility,
- at least 250,000 square feet,
- with at least 20 megawatts of transmission capacity,
- 40 qualifying jobs, and
- $500 million in investment over a five-year period.

Forty jobs for a "large" data center with half a billion dollars of investment is not that significant.

II. Local tax abatement and financial incentives should also be eliminated.

Public Citizen opposes tax cuts for wealthy corporations. Many big tech companies pushing data centers on Texas communities are among the largest companies in history. In addition to ending the state sales and use tax exemption, we suggest ending local tax breaks and financial incentives as well.

Right now, local governments rely on local development agreements to gain leverage over projects in their jurisdiction. We recommend the legislature give counties additional authority to regulate data center developments so that they won't be forced into Chapter 381 agreements. Counties should have authority to regulate such local issues as:

- Distance between data centers and certain land uses including homes, schools, places of worship, licensed day-care centers, hospitals, or medical facilities.
- Restrictions on the use of potable water, storm water, and wastewater.
- Limiting the use of polluting diesel engines for backup power.
- Noise level at the fenceline, including sounds with a frequency below 20 Hz (infrasound).
- Requirement to post a bond or other financial assurance sufficient to decommission the facility, return the land to its original state, and/or repair road damage.

We have identified twenty-eight counties that have passed resolutions asking for more authority from the legislature: Anderson, Andrews, Angelina, Bosque, Brazoria, Caldwell, Cameron, Clay, Cooke, Delta, Ellis, Fannin, Fayette, Grayson, Henderson, Hill, Hood, Hudspeth, Hunt, Johnson, Karnes, Lampasas, Morris, Parker, Polk, Somervell, Tom Green, Wise.

Chapters 380 and 381: Local Development Agreements

Local development agreements are tax breaks or incentives offered by cities and counties. Counties do not generally have authority to regulate development. A Chapter 381 agreement is county's only option to gain leverage over a proposed project.

Public Citizen has spent several months visiting communities impacted by data centers. We have spoken at rallies, town halls, and county commission meetings. Some of the county commissions we have visited include Johnson, Hood, Medina, and Somervell. We have heard the same thing repeated by county leadership: they don't want to give away their tax base, but otherwise they have no authority. A data center can do anything it wants when locating in the county. A 381 agreement is the only leverage the county leadership has to ask for terms beneficial to the community.

More than two dozen counties have passed resolutions asking the legislature for more authority to regulate data centers. A list of these country resolutions is attached to this testimony.[7]

Section III of this testimony (below) includes a deeper look at Chapter 380 and 381 agreements. A list of thirty-three agreements we found for data centers is attached.

The Jobs, Energy, Technology and Innovation Act (JETI)

The Jobs, Energy, Technology and Innovation Act (JETI) was passed by the 88th legislature (HB 5, 88R) to replace the former "Chapter 313" program for property tax abatements from school districts. Chapter 313 applications were no longer processed after December 31, 2022. Some Chapter 313 projects do not even begin until 2043 and can continue for ten years, so some Chapter 313 tax breaks will be in place for another three decades.
JETI was effective on September 1, 2023. As of January 2026, there are fifteen active JETI projects. At least two of these projects are likely for data centers:

- J0021 in Brazoria County is for Stone Creek Peaker LLC, a 200 MW natural gas simple cycle power plant that will likely have "a commercial offtake contract that is yet to be put in place."[8]
- J0022 in Reeves County is for Energy Forge One LLC, a 2 GW gas power plant proposed to power data centers.[9]

Chapter 312: The Property Redevelopment and Tax Abatement Act

Tax Code Chapter 312 allows local taxing entities—cities and counties—to offer property tax abatements for up to ten years. Chapter 312 agreements are available in the Local Development Agreement Database.[10] At least two data centers with Chapter 312 abatements are listed in the database:

- Crusoe Energy System, LLC in Wilbarger County
- Compass Datacenters DFW LLC in Allen City

The Texas Enterprise Fund

A few data centers have also received Texas Enterprise Fund (TEF) money. Applications to the TEF are decided upon by unanimous agreement of the Governor, Lieutenant Governor, and Speaker of the House.[11] There are at least three data centers that have received Texas Enterprise Funds:[12]

- A Hewlett-Packard data center in Austin or Houston received a $3 million award in FY 2006-2007. This project has been completed.

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[7] Copies of these resolutions can be found at https://drive.google.com/drive/folders/14FLltTu9JGxhNEmJZ3nLp5yns5yYJj3n?usp=sharing.
[8] *See https://assets.comptroller.texas.gov/open-data/jeti/J0021/J0021-stonecreek-damonisd-app.pdf*.
[9] *See https://assets.comptroller.texas.gov/open-data/jeti/J0022/J0022-energy-pecos-app.pdf*.
[10] *See https://comptroller.texas.gov/economy/development/search-tools/sb1340/search.php*.
[11] Texas Government Code Sec. 481.078.
[12] *See https://gov.texas.gov/uploads/files/business/TEF_Award_Listing_Data.pdf*.

- QTC Management, Inc. in San Antonio has received $308,750 as of July 2023 on a TEF award of $558,250.
- Digital Realty Trust, L.P. in Dallas has received $1,060,000 as of August 2024 on a $2,000,000 award.

III. Public Citizen research on Chapter 380 and 381 agreements shows that counties need more authority to secure beneficial terms for their communities.

Public Citizen staff combed through the Comptroller's database of around 4,100 local development agreements[13] and identified thirty-three for data centers—twenty of them for cities and 13 for counties. This research led us to conclude that counties need more authority to negotiate with data center developers to secure terms that meaningfully address concerns raised by community members.

This testimony concludes with a deeper look at 380/381 agreements. A list of all of the agreements we found is attached.

Each local development agreement can cost taxpayers tens of millions of dollars, or more. A typical data center might reach a valuation of $200 million in five years, [14] with a steady increase in value of $40 million per year. If this data center has a ten-year, 100% tax break in a jurisdiction with a 2% tax rate, then that tax break would cost $32 million in ten years.

Do data centers provide more than $32 million in value to their communities?

Going back to the tax code, a data center of this size might have 20 jobs. So the local jurisdiction—and its taxpayers—are paying $1.6 million for each of those jobs. A typical minimum salary for a qualifying job is $67,000 (see below). So the taxpayers are paying twenty-four times the salary of that job. That doesn't seem like a good deal.

Another conclusion we reached in our research of local development agreements is that they tend not to include terms that would benefit community members. When you talk to people in communities, you hear concerns about water availability first, then energy prices and grid security, then local impacts such as noise, light pollution, and road disruption. But these issues aren't typically addressed in local development agreements. The agreements include terms about employment, infrastructure spending, and payments in lieu of taxes. They don't tend to address problems of concern to neighbors. This reinforces our belief that counties should be given authority to regulate issues that do matter to communities.

This testimony concludes with a few examples of terms we noticed in local development agreements. A more thorough list is attached. Here are a few things we noted in our research:

- The largest agreement with between SSDC1, LLC and the City of Sulphur Springs, which contemplates a total value of $18.7 billion by the time the agreement concludes.
- A minimum salary of $67,000 for qualifying jobs is common.

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[13] *Available at* https://comptroller.texas.gov/economy/development/search-tools/sb1340/.
[14] This is the size of a qualifying data center under Tax Code Sec. 151.359. We're estimating local taxes, not the state sales and use tax, but that definition is still useful for assuming the size of a hypothetical data center.

- Many agreements require the use of local contractors and vendors when commercially reasonable.
- Some agreements waive local fees such as permit fees, impact fees, and inspection fees.
- Some cities require an investment in wastewater infrastructure that is eventually repaid by the city, which then stakes custody of the infrastructure. The City of Lancaster has such an agreement for a $1.5 million investment in 5,000 feet of sewer lines designed with stubs that allow other buildings or houses to connect in the future.
- The City of Temple has an agreement for 13,000 feet of wastewater main and associated infrastructure, with the reimbursement paid with 4% interest. Temple also agreed to sell 350,000 gallons of water per day and notify the developer if it were not available.
- The City of Garland has two very different agreements entered into between 2015 and 2024.[15] The 2015 agreement includes a fixed rate for electricity ($0.048/kWh through 2017) in exchange for the city providing estimates of its usage and maintaining a "lagging power factor" of 0.97. The city agreed to build a substation at its own expense. The agreement also included $1.5 million "Fiber Optic Incentive" in its 2015 agreement but not its 2024 agreement. The city also moved from waiving fees up to $550,000 to offering a $500,000 fee rebate once certain targets were met.
- The City of Lancaster offered to add 10% to the abatement if the company, called Sl DFW02A, LLC or "Stack," moved its regional headquarters to Lancaster, or 15% if the company moved its global headquarters.
- The City of Sulphur Springs offered a land grant of an old landfill property and disclaimed any responsibility for hazardous material or environmental conditions.
- An agreement in Fort Worth included a requirement to spend $50,000,000 in construction costs with Fort Worth companies.
- Sometimes one company enters into similar agreements with a city and its county at the same time.
    - Lancium with Fort Stockton and Pecos County on Sept. 7, 2021.
    - Wurldwide LLC with City and County of El Paso in December 2023.
    - Wiwynn technology with City of Socorro and County of El Paso in May/June 2025.

[15] We should note that we haven't spoken with anyone at the City of Garland and don't know their thinking or the reason for the differences in these two agreements.