To: Congressional Staff
From: AI Now Institute
Date: November 13, 2026
Re: **New Analysis: BAAJA is a backdoor bailout of the AI industry, enables the data center boom**

As the Senate continues to negotiate the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA), we write to explain how BAAJA supercharges a key AI industry priority: accelerating the development of energy infrastructure in service of the massively unpopular[1] hyperscale data center buildout.

At an incredibly precarious juncture for the AI market, BAAJA functions as a "backdoor bailout": enacting legal changes that will speed up and expand access to the industry's biggest constraint—power—despite unacceptable costs to our economy, democracy, and environment. BAAJA helps AI companies double down on their speculative bets.

BAAJA also insulates an already unaccountable AI industry from pushback, serving hyperscale data center developers at the expense of local, state, and Tribal authorities. At a moment in which communities across the country and of diverse ideological leanings are scrutinizing the impacts of data centers on their economic and environmental futures, BAAJA would strip them of key tools that empower them to slow or reject the construction of data centers in their communities.

The AI Now Institute's concerns with BAAJA are as follows:

1. **BAAJA is a vote for a backdoor bailout of the AI industry.**

The AI industry is pursuing a precarious trajectory that depends on expanding data center capacity and associated energy infrastructure at a speed and scale far removed from actual indicators of demand, and absent clear and convincing signals of business viability. Market analysts are warning that the AI industry is experiencing a bubble and that it is a question of if, not when, the bubble will burst.[2]

Instead of scrutinizing the financial resilience of the AI market and preparing to safeguard the public from potential economic shocks or instability, the federal government has stepped in to underwrite this trajectory. The Trump administration has brokered sales deals with other countries, pushed for the preemption of state regulations of AI, and extended lucrative long-term government contracts at a moment when the commercial promise and profitability

[1] Johana Bhuiyan, "Datacenters Were on the Ballot. US Voters Rejected Them," *Guardian*, November 4, 2026, https://www.theguardian.com/us-news/2026/nov/04/datacenters-midterm-elections.
[2] Bernard Goyder, "BofA Team Touts Options for Tech Sector to Hedge Bubble Risk," *Bloomberg*, October 6, 2026, https://www.bloomberg.com/news/articles/2026-10-06/bofa-analysts-see-tech-bubble-brewing-advise-clients-to-pile-in.

of AI companies are increasingly in question.[3] **BAAJA entrenches this pattern, insulating AI companies from the true costs of the infrastructures in which they are investing.**

AI firms are so heavily focused on speeding up the buildout of data centers—and the energy infrastructure required to power them—that regulations necessary to protect local interests have introduced uncertainty to their bottom line. BAAJA reduces this risk by accelerating the AI industry's access to fracked natural gas, which is the industry's preferred fuel choice.[4] BAAJA accelerates these gas projects and associated infrastructure: shortening approval timelines, eliminating and weakening environmental review processes, and locking in even illegally granted or law-breaking permits through its "project certainty" provisions.[5]

Second, by disempowering states and communities, BAAJA significantly insulates the AI industry from the growing financial risk of public opposition. Community objection blocked or delayed $130 billion in data center projects in the first quarter of 2026 alone.[6] BAAJA weakens or removes essential environmental protections and democratic levers that preserve clean air and water and allow communities, states, and Tribes to decide whether and on what terms data centers are built in their communities.[7]

Third, BAAJA fast-tracks a path for data center construction on public lands, a primary way in which the Trump administration is accelerating the data center buildout and circumventing community opposition.[8] The bill makes approvals for using public lands much more difficult to challenge or reconsider, such as the Townsite Data Center project in Nevada, where development is currently paused due to legal challenges that could be precluded if this bill's changes to the National Environmental Policy Act are enacted.[9]

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[3] Sarah Myers West and Amba Kak, "You May Already Be Bailing Out the AI Business," *Wall Street Journal*, November 12, 2025, https://www.wsj.com/opinion/you-may-already-be-bailing-out-the-ai-business-dd67d452.
[4] Lorne Stockman, "Senate Permitting Bill Would be a Gift to Data Centers and their Massive Gas Buildout," *Oil Change International*, October 2, 2026, https://oilchange.org/blogs/senate-permitting-bill-would-be-a-gift-to-data-centers-and-their-massive-gas-buildout/.
[5] Earthjustice, "The Impacts of the Bipartisan American Affordability and Jobs Act of 2026," accessed November 13, 2026, https://earthjustice.org/feature/bipartisan-american-affordability-and-jobs-act-2026-impact-guide.
[6] Ashley Belanger, "$130 Billion in Data Center Projects Blocked by Protests So Far This Year," *Ars Technica*, June 12, 2026, https://arstechnica.com/tech-policy/2026/06/130-billion-in-data-center-projects-blocked-by-protests-so-far-this-year/.
[7] Food and Water Watch et al. to The Honorable Charles Schumer, The Honorable Hakeem Jeffries, and Members of the U.S. Senate and House of Representatives, "Oppose the Permitting Reform Data Center Power Grab," October 13, 2026, https://www.foodandwaterwatch.org/wp-content/uploads/2026/10/Stop-the-Data-Center-Power-Grab-Org-Letter.docx.pdf.
[8] The Wilderness Society, "Permitting Reform Bill Could Lock in A.I. Data Centers on Public Lands," accessed November 13, 2026, https://foe.org/wp-content/uploads/2026/11/TWS-Fact-Sheet-Permitting-Reform-Could-Lock-in-AI-Data-Centers-on-Public-Lands.pdf; Natalie Krebs, "'Pillaging Our Public Lands for AI Data Centers.' Interior Lays Out New Plan to Sell Public Lands, Shrink Federal Workforce, and Ramp Up Development," *Outdoor Life*, November 11, 2026, https://www.outdoorlife.com/conservation/interior-strategic-plan-public-land-sales/
[9] Jeniffer Solis, "Judge Halts Data Center Construction on Public Land," *Nevada Current*, September 1, 2026, https://nevadacurrent.com/2026/09/01/judge-halts-data-center-construction-on-public-land/.

BAAJA could potentially accelerate at least 35 existing applications to the Bureau of Land Management for data centers and energy infrastructure permits on public lands, totalling over 24,000 acres in Arizona, Idaho, Nevada, Oregon, Utah, and Wyoming.[10]

All of these moves "de-risk" the buildout for the AI industry and shift costs and risk to the public. If the fantastical projections of demand never materialize, the AI industry is well positioned to walk away from its bets (to drop leases and exit short energy contracts with low minimum charges[11]), leaving localities, states and Tribes to deal with the economic and public health cost of the data center buildout.[12]

2. **BAAJA preempts the few levers that local, state, and Tribal authorities have to hold Big Tech accountable.**

Seventeen state attorneys general have raised urgent concerns that BAAJA undermines local, state, and Tribal authorities, despite recent amendments.[13] The bill preempts local, state, and Tribal decision making over data center projects by weakening their authority to protect natural and cultural resources under the Clean Water Act, the National Historic Preservation Act, the National Environmental Policy Act, and the Endangered Species Act.[14] By changing section 401 of the Clean Water Act, for example, BAAJA severely limits state and Tribal rights to deny certifications for development projects that threaten critical water resources and narrows the scope of environmental concerns that states are allowed to raise.[15] BAAJA could most negatively impact localities and states with weaker or no zoning and environmental regulations that rely on federal protections, which the data center industry has already targeted.[16]

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[10] Stockman, "Senate Permitting Bill Would Be a Gift to Data Centers," https://oilchange.org/blogs/senate-permitting-bill-would-be-a-gift-to-data-centers-and-their-massive-gas-buildout/; The Center for Western Priorities, "New Map Tracks Data Center Applications Moving Through BLM's Pipeline," press release, accessed November 13, 2026, https://westernpriorities.org/2026/10/new-map-tracks-data-center-applications-moving-through-blms-pipeline/.
[11] Kate Brennan, Amba Kak, and Sarah Myers West, "Heads I Win, Tails You Lose: How Tech Companies Have Rigged the AI Market" in *Artificial Power: AI Now 2025 Landscape*, AI Now Institute, June 3, 2025, https://ainowinstitute.org/publications/2-heads-i-win-tails-you-lose-how-tech-companies-have-rigged-the-ai-market.
[12] Hiroko Tabuchi, "A.I. Boom Poses Growing Public Health Threat, Former E.P.A. Officials Warn," *New York Times*, September 10, 2026, https://www.nytimes.com/2026/09/10/climate/ai-data-centers-air-pollution-health.html; Kapor Foundation, *The Unequal Burden of Data Centers: An Examination of the Environmental and Public Health Impacts on Communities in California*, Kapor Foundation, December 2025, https://kaporfoundation.org/datacenters-envt-health/.
[13] Attorneys General Of California et al. to Members of the U.S. Senate, "Re: S. 5653, 'Bipartisan American Affordability and Jobs Act,'" November 9, 2026, https://oag.ca.gov/system/files/attachments/press-docs/final-second-ag-letter-re-baaja.pdf.
[14] Ibid.
[15] Earthjustice, "Impacts of the Bipartisan American Affordability and Jobs Act," https://earthjustice.org/feature/bipartisan-american-affordability-and-jobs-act-2026-impact-guide.
[16] Mike Rogoway, "How Big Data Centers Overwhelm Opposition in Small Towns," *Governing*, October 7, 2026, https://www.governing.com/infrastructure/big-data-centers-overwhelm-opposition-in-small-towns.

Simultaneously, BAAJA would fast-track federal approvals of the polluting gas infrastructure that data centers rely on.[17] This includes numerous projects already in the permitting process, such as the 700-mile Desert Southwest Expansion pipeline project crossing Arizona, New Mexico, and Texas[18] and the fracked gas pipeline for Oracle's Project Jupiter data center campus in New Mexico.[19]

3. **BAAJA supercharges AI data center expansion in exchange for token ratepayer protections.**

A myopic focus on ratepayer protections obscures the larger project of reshaping an off-the-rails AI tech industry whose vision for success creates threats to our livelihoods, economy, environment, and democracy. We cannot address rising energy prices by accelerating the very data center buildout that is a central driver of those costs in the first place.

While the bill lays the groundwork for much-needed protections for ratepayers, it trades the farm in the process, asking the public to bear the brunt of public health and environmental harms that will cost billions annually,[20] let alone take on the unacceptable expense of clean air, water, and land; Tribal sovereignty; and the acceleration of fossil fuel infrastructure development caused by data centers. The effects are compounding: by accelerating AI development, this tradeoff speeds along a technology that depresses wages, intensifies surveillance, raises the costs of everyday goods, and reduces access to basic material needs.[21] Almost all value that is extracted from data centers is captured upstream by large tech, private equity, and oil and gas companies.

These ratepayer protections also do less than advertised. Making data centers pay for new grid infrastructure does nothing to stop data center developers from overbuilding, including with off-grid power generation, pushing costs and the potential for stranded assets onto the public.

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[17] Andrew R. Chow, "Congress's Permitting Bill Is a 'Massive Giveaway' to the AI Data Center Industry, Critics Warn," *Time*, November 9, 2026, https://time.com/article/2026/11/10/permitting-bill-data-centers/.
[18] "Powering the Southwest," Energy Transfer, accessed November 13, 2026, https://desertsouthwest.com/
[19] Luke Juricic, "Oracle Urges FERC to Expedite New Mexico Gas Pipeline for Project Jupiter," *Yahoo Finance*, October 13, 2026, https://finance.yahoo.com/energy/articles/oracle-urges-ferc-expedite-mexico-215237380.html.
[20] Tristan Bove, "Data Centers are Dealing Hidden Damage to Environmental and Public Health—Costing the Economy $25 Billion Every Year," *Fortune,* April 21, 2026, https://fortune.com/2026/04/21/data-centers-environmental-health-costs-25-billion/.
[21] Katie J. Wells and Funda Ustek Spilda, *Uber for Nursing: How an AI-Powered Gig Model Is Threatening Health Care*, Roosevelt Institute, December 2024, https://rooseveltinstitute.org/publications/uber-for-nursing/; Wilneida Negrón, *Little Tech Is Coming for Workers*, Coworker.org, 2021, https://home.coworker.org/wp-content/uploads/2021/11/Little-Tech-Is-Coming-for-Workers.pdf; Derek Kravitz, "Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds," *Consumer Reports*, updated December 22, 2025, https://www.consumerreports.org/money/questionable-business-practices/instacart-ai-pricing-experiment-inflating-grocery-bills-a1142182490/; 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.

Tech companies, knowing that widespread resistance to data center development poses a significant threat to their bottom line, have supported ratepayer protections as a concession,[22] calculating that the cost of infrastructure upgrades is less than the cost they bear with any reduction in infrastructure development. This is a textbook industry playbook: co-opt a broadly supported dimension of the affordability agenda to advance their wider deregulatory goals.

Last Tuesday, data centers were on the ballot, and voters made their position clear.

Last week at the ballot box, voters across the country rejected the AI buildout and demanded more local control over their communities. Today, Congress seems poised to fast-track the AI industry's top legislative priority to accelerate the data center buildout and shift more financial risk onto the public. BAAJA's champions include the venture capital firm Andreessen Horowitz (a16z) and the trade associations Information Technology Industry Council (iTi), whose members include Nvidia, OpenAI, Meta, Amazon, CoreWeave, and Google; Chamber of Progress, whose members include OpenAI, Amazon, Apple, Google, and other tech firms; TechNet, whose members include Amazon, Anthropic, Apple, CoreWeave, Meta, Nvidia, and OpenAI; the Semiconductor Industry Association; and other industry lobbies including the American Petroleum Institute and the Chamber of Commerce.[23]

Nine newly elected Governors won office on the promise of a data center moratorium in their state.[24] In 40 out of 41 local ballot measures, voters resoundingly rejected the data center buildout.[25] In Congress and across the country, elected officials will come into office in January

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[22] Jarrett Renshaw and Laila Kearney, "Tech Giants Sign Energy Pledge at White House Ahead of Midterms," *Reuters*, March 4, 2026, https://www.reuters.com/sustainability/climate-energy/trump-meet-tech-giants-energy-pledge-ahead-midterms-2026-03-04/.

[23] Ben Brody (@BenBrodyDC), "NEW scoop: @a16z, @ycombinator and other venture and startup firms are backing the bipartisan permitting reform bill ahead of a key Senate test vote today. Subscribers saw it first," X (formerly Twitter), November 9, 2026, https://x.com/BenBrodyDC/status/2119829387046425014?s=20; Information Technology Industry Council, "ITI: Permitting Reform is Essential to Maintain America's Technology Leadership," press release, September 30, 2026, https://www.itic.org/news-events/news-releases/iti-permitting-reform-is-essential-to-maintain-america-s-technology-leadership; Adam Kovacevich to the Chairs of New Democrat Coalition, October 5, 2026, Chamber of Progress, https://progresschamber.org/wp-content/uploads/2026/10/US_Letter_Supporting_Bipartisan_American_Affordability_And_Jobs_Act_Cost_of_Living-2.pdf; "950+ Strong: Demanding Permitting Reform Now," U.S. Chamber of Commerce, September 30, 2026, https://www.uschamber.com/energy/950-strong-demand-permitting-reform; Semiconductor Industry Association, "SIA Urges Senate to Pass Bipartisan Permitting Reform Legislation to Boost U.S. Competitiveness," press release, November 4, 2026, https://www.semiconductors.org/sia-urges-senate-to-pass-bipartisan-permitting-reform-legislation-to-boost-u-s-competitiveness/; Revolving Door Project, "How BAAJA Would Benefit AI Data Centers, According to the AI Industry And Its Friends," Revolving Door Project (blog), November 4, 2026, https://therevolvingdoorproject.org/how-baaja-would-benefit-ai-data-centers-according-to-the-ai-industry-and-its-friends/.

[24] Kyle Stock and Miquéla V Thornton, "Some 40% of US Planned Data Center Capacity Is in States Wanting to Hit Pause," *Bloomberg*, November 6, 2026, https://www.bloomberg.com/news/articles/2026-11-06/new-governors-set-to-challenge-big-swath-of-data-center-capacity.

[25] MacKenzie Sigalos, "Voters rebuff data centers in every ballot measure except one during the 2026 midterms," *CNBC*, November 4, 2026, https://www.cnbc.com/2026/11/04/data-center-ballot-measures-2026-midterm.html.

with a clear mandate to stand with local communities working to shape their own futures, not do the bidding of Silicon Valley and special interests. The 119th Congress should do the same.