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## LWVSC Testimony, S.867, Data Center Development Act

The League of Women Voters of South Carolina greatly appreciates those who have put this important legislation forward. Data centers have assumed crucial importance in the international economy. In South Carolina, as in the rest of the nation, it is crucial to move now to ensure that they are not just contributors to county tax rolls and providers of a few well-paid jobs, but good neighbors that neither burden others with their costs or damage South Carolina's natural environment. We note that S.784 by Senator Massey and others contains provisions that could be considered in conjunction with S.867 to develop the most effective response to the challenges presented by the rapid proliferation of these facilities.

Economic development has long been an important concern for South Carolina. However, we must recognize that we cannot simply celebrate everyone who proposes spending money in our state. We must be realistic about benefits and costs. Data centers provide significant economic activity during their construction phase. During their period of operation, they provide a relatively small number of jobs, but some of those are well-paid, and they pay property taxes. At the same time, they are major consumers of energy and water and can cause significant environmental impacts both in themselves and through the facilities associated with producing and transmitting the energy that they use.

We strongly support the requirement in this bill that data centers pay all costs associated with generating and distributing the electricity that they use in vast quantities, although we are concerned that the mechanisms in S.867 for ensuring that costs are appropriately distributed may not be adequate. This bill could be improved by strengthening ratemaking language, perhaps using models from states like Virginia that have substantial experience in addressing these issues. Consideration should also be given to protection of ratepayers in areas served by electric co-ops.

This is exceedingly important, not just as a matter of abstract fairness but in response to the real circumstances in which South Carolinians live. It is well established that with existing ratemaking models, utilities are subsidizing the infrastructure for their service to data centers by shifting costs to other ratepayers.<sup>1</sup> South Carolina's population includes 14% who fall below the Federal Poverty Level as well as an additional 28% of households that experience financial hardship as defined in the ALICE standard.<sup>2</sup> This is a total of 42% of our state's people who must sometimes choose between paying the utility bill and food. After initial construction data centers do not provide a major economic boost that would benefit these low-income families (or others) to justify their costs. It is simply morally unacceptable to shift costs from data centers to other ratepayers.

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<sup>1</sup> Ethan Howland, "Utilities may subsidize data center growth by shifting costs to other ratepayers. Harvard Law Paper," Utility Dive, 10 March 2025, <https://www.utilitydive.com/news/utilities-subsidize-data-center-growth-ratepayer-cost-shif-harvard-peskoe/742001/>

<sup>2</sup> "The State of Alice in South Carolina," 2025 Report, United Way of South Carolina, <https://www.unitedforalice.org/introducing-ALICE/south-carolina>.

To implement rate setting standards fairly, regulators must be provided enough time to do their work thoroughly. This should include robust opportunities for both expert and public input, currently absent in the bill. For example, requiring approval of rate agreements for Tier 1 facilities within 60 days is a very tight timetable, one that would not allow public input. Even the 120 days allowed for Tier 3 facilities appears to be very short, especially if there is to be adequate provision for expert and public input.

Further, the exemptions provided in this bill appear to be excessive. For example, we question allowing Tier 1 centers to satisfy water conservation requirements through certification by the applicant that it intends to implement industry best practices.

The option for data centers to provide their own power, as allowed under this bill, can alleviate cost transfer concerns. It is reasonable to allow and even encourage this. However, there are also dangers. This is illustrated by Elon Musk's Colossus xAI's performance in Memphis, TN.<sup>3</sup> Musk's company argues that their methane gas generators are exempt from clean air regulations. The EPA disagrees.<sup>4</sup> The people in the area where the facilities are situated are suffering from health-damaging emissions that simply should not be permitted. Any legislation enacted in South Carolina should ensure that this is not replicated here. Data centers generating their own power must be held to strong environmental standards.

Finally, we appreciate that this bill supports location of data centers in existing brownfield sites and industrial properties. This should be strongly encouraged. However, we would like more information on what "appropriate financial incentives" for this might be. We also caution against using data centers to "revitalize economically distressed areas" at the expense of environmental protections necessary to ensure that they do not harm the health and quality of life of those living nearby. We refer again to the previously cited information on the Colossus xAI developments that are poisoning the air and water of neighborhoods where people are already suffering from environmental damages. We note concerns that this Senate has heard in past hearings regarding the new gas plant at Canadys, for which much of the impetus is data center development. This is a location where people still suffer from the toxic effects of earlier energy generation facilities. The advantages that might come from siting a data center or its energy generating facilities in a distressed area like this should not come at the expense of personal harm to the people living around it.

In summary, we recognize that this is a very complex issue, but it is one that requires a response now from our General Assembly to ensure that South Carolinians benefit from data centers without damage to either their pocketbooks or their environment. We deeply appreciate the efforts S.867 sponsors to move to satisfy this urgent need. We believe that the bill can be improved through amendments as it moves through the legislative process.

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<sup>3</sup> Dara Kerr, "Elon Musk's xAI datacenter generating extra electricity illegally, regulator rules," The Guardian, 15 Jan 2026, <https://www.theguardian.com/technology/2026/jan/15/elon-musk-xai-datacenter-memphis>.

<sup>4</sup> Will McCurdy, "Updated EPA Rules Pub xAI's 'Colossus' AI Data Center in Legal Limbo," PCMag, 17 Jan 2026, <https://www.pcmag.com/news/xais-data-center-may-have-acted-illegally-as-epa-clarifies-turbine-loop-hole>.