

To: **Hon. Chairman Warrey**
Hon. Vice-Chair Johnson
Hon. Vice-Chair Ostlie
Members of the House Industry, Business and Labor Committee

From: **Wade G. Enget, Mountrail County State's Attorney**

Re: **HB 1239**

I am submitting this testimony in OPPOSITION to HB 1239 as it pertains to N.D.C.C. Chapter 11-33. I will summarize the reasons for my opposition:

- 1) I am currently serving as the Mountrail County State's Attorney, having been in that position since November 1, 1985. During that time, I have advised both the Mountrail County Planning and Zoning Board and the Mountrail County Commissioners, and have also assisted in the following areas:
 - a) Interpreting the existing Mountrail County Comprehensive Plan and the Mountrail County Zoning Ordinance (originally adopted in 1982);
 - b) Drafting and helping to implement the Mountrail County Subdivision Regulation in 2016; and,
 - c) Drafting the revision to and implementation of the Mountrail County Comprehensive Plan and Land Development Code (Zoning Ordinance) during the period of time from 2019 through 2022, with the stated purpose being: "to preserve the agricultural use of the land and promote the health, safety, morals, general welfare, and orderly development of Mountrail County".
 - d) In all of these endeavors, Mountrail County, prior to implementing these regulations, have held listening/inputs sessions with the residents of Mountrail County, members of the business community, federal government officials, and leaders of industry to best craft a plan that takes into account the needs of all, but staying true to our mission statement.
- 2) The expressed premise of HB 1239 is "***Protection of Digital Mining***". My question is this: protection from what? It appears that the protection that is being sought is protection from the concerns of the people who will have to live next door to the digital mining facility. If HB 1239 is passed in its current form and the digital mining facility is to be located in a commercially zoned area, the County Planning and Zoning Board would be prohibited from making any noise restrictions on the digital mining facility. What if the commercial area abuts a residential area? No noise limit would be allowed under HB 1213. That is just not right. Even current laws relating to confined animal feeding operations in North Dakota allow for the imposition and enforcement of setbacks for odor (see N.D.C.C. §23.1-06-15).
- 3) Much has been said about North Dakotans taking a stand against federal mandates or policies. In this case, it appears that a few desire to set a statewide mandate (HB1213) that doesn't allow for local input regarding the use of adjacent property that may adversely effect

their enjoyment of their home or real property, or that possibly would devalue of their home or property due to the placement of the Digital Mining facility next door.

- 4) Please review the current civil litigation in Williams County, **Corey Seidel, et al, v. Atlas Power Holdings (ND) LLC**, case #53-2023-CR-01519, in which a data mining facility allegedly has caused loss of enjoyment and/or loss of property value to those residents living next to that facility.

Thank you for your time, and again I would request a **DO NOT PASS** recommendation from this Committee on HB 1239.

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