August 17, 2026- Testimony- Capital Building

Chairman Hogue and Members of the Legislative Management Committee

My name is Tim Mathern. I am the senator from District 11 in Fargo.

Special sessions are important and as the governing body of our legislature, you have difficult decisions to make. My first special session was in 1986. It was called because of concern to everyone in the state- North Dakota had run out of money to pay our employees and make payments to schools due to low prices of oil and agriculture! What is of concern to people across the state today? More than kratom, though important--it is artificial Intelligence and the associated explosive growth of Data Centers.

Representative Heilman and I have three items on the docket. To save you time I will make comments that apply to each and then note some specifics of each. The topics are moratorium, nondisclosure agreements, and a resolution asking for specifics topics to be covered by our interim committee

I bring this topic to the committee because of citizen concern across the state, committee minutes, and from my own research and education.

Data centers developing across America have dramatic impacts on communities, the energy grid, and infrastructure demands. Data centers create potential economic benefits but also great stressors, and if not done correctly, great harm. 4,000 have been built and another 4000 are planned. Our citizens are concerned.

Data centers create huge electrical load growth. For example, a new 1450 MW natural gas power plant is proposed in Mercer County to just power one 1700 MW data center. This data center would pull electricity from the grid on top of a new power plant. Furthermore, water would be pulled from the Missouri River. I saw in the news that Little Missouri stopped flowing because of the drought we are in. The Red River stopped flowing in 1929. Then we had 20,000 people using it, now we have 100,000. We only know this ahead of time because Mercer County citizens demanded a temporary Data Center Moratorium and had time to do their

own research. We need to require all data center developers at the onset to be open and honest with the public about water and electrical use.

As data centers are being proposed in locations across North Dakota, some communities are eager to realize potential job creation, capital investment, and tax benefits. At the same time, data centers require significant amounts of utilities and require the construction of additional infrastructure. This may impose additional costs on citizens when we now live in a time of general affordability concerns. Meanwhile, profits of these businesses are often realized out of North Dakota. Plans for decommissioning data centers are sketchy or unfunded by the data center company. This could be in as little as 5 years. How will this cost be paid?

NEED FOR LEGISLATION

Some data center developers have hid information from the public. Developers claim information is proprietary and use the enthusiasm for the new tax base to pressure local officials to enter nondisclosure agreements, NDAs. Some threaten to go elsewhere if public officials don't sign. Many in Fargo, West Fargo, and Harwood had no idea a data center was planned in their backyard until it was less than a month from the groundbreaking. If a project is positive it can stand up to public scrutiny.

What is being kept secret?

1. Existence of a project.
2. Location.
3. Developer identity.
4. Size and scale.
5. Energy demand.
6. Type of electricity.
7. Water use.

8. Tax incentives.

Keeping data center development secret is damaging because:

9. It removes the opportunity for public participation.
10. It torpedoes public confidence in government leaders and staff.
11. Energy, water and other use information is critical for state regulators, local sitting authorities, utilities, and the public to know as they also use these.
12. The taxation arrangements affect the taxes of every citizen.

State lawmakers nationwide are considering various responses to Al data centers, and we should too. This includes red and blue states. Florida, Georgia, Michigan, New Jersey, and Wisconsin all are considering various versions of legislation regarding data centers.

The bills proposed here are targeted and balanced. These bills will NOT:

1. Prohibit companies from building data centers.
2. Have requirements for construction or operation.
3. Expose trade secrets like intellectual property or proprietary server design.
4. Limit or change our present state public records disclosure laws.

The three items before you are more specific as follows;

1. Bill # 1, 25.1452, is simply a stop and pause **moratorium.** Section 1,with 3 subsections note; Definition of a data center, no county, city or township may issue a permit, and if any do, they are void. No permits are to be issued in this biennium. Sections 2 and 3 mean that no permits from the time this law goes into effect once filed with Secretary of State until July 1, 2027. In

summary, creating a pause for our citizens and governments to have further knowledge and actions.

2. Bill # 2, 25.1425, is about **Nondisclosure Agreements, NDAs.** This transparency bill in Section 1 provides clear definitions of Agency, Data Center, Developer. It prohibits government and a data center developer from entering into Nondisclosure Agreement, that has the purpose or effect of concealing or preventing public review of details of a data center development, including items like:

    1. Location
    2. Energy use and type
    3. Water use
    4. Land use
    5. Infrastructure demands
    6. Environmental impacts
    7. Tax incentives
    8. Public costs

Further, section 1 doesn't limit disclosure laws we already have in place in NDCC 44-04.

Section 1 also sets forth penalties for both developers and government for violations that we do not have now. It includes perjury and a financial penalty of $1,000. The law is not retroactive.

Section 2 clarities that this Act becomes effective upon filing with the secretary of state which essentially happens right after the governor signs the bill.

In summary passage of this bill stops Nondisclosure Agreements as pertains to data centers. I believe it gets to the heart of citizen concerns by shining the light of day on the deals being made.

3. Item #3, 25.3122, is a **Resolution.** This resolution encourages Legislative Management to further study laws and regulations about date centers to then bring these before the regular legislative session in January 2027. The resolution lists 7 "Whereas" sections, each noting concerns from our citizens and communities. These include; definition of a data center, water, energy and environment, land use impact, economic development, transparency, and open records, The present interim committee has been studying data centers and the "whereas" sections are listed to direct the committee to consider further action and suggest further legislation to ensure transparency regarding data centers proposed, constructed, or developed in the state.

In summary it asks our legislature to do more to assure that we are protecting our resources and meeting the needs of communities.

Chairman Hogue and Committee members, passage of these bills assure that our decision makers have time and critical information to make important decisions regarding data center projects. We need to use this special session to have an immediate positive impact while be vigilant and responsive to this economic and social development. I ask you for your positive recommendation for permitting these to be discussed in the special session on September 2, 2026. It is my view that this is what most people want us to do in this session.

Thank you and I am open to any questions you have.

Senator Tim Mathern