NORTH DAKOTA
Farmers Union

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Testimony of
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To the Special Ad Hoc Policy Committee
Hearing on SB 2406
September 1, 2026

Chairmen Ruby and Klein and members of the committee,

Thank you for the opportunity to testify on Senate Bill No. 2406. My name is Matt Perdue, and I am testifying on behalf of North Dakota Farmers Union's (NDFU) members. NDFU supports SB 2406.

SB 2406 would prohibit state agencies and political subdivisions from signing nondisclosure agreements (NDAs) with developers of data centers and industrial projects. We generally support the legislation, because we believe transparency is critical to building healthier local conversations about economic development. We ask the committee to consider the following as you seek to advance this legislation:

Clarifying Scope
The definition of "industrial project" includes development of a "business." This seems to extend beyond the scope of projects typically considered "industrial" and would include diners, grocery stores, childcare centers and more. The definition likely also extends to agricultural operations.

If the committee's intent is only to cover projects traditionally considered industrial, we encourage the committee to strike "business" from the definition. If the committee's intent is to cover all business development, we support changing "industrial" to "business."

Supporting Economic Development
Economic development is important to the continued strength of rural communities. After several conversations, we remain uncertain as to how this bill would impact the work of economic development corporations, job development authorities, and regional planning councils. We also remain uncertain about the bill's impact on state agencies that deploy economic development incentives.

If the bill would unnecessarily impair the work of economic development professionals, we would support appropriate exemptions for those entities. Our primary interest in this legislation is ensuring zoning, permitting, and siting decisions are made with full transparency for community members.

NDAs and Open Records

North Dakota has a strong tradition of supporting transparent government through our open records laws. In fact, it is our understanding that an official or agency's obligations under open records laws supersede their obligations under an NDA. At the same time, our open records laws contain meaningful exemptions that protect trade secrets, sensitive financial information, and information that might present a security risk.

We do not believe this bill conflicts with, or supersedes, existing open records laws. Nevertheless, we encourage the committee to ensure this bill does not create such a conflict and that open records laws take precedence.

NDAs and Private Individuals

Nondisclosure agreements are legitimate tools used to facilitate discussions and protect confidential information between private individuals and companies. There are many appropriate and justified uses for these agreements.

We do not believe this bill would prohibit NDAs between private individuals and/or companies. Furthermore, we do not believe this bill would prohibit a public official from signing an NDA in their personal capacity. The state's existing conflict of interest laws adequately addresses someone using their public role to create a private advantage. Nevertheless, we encourage the committee to confirm and/or clarify that the bill does not prohibit NDAs for private matters.

Conclusion

NDFU is committed to building healthier local conversations regarding economic development. We believe public officials signing NDAs can diminish openness and can create the perception that local officials are not transparent. Limiting the use of NDAs will promote greater trust in local zoning, siting and permitting decisions.

Thank you for the opportunity to testify. I will stand for any questions.