FARGO MOORHEAD ECONOMIC DEVELOPMENT

51 Broadway, Suite 500
Fargo, ND 58102
www.gfmedc.com
www.liveinfargo.com

September 1, 2026

Written Testimony in Opposition to SB 2406
Submitted by the Greater Fargo Moorhead Economic Development Corporation
69th Legislative Assembly – September 2026 Special Session
Special Ad Hoc Policy Committee

Committee Chairs, Senator Jerry Klein and Representative Matthew Ruby, and Members of the Committee:

My name is Ryan Aasheim, and I am submitting this testimony on behalf of the Greater Fargo Moorhead Economic Development Corporation (GFMEDC) in opposition to Senate Bill 2406.

GFMEDC is a regional economic development organization focused on growing the Cass County, ND regional economy through business attraction, business expansion, entrepreneurship, workforce development, and investment. We work directly with companies considering North Dakota and the Fargo-Moorhead region for significant capital investments and job creation.

We strongly support government transparency and appropriate public accountability. However, we believe SB 2406 would create an unintended and significant barrier to economic development across the state by restricting the ability of public agencies and, by extension, economic development organizations to have confidential pre-project discussions with companies during the earliest and most sensitive exploratory stages of a potential project.

These are most often “potential” projects which are highly speculative in nature. During this phase project developers are having concurrent exploratory conversations with multiple states and regions to decide where they want to spend additional time and resources to move a project forward for investment.

GFMEDC respectfully asks the Legislature to reject SB 2406.

Confidentiality is a necessary component of competitive economic development

Economic development projects rarely begin with a public announcement. They begin with confidential conversations.

Companies investigating potential locations routinely share sensitive information with economic development organizations and public agencies before they are prepared to make that information public. This can include potential site locations, facility designs, investment levels, financing strategies, utility requirements, workforce needs, proprietary technologies, expansion plans, and anticipated timelines.

A company considering multiple states or communities may be evaluating several locations simultaneously. If information about a potential project is disclosed before the company is prepared to make an announcement, the consequences can be significant.

Premature disclosure can:

- Cause a company to eliminate a North Dakota community from consideration;
- Provide competitors with access to sensitive business information;
- Disrupt negotiations involving land, utilities, infrastructure, or financing;
- Create unnecessary speculation within a community, driving up land prices;
- Complicate negotiations with local governments and service providers; and
- Ultimately result in North Dakota losing projects and the associated investment, jobs, and tax base.

Confidentiality does not mean a project will remain secret indefinitely. Rather, it allows economic development professionals and public officials to conduct the necessary due diligence to compete for projects until a company is ready to proceed through the appropriate public processes.

North Dakota is competing for projects against other states

North Dakota does not compete for major industrial and data center investments in isolation. We compete against communities and states across the country that actively provide companies with the ability to conduct confidential site-selection discussions.

If North Dakota establishes rules that are more restrictive than those of competing states, we risk putting our communities at a competitive disadvantage.

This is particularly important for data centers and advanced industrial projects, which can involve hundreds of millions or billions of dollars in capital investment, significant energy and infrastructure requirements, and complex site-selection processes.

Companies need to know that they can engage with North Dakota communities early in the process without creating an immediate public disclosure obligation that could jeopardize the project.

Transparency and confidentiality can coexist

GFMEDC believes there is a better approach than an outright prohibition on nondisclosure agreements.

North Dakota can protect the public's right to know while preserving the ability of public agencies and economic development organizations to compete for investment.

Existing public-records, open-meetings, procurement, zoning, permitting, and other public accountability requirements provide mechanisms for appropriate disclosure as projects advance. The Legislature should focus on ensuring that those processes work effectively rather than eliminating a tool that is routinely necessary during preliminary economic development discussions.

A blanket prohibition on NDAs also does not recognize the important distinction between:

1. **Preliminary economic development discussions**, where a company may be evaluating multiple locations and sharing proprietary information; and
2. **Formal public actions**, such as zoning decisions, development agreements, incentives, permits, infrastructure commitments, or other actions requiring public consideration.

The second category should be transparent and subject to appropriate public processes. The first requires a reasonable degree of confidentiality if North Dakota expects to compete effectively for investment.

North Dakota should strengthen its economic development competitiveness

North Dakota has an opportunity to attract significant new investment in advanced manufacturing, energy-intensive industries, data centers, agriculture technology, life sciences, and other emerging sectors.

These projects require extensive coordination among companies, utilities, local governments, state agencies, economic development organizations, workforce partners, and other stakeholders.

The state should be making it easier—not harder—for these parties to have productive conversations during the earliest stages of the site-selection process.

GFMEDC believes North Dakota can achieve both objectives: protecting the public's right to appropriate information while preserving the confidentiality necessary to compete for private investment.

For these reasons, the Greater Fargo Moorhead Economic Development Corporation respectfully urges the committee and the Legislature to **reject SB 2406**.

We would welcome the opportunity to work with legislators, local governments, economic development organizations, and other stakeholders on a thoughtful framework that provides appropriate transparency while protecting North Dakota's ability to compete for major economic development projects.

Thank you for your consideration.

Respectfully submitted,

Ryan Aasheim
Chief Business Development Officer