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**Testimony of
Matt Perdue
North Dakota Farmers Union
Regarding SB 2208
Senate Energy and Natural Resources Committee
February 13, 2025**

Chairman Patten and members of the committee,

Thank you for the opportunity to testify on Senate Bill No. 2208. My name is Matt Perdue, and I am testifying on behalf of North Dakota Farmers Union's (NDFU) members. NDFU is opposed to SB 2208.

SB 2208 would prohibit the granting of Operation Prairie Dog (OPD) funds to political subdivisions who adopt local ordinances that have some negative impact on energy and agriculture development. We appreciate the sponsors' frustration with opposition to some projects in our state. Our priority is to build healthier local conversations about these projects. We are concerned that SB 2208 will prevent that local discourse and limit political subdivisions' ability to respond to their constituents' concerns.

Lack of Clarity and Local Engagement

SB 2208 triggers a loss of OPD funds for a local ordinance that "exceeds state statute, administrative rule, or policy, or interferes, unreasonable restricts, or conflicts with an agriculture or energy infrastructure project." It is unclear what would be considered a state policy that is not otherwise detailed in state statute or administrative rule. It is also unclear how to interpret the meaning of "interferes, unreasonable restricts, or conflicts." We believe the language will create confusion and prevent adoption of even well-intentioned ordinances.

We are also concerned by the legislation's lack of local engagement with the reporting and determination of a violation. There is no requirement that any person reporting a violation must first attempt to address the concern with the political subdivision. The political subdivision does not have an opportunity to modify an ordinance that creates a conflict. The legislation also lacks clarity on if and how the political subdivision's eligibility for OPD funds can be restored.

Animal Agriculture

Our member-driven Policy & Action supports "locally led livestock development." While SB 2208 might make it easier to site animal ag facilities, we are concerned it will undermine efforts to promote local acceptance. Put simply, we do not think SB 2208 is the right solution for animal agriculture.

During the 68th Legislative Assembly, the legislature established the Regional Livestock Planning Grants program, a Livestock Friendly County program, and the Agriculture Infrastructure Grant program. This session, SB 2177 would establish a new Animal Agriculture Facility Infrastructure Fund. Together, these programs support local planning and address infrastructure concerns related to livestock development.



Last session, the legislature also passed HB 1423, which prohibits political subdivisions from exceeding state setbacks for animal feeding operations (AFOs). In response to concerns that some townships and counties knowingly exceed their statutory authority, HB 1423 requires townships or counties to pay legal fees for the prevailing party if a lawsuit invalidates local zoning ordinances.

During the interim, NDFU participated in the Model Zoning Task Force to update the state's model zoning ordinance for AFOs. The Senate Agriculture and Veterans Affairs (AVA) Committee rejected most of the task force's recommendations, because it restricted local authority further than the committee was willing to support. This morning, AVA passed one key provision of that bill, authorizing use of an odor footprint tool as an alternative, science-based tool to determine AFO setbacks. This legislation may be understood to restrict the application of that tool if it determines setbacks should be greater than statutory limits, which may be viewed as interfering or conflicting with development.

Infrastructure Impacts

Finally, NDFU has been a strong supporter of investments in rural infrastructure. A strong network of farm-to-market roads is critical to the success and safety of family farmers and ranchers. In many communities where new developments have sparked controversy, there are many farmers and ranchers who support those projects. This legislation would negatively impact supportive farmers and ranchers as much as those who oppose a given project.

Conclusion

While we appreciate the sponsors' desire to address opposition to some projects. We believe the best solution is to promote healthier, neighbor-to-neighbor conversations about new development. We simply believe this legislation is too punitive to achieve that goal.

We respectfully request a "Do Not Pass" recommendation on SB 2208. Thank you for your consideration. I will stand for any questions.