

TESTIMONY OF

Tag Anderson, Risk Management Division Director

Chairman Klemin, and members of the House Judiciary Committee, my name is Tag Anderson. I am the Director of the Risk Management Division of OMB. I appear today in support of SB 2067.

Under current law, a party to a civil, criminal, or administrative proceeding must comply with applicable discovery rules when requesting records in the possession of the agency involved in the criminal, civil or administrative proceeding. N.D.C.C. 44-04-18(6). However, some attorneys have been recently taking the position that a lawsuit against a state employee does not preclude them from making open records requests, or a suit against one state agency does not preclude open records requests to another state entity. This legislation clarifies that when a civil action for money damages is being brought against a state employee or any agency of state government, the party and their attorney need to follow ordinary civil discovery rules to obtain documents regardless of what agency has possession of the documents.

SB 2067 was amended in the Senate to provide similar requirements for lawsuits against political subdivision employees as well. We support those amendments.

This concludes my prepared remarks and I would be happy to answer any questions you may have.

Thank you.