

Good morning Chairman Wobbema and members of the Workforce Development Committee. For the record, my name is Senator Bob Paulson from District 3 in Minot. I'm here to introduce SB 2350.

The primary intent of SB 2350 is to exempt, at least for a time, performance and discipline records from the open records section of code, to enable movement to a merit-based compensation model which allows for rewarding above average performers while holding marginal performers accountable. This process, used throughout the private sector, is beneficial in controlling personnel costs at the local level.

A major challenge with merit-based pay is the open nature of public employee personnel records. I will bless you with a quick Navy story. When I was the Maintenance Officer in a squadron, I had a young man with a lot of potential who was making some less than optimal decisions in his personal behavior. I brought him in with his division chief for written counseling. It was pretty direct, negative counseling, and he hung his head and mentioned that his next eval probably wouldn't look too good. I told him, "I'm going to put this in my desk drawer, and only you, the chief and me are going to know about it. If you square your act away, you won't hear about it again. But if you screw up like this again, you'll see this and one just like it or worse in your personnel record." He took the counsel to heart and went on to do very well.

Mr. Chairman and members of the committee, I can't imagine trying to be a leader of people if I knew that everything I put in writing would be available to be read by the entire unit. That would have severely tied my hands.

Similarly, city leaders are unlikely to give meaningful feedback to their employees when the performance evaluations and other counseling documents are available through open records requests. Employees can request the evaluations of their coworkers. This undermines the personal development process and makes a merit-based pay plan much more difficult to enact. Even in raising kids, I try to follow the model of "praise in public, criticize in private". I think that works well in leadership as well, but with the open records law as currently written, it is impossible.

There are folks who will testify behind me who will explain the specifics better than I can. Mr. Chairman that concludes my testimony and would ask for a Do Pass and I will stand for any questions.