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February 11, 2025

Senator Mike Wobbema  
Chairman, Senate Workforce Development Committee  
North Dakota State Senate  
11829 31<sup>st</sup> Street SE  
Valley City ND 58072

**Subject: Support for Senate Bill 2350 – Exemption of Employee Performance and Discipline Records from Open Records**

Dear Senator Wobbema,

I am writing to express my strong support for Senate Bill 2350, which seeks to exempt employee performance and discipline records contained in personnel files from open records requests. As the City Administrator for the City of Williston, I have witnessed a rising trend in the misuse of the Freedom of Information Act (FOIA) as a tool for retaliation, public shaming, and the overall fostering of discord within our community—particularly through social media journalism.

Of particular concern is that many of the FOIA requests targeting employee discipline records do not serve the public interest in any meaningful way. Instead, they have been weaponized to expose minor infractions of citywide policies that hold no legitimate benefit for public disclosure. The overwhelming majority of disciplinary actions processed by my HR department involve minor policy infractions—issues that should remain internal to protect employee privacy and to maintain a functional and fair working environment. Publicly releasing these records, particularly in today's social media landscape, has resulted in unnecessary reputational damage to city employees, creating a culture of fear and discouraging internal accountability.

Additionally, I urge you to support an extension of the timeframe in which records related to an ongoing investigation remain exempt from public disclosure. The current 75-day exemption period is insufficient given the complexity and increasing demands of thorough investigations. Heavy workloads, coupled with more in-depth

procedural requirements, often extend the timeline necessary to ensure a fair and complete review. Increasing this exemption period to no more than 180 days would provide agencies the necessary time to conduct comprehensive and unbiased investigations without external pressures influencing the process.

A recent example within the Williston Police Department illustrates the risks of premature disclosure. A department-wide survey was conducted to gather employee input as part of an internal investigation. Prior to the conclusion of our investigation, social media journalists submitted a FOIA request for this raw data. As required by law, we released it after 75 days. However, the data—containing sensitive and speculative information—was taken out of context and widely circulated, severely jeopardizing the integrity of our investigation. This underscores the urgent need for legislative action to protect sensitive materials during ongoing investigative processes.

I strongly urge your support for SB 2350, as it will provide essential protections for employees, promote fair and thorough investigations, and prevent the exploitation of public records laws for retaliatory and harmful purposes. Thank you for your time and consideration of this critical issue. Please do not hesitate to reach out if I can provide additional insights or examples from our experiences in Williston.

Sincerely,



Shawn Wenko  
City Administrator