



February 11, 2025

Sixty-ninth Legislative Assembly of North Dakota
Bismarck, ND

RE: City of Minot Support for Senate Bill 2350

Dear Members of the Committee,

The City of Minot would like to express its support for Senate Bill 2350 introduced by Senators Paulson, Burckhard, Castaneda and Representatives Fisher, D. Johnston and Louser.

First and foremost, let the record show the City of Minot understands and is a strong advocate for public transparency. In most circumstances it is imperative the public have access to the records of their local government to ensure the public trust is maintained in the decision-making processes, operation of public services, and use of the taxpayer dollar.

It is the City's position, however, there are a few instances where opening government records results in unintended negative impacts and costs if provided publicly.

Recently the City of Minot has conducted some internal investigations and has experienced reluctance from City staff to participate due to current North Dakota open records laws. It is imperative during an investigation the organization be able to get all pertinent facts and information to properly assess the circumstances. This is prevented when staff do not want to be identified and/or quoted in an open record out of fear of retaliation by supervisors, the employing organization, or the general public. In addition, when an investigation is conducted the report usually includes a synopsis of information provided which may or may not be true or accurate and may at times include details of a personal nature of an employee that may not be relevant to the fulfillment of their work as a public servant.

In addition to the hesitancy of employees to participate, the City experienced significant challenges resulting from the 75 day timeframe allowing records relating to an internal investigation to be exempt from public records requests, as allowed in current State law. The City found itself in the position of not having completed the investigation but with the expiration of the 75 days records were becoming publicly accessible. This resulted the potential release of records that without the complete report could be publicly misinterpreted or construed. In addition, this applied significant pressure to expedite the completion of the report leading to potential errors and inaccuracies which could have been prevented with the time to appropriately review before finalization.

Another significant transition the City would like to make, which is potentially jeopardized by current open records laws, is implementation of merit based/performance based pay raise system for City employees. Any effective performance evaluation must include not only an assessment of the quality of work of an individual employee, but also some constructive feedback and goal setting for further improvement and professional growth. Even the most dedicated and best of employees can be encouraged to learn, develop, and do more. With employee evaluations being open public records supervisors and management are hesitant to implement a merit or performance-based pay system due to the potential of the public misconstruing employees as poor

performers when the system is trying to encourage a good employee to be even better. Exempting performance records from open records significantly diminishes this concern.

With regards to disciplinary records being open, the City has concerns regarding the potential challenges this creates also. It opens opportunities for citizens to potentially harass a city employee or public official. For a hypothetical example, does the public need to know that a heavy equipment operator was disciplined by the City for showing up late for work?

Finally, should the Legislature agree to approve the proposed amendment the local entity always has the ability to consider publicly releasing requested information that is exempt. The Minot City Council has done just this over the last couple of years, including pertaining to issues discussed in an executive session.

Given the above outlined concerns and reasoning, the City of Minot respectfully requests a **Do Pass** vote on SB 2350.

Sincerely,

Harold Stewart, Minot City Manager