

agriculture for the biennium ending June 30, 1991, to be available for a demonstration project to provide Minnesota-grown coupons to participants in the federal supplemental food program for women, infants, and children under article 13.

Sec. 29. **TASK FORCE ON FARM SAFETY.**

\$5,000 is appropriated from the general fund to the commissioner of agriculture for purposes of the advisory task force on farm safety under article 17.

Sec. 30. **FARMER-LENDER MEDIATION COSTS.**

\$300,000 is appropriated from the general fund to the Minnesota Extension Service for expenses of the farmer-lender mediation program. This appropriation is available for the fiscal year ending June 30, 1990.

Sec. 31. **FARM ADVOCATES PROGRAM.**

\$100,000 is appropriated from the general fund to the commissioner of agriculture for support of the farm advocates program. This appropriation is available for the fiscal year ending June 30, 1990.

By March 1, 1990, the commissioner shall report on the activities of the farm advocates program to the agriculture committees of the senate and house of representatives.

Presented to the governor May 30, 1989

Signed by the governor June 2, 1989, 10:10 a.m.

CHAPTER 351—H.F.No. 1150

An act relating to the collection, access to, and dissemination of data; proposing classifications of data as private, confidential, nonpublic, and protected nonpublic; clarifying classification of data; clarifying what data on juveniles may be made available to the public; amending Minnesota Statutes 1988, sections 3.97, subdivision 11; 13.02, subdivision 9; 13.10, subdivision 1; 13.32, subdivisions 3 and 5; 13.46, subdivision 8; 13.64; 13.76, subdivision 1; 13.82, subdivisions 8 and 10; 16A.055, subdivision 1; 144.581, by adding a subdivision; 245.94, subdivision 1; and 260.161, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 1988, section 340A.503, subdivision 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 3.97, subdivision 11, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 11. "Audit" as used in this subdivision means a financial audit, a program evaluation, or an investigation. Data relating to an audit are not public or with respect to data on individuals are confidential until the final report of the audit has been published or the audit is no longer being actively pursued. Data that support the conclusions of the report and that the legislative auditor reasonably believes will result in litigation are not public and with respect to data on individuals are confidential until the litigation has been completed or is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if the data supplied by the individual were needed for an audit and the individual would not have provided the data to the legislative auditor without an assurance that the individual's identity would remain private, or the legislative auditor reasonably believes that the subject would not have provided the data. The definitions of terms provided in section 13.02 apply for purposes of this subdivision.

Sec. 2. Minnesota Statutes 1988, section 13.02, subdivision 9, is amended to read:

Subd. 9. **NONPUBLIC DATA.** "Nonpublic data" means data not on individuals ~~which~~ that is made by statute or federal law applicable to the data: (a) not accessible to the public; and (b) accessible to the subject, if any, of the data.

Sec. 3. Minnesota Statutes 1988, section 13.10, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this chapter:

(a) "Confidential data on decedents" means data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as confidential data.

(b) "Private data on decedents" means data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as private data.

(c) "Representative of the decedent" means the personal representative of the estate of the decedent during the period of administration, or if no personal representative has been appointed or after discharge, the surviving spouse, any child of the decedent, or, if there is no surviving spouse or children, ~~any other of the decedent's living next of kin within one degree of consanguinity as determined in the order of priority established by the rules of civil law~~ the parents of the decedent.

Sec. 4. Minnesota Statutes 1988, section 13.32, subdivision 3, is amended to read:

Subd. 3. **PRIVATE DATA; WHEN DISCLOSURE IS PERMITTED.** Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) Pursuant to section 13.05;

(b) Pursuant to a valid court order;

(c) Pursuant to a statute specifically authorizing access to the private data;

(d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 45 34, section 99.36 which are in effect on July 1, ~~1979~~ 1989;

(e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 45 34, sections 99.31, 99.32, 99.33, 99.34 and 99.35 which are in effect on July 1, ~~1979~~ 1989; or

(f) To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted.

Sec. 5. Minnesota Statutes 1988, section 13.32, subdivision 5, is amended to read:

Subd. 5. **DIRECTORY INFORMATION.** Information designated as directory information pursuant to the provisions of United States Code, title 20, section 1232g and ~~regulations adopted pursuant thereto~~ Code of Federal Regulations, title 34, section 99.37 which are in effect on July 1, ~~1979~~ 1989, is public data on individuals.

Sec. 6. Minnesota Statutes 1988, section 13.46, subdivision 8, is amended to read:

Subd. 8. **ACCESS FOR AUDITING.** To the extent required by state or federal law, representatives of federal, state, or local agencies shall have access to data maintained by public or private community mental health centers, mental health divisions of counties, and other providers under contract to deliver mental health services which is necessary to achieve the purpose of auditing. Public or private community mental health centers, mental health divisions of counties, and other providers under contract to deliver mental health services shall not permit this data to identify any particular patient or client by name or contain any other unique personal identifier, except data provided to the legislative auditor. Notwithstanding any statute or rule to the contrary, and solely for the purposes of conducting an audit approved by the legislative audit commission in 1988, the legislative auditor shall be given access to all data, records, and files classified as not public. The legislative auditor shall maintain all data collected under this subdivision in accordance with chapter 13 and may not disclose data that identify a patient or client by name or that contain any other personal identifier.

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Sec. 7. [13.552] HUMAN RIGHTS DATA.

Data maintained by the human rights department of a political subdivision, including human rights investigative data and data contained in closed or open case files, are classified the same as and administered in accordance with chapter 363.

Sec. 8. Minnesota Statutes 1988, section 13.64, is amended to read:

13.64 DEPARTMENT OF ADMINISTRATION DATA.

Notes and preliminary drafts of reports created, collected, or maintained by the management analysis division, department of administration, and prepared during management studies, audits, reviews, consultations, or investigations of state departments and agencies are classified as confidential or protected non-public data until the final report has been published or preparation of the report is no longer being actively pursued. Data that support the conclusions of the report and that the commissioner of administration reasonably believes will result in litigation are confidential or protected nonpublic until the litigation has been completed or until the litigation is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for a report are private if (a) the data supplied by the individual were needed for ~~an audit a report~~ and (b) the data would not have been provided to the management analysis division without an assurance to the individual that the individual's identity would remain private.

Sec. 9. [13.671] IRON RANGE RESOURCES AND REHABILITATION BOARD DATA.

Subdivision 1. NONPUBLIC DATA. The following data that are submitted to the commissioner of the iron range resources and rehabilitation board by businesses that are requesting financial assistance are nonpublic data: the identity of the business and financial information about the business including, but not limited to, credit reports, financial statements, net worth calculations, business plans, income and expense projections, customer lists, and market and feasibility studies not paid for with public funds.

Subd. 2. PUBLIC DATA. Data submitted to the commissioner under subdivision 1 become public data upon submission of the request for financial assistance to the iron range resources and rehabilitation board except that the following data remain nonpublic: business plans, income and expense projections, customer lists, and market and feasibility studies not paid for with public funds.

Sec. 10. Minnesota Statutes 1988, section 13.76, subdivision 1, is amended to read:

Subdivision 1. **DEVELOPMENT LOAN DATA.** All financial information on individuals and business entities including, but not limited to, credit reports,

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financial statements, and net worth calculations, that are contained in ~~applications~~ an application received by the department of trade and economic development in its administration of the certified state development loan program are classified as private data with regard to data on individuals, and as nonpublic data with regard to data not on individuals until the application is approved.

Sec. 11. [13.794] INTERNAL AUDITING DATA.

Subdivision 1. CONFIDENTIAL DATA OR PROTECTED NONPUBLIC DATA. Data, notes, and preliminary drafts of reports created, collected, and maintained by the internal audit offices of state agencies or persons performing audits for state agencies and relating to an audit or investigation are confidential data on individuals or protected nonpublic data until the final report has been published or the audit or investigation is no longer being pursued actively.

Subd. 2. PRIVATE DATA ON INDIVIDUALS. Data on an individual supplying information for an audit or investigation, that could reasonably be used to determine the individual's identity, are private data on individuals if the information supplied was needed for an audit or investigation and would not have been provided to the internal audit office or person performing audits without an assurance to the individual that the individual's identity would remain private.

Sec. 12. Minnesota Statutes 1988, section 13.82, subdivision 8, is amended to read:

Subd. 8. **PUBLIC BENEFIT DATA.** Any law enforcement agency may make any data classified as confidential or protected nonpublic pursuant to subdivision 5 accessible to any person, agency or the public if the agency determines that the access will aid the law enforcement process, promote public safety or dispel widespread rumor or unrest.

Sec. 13. Minnesota Statutes 1988, section 13.82, subdivision 10, is amended to read:

Subd. 10. **PROTECTION OF IDENTITIES.** A law enforcement agency may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) When access to the data would reveal the identity of an undercover law enforcement officer;

(b) When access to the data would reveal the identity of a victim of criminal sexual conduct or ~~intrafamilial sexual abuse~~ or of a violation of section 617.246, subdivision 2;

(c) When access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant; or

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(d) When access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual.

Sec. 14. Minnesota Statutes 1988, section 16A.055, subdivision 1, is amended to read:

Subdivision 1. **LIST.** The commissioner shall:

(1) receive and record all money paid into the state treasury and safely keep it until lawfully paid out;

(2) manage the state's financial affairs;

(3) keep the state's general account books according to generally accepted government accounting principles;

(4) keep expenditure and revenue accounts according to generally accepted government accounting principles;

(5) develop, provide instructions for, prescribe, and manage a state uniform accounting system; ~~and~~

(6) provide to the state the expertise to ensure that all state funds are accounted for under generally accepted government accounting principles; and

(7) coordinate the development of, and develop standards for, internal auditing in state agencies and, in cooperation with the commissioner of administration, report to the legislature and the governor by December 31, 1990, on progress made.

Sec. 15. Minnesota Statutes 1988, section 144.581, is amended by adding a subdivision to read:

Subd. 5. CLOSED MEETINGS; RECORDING. (a) Notwithstanding subdivision 4 or section 471.705, a public hospital or an organization established under this section may hold a closed meeting to discuss specific marketing activity and contracts that might be entered into pursuant to the marketing activity in cases where the hospital or organization is in competition with health care providers that offer similar goods or services, and where disclosure of information pertaining to those matters would cause harm to the competitive position of the hospital or organization, provided that the goods or services do not require a tax levy. No contracts referred to in this paragraph may be entered into earlier than 15 days after the proposed contract has been described at a public meeting and the description entered in the minutes, except for contracts for consulting services or with individuals for personal services.

(b) A meeting may not be closed under paragraph (a) except by a majority vote of the board of directors in a public meeting. The time and place of the closed meeting must be announced at the public meeting. A written roll of

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members present at the closed meeting must be available to the public after the closed meeting. The proceedings of a closed meeting must be tape-recorded and preserved by the board of directors for two years. The data on the tape are nonpublic data under section 13.02, subdivision 9. However, the data become public data under section 13.02, subdivision 14, two years after the meeting, or when the hospital or organization takes action on matters referred to in paragraph (a), except for contracts for consulting services. In the case of personal service contracts, the data become public when the contract is signed. For entities subject to section 471.345, a contract entered into by the board is subject to the requirements of section 471.345.

(c) The board of directors may not discuss a tax levy at a closed meeting.

Sec. 16. Minnesota Statutes 1988, section 245.94, subdivision 1, is amended to read:

Subdivision 1. **POWERS.** (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

(b) The ombudsman may mediate or advocate on behalf of a client.

(c) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds.

(d) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency, facility, or program.

(e) The ombudsman may examine, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition.

(f) The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency, facility, or program.

(g) The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the

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consent of the affected client, other proceedings affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition.

(h) The ombudsman shall have access to data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 3 and 12 ~~and 13~~, regarding services provided to clients with mental retardation or a related condition.

(i) To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility or program.

(j) Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

Sec. 17. Minnesota Statutes 1988, section 260.161, subdivision 3, is amended to read:

Subd. 3. (a) Peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except (1) by order of the juvenile court, or (2) as required by section 126.036, or (3) as authorized under ~~chapter 13~~ section 13.82, subdivision 2; except that traffic investigation reports may be open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. No photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

Sec. 18. **HOSPITAL STUDY DATA.**

The following data contained in a report prepared for Meeker county, entitled "Final Report: Philanthropic Planning Study for a Capital Development/Foundation Endowment Program," are classified as confidential data or protected nonpublic data as defined in Minnesota Statutes, chapter 13: data that identify staff of the county hospital, members of the medical staff, or individuals who made comments on the hospital or medical staff during the preparation of the report and data that describe the hospital's fundraising plans and strategies.

Sec. 19. **REPEALER.**

Minnesota Statutes 1988, section 340A.503, subdivision 7, is repealed.

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serve as a nonvoting member. Any vacancy shall be filled by the appointing authority.

Subd. 3. REPORT. The commission shall report its findings and recommendations for legislative action to the governor and the legislature by January 31, 1990, and shall cease to function after that date.

Subd. 4. POWERS; OFFICERS. The commission shall hold hearings and meetings as necessary to accomplish its purposes and may enter into contracts and subpoena witnesses and records. It shall select from its members a chair or co-chairs and other officers it considers necessary.

Subd. 5. COMPENSATION, SUPPORT SERVICES. (a) Legislative members of the commission shall be compensated in the same manner as for other legislative meetings. Other members shall be compensated as provided in Minnesota Statutes, section 15.059, subdivision 3.

(b) The legislative coordinating commission shall provide administrative and support services for the commission.

Sec. 2. Minnesota Statutes 1988, section 16B.189, is amended to read:

16B.189 CITATION AND PURPOSE.

Sections 16B.19 to 16B.22 may be cited as the "Minnesota small business procurement act." These sections prescribe procurement practices and procedures to assist in the economic development of small businesses and economically disadvantaged small businesses ~~owned and operated by socially or economically disadvantaged persons.~~

Sec. 3. Minnesota Statutes 1988, section 16B.19, is amended to read:

16B.19 DESIGNATION OF PROCUREMENTS FROM SMALL BUSINESSES.

Subdivision 1. **SMALL BUSINESS PROCUREMENTS.** The commissioner shall for each fiscal year ensure that small businesses receive at least 25 percent of the value of anticipated total state procurement of goods and services, including printing and construction. The commissioner shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from small businesses. In making the annual designation of such procurements the commissioner shall attempt (1) to vary the included procurements so that a variety of goods and services produced by different small businesses are obtained each year, and (2) to designate small business procurements in a manner that will encourage proportional distribution of such awards among the geographical regions of the state. To promote the geographical distribution of set-aside awards, the commissioner may designate a portion of the small business set-aside procurement for award to bidders from a specified congressional district or other geographical region specified by the commissioner. The failure of the commissioner to desig-

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Sec. 20. **EFFECTIVE DATE.**

Section 6 is effective the day following final enactment.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 6:20 p.m.

CHAPTER 352—H.F.No. 1443

An act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. SMALL BUSINESS PROCUREMENTS COMMISSION.

Subdivision 1. CREATION. A small business procurements commission is created to study the small business procurement programs in Minnesota Statutes, sections 16B.189; 16B.19, subdivisions 2, 4, 5, and 6; 16B.21, subdivision 2; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivision 3; 161.321, subdivisions 2, 3, and 6; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 473.406, subdivisions 1, 2, 4, 5, and 6; and 645.445, subdivision 5, in order to propose amendments that will conform the programs to recent United States Supreme Court decisions. The commission shall take steps to at least:

(1) assure that minority and women's businesses and organizations know of its existence and purpose;

(2) determine the existence and extent of discrimination in Minnesota business, trade, and industry;

(3) recommend appropriate statutory or regulatory changes; and

(4) recommend programs targeted to small businesses in need of assistance.

Subd. 2. MEMBERSHIP. The commission shall consist of 11 members: three members, one of which shall be of the minority caucus of the house of representatives appointed by the speaker, three members, one of which shall be of the minority caucus of the senate appointed by the committee on committees; three members appointed by the governor; and two members from the socially or economically disadvantaged community appointed by the commissioner of administration. The attorney general or the attorney general's designee shall

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