SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 737

1.1   A bill for an act

1.2   relating to state government; establishing an automatic verification software bid
1.3   preference pilot program; requiring a report; amending Minnesota Statutes 2020,
1.4   section 16E.03, by adding a subdivision.

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

1.6   Section 1. Minnesota Statutes 2020, section 16E.03, is amended by adding a subdivision

1.7   to read:

1.8   Subd. 12. **Automatic verification software preference.** In evaluating vendors for a

1.9   project approved under subdivision 3, an agency must give preference to a vendor that

1.10   proposes to use automatic verification software. To qualify for this preference, the vendor

1.11   must propose software that, at a minimum, includes the following features:

1.12   (1) automatically gathers verification of state-funded activity at least once every three

1.13   minutes or as specified in the contract, while continuously counting keystroke frequency

1.14   and mouse-event frequency;

1.15   (2) functionality for project management, including but not limited to progress tracking,

1.16   timelines, and task management tools;

1.17   (3) permits the agency or an auditor of the agency to have access to data collected and

1.18   provided by the software at all times; and

1.19   (4) ensures appropriate treatment of data that are classified by law.

2.1 Sec. 2. **AUTOMATIC VERIFICATION SOFTWARE BID PREFERENCE PILOT**

2.2 **PROGRAM.**

2.3 Subdivision 1. **Implementation.** (a) As provided in this section, the commissioner of

2.4 MN.IT Services, in consultation with the commissioner of administration, must require a

2.5 pilot program to implement a bid preference for vendors that propose to verify and review

2.6 contractor activity through automated monitoring software. The bid preference methodology

2.7 must be established before a project may be approved under Minnesota Statutes, section

2.8 16E.03.

2.9 (b) The pilot program must be required for a total of at least four contracts for information

2.10 technology services, each in excess of $500,000, that provide services for at least two state

2.11 agencies.

2.12 (c) The pilot program must not include contracted services for a law enforcement agency,

2.13 or any agency which is the custodian of Criminal Justice Information as defined by the

2.14 Criminal Justice Information Services Security Policy adopted by the Federal Bureau of

2.15 Investigation. The commissioner must prohibit the use of automatic verification software

2.16 on any equipment or devices that are state-owned, state-leased, or otherwise used by state

2.17 employees.

2.18 Subd. 2. **Bid proposal evaluation requirements.** (a) The pilot project must require the

2.19 contracting agency to implement a bid preference for a contractor and any subcontractors

2.20 that propose to use automatic verification software to verify that hours billed for work under

2.21 the contract that are performed on a computer are legitimate. To be eligible for the preference,

2.22 the bid proposal must specify that the agency will not pay for hours worked on a computer

2.23 unless those hours are verifiable by the software or by data collected by the software. The

2.24 bid proposal must require that the automatic verification software is provided by a third-party

2.25 vendor that is independent of the contractor and any other subcontractors.

2.26 (b) The contractor must not propose to charge the agency or an auditor of the agency

2.27 for access to or use of the automatic verification software, or for access to or retrievals of

2.28 data collected by the software.

2.29 (c) The contractor must propose to retain and secure the data collected by the software

2.30 consistent with terms specified by the agency implementing the pilot project.

2.31 Subd. 3. **Software capabilities.** (a) At a minimum, automatic verification software

2.32 proposed in the bid preference pilot program must:

3.1   (1) automatically gather verification of state-funded activity at least once every three

3.2 minutes or as specified in the contract, while continuously counting keystroke frequency

3.3 and mouse-event frequency;

3.4   (2) include functionality for project management, including but not limited to progress

3.5 tracking, timelines, and task management tools;

3.6   (3) permit the agency or an auditor of the agency to have access to data collected and

3.7 provided by the software at all times; and

3.8   (4) ensure appropriate treatment of data that are classified by law.

3.9   (b) Except as provided in paragraph (a), clause (1), automatic verification software used

3.10 in the pilot program must not collect information on the data entered or available from

3.11 keystrokes and mouse-event activity.

3.12   Subd. 4. **Legislative report.** (a) By June 30, 2021, the commissioner of MN.IT Services

3.13 must submit a status notification on contracts entered into and automatic verification software

3.14 used under the pilot program to the chairs and ranking members of the house of

3.15 representatives and senate committees with jurisdiction over state government finance and

3.16 policy.

3.17   (b) By December 15, 2021, the commissioner of MN.IT Services must submit a legislative

3.18 report on the pilot program to the chairs and ranking members of the house of representatives

3.19 and senate committees with jurisdiction over state government finance and policy. At a

3.20 minimum, the report must include a summary of the program, a review of impacts of the

3.21 automatic verification software, and recommendations for implementing automatic

3.22 verification software requirements for state contracting.

3.23   **EFFECTIVE DATE.** This section is effective the day following final enactment.