

1.1 A bill for an act

1.2 relating to data practices; classifying government data; modifying provisions
1.3 governing temporary classifications and personnel data; amending business
1.4 screening services provisions; amending Minnesota Statutes 2008, sections
1.5 13.05, subdivision 4, by adding a subdivision; 13.06, subdivisions 1, 3, 4, 5, 7,
1.6 by adding subdivisions; 13.43, subdivisions 1, 2, by adding subdivisions; 13.64;
1.7 13.643, by adding a subdivision; 13.7931, by adding a subdivision; 13.87, by
1.8 adding a subdivision; 13.871, by adding a subdivision; 13D.05, subdivision 3;
1.9 16B.97, by adding a subdivision; 125A.21, subdivision 5; 270B.14, subdivision
1.10 16; 299C.156, subdivision 5; 332.70, subdivisions 1, 2, 3, 4; proposing coding
1.11 for new law in Minnesota Statutes, chapters 13; 84; repealing Minnesota Statutes
1.12 2008, section 13.06, subdivision 2; Minnesota Rules, part 1205.1800.

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

1.14 **ARTICLE 1**

1.15 **GENERAL**

1.16 Section 1. Minnesota Statutes 2008, section 13.05, subdivision 4, is amended to read:

1.17 Subd. 4. **Limitations on collection and use of data.** Private or confidential data on
1.18 an individual shall not be collected, stored, used, or disseminated by government entities
1.19 for any purposes other than those stated to the individual at the time of collection in
1.20 accordance with section 13.04, except as provided in this subdivision.

1.21 (a) Data collected prior to August 1, 1975, and which have not been treated as public
1.22 data, may be used, stored, and disseminated for the purposes for which the data was
1.23 originally collected or for purposes which are specifically approved by the commissioner
1.24 as necessary to public health, safety, or welfare.

1.25 (b) Private or confidential data may be used and disseminated to individuals or
1.26 entities specifically authorized access to that data by state, local, or federal law enacted or
1.27 promulgated after the collection of the data.

2.1 (c) Private or confidential data may be used and disseminated to individuals or
2.2 entities subsequent to the collection of the data when the responsible authority maintaining
2.3 the data has requested approval for a new or different use or dissemination of the data
2.4 and that request has been specifically approved by the commissioner as necessary to carry
2.5 out a function assigned by law.

2.6 (d) Private data may be used by and disseminated to any person or entity if the
2.7 individual subject or subjects of the data have given their informed consent. Whether a
2.8 data subject has given informed consent shall be determined by rules of the commissioner.
2.9 ~~The format for informed consent is as follows, unless otherwise prescribed by the HIPAA,~~
2.10 ~~Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82,~~
2.11 ~~461 (2000) (to be codified as Code of Federal Regulations, title 45, section 164): informed~~
2.12 ~~consent shall not be deemed to have been given by an individual subject of the data by the~~
2.13 ~~signing of any statement authorizing any person or entity to disclose information about the~~
2.14 ~~individual to an insurer or its authorized representative, unless the statement is:~~

2.15 (1) ~~in plain language;~~

2.16 (2) ~~dated;~~

2.17 (3) ~~specific in designating the particular persons or agencies the data subject is~~
2.18 ~~authorizing to disclose information about the data subject;~~

2.19 (4) ~~specific as to the nature of the information the subject is authorizing to be~~
2.20 ~~disclosed;~~

2.21 (5) ~~specific as to the persons or entities to whom the subject is authorizing~~
2.22 ~~information to be disclosed;~~

2.23 (6) ~~specific as to the purpose or purposes for which the information may be used~~
2.24 ~~by any of the parties named in clause (5), both at the time of the disclosure and at any~~
2.25 ~~time in the future;~~

2.26 (7) ~~specific as to its expiration date which should be within a reasonable period of~~
2.27 ~~time, not to exceed one year except in the case of authorizations given in connection~~
2.28 ~~with applications for (i) life insurance or noncancelable or guaranteed renewable health~~
2.29 ~~insurance and identified as such, two years after the date of the policy or (ii) medical~~
2.30 ~~assistance under chapter 256B or MinnesotaCare under chapter 256L, which shall be~~
2.31 ~~ongoing during all terms of eligibility, for individual education plan health-related services~~
2.32 ~~provided by a school district under section 125A.21, subdivision 2.~~

2.33 The responsible authority may require a person requesting copies of data under this
2.34 paragraph to pay the actual costs of making; and certifying; and compiling the copies.

2.35 (e) Private or confidential data on an individual may be discussed at a meeting open
2.36 to the public to the extent provided in section 13D.05.

3.1 Sec. 2. Minnesota Statutes 2008, section 13.05, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 4a. **Informed consent for insurance purposes.** Informed consent for
3.4 insurance purposes must comply with this subdivision, unless otherwise prescribed by
3.5 the HIPAA Standards for Privacy of Individually Identifiable Health Information, Code
3.6 of Federal Regulations, title 45, section 164. Informed consent for insurance purposes
3.7 is not considered to have been given by an individual subject of data by the signing of a
3.8 statement authorizing a government entity to disclose information about the individual to
3.9 an insurer or its authorized representative, unless the statement is:

3.10 (1) in plain language;

3.11 (2) dated;

3.12 (3) specific in designating the government entity the data subject is authorizing to
3.13 disclose information about the data subject;

3.14 (4) specific as to the nature of the information the subject is authorizing to be
3.15 disclosed;

3.16 (5) specific as to the persons to whom the subject is authorizing information to
3.17 be disclosed;

3.18 (6) specific as to the purpose or purposes for which the information may be used
3.19 by any of the persons named in clause (5), both at the time of the disclosure and at any
3.20 time in the future; and

3.21 (7) specific as to its expiration date, which must be within a reasonable period of
3.22 time, not to exceed one year.

3.23 Notwithstanding clause (7), in the case of authorizations given in connection with
3.24 applications for life insurance or noncancelable or guaranteed renewable health insurance
3.25 that is so identified, the expiration date must not exceed two years after the date of the
3.26 policy. An authorization in connection with medical assistance under chapter 256B or
3.27 MinnesotaCare under chapter 256L or for individual education plan health-related services
3.28 provided by a school district under section 125A.21, subdivision 2, is valid during all
3.29 terms of eligibility.

3.30 Sec. 3. **[13.394] INSURANCE CARRIERS.**

3.31 A government entity may provide data that are not public data to the insurance
3.32 carrier representing the government entity, its officers, employees, or agents in the
3.33 investigation, prosecution, or defense of any proceeding or matter in which the government
3.34 entity, an officer, employee, or agent is or has been given written notice that it is likely to
3.35 become a party. For purposes of this subdivision, "insurance carrier" includes a liability

4.1 insurance carrier providing coverage to the government entity, its officers, employees, or
4.2 agents, or an insurance trust or risk management pool of which the government entity is
4.3 a member. Data that may be released under this subdivision are limited to data that are
4.4 necessary for the insurance carrier to assist in the investigation, prosecution, or defense of
4.5 the proceeding or matter. The government entity must notify the subject of the data of any
4.6 data that are released under this section. If data are provided to an insurance carrier that
4.7 is not a government entity, the person must maintain the data according to the statutory
4.8 classification applicable to the data.

4.9 Sec. 4. Minnesota Statutes 2008, section 13D.05, subdivision 3, is amended to read:

4.10 Subd. 3. **What meetings may be closed.** (a) A public body may close a meeting
4.11 to evaluate the performance of an individual who is subject to its authority. The public
4.12 body shall identify the individual to be evaluated prior to closing a meeting. At its next
4.13 open meeting, the public body shall summarize its conclusions regarding the evaluation.
4.14 A meeting must be open at the request of the individual who is the subject of the meeting.

4.15 (b) Meetings may be closed if the closure is expressly authorized by statute or
4.16 permitted by the attorney-client privilege.

4.17 (c) A public body may close a meeting:

4.18 (1) to determine the asking price for real or personal property to be sold by the
4.19 government entity;

4.20 (2) to review confidential or protected nonpublic appraisal data under section 13.44,
4.21 subdivision 3; and

4.22 (3) to develop or consider offers or counteroffers for the purchase or sale of real or
4.23 personal property.

4.24 Before holding a closed meeting under this paragraph, the public body must identify
4.25 on the record the particular real or personal property that is the subject of the closed
4.26 meeting. The proceedings of a meeting closed under this paragraph must be tape recorded
4.27 at the expense of the public body. The recording must be preserved for eight years after
4.28 the date of the meeting and made available to the public after all real or personal property
4.29 discussed at the meeting has been purchased or sold or the governing body has abandoned
4.30 the purchase or sale. The real or personal property that is the subject of the closed meeting
4.31 must be specifically identified on the tape. A list of members and all other persons present
4.32 at the closed meeting must be made available to the public after the closed meeting. If an
4.33 action is brought claiming that public business other than discussions allowed under this
4.34 paragraph was transacted at a closed meeting held under this paragraph during the time
4.35 when the tape is not available to the public, section 13D.03, subdivision 3, applies.

5.1 An agreement reached that is based on an offer considered at a closed meeting is
5.2 contingent on approval of the public body at an open meeting. The actual purchase or
5.3 sale must be approved at an open meeting after the notice period required by statute or the
5.4 governing body's internal procedures, and the purchase price or sale price is public data.

5.5 (d) Meetings may be closed to receive security briefings and reports, to discuss issues
5.6 related to security systems, to discuss emergency response procedures and to discuss
5.7 security deficiencies in or recommendations regarding public services, infrastructure and
5.8 facilities, if disclosure of the information discussed would pose a danger to public safety or
5.9 compromise security procedures or responses. Financial issues related to security matters
5.10 must be discussed and all related financial decisions must be made at an open meeting.
5.11 Before closing a meeting under this paragraph, the public body, in describing the subject to
5.12 be discussed, must refer to the facilities, systems, procedures, services, or infrastructures
5.13 to be considered during the closed meeting. A closed meeting must be tape recorded at the
5.14 expense of the governing body, and the recording must be preserved for at least four years.

5.15 Sec. 5. Minnesota Statutes 2008, section 125A.21, subdivision 5, is amended to read:

5.16 Subd. 5. **Informed consent.** When obtaining informed consent, consistent with
5.17 sections 13.05, subdivision 4, ~~paragraph (d)~~ 4a; and 256B.77, subdivision 2, paragraph
5.18 (p), to bill health plans for covered services, the school district must notify the legal
5.19 representative (1) that the cost of the person's private health insurance premium
5.20 may increase due to providing the covered service in the school setting, (2) that the
5.21 school district may pay certain enrollee health plan costs, including but not limited to,
5.22 co-payments, coinsurance, deductibles, premium increases or other enrollee cost-sharing
5.23 amounts for health and related services required by an individual service plan, or individual
5.24 family service plan, and (3) that the school's billing for each type of covered service may
5.25 affect service limits and prior authorization thresholds. The informed consent may be
5.26 revoked in writing at any time by the person authorizing the billing of the health plan.

5.27 **ARTICLE 2**

5.28 **TEMPORARY CLASSIFICATIONS**

5.29 Section 1. Minnesota Statutes 2008, section 13.06, subdivision 1, is amended to read:

5.30 Subdivision 1. **Application to commissioner.** (a) Notwithstanding the provisions
5.31 of section 13.03, the responsible authority of a government entity may apply to the
5.32 commissioner for permission to classify data or types of data on individuals as private
5.33 or confidential, or data not on individuals as nonpublic or protected nonpublic, for its
5.34 own use and for the use of other similar government entities on a temporary basis until

6.1 a proposed statute can be acted upon by the legislature. The application for temporary
6.2 classification is public.

6.3 (b) Upon ~~the filing~~ receipt by the commissioner of an application for temporary
6.4 classification, the data which is the subject of the application shall be deemed to be
6.5 classified as set forth in the application for a period of 45 days, or until the application is
6.6 disapproved, rejected, or granted by the commissioner, whichever is earlier.

6.7 (c) If the commissioner determines that an application has been submitted for
6.8 purposes not consistent with this section, the commissioner may immediately reject the
6.9 application, give notice of that rejection to the applicant, and return the application. When
6.10 the applicant receives the notice of rejection from the commissioner, the data which was
6.11 the subject of the application shall have the classification it had before the application was
6.12 submitted to the commissioner.

6.13 Sec. 2. Minnesota Statutes 2008, section 13.06, subdivision 3, is amended to read:

6.14 Subd. 3. **Contents of application for ~~nonpublic or nonpublic protected data~~.**

6.15 An application for temporary classification of government data ~~not on individuals~~ shall
6.16 include and the applicant shall have the burden of clearly establishing that no statute
6.17 currently exists which either allows or forbids classification as ~~nonpublic or protected~~
6.18 ~~nonpublic~~ not public; and ~~either~~ one or more of the following:

6.19 (1) that data similar to that for which the temporary classification is sought ~~has~~ have
6.20 been ~~treated~~ classified as ~~nonpublic or protected nonpublic~~ not public by other government
6.21 entities, ~~and by the public~~; or

6.22 (2) public access to the data would render unworkable a program authorized by
6.23 law; ~~or~~ .

6.24 ~~(3)~~ The applicant must also clearly establish that a compelling need exists for
6.25 immediate temporary classification, which if not granted could adversely affect the health,
6.26 safety or welfare of the public, or data subject's well-being or reputation.

6.27 Sec. 3. Minnesota Statutes 2008, section 13.06, subdivision 4, is amended to read:

6.28 Subd. 4. **Procedure when classification affects others.** If the commissioner
6.29 determines that an application for temporary classification involves data which would
6.30 reasonably be classified in the same manner by all government entities similar to the
6.31 one which made the application, the commissioner may approve or disapprove the
6.32 classification for data of the kind which is the subject of the application for the use
6.33 of all government entities similar to the applicant. If requested in the application, the
6.34 commissioner may also determine that the data classification affects similar government

7.1 entities. On deeming this approach advisable, the commissioner shall provide notice of
7.2 the proposed action by publication in the State Register within ~~ten~~ 15 days of receiving the
7.3 application. Within 30 days after publication in the State Register an affected government
7.4 entity or the public may submit comments on the ~~commissioner's proposal~~ application.
7.5 The commissioner shall consider any comments received when granting or denying a
7.6 classification for data of the kind which is the subject of the application, for the use of all
7.7 government entities similar to the applicant. Within 45 days after the close of the period
7.8 for submitting comment, the commissioner shall grant or disapprove the application.
7.9 Applications processed under this subdivision shall be either approved or disapproved
7.10 by the commissioner within 90 days of the receipt of the application. For purposes of
7.11 subdivision 1, the data which is the subject of the classification shall be deemed to be
7.12 classified as set forth in the application for a period of 90 days, or until the application
7.13 is disapproved or granted by the commissioner, whichever is earlier. ~~If requested in the~~
7.14 ~~application, or determined to be necessary by the commissioner, the data in the application~~
7.15 ~~shall be so classified for all government entities similar to the applicant until the application~~
7.16 ~~is disapproved or granted by the commissioner, whichever is earlier.~~ Proceedings after the
7.17 grant or disapproval shall be governed by the provisions of subdivision 5.

7.18 Sec. 4. Minnesota Statutes 2008, section 13.06, is amended by adding a subdivision to
7.19 read:

7.20 Subd. 4a. **Withdrawal of application.** Except when an application is processed
7.21 under subdivision 4, an application may be withdrawn by the responsible authority prior to
7.22 the commissioner granting or disapproving the temporary classification. The responsible
7.23 authority shall notify the commissioner in writing of the entity's intent to withdraw the
7.24 application. The written withdrawal must state the reason the temporary classification is
7.25 no longer necessary and must be signed by the responsible authority.

7.26 Sec. 5. Minnesota Statutes 2008, section 13.06, subdivision 5, is amended to read:

7.27 Subd. 5. **Determination.** (a) The commissioner shall either grant or disapprove
7.28 the application for temporary classification within 45 days after it is ~~filed~~ received by
7.29 the commissioner. On disapproving an application, the commissioner shall set forth
7.30 in detail reasons for the disapproval, and shall include a statement of belief as to what
7.31 classification is appropriate for the data which is the subject of the application. Twenty
7.32 days after the date ~~of~~ of the responsible authority receives the commissioner's disapproval
7.33 of an application, the data which is the subject of the application shall become public
7.34 data, unless the responsible authority submits an amended application for temporary

8.1 classification which requests the classification deemed appropriate by the commissioner
8.2 in the statement of disapproval or which sets forth additional information relating to the
8.3 original proposed classification. Upon the filing of an amended application, the data
8.4 which is the subject of the amended application shall be deemed to be classified as set
8.5 forth in the amended application for a period of 20 days or until the amended application
8.6 is granted or disapproved by the commissioner, whichever is earlier. The commissioner
8.7 shall either grant or disapprove the amended application within 20 days after it is filed.
8.8 Five working days after the date ~~of~~ of the responsible authority receives the commissioner's
8.9 disapproval of the amended application, the data which is the subject of the application
8.10 shall become public data. No more than one amended application may be submitted for
8.11 any single file or system.

8.12 (b) If the commissioner grants an application for temporary classification under this
8.13 section, it shall become effective immediately, and the complete record relating to the
8.14 application shall be submitted to the attorney general, who shall review the classification
8.15 as to form and legality. Within 25 days after receipt of the record, the attorney general
8.16 shall approve the classification, disapprove a classification as confidential or protected
8.17 nonpublic but approve a classification as private or nonpublic, or disapprove the
8.18 classification. If the attorney general disapproves a classification, the data which is the
8.19 subject of the classification shall become public data five working days after the date of
8.20 the attorney general's disapproval.

8.21 Sec. 6. Minnesota Statutes 2008, section 13.06, is amended by adding a subdivision to
8.22 read:

8.23 Subd. 6a. **Data use and dissemination.** During the period of the temporary
8.24 classification, a responsible authority may request approval from the commissioner for a
8.25 new or different use or dissemination of the data as provided in section 13.05, subdivision
8.26 4, for any data temporarily classified under this section.

8.27 Sec. 7. Minnesota Statutes 2008, section 13.06, subdivision 7, is amended to read:

8.28 **Subd. 7. Legislative consideration of temporary classifications; expiration.**
8.29 On or before January 15 of each year, the commissioner shall submit all temporary
8.30 classifications in effect on January 1 in bill form to the legislature. The temporary
8.31 classification expires ~~June~~ August 1 of the year following its submission to the legislature.

ARTICLE 3

PERSONNEL DATA

Section 1. Minnesota Statutes 2008, section 13.43, subdivision 1, is amended to read:

Subdivision 1. **Definition.** As used in this section, "personnel data" means government data on individuals collected ~~collected~~ maintained because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a government entity. Personnel data includes data submitted by an employee to a government entity as part of an organized self-evaluation effort by the government entity to request suggestions from all employees on ways to cut costs, make government more efficient, or improve the operation of government. An employee who is identified in a suggestion shall have access to all data in the suggestion except the identity of the employee making the suggestion.

Sec. 2. Minnesota Statutes 2008, section 13.43, subdivision 2, is amended to read:

Subd. 2. **Public data.** (a) Except for employees described in subdivision 5 and subject to the limitations described in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a government entity is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; terms and conditions of employment relationship; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any employer-paid added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

10.1 (7) work location; a work telephone number; employer-provided e-mail address;
10.2 badge number; work-related continuing education; and honors and awards received; and

10.3 (8) payroll time sheets or other comparable data that are only used to account for
10.4 employee's work time for payroll purposes, except to the extent that release of time sheet
10.5 data would reveal the employee's reasons for the use of sick or other medical leave
10.6 or other not public data.

10.7 (b) For purposes of this subdivision, a final disposition occurs when the government
10.8 entity makes its final decision about the disciplinary action, regardless of the possibility of
10.9 any later proceedings or court proceedings. In the case of arbitration proceedings arising
10.10 under collective bargaining agreements, a final disposition occurs at the conclusion of the
10.11 arbitration proceedings, or upon the failure of the employee to elect arbitration within
10.12 the time provided by the collective bargaining agreement. Final disposition includes a
10.13 resignation by an individual when the resignation occurs after the final decision of the
10.14 government entity, or arbitrator. A disciplinary action does not become public data if an
10.15 arbitrator sustains a grievance and reverses all aspects of any disciplinary action.

10.16 (c) The government entity may display a photograph of a current or former employee
10.17 to a prospective witness as part of the government entity's investigation of any complaint
10.18 or charge against the employee.

10.19 (d) A complainant has access to a statement provided by the complainant to a
10.20 government entity in connection with a complaint or charge against an employee.

10.21 (e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation
10.22 of a complaint or charge against a public official, or if a public official resigns or is
10.23 terminated from employment while the complaint or charge is pending, all data relating to
10.24 the complaint or charge are public, unless access to the data would jeopardize an active
10.25 investigation or reveal confidential sources. For purposes of this paragraph, "public
10.26 official" means:

- 10.27 (1) the head of a state agency and deputy and assistant state agency heads;
10.28 (2) members of boards or commissions required by law to be appointed by the
10.29 governor or other elective officers; and
10.30 (3) executive or administrative heads of departments, bureaus, divisions, or
10.31 institutions within state government.

10.32 Sec. 3. Minnesota Statutes 2008, section 13.43, is amended by adding a subdivision to
10.33 read:

10.34 Subd. 17. **Continuity of operations.** Personal home contact information may
10.35 be used to ensure that an employee can be reached in the event of an emergency or

11.1 other disruption affecting continuity of operation of a government entity. An employee's
11.2 personal home contact information may be shared with another government entity in the
11.3 event of an emergency or other disruption to ensure continuity of operation of either
11.4 government entity.

11.5 Sec. 4. Minnesota Statutes 2008, section 13.43, is amended by adding a subdivision to
11.6 read:

11.7 Subd. 18. **Private personnel data.** Private personnel data of state employees must
11.8 be disclosed to the Department of Administration for the purpose of administration of the
11.9 workers' compensation program as provided in chapter 176.

11.10 Sec. 5. Minnesota Statutes 2008, section 13.64, is amended to read:

11.11 **13.64 DEPARTMENT OF ADMINISTRATION DATA.**

11.12 (a) Notes and preliminary drafts of reports created, collected, or maintained by the
11.13 Management Analysis Division, Department of Administration, and prepared during
11.14 management studies, audits, reviews, consultations, or investigations are classified as
11.15 confidential or protected nonpublic data until the final report has been published or
11.16 preparation of the report is no longer being actively pursued.

11.17 (b) Data that support the conclusions of the report and that the commissioner of
11.18 administration reasonably believes will result in litigation are confidential or protected
11.19 nonpublic until the litigation has been completed or until the litigation is no longer
11.20 being actively pursued.

11.21 (c) Data on individuals that could reasonably be used to determine the identity of an
11.22 individual supplying data for a report are private if:

11.23 (1) the data supplied by the individual were needed for a report; and

11.24 (2) the data would not have been provided to the Management Analysis Division
11.25 without an assurance to the individual that the individual's identity would remain private,
11.26 or the Management Analysis Division reasonably believes that the individual would not
11.27 have provided the data.

11.28 (d) Security features of building plans, building specifications, and building
11.29 drawings of state-owned facilities and nonstate-owned facilities leased by the state are
11.30 classified as nonpublic data when maintained by the Department of Administration and
11.31 may be shared with anyone as needed to perform duties of the commissioner.

11.32 Sec. 6. Minnesota Statutes 2008, section 16B.97, is amended by adding a subdivision
11.33 to read:

12.1 Subd. 5. **Data classification.** Data maintained by the commissioner that identify
12.2 a person providing comments to the commissioner under subdivision 4, paragraph (a),
12.3 clauses (6) and (7), are private and nonpublic data but may be shared with the executive
12.4 agency that is the subject of the comments.

12.5 Sec. 7. **REPEALER.**

12.6 (a) Minnesota Statutes 2008, section 13.06, subdivision 2, is repealed.

12.7 (b) Minnesota Rules, part 1205.1800, is repealed.

12.8 **ARTICLE 4**

12.9 **MISCELLANEOUS PROVISIONS**

12.10 Section 1. Minnesota Statutes 2008, section 13.643, is amended by adding a
12.11 subdivision to read:

12.12 Subd. 7. **Research, monitoring, or assessment data.** (a) Except as provided in
12.13 paragraph (b), the following data created, collected, and maintained by the Department of
12.14 Agriculture during research, monitoring, or the assessment of farm practices and related
12.15 to natural resources, the environment, agricultural facilities, or agricultural practices are
12.16 classified as private or nonpublic:

12.17 (1) names, addresses, telephone numbers, and e-mail addresses of study participants
12.18 or cooperators; and

12.19 (2) location of research, study site, and global positioning system data.

12.20 (b) The following data are public:

12.21 (1) location data and unique well numbers for wells and springs unless protected
12.22 under section 18B.10 or another statute or rule; and

12.23 (2) data from samples collected from a public water supply as defined in section
12.24 144.382, subdivision 4.

12.25 (c) The Department of Agriculture may disclose data collected under paragraph (a) if
12.26 the commissioner determines that there is a substantive threat to human health and safety
12.27 or to the environment, or to aid in the law enforcement process.

12.28 Sec. 2. Minnesota Statutes 2008, section 13.7931, is amended by adding a subdivision
12.29 to read:

12.30 Subd. 6. **Electronic licensing system data.** Data on individuals created, collected,
12.31 stored, or maintained by the department for the purposes of obtaining a noncommercial
12.32 game and fish license, cross-country ski pass, horse trail pass, or snowmobile trail sticker;

13.1 registering a recreational motor vehicle; or any other electronic licensing transaction are
13.2 classified under section 84.0874.

13.3 **EFFECTIVE DATE.** This section is effective March 1, 2010.

13.4 Sec. 3. Minnesota Statutes 2008, section 13.87, is amended by adding a subdivision to
13.5 read:

13.6 Subd. 5. **Parole and probation authority access to records.** Parole and county
13.7 probation authorities may access data identified in subdivision 2 on an applicant or permit
13.8 holder who is also a defendant, parolee, or probationer of a district court.

13.9 Sec. 4. Minnesota Statutes 2008, section 13.871, is amended by adding a subdivision
13.10 to read:

13.11 Subd. 12. **Forensic Laboratory Advisory Board.** Reports and complaints of the
13.12 Forensic Laboratory Advisory Board are classified under section 299C.156, subdivision 5.

13.13 Sec. 5. **[84.0874] ELECTRONIC LICENSING SYSTEM DATA.**

13.14 The following data created, collected, stored, or maintained by the department for
13.15 purposes of obtaining a noncommercial game and fish license, cross-country ski pass,
13.16 horse trail pass, or snowmobile trail sticker; registering a recreational motor vehicle; or
13.17 any other electronic licensing transaction are private data on individuals as defined in
13.18 section 13.02, subdivision 12: name, addresses, driver's license number, and date of
13.19 birth. The data may be disclosed for law enforcement purposes. The data, other than the
13.20 driver's license number, may be disclosed to a government entity and for natural resources
13.21 management purposes, including recruitment, retention, and training certification and
13.22 verification.

13.23 **EFFECTIVE DATE.** This section is effective March 1, 2010.

13.24 Sec. 6. Minnesota Statutes 2008, section 270B.14, subdivision 16, is amended to read:

13.25 Subd. 16. **Disclosure to law enforcement authorities.** Under circumstances
13.26 involving threat of death or physical injury to any individual, or harassment of a
13.27 Department of Revenue employee, the commissioner may disclose return information
13.28 to the extent necessary to apprise appropriate federal, state, or local law enforcement
13.29 authorities of such circumstances. For purposes of this subdivision, "harassment" is
13.30 purposeful conduct directed at an individual and causing an individual to feel frightened,
13.31 threatened, oppressed, persecuted, or intimidated. For purposes of harassment, the return

14.1 information that initially can be disclosed is limited to the name, address, and phone
14.2 number of the harassing individual, the name of the employee being harassed, and the
14.3 nature and circumstances of the harassment. Data disclosed under this subdivision are
14.4 classified under section 13.82 once they are received by the law enforcement authority.

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

14.6 Sec. 7. Minnesota Statutes 2008, section 299C.156, subdivision 5, is amended to read:

14.7 Subd. 5. ~~Reviews and reports are public~~ Data practices; use of reports. ~~The~~
14.8 ~~board shall make all~~ (a) Investigation reports completed under subdivision 3, paragraph
14.9 (a), clause (1), ~~available to the public~~ are private data on individuals or nonpublic data as
14.10 defined in section 13.02, unless the board finds there was negligence or misconduct. A
14.11 report or complaint received under this section is private data on individuals or nonpublic
14.12 data. This paragraph does not affect the classification of data on employees under section
14.13 13.43.

14.14 (b) A report completed under subdivision 3, paragraph (a), clause (1), in a
14.15 subsequent civil or criminal proceeding is not prima facie evidence of the information or
14.16 findings contained in the report.

14.17 Sec. 8. Minnesota Statutes 2008, section 332.70, subdivision 1, is amended to read:

14.18 Subdivision 1. **Definitions.** For purposes of this section:

14.19 (a) "Business screening service" means a person regularly engaged in the business of
14.20 collecting, assembling, evaluating, or disseminating criminal ~~record information~~ records
14.21 on individuals for a fee. Business screening service does not include a government entity;
14.22 ~~as defined in section 13.02;~~ or the news media.

14.23 (b) "Conviction" has the meaning given in section 609.02, subdivision 5.

14.24 (c) "Criminal record" means a public record originating from a government entity in
14.25 Minnesota or a Minnesota court of an arrest, citation, prosecution, criminal proceeding, or
14.26 conviction. "Criminal proceeding" does not include a written court opinion.

14.27 (d) "Government entity" has the meaning given in section 13.02.

14.28 **EFFECTIVE DATE.** This section is effective July 1, 2009.

14.29 Sec. 9. Minnesota Statutes 2008, section 332.70, subdivision 2, is amended to read:

14.30 Subd. 2. **Criminal records.** A business screening service must not disseminate a
14.31 criminal record unless the record has been updated within the previous ~~month~~ 90 days.

14.32 **EFFECTIVE DATE.** This section is effective July 1, 2009.

S.F. No. 863, 2nd Engrossment - 86th Legislative Session (2009-2010) [s0863-2]

15.1 Sec. 10. Minnesota Statutes 2008, section 332.70, subdivision 3, is amended to read:

15.2 Subd. 3. **Correction and deletion of records.** (a) If the completeness or accuracy
15.3 of a criminal record maintained by a business screening service is disputed by the
15.4 individual who is the subject of the record, the screening service shall, without charge,
15.5 investigate the disputed record. In conducting an investigation, the business screening
15.6 service shall review and consider all relevant information submitted by the subject of the
15.7 record with respect to the disputed record to determine whether the record maintained by
15.8 the business screening service accurately reflects the content of the record maintained by
15.9 the government entity or the court.

15.10 (b) ~~If the disputed record is found to be inaccurate or incomplete, the business~~
15.11 ~~screening service shall promptly correct the record~~ If, upon investigation, the business
15.12 screening service determines that the record does not accurately reflect the content of the
15.13 record maintained by the government entity or the court, the business screening service
15.14 shall correct the disputed record to accurately reflect the content of that record. If the
15.15 disputed record is found to be sealed, expunged, or the subject of a pardon, the business
15.16 screening service shall promptly delete the record.

15.17 (c) A business screening service may terminate an investigation of a disputed record
15.18 if the business screening agency reasonably determines that the dispute is frivolous, which
15.19 may be based on the failure of the subject of the record to provide sufficient information to
15.20 investigate the disputed record. Upon making a determination that the dispute is frivolous,
15.21 the business screening service shall inform the subject of the record of the specific reasons
15.22 why it has determined that the dispute is frivolous and provide a description of any
15.23 information required to investigate the disputed record.

15.24 (d) The business screening service shall notify the subject of the disputed record
15.25 of the correction or deletion of the record or of the termination or completion of the
15.26 investigation related to the record within 30 days of the date when the agency receives
15.27 notice of the dispute from the subject of the record.

15.28 **EFFECTIVE DATE.** This section is effective July 1, 2009.

15.29 Sec. 11. Minnesota Statutes 2008, section 332.70, subdivision 4, is amended to read:

15.30 Subd. 4. **Date and notice required.** If a business screening service that disseminates
15.31 a criminal record that is collected on or after July 1, 2009, it must include the date when
15.32 the record was collected and by the business screening service. A business screening
15.33 service that disseminates a criminal record must include a notice that the information may
15.34 include criminal records that have been expunged, sealed, or otherwise have become
15.35 inaccessible to the public since that date.

16.1 **EFFECTIVE DATE.** This section is effective July 1, 2009.

APPENDIX
Article locations in s0863-2

ARTICLE 1	GENERAL	Page.Ln 1.14
ARTICLE 2	TEMPORARY CLASSIFICATIONS	Page.Ln 5.27
ARTICLE 3	PERSONNEL DATA	Page.Ln 9.1
ARTICLE 4	MISCELLANEOUS PROVISIONS	Page.Ln 12.8

13.06 TEMPORARY CLASSIFICATION.

Subd. 2. **Contents of application for private or confidential data.** An application for temporary classification of data on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as private or confidential; and either

(1) that data similar to that for which the temporary classification is sought has been treated as either private or confidential by other government entities, and by the public; or

(2) that a compelling need exists for immediate temporary classification, which if not granted could adversely affect the public interest or the health, safety, well being or reputation of the data subject.