

Minnesota Coalition on Government Information (MNCOGI)

Judiciary Finance and Civil Law Committee, January 19, 2021

Testimony of Matt Ehling, MNCOGI board member

- All-volunteer, non-partisan, nonprofit organization focused on government data policy and open government issues
- Seeks to ensure access to government data for the public, press, and legislators (Legislators are treated the same as the public under the Data Practices Act)

History: Data Practices Act was advocated for by Saint Paul Pioneer Press editor John Finnegan and others in the 1970s, since government records were so hard to obtain under the old Official Records Act, due to case law interpreting the Act

History: The Minnesota Legislature adopted a legal framework whereby the *legislature* held detailed control over the classification and management of government data

History: Minnesota has a long tradition of legislative champions for government data transparency from both sides of the aisle

- Dealing with classification - determining whether data is public or not - is one of the primary tasks for legislators that flows from Chapter 13
- Classification determinations have large impacts on members of the public, as they control what they are able to see and understand about government operations
- Classification language matters. The structure of data classification language in a bill can have major impacts on government transparency

Structure of data classification language makes a difference for public disclosure

Example: COVID-19 public health contingency account (SF 4334)

(Bill allocating \$200M to providers, hospitals, etc., through grants and loans)

Original data language

Subd. 8. **Data classification.** Data collected by the commissioner under subdivisions 4 and 7, paragraph (a), are private data on individuals, as defined in section 13.02, subdivision 12, or nonpublic data, as defined in section 13.02, subdivision 9, except that the names of loan recipients, the loan amounts issued to each recipient, the uses of the loans, and the amounts spent for each use are public data.

Impact of classification: The only public data elements available about the \$200M allocated would be the names of loan recipients; total amounts issued; uses of loan; and amounts spent on each use. Everything else collected by MDH would be “not public.” (No access to reports; memos; other collected records regarding loan program - even for legislators).

Final data language

Subd. 12. **Data classification.** The following data collected by the commissioner in connection with a grant applied for or issued pursuant to this section are private data on individuals, as defined in Minnesota Statutes, section 13.02, subdivision 12, or nonpublic data, as defined in Minnesota Statutes, section 13.02, subdivision 9:

- (1) financial information about an applicant for or recipient of a grant;
- (2) data on patients served by the applicant or recipient; and
- (3) design, market, or feasibility studies submitted to the commissioner by an applicant or recipient.

Impact of classification: Data collected by MDH about the \$200M loan program is public, except specifically defined categories of data about the proprietary business operations of loan recipients. **The net result is a greater ability to oversee how public funds have been spent.**