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**HEARING ON S.F. 800
March 18, 2013**

EXECUTIVE SUMMARY:

S.F. 800 should be amended to remove the words “names of participants” from line 1.13. The Minnesota Department of Transportation (MnDOT)’s “Minnesota Road Test” pilot program was a GPS-based vehicle-tracking program that engendered substantial public debate. GPS-centered user-fee programs based upon road test technology would engender even more debate. Making the names of program participants “public” would afford the press the opportunity to contact program participants, and to gather information necessary to inform the public about the pilot program’s operations and assumptions.

BACKGROUND:

From 2011-2012, MnDOT conducted the “Minnesota Road Test,” a mileage-based user fee study involving paid participants who affixed GPS tracking devices to their automobiles. These devices are being tested by the agency in order to determine their suitability for gathering road-use data, in order to charge individualized fees based upon travel usage.

In December of 2010, MnDOT asked the Commissioner of Administration to issue a temporary classification regarding data collected and maintained in regard to the road test program. The request covered the following categories of data:

Information contained within applications;

Personal identification data;

Vehicle identifying data;

Road use data;

Financial account data;

Home contact data.

On February 1, 2011, Ryan Church - the Acting Commissioner of Administration - ruled on MnDOT’s temporary data classification request. In his findings, the Acting Commissioner approved the classification of all of the above data as “not public” data, save for two specific sub-classes of data:

1. The names of program participants;
2. Payment data created, maintained, or disseminated by MnDOT.

The Acting Commissioner noted that MnDOT did not “clearly establish a compelling need” to classify such data as “not public,” and therefore the data should remain public under Chapter 13.

MnDOT subsequently filed a second temporary classification application, and asked (once again) that the names of program participants be classified as “private” data.

On March 11, 2011, the Commissioner of Administration issued a new temporary classification, classifying names of road test program participants as “private” data.

The temporary classification forecloses access to important public policy information

The MnDOT’s road test initiative is highly controversial, in that it presupposes the eventual operation of a state program that would require all vehicles in Minnesota to house GPS tracking devices that would monitor and transmit the locations of such vehicles in real time, at all times. Under such a program, the state would maintain a database of road use data, and use it to levy fees on individual vehicle owners, in lieu of a state gas tax.

By classifying program participants’ names as “private” data, the state has denied the press a critical opportunity to query key players in this important public policy debate – the volunteer participants who are partaking in the test itself. Under the temporary classification that is now in force, participants are anonymous, and their names cannot be publicly disclosed.

If the press were able to access data about participant names, Minnesota journalists could ask participants fundamental questions about the road test program, including its logistics, procedures, and - most importantly – their perspectives on the program’s impact on personal privacy. The Minnesota Legislature now has an opportunity to enable such questions to be asked.

MnDOT’s arguments in favor of private classification do not demonstrate a sufficiently compelling need

MnDOT’s applications for temporary classifications make frequent references to the privacy of program participants, and rely on those arguments to make a case for their desired classification. Data policy – like all public policy – must keep an eye to broader public outcomes as well. The current “private” classification of participant names is not compelling when compared to the need of the press to thoroughly investigate an issue that could have long-term privacy impacts on all Minnesotans – not just program participants.

It should be noted that road test participants have willingly opted into the pilot program; the general citizenry would not have any such choice if the program were to be fully implemented, making public understanding of the program of critical importance at this juncture. Public access to participant names would enable the press to gather information about participant experiences and perspectives regarding the personal privacy aspects of the Minnesota road test, as well as other aspects.

Additionally, in both of its temporary classification applications, MnDOT relied heavily on security concerns to justify the withholding of names of program participants. MnDOT advanced the theory that by making participant names “public,” criminals would be able to target the vehicles of those individuals, with an eye toward stealing GPS devices.

MNCOGI does not believe that this theoretical security concern is any greater than those created by other publicly available pieces of data that can correlate potentially valuable items, and the possible locations of those items. For instance, the names of all individuals who have purchased real estate in Minnesota are publicly available through county property tax records. It would be a stretch to claim that the availability of such name information has had a measurable impact on the theft of televisions, computers, cash, or other valuables commonly found in the residences of those individuals.

The Minnesota Legislature should make program participant names “public”

For the foregoing reasons, MNCOGI urges the Minnesota Legislature to recognize the merit of the Acting Commissioner’s original, temporary classification, and to make the names of road test participants available as “public” data.