

Legislative Commission on Intelligence and Technology

REPRESENTATIVE JOHN LESCH

Purpose of new legislative commission

WHAT THE PROPOSAL IS

A bill enabling the legislature's fundamental oversight function. A function which we cannot exercise without the ability to review government agency information and procedures. (the status quo)

WHAT THE PROPOSAL IS NOT

Policy changing any data set classification.

Considerations

- ❑ Is the legislature getting the information it needs to make policy decisions about data practices and privacy?
- ❑ Is the legislature getting this information in a timely manner?

In considering a legislative oversight function, certain opinions should not carry weight.

- ❑ Privacy advocates
- ❑ Law enforcement or other agencies
- ❑ Private sector business

Why are these interests not relevant?

"The proper office of a representative assembly is to watch and control the government." John Stuart Mill

"Quite as important as legislation is vigilant oversight of administration." Woodrow Wilson

The "Father of the Constitution," James Madison, sought to "subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner that each may be a check on the other." Federalist No. 51

On this particular proposal, ignore everyone's opinion but your own.

Why an Intelligence and Technology Commission is needed

- ❑ Until data that is collected by the government is identified, it is not protected or classified under Chapter 13. By default, the data is public and can be obtained by anyone or used to abuse power by those in control of it.
- ❑ The rapid pace data collection and advancing technology is creating new datasets faster than we can classify them.
- ❑ Vast amounts of government data is being collected that can enhance OR restrict the lives of Minnesotans.
- ❑ The legislature is responsible for oversight – to hold agencies responsible.
- ❑ Law enforcement agencies have NO incentive to volunteer information on their operations to the legislature.
- ❑ Legislative subpoenas are ineffective to compel discovery of critical data and technology because of the difficulty of a 2/3 committee consensus and the public nature of the proceeding.

Technologies that the Legislature has become aware of – rarely due to disclosure by government agencies themselves:

KINGFISH

STINGRAY

LICENSE PLATE READERS

BODY CAMERAS

DRONE SURVEILLANCE

FACIAL RECOGNITION SOFTWARE

What the proposal does:

- Establishes an investigative and oversight commission - similar to the Intelligence Committee in Congress
- Consists of 3 Senators and 3 Representatives serving for 4 years, with one member of the minority party from each chamber
- Each member must take an oath
- Commission may determine that a meeting is not open to the public
- Commission may require law enforcement to disclose not public data
- Disclosure of data outside the commission meeting is grounds for an ethics complaint and creates liability under Minn. Stat. 13.08 by creating a cause of action and an action to compel compliance.
- Members of the commission may issue subpoenas to compel testimony and the production of records

Importance of Oversight

- Historical purpose for creating a Congressional Intelligence Committee
- Unique pace and scale of data collection and technology must be balanced with privacy interests and the Data Practices Act in successfully monitoring what government agencies collect and how they collect it