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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2439

03/13/2019 Authored by Quam The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to government accountability; providing for state and local government
1.3 settlement accountability and transparency; requiring reports; amending Minnesota
1.4 Statutes 2018, section 13.43, subdivision 8; proposing coding for new law in
1.5 Minnesota Statutes, chapters 3; 15; 465.

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

1.7 Section 1. 3.161] LEGISLATIVE SETTLEMENT ACCOUNTABILITY.

1.8 Subdivision 1. Nondisclosure agreements prohibited. A nondisclosure agreement must
1.9 not be imposed on any party as a condition of an award or settlement by any employee or
1.10 legislative member of the house of representatives, senate, or Legislative Coordinating
1.11 Commission if the award or settlement results from an allegation of sexual harassment or
1.12 sexual assault.

1.13 Subd. 2. Reports on settlements. (a) By January 15, 2020, and annually thereafter, the
1.14 secretary of the senate, the chief clerk of the house of representatives, and the executive
1.15 director of the Legislative Coordinating Commission shall submit to the chair and ranking
1.16 minority member of the Legislative Coordinating Commission, and make available to the
1.17 public on the legislature's website, a report on all payments made with public funds for the
1.18 previous calendar year for awards and settlements in connection with an allegation of
1.19 employee or employer misconduct by any person employed in or serving as a member of
1.20 the senate, house of representatives, or joint offices of the legislature. The requirements of
1.21 this subdivision apply regardless of whether the parties have entered into a nondisclosure
1.22 agreement. The report must include:

2.1 (1) the amount paid for each award or settlement in connection with an allegation of  
 2.2 employee or employer misconduct, including attorney fees and related costs;

2.3 (2) the source of the public funds used for the award or settlement; and

2.4 (3) the legislative body or office that is a party to the settlement and the name of the  
 2.5 individual who allegedly committed the violation.

2.6 (b) The report under paragraph (a) must not disclose the identity of any individual who  
 2.7 received an award or settlement, or who made the allegation of misconduct against the  
 2.8 legislature.

2.9 (c) For the purposes of this section:

2.10 (1) "employee misconduct" means conduct by an employee that results in an award or  
 2.11 settlement for conduct that is prohibited by law or a policy of the employer;

2.12 (2) "employer misconduct" means conduct by an employer that results in an award or  
 2.13 settlement for conduct by the employer that is prohibited by law or a policy of the employer,  
 2.14 or due to employee misconduct for which the employer may be responsible or liable; and

2.15 (3) "public funds" means all general, special, permanent, trust, and others funds,  
 2.16 regardless of source or purpose, held or administered by the legislative branch.

2.17 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
 2.18 applies to settlements and awards paid on or after that date.

2.19 Sec. 2. Minnesota Statutes 2018, section 13.43, subdivision 8, is amended to read:

2.20 Subd. 8. **Harassment data.** (a) When allegations of sexual or other types of harassment  
 2.21 are made against an employee, the employee does not have access to data that would identify  
 2.22 the complainant or other witnesses if the responsible authority determines that the employee's  
 2.23 access to that data would:

2.24 (1) threaten the personal safety of the complainant or a witness; or

2.25 (2) subject the complainant or witness to harassment.

2.26 If a disciplinary proceeding is initiated against the employee, data on the complainant  
 2.27 or witness shall be available to the employee as may be necessary for the employee to  
 2.28 prepare for the proceeding.

2.29 (b) In addition to data that are public under subdivision 2, the following private personnel  
 2.30 data regarding allegations of harassment may be disclosed to the complainant:

2.31 (1) whether the allegations were substantiated; and

3.1 (2) whether the allegations resulted in disciplinary or nondisciplinary corrective action.  
3.2 A complainant who receives private personnel data under this paragraph may not further  
3.3 release the data except to a court; a law enforcement agency; a prosecuting authority; a  
3.4 federal, state, or local civil rights enforcement authority; or an attorney representing the  
3.5 complainant when the data are relevant to obtaining a restraining order or to enable the  
3.6 complainant to pursue other legal remedies.

3.7 **Sec. 3. [15.476] REPORT ON SETTLEMENTS.**

3.8 (a) By January 15, 2020, and annually thereafter, the commissioner of management and  
3.9 budget, on behalf of and with cooperation from each state agency and department, shall  
3.10 submit to the chair and ranking minority member of the Legislative Coordinating  
3.11 Commission, and make available to the public on the Department of Management and  
3.12 Budget website, a report on all payments made with public funds for the previous calendar  
3.13 year for awards and settlements in connection with an allegation of employee or employer  
3.14 misconduct by any person employed in the executive branch as defined under section 43A.02,  
3.15 subdivision 22. The report must include:

3.16 (1) the amount paid for each award or settlement in connection with an allegation of  
3.17 employee or employer misconduct, including attorney fees and related costs;

3.18 (2) the source of the public funds used for the award or settlement;

3.19 (3) the employing agency or department; and

3.20 (4) if there has been final disposition of disciplinary action for purposes of section 13.43,  
3.21 the name of the individual who committed the violation.

3.22 (b) The report under paragraph (a) must not disclose the identity of any individual who  
3.23 received an award or settlement, or who made the allegation of misconduct against an  
3.24 employee or an employing agency.

3.25 (c) For the purposes of this section:

3.26 (1) "employee misconduct" means conduct by an employee that results in an award or  
3.27 settlement for conduct that is prohibited by law or a policy of the employer;

3.28 (2) "employer misconduct" means conduct by an employer that results in an award or  
3.29 settlement for conduct by the employer that is prohibited by law or a policy of the employer,  
3.30 or due to employee misconduct for which the employer may be responsible or liable; and

3.31 (3) "public funds" means all general, special, permanent, trust, and others funds,  
3.32 regardless of source or purpose, held or administered by the executive branch.

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

4.2 Sec. 4. **[465.791] REPORT ON SETTLEMENTS.**

4.3 (a) By January 15, 2020, and annually thereafter, each political subdivision of the state  
4.4 shall submit to the chair and ranking minority member of the Legislative Coordinating  
4.5 Commission, and make available to the public on the political subdivision's website, if the  
4.6 political subdivision maintains a website, a report on all payments made with public funds  
4.7 for the previous calendar year for awards and settlements in connection with an allegation  
4.8 of employee or employer misconduct by any person employed by the political subdivision  
4.9 as defined under paragraph (c). The report must include:

4.10 (1) the amount paid for each award or settlement in connection with an allegation of  
4.11 employee or employer misconduct, including attorney fees and related costs;

4.12 (2) the source of the public funds used for the award or settlement; and

4.13 (3) if there has been a final disposition of disciplinary action for purposes of section  
4.14 13.43, the name of the individual who committed the violation.

4.15 (b) The report under paragraph (a) must not disclose the identity of any individual who  
4.16 received an award or settlement, or who made the allegation of misconduct against an  
4.17 employee or an employing political subdivision.

4.18 (c) For the purposes of this section:

4.19 (1) "employee misconduct" means conduct by an employee that results in an award or  
4.20 settlement for conduct that is prohibited by law or a policy of the employer;

4.21 (2) "employer misconduct" means conduct by an employer that results in an award or  
4.22 settlement for conduct by the employer that is prohibited by law or a policy of the employer,  
4.23 or due to employee misconduct for which the employer may be responsible or liable;

4.24 (3) "political subdivision" means a county, home rule charter or statutory city, town,  
4.25 school district, metropolitan or regional agency, public corporation, or special taxing district;  
4.26 and

4.27 (4) "public funds" means all general, special, permanent, trust, and other funds, regardless  
4.28 of source or purpose, held or administered by the political subdivision.

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

5.1       Sec. 5. **UNIVERSITY OF MINNESOTA REPORT ON SETTLEMENTS.**

5.2       The University of Minnesota is requested to issue an annual report on payments made  
5.3 with public funds in connection with University of Minnesota employees or the university  
5.4 as the employer in the same manner as required of the commissioner of management and  
5.5 budget under Minnesota Statutes, section 15.476. For the purposes of this section, "public  
5.6 funds" means all general, special, permanent, trust, and other funds, regardless of source  
5.7 or purpose, held or administered by the University of Minnesota.