

MINNESOTA COALITION ON GOVERNMENT INFORMATION (MNCOGI)

Senate Judiciary and Public Safety Committee Written testimony of Matt Ehling, MNCOGI board member on SF 4483 March 18, 2024

Dear Chair Latz, Senator Oumou Verbeten, and Senators,

Thank you for the opportunity to provide written testimony regarding SF 4483. MNCOGI is a non-partisan, nonprofit organization whose all-volunteer board works to ensure public access to government information — with an emphasis on ensuring access to information about governmental operations. We regularly testify on data practices and open meeting matters before the Minnesota Legislature, including matters pertaining to public data access under Minnesota Statutes, Chapter 13, the Minnesota Government Data Practices Act (MGDPA).

As part of MNCOGI’s mission to ensure that data about government operations is available to the public, we recommend the following modification to Senate File 4483:

1. Remove subdivision 5, at lines 17.18 - 17.19.

At present, the language on lines 17.18 - 17.19 states that the Intergovernmental Misclassification Enforcement and Education Partnership (IMEEP) is not a “state agency” as defined in § 13.02 subd. 17. “State agency” is a defined term in Chapter 13, and this subdivision could be interpreted as exempting IMEEP from Chapter 13 coverage. Thus, that language should be removed in the interest of ensuring that no such claims can be made in relation to open records requests seeking IMEEP data.

The Minnesota Legislature added the MGDPA to Minnesota law over four decades ago, in order to ensure that Minnesota residents were able to access information about the operations of government entities — including State agencies that spend public tax dollars, and wield enforcement and other consequential powers. The law was passed in the wake of the Watergate scandal, with the intention that no government operations in the State of Minnesota would be conducted in complete secrecy.

Over the past few decades, the MGDPA has evolved into a comprehensive statutory scheme for the management of government information, including data about government operations that is “public,” as well as data about certain government operations that is “not public” for a specified period of time — such as active investigative data.

Under SF 4833, IMEEP will be vested with various powers, including sharing and reviewing investigative data, as well as undertaking educational initiatives. Given the findings of the recent OLA report on Worker Misclassification, one can easily imagine that IMEEP’s purview will include creating policy recommendations for the future, as well.

IMEEP's educational and policy-making roles are classic government functions that should be public — and the citizens of Minnesota should be able to request data related to those functions, in order to discover what this government entity will be doing.

In regard to IMEEMP's investigative functions, investigative data under the MGDPA is already “not public” during the active phase of an investigation (in order to afford enforcement authorities the ability to pursue leads and build cases); but then becomes “public” when the investigation is closed, to permit citizen scrutiny of the government's investigative function. No government entity should be allowed to operate in total secrecy, and the tiered approach of the MGDPA recognizes this — calibrating data access across functions, and phases, of government operations.

By removing the language at lines 17.18 - 17.19, the legislature will make crystal clear that the MGDPA applies to IMEEMP, so that Minnesota's citizens will have access to information about this new and consequential government entity.

Sincerely,

Matt Ehling
MNCOGI board member