

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
February 11, 2025

Testimony on SF 856
Prepared by Matt Ehling, board member
Minnesotans for Open Government

Chair Xiong, Senator Gustafson, and members of the committee,

Minnesotans for Open Government (formerly the Minnesota Coalition on Government Information) submits the following comments on SF 856, with the aim of helping to bring technical clarity to the handling of government data by the proposed Office of the Inspector General (OIG).

1. Include express Chapter 13 coverage (Section 1)

In order to avail itself of the legal infrastructure that regulates government data in Minnesota (Minnesota Statutes, Chapter 13), the OIG should clearly be described as a “government entity” in Section 1 of the bill. (*See suggested language*):

(c) The Office of the Inspector General is a government entity as defined by section 13.02, subdivision 7a.

Such clarity will not only ensure that the OIG’s own administrative activities will be subject to public review, but it will operationalize the various investigative and audit data protections that exist in Chapter 13. (For instance, the civil investigative classification in § 13.39 permits civil investigative data to be protected from disclosure during an active investigation; but then requires it to be made largely available as “public” data once an investigation has been closed.)

2. Remove “sensitive and confidential” reference (Section 6 subd. 2)

We would suggest removing the “subdivision 2” language of Section 6 (currently captioned “confidential information”) at lines 4.11-4.12. Once Chapter 13 coverage is in effect, any data included in OIG reports would need to comport with the data classifications of that chapter — meaning that data classified by law as “not public” would already need to be redacted from any publicly disseminated documents. This would include any data on individuals who submitted information for an audit, if the OIG had determined that the withholding of such information was necessary for the audit. (*See § 13.392*).

Beyond data classified specifically as “not public,” all other OIG data would be “public” by default through the operation of Chapter 13, and would therefore appear in public reports.

3. Include data access/data sharing language

To facilitate the proposed statutory purposes of the OIG, the bill should also contain language relating to data sharing, since Minnesota law requires statutory authorization for the sharing of certain data — particularly data on individuals.

To comport with § 13.05, subd. 4(b), data sharing authorization language should be included in an appropriate section of the bill. (*See suggested language*):

In order to perform the duties authorized by section 15D.04, the Office of the Inspector General shall have access to not public data, including data classified as private data on individuals and confidential data on individuals, as those terms are defined by section 13.02, subdivisions 3 and 12.

Similarly, it would be advisable to include a specific statutory grant of authority for the OIG to share its own data with appropriate entities, such as:

The Office of the Inspector General may disseminate data of any classification to:

(1) a governmental entity, other than a law enforcement agency or prosecuting authority, if the dissemination of the data aids a pending audit; or

(2) a law enforcement agency or prosecuting authority if there is reason to believe that the data are evidence of criminal activity within the agency's or authority's jurisdiction.

The text above mirrors language in the existing Legislative Auditor statute, at § 3.979, subd. 3(g).

4. Subject meetings of Inspector General Advisory Council to OML

Section 8 of the bill creates a proposed OIG advisory council “to ensure impartiality and independence.” As the stated purpose of the council pertains to oversight and quality assurance of the OIG itself, meetings of the advisory board should be subject to Minnesota’s Open Meeting Law, Chapter 13D, and the bill should contain the following language in the appropriate place:

Open Meeting Law. Meetings of the Inspector General Advisory Council are subject to Minnesota Statutes Chapter 13D.

To the extent that any active investigative data needs to be discussed at an advisory council meeting, open meetings under Chapter 13 are required to transition to a “closed” format while active investigative data is discussed (*see* § 13D.05, subd. 2(a)(2)).

Our board believes that these changes will help to both enable the proposed duties of the OIG, and to ensure that the OIG’s operations are subject to review by the public, the press, and lawmakers (since lawmakers, like all Minnesota citizens, access government data through the operation on Chapter 13).

As the OIG’s operations would involve overlapping duties (including civil and criminal investigations, as well as audits) there will likely be further data issues that will need to be refined as the bill progresses. Our board is willing to continue to offer its input as the legislation moves forward.

Sincerely,

Matt Ehling
Board member,
Minnesotans for Open Government