

House State Government Finance and Policy Committee
February 19, 2026

Written Testimony of Matt Ehling, Board Member
Minnesotans for Open Government (MNOG)*

Co-Chairs Klevorn and Nash, Representative Norris, and members of the House State Government Finance and Policy Committee,

I am writing in support of the aims and purposes of HF 1338, a bill that would establish a statewide Office of the Inspector General (OIG) to pursue allegations of waste and fraud in state government programs.

MNOG supported the Senate companion to this bill (SF 856), and testified extensively on its behalf. We also provided input on the data provisions of the bill early in the process, in conjunction with the Senate authors.

I write today to offer suggestions on improving the bill, now that it has made its way further into the legislative process, and has undergone many subsequent changes.

Our board has three primary suggestions, which are detailed below. References to line numbers refer to those listed in the DE5 amendment that has been posted.

1. Add language to the bill stating that the Inspector General is a “public official” for the purposes of Minn. Stat. § 13.43:

The Inspector General is the head of a state agency as defined by section 13.43, subdivision 2(e)(1).

This will ensure that in the event that an Inspector General (IG) resigns in the midst of a pending complaint or charge, or is removed in conjunction with a complaint or charge, data about the underlying circumstances of that complaint or charge will be public, as is the case with other “public officials” under current law.

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This provision of § 13.43 was first added by Senator Marty decades ago, in order to ensure transparency about the conduct of certain top government officials, when those officials leave office under contested circumstances. The Minnesota Legislature has updated § 13.43 several times to ensure that various persons are included within the “public official” definition. (The most recent change occurred in 2025, when the Legislature modified § 13.43 to ensure that it covered certain executives of the Metropolitan Council).

Given the many important duties that will be vested with the IG — the scope of which has increased as the bill had progressed — the individual occupying that position should be defined as a “public official” for Data Practices Act purposes.

2. Clarify the language throughout the bill regarding “inspector general” and “Office of Inspector General.”

As SF 856 has proceeded through the legislative process, the proposed duties of the OIG have expanded in scope, with more staffing and functions being added at various committee stops.

Throughout the current bill language, the terms “inspector general” and “Office of Inspector General” are frequently used interchangeably to describe various functions and authorities. MNOG suggests that the bill language should be re-worked throughout to ensure clarity between the IG and the OIG. “Inspector general” should be used to refer to the individual person filling the IG role (i.e., “minimum qualifications”), while “Office of the Inspector General” should be used to refer to the duties and functions of the OIG as a whole (i.e., “duties”).

This clarity will help in instances where the IG — as an individual — is subject to certain requirements (i.e., “removal” [lines 3.25-3.27], “serving in the unclassified service,” [line 1.15], or being defined as a “public official” as suggested by MNOG).

3. Remove lines 6.32-7.2

Section 4 of the bill sets out the various “duties and powers” of the OIG. These include conducting investigations (including “independent investigations related to the Medicaid program” in lines 5.18-5.19), evaluating agency IGs, establishing pre-payment review procedures, referring matters for criminal investigation, and seeking court orders to freeze funds.

These powers are severely limited, however, by language that was added late last session, and which now exists on lines 6.32-7.2 of the DE5 amendment. This language states that

the OIG “must not comply with any provision” of section 4 that “would prevent the state from receiving federal financial participation for the medical assistance program” or “result in a lower level of coverage or reduced access to coverage for medical assistance enrollees.”

Section 4 contains all of the “power and duties” of the OIG, so when subd. 4 of that section states that the OIG “must not comply with any provision under this section,” that language binds the OIG from using any of its assigned powers in particular circumstances.

The circumstances under which the OIG is unable to use its Section 4 powers relate to those in which the state would be prevented from “receiving federal financial participation for the medical assistance program.” This “financial assistance” refers to funds provided by the federal agency CMS, which disburses billions of dollars of program-related payments to the State of Minnesota.

CMS is able to withhold federal funds if a recipient fails to comply with federal regulations. For instance, in a document published to the Federal Register, CMS recently announced that the “State of Minnesota is substantially out of compliance with federal requirements ... in administering its Medicaid state plan, because the Minnesota Medicaid agency fails to adequately identify, prevent, and address waste, fraud, and abuse (FWA) in its Medicaid program”:

<https://www.federalregister.gov/documents/2026/01/14/2026-00512/notice-of-opportunity-for-hearing-on-compliance-of-minnesota-state-plan-provisions-concerning>

CMS further stated that unless additional corrective actions are taken, the agency intends to withhold federal funds to the tune of:

“515,154,947.56, or an alternative substantiated amount, per quarter.”

This background is instructive, since it shows that CMS can and will withhold federal funds due to concerns over waste and fraud.

The purpose of establishing the proposed OIG is to prevent “waste, fraud, and misuse” in state programs (*see*, for instance, lines 4.25-4.26, and elsewhere in the bill). However, if the OIG is unable to undertake activities that would “prevent the state from receiving federal financial participation for the medical assistance program,” this would place billions of dollars in state programs that receive federal matching funds “out of bounds” for action by the OIG. This is because any OIG investigation that reveals “waste, fraud, and misuse” in the “medical assistance program” could result in CMS withholding

federal funds from that program — and lines 6.32-7.2 explicitly bar the OIG from taking any such actions.

Lines 6.32-7.2 would severely limit the ability of the OIG to perform the important oversight function it is intended to perform, and those lines should be struck from the bill in their entirety. If those lines are not removed, the OIG will not be able to fully perform the robust oversight role it was designed to fulfill.

Sincerely,

Matt Ehling
Minnesotans for Open Government