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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOSEPH KIRCHNER,

Plaintiff,

v.

KEITH ELLISON, in his official capacity as
Attorney General of the State of Minnesota,

Defendant.

Case No.

26-cv-2594-JMB/DJF

**EXHIBIT F: MINNESOTA SENATE
HEARING ON SF 856 — MARCH 12,
2025**

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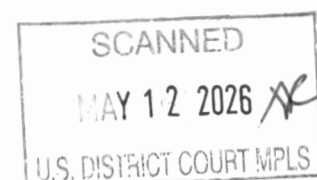


EXHIBIT F: Minnesota Senate Hearing on SF 856 — March 12, 2025
Hearing Before the Minnesota Senate Committee on Health and Human Services
Finance and Policy

Date: March 12, 2025

Title: Hearing on S.F. 856 — Office of the Inspector General Creation and Appropriation

Bill: S.F. 856 (94th Minn. Leg. 2025-2026); Companion: H.F. 1338 (Norris, Klevorn, Virnig)

Prime Senate Author: Senator Heather Gustafson (DFL-Vadnais Heights)

Co-Authors Named on the Bill (per Minnesota Senate official record):

- Senator Rich Draheim (R-Madison Lake) — co-presented at the hearing
- Senator Michael Kreun (R-Blaine) — not present at this hearing
- Senator Mary K. Putnam — not present at this hearing
- Senator Ron Latz (DFL-St. Louis Park) — not present at this hearing

Speakers Identified on the Record (in order of first speech):

- **Sen. Melissa Wiklund (DFL)** — Chair, Senate Committee on Health and Human Services Finance and Policy
- **Sen. Heather Gustafson (DFL-Vadnais Heights)** — Prime Senate Author, S.F. 856
- **Sen. Rich Draheim (R-Madison Lake)** — Co-Author, S.F. 856
- **Sen. Mann** — Committee Member; moved both the A32 amendment and the final motion to pass and re-refer
- **Ms. Hoffmann-Latti** — Senate Counsel (nonpartisan staff)
- **Sen. Justin Eichorn (R-Grand Rapids)** — Committee Member; departed mid-hearing after offering bipartisan praise
- **Sen. Mark Koran (R-North Branch)** — Committee Member; Vice Chair of the Senate Committee on State and Local Government; **cited on the record by Sen. Draheim as having "been working on [the constitutionality] very closely"** (§21); raised the only substantive challenge of the SF 856 segment (§55–65)

Scheduled Public Testifier Who Did Not Appear: Omar Jamal — sole member of the public who signed up to testify on S.F. 856 at this hearing. Called by name by Chair Wiklund; confirmed not present in person and not online. No public testimony was taken on S.F. 856 at this hearing.

Hearing Location: Minnesota Senate Building, Room 1100, Saint Paul, Minnesota

Total Hearing Duration: 2 hours 3 minutes 52 seconds (12:43 PM – approximately 2:47 PM, Wednesday, March 12, 2025)

S.F. 856 Portion of Hearing: Approximately 01:37:26 – 02:03:33 of the recording (≈26 minutes 7 seconds)

Bill Status as of This Hearing: Reported to pass as amended; re-referred to Committee on Human Services (filed 03/13/2025; produces 4th engrossment of SF 856)

Granicus Clip ID: 12991

Video Source:

[https://mnsenate.granicus.com/MediaPlayer.php?view_id=1&clip_id=12991](https://mnsenate.granicus.com/MediaPlayer.php?view_id=1&clip_id=12991)

Agenda Source:

[https://mnsenate.granicus.com/AgendaViewer.php?view_id=1&clip_id=12991](https://mnsenate.granicus.com/AgendaViewer.php?view_id=1&clip_id=12991)

Bill Page (Minnesota Revisor):

<https://www.revisor.mn.gov/bills/bill.php?b=Senate&f=SF856&ssn=0&y=2025>

KEY TIMESTAMPS (Senate Granicus Recording, Clip 12991)

S.F. 856 Procedural Sequence

Timestamp	Section
01:37:26	Chair calls S.F. 856; previews multiple amendments to come
01:38:34	Sen. Gustafson begins bill author presentation
01:41:24	Sen. Draheim offers co-author statement; describes Tuesday-night bipartisan working group
01:42:35	Scheduled public testifier Omar Jamal called; absent in person and online; no public testimony taken
01:43:00	A32 amendment moved by Sen. Mann; amendment described from the chair-table
01:44:00	A32 amendment vote follow-up; Chair surfaces the deletion of duty #5 (not disclosed in amendment description)
01:45:04	A32 adopted by voice vote
01:45:14	Chair Wiklund moves the A30 amendment (DHS/DCYF jurisdictional carve-outs)
01:52:18	A35 technical amendment moved (conforms A30 with A32); adopted by voice vote
01:54:30	A36 amendment introduced; adds WIC program to excluded carve-outs
01:56:00	Sen. Koran questions WIC carve-out structure
02:00:45	A36 adopted by voice vote; A30 as amended adopted by voice vote
02:03:12	Sen. Mann moves S.F. 856 as amended be passed and re-referred to Committee on Human Services

02:03:26	Motion adopted by voice vote
02:03:33	Hearing adjourned

1 **Critical Statements on the Record**

Timestamp	Critical Statement	Speaker
01:39:13	"establishes the Office of Inspector General to strengthen accountability, transparency, and oversight of our public dollars"	Sen. Gustafson
01:39:36	"we have refined SF 856 to address concerns about jurisdictional clarity, data confidentiality, and inter-agency coordination"	Sen. Gustafson
01:39:50	"The bill is not about duplication, it is about enhancing oversight"	Sen. Gustafson
01:40:02	"provisions to resolve jurisdictional disputes efficiently and ensure that investigations are handled appropriately without overreach"	Sen. Gustafson
01:41:33	"we have the term of the inspector general at five years, so it doesn't get influenced by elections"	Sen. Draheim
01:42:35	"I don't see him present. Not at — not online? Okay. Well, then we will move forward." (re: scheduled testifier Omar Jamal)	Sen. Wiklund
01:44:00	"I noticed that, you know, one of the duties was removed... the duty number five"	Sen. Wiklund
01:44:12	"Lines 5.11 through 5.14"	Sen. Wiklund
01:44:15	"as I go through a pile of paper here... can you give me the page and line again?" (bill author unable to identify what was deleted from her own bill)	Sen. Gustafson
01:44:35	"I think that has to do with the constitutionality of the bill"	Sen. Draheim
01:44:42	"Senator Koran's been working on that very closely" (constitutional analysis attributed to Sen. Mark Koran, who was physically present in the hearing room)	Sen. Draheim
01:44:53	"Correct me if I'm wrong, but that, that's why it was removed" (response asks the questioner to confirm the answer)	Sen. Draheim
01:48:14	A30 carve-outs to "address concerns about... compliance, um, and impacts to federal funding or federal, um, requirements for investigations"	Sen. Wiklund
01:50:36	A30 adds interagency-agreement requirement for "potential similar or duplicative investigations"	Sen. Wiklund
01:52:36	"I'm not sure that we have fully defined yet how, um, or clearly enough, you know, the entities that are transferring versus not transferring"	Sen. Wiklund
01:55:30	A36 carve-out for WIC program "came last night to our attention"	Sen. Wiklund
01:57:18	Sen. Koran: "we didn't see that there was a federal requirement that... [WIC] must remain"; questions parity with prior carve-outs	Sen. Koran
02:03:18	"Senate File 856 as amended is passed and referred to the Committee on Human Services"	Sen. Wiklund

2

3

4

TRANSCRIPT

1 **PART I: BILL AUTHOR'S PRESENTATION**

2

3 **A. Chair Calls the Bill**

4 **1. SEN. WIKLUND:** Thank you, Madam Chair, members. Thank you. Um, now we are
 5 gonna move to Senate File 856. Members, we do have, um, a number of amendments to
 6 discuss about or related to this bill. Um, I would ask that, you know, Senator Gustafson,
 7 if you can give us the high-level overview of the bill and, you know, your opening, um,
 8 comments, and keep it as streamlined as possible. Um, and then I believe there's one
 9 amendment that you have that, um, is more general things that we could discuss. Um, and
 10 then I can move to the amendment that, that I've worked on with others, um, and we can
 11 discuss that. And then I do... We do have one testifier. Is that correct? Yeah. From the
 12 public. So if you could do your, your high-level overview, if we can get the brief
 13 testimony from the member of the public, and then we'll move to your, your First
 14 Amendment.

15 **2. SEN. WIKLUND:** Senator Gustafson.

16

17 **B. Bill Author's Opening Statement**

18 **3. SEN. GUSTAFSON:** Thank you, Madam Chair, and a big, big thank you to this
 19 committee who I've met with, um, I believe all of you are, um, in, in either briefly or
 20 extensively, and I just want to say thank you so much for working with me on this. Um,
 21 it's appreciated. Also wanna reach out to my coworker or my coworkers, my co-authors
 22 and workers, um, and for joining me on this bill. Um, Senator Draheim is also joining me
 23 here to co-present this bill. I'm very grateful for the work that he has put into this bill with
 24 me, as, um, as well as Senator Putnam, Senator Kreun, and Senator Latz.

25 **4. SEN. GUSTAFSON:** So Chair, members of the committee, thank you for the
 26 opportunity to present 856. **It establishes the Office of Inspector General to**
 27 **strengthen accountability, transparency, and oversight of our public dollars.** The bill
 28 is proactive step to protect public funds, uh, prevent fraud and misuse, and improve
 29 government efficiency, while ensuring that existing agencies retain their essential
 30 program integrity functions.

31 **5. SEN. GUSTAFSON:** Through extensive stakeholder feedback, including from
 32 this committee, we have refined SF 856 to address concerns about jurisdictional
 33 clarity, data confidentiality, and inter-agency coordination. The bill excludes the OIG
 34 from Medicaid fraud investigations, childcare licensing, and other compliance functions
 35 that must remain within the Department of Human Services and the Department of
 36 Children, Youth, and Family. Instead, the OIG will focus on system-wide fraud
 37 prevention while working collaboratively with these agencies through clear inter-agency
 38 agreements.

39 **6. SEN. GUSTAFSON:** The bill is not about duplication, it is about enhancing
 40 oversight while ensuring efficiency. It establishes a framework for effective
 41 cooperation, defines confidentiality protections, and ensures that investigations do not get

1 lost in bureaucratic silos. **It also includes, uh, provisions to resolve jurisdictional**
 2 **disputes efficiently and ensure that investigations are handled appropriately without**
 3 **overreach.**

4 **7. SEN. GUSTAFSON:** I look forward to discussing this bill and working with partners
 5 to ensure we create a system that protects public resources, improves accountability, and
 6 upholds the integrity of our state programs. Um, and thank you, Madam Chair. I think
 7 Senator Draheim has a brief statement too, if you're okay with that.

8
 9 **C. Co-Author's Statement**

10 **8. SEN. WIKLUND:** Senator Draheim.

11 **9. SEN. DRAHEIM:** Thank you, Chair Wiklund, and thank you, committee members.
 12 Um, w- we have been meeting on Tuesday nights with a bipartisan group and, uh, both
 13 with the House and Senate, and nonpartisan staff, uh, trying to iron out the details, and
 14 it's a very fluid bill. And, uh, we are trying really hard to make it, um, kind of an even
 15 playing field, where it's not political. **It does not favor the legislative body or the**
 16 **executive body, just an agency that can do its job.** And, and **we have the term of the**
 17 **inspector general at five years, so it, it doesn't, uh, get influenced by elections.**

18 **10. SEN. DRAHEIM:** Um, and, and there are a couple other ideas out there, and some
 19 other bills, and those members, or those members that are on those other bills are meeting
 20 with us too. So if any of you are interested in spending your Tuesday night with us, we
 21 usually meet at 5:00. Um, everybody is welcome. It is truly one of the most bipartisan
 22 groups that I've been part of in the nine years I've been here. So, I thank, uh, Senator
 23 Gustafson for leading the charge. Thank you.

24
 25 **D. Scheduled Public Testimony — Witness Absent**

26 **11. SEN. WIKLUND:** Um, then why don't we have, um, we have one member of the
 27 public who wished — who signed up to testify, Omar Jamal. Is he here?

28 **12. SEN. WIKLUND:** I don't see him present. **Not at — not online? Okay. Okay.**
 29 **Well, then we will move forward.** Um, Senator Gustafson, you had, uh, the A32
 30 amendment, and I don't know if you've spoken with someone on the committee. Senator
 31 Mann, well, **Senator Mann offers the A32 amendment**, and that has been posted
 32 online. If you could talk to us about what those, um, changes are and, and where they
 33 came from.

34
 35 **PART II: A32 AMENDMENT — INCLUDING UNDISCLOSED DELETION OF DUTY**
 36 **#5**

37
 38 **A. Description of the A32 Amendment as Moved**

1 **13. SEN. MANN:** Thank you. Yes. Thank you, Madam Chair. Um, so the, uh, A32
 2 amendment **refines the bill's language, making investigations broader by including**
 3 **failure to act, redefining abuse as misuse.** Um, the amendment moves the, moves...
 4 **removes the word abuse and replaces it with misuse in multiple places.** We felt like
 5 that was a, just a better, uh, phrase for what an OIG would be doing.

6 **14. SEN. MANN:** Um, the amendment **adds the formal definition. It also adds, uh, or**
 7 **failure to act in investigation criteria, and then it deletes, uh, some budget language,**
 8 **but adds a new section explicitly stating that funding will be appropriated for the**
 9 **creation of the OIG.**

10
 11 **B. Chair Wiklund Surfaces Unannounced Deletion of Duty #5**

12 **15. SEN. WIKLUND:** Members, do you have any questions about the A32 amendment?

13 **16. SEN. WIKLUND:** No. No questions. **Um, I noticed that, you know, one of the**
 14 **duties was removed.** That, um, I just wanted to find out if, if, did that come from work
 15 that you had been doing on the, this joint committee discussion? **The duty number five**
 16 **on page... Yeah, I'm sorry. Lines 5.11 through 5.14.**

17 **17. SEN. GUSTAFSON:** Thank you, Madam Chair, as I go through a pile of paper
 18 here. Yeah, sorry. **Just give me a moment. I'm sorry, can you give me the page and**
 19 **line again?**

20 **18. SEN. WIKLUND:** 5.11 to 14 are being deleted, and I just wondered if that was
 21 work that, where that work was done to decide that that... that duty would be
 22 removed.

23 **19. SEN. DRAHEIM:** Chair, if I could, I —

24 **20. SEN. WIKLUND:** Senator Draheim.

25 **21. SEN. DRAHEIM:** Thank you. **I, I think that has to do with the constitutionality**
 26 **of the bill, and, and a lot of that'll depend on... Senator Koran's been working on that**
 27 **very closely.** Um, but that, I think that is what we were trying to establish there in a... It,
 28 it's, um... **Correct me if I'm wrong, but that, that's why it was removed.**

29 **22. SEN. WIKLUND:** Okay. Thank you. Any other member questions?

30 **23. SEN. WIKLUND:** Is that me? Okay, we'll move forward. Um, **Senator Mann**
 31 **moves the A32 amendment.** All those in favor please signify by saying aye.

32 **24. MEMBERS:** Aye.

33 **25. SEN. WIKLUND:** Any opposed? **The amendment is adopted.**

PART III: A30 AMENDMENT — CHAIR'S JURISDICTIONAL CARVE-OUTS

A. Origin and Scope of the Chair's Amendment

26. SEN. WIKLUND: Senator Gustafson now, um, I guess I would like to discuss and bring up, um, move the A30 amendment. Um, as we, um, knew the bill was coming to our committee, um, I and, um, my staff and, um, others, um, non-partisan staff, **we had some concerns about, um, co— some of the, the duties of the inspector general** and not wanting to see that, um, functions that go on in the Department of Human Services and the Department of in— of Children, Youth, and Families, um, that some of the work that they do that interacts with the federal government that w— **we didn't wanna see, um, risks due to a lack of compliance, um, and impacts to federal funding or federal, um, requirements for investigations.**

27. SEN. WIKLUND: Uh, we didn't see... Or we saw that there needed to be a little more clarity about, um, who had responsibility for different functions, and, uh, **a process also for working out, um, concerns over time.** And Senator Gustafson mentioned some of this in her, in her opening remarks as well. So basically, the, the A30 amendment, um, the powers and duties section is left as it was.

28. SEN. WIKLUND: Um, it does add, um, in subdivision two **exceptions for the, for DHS with respect to Medicaid and for DCYF with respect to the CCAP program,** and also excludes, um, work that they're— that they do that has to do with general compliance reviews and IT security audits, that type of thing that aren't related to fraud or ab— abuse, um, explicitly stating that the, the OIG would not have jurisdiction over those functions.

29. SEN. WIKLUND: And then, um, **we wanted to make it clear that if, if there are tips that come in or information comes into the new inspector general, that that gets handed off to the, the appropriate agency** if it relates to one of these, um, functions that, um, we explicitly call out that they don't have jurisdiction over. So it's to make sure that those get handed off.

B. Data-Sharing and Confidentiality Provisions

30. SEN. WIKLUND: Um, the next lines, 2.18 through 2.28, um, had to do with da— data sharing and just **allowing the OIG to share data with DHS and DCYF.** It just adds another, um, statement that makes that explicit, um, and clarifies the status of data, um, as being private data. Um, **we worked on this, um, section of the amendment with the council from judiciary as well.**

31. SEN. WIKLUND: Um, and then starting on 2.29, it adds, um, two different, um... It adds to the area where, where specific functions are delineated as being excluded, uh, from moving, and so it further del— delineates Some exceptions to moving to the new OIG, um, and that was because we wanted to make it clear about, again, about Medicaid, Minnesota Care, and then also the divisions within Department of Children, Youth and Families that we did not, uh, think should transfer.

C. Interagency-Agreement Fallback for "Duplicative Investigations"

32. SEN. WIKLUND: Um, I think that this is complete, but we will continue to have discussions. I think the agencies need to provide more, uh, feedback on that, that part of the, the language. Um, and then **as Senator Gustafson mentioned, that we felt that there were some, uh, some situations that might come up that we couldn't account for all of them in the bill language, but that by proposing, um, an interagency agreement be developed, um, especially to, to handle, um, potential similar or duplicative investigations,** um, we thought that that would be a way that we could make sure those things get discussed, um, including, you know, how cost sharing would happen or just all of the details of a process that would need to be, uh, worked out, um, pertaining to investigations.

33. SEN. WIKLUND: But we also, um... **The bill author wanted to make sure that the, um, the OIG has the ability to investigate the departments.** They have... So it doesn't, um, **it doesn't limit the authority, um, to any investigation of the Department of Human Services or Children, Youth, and Families.** Um, we received feedback in the letter that's posted from, um, DHS about concerns about the, the interagency agreement language, and so I think, Senator Gustafson, I, I think that you'll contin— need to continue to work with them.

34. SEN. WIKLUND: Um, I— we didn't want to, or we didn't intend that this would introduce any, um, lack of clarity, so if there's a way to add, um, additional language to it to make sure it's clear that, that we're talking about, um, potential similar or duplicative investigations that aren't already addressed through the bill language, that might be a way to help clarify for the agency that that's the intent.

35. SEN. WIKLUND: But, um, I think it'd be good to work with, um, DHS about that concern that they raised in the letter. And, um, then the, um, f— Last page, page four, uh, 4.1 to 4.12. **It just clarifi— it clarifies that DHS and DCYF must share reports with the Office of the Inspector General.** And then the last lines, 4.13 through p— 4.16 clarifies that there are other e— exemptions added in, in this amendment, um, to the, the exclusions from transferring, so we wanted to... that needed to carry through.

36. SEN. WIKLUND: Um, I think with Article 2, Section 1, **I'm not sure that we have fully defined yet how, um, or clearly enough,** you know, the, the entities that are transferring versus not transferring, but we worked with, you know, with you to try and make sure that we made that progress forward in terms of defining it. But I, **I would say that we would like to see more, um, definition. We just wanna make sure that everybody is very clear about exactly who's, who's being transferred and who is not.** Um, so that's the A30 amendment.

PART IV: A35 TECHNICAL AMENDMENT — CONFORMS A30 TO A32

1 **A. Procedural Identification of Amendment Conflict**

2 **37. SEN. WIKLUND:** And we have — We have a technical amendment that Alex just
3 did. Oh. Uh, that's just to con— there was something in the A30 that doesn't match the
4 definitions of what was in the A, uh, what was in the actual bill. Okay. So we have a
5 technical amendment to the A30. That's the A35, which, has that been handed out or not?
6 No, not right now. It's — They will pass that out right now. Okay. So the A35 — Senator.

7
8 **B. Senator Eichorn's Bipartisan Praise and Departure**

9 **38. SEN. EICHORN:** Oh, excuse me, Senator Eichorn. Well, I have to go, but I just
10 wanted to, uh, uh, to stop for one comment. **I... people think this is what we do all the**
11 **time, that we actually work together in, in a collaborative way to solve a problem**
12 **that's really on our minds, so just wanted to thank you and the other, you know,**
13 **Senator Gustafson and Draheim and others who are putting this together.** So, it's,
14 it's just good to see. Thank you, Madam Chair.

15
16 **C. Procedural Correction by Senate Counsel**

17 **39. SEN. WIKLUND:** Thank you. So I would I'd like to move the A35 amendment, and
18 I don't know, Senate Council, if, if there's any more to say about it, but, um —

19 **40. MS. HOFFMANN-LATTI:** Madam Chair?

20 **41. SEN. WIKLUND:** Ms. Hoffmann-Latti.

21 **42. MS. HOFFMANN-LATTI:** Madam Chair, had we moved the A30?

22 **43. SEN. WIKLUND:** Yes. I moved the A30 —

23 **44. MS. HOFFMANN-LATTI:** But the 35 is an amendment to the 30, right? So —

24 **45. SEN. WIKLUND:** Correct.

25 **46. MS. HOFFMANN-LATTI:** — we'd have to move the 30 first?

26 **47. SEN. WIKLUND:** Yes. I, I believe I said I moved the A30 amendment, but yes. Sen
27 — um, Ms. Hoffmann-Latti, did you have a comment about the A35?

28
29 **D. Senate Counsel's Description of A35**

30 **48. MS. HOFFMANN-LATTI:** Uh, Madam Chair, members, **this is just to conform**
31 **with what we already adopted in the A32. Um, it conforms with lines 1.10 to 1.13 of**
32 **the A32. Um, it was easier for engrossing purposes to delete the section six and**
33 **reinsert instead of adding, like, subdivision and subdivision. It's just easier for**
34 **process.** Um, so those changes are just reflected in this A35.

1 **49. SEN. WIKLUND:** Any questions about the A35? Then, um, will all those in favor of
2 the moving... The A35 amendment, please signify it by saying aye.

3 **50. MEMBERS:** Aye.

4 **51. SEN. WIKLUND:** Any opposed? **The A35 amendment to the A30 amendment is**
5 **adopted.** Now, back to the A30. Um, we have an A36 amendment.

6
7 **PART V: A36 WIC AMENDMENT — LATE-BREAKING CARVE-OUT**

8
9 **A. Department of Health Concern Raised "Last Night"**

10 **52. SEN. WIKLUND:** The A36 amendment **addresses a concern that was brought**
11 **forward by the Department of Health. Um, we hadn't, um, considered or discussed**
12 **the Department of Health as we were having our conversations over the last week.**
13 **Um, but they have brought forward a concern about the, the WIC program being**
14 **another program that has federal, uh, implications that they need to maintain**
15 **authority over within their department.**

16 **53. SEN. WIKLUND:** And so the A36 amendment would add the WIC program to the
17 excluded, um, programs. And I believe... Is that one being passed out? Yeah. Oh. That
18 one you should have, but I don't — Sorry. I gave it to you but not to everybody. Oh. We
19 need to have it passed out. Absolutely. Ms. Hoffmann-Latti.

20 **54. MS. HOFFMANN-LATTI:** Hi, Madam Chair, members of the committee. Uh, **the**
21 **A36 is the exact same language that's in the A33 that was already in your packets,**
22 **except for the fact that the A33 was drafted inadvertently to the A28, which was a**
23 **previous version of the A30. Very confusing.** Thank you.

24
25 **B. Senator Koran Challenges Asymmetric Carve-Out Structure**

26 **55. SEN. WIKLUND:** Thank you. So members, um, I'd like to move the A36
27 amendment to the A30 amendment. Um, do you have any questions about that? Senator
28 Koran.

29 **56. SEN. KORAN:** Thank you, Madam Chair. And, um, this kinda goes along with the
30 whole, with the whole, um, piece of the... **It w— it appears to be a carve-out, um, on**
31 **the original A30 for, um, DCYF and DHS functions that are kinda required by**
32 **federal law.** And so we, we've, um, our conversations have been around — Mm — uh,
33 **kinda operations and, and the functions that must remain in those agencies,**
34 **especially those that have a specific federal requirement.** They just happen to reside in
35 an office called IG within the agency today, but it, it appears, in all of our research, it
36 shows that it should be, um, that it is really about those functions.

1 **57. SEN. KORAN:** It doesn't delineate the, the operational functions, compliance,
 2 licensing, oversight. That's still an agency responsibility. And then **the delineation when**
 3 **it moves into, um, w— a— an abuse or misuse or, or into a criminal investigation —**
 4 **In, in 30 for DHS and DCYF, you have then the second— the exclusion, yet the**
 5 **secondary statement at the end of in, in a, um, on the inter-agency agreements that**
 6 **then says, "Yeah, let's just have really clear delineation of roles and responsibilities,**
 7 **what jobs, what capabilities, without limiting the investigative capabilities of the, the**
 8 **now independent inspector general."** So that, I, I think that makes sense.

9 **58. SEN. KORAN:** I don't know what conversations you had with the chair. I assume
 10 that... Or I'm sorry, with the, with the He — Senator Gustafson. But I don't see that
 11 same... Well, **I guess my question is then on the WIC program, we d — in our, in our**
 12 **research earlier, we didn't see that there was a federal requirement that, um, that it**
 13 **must remain or, or that it has the similar jurisdictional requirements from a federal**
 14 **perspective.** And if it does then, um, then it would match the others. But we're missing
 15 the, um, inter-agency, um, requirement and/or that piece of it. To me, that would make
 16 it... It would be more understandable. But i— first, is there a federal requirement that,
 17 that under, similar to the DHS, that these functions remain in, under the WIC program
 18 Department of Health?

19 **59. SEN. WIKLUND:** Yes. That's the, um... Senator Koran, **that is what we were—**
 20 **Yeah ... told by the Department of Health.** I don't know if they are here, or Autumn is
 21 here. Um, Ms. Baum, I don't know if there's more to say about that. But that, that was
 22 what we were provided the information that, that **it is a federal requirement that they**
 23 **maintain control over that.**

24 **60. SEN. KORAN:** Madam Chair, then **why was an inter-agency agreement not**
 25 **included in this similar to the other two?**

26 **61. SEN. WIKLUND:** Purely because **this came last night to our attention, and so**
 27 **we didn't discuss it when we were discussing the inter-agency agreement.** I don't
 28 think there'd be an objection to adding — Yeah ... a section like that.

29 **62. SEN. WIKLUND:** Um, Ms. Hoffmann-Latti, do you have a comment or?

30 **63. MS. HOFFMANN-LATTI:** Uh, Madam Chair, members, no objection, um, as non-
 31 partisan staff. Um, I think it was just missed because of — Okay ... the late breaking
 32 information.

33 **64. SEN. WIKLUND:** Um, Senator Koran, we spent most of our time over the past week
 34 when, uh, the bill ref— was referred to the, our jurisdiction next. We spent the most time
 35 talking about DHS and DCYF. **We just didn't have the information from MDH until a**
 36 **couple days ago, and then last night that we could create the amendment.** But, I
 37 mean, we can work on language that — Yeah ... Senator Gustafson —

38 **65. SEN. KORAN:** Thanks, thanks, Madam Chair. I think that's what we, we need to do.
 39 I assume Senator Gustafson agreed with the original amendment and then so we just need
 40 to follow up with the same, mirror the same statement for the, uh, inter-agency agreement

1 or include, um, Department of Health. Thank you. That's all, my, all the comments I
2 have.

3
4 **C. Bill Author's Response: Defer to Later Committee Stops**

5 **66. SEN. WIKLUND:** And Senator Gustafson?

6 **67. SEN. GUSTAFSON:** Madam Chair, um, I, uh, **this has to make an, a final stop at**
7 **state and local gov. We can always add that in there at that time, knowing that**
8 **there's probably a couple of other agencies that will also, um, m — m — may have**
9 **some concerns or that we'll need to address.** So if Senator Koran, who also sits on state
10 and local gov, and we'll make sure to keep it all accountable, um, we could add that in
11 there at that moment. Thank you.

12 **68. SEN. WIKLUND:** Yeah, I think that's, that would be helpful, and then you can also
13 work on just whether it's formed correctly, the paragraphs we have. We did the best we
14 could, but I think that would... they would benefit from discussion with the agencies. Um,
15 so members, any other questions about the A36 amendment?

16
17 **D. Adoption of A36 and A30 as Amended**

18 **69. SEN. WIKLUND:** Then all, all those in favor of the A36 amendment to the A30
19 amendment, please signify by saying aye.

20 **70. MEMBERS:** Aye.

21 **71. SEN. WIKLUND:** Any opposed? **The amendment is adopted.** And now back to the
22 A32, 30 amendment as amended. Is there any further discussion or questions about that?

23 **72. SEN. WIKLUND:** Seeing none, uh, all those in favor of the A30 amendment as
24 amended, please signify by saying aye.

25 **73. MEMBERS:** Aye.

26 **74. SEN. WIKLUND:** Any opposed? **The amendment is adopted.** And now, Senator
27 Gustafson, we're back to your bill. Um, is there any general discussion or questions about
28 the bill?

29
30 **PART VI: FINAL VOTE AND ADJOURNMENT**

31
32 **75. SEN. WIKLUND:** Okay, I don't see any. Um, thank you, Senator Gustafson, for
33 your work this week with us. **This is a really, um, detail-oriented area or committee,**
34 **and we, we try to make sure that we keep a, um... kind of go over the bills and make**

1 **sure that we are thinking that we've covered as much as we could in terms of the**
2 **HHS jurisdiction.**

3 **76. SEN. WIKLUND:** As you mentioned, it has other stops. Um, if I, if come across
4 other things that I have questions about, I'll be happy to work with you on those, um, if
5 they come up. And I, I think I appreciate your openness to, uh, **making sure that we do**
6 **preserve agencies' and, um, federal, you know, the, the thing, duties that they need**
7 **to keep performing.**

8 **77. SEN. WIKLUND:** And I hope that we can continue to talk about making sure that
9 the, all of this is very clear to, um, agencies and to the public as to who has
10 responsibilities for what. So, um, with that I see no other questions or comments. Uh,
11 members, we will take a vote. Um, **Senator Mann moves that Senate File 856 as**
12 **amended be recommended to pass and be referred to the Committee on Hu —**
13 **Human Services.**

14 **78. SEN. WIKLUND:** Um, members, all those in favor, please signify by saying aye.

15 **79. MEMBERS:** Aye.

16 **80. SEN. WIKLUND:** Any opposed? **The motion does prevail, and Senate File 856 as**
17 **amended is passed and referred to the Committee on Human Services.** Thank you.

18 **81. SEN. WIKLUND:** Thank you. And seeing no other business on our agenda, **we are**
19 **adjourned.**

21 **KEY FINDINGS DOCUMENTED IN THIS HEARING**

22 **1. The On-the-Record Justification for Deleting Duty #5 Is a Single Sentence That Identifies** 23 **No Constitutional Doctrine**

24 The sole stated justification for the deletion of duty #5 at lines 5.11–5.14 of the bill is
25 found at ¶21: *"I, I think that has to do with the constitutionality of the bill, and, and a lot*
26 *of that'll depend on... Senator Koran's been working on that very closely. Um, but that, I*
27 *think that is what we were trying to establish there in a... It, it's, um... Correct me if I'm*
28 *wrong, but that, that's why it was removed."*

29 The justification:

- 30 • Identifies no specific constitutional doctrine (no separation-of-powers theory, no
31 statutory provision, no case law).
- 32 • Is hedged three times ("I think," "I think," "Correct me if I'm wrong").
- 33 • Attributes the substantive analysis to **Senator Mark Koran (R-North Branch),**
34 **who is physically present in the hearing room.** Sen. Koran is a member of this
35 committee and the Vice Chair of the Senate Committee on State and Local
36 Government — the next committee stop for the bill. **Notwithstanding the on-**
37 **record attribution of the constitutional analysis to Sen. Koran, Sen. Koran**

1 **does not speak to the constitutional rationale during this exchange.** He later
 2 speaks at length on the A36 amendment (§§55–65), but does not return to the duty
 3 #5 deletion or offer any constitutional explanation for it.

- 4 • Is given by a co-author (Sen. Draheim) who had to "go through a pile of paper" to
 5 locate the cited section, after the bill's **prime author (Sen. Gustafson) was unable**
 6 **to identify what was being deleted from her own bill (§17).**
- 7 • Is **accepted by the Chair without any follow-up question (§22)**, notwithstanding
 8 that the person to whom the analysis was attributed was seated in the room and
 9 available to speak.
- 10 • The motion to adopt the amendment containing the deletion is moved and passed by
 11 voice vote approximately 11 seconds later (§23–25).

12 **2. The Amendment's Own Mover Did Not Disclose the Deletion**

13 When Sen. Mann describes the A32 amendment as it is being moved (§13–14), she
 14 enumerates the following changes: (a) "misuse" replaces "abuse" in multiple places; (b)
 15 addition of a formal definition; (c) addition of "failure to act" as an investigation
 16 criterion; (d) deletion of certain budget language; (e) addition of a new section
 17 appropriating funding for the OIG.

18 **The deletion of duty #5 at lines 5.11–5.14 is not enumerated in this list.** Chair
 19 Wiklund had to surface the deletion as a separate follow-up question (§16) after no other
 20 member raised any question on the amendment.

21 **3. No Public Testimony Was Taken on S.F. 856 at This Hearing**

22 The only member of the public who signed up to testify on S.F. 856 — Omar Jamal —
 23 did not appear in person and was not available online (§11–12). The committee
 24 proceeded directly to amendment activity without taking any testimony from the public.
 25 **The total public input at this hearing on S.F. 856 was zero.**

26 **4. The Committee Acknowledges, in the Same Sitting, That the Bill Creates Jurisdictional** 27 **Collisions It Cannot Resolve in Text**

28 Chair Wiklund, in describing her own A30 amendment, states:

- 29 • That bill text alone cannot resolve all jurisdictional conflicts: *"we felt that there were*
 30 *some, uh, some situations that might come up that we couldn't account for all of*
 31 *them in the bill language"* (§32);
- 32 • That the fallback solution is future "interagency agreements" to be negotiated case-
 33 by-case to handle *"potential similar or duplicative investigations"* (§32);
- 34 • That the bill remains structurally unsettled: *"I'm not sure that we have fully defined*
 35 *yet how, um, or clearly enough, you know, the entities that are transferring versus*
 36 *not transferring"* (§36).

37 These admissions are made in the same sitting where duty #5 — the provision the Chair
 38 flagged (§16) and that the bill author could not identify (§17) — was deleted on an
 39 unsubstantiated "constitutionality" rationale (§21).

5. The Bill Required Successive Ad Hoc Carve-Outs to Preserve Federal Program Functions

In a single sitting, the committee adopted three jurisdictional carve-outs from the OIG's authority, each acknowledging that the underlying bill threatened federal program functions:

Amendment	Carve-Out	Justification
A30 (Wiklund)	DHS Medicaid; DCYF CCAP; general compliance reviews; IT security audits	"risks due to a lack of compliance, um, and impacts to federal funding or federal, um, requirements for investigations" (§26)
A36 (Wiklund)	Department of Health WIC program	"federal, uh, implications that they need to maintain authority over" (§52); concern raised "last night" by MDH (§61)

Sen. Koran observed (§56–58) that the carve-out pattern itself is structural evidence that the bill's framework is jurisdictionally incoherent: each agency that articulates a federal requirement obtains a hand-tailored carve-out, while the bill lacks any general statutory framework for coordination.

Senate Counsel acknowledged on the record (§54) that the amendment-tracking system itself had broken down: *"the A33 was drafted inadvertently to the A28, which was a previous version of the A30. Very confusing."*

6. The Bill Author's Stated Response to Identified Defects Is to Defer Them to Later Committee Stops

When Sen. Koran identifies a structural defect in the A36 amendment (§60), the bill author (§67) does not propose correcting the defect at this committee. Instead, she states: *"this has to make a final stop at state and local gov. We can always add that in there at that time, knowing that there's probably a couple of other agencies that will also... may have some concerns or that we'll need to address."*

This sequence makes explicit that the bill is being moved through this committee with known defects that the bill author intends to address at subsequent committee stops.

RELEVANCE TO KIRCHNER V. ELLISON

This recording documents the precise moment in the Minnesota Senate's 2025 deliberation on S.F. 856 (the Office of the Inspector General bill) when **duty #5 at page 5, lines 11–14 of the 3rd engrossment was deleted** and the 4th engrossment (filed the following day, March 13, 2025) was produced. Plaintiff's pleadings allege that the deleted provision is the statutory Attorney General-acknowledgment requirement — i.e., the provision that, had it survived, would have required the newly-created Office of the Inspector General to acknowledge or coordinate with the constitutionally-elected Minnesota Attorney General's pre-existing fraud-investigation authority.

The recording is offered in support of the following propositions:

- 1 **1. The deletion of the statutory AG-acknowledgment provision from S.F. 856**
2 **occurred without articulable constitutional justification on the public record.**
3 Sen. Draheim's hedged invocation of "constitutionality" (§21), attributing the
4 analysis to an absent senator, is the entirety of the on-the-record record for the
5 deletion. No constitutional doctrine is identified; no case law is cited; no testimony
6 from the Attorney General's office is taken; no member of the public testifies (§11–
7 12).
- 8 **2. The committee that voted to advance the bill acknowledged, in the same sitting,**
9 **that the bill creates the very jurisdictional and duplicative-investigation**
10 **problems that the deleted provision was statutorily situated to address.** Chair
11 Wiklund expressly concedes that the bill cannot fully resolve jurisdictional
12 collisions in text (§32, §36) and instead substitutes a regime of future interagency
13 agreements negotiated case-by-case.
- 14 **3. The procedural mechanics of the deletion are consistent with the pattern**
15 **Plaintiff alleges throughout: substantive provisions affecting the Attorney**
16 **General's constitutional and statutory authority are removed via non-**
17 **disclosed amendment language, in committee settings where no public**
18 **testimony is taken, with hedged or absent constitutional rationales, and in a**
19 **sequence that the bill author herself cannot account for on contemporaneous**
20 **record.** The bill author's inability to identify the deleted text (§17) — followed by a
21 co-author's hedged constitutional placeholder (§21) — is the procedural signature
22 of a deletion negotiated outside the public record.
- 23 **4. The hearing record corroborates the absence of public deliberation alleged in**
24 **the operative pleading.** Senate Granicus archive Clip 12991, the source of this
25 transcript, is the official video record of the only Senate Committee on Health and
26 Human Services Finance and Policy hearing in March 2025 at which S.F. 856 was
27 on the agenda. The committee report formalizing the bill's advancement was filed
28 the following day (March 13, 2025) under the date stamp on the 4th engrossment.

END OF TRANSCRIPT