

February 17, 2025

Dear Representative Anderson and State Government Committee Members,

I am writing with feedback from across the administration regarding House File 1, which would establish an Office of the Inspector General (OIG) within the legislative branch to execute a number of functions related to suspected fraud, waste, and abuse in state government.

Minnesota is a state committed to helping people — and we're committed to providing services that improve the lives of Minnesotans. Fraud against these public programs is unacceptable. It is not a victimless crime; it harms the same people we're trying to help with these services. We continue to work throughout the executive branch to test and strengthen our ability to prevent and detect fraud and waste while furthering a culture of compliance at all levels of every agency.

With this shared interest in preventing fraud, waste, and abuse in mind, we offer the following concerns regarding House File 1.

Organizational Structure

Inconsistent with Current Risks

The primary threats of fraud to the state come from criminals outside of state government attempting to defraud government programs. It is essential that an OIG be positioned to work in close partnership with agency staff who have subject matter expertise and a working knowledge of how programs function to detect and respond to suspicious activity.

Since the executive branch is responsible for implementing laws, an OIG tasked with detecting and investigating potential fraud, waste, and abuse as agencies perform executive functions should be situated for strong integration within the executive branch while maintaining due operational independence. An OIG operating within in the executive branch allows for more immediate investigations and responsive actions to be integrated within relevant programs while still leaving the Office of the Legislative Auditor (OLA) to provide for legislative oversight consistent with operational functions across state government and the separation of powers.

Departs from Proven Federal Model

Locating OIG functions within the executive branch is also consistent with the federal structure established in the 1970s that has grown to 74 independent OIGs. Federal OIGs exist within the federal executive but maintain independence from the agencies they oversee. According to the Council of the Inspectors General on Integrity and Efficiency, in 2022 the Federal OIG community's audit and investigative work identified potential savings to

Federal programs and operations totaling over \$70 billion. For every \$1 invested in OIGs through annual appropriations, OIGs generated \$20 in potential Federal savings.

Severe Outlier in Context of Other States

Based on the Association of Inspectors General - Directory of State and Local Inspector General Agencies and supplemental research, of the 49 other states we have identified 12 (24%) have a broad or enterprise inspector general similar to the one proposed in HF1. The remaining 37 (76%) do not. These enterprise inspectors general are executive appointed, generally by the state's governor. Massachusetts' is appointed by a vote of the governor, attorney general and state auditor. Tennessee's is appointed by the Commissioner of Finance and Administration.

We have not identified any state with an inspector general with executive branch oversight responsibilities that is appointed by a legislative entity. Illinois, for example, has a legislative inspector general that investigates allegations of misconduct by legislators and other legislative branch personnel.

It is also notable that states with an enterprise inspector general often also maintain agency-specific inspectors general. Of the 12 states with broad OIGs, seven also have at least one agency-specific inspector general. The remaining five appear to be fully consolidated in the enterprise inspector general. Florida has 33 agency-specific inspectors general in addition to one with an enterprise role.

Inappropriate Legislative Role in Executive Function

The Minnesota Constitution provides, "The powers of government shall be divided into three distinct departments: legislative, executive and judicial." Further, it states, "No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution." The Minnesota Constitution supports a strong division among branches of government while this bill proposes legislative supervision of an office with the authority to embed employees of that office in state agencies and "impose, or require a state agency to impose" specific executive actions. Additional context on this separation of powers issue is well described in Appendix A of the [2016 Office of the Legislative Auditor Evaluation Report on Iron Range Resources and Rehabilitation Board \(IRRRB\)](#).

Loss of Representation for Transferred Employees

While still remaining in the classified service, this bill proposes a significant and sudden transfer of many state employees from executive branch positions, whose work is governed by a collective bargaining agreement agreed to by an exclusive representative, to a public employer where no similar framework exists for their representation. Reorienting the office to an executive function consistent with similar offices in other states would provide a natural remedy to this issue.

Federal Barriers for DHS and DCYF

Any proposals that would move OIG functions out of their existing agency must be evaluated for compliance with federal requirements. House File 1 abolishes the Offices of Inspector General in the Departments of Education (MDE), Human Services (DHS), and Children, Youth, and Families (DCYF).

Shifting specific functions to a separate entity could risk putting the state out of compliance with federal regulations that require agencies that administer certain programs to have functions related to preventing and detecting waste, fraud, and abuse in the programs they administer. For example, federal regulations require Medicaid to be operated by a single state agency. DHS serves as Minnesota's single Medicaid state agency and is required under federal rules to have an internal surveillance and integrity review section. DHS must perform certain functions, such as identifying, investigating, and referring suspected fraud cases, in addition to screening, enrolling, and terminating providers (42 CFR §§ 455.12 – 455.23).

Some Agency OIG Functions Unrelated to New Office

Currently, there are OIGs at DHS, MDE, and Department of Corrections (DOC). Portions of the DHS OIG are set to transfer to DCYF in the summer of 2025.

OIGs within these agencies take on broader responsibilities than fraud, waste, and abuse investigations. For example, the DHS OIG is responsible for licensing human services programs and conducting background studies for programs licensed by DHS, Minnesota Department of Health (MDH) and other agencies in addition to program integrity. Background studies requirements vary by federal authorities and professions, with federal law limiting which state agencies can access Criminal Justice Information (CJIS) data necessary to conduct the studies. Similarly, the MDE OIG houses the Student Maltreatment Program in addition to investigating fraud, waste, and abuse.

Though not addressed in the bill, the DOC OIG currently conducts financial and operational audits, as well as oversees the Office of Professional Accountability that investigates staff misconduct and inspects and licenses county jails and other correctional facilities to ensure compliance with regulatory standards.

With the purpose of the OIG in House File 1 being identified as investigating and combating fraud, waste, and abuse, it is unclear whether these broader functions would appropriately fit with the OIG model in the bill.

Potential Duplication or Overlap with OLA

Though the bill states that the Legislative Audit Commission must ensure that the work of the OIG is not duplicative of that of the OLA, the responsibilities and jurisdiction of a potential enterprise OIG should be clearly delineated to avoid overlap and ensure efficient use of resources. For example, current law provides that the OLA "shall see that all provisions of law respecting the appropriate and economic use of public funds and other public resources are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance." To avoid confusion, it should be clear in law which entity is responsible for investigations of alleged legal violations around the use of public funds.

Thank you for the opportunity to comment on House File 1. My colleagues from the administration and I are fully committed to engaging with the legislature on fraud prevention. As such, it is important to underscore that

the Governor has a comprehensive fraud prevention package that is focused on strengthening investigation and enforcement authority, improving detection and oversight, and increasing criminal penalties. It is critical that the administration be given the tools that are requested in the Governor's comprehensive package.

Thank you,

A handwritten signature in black ink that reads "Erin M. Campbell". The signature is written in a cursive, flowing style.

Erin Campbell
Commissioner

CC: Legislative Auditor Judy Randall
Temporary Commissioner Shireen Gandhi, Department of Human Services
Commissioner Tikki Brown, Department of Children, Youth, and Families
Commissioner Willie Jett, Department of Education
Commissioner Paul Schnell, Department of Corrections