

February 19, 2025

Dear Representative Anderson and Human Services Finance and Policy 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. The delete-everything amendment adopted in the State Government Committee directs the proposed OIG to specifically focus on providers and recipients of state-funded services. This clarification highlights the importance of close alignment with the executive functions of agency personnel with specialized knowledge of state programs.

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.

The bill requires the OIG to “embed assistant inspectors general, and other staff as determined by the inspector general, within the Departments of Children, Youth, and Families (DCYF), Corrections, Education, Employment and Economic Development, Health, Human Services, and Labor and Industry.” While we appreciate the

recognition on the need for this expertise, the need for their existence further underscores that this function is placed inappropriately in the legislative branch.

### ***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

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.

It is also worth noting that while House File 1 provides that all employees of the Office of Inspector General serve in the unclassified service, Minn. Stat. 3.971, subd. 2 establishes that employees of the OLA other than the Legislative Auditor, Deputy Auditors, and administrative support specialists all serve in the classified service. Under the framework of the bill, OIG staff are not afforded the same protections from interference as OLA staff.

## Proposed Cut to State Grants

A new concern introduced in the amendments to the bill adopted Tuesday is the proposed one percent cut to state grant appropriations via their transfer to the office. In contrast to existing Minn. Stat. 16B.98 subd. 14 which provides agencies permissive authority to address administrative needs for grants when none are otherwise specified, this proposal requires a one percent across the board cut from all grant appropriations to finance the new OIG. For grants that rely on the existing five or ten percent authority for their administrative funding, diverting one percent to the OIG rather than to the agency would also have the effect of risking reducing an agency's ability to adequately oversee state grant funds.

Following the completion of the fiscal note, the more appropriate funding mechanism would be a direct appropriation to the office from the general fund to meet its needs, consistent with that for the OLA.

## 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 duties pertaining to the investigation of fraud, waste, and abuse in 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). Additionally, federally funded programs at DCYF have specific program integrity and fraud investigation requirements and reporting, which are integral to rooting out fraud, waste, and abuse. Recently updated agreements and state statutes, as well as updates in progress, with the federal government (state plans) require that these functions are maintained within specified authorities and responsibilities at DCYF and DHS. Transferring these functions to a new office that is not a state agency would require significant planning and analysis of federal laws, requirements, and state plan amendments and could risk federal compliance and funding. Planning without dedicated capacity and time to

complete this transfer in compliance with federal laws and regulation could also take away significant capacity of current program integrity and fraud investigation functions and expertise, impeding the efforts this proposal aims to enhance.

## **Ambiguous Scope**

While the bill contains a well-developed definition for the term “fraud” in establishing a scope for the office’s work, the definitions for the terms waste and abuse depart from a focus on violations of state law and remain vague and potentially overlapping. This need for clear definitions is especially important given the significant powers the bill proposes for the office.

## **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 more 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.” Even with the newly narrowed focus for the OIG as it relates to providers and recipients of state-funded services, 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,



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  
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