

March 6, 2025

Dear Representative Anderson and State Government 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.

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. This comprehensive package will provide agencies with important tools to prevent, detect, and respond to suspicious activity on the front-end and react in real time when there are attempts to defraud state programs.

With this shared interest in preventing fraud and misuse of public funds, 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 bill directs the proposed OIG to specifically focus on providers and recipients of state-funded services. This directive 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, misuse, and other unlawful uses of public funds 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, 12 of the 49 other states we have identified (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. 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 and Transfer Mechanism

House File 1 proposes a significant and sudden transfer of many state agency employees from executive branch positions, whose terms and conditions of employment are governed by collective bargaining agreements agreed to by exclusive representatives, to a legislative branch entity that is not party to those same collective bargaining agreements. Reorienting the office to an executive function consistent with similar offices in other states would provide a natural remedy to this issue.

The bill states that all active personnel whose duties pertain to the investigation of fraud, misuse, and other unlawful use of public funds in existing agency OIGs will transfer to the newly created OIG pursuant to Minn. Stat. 15.039. However, Minn. Stat. 15.039 applies to transfers among executive branch agencies. The bill intends to transfer executive branch employees to a legislative branch entity, and no such mechanism exists in law to transfer employees from one branch of government to another.

Proposed Cut to State Grants with Stricter Requirements

The bill requires that one percent of state grant appropriations be transferred to the OIG to fund their work. 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.

The proposed cuts also come in the context of more resource-intensive grant oversight requirements. Specifically, for agencies to conduct at least one unannounced in-person monitoring visit for grants over \$50,000 and annually for grants over \$250,000.

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.

We remain concerned with the July 1, 2025, effective date for grants changes. Given that some of these changes are significant, agencies will need resources and time to build capacity to implement them.

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 generally abolishes the duties pertaining to the investigation of fraud, misuse, and other unlawful use of public funds 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. 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.

Opportunity to Clarify Agency Withholding Authority

In addition to the duty in sec. 9 that the OIG recommend to an agency to withhold payments under certain conditions, we would suggest the addition of clearer consistent authority for an agency head to implement this withholding after receiving this recommendation from the OIG.

Delineation of Duties and Potential Duplication or Overlap with OLA

The bill provides a general purpose for the OIG to “investigate and combat suspected fraud, misuse, and other unlawful uses of public funds in state government,” and 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.” It should be clear in law which entity is responsible for investigations of alleged legal violations around the use of public funds.

The functions of the Legislative Auditor are clearly expressed in Minn. Stat. 3.971. Statutes outline the duties that the OLA is charged with undertaking in a transparent and comprehensive manner, to include financial audits, data security audits, program evaluations, and special reviews. Each of these stated responsibilities is directed by language that shapes the scope and objectives of the activity.

House File 1 directs the OLA to notify and coordinate with the OIG when the OLA receives a credible notification of funds being used for an unlawful purpose “that is within the inspector general’s authority.” However, the bill does not clearly define roles and jurisdictional lines between the proposed OIG and OLA.

Rather than a general direction in statute for the Legislative Audit Commission to ensure that the work of the OIG is not duplicative of that of the OLA, the duties, scope, and jurisdiction of an OIG should be specifically delineated in law.

Thank you for the opportunity to comment on House File 1. We look forward to continuing to engage with the legislature.

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
Commissioner Tamar Gronvall, Department of Administration

March 6, 2025

Representative Anderson
Representative Nash, Chair, State Government Finance and Policy Committee
Representative Klevorn, Ranking Member, State Government Finance and Policy Committee
House State Government Finance and Policy Committee Members

Subject: House File 1 – Office of Inspector General

Dear Legislators,

The Department of Administration (Admin) appreciated the opportunity to work with the chief author of House File 1 (HF1) to suggest changes to the bill language. HF1 includes modifications to grants administration and reporting requirements from HF2. While we share the goal of well managed state grants, Admin continues to have concerns about the proposed changes. Specifically, we want to ensure that the legislation meaningfully accomplishes the goals of well managed state grants.

Unannounced Visits

The bill requires agencies to conduct at least one in-person, unannounced monitoring visit for grants over \$50,000 and annually for grants over \$250,000. While current Office of Grants Management (OGM) policy recommends that in-person visits occur whenever possible, requiring unannounced monitoring visits would not meet the bill author's intent in the same way that a verification visit would.

There is a difference between an unannounced "verification" visit and an unannounced "monitoring visit." OGM Policy 08-10 says this about monitoring visits:

"The purpose of grant monitoring visits is to review and ensure progress against the grant's goals, to address any problems or issues before the end of the grant period, and to build rapport between the state agency and the grantee. An effective grant monitoring visit may cover topics including but not limited to statutory compliance, challenges faced by the grantee, modifications made to the grant program, program outcomes, grantee policies and procedures, grantee governance, and training and technical assistance needs."

Because the goal of a monitoring visit is to engage productively with the grantee, it is important that they are prepared to discuss policies, procedures, statutory compliance, outcomes, and other relevant matters. Instead of a monitoring visit, an unannounced verification visit would accomplish the intent to confirm a grantee is truly doing the work funded by the grant. We would support incorporating unannounced verification visits into policy but remain concerned as to whether state agencies can efficiently accomplish the expectations of the required Policy 08-10 monitoring if it is done during an unannounced visit.

Exception Authority

Additionally, the bill prohibits any exceptions to certain requirements. Extenuating circumstances beyond the control of a grant recipient or granting agency are always possible. State law provides exception authority if a waiver is deemed necessary by the commissioner.

Most Reliable Funding Source

A general fund appropriation would be a more suitable and predictable funding source for the new office as opposed to using a percentage of grant funds, as currently proposed. Grant funding ebbs and flows each year depending on the availability of state funds.

If grant appropriations do not provide explicit funding for grant administration, agencies are allowed to use a small portion of the grant to oversee it and ensure that the grant requirements are followed. This bill lowers the amount available to agencies and takes it to fund the new office. However, reducing the funds available for grant administration greatly hinders an agency's ability to do adequate oversight. A general fund appropriation would also avoid adversely impacting the intended outcomes of state grants, instead of diverting funds for oversight not directly tied to the administration of grants.

Effective Date

Finally, we remain concerned with the July 1, 2025 effective date. Given that some of these changes are significant, agencies will need considerable resources and time to build capacity to implement them.

We look forward to continuing to work with the authors and the committee on our shared commitment to continue strengthening protections to ensure that state funds are appropriately used and administered. The administration is 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. This comprehensive package will provide agencies with important tools to prevent, detect, and respond to suspicious activity on the front-end and react in real time when there are attempts to defraud state programs.

Sincerely,

Tamar Gronvall
Commissioner