



April 30, 2025

Chair Marty, Senator Gustafson, and Senate Finance Committee Members:

Thank you for your work on this proposal and the opportunity to provide written testimony on Senate File 856. We are writing with feedback from the Department of Children, Youth, and Families (DCYF), and the Department of Human Services (DHS). Minnesota is a state committed to both helping people and providing services that improve the lives of Minnesotans. Fraud against these public programs is unacceptable. It is not a victimless crime, and it harms the people that benefit from access to these services. The topic of improving identification and investigation of fraud throughout state government is important and we greatly appreciate Senator Gustafson's leadership on this issue.

We, along with our colleagues from the administration, 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 in mind, we offer the following input regarding the provisions of the bill. We also note appreciation for the amendments adopted in the Rules and Administration Committee that resolved much of the administration's feedback on how the office is placed within the executive branch.

Additional Attention Needed to Definition and Scope of Transfers

Currently, there are OIGs at the Department of Human Services (DHS) and the Department of Education (MDE). Portions of the DHS OIG are set to transfer to the Department of Children, Youth, and Families (DCYF) later this year. To the extent functions will collapse from existing agency OIGs to a centralized one, we strongly encourage affirmatively naming functions set to transfer rather than the current exception-based approach in the bill. This would be consistent with the approach in legislation transferring functions to DCYF (Laws of Minnesota 2023, chapter 70) and would avoid uncertainty or unintended consequences in implementation.

Exchange of Information and Data

Additional clarity is needed for the exchange of not public data between the originating agency and a centralized OIG. To ensure data is properly shared, we ask that the bill include language stating that the inspector general for the centralized agency must use subpoena powers to make requests of the agencies for nonpublic data. We also recommend that the legislation include a requirement that when the inspector general opens an investigation for a program, they must notify the agency with primary responsibility for program integrity

investigations. This is intended to encourage collaboration and avoid duplication that could potentially harm an investigation.

Duties abolished

Article 1, section 6 abolishes the duties pertaining to fraud, misuse, and other unlawful use of public funds in the Office of Inspector General in the Departments of Education, Human Services, and Children, Youth, and Families, except as exempted in article 1, section 15, subdivision 6. Article 1, section 15, subdivision 6 includes exceptions, not exemptions. The exceptions are tied to employee positions, not duties pertaining to fraud, misuse, and other unlawful use of public funds. We recommend bill language that clarifies the specific duties that are retained by MDE, DHS, and DCYF or if duties are not being abolished for certain agencies, removing them from the list of abolished duties. MDE does not otherwise, outside of its current OIG statute, have authorities to implement stop payments, so abolishing these duties and repealing that language would leave MDE without sanction authority. DHS must maintain certain Medicaid functions as noted in the following section on federal complexities.

Remaining Federal Complexities

Department of Human Services

DHS serves as Minnesota's single Medicaid state agency and is required under federal law to perform certain functions such as identifying, investigating, and referring suspected fraud cases (42 CFR §§ 455.12-455.23) in addition to screening, enrolling, and terminating providers (42 CFR §§ 455.400-455.470). The language added in the Health & Human Services Committee which aims to further mitigate federal compliance risks was appreciated. DHS remains concerned about the duplicative investigatory functions in the bill which could increase the likelihood for compromised investigations and undermine our shared policy goal of rooting out bad actors. Investigations conducted by an independent OIG would not abdicate DHS's responsibility under federal law to fully vet, review, and confirm findings from another entity such as an independent OIG.

Based on federal law, DHS cannot delegate decision-making authority on oversight and actions based on investigations, and referrals. Decisions made outside of DHS may not be noncompliant with the single state agency requirement. It is unclear whether the Centers for Medicare and Medicaid Services (CMS) would approve either delegated or shared investigatory jurisdiction over Medicaid. We are not aware of any other state that operates in this manner. There is a risk that CMS may not approve the shared investigatory structure, which could jeopardize federal funding of the state's Medicaid program or render the interagency agreement unimplementable. DHS will need to seek an amendment to our agreement with CMS to implement this bill. Section 17 in Article 1 requires a federally contingent effective date: "This section is effective upon federal approval from the Centers for Medicare and Medicaid Services. The Commissioner of Human Services must notify the Revisor when federal approval is obtained or denied."

Department of Children, Youth, and Families

Specific to DCYF, the bill does not transfer functions from those that will transfer from the DHS OIG to DCYF to a centralized OIG. In June, DCYF will take on responsibility for program integrity investigations for the child care assistance program (CCAP) under Chapter 142E and the great start compensation support payment program (compensation program) under 142D.21. DCYF's state plan requires that primary program integrity functions for

CCAP remain in the agency managing the program. Investigations for potential intentional fraud are referred to the Bureau of Criminal Apprehension (BCA). The compensation program is tied to the CCAP program in terms of operating and program integrity systems and serves many of the same providers. Accordingly, primary program integrity functions for the compensation program should also remain with DCYF to avoid unnecessary duplication of effort and responsibility. As with the CCAP program, cases of intentional fraud will be referred to the BCA.

The 8th engrossment of Senate File 856 references the compensation support payment program at lines 15.7 and 15.8 but fails to include a reference in article 1, section 6, subd. 2(d) (lines 6.25 – 6.27). We ask that language regarding the compensation program be added to ensure clarity in responsibilities.

Please note that **primary responsibility** for program integrity matters for other antipoverty programs managed within DCYF (for example food support and the Minnesota family assistance program) currently lie with the local agencies responsible for administering those programs and will remain there under this legislation.

Potential Duplication or Overlap with OLA

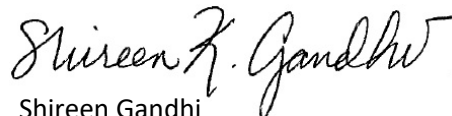
The responsibilities and jurisdiction of a potential enterprise OIG should be clearly delineated to avoid overlap and ensure efficient use of resources. Current law provides that the OLA “shall see that all provisions of law respecting the appropriate and economic use of public funds and other public resources are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance.” The bill establishes authority for the OIG to conduct inspections, evaluations, and investigations; recommend legislative or policy changes; and publish reports on completion of an audit or investigation summarizing findings. To avoid confusion and potential duplication, the roles of the OLA and OIG should be clearly established in statute.

Thank you for the opportunity to comment on Senate File 856. We look forward to continuing discussions on effective ways to prevent, detect, and respond to fraud against public programs.

Thank you,



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Commissioner
Department of Children, Youth, and Families



Shireen Gandhi
Temporary Commissioner
Department of Human Services

Cc: Legislative Auditor Judy Randall
Commissioner Erin Campbell