ALBERT H. QUIE
GOVERNOR

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR

ST. PAUL 55155

March 18, 1982

The Honorable Jack Davies
President of the Senate

Dear Senator Davies:

Returned to you unsigned please find Senate File 1689.

Section 2, Subdivision 3 of the bill grants to the Legislative Auditor the power to approve, reject or modify any contract entered into by a State agency with a public accountant for the purpose of performing an audit. I believe that this is an unconstitutional intrusion by the legislative branch of government into the administrative decision-making process which is properly and constitutionally the prerogative of the executive branch of government.

Article III, Section 1 of the Constitution of the State of Minnesota provides that the powers of government are to be divided into three distinct departments: the legislative, executive and judicial. That section also provides as follows: "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 Supreme Court in the Matter of Application of Senate, 1865, 10 Minn. 78 (Gil. 56), stated as follows:

> The departments are independent of each other to the extent, at least, that neither can exercise any of the powers of the others not expressly provided for. This not only prevents an assumption by either department of power not properly belonging to it, but also prohibits the imposition, by one, of any duty of either of the others not within the scope of its jurisdiction; and 'it is the duty of each to abstain from and to oppose encroachment on either.' Any departure from these important principles must be attended with evil. (emphasis added)

I do not question the right of the Legislative Auditor to review the records of all State departments, boards, commissions and agencies, including audits conducted by public accountants of the affairs of those entities. However, the

selection of a public accountant is an administrative function which is the constitutional responsibility of the executive branch.

For the foregoing reasons, Senate File 1689 is hereby vetoed.

Sincerely,

ALBERT H. QUIE
GOVERNOR

AHQ:ccm