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December 21, 2018

Michigan House of Representatives
Michigan Senate
State Capitol Building
Lansing, Michigan 48913

Ladies and Gentlemen:

Today I vetoed House Bill 4259 due to concerns with its effect on one of our constitution's most important tenets: the separation of powers.

HB 4259 provides that, notwithstanding any other provision of law, the legislative auditor general is entitled to unrestricted access to all information, hard copy and electronic, including confidential information, in the other branches of state government. That includes access to information that is not even relevant to a particular audit request. The bill purports to absolve state employees from liability for disclosing confidential information to the auditor general and imposes upon auditor general staff the same duty of confidentiality that otherwise applies.

The legislative auditor general was created in Article IV, section 53 of the State Constitution of 1963. The auditor general is charged with conducting "post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state" and "performance post audits" of those entities as well. The auditor general "shall be assigned no duties other than those specified" in the Constitution.

As an accountant, I have a unique appreciation for the need for access to necessary and relevant information in order to satisfy auditing standards. But as governor, I have an important obligation to protect one of the foundational principles of our constitution—the separation of powers. Interactions among separate and co-equal branches of government should occur in a controlled environment. HB 4259 would violate the separation of those branches by giving the legislature's agent unrestricted access into all executive functions, whether it was conducting an audit of those functions or not.

While well intentioned, HB 4259 is an unconstitutional overreach that would blur the separation between the legislative and other branches. My administration has worked hard at providing the auditor general access to relevant information while protecting privileged and confidential information, in particular when that information is sensitive or made confidential by federal law. Creating a blanket, one-size-fits-all approach to access to *all* information could result in inadvertent disclosures of personally identifying, protected health, or other privileged or confidential information.

What's more, many of the state's data management programs are complicated and require specialized understanding and experience. Giving the auditor general unrestricted access to all electronic data could unnecessarily expose private information to data security threats. The State of Michigan Security Operations Center blocks millions of unauthorized attempts to access the State network every day. Unfettered and uncontrolled access to confidential data could increase the risk of exposure by a significant margin.

I understand and appreciate the need for the auditor general to be given appropriate access to information necessary to perform his constitutional function. Perhaps more than any governor in Michigan history, I value the important role that auditors play in ensuring good government, and responsible stewardship of state resources. However, I cannot sign this bill because of its unconstitutional encroachment of the separation of our co-equal branches of government.

Sincerely,

Rick Snyder
Governor