

26 | or referrals; authorizing state agency employees and
27 | state contractors to report certain information to the
28 | Chief Financial Officer; amending s. 17.325, F.S.;
29 | requiring certain records to be sent to the Florida
30 | Accountability Officer within a specified timeframe;
31 | amending s. 20.055, F.S.; requiring agency inspectors
32 | general to make certain determinations and reports;
33 | amending s. 110.1245, F.S.; providing requirements for
34 | awards given to employees who report under the
35 | Whistle-blower's Act; authorizing expenditures for
36 | such awards; amending s. 112.3187, F.S.; revising the
37 | term "gross mismanagement" to "mismanagement";
38 | conforming provisions to changes made by the act;
39 | creating s. 286.31, F.S.; requiring specified
40 | documentation for certain legal fee claims; providing
41 | an exception; amending s. 287.057, F.S.; revising
42 | provisions relating to contractual services and
43 | commodities that are not subject to competitive-
44 | solicitation requirements; requiring certain state
45 | contracts to include a good faith estimate of gross
46 | profit; requiring a determination of reasonableness;
47 | providing definitions; prohibiting certain state
48 | employees from participating in the negotiation or
49 | award of state contracts; creating s. 288.00001, F.S.;
50 | prohibiting tax incentives from being awarded or paid

51 to a state contractor or subcontractor; amending s.
 52 1001.20, F.S.; requiring the Office of Inspector
 53 General of the Department of Education to conduct
 54 investigations relating to mismanagement, fraud, or
 55 abuse against a district school board or Florida
 56 College System institution; amending s. 1001.65, F.S.;
 57 providing responsibilities of Florida College System
 58 institution presidents; amending ss. 112.3188,
 59 112.3189, and 112.31895, F.S.; conforming provisions
 60 to changes made by the act; authorizing the Office of
 61 the Auditor General to use carryforward funds to fund
 62 the Florida Accountability Office; providing an
 63 effective date.

64

65 Be It Enacted by the Legislature of the State of Florida:

66

67 Section 1. Section 11.421, Florida Statutes, is created to
 68 read:

69 11.421 Florida Accountability Office.—

70 (1) There is created under the Auditor General the Florida
 71 Accountability Office for the purpose of ensuring accountability
 72 and integrity in state and local government and facilitating the
 73 elimination of fraud, waste, abuse, mismanagement, and
 74 misconduct in government.

75 (2) The Florida Accountability Officer shall be a

76 legislative employee and be appointed by and serve at the
77 pleasure of the Auditor General. The Florida Accountability
78 Officer shall oversee the efficient operation of the office and
79 report to and be under the general supervision of the Auditor
80 General.

81 (3) The Auditor General shall employ qualified individuals
82 for the office pursuant to s. 11.42.

83 (4) As used in this section, the term:

84 (a) "Abuse" means behavior that is deficient or improper
85 when compared with behavior that a prudent person would consider
86 a reasonable and necessary operational practice given the facts
87 and circumstances. The term includes the misuse of authority or
88 position for personal gain.

89 (b) "Appropriations project" means a specific
90 appropriation or proviso that provides funding for a specified
91 entity that is a local government, private entity, or privately
92 operated program. The term does not include an appropriation or
93 proviso:

94 1. Specifically authorized by statute;

95 2. That is part of a statewide distribution to local
96 governments;

97 3. Recommended by a commission, council, or other similar
98 entity created in statute to make annual funding
99 recommendations, provided that such appropriation does not
100 exceed the amount of funding recommended by the commission,

101 council, or other similar entity;

102 4. For a specific transportation facility that is part of
 103 the Department of Transportation's 5-year work program submitted
 104 pursuant to s. 339.135;

105 5. For an education fixed capital outlay project that is
 106 submitted pursuant to s. 1013.60 or s. 1013.64; or

107 6. For a specified program, research initiative,
 108 institute, center, or similar entity at a specific state college
 109 or university recommended by the Board of Governors or the State
 110 Board of Education in its legislative budget request.

111 (c) "Fraud" means obtaining something of value through
 112 willful misrepresentation, including, but not limited to, the
 113 intentional misstatements or intentional omissions of amounts or
 114 disclosures in financial statements to deceive users of
 115 financial statements, theft of an organization's assets,
 116 bribery, or the use of one's position for personal enrichment
 117 through the deliberate misuse or misapplication of an
 118 organization's resources.

119 (d) "Misconduct" means conduct which, though not illegal,
 120 is inappropriate for a person in his or her specified position.

121 (e) "Mismanagement" has the same meaning as in s.
 122 112.3187.

123 (f) "Office" means the Florida Accountability Office.

124 (g) "Waste" means the act of using or expending resources
 125 unreasonably, carelessly, extravagantly, or for no useful

126 purpose.

127 (5) The Florida Accountability Officer may receive and
128 investigate a complaint alleging fraud, waste, abuse,
129 mismanagement, or misconduct in connection with the expenditure
130 of public funds.

131 (6) A complaint may be submitted to the office by any of
132 the following persons:

133 (a) The President of the Senate.

134 (b) The Speaker of the House of Representatives.

135 (c) The chair of an appropriations committee of the Senate
136 or the House of Representatives.

137 (d) The Auditor General.

138 (7) (a) Upon receipt of a complaint, the Florida
139 Accountability Officer shall determine whether the complaint is
140 supported by sufficient information indicating a reasonable
141 probability of fraud, waste, abuse, mismanagement, or
142 misconduct. If the Florida Accountability Officer determines
143 that the complaint is not supported by sufficient information
144 indicating a reasonable probability of fraud, waste, abuse,
145 mismanagement, or misconduct, the Florida Accountability Officer
146 shall notify the complainant in writing and the complaint shall
147 be closed.

148 (b) If the complaint is supported by sufficient
149 information indicating a reasonable probability of fraud, waste,
150 abuse, mismanagement, or misconduct, the Florida Accountability

151 Officer shall determine whether an investigation into the matter
152 has already been initiated by a law enforcement agency, the
153 Commission on Ethics, the Chief Financial Officer, the Office of
154 Chief Inspector General, or the applicable agency inspector
155 general. If such an investigation has been initiated, the
156 Florida Accountability Officer shall notify the complainant in
157 writing and the complaint may be closed.

158 (c) If the complaint is supported by sufficient
159 information indicating a reasonable probability of fraud, waste,
160 abuse, mismanagement, or misconduct, and an investigation into
161 the matter has not already been initiated by a law enforcement
162 agency, the Commission on Ethics, the Chief Financial Officer,
163 the Office of Chief Inspector General, or the applicable agency
164 inspector general, the Florida Accountability Officer shall,
165 within available resources, conduct an investigation and issue a
166 report of the investigative findings to the complainant and to
167 the President of the Senate and the Speaker of the House of
168 Representatives. The Florida Accountability Officer may refer
169 the matter to the Auditor General, the appropriate law
170 enforcement agency, the Commission on Ethics, the Chief
171 Financial Officer, the Office of the Chief Inspector General, or
172 the applicable agency inspector general. The Auditor General may
173 provide staff and other resources to assist the Florida
174 Accountability Officer.

175 (8) (a) The Florida Accountability Officer, or his or her

176 designee, may investigate the books, records, papers, documents,
177 data, operation, and physical location of any public agency in
178 this state, including any confidential information, and the
179 public records of any entity that has received public funds.

180 (b) Upon the request of the Florida Accountability
181 Officer, the Legislative Auditing Committee or any other
182 committee of the Legislature may issue subpoenas and subpoenas
183 duces tecum, as provided in s. 11.143, to compel testimony or
184 the production of evidence when deemed necessary to an
185 investigation authorized by this section. Consistent with s.
186 11.143, such subpoenas and subpoenas duces tecum may be issued
187 as provided by applicable legislative rules, or in the absence
188 of applicable legislative rules, by the chair of the Legislative
189 Auditing Committee with the approval of the Legislative Auditing
190 Committee and the President of the Senate and the Speaker of the
191 House of Representatives, or with the approval of the President
192 of the Senate or the Speaker of the House of Representatives if
193 such officer alone designated the Legislative Auditing Committee
194 under s. 1.01(17).

195 (c) If a witness fails or refuses to comply with a lawful
196 subpoena or subpoena duces tecum issued pursuant to this
197 subsection at a time when the Legislature is not in session, the
198 Florida Accountability Officer may file a complaint before any
199 circuit court of the state to enforce the subpoena or subpoena
200 duces tecum. On the filing of such complaint, the court shall

201 take jurisdiction of the witness and the subject matter of the
202 complaint and shall direct the witness to respond to all lawful
203 questions and to produce all documentary evidence in the
204 possession of the witness which is lawfully demanded. The
205 failure of a witness to comply with such order constitutes a
206 direct and criminal contempt of court, and the court shall
207 punish the witness accordingly.

208 (d) When the Legislature is in session, upon the request
209 of the Florida Accountability Officer to the committee issuing
210 the subpoena or subpoena duces tecum, either house of the
211 Legislature may seek compliance with the subpoena or subpoena
212 duces tecum in accordance with the State Constitution, general
213 law, the joint rules of the Legislature, or the rules of the
214 house of the Legislature issuing the subpoena.

215 (9) The Florida Accountability Officer shall receive
216 copies of all reports required by ss. 14.32, 17.325, and 20.055.

217 (10) (a) Beginning with the 2020-2021 fiscal year, the
218 Auditor General and the Florida Accountability Officer, within
219 available resources, shall randomly select and review
220 appropriations projects appropriated in the prior fiscal year
221 and, if appropriate, investigate and recommend an audit of such
222 projects. The review, investigation, or audit may be delayed on
223 a selected project until a subsequent year if the timeline of
224 the project warrants such a delay. Each investigation or audit
225 must include, but is not limited to, evaluating whether the

226 recipient of the appropriations project administered the project
227 in an efficient and effective manner. When an audit is
228 recommended by the Florida Accountability Officer under this
229 subsection, the Auditor General shall determine whether the
230 audit is appropriate.

231 (b) Beginning with the 2020-2021 fiscal year, the Auditor
232 General and the Florida Accountability Officer, within available
233 resources, shall select and review, audit, or investigate the
234 financial activities of political subdivisions, special
235 districts, public authorities, public hospitals, state and local
236 councils or commissions, units of local government, or public
237 education entities in this state, as well as any authorities,
238 councils, commissions, direct-support organizations,
239 institutions, foundations, or similar entities created by law or
240 ordinance to pursue a public purpose, entitled by law or
241 ordinance to any distribution of tax or fee revenues, or
242 organized for the sole purpose of supporting one of the public
243 entities listed in this paragraph.

244 Section 2. Paragraph (f) of subsection (2) and paragraph
245 (j) of subsection (7) of section 11.45, Florida Statutes, are
246 amended to read:

247 11.45 Definitions; duties; authorities; reports; rules.—

248 (2) DUTIES.—The Auditor General shall:

249 (f) At least every 3 years, conduct operational audits of
250 the accounts and records of state agencies, state universities,

251 state colleges, district school boards, the Florida Clerks of
252 Court Operations Corporation, water management districts, and
253 the Florida School for the Deaf and the Blind. At the conclusion
254 of each 3-year cycle, the Auditor General shall publish a report
255 consolidating common operational audit findings for all state
256 agencies, all state universities, all state colleges, and all
257 district school boards.

258

259 The Auditor General shall perform his or her duties
260 independently but under the general policies established by the
261 Legislative Auditing Committee. This subsection does not limit
262 the Auditor General's discretionary authority to conduct other
263 audits or engagements of governmental entities as authorized in
264 subsection (3).

265 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

266 (j) The Auditor General shall notify the Legislative
267 Auditing Committee of any financial or operational audit report
268 prepared pursuant to this section which indicates that a
269 district school board, state university, or Florida College
270 System institution has failed to take full corrective action in
271 response to a recommendation that was included in the two
272 preceding financial ~~or operational~~ audit reports or a preceding
273 operational audit report.

274 1. The committee may direct the district school board or
275 the governing body of the state university or Florida College

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276 System institution to provide a written statement to the
277 committee explaining why full corrective action has not been
278 taken or, if the governing body intends to take full corrective
279 action, describing the corrective action to be taken and when it
280 will occur.

281 2. If the committee determines that the written statement
282 is not sufficient, the committee may require the chair of the
283 district school board or the chair of the governing body of the
284 state university or Florida College System institution, or the
285 chair's designee, to appear before the committee.

286 3. If the committee determines that the district school
287 board, state university, or Florida College System institution
288 has failed to take full corrective action for which there is no
289 justifiable reason or has failed to comply with committee
290 requests made pursuant to this section, the committee shall
291 refer the matter to the State Board of Education or the Board of
292 Governors, as appropriate, to proceed in accordance with s.
293 1008.32 or s. 1008.322, respectively.

294 Section 3. Subsections (1), (3), and (4) of section 11.47,
295 Florida Statutes, are amended to read:

296 11.47 Penalties; failure to make a proper audit or
297 examination; making a false report; failure to produce documents
298 or information.—

299 (1) (a) All officers whose respective offices the Auditor
300 General or the Office of Program Policy Analysis and Government

301 Accountability is authorized to audit or examine shall enter
302 into their public records sufficient information for proper
303 audit or examination, and shall make the same available to the
304 Auditor General or the Office of Program Policy Analysis and
305 Government Accountability on demand. All such officers shall
306 also make all reasonable efforts to provide the Auditor General
307 or the Office of Program Policy Analysis and Government
308 Accountability with access to individuals who have sufficient
309 information for proper audit or examination.

310 (b) The chief administrative officer whose office the
311 Auditor General or the Office of Program Policy Analysis and
312 Government Accountability is authorized to audit or examine, or
313 such officer's designee, is responsible for the office's
314 cooperation with the audit or examination and is subject to
315 subsections (3) and (4). Before the commencement of the audit or
316 examination, the Auditor General or the Office of Program Policy
317 Analysis and Government Accountability shall inquire of such
318 officer to determine whether he or she intends to delegate the
319 responsibility. If the officer intends to delegate the
320 responsibility, the officer must report the designee's name and
321 position to the Auditor General or the Office of Program Policy
322 Analysis and Government Accountability upon request.

323 (3) Any person who willfully fails, unreasonably delays,
324 or refuses to furnish or produce any book, record, paper,
325 document, data, or sufficient information necessary to a proper

326 | audit or examination which the Auditor General or the Office of
327 | Program Policy Analysis and Government Accountability is by law
328 | authorized to perform shall be guilty of a misdemeanor of the
329 | first degree, punishable as provided in s. 775.082 or s.
330 | 775.083.

331 | (4) Any officer who willfully fails, unreasonably delays,
332 | or refuses to furnish or produce any book, record, paper,
333 | document, data, or sufficient information necessary to a proper
334 | audit or examination which the Auditor General or the Office of
335 | Program Policy Analysis and Government Accountability is by law
336 | authorized to perform, shall be subject to removal from office.

337 | Section 4. Subsections (1) through (5) of section 14.32,
338 | Florida Statutes, are renumbered as subsections (2) through (6),
339 | respectively, and new subsections (1) and (7) are added to that
340 | section to read:

341 | 14.32 Office of Chief Inspector General.—

342 | (1) As used in this section, the term:

343 | (a) "Abuse" means behavior that is deficient or improper
344 | when compared with behavior that a prudent person would consider
345 | a reasonable and necessary operational practice given the facts
346 | and circumstances. The term includes the misuse of authority or
347 | position for personal gain.

348 | (b) "Fraud" means obtaining something of value through
349 | willful misrepresentation, including, but not limited to, the
350 | intentional misstatements or intentional omissions of amounts or

351 disclosures in financial statements to deceive users of
352 financial statements, theft of an organization's assets,
353 bribery, or the use of one's position for personal enrichment
354 through the deliberate misuse or misapplication of an
355 organization's resources.

356 (c) "Independent contractor" has the same meaning as in s.
357 112.3187(3).

358 (d) "Misconduct" means conduct which, though not illegal,
359 is inappropriate for a person in his or her specified position.

360 (e) "Mismanagement" has the same meaning as in s.
361 112.3187(3).

362 (f) "Waste" means the act of using or expending resources
363 unreasonably, carelessly, extravagantly, or for no useful
364 purpose.

365 (7) (a) Within 6 months after the initiation of an
366 investigation of fraud, waste, abuse, mismanagement, or
367 misconduct in government, the Chief Inspector General or an
368 agency inspector general must determine whether there is
369 reasonable probability that fraud, waste, abuse, mismanagement,
370 or misconduct in government has occurred. If there has not been
371 a determination of such reasonable probability and the
372 investigation continues, a new determination must be made every
373 3 months until the investigation is closed or such reasonable
374 probability is found to exist.

375 (b) If the Chief Inspector General or an agency inspector

376 general determines that there is reasonable probability that a
377 public official, independent contractor, or agency has
378 committed fraud, waste, abuse, mismanagement, or misconduct in
379 government, the inspector general shall report such findings to
380 the Florida Accountability Officer and to the Commission on
381 Ethics, Office of Fiscal Integrity within the Chief Financial
382 Officer's office, or other law enforcement agency, if the
383 commission, Office of Fiscal Integrity, or law enforcement
384 agency has jurisdiction over the subject matter.

385 (c) If the findings of an investigation conducted pursuant
386 to this subsection conclude that a public official, independent
387 contractor, or agency has committed fraud, waste, abuse,
388 mismanagement, or misconduct in government, the Chief Inspector
389 General or agency inspector general shall report such findings
390 to the Chief Financial Officer within 30 days after the
391 investigation is closed. Such public official, independent
392 contractor, or person responsible within the agency is
393 personally liable for repayment of the funds that were diverted
394 or lost as a result of the fraud, waste, abuse, mismanagement,
395 or misconduct in government. If the person liable fails to repay
396 such funds voluntarily and the state does not agree to a
397 settlement, the Chief Financial Officer shall bring a civil
398 action to recover the funds within 60 days after receipt of such
399 findings.

400 Section 5. Section 17.04, Florida Statutes, is amended to

401 read:

402 17.04 To audit and adjust accounts of officers and those
403 indebted to the state.—The Chief Financial Officer, using
404 generally accepted auditing procedures for testing or sampling,
405 shall examine, audit, adjust, and settle the accounts of all the
406 officers of this state, and any other person in anywise
407 entrusted with, or who may have received any property, funds, or
408 moneys of this state, or who may be in anywise indebted or
409 accountable to this state for any property, funds, or moneys,
410 and require such officer or persons to render full accounts
411 thereof, and to yield up such property or funds according to
412 law, or pay such moneys into the treasury of this state, or to
413 such officer or agent of the state as may be appointed to
414 receive the same, and on failure so to do, to cause to be
415 instituted and prosecuted proceedings, criminal or civil, at law
416 or in equity, against such persons, according to law. The Chief
417 Financial Officer may conduct investigations within or outside
418 of this state as it deems necessary to aid in the enforcement of
419 this section. The Chief Financial Officer may commence an
420 investigation pursuant to this section based on a complaint or
421 referral from any source. An employee of a state agency or a
422 state contractor having knowledge of suspected misuse of state
423 funds may report such information to the Chief Financial
424 Officer. If during an investigation the Chief Financial Officer
425 has reason to believe that any criminal statute of this state

426 | has or may have been violated, the Chief Financial Officer shall
427 | refer any records tending to show such violation to state or
428 | federal law enforcement or prosecutorial agencies and shall
429 | provide investigative assistance to those agencies as required.

430 | Section 6. Subsections (4) and (5) of section 17.325,
431 | Florida Statutes, are renumbered as subsections (5) and (6),
432 | respectively, and a new subsection (4) is added to that section
433 | to read:

434 | 17.325 Governmental efficiency hotline; duties of Chief
435 | Financial Officer.—

436 | (4) A copy of each suggestion or item of information
437 | received through the hotline that is logged pursuant to this
438 | section must be reported to the Florida Accountability Officer
439 | by the 15th of the month following receipt of the suggestion or
440 | item of information.

441 | Section 7. Paragraph (g) is added to subsection (7) of
442 | section 20.055, Florida Statutes, to read:

443 | 20.055 Agency inspectors general.—

444 | (7) In carrying out the investigative duties and
445 | responsibilities specified in this section, each inspector
446 | general shall initiate, conduct, supervise, and coordinate
447 | investigations designed to detect, deter, prevent, and eradicate
448 | fraud, waste, mismanagement, misconduct, and other abuses in
449 | state government. For these purposes, each inspector general
450 | shall:

451 (g) Make determinations and reports as required by s.
452 14.32(7).

453 Section 8. Paragraphs (a) and (b) of subsection (1) and
454 subsection (2) of section 110.1245, Florida Statutes, are
455 amended, and subsection (6) is added to that section, to read:

456 110.1245 Savings sharing program; bonus payments; other
457 awards.—

458 (1) (a) The Department of Management Services shall adopt
459 rules that prescribe procedures and promote a savings sharing
460 program for an individual or group of employees who propose
461 procedures or ideas that are adopted and that result in
462 eliminating or reducing state expenditures, including employees
463 reporting under the Whistle-blower's Act, if such proposals are
464 placed in effect and may be implemented under current statutory
465 authority.

466 (b) Each agency head shall recommend employees
467 individually or by group to be awarded an amount of money, which
468 amount shall be directly related to the cost savings realized.
469 Each proposed award and amount of money must be approved by the
470 Legislative Budget Commission, except an award issued under
471 subsection (6).

472 (2) In June of each year, bonuses shall be paid to
473 employees from funds authorized by the Legislature in an
474 appropriation specifically for bonuses. For purposes of this
475 subsection, awards issued under subsection (6) are not

476 considered bonuses. Each agency shall develop a plan for
477 awarding lump-sum bonuses, which plan shall be submitted no
478 later than September 15 of each year and approved by the Office
479 of Policy and Budget in the Executive Office of the Governor.

480 Such plan shall include, at a minimum, but is not limited to:

481 (a) A statement that bonuses are subject to specific
482 appropriation by the Legislature.

483 (b) Eligibility criteria as follows:

484 1. The employee must have been employed before ~~prior to~~
485 July 1 of that fiscal year and have been continuously employed
486 through the date of distribution.

487 2. The employee must not have been on leave without pay
488 consecutively for more than 6 months during the fiscal year.

489 3. The employee must have had no sustained disciplinary
490 action during the period beginning July 1 through the date the
491 bonus checks are distributed. Disciplinary actions include
492 written reprimands, suspensions, dismissals, and involuntary or
493 voluntary demotions that were associated with a disciplinary
494 action.

495 4. The employee must have demonstrated a commitment to the
496 agency mission by reducing the burden on those served,
497 continually improving the way business is conducted, producing
498 results in the form of increased outputs, and working to improve
499 processes.

500 5. The employee must have demonstrated initiative in work

501 and have exceeded normal job expectations.

502 6. The employee must have modeled the way for others by
503 displaying agency values of fairness, cooperation, respect,
504 commitment, honesty, excellence, and teamwork.

505 (c) A periodic evaluation process of the employee's
506 performance.

507 (d) A process for peer input that is fair, respectful of
508 employees, and affects the outcome of the bonus distribution.

509 (e) A division of the agency by work unit for purposes of
510 peer input and bonus distribution.

511 (f) A limitation on bonus distributions equal to 35
512 percent of the agency's total authorized positions. This
513 requirement may be waived by the Office of Policy and Budget in
514 the Executive Office of the Governor upon a showing of
515 exceptional circumstances.

516 (6) Each agency inspector general shall report employees
517 whose reports under the Whistle-blower's Act resulted in savings
518 or recovery of public funds in excess of \$1,000 to the agency
519 head. Whistle-blower awards shall be awarded by each agency, and
520 each agency head is authorized to incur expenditures to provide
521 such awards. The award shall be paid from the specific
522 appropriation or trust fund from which the savings or recovery
523 resulted. The agency inspector general to whom the whistle-
524 blower report was made or referred shall certify the identity of
525 the employee and, along with the agency head or his or her

526 designee, the savings or recovery resulting from the
527 investigation. If more than one employee makes a relevant
528 report, the award shall be shared in proportion to each
529 employee's contribution to the investigation as certified by the
530 agency inspector general. Whistle-blower awards shall be made in
531 the following amounts:

532 (a) A career service employee shall receive 10 percent of
533 the savings or recovery certified, but not less than \$500 and
534 not more than a total of \$50,000 for whistle-blower reports in
535 any 1 year. If the employee had any fault for the misspending or
536 attempted misspending of public funds identified in the
537 investigation that resulted in the savings or recovery, the
538 award may be denied at the discretion of the agency head. If the
539 award is not denied by the agency head, the award may not exceed
540 \$500. The agency inspector general shall certify any fault on
541 the part of the employee.

542 (b) A Senior Management Service employee or an employee in
543 a select exempt position shall receive 5 percent of the savings
544 or recovery certified, but not more than a total of \$1,000 for
545 whistle-blower reports in any 1 year. An employee may not
546 receive an award under this paragraph if he or she had any fault
547 for the misspending or attempted misspending of public funds
548 identified in the investigation that resulted in the savings or
549 recovery. The agency inspector general shall certify any fault
550 on the part of the employee.

551 Section 9. Subsection (2), paragraph (e) of subsection
552 (3), and paragraph (b) of subsection (5) of section 112.3187,
553 Florida Statutes, are amended to read:

554 112.3187 Adverse action against employee for disclosing
555 information of specified nature prohibited; employee remedy and
556 relief.—

557 (2) LEGISLATIVE INTENT.—It is the intent of the
558 Legislature to prevent agencies or independent contractors from
559 taking retaliatory action against an employee who reports to an
560 appropriate agency violations of law on the part of a public
561 employer or independent contractor that create a substantial and
562 specific danger to the public's health, safety, or welfare. It
563 is further the intent of the Legislature to prevent agencies or
564 independent contractors from taking retaliatory action against
565 any person who discloses information to an appropriate agency
566 alleging improper use of governmental office, ~~gross~~ waste of
567 funds, or any other abuse or ~~gross~~ neglect of duty on the part
568 of an agency, public officer, or employee.

569 (3) DEFINITIONS.—As used in this act, unless otherwise
570 specified, the following words or terms shall have the meanings
571 indicated:

572 (e) "~~Gross~~ Mismanagement" means a continuous pattern of
573 managerial abuses, wrongful or arbitrary and capricious actions,
574 or fraudulent or criminal conduct which may have a substantial
575 adverse economic impact.

576 (5) NATURE OF INFORMATION DISCLOSED.—The information
 577 disclosed under this section must include:

578 (b) Any act or suspected act of ~~gross~~ mismanagement,
 579 malfeasance, misfeasance, ~~gross~~ waste of public funds, suspected
 580 or actual Medicaid fraud or abuse, or ~~gross~~ neglect of duty
 581 committed by an employee or agent of an agency or independent
 582 contractor.

583 Section 10. Section 286.31, Florida Statutes, is created
 584 to read:

585 286.31 Use of state or local funds to pay legal fees.—
 586 Notwithstanding any other provision of law, a claim for legal
 587 fees under any provision of law to be compensated, credited, or
 588 approved, in whole or in part, by any state or local agency
 589 shall be documented with reasonable particularity of the
 590 services provided, including, for each date services were
 591 rendered, an itemization of each task performed and the time
 592 expended on each task. If such compensation is pursuant to a
 593 retainer agreement for contractual legal services provided to a
 594 state or local agency and compensation is due before the end of
 595 the contract period invoiced, the documentation required by this
 596 section may be satisfied by documenting the contractual services
 597 rendered in the immediately preceding contract period, provided
 598 the agreement and related invoices are public records accessible
 599 to the general public. If a contractor refuses in writing to
 600 provide such documentation without an amendment to the contract,

601 this section does not apply to compensation under the contract
602 until 1 year following the effective date of this act.

603 Section 11. Paragraph (e) of subsection (3) and subsection
604 (9) of section 287.057, Florida Statutes, are amended, and
605 subsections (24) and (25) are added to that section, to read:

606 287.057 Procurement of commodities or contractual
607 services.—

608 (3) If the purchase price of commodities or contractual
609 services exceeds the threshold amount provided in s. 287.017 for
610 CATEGORY TWO, purchase of commodities or contractual services
611 may not be made without receiving competitive sealed bids,
612 competitive sealed proposals, or competitive sealed replies
613 unless:

614 (e) The following contractual services and commodities are
615 not subject to the competitive-solicitation requirements of this
616 section:

617 1. Artistic services. As used in this subsection, the term
618 "artistic services" does not include advertising or typesetting.
619 As used in this subparagraph, the term "advertising" means the
620 making of a representation in any form in connection with a
621 trade, business, craft, or profession in order to promote the
622 supply of commodities or services by the person promoting the
623 commodities or contractual services.

624 2. Academic program reviews if the fee for such services
625 does not exceed \$50,000.

- 626 3. Lectures by individuals.
- 627 4. Legal services, including attorney, paralegal, expert
628 witness, appraisal, or mediator services.
- 629 5. Health services involving examination, diagnosis,
630 treatment, prevention, medical consultation, or administration.
631 The term also includes, but is not limited to, substance abuse
632 and mental health services involving examination, diagnosis,
633 treatment, prevention, or medical consultation if such services
634 are offered to eligible individuals participating in a specific
635 program that qualifies multiple providers and uses a standard
636 payment methodology. Reimbursement of administrative costs for
637 providers of services purchased in this manner are also exempt.
638 For purposes of this subparagraph, the term "providers" means
639 health professionals and health facilities, or organizations
640 that deliver or arrange for the delivery of health services.
- 641 6. Services provided to persons with mental or physical
642 disabilities by not-for-profit corporations that have obtained
643 exemptions under s. 501(c)(3) of the United States Internal
644 Revenue Code or when such services are governed by Office of
645 Management and Budget Circular A-122. However, in acquiring such
646 services, the agency shall consider the ability of the vendor,
647 past performance, willingness to meet time requirements, and
648 price.
- 649 7. Medicaid services delivered to an eligible Medicaid
650 recipient unless the agency is directed otherwise in law.

651 8. Family placement services.

652 9. Prevention services related to mental health, including
653 drug abuse prevention programs, child abuse prevention programs,
654 and shelters for runaways, operated by not-for-profit
655 corporations. However, in acquiring such services, the agency
656 shall consider the ability of the vendor, past performance,
657 willingness to meet time requirements, and price.

658 10. Training and education services provided to injured
659 employees pursuant to s. 440.491(6).

660 11. Contracts entered into pursuant to s. 337.11.

661 12. Services or commodities provided by governmental
662 entities.

663 13. ~~Statewide~~ Public service announcement programs that
664 ~~provided by a Florida statewide nonprofit corporation under s.~~
665 ~~501(e)(6) of the Internal Revenue Code which~~ have a guaranteed
666 documented match of at least \$3 to \$1.

667 (9) An agency shall not divide the solicitation of
668 commodities or contractual services so as to avoid the
669 requirements of subsections (1)-(3) or subsection (24).

670 (24) (a) For any contract in excess of \$50,000 that is
671 awarded through an invitation to negotiate or awarded without
672 competitive solicitation under paragraph (3) (c), paragraph
673 (3) (e), or subsection (10), the proposal, offer, or response of
674 the contractor must include a good faith estimate of gross
675 profit for each year and renewal year of the proposed contract.

676 If, in determining the good faith estimate of gross profit, the
677 contractor includes the cost of products or services expected to
678 be provided by a participant closely associated with the
679 contractor, the contractor must also identify such participant,
680 describe the association, and provide a good faith estimate of
681 gross profit for such participant for each year and renewal year
682 of the proposed contract, which must be attested to by an
683 authorized representative of the participant. The agency must,
684 before awarding the contract, make a written determination that
685 the estimated gross profit is not excessive and specify the
686 reasons for such determination. Notwithstanding any provision of
687 the contract, a contractor is liable to the agency for three
688 times the amount or value of any misrepresentation of estimated
689 gross profit as liquidated damages for such misrepresentation.

690 (b) For purposes of this subsection, the term:

691 1. "Closely associated with the contractor" means the
692 contractor, a principal of the contractor, or a family member or
693 business associate of a principal of the contractor is a
694 principal of the participant. As used in this subparagraph, the
695 term "principal" means a person who owns at least 5 percent
696 interest in the business or entity or is a manager of the
697 business or entity. As used in this subparagraph, the term
698 "business associate" means a person or entity with whom a
699 principal of the contractor has substantial investment,
700 employment, or partnership interests.

701 2. "Good faith estimate of gross profit" means a good
702 faith estimate of the total receipts expected under the contract
703 less the cost of providing contracted commodities and services
704 under the contract and excluding overhead costs. As used in this
705 subparagraph, the term "overhead costs" means all costs that are
706 not directly related to contract performance, including, but not
707 limited to, marketing and administrative expenses.

708 3. "Participant" means a person or entity with whom the
709 contractor expects to subcontract for services or commodities in
710 carrying out a contract with an agency.

711 (25) Notwithstanding any other provision of law, a state
712 employee who is registered to lobby the Legislature, other than
713 an agency head, may not participate in the negotiation or award
714 of any contract required or expressly funded under a specific
715 legislative appropriation or proviso in an appropriation act.

716 Section 12. Section 288.00001, Florida Statutes, is
717 created to read:

718 288.00001 Use of state or local incentive funds to pay for
719 services.—Notwithstanding any other provision of law, a tax
720 incentive may not be awarded or paid to a state contractor or
721 any subcontractor for services provided or expenditures incurred
722 pursuant to a state contract.

723 Section 13. Paragraph (e) of subsection (4) of section
724 1001.20, Florida Statutes, as amended by section 4 of chapter
725 2018-5, Laws of Florida, is amended to read:

726 1001.20 Department under direction of state board.—
 727 (4) The Department of Education shall establish the
 728 following offices within the Office of the Commissioner of
 729 Education which shall coordinate their activities with all other
 730 divisions and offices:
 731 (e) Office of Inspector General.—Organized using existing
 732 resources and funds and responsible for promoting
 733 accountability, efficiency, and effectiveness and detecting
 734 fraud and abuse within school districts, the Florida School for
 735 the Deaf and the Blind, and Florida College System institutions
 736 in Florida. If the Commissioner of Education determines that a
 737 district school board, the Board of Trustees for the Florida
 738 School for the Deaf and the Blind, or a Florida College System
 739 institution board of trustees is unwilling or unable to address
 740 substantiated allegations made by any person relating to waste,
 741 fraud, or financial mismanagement within the school district,
 742 the Florida School for the Deaf and the Blind, or the Florida
 743 College System institution, the office shall conduct,
 744 coordinate, or request investigations into such substantiated
 745 allegations. The office shall investigate allegations or reports
 746 of possible mismanagement, fraud, or abuse against a district
 747 school board or Florida College System institution made by any
 748 member of the Cabinet, ~~the~~ the presiding officer of either house of
 749 the Legislature, ~~a~~ a chair of a substantive or appropriations
 750 legislative committee with jurisdiction, ~~or~~ or a member of the

751 board for which an investigation is sought. The office shall
 752 have access to all information and personnel necessary to
 753 perform its duties and shall have all of its current powers,
 754 duties, and responsibilities authorized in s. 20.055.

755 Section 14. Subsection (25) is added to section 1001.65,
 756 Florida Statutes, to read:

757 1001.65 Florida College System institution presidents;
 758 powers and duties.—The president is the chief executive officer
 759 of the Florida College System institution, shall be corporate
 760 secretary of the Florida College System institution board of
 761 trustees, and is responsible for the operation and
 762 administration of the Florida College System institution. Each
 763 Florida College System institution president shall:

764 (25) Have ultimate responsibility for the Florida College
 765 System institution's cooperation with an audit conducted
 766 pursuant to s. 11.45 and be subject to s. 11.47.

767 Section 15. Subsection (1) of section 112.3188, Florida
 768 Statutes, is amended to read:

769 112.3188 Confidentiality of information given to the Chief
 770 Inspector General, internal auditors, inspectors general, local
 771 chief executive officers, or other appropriate local officials.—

772 (1) The name or identity of any individual who discloses
 773 in good faith to the Chief Inspector General or an agency
 774 inspector general, a local chief executive officer, or other
 775 appropriate local official information that alleges that an

776 employee or agent of an agency or independent contractor:
777 (a) Has violated or is suspected of having violated any
778 federal, state, or local law, rule, or regulation, thereby
779 creating and presenting a substantial and specific danger to the
780 public's health, safety, or welfare; or
781 (b) Has committed an act of ~~gross~~ mismanagement,
782 malfeasance, misfeasance, ~~gross~~ waste of public funds, or ~~gross~~
783 neglect of duty
784
785 may not be disclosed to anyone other than a member of the Chief
786 Inspector General's, agency inspector general's, internal
787 auditor's, local chief executive officer's, or other appropriate
788 local official's staff without the written consent of the
789 individual, unless the Chief Inspector General, internal
790 auditor, agency inspector general, local chief executive
791 officer, or other appropriate local official determines that:
792 the disclosure of the individual's identity is necessary to
793 prevent a substantial and specific danger to the public's
794 health, safety, or welfare or to prevent the imminent commission
795 of a crime; or the disclosure is unavoidable and absolutely
796 necessary during the course of the audit, evaluation, or
797 investigation.
798 Section 16. Subsection (3), subsection (4), and paragraph
799 (a) of subsection (5) of section 112.3189, Florida Statutes, are
800 amended to read:

801 112.3189 Investigative procedures upon receipt of whistle-
802 blower information from certain state employees.—

803 (3) When a person alleges information described in s.
804 112.3187(5), the Chief Inspector General or agency inspector
805 general actually receiving such information shall within 20 days
806 after ~~of~~ receiving such information determine:

807 (a) Whether the information disclosed is the type of
808 information described in s. 112.3187(5).

809 (b) Whether the source of the information is a person who
810 is an employee or former employee of, or an applicant for
811 employment with, a state agency, as defined in s. 216.011.

812 (c) Whether the information actually disclosed
813 demonstrates reasonable cause to suspect that an employee or
814 agent of an agency or independent contractor has violated any
815 federal, state, or local law, rule, or regulation, thereby
816 creating and presenting a substantial and specific danger to the
817 public's health, safety, or welfare, or has committed an act of
818 ~~gross~~ mismanagement, malfeasance, misfeasance, ~~gross~~ waste of
819 public funds, or ~~gross~~ neglect of duty.

820 (4) If the Chief Inspector General or agency inspector
821 general under subsection (3) determines that the information
822 disclosed is not the type of information described in s.
823 112.3187(5), or that the source of the information is not a
824 person who is an employee or former employee of, or an applicant
825 for employment with, a state agency, as defined in s. 216.011,

826 or that the information disclosed does not demonstrate
827 reasonable cause to suspect that an employee or agent of an
828 agency or independent contractor has violated any federal,
829 state, or local law, rule, or regulation, thereby creating and
830 presenting a substantial and specific danger to the public's
831 health, safety, or welfare, or has committed an act of ~~gross~~
832 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
833 funds, or ~~gross~~ neglect of duty, the Chief Inspector General or
834 agency inspector general shall notify the complainant of such
835 fact and copy and return, upon request of the complainant, any
836 documents and other materials that were provided by the
837 complainant.

838 (5) (a) If the Chief Inspector General or agency inspector
839 general under subsection (3) determines that the information
840 disclosed is the type of information described in s.
841 112.3187(5), that the source of the information is from a person
842 who is an employee or former employee of, or an applicant for
843 employment with, a state agency, as defined in s. 216.011, and
844 that the information disclosed demonstrates reasonable cause to
845 suspect that an employee or agent of an agency or independent
846 contractor has violated any federal, state, or local law, rule,
847 or regulation, thereby creating a substantial and specific
848 danger to the public's health, safety, or welfare, or has
849 committed an act of ~~gross~~ mismanagement, malfeasance,
850 misfeasance, ~~gross~~ waste of public funds, or ~~gross~~ neglect of

851 duty, the Chief Inspector General or agency inspector general
852 making such determination shall then conduct an investigation,
853 unless the Chief Inspector General or the agency inspector
854 general determines, within 30 days after receiving the
855 allegations from the complainant, that such investigation is
856 unnecessary. For purposes of this subsection, the Chief
857 Inspector General or the agency inspector general shall consider
858 the following factors, but is not limited to only the following
859 factors, when deciding whether the investigation is not
860 necessary:

861 1. The gravity of the disclosed information compared to
862 the time and expense of an investigation.

863 2. The potential for an investigation to yield
864 recommendations that will make state government more efficient
865 and effective.

866 3. The benefit to state government to have a final report
867 on the disclosed information.

868 4. Whether the alleged whistle-blower information
869 primarily concerns personnel practices that may be investigated
870 under chapter 110.

871 5. Whether another agency may be conducting an
872 investigation and whether any investigation under this section
873 could be duplicative.

874 6. The time that has elapsed between the alleged event and
875 the disclosure of the information.

876 Section 17. Paragraph (a) of subsection (3) of section
877 112.31895, Florida Statutes, is amended to read:

878 112.31895 Investigative procedures in response to
879 prohibited personnel actions.—

880 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

881 (a) The Florida Commission on Human Relations, in
882 accordance with this act and for the sole purpose of this act,
883 is empowered to:

884 1. Receive and investigate complaints from employees
885 alleging retaliation by state agencies, as the term "state
886 agency" is defined in s. 216.011.

887 2. Protect employees and applicants for employment with
888 such agencies from prohibited personnel practices under s.
889 112.3187.

890 3. Petition for stays and petition for corrective actions,
891 including, but not limited to, temporary reinstatement.

892 4. Recommend disciplinary proceedings pursuant to
893 investigation and appropriate agency rules and procedures.

894 5. Coordinate with the Chief Inspector General in the
895 Executive Office of the Governor and the Florida Commission on
896 Human Relations to receive, review, and forward to appropriate
897 agencies, legislative entities, or the Department of Law
898 Enforcement disclosures of a violation of any law, rule, or
899 regulation, or disclosures of ~~gross~~ mismanagement, malfeasance,
900 misfeasance, nonfeasance, neglect of duty, or ~~gross~~ waste of

901 public funds.

902 6. Review rules pertaining to personnel matters issued or
903 proposed by the Department of Management Services, the Public
904 Employees Relations Commission, and other agencies, and, if the
905 Florida Commission on Human Relations finds that any rule or
906 proposed rule, on its face or as implemented, requires the
907 commission of a prohibited personnel practice, provide a written
908 comment to the appropriate agency.

909 7. Investigate, request assistance from other governmental
910 entities, and, if appropriate, bring actions concerning,
911 allegations of retaliation by state agencies under subparagraph
912 1.

913 8. Administer oaths, examine witnesses, take statements,
914 issue subpoenas, order the taking of depositions, order
915 responses to written interrogatories, and make appropriate
916 motions to limit discovery, pursuant to investigations under
917 subparagraph 1.

918 9. Intervene or otherwise participate, as a matter of
919 right, in any appeal or other proceeding arising under this
920 section before the Public Employees Relations Commission or any
921 other appropriate agency, except that the Florida Commission on
922 Human Relations must comply with the rules of the commission or
923 other agency and may not seek corrective action or intervene in
924 an appeal or other proceeding without the consent of the person
925 protected under ss. 112.3187-112.31895.

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926 10. Conduct an investigation, in the absence of an
927 allegation, to determine whether reasonable grounds exist to
928 believe that a prohibited action or a pattern of prohibited
929 action has occurred, is occurring, or is to be taken.

930 Section 18. The Office of the Auditor General is
931 authorized to use carryforward funds to fund the establishment
932 and operations of the Florida Accountability Office as created
933 by this act.

934 Section 19. This act shall take effect July 1, 2019.