

1 A bill to be entitled
2 An act relating to government accountability; creating
3 s. 11.421, F.S.; creating the Florida Integrity Office
4 under the Auditor General; providing definitions;
5 providing duties and powers of the Florida Integrity
6 Officer and the Auditor General; amending s. 11.45,
7 F.S.; providing a definition; providing and revising
8 Auditor General reporting requirements; amending s.
9 14.32, F.S.; providing definitions; providing
10 investigative duties of the Chief Inspector General
11 and agency inspectors general; requiring such
12 inspectors general to provide a report to the Chief
13 Financial Officer within a specified timeframe in
14 certain circumstances; providing liability for certain
15 officials, contractors, and persons in certain
16 circumstances; amending s. 17.04, F.S.; authorizing
17 the Chief Financial Officer to commence an
18 investigation based on certain complaints or
19 referrals; authorizing state agency employees and
20 state contractors to report certain information to the
21 Chief Financial Officer; amending s. 17.325, F.S.;
22 requiring certain records to be sent to the Florida
23 Integrity Officer within a specified timeframe;
24 amending s. 20.055, F.S.; requiring agency inspectors
25 general to make certain determinations and reports;

26 | amending s. 110.1245, F.S.; providing requirements for
27 | awards given to employees who report under the
28 | Whistle-blower's Act; authorizing expenditures for
29 | such awards; amending s. 112.3187, F.S.; revising a
30 | definition; conforming provisions to changes made by
31 | the act; providing a directive to the Division of Law
32 | Revision to create part IX of ch. 112, F.S.; creating
33 | s. 112.89, F.S.; providing legislative findings and
34 | purpose; defining terms; establishing standards for
35 | the fiduciary duty of care for appointed public
36 | officials and executive officers of specified
37 | governmental entities; requiring training on board
38 | governance beginning on a specified date; requiring
39 | the Department of Business and Professional Regulation
40 | to contract for or approve such training programs or
41 | publish a list of approved training providers;
42 | specifying requirements for such training; authorizing
43 | training to be provided by in-house counsel for
44 | certain governmental entities; requiring appointed
45 | public officials and executive officers to certify
46 | their completion of the training; requiring the
47 | department to adopt rules; providing exceptions to the
48 | training requirement; specifying requirements for the
49 | appointment of executive officers and general counsels
50 | of governmental entities; specifying standards for

51 legal counsel; creating s. 216.1366, F.S.; providing
52 requirements for certain public agency contracts;
53 amending s. 287.057, F.S.; revising provisions
54 relating to contractual services and commodities that
55 are not subject to competitive-solicitation
56 requirements; prohibiting certain state employees from
57 participating in the negotiation or award of state
58 contracts; creating s. 288.00001, F.S.; prohibiting
59 tax incentives from being awarded or paid to a state
60 contractor or subcontractor; amending s. 1001.20,
61 F.S.; requiring the Office of Inspector General of the
62 Department of Education to conduct investigations
63 relating to waste, fraud, abuse, or mismanagement
64 against a district school board or Florida College
65 System institution; authorizing the Office of the
66 Auditor General to use carryforward funds to fund the
67 Florida Integrity Office; amending ss. 112.3188,
68 112.3189, and 112.31895, F.S.; conforming provisions
69 to changes made by the act; providing an effective
70 date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Section 11.421, Florida Statutes, is created to
75 read:

11.421 Florida Integrity Office.—

(1) There is created under the Auditor General the Florida Integrity Office for the purpose of ensuring integrity in state and local government and facilitating the elimination of fraud, waste, abuse, mismanagement, and misconduct in government.

(2) The Florida Integrity Officer shall be a legislative employee and be appointed by and serve at the pleasure of the Auditor General. The Florida Integrity Officer shall oversee the efficient operation of the office and report to and be under the general supervision of the Auditor General.

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

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

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

1. Specifically authorized by statute;

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

3. Recommended by a commission, council, or other similar entity created in statute to make annual funding recommendations, provided that such appropriation does not 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 (b) "Office" means the Florida Integrity Office.
 112 (5) The Florida Integrity Officer may receive and
 113 investigate a complaint alleging fraud, waste, abuse,
 114 mismanagement, or misconduct in connection with the expenditure
 115 of public funds.
 116 (6) A complaint may be submitted to the office by any of
 117 the following persons:
 118 (a) The President of the Senate.
 119 (b) The Speaker of the House of Representatives.
 120 (c) The chair of an appropriations committee of the Senate
 121 or the House of Representatives.
 122 (d) The Auditor General.
 123 (7) (a) Upon receipt of a complaint, the Florida Integrity
 124 Officer shall determine whether the complaint is supported by
 125 sufficient information indicating a reasonable probability of

126 fraud, waste, abuse, mismanagement, or misconduct. If the
127 Florida Integrity Officer determines that the complaint is not
128 supported by sufficient information indicating a reasonable
129 probability of fraud, waste, abuse, mismanagement, or
130 misconduct, the Florida Integrity Officer shall notify the
131 complainant in writing and the complaint shall be closed.

132 (b) If the complaint is supported by sufficient
133 information indicating a reasonable probability of fraud, waste,
134 abuse, mismanagement, or misconduct, the Florida Integrity
135 Officer shall determine whether an investigation into the matter
136 has already been initiated by a law enforcement agency, the
137 Commission on Ethics, the Chief Financial Officer, the Office of
138 Chief Inspector General, or the applicable agency inspector
139 general. If such an investigation has been initiated, the
140 Florida Integrity Officer shall notify the complainant in
141 writing and the complaint may be closed.

142 (c) If the complaint is supported by sufficient
143 information indicating a reasonable probability of fraud, waste,
144 abuse, mismanagement, or misconduct, and an investigation into
145 the matter has not already been initiated as described in
146 paragraph (b), the Florida Integrity Officer shall, within
147 available resources, conduct an investigation and issue a report
148 of the investigative findings to the complainant and to the
149 President of the Senate and the Speaker of the House of
150 Representatives. The Florida Integrity Officer may refer the

151 matter to the Auditor General, the appropriate law enforcement
152 agency, the Chief Financial Officer, the Office of the Chief
153 Inspector General, or the applicable agency inspector general.
154 The Auditor General may provide staff and other resources to
155 assist the Florida Integrity Officer.

156 (8) (a) The Florida Integrity Officer, or his or her
157 designee, may inspect and investigate the books, records,
158 papers, documents, data, operation, and physical location of any
159 public agency in this state, including any confidential
160 information, and the public records of any entity that has
161 received direct appropriations. The Florida Integrity Officer
162 may agree to retain the confidentiality of confidential
163 information pursuant to s. 11.0431(2) (a).

164 (b) Upon the request of the Florida Integrity Officer, the
165 Legislative Auditing Committee or any other committee of the
166 Legislature may issue subpoenas and subpoenas duces tecum, as
167 provided in s. 11.143, to compel testimony or the production of
168 evidence when deemed necessary to an investigation authorized by
169 this section. Consistent with s. 11.143, such subpoenas and
170 subpoenas duces tecum may be issued as provided by applicable
171 legislative rules or, in the absence of applicable legislative
172 rules, by the chair of the Legislative Auditing Committee with
173 the approval of the Legislative Auditing Committee and the
174 President of the Senate and the Speaker of the House of
175 Representatives, or with the approval of the President of the

176 Senate or the Speaker of the House of Representatives if such
177 officer alone designated the Legislative Auditing Committee as
178 defined in s. 1.01.

179 (c) If a witness fails or refuses to comply with a lawful
180 subpoena or subpoena duces tecum issued pursuant to this
181 subsection at a time when the Legislature is not in session, the
182 subpoena or subpoena duces tecum may be enforced as provided in
183 s. 11.143 and, in addition, the Auditor General, on behalf of
184 the committee issuing the subpoena or subpoena duces tecum, may
185 file a complaint before any circuit court of the state to
186 enforce the subpoena or subpoena duces tecum. Upon the filing of
187 such complaint, the court shall take jurisdiction of the witness
188 and the subject matter of the complaint and shall direct the
189 witness to respond to all lawful questions and to produce all
190 documentary evidence in the possession of the witness which is
191 lawfully demanded. The failure of a witness to comply with such
192 order constitutes a direct and criminal contempt of court, and
193 the court shall punish the witness accordingly.

194 (d) When the Legislature is in session, upon the request
195 of the Florida Integrity Officer directed to the committee
196 issuing the subpoena or subpoena duces tecum, either house of
197 the Legislature may seek compliance with the subpoena or
198 subpoena duces tecum in accordance with the State Constitution,
199 general law, the joint rules of the Legislature, or the rules of
200 the house of the Legislature whose committee issued the subpoena

201 or subpoena duces tecum.

202 (9) The Florida Integrity Officer shall receive copies of
203 all reports required by ss. 14.32, 17.325, and 20.055.

204 (10) (a) Beginning with the 2021-2022 fiscal year, the
205 Auditor General and the Florida Integrity Officer, within
206 available resources, shall randomly select and review
207 appropriations projects appropriated in the prior fiscal year
208 and, if appropriate, investigate and recommend an audit of such
209 projects. The review, investigation, or audit may be delayed on
210 a selected project until a subsequent year if the timeline of
211 the project warrants such delay. Each review, investigation, or
212 audit must include, but is not limited to, evaluating whether
213 the recipient of the appropriations project administered the
214 project in an efficient and effective manner. When an audit is
215 recommended by the Florida Integrity Officer under this
216 subsection, the Auditor General shall determine whether the
217 audit is appropriate.

218 (b) Beginning with the 2021-2022 fiscal year, the Auditor
219 General and the Florida Integrity Officer, within available
220 resources, shall select and review, investigate, or audit the
221 financial activities of any political subdivision, special
222 district, public authority, public hospital, state or local
223 council or commission, unit of local government, or public
224 education entity in this state, as well as any authority,
225 council, commission, direct-support organization, institution,

226 foundation, or similar entity created by law or ordinance to
 227 pursue a public purpose, entitled by law or ordinance to any
 228 distribution of tax or fee revenues, or organized for the sole
 229 purpose of supporting one of the public entities listed in this
 230 paragraph.

231 Section 2. Paragraphs (i) through (m) of subsection (1) of
 232 section 11.45, Florida Statutes, are redesignated as paragraphs
 233 (j) through (n), respectively, paragraphs (a) and (e) of
 234 subsection (1), paragraph (f) of subsection (2), and paragraph
 235 (j) of subsection (7) are amended, and a new paragraph (i) is
 236 added to subsection (1) of that section, to read:

237 11.45 Definitions; duties; authorities; reports; rules.—

238 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

239 (a) "Abuse" means behavior that is deficient or improper
 240 when compared with behavior that a prudent person would consider
 241 a reasonable and necessary operational practice given the facts
 242 and circumstances. The term includes the misuse of authority or
 243 position for personal gain or for the gain of an immediate or
 244 close family member or business associate.

245 (e) "Fraud" means obtaining something of value through
 246 willful misrepresentation, including, but not limited to,
 247 intentional misstatements or intentional omissions of amounts or
 248 disclosures in financial statements to deceive users of
 249 financial statements, theft of an entity's assets, bribery, or
 250 the use of one's position for personal enrichment through the

251 deliberate misuse or misapplication of an entity's
 252 organization's resources.

253 (i) "Misconduct" means conduct which, though not illegal,
 254 is inappropriate for a person in his or her specified position.

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

256 (f) At least every 3 years, conduct operational audits of
 257 the accounts and records of state agencies, state universities,
 258 state colleges, district school boards, the Florida Clerks of
 259 Court Operations Corporation, water management districts, and
 260 the Florida School for the Deaf and the Blind. At the conclusion
 261 of each 3-year cycle, the Auditor General shall publish a report
 262 consolidating common operational audit findings for all state
 263 agencies, state universities, state colleges, and district
 264 school boards.

265
 266 The Auditor General shall perform his or her duties
 267 independently but under the general policies established by the
 268 Legislative Auditing Committee. This subsection does not limit
 269 the Auditor General's discretionary authority to conduct other
 270 audits or engagements of governmental entities as authorized in
 271 subsection (3).

272 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

273 (j) The Auditor General shall notify the Legislative
 274 Auditing Committee of any financial or operational audit report
 275 prepared pursuant to this section which indicates that a

276 district school board, state university, or Florida College
277 System institution has failed to take full corrective action in
278 response to a recommendation that was included in the two
279 preceding financial ~~or operational~~ audit reports or a preceding
280 operational audit report.

281 1. The committee may direct the district school board or
282 the governing body of the state university or Florida College
283 System institution to provide a written statement to the
284 committee explaining why full corrective action has not been
285 taken or, if the governing body intends to take full corrective
286 action, describing the corrective action to be taken and when it
287 will occur.

288 2. If the committee determines that the written statement
289 is not sufficient, the committee may require the chair of the
290 district school board or the chair of the governing body of the
291 state university or Florida College System institution, or the
292 chair's designee, to appear before the committee.

293 3. If the committee determines that the district school
294 board, state university, or Florida College System institution
295 has failed to take full corrective action for which there is no
296 justifiable reason or has failed to comply with committee
297 requests made pursuant to this section, the committee shall
298 refer the matter to the State Board of Education or the Board of
299 Governors, as appropriate, to proceed in accordance with s.
300 1008.32 or s. 1008.322, respectively.

301 Section 3. Subsections (1) through (5) of section 14.32,
302 Florida Statutes, are renumbered as subsections (2) through (6),
303 respectively, and new subsections (1) and (7) are added to that
304 section to read:

305 14.32 Office of Chief Inspector General.—

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

307 (a) "Abuse" means behavior that is deficient or improper
308 when compared with behavior that a prudent person would consider
309 a reasonable and necessary operational practice given the facts
310 and circumstances. The term includes the misuse of authority or
311 position for personal gain or for the benefit of another.

312 (b) "Fraud" means obtaining something of value through
313 willful misrepresentation, including, but not limited to, the
314 intentional misstatements or intentional omissions of amounts or
315 disclosures in financial statements to deceive users of
316 financial statements, theft of an entity's assets, bribery, or
317 the use of one's position for personal enrichment through the
318 deliberate misuse or misapplication of an entity's resources.

319 (c) "Independent contractor" has the same meaning as in s.
320 112.3187(3)(d).

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

323 (e) "Waste" means the act of using or expending resources
324 unreasonably, carelessly, extravagantly, or for no useful
325 purpose.

326 (7) (a) Within 6 months after the initiation of an
327 investigation of fraud, waste, abuse, mismanagement, or
328 misconduct in government, the Chief Inspector General or an
329 agency inspector general must determine whether there is
330 reasonable probability that fraud, waste, abuse, mismanagement,
331 or misconduct in government has occurred. If there has not been
332 a determination of such reasonable probability and the
333 investigation continues, a new determination must be made every
334 3 months until the investigation is closed or such reasonable
335 probability is found to exist.

336 (b) If the Chief Inspector General or an agency inspector
337 general determines that there is reasonable probability that a
338 public official, independent contractor, or agency has committed
339 fraud, waste, abuse, mismanagement, or misconduct in government,
340 the inspector general shall report such determination to the
341 Florida Integrity Officer.

342 (c) If the findings of an investigation conducted pursuant
343 to this subsection conclude that a public official, independent
344 contractor, or agency has committed fraud, waste, abuse,
345 mismanagement, or misconduct in government, the Chief Inspector
346 General or agency inspector general shall report such findings
347 to the Chief Financial Officer within 30 days after the
348 investigation is closed. Such public official, independent
349 contractor, or person responsible within the agency is
350 personally liable for repayment of the funds that were diverted

351 or lost as a result of the fraud, waste, abuse, mismanagement,
352 or misconduct in government. If the person liable fails to repay
353 such funds voluntarily and the state does not agree to a
354 settlement, the Chief Financial Officer shall bring a civil
355 action to recover the funds within 60 days after receipt of such
356 findings.

357 Section 4. Section 17.04, Florida Statutes, is amended to
358 read:

359 17.04 To audit and adjust accounts of officers and those
360 indebted to the state.—The Chief Financial Officer, using
361 generally accepted auditing procedures for testing or sampling,
362 shall examine, audit, adjust, and settle the accounts of all the
363 officers of this state, and any other person in anywise
364 entrusted with, or who may have received any property, funds, or
365 moneys of this state, or who may be in anywise indebted or
366 accountable to this state for any property, funds, or moneys,
367 and require such officer or persons to render full accounts
368 thereof, and to yield up such property or funds according to
369 law, or pay such moneys into the treasury of this state, or to
370 such officer or agent of the state as may be appointed to
371 receive the same, and on failure so to do, to cause to be
372 instituted and prosecuted proceedings, criminal or civil, at law
373 or in equity, against such persons, according to law. The Chief
374 Financial Officer may conduct investigations within or outside
375 of this state as it deems necessary to aid in the enforcement of

376 | this section. The Chief Financial Officer may commence an
377 | investigation pursuant to this section based on a complaint or
378 | referral from any source. An employee of a state agency or a
379 | state contractor having knowledge of suspected misuse of state
380 | funds may report such information to the Chief Financial
381 | Officer. If during an investigation the Chief Financial Officer
382 | has reason to believe that any criminal statute of this state
383 | has or may have been violated, the Chief Financial Officer shall
384 | refer any records tending to show such violation to state or
385 | federal law enforcement or prosecutorial agencies and shall
386 | provide investigative assistance to those agencies as required.

387 | Section 5. Subsections (4) and (5) of section 17.325,
388 | Florida Statutes, are renumbered as subsections (5) and (6),
389 | respectively, and a new subsection (4) is added to that section
390 | to read:

391 | 17.325 Governmental efficiency hotline; duties of Chief
392 | Financial Officer.—

393 | (4) A copy of each suggestion or item of information
394 | received through the hotline or website that is logged pursuant
395 | to this section must be reported to the Florida Integrity
396 | Officer by the 15th of the month following receipt of the
397 | suggestion or item of information.

398 | Section 6. Paragraph (g) is added to subsection (7) of
399 | section 20.055, Florida Statutes, to read:

400 | 20.055 Agency inspectors general.—

401 (7) In carrying out the investigative duties and
402 responsibilities specified in this section, each inspector
403 general shall initiate, conduct, supervise, and coordinate
404 investigations designed to detect, deter, prevent, and eradicate
405 fraud, waste, mismanagement, misconduct, and other abuses in
406 state government. For these purposes, each inspector general
407 shall:

408 (g) Make determinations and reports as required by s.
409 14.32(7).

410 Section 7. Paragraphs (a) and (b) of subsection (1) and
411 subsection (2) of section 110.1245, Florida Statutes, are
412 amended, and subsections (6) and (7) are added to that section,
413 to read:

414 110.1245 Savings sharing program; bonus payments; other
415 awards.—

416 (1) (a) The Department of Management Services shall adopt
417 rules that prescribe procedures and promote a savings sharing
418 program for an individual or group of employees who propose
419 procedures or ideas that are adopted and that result in
420 eliminating or reducing state expenditures, including employees
421 reporting under the Whistle-blower's Act, if such proposals are
422 placed in effect and may be implemented under current statutory
423 authority.

424 (b) Each agency head shall recommend employees
425 individually or by group to be awarded an amount of money, which

426 amount shall be directly related to the cost savings realized.
427 Each proposed award and amount of money must be approved by the
428 Legislative Budget Commission, except an award issued under
429 subsection (6).

430 (2) In June of each year, bonuses shall be paid to
431 employees from funds authorized by the Legislature in an
432 appropriation specifically for bonuses. For purposes of this
433 subsection, awards issued under subsection (6) are not
434 considered bonuses. Each agency shall develop a plan for
435 awarding lump-sum bonuses, which plan shall be submitted no
436 later than September 15 of each year and approved by the Office
437 of Policy and Budget in the Executive Office of the Governor.
438 Such plan shall include, at a minimum, but is not limited to:

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

441 (b) Eligibility criteria as follows:

442 1. The employee must have been employed before ~~prior to~~
443 July 1 of that fiscal year and have been continuously employed
444 through the date of distribution.

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

447 3. The employee must have had no sustained disciplinary
448 action during the period beginning July 1 through the date the
449 bonus checks are distributed. Disciplinary actions include
450 written reprimands, suspensions, dismissals, and involuntary or

451 voluntary demotions that were associated with a disciplinary
452 action.

453 4. The employee must have demonstrated a commitment to the
454 agency mission by reducing the burden on those served,
455 continually improving the way business is conducted, producing
456 results in the form of increased outputs, and working to improve
457 processes.

458 5. The employee must have demonstrated initiative in work
459 and have exceeded normal job expectations.

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

463 (c) A periodic evaluation process of the employee's
464 performance.

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

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

469 (f) A limitation on bonus distributions equal to 35
470 percent of the agency's total authorized positions. This
471 requirement may be waived by the Office of Policy and Budget in
472 the Executive Office of the Governor upon a showing of
473 exceptional circumstances.

474 (6) Each agency inspector general shall report employees
475 whose reports under the Whistle-blower's Act resulted in savings

476 or recovery of public funds in excess of \$1,000. Awards shall be
477 awarded by each agency to the employee, or his or her designee,
478 whose report led to the savings or recovery, and each agency
479 head is authorized to incur expenditures to provide such awards.
480 The award shall be paid from the specific appropriation or trust
481 fund from which the savings or recovery resulted. The agency
482 inspector general to whom the report was made or referred shall
483 certify the savings or recovery resulting from the
484 investigation. If more than one employee makes a relevant
485 report, the award shall be shared in proportion to each
486 employee's contribution to the investigation as certified by the
487 agency inspector general. Awards shall be made in the following
488 amounts:

489 (a) A career service employee shall receive 10 percent of
490 the savings or recovery certified, but not less than \$500 and
491 not more than a total of \$50,000 for whistle-blower reports in
492 any 1 year. If the employee had any fault for the misspending or
493 attempted misspending of public funds identified in the
494 investigation that resulted in the savings or recovery, the
495 award may be denied at the discretion of the agency head. If the
496 award is not denied by the agency head, the award may not exceed
497 \$500. The agency inspector general shall certify any fault on
498 the part of the employee.

499 (b) A Senior Management Service employee or an employee in
500 a select exempt position shall receive 5 percent of the savings

501 or recovery certified, but not more than a total of \$1,000 for
502 whistle-blower reports in any 1 year. An employee may not
503 receive an award under this paragraph if he or she had any fault
504 for the misspending or attempted misspending of public funds
505 identified in the investigation that resulted in the savings or
506 recovery. The agency inspector general shall certify any fault
507 on the part of the employee.

508 (7) Notwithstanding any other provision of law, an
509 employee whose name or identity is confidential or exempt from
510 disclosure under state or federal law may participate in the
511 savings sharing program authorized in this section. To maintain
512 confidentiality, upon notice of eligibility for an award, such
513 employee may designate an authorized agent, trustee, or
514 custodian to accept an award for which the employee is eligible
515 on behalf of the employee.

516 Section 8. Subsection (2), paragraph (e) of subsection
517 (3), and paragraph (b) of subsection (5) of section 112.3187,
518 Florida Statutes, are amended to read:

519 112.3187 Adverse action against employee for disclosing
520 information of specified nature prohibited; employee remedy and
521 relief.—

522 (2) LEGISLATIVE INTENT.—It is the intent of the
523 Legislature to prevent agencies or independent contractors from
524 taking retaliatory action against an employee who reports to an
525 appropriate agency violations of law on the part of a public

526 employer or independent contractor that create a substantial and
 527 specific danger to the public's health, safety, or welfare. It
 528 is further the intent of the Legislature to prevent agencies or
 529 independent contractors from taking retaliatory action against
 530 any person who discloses information to an appropriate agency
 531 alleging improper use of governmental office, ~~gross~~ waste of
 532 funds, or any other abuse or ~~gross~~ neglect of duty on the part
 533 of an agency, public officer, or employee.

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

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

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

543 (b) Any act or suspected act of ~~gross~~ mismanagement,
 544 malfeasance, misfeasance, ~~gross~~ waste of public funds, suspected
 545 or actual Medicaid fraud or abuse, or ~~gross~~ neglect of duty
 546 committed by an employee or agent of an agency or independent
 547 contractor.

548 Section 9. The Division of Law Revision is directed to
 549 create part IX of chapter 112, Florida Statutes, consisting of
 550 s. 112.89, Florida Statutes, to be entitled "Fiduciary Duty of

551 Care for Appointed Public Officials and Executive Officers."

552 Section 10. Section 112.89, Florida Statutes, is created
553 to read:

554 112.89 Fiduciary duty of care.—

555 (1) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature
556 finds that appointed public officials and executive officers
557 acting on behalf of governmental entities owe a fiduciary duty
558 to the entities they serve. The Legislature finds that codifying
559 a fiduciary duty of care will require that appointed public
560 officials and executive officers stay adequately informed of
561 affairs, perform due diligence, perform reasonable oversight,
562 and practice fiscal responsibility regarding decisions involving
563 corporate and proprietary commitments on behalf of the entity
564 they serve.

565 (2) DEFINITIONS.—

566 (a) "Appointed public official" means either a local
567 officer as defined in s. 112.3145(1)(a)2. or a state officer as
568 defined in s. 112.3145(1)(c)2. and 3.

569 (b) "Department" means the Department of Business and
570 Professional Regulation.

571 (c) "Executive officer" means the chief executive officer
572 of a governmental entity to which an appointed public official
573 is appointed.

574 (d) "Governmental entity" means the entity, or a board, a
575 council, a commission, an authority, or other body thereof, to

576 which an appointed public official or an executive officer is
577 appointed or hired.

578 (3) FIDUCIARY DUTY OF CARE.—Each appointed public official
579 and executive officer owes a fiduciary duty of care to the
580 applicable entity he or she serves in accordance with law and
581 has a duty to:

582 (a) Act in accordance with the laws, ordinances, rules,
583 policies, and terms governing his or her office or employment.

584 (b) Act with the care, competence, and diligence normally
585 exercised by a reasonably prudent person in similar corporate
586 and proprietary circumstances.

587 (c) Act only within the scope of his or her authority.

588 (d) Refrain from conduct that is likely to damage the
589 financial or economic interests of the governmental entity.

590 (e) Use reasonable efforts to maintain documentation in
591 accordance with applicable laws.

592 (f) Maintain reasonable oversight of any delegated
593 authority and discharge his or her duties with the care that a
594 reasonably prudent person in a like business position would
595 believe appropriate under the circumstances, and must:

596 1. Become reasonably informed in connection with any
597 decisionmaking function;

598 2. Become reasonably informed when devoting attention to
599 any oversight function;

600 3. Keep reasonably informed concerning the affairs of the

601 governmental entity; and

602 4. Keep reasonably informed concerning the performance of
603 a governmental entity's executive officers or other officers,
604 agents, or employees.

605 (4) TRAINING REQUIREMENT.—

606 (a) Beginning January 1, 2021, each appointed public
607 official and executive officer shall complete a minimum of 5
608 hours of board governance training for each term served.

609 1. An appointed public official or executive officer
610 holding office or employed by an entity on January 1, 2021,
611 shall complete the 5 hours of board governance training before
612 the expiration of his or her term of service. If an appointed
613 public official or executive officer is employed under a
614 contract that does not specify a termination date for
615 employment, the public official or executive officer shall
616 complete the 5 hours of training by January 1, 2022, and once
617 every 4 years thereafter for the duration of his or her
618 employment.

619 2. An appointed public official or executive officer who
620 is appointed, reappointed, or hired after January 1, 2021, shall
621 complete the 5 hours of board governance training within 180
622 days after the date of his or her appointment, reappointment, or
623 hire.

624 (b) By January 1, 2021, the department shall:

625 1. Contract for or approve a board governance training

626 program that includes an affordable web-based electronic media
627 option; or

628 2. Publish a list of approved board governance training
629 providers on its website. A provider may include a Florida
630 College System institution, a state university, a nationally
631 recognized entity specializing in board governance education, or
632 any other entity deemed qualified by the department as capable
633 of providing the minimum training requirements specified in this
634 subsection.

635 (c) The board governance training programs must provide,
636 at a minimum, educational materials and instruction on the
637 following:

638 1. Generally accepted corporate board governance
639 principles and best practices; corporate board fiduciary duty of
640 care legal analyses; corporate board oversight and evaluation
641 procedures; governmental entity responsibilities; executive
642 officer responsibilities; executive officer performance
643 evaluations; selecting, monitoring, and evaluating an executive
644 management team; reviewing and approving proposed investments,
645 expenditures, and budget plans; financial accounting and capital
646 allocation principles and practices; and new governmental entity
647 member orientation.

648 2. The fiduciary duty of care and obligations imposed upon
649 appointed public officials and executive officers pursuant to
650 this section.

651 (d) A governmental entity complies with the training
652 requirement under this subsection by providing a department-
653 approved program or contracting with a provider listed by the
654 department under subparagraph (b)2. However, for governmental
655 entities with annual revenues of less than \$300,000, board
656 governance training may be provided by in-house counsel of the
657 governmental entity or the unit of government that created the
658 governmental entity, if applicable, so long as the training
659 complies with the minimum course content established by
660 department rule.

661 (e) Within 30 days after completion of the board
662 governance training, each appointed public official and
663 executive officer shall certify, in writing or electronic form
664 and under oath, to the department that he or she:

665 1. Has completed the training required by this subsection;

666 2. Has read the laws and relevant policies applicable to
667 his or her position;

668 3. Will work to uphold such laws and policies to the best
669 of his or her ability; and

670 4. Will faithfully discharge his or her fiduciary
671 responsibility, as imposed by this section.

672 (f) The department shall adopt rules to implement this
673 subsection.

674 (g) This subsection does not apply to appointed public
675 officials and executive officers who:

- 676 1. Serve governmental entities whose annual revenues are
 677 less than \$100,000;
 678 2. Hold elected office in another capacity; or
 679 3. Complete board governance training involving fiduciary
 680 duties or responsibilities which is required under any other
 681 general law.

682 (5) APPOINTMENT OF EXECUTIVE OFFICERS AND GENERAL
 683 COUNSELS.—The appointment of any executive officer or general
 684 counsel is subject to approval by a majority vote of the
 685 governmental entity.

686 (6) STANDARDS FOR LEGAL COUNSEL.—All legal counsel
 687 employed by a governmental entity must represent the legal
 688 interests and positions of the governmental entity and not the
 689 interests of any individual or employee of the governmental
 690 entity, unless such representation is directed by the
 691 governmental entity.

692 Section 11. Section 216.1366, Florida Statutes, is created
 693 to read:

694 216.1366 Contract terms.—

695 (1) In order to preserve the interest of the state in the
 696 prudent expenditure of state funds, each public agency contract
 697 for services entered into or amended on or after July 1, 2020,
 698 shall authorize the public agency to inspect the:

699 (a) Financial records, papers, and documents of the
 700 contractor directly related to the execution of the contract or

701 the expenditure of state funds; and

702 (b) Programmatic records, papers, and documents of the
703 contractor that are necessary to monitor the performance of the
704 contract or ensure that the terms of the contract are being met,
705 as determined by the public agency.

706 (2) The contract shall require the contractor to provide
707 any such records, papers, and documents requested by the public
708 agency within 10 business days after such request.

709 Section 12. Paragraph (e) of subsection (3) of section
710 287.057, Florida Statutes, is amended, and subsection (24) is
711 added to that section, to read:

712 287.057 Procurement of commodities or contractual
713 services.—

714 (3) If the purchase price of commodities or contractual
715 services exceeds the threshold amount provided in s. 287.017 for
716 CATEGORY TWO, purchase of commodities or contractual services
717 may not be made without receiving competitive sealed bids,
718 competitive sealed proposals, or competitive sealed replies
719 unless:

720 (e) The following contractual services and commodities are
721 not subject to the competitive-solicitation requirements of this
722 section:

723 1. Artistic services. As used in this subsection, the term
724 "artistic services" does not include advertising or typesetting.
725 As used in this subparagraph, the term "advertising" means the

726 making of a representation in any form in connection with a
727 trade, business, craft, or profession in order to promote the
728 supply of commodities or services by the person promoting the
729 commodities or contractual services.

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

732 3. Lectures by individuals.

733 4. Legal services, including attorney, paralegal, expert
734 witness, appraisal, or mediator services.

735 5. Health services involving examination, diagnosis,
736 treatment, prevention, medical consultation, or administration.
737 The term also includes, but is not limited to, substance abuse
738 and mental health services involving examination, diagnosis,
739 treatment, prevention, or medical consultation if such services
740 are offered to eligible individuals participating in a specific
741 program that qualifies multiple providers and uses a standard
742 payment methodology. Reimbursement of administrative costs for
743 providers of services purchased in this manner are also exempt.
744 For purposes of this subparagraph, the term "providers" means
745 health professionals and health facilities, or organizations
746 that deliver or arrange for the delivery of health services.

747 6. Services provided to persons with mental or physical
748 disabilities by not-for-profit corporations that have obtained
749 exemptions under s. 501(c)(3) of the United States Internal
750 Revenue Code or when such services are governed by Office of

751 Management and Budget Circular A-122. However, in acquiring such
752 services, the agency shall consider the ability of the vendor,
753 past performance, willingness to meet time requirements, and
754 price.

755 7. Medicaid services delivered to an eligible Medicaid
756 recipient unless the agency is directed otherwise in law.

757 8. Family placement services.

758 9. Prevention services related to mental health, including
759 drug abuse prevention programs, child abuse prevention programs,
760 and shelters for runaways, operated by not-for-profit
761 corporations. However, in acquiring such services, the agency
762 shall consider the ability of the vendor, past performance,
763 willingness to meet time requirements, and price.

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

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

767 12. Services or commodities provided by governmental
768 entities.

769 13. ~~Statewide~~ Public service announcement programs that
770 ~~provided by a Florida statewide nonprofit corporation under s.~~
771 ~~501(c)(6) of the Internal Revenue Code which~~ have a guaranteed
772 documented match of at least \$3 to \$1.

773 (24) Notwithstanding any other provision of law, a state
774 employee who is registered to lobby the Legislature, other than
775 an agency head, may not participate in the negotiation or award

776 of any contract required or expressly funded under a specific
777 legislative appropriation or proviso in an appropriation act.

778 This subsection does not apply to a state employee who is:

779 (a) Registered to lobby the Legislature, but whose primary
780 job responsibilities do not involve lobbying.

781 (b) Employed by the Executive Office of the Governor.

782 (c) Employed by the Office of Policy and Budget.

783 Section 13. Section 288.00001, Florida Statutes, is
784 created to read:

785 288.00001 Use of state or local incentive funds to pay for
786 services.—Notwithstanding any other provision of law, a tax
787 incentive may not be awarded or paid to a state contractor or
788 any subcontractor for services provided or expenditures incurred
789 pursuant to a state contract.

790 Section 14. Paragraph (e) of subsection (4) of section
791 1001.20, Florida Statutes, is amended to read:

792 1001.20 Department under direction of state board.—

793 (4) The Department of Education shall establish the
794 following offices within the Office of the Commissioner of
795 Education which shall coordinate their activities with all other
796 divisions and offices:

797 (e) Office of Inspector General.—Organized using existing
798 resources and funds and responsible for promoting
799 accountability, efficiency, and effectiveness and detecting
800 fraud and abuse within school districts, the Florida School for

801 the Deaf and the Blind, and Florida College System institutions
 802 in Florida. If the Commissioner of Education determines that a
 803 district school board, the Board of Trustees for the Florida
 804 School for the Deaf and the Blind, or a Florida College System
 805 institution board of trustees is unwilling or unable to address
 806 substantiated allegations made by any person relating to waste,
 807 fraud, abuse, or financial mismanagement within the school
 808 district, the Florida School for the Deaf and the Blind, or the
 809 Florida College System institution, the office shall conduct,
 810 coordinate, or request investigations into such substantiated
 811 allegations. The office shall investigate allegations or reports
 812 of possible waste, fraud, ~~or~~ abuse, or mismanagement against a
 813 district school board or Florida College System institution made
 814 by any member of the Cabinet, † the presiding officer of either
 815 house of the Legislature, † a chair of a substantive or
 816 appropriations legislative committee with jurisdiction, † or a
 817 member of the board for which an investigation is sought. The
 818 office shall have access to all information and personnel
 819 necessary to perform its duties and shall have all of its
 820 current powers, duties, and responsibilities authorized in s.
 821 20.055.

822 Section 15. The Office of the Auditor General is
 823 authorized to use carryforward funds to fund the establishment
 824 and operations of the Florida Integrity Office as created by
 825 this act.

826 Section 16. Subsection (1) of section 112.3188, Florida
 827 Statutes, is amended to read:

828 112.3188 Confidentiality of information given to the Chief
 829 Inspector General, internal auditors, inspectors general, local
 830 chief executive officers, or other appropriate local officials.—

831 (1) The name or identity of any individual who discloses
 832 in good faith to the Chief Inspector General or an agency
 833 inspector general, a local chief executive officer, or other
 834 appropriate local official information that alleges that an
 835 employee or agent of an agency or independent contractor:

836 (a) Has violated or is suspected of having violated any
 837 federal, state, or local law, rule, or regulation, thereby
 838 creating and presenting a substantial and specific danger to the
 839 public's health, safety, or welfare; or

840 (b) Has committed an act of ~~gross~~ mismanagement,
 841 malfeasance, misfeasance, ~~gross~~ waste of public funds, or ~~gross~~
 842 neglect of duty

843

844 may not be disclosed to anyone other than a member of the Chief
 845 Inspector General's, agency inspector general's, internal
 846 auditor's, local chief executive officer's, or other appropriate
 847 local official's staff without the written consent of the
 848 individual, unless the Chief Inspector General, internal
 849 auditor, agency inspector general, local chief executive
 850 officer, or other appropriate local official determines that:

851 the disclosure of the individual's identity is necessary to
 852 prevent a substantial and specific danger to the public's
 853 health, safety, or welfare or to prevent the imminent commission
 854 of a crime; or the disclosure is unavoidable and absolutely
 855 necessary during the course of the audit, evaluation, or
 856 investigation.

857 Section 17. Paragraph (c) of subsection (3), subsection
 858 (4), and paragraph (a) of subsection (5) of section 112.3189,
 859 Florida Statutes, are amended to read:

860 112.3189 Investigative procedures upon receipt of whistle-
 861 blower information from certain state employees.—

862 (3) When a person alleges information described in s.
 863 112.3187(5), the Chief Inspector General or agency inspector
 864 general actually receiving such information shall within 20 days
 865 of receiving such information determine:

866 (c) Whether the information actually disclosed
 867 demonstrates reasonable cause to suspect that an employee or
 868 agent of an agency or independent contractor has violated any
 869 federal, state, or local law, rule, or regulation, thereby
 870 creating and presenting a substantial and specific danger to the
 871 public's health, safety, or welfare, or has committed an act of
 872 ~~gross~~ mismanagement, malfeasance, misfeasance, ~~gross~~ waste of
 873 public funds, or ~~gross~~ neglect of duty.

874 (4) If the Chief Inspector General or agency inspector
 875 general under subsection (3) determines that the information

876 disclosed is not the type of information described in s.
877 112.3187(5), or that the source of the information is not a
878 person who is an employee or former employee of, or an applicant
879 for employment with, a state agency, as defined in s. 216.011,
880 or that the information disclosed does not demonstrate
881 reasonable cause to suspect that an employee or agent of an
882 agency or independent contractor has violated any federal,
883 state, or local law, rule, or regulation, thereby creating and
884 presenting a substantial and specific danger to the public's
885 health, safety, or welfare, or has committed an act of ~~gross~~
886 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
887 funds, or ~~gross~~ neglect of duty, the Chief Inspector General or
888 agency inspector general shall notify the complainant of such
889 fact and copy and return, upon request of the complainant, any
890 documents and other materials that were provided by the
891 complainant.

892 (5) (a) If the Chief Inspector General or agency inspector
893 general under subsection (3) determines that the information
894 disclosed is the type of information described in s.
895 112.3187(5), that the source of the information is from a person
896 who is an employee or former employee of, or an applicant for
897 employment with, a state agency, as defined in s. 216.011, and
898 that the information disclosed demonstrates reasonable cause to
899 suspect that an employee or agent of an agency or independent
900 contractor has violated any federal, state, or local law, rule,

901 or regulation, thereby creating a substantial and specific
902 danger to the public's health, safety, or welfare, or has
903 committed an act of ~~gross~~ mismanagement, malfeasance,
904 misfeasance, ~~gross~~ waste of public funds, or ~~gross~~ neglect of
905 duty, the Chief Inspector General or agency inspector general
906 making such determination shall then conduct an investigation,
907 unless the Chief Inspector General or the agency inspector
908 general determines, within 30 days after receiving the
909 allegations from the complainant, that such investigation is
910 unnecessary. For purposes of this subsection, the Chief
911 Inspector General or the agency inspector general shall consider
912 the following factors, but is not limited to only the following
913 factors, when deciding whether the investigation is not
914 necessary:

915 1. The gravity of the disclosed information compared to
916 the time and expense of an investigation.

917 2. The potential for an investigation to yield
918 recommendations that will make state government more efficient
919 and effective.

920 3. The benefit to state government to have a final report
921 on the disclosed information.

922 4. Whether the alleged whistle-blower information
923 primarily concerns personnel practices that may be investigated
924 under chapter 110.

925 5. Whether another agency may be conducting an

926 investigation and whether any investigation under this section
 927 could be duplicative.

928 6. The time that has elapsed between the alleged event and
 929 the disclosure of the information.

930 Section 18. Paragraph (a) of subsection (3) of section
 931 112.31895, Florida Statutes, is amended to read:

932 112.31895 Investigative procedures in response to
 933 prohibited personnel actions.—

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

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

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

941 2. Protect employees and applicants for employment with
 942 such agencies from prohibited personnel practices under s.
 943 112.3187.

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

946 4. Recommend disciplinary proceedings pursuant to
 947 investigation and appropriate agency rules and procedures.

948 5. Coordinate with the Chief Inspector General in the
 949 Executive Office of the Governor and the Florida Commission on
 950 Human Relations to receive, review, and forward to appropriate

951 agencies, legislative entities, or the Department of Law
952 Enforcement disclosures of a violation of any law, rule, or
953 regulation, or disclosures of ~~gross~~ mismanagement, malfeasance,
954 misfeasance, nonfeasance, neglect of duty, or ~~gross~~ waste of
955 public funds.

956 6. Review rules pertaining to personnel matters issued or
957 proposed by the Department of Management Services, the Public
958 Employees Relations Commission, and other agencies, and, if the
959 Florida Commission on Human Relations finds that any rule or
960 proposed rule, on its face or as implemented, requires the
961 commission of a prohibited personnel practice, provide a written
962 comment to the appropriate agency.

963 7. Investigate, request assistance from other governmental
964 entities, and, if appropriate, bring actions concerning,
965 allegations of retaliation by state agencies under subparagraph
966 1.

967 8. Administer oaths, examine witnesses, take statements,
968 issue subpoenas, order the taking of depositions, order
969 responses to written interrogatories, and make appropriate
970 motions to limit discovery, pursuant to investigations under
971 subparagraph 1.

972 9. Intervene or otherwise participate, as a matter of
973 right, in any appeal or other proceeding arising under this
974 section before the Public Employees Relations Commission or any
975 other appropriate agency, except that the Florida Commission on

976 Human Relations must comply with the rules of the commission or
977 other agency and may not seek corrective action or intervene in
978 an appeal or other proceeding without the consent of the person
979 protected under ss. 112.3187-112.31895.

980 10. Conduct an investigation, in the absence of an
981 allegation, to determine whether reasonable grounds exist to
982 believe that a prohibited action or a pattern of prohibited
983 action has occurred, is occurring, or is to be taken.

984 Section 19. This act shall take effect July 1, 2020.