

By Senator Rossin

35-351A-99

1                                   A bill to be entitled  
2           An act relating to legislative oversight of  
3           governmental programs; amending ss. 11.42,  
4           11.45, F.S.; defining the term "operational  
5           audit"; revising the duties of the Auditor  
6           General; transferring the Division of Public  
7           Assistance Fraud from the Auditor General to  
8           the Department of Law Enforcement;  
9           transferring, renumbering, and amending s.  
10          11.50, F.S.; conforming provisions to the  
11          transfer of the Division of Public Assistance  
12          Fraud; amending ss. 402.3015, 414.33, 414.34,  
13          414.39, 414.40, 951.28, F.S.; conforming  
14          provisions to the transfer of the Division of  
15          Public Assistance Fraud; amending ss. 373.589,  
16          195.096, 232.44, 946.516, 283.31, F.S.;  
17          revising the duties of the Auditor General;  
18          providing for audits by independent certified  
19          public accountants; amending ss. 944.719,  
20          985.07, F.S.; transferring duties from the  
21          Auditor General to the Office of Program Policy  
22          Analysis and Government Accountability;  
23          amending ss. 11.511, 11.513, F.S.; revising the  
24          duties of the Office of Program Policy Analysis  
25          and Government Accountability; amending ss.  
26          112.3187, 112.3188, 112.31895, F.S.;  
27          eliminating the Public Counsel's  
28          responsibilities associated with the  
29          Whistle-blower's Act; amending s. 985.401,  
30          F.S.; providing for the composition of the  
31          Juvenile Justice Accountability Board;

1           reassigning the board from the Joint  
2           Legislative Auditing Committee to the  
3           Department of Juvenile Justice; amending s.  
4           218.502, F.S.; redefining the term "local  
5           governmental entity"; repealing s. 284.50(4),  
6           F.S., which provides for the Auditor General to  
7           audit state agency loss-prevention programs;  
8           repealing s. 475.045(1)(f), F.S., which  
9           provides for the Auditor General to audit the  
10          financial transactions of the Florida Real  
11          Estate Commission Education and Research  
12          Foundation; repealing s. 985.07, F.S., which  
13          provides for the Auditor General to examine  
14          some information-sharing efforts; providing an  
15          effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19           Section 1. Subsections (3), (6), (8), and (9) of  
20 section 11.42, Florida Statutes, are amended to read:

21           11.42 The Auditor General.--

22           (3)(a) To carry out her or his duties the Auditor  
23 General shall make all spending decisions within the annual  
24 operating budget approved by the President of the Senate and  
25 the Speaker of the House of Representatives. The Auditor  
26 General shall employ qualified persons necessary for the  
27 efficient operation of the Auditor General's office and shall  
28 fix their duties and compensation and, with the approval of  
29 the Legislative Auditing Committee, shall adopt and administer  
30 a uniform personnel, job classification, and pay plan for such  
31 employees.

1 (b)1. No person shall be employed as a financial  
2 auditor who does not possess the qualifications to take the  
3 examination for a certificate as certified public accountant  
4 under the laws of this state, and no person shall be employed  
5 or retained as legal adviser, on either a full-time or a  
6 part-time basis, who is not a member of The Florida Bar.

7 2. Notwithstanding the provisions of subparagraph 1.,  
8 employees in the positions associated with the Florida  
9 Education Finance Program full-time enrollment verification  
10 function that is assigned to the Auditor General pursuant to  
11 s. 229.565(2) may continue to meet the job qualifications that  
12 existed prior to such transfer for a period of 3 years after  
13 such transfer. Thereafter, they shall meet the requirements of  
14 subparagraph 1. This subparagraph is repealed on July 1, 1998.

15 (6)(a) The headquarters of the Auditor General shall  
16 be at the state capital, but to facilitate auditing and to  
17 eliminate unnecessary traveling the Auditor General may  
18 establish divisions and assign auditors to each division and  
19 determine their duties and the areas of the state to be served  
20 by the respective divisions. The Auditor General shall be  
21 provided with adequate quarters to carry out the position's  
22 functions in the state capital and in other areas of the  
23 state.

24 (b) All payrolls and vouchers ~~prepared by the Auditor~~  
25 ~~General~~ for the operations of the Auditor General's ~~her or his~~  
26 office shall be submitted directly to the Comptroller and, if  
27 found to be correct, state warrants shall be issued therefor.

28 (c) The Auditor General shall transmit to the  
29 President of the Senate and the Speaker of the House of  
30 Representatives by January 1 of each year a list of statutory  
31 and fiscal changes recommended by audit reports. The

1 recommendations should be presented in two categories: one  
2 addressing substantive law and policy issues and the other  
3 addressing budget issues. The Auditor General may also  
4 transmit recommendations at other times of the year when the  
5 information would be timely and useful for the Legislature.

6 ~~(8) When authorized to audit the administrative~~  
7 ~~services functions of any state agency, the Auditor General~~  
8 ~~shall include, as a part of that review, a statement regarding~~  
9 ~~agency compliance with the minority business enterprise~~  
10 ~~procurement goals set forth in s. 287.0945.~~

11 (8)(9) No officer or full-time employee of the office  
12 of Auditor General shall actively engage in any other business  
13 or profession; serve as the representative of any political  
14 party or on any executive committee or other governing body  
15 thereof; serve as an executive, officer, or employee of any  
16 political party committee, organization, or association; or be  
17 engaged on behalf of any candidate for public office in the  
18 solicitation of votes or other activities in behalf of such  
19 candidacy. Neither the Auditor General nor any employee of the  
20 Auditor General shall become a candidate for election to  
21 public office unless she or he shall first resign from office  
22 or employment.

23 Section 2. Subsections (1) and (3) and paragraph (f)  
24 of subsection (7) of section 11.45, Florida Statutes, are  
25 amended to read:

26 11.45 Definitions; duties; audits; reports.--

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

28 (a) "County agency," for the exclusive purposes of  
29 this section, means a board of county commissioners or other  
30 legislative and governing body of a county, however styled,  
31 including that of a consolidated or metropolitan government, a

1 clerk of the circuit court, a separate or ex officio clerk of  
2 the county court, a sheriff, a property appraiser, a tax  
3 collector, a supervisor of elections, or any other officer in  
4 whom any portion of the fiscal duties of the above are under  
5 law separately placed. Each county agency is a local  
6 governmental entity for purposes of subparagraph (3)(a)4.

7 (b) "Financial audit" means an examination of  
8 financial statements in order to express an opinion on the  
9 fairness with which they present financial position, results  
10 of operations, and changes in financial position in conformity  
11 with generally accepted accounting principles and an  
12 examination to determine whether operations are properly  
13 conducted in accordance with legal and regulatory  
14 requirements. Financial audits must be conducted in accordance  
15 with generally accepted auditing standards and governmental  
16 auditing standards as adopted by the Board of Accountancy.

17 (c) "Governmental entity" means a state agency, a  
18 county agency, or any other entity, however styled, that  
19 independently exercises any type of state or local  
20 governmental function.

21 (d) "Local governmental entity" means a county agency,  
22 municipality, or special district as defined in s. 189.403,  
23 but does not include any housing authority established under  
24 chapter 421.

25 (e) "Management letter" means a statement of the  
26 auditor's comments and recommendations.

27 (f) "Operational audit" means a financial-related  
28 audit whose purpose is to evaluate management's performance in  
29 administering assigned responsibilities in accordance with  
30 applicable laws, administrative rules, and other guidelines  
31 and to determine the extent to which the internal control, as

1 designed and placed in operation, promotes and encourages the  
2 achievement of management's control objectives in the  
3 categories of compliance, economic and efficient operations,  
4 reliability of financial records and reports, and safeguarding  
5 of assets.

6 (g)~~(f)~~ "Performance audit" means an examination of a  
7 program, activity, or function of a governmental entity,  
8 conducted in accordance with applicable government auditing  
9 standards or auditing and evaluation standards of other  
10 appropriate authoritative bodies. The term includes an  
11 examination of issues related to:

12 1. Economy, efficiency, or effectiveness of the  
13 program.

14 2. Structure or design of the program to accomplish  
15 its goals and objectives.

16 3. Adequacy of the program to meet the needs  
17 identified by the Legislature or governing body.

18 4. Alternative methods of providing program services  
19 or products.

20 5. Goals, objectives, and performance measures used by  
21 the agency to monitor and report program accomplishments.

22 6. The accuracy or adequacy of public documents,  
23 reports, or requests prepared under the program by state  
24 agencies.

25 7. Compliance of the program with appropriate  
26 policies, rules, or laws.

27 8. Any other issues related to governmental entities  
28 as directed by the Legislative Auditing Committee.

29 (h)~~(g)~~ "Political subdivision" means a separate agency  
30 or unit of local government created or established by law and  
31 includes, but is not limited to, the following and the

1 officers thereof: authority, board, branch, bureau, city,  
2 commission, consolidated government, county, department,  
3 district, institution, metropolitan government, municipality,  
4 office, officer, public corporation, town, or village.

5 (i)~~(h)~~ "State agency" means a separate agency or unit  
6 of state government created or established by law and  
7 includes, but is not limited to, the following and the  
8 officers thereof: authority, board, branch, bureau,  
9 commission, department, division, institution, office,  
10 officer, or public corporation, as the case may be, except any  
11 such agency or unit other than the Florida Public Service  
12 Commission within the legislative branch of state government.

13 (3)(a)1. The Auditor General shall annually make  
14 financial audits of the accounts and records of all state  
15 agencies, as defined in this section, of all district school  
16 boards in counties with populations of fewer than 100,000  
17 according to the most recent federal decennial statewide  
18 census, and of all district boards of trustees of community  
19 colleges. The Auditor General shall, at least every other  
20 year, make operational audits of the accounts and records of  
21 all state agencies, as defined in this section. The Auditor  
22 General shall, at least once every 3 years, make financial  
23 audits of the accounts and records of all district school  
24 boards in counties with populations of 100,000 or more. For  
25 each of the 2 years that the Auditor General does not make the  
26 financial audit, each district school board shall contract for  
27 an independent auditor to perform a financial audit as defined  
28 in paragraph (1)(b).This section does not limit the Auditor  
29 General's discretionary authority to conduct performance  
30 audits of these governmental entities as authorized in  
31 subparagraph 3.2-A district school board may select an

1 independent certified public accountant ~~auditor~~ to perform a  
2 financial audit as defined in paragraph (1)(b) notwithstanding  
3 the notification provisions of this section. In addition, a  
4 district school board may employ an internal auditor to  
5 perform ongoing financial verification of the financial  
6 records of a school district who must report directly to the  
7 district school board or its designee.

8 2. Each charter school established under s. 228.056  
9 shall have an annual financial audit of its accounts and  
10 records completed within 12 months after the end of its fiscal  
11 year by an independent certified public accountant retained by  
12 it and paid from its funds. The independent certified public  
13 accountant who is selected to perform an annual financial  
14 audit of the charter school shall provide a copy of the audit  
15 to the district school board, the Department of Education, and  
16 the Auditor General. A management letter must be prepared and  
17 included as a part of each financial audit report.

18 3.2. The Auditor General may at any time make  
19 financial audits and performance audits of the accounts and  
20 records of all governmental entities created pursuant to law.  
21 The audits referred to in this subparagraph must be made  
22 whenever determined by the Auditor General, whenever directed  
23 by the Legislative Auditing Committee, or whenever otherwise  
24 required by law or concurrent resolution. A district school  
25 board, expressway authority, or bridge authority may require  
26 that the annual financial audit of its accounts and records be  
27 completed within 12 months after the end of its fiscal year.  
28 If the Auditor General is unable to meet that requirement, the  
29 Auditor General shall notify the school board, the expressway  
30 authority, or the bridge authority pursuant to subparagraph 5.

31 ~~4.~~



1           ~~4.3.~~ The Office of Program Policy Analysis and  
2 Government Accountability within the Office of the Auditor  
3 General shall maintain a schedule of performance audits of  
4 state programs. In conducting a performance audit of a state  
5 program, the Office of Program Policy Analysis and Government  
6 Accountability, when appropriate, shall identify and comment  
7 upon alternatives for accomplishing the goals of the program  
8 being audited. Such alternatives may include funding  
9 techniques and, if appropriate, must describe how other states  
10 or governmental units accomplish similar goals.

11           ~~5.4.~~ If by July 1 in any fiscal year a district school  
12 board or local governmental entity has not been notified that  
13 a financial audit for that fiscal year will be performed by  
14 the Auditor General pursuant to subparagraph ~~3.2.~~, each  
15 municipality with either revenues or expenditures of more than  
16 \$100,000, each special district with either revenues or  
17 expenditures of more than \$50,000, and each county agency  
18 shall, and each district school board may, require that an  
19 annual financial audit of its accounts and records be  
20 completed, within 12 months after the end of its respective  
21 fiscal year, by an independent certified public accountant  
22 retained by it and paid from its public funds. An independent  
23 certified public accountant who is selected to perform an  
24 annual financial audit of a school district must report  
25 directly to the district school board or its designee. A  
26 management letter must be prepared and included as a part of  
27 each financial audit report. Each local government finance  
28 commission, board, or council, and each municipal power  
29 corporation, created as a separate legal or administrative  
30 entity by interlocal agreement under s. 163.01(7), shall  
31 provide the Auditor General, within 12 months after the end of

1 its fiscal year, with an annual financial audit report of its  
2 accounts and records and a written statement or explanation or  
3 rebuttal concerning the auditor's comments, including  
4 corrective action to be taken. The county audit shall be one  
5 document that includes a separate audit of each county agency.  
6 The county audit must include an audit of the deposits into  
7 and expenditures from the Public Records Modernization Trust  
8 Fund. The Auditor General shall tabulate the results of the  
9 audits of the Public Records Modernization Trust Fund and  
10 report a summary of the audits to the Legislature annually.

11 ~~6.5.~~ The governing body of a municipality, ~~or a~~  
12 special district, or charter school must establish an auditor  
13 selection committee and competitive auditor selection  
14 procedures. The governing board may elect to use its own  
15 competitive auditor selection procedures or the procedures  
16 outlined in subparagraph ~~7.6.~~

17 ~~7.6.~~ The governing body of a noncharter county or  
18 district school board that elects to use a certified public  
19 accountant other than the Auditor General is responsible for  
20 selecting an independent certified public accountant to audit  
21 the county agencies of the county or district school board  
22 according to the following procedure:

23 a. For each noncharter county, an auditor selection  
24 committee must be established, consisting of the county  
25 officers elected pursuant to s. 1(d), Art. VIII of the State  
26 Constitution, and one member of the board of county  
27 commissioners or its designee.

28 b. The committee shall publicly announce, in a uniform  
29 and consistent manner, each occasion when auditing services  
30 are required to be purchased. Public notice must include a  
31 general description of the audit and must indicate how

1 interested certified public accountants can apply for  
2 consideration.

3 c. The committee shall encourage firms engaged in the  
4 lawful practice of public accounting who desire to provide  
5 professional services to submit annually a statement of  
6 qualifications and performance data.

7 d. Any certified public accountant desiring to provide  
8 auditing services must first be qualified pursuant to law. The  
9 committee shall make a finding that the firm or individual to  
10 be employed is fully qualified to render the required  
11 services. Among the factors to be considered in making this  
12 finding are the capabilities, adequacy of personnel, past  
13 record, and experience of the firm or individual.

14 e. The committee shall adopt procedures for the  
15 evaluation of professional services, including, but not  
16 limited to, capabilities, adequacy of personnel, past record,  
17 experience, results of recent external quality control  
18 reviews, and such other factors as may be determined by the  
19 committee to be applicable to its particular requirements.

20 f. The public must not be excluded from the  
21 proceedings under this subparagraph.

22 g. The committee shall evaluate current statements of  
23 qualifications and performance data on file with the  
24 committee, together with those that may be submitted by other  
25 firms regarding the proposed audit, and shall conduct  
26 discussions with, and may require public presentations by, no  
27 fewer than three firms regarding their qualifications,  
28 approach to the audit, and ability to furnish the required  
29 services.

30 h. The committee shall select no fewer than three  
31 firms deemed to be the most highly qualified to perform the

1 required services after considering such factors as the  
2 ability of professional personnel; past performance;  
3 willingness to meet time requirements; location; recent,  
4 current, and projected workloads of the firms; and the volume  
5 of work previously awarded to the firm by the agency, with the  
6 object of effecting an equitable distribution of contracts  
7 among qualified firms, provided such distribution does not  
8 violate the principle of selection of the most highly  
9 qualified firms. If fewer than three firms desire to perform  
10 the services, the committee shall recommend such firms as it  
11 determines to be qualified.

12 i. If the governing board receives more than one  
13 proposal for the same engagement, the board may rank, in order  
14 of preference, the firms to perform the engagement. The firm  
15 ranked first may then negotiate a contract with the board  
16 giving, among other things, a basis of its fee for that  
17 engagement. If the board is unable to negotiate a  
18 satisfactory contract with that firm, negotiations with that  
19 firm shall be formally terminated, and the board shall then  
20 undertake negotiations with the second-ranked firm. Failing  
21 accord with the second-ranked firm, negotiations shall then be  
22 terminated with that firm and undertaken with the third-ranked  
23 firm. Negotiations with the other ranked firms shall be  
24 undertaken in the same manner. The board, in negotiating with  
25 firms, may reopen formal negotiations with any one of the  
26 three top-ranked firms, but it may not negotiate with more  
27 than one firm at a time. The board shall also negotiate on the  
28 scope and quality of services. In making such determination,  
29 the board shall conduct a detailed analysis of the cost of the  
30 professional services required in addition to considering  
31 their scope and complexity. For contracts over \$50,000, the

1 board shall require the firm receiving the award to execute a  
2 truth-in-negotiation certificate stating that the rates of  
3 compensation and other factual unit costs supporting the  
4 compensation are accurate, complete, and current at the time  
5 of contracting. Such certificate shall also contain a  
6 description and disclosure of any understanding that places a  
7 limit on current or future years' audit contract fees,  
8 including any arrangements under which fixed limits on fees  
9 will not be subject to reconsideration if unexpected  
10 accounting or auditing issues are encountered. Such  
11 certificate shall also contain a description of any services  
12 rendered by the certified public accountant or firm of  
13 certified public accountants at rates or terms that are not  
14 customary. Any auditing service contract under which such a  
15 certificate is required must contain a provision that the  
16 original contract price and any additions thereto shall be  
17 adjusted to exclude any significant sums by which the board  
18 determines the contract price was increased due to inaccurate  
19 or incomplete factual unit costs. All such contract  
20 adjustments shall be made within 1 year following the end of  
21 the contract.

22         j. If the board is unable to negotiate a satisfactory  
23 contract with any of the selected firms, the committee shall  
24 select additional firms, and the board shall continue  
25 negotiations in accordance with this subsection until an  
26 agreement is reached.

27         8.7. At the conclusion of the audit field work, the  
28 independent certified public accountant shall discuss with the  
29 head of each local governmental entity or the chair's designee  
30 or with the chair of the district school board or the chair's  
31 designee, or with the chair of the board of the charter school

1 or the chair's designee, as appropriate, all of the auditor's  
2 comments that will be included in the audit report. If the  
3 officer is not available to discuss the auditor's comments,  
4 their discussion is presumed when the comments are delivered  
5 in writing to his or her office. The auditor shall notify each  
6 member of the governing body of a local governmental entity  
7 for which deteriorating financial conditions exist which may  
8 cause a condition described in s. 218.503(1) to occur if  
9 actions are not taken to address such conditions.

10 9.8- The officer's written statement of explanation or  
11 rebuttal concerning the auditor's comments, including  
12 corrective action to be taken, must be filed with the  
13 governing body of the local governmental entity, ~~or~~ district  
14 school board, or charter school within 30 days after the  
15 delivery of the financial audit report.

16 10.9- The Auditor General, in consultation with the  
17 Board of Accountancy, shall adopt rules for the form and  
18 conduct of all financial audits subject to this section and  
19 conducted by independent certified public accountants ~~local~~  
20 ~~governmental entity audits~~. The rules for audits of local  
21 governmental entities and district school boards must include,  
22 but are not limited to, requirements for the reporting of  
23 information necessary to carry out the purposes of the Local  
24 Government Financial Emergencies Act as stated in s. 218.501.

25 11.10- Any local governmental entity or district  
26 school board financial audit report required under  
27 subparagraph 5.4- ~~or charter school financial audit report~~  
28 required under subparagraph 2. and the officer's written  
29 statement of explanation or rebuttal concerning the auditor's  
30 comments, including corrective action to be taken, must be  
31 submitted to the Auditor General within 45 days after delivery

1 of the audit report to the local governmental entity ~~or~~  
2 district school board, or charter school, but no later than 12  
3 months after the end of the fiscal year. If the Auditor  
4 General does not receive the financial audit report within the  
5 prescribed period, he or she must notify the Legislative  
6 Auditing Committee that the governmental entity has not  
7 complied with this subparagraph. Following notification of  
8 failure to submit the required audit report or items required  
9 by rule adopted by the Auditor General, a hearing must be  
10 scheduled by rule of the committee. After the hearing, the  
11 committee shall determine which local governmental entities  
12 will be subjected to further state action. If it finds that  
13 one or more local governmental entities should be subjected to  
14 further state action, the committee shall:

15       a. In the case of a local governmental entity, request  
16 the Department of Revenue and the Department of Banking and  
17 Finance to withhold any funds payable to such governmental  
18 entity until the required financial audit is received by the  
19 Auditor General.

20       b. In the case of a special district, notify the  
21 Department of Community Affairs that the special district has  
22 failed to provide the required audits. Upon receipt of  
23 notification, the Department of Community Affairs shall  
24 proceed pursuant to ss. 189.421 and 189.422.

25       ~~12.11~~-a. The Auditor General, in consultation with the  
26 Board of Accountancy, shall review all audit reports submitted  
27 by local governmental entities or district school boards  
28 pursuant to subparagraph 10.9. The Auditor General shall  
29 request any significant items that were omitted in violation  
30 of a rule adopted by the Auditor General. The items must be  
31 provided within 45 days after the date of the request. If the

1 Auditor General does not receive the requested items, he or  
2 she shall notify the Joint Legislative Auditing Committee.

3       b. The Auditor General shall notify the Governor and  
4 the Joint Legislative Auditing Committee of any audit report  
5 reviewed by the Auditor General which contains a statement  
6 that the local governmental entity or district school board is  
7 in a state of financial emergency as provided in s. 218.503.

8 If the Auditor General, in reviewing any audit report,  
9 identifies additional information which indicates that the  
10 local governmental entity or district school board may be in a  
11 state of financial emergency as provided in s. 218.503, the  
12 Auditor General shall request appropriate clarification from  
13 the local governmental entity or district school board. The  
14 requested clarification must be provided within 45 days after  
15 the date of the request. If the Auditor General does not  
16 receive the requested clarification, he or she shall notify  
17 the Joint Legislative Auditing Committee. If, after obtaining  
18 the requested clarification, the Auditor General determines  
19 that the local governmental entity or district school board is  
20 in a state of financial emergency as provided in s. 218.503,  
21 he or she shall notify the Governor and the Joint Legislative  
22 Auditing Committee.

23       c. The Auditor General shall annually compile and  
24 transmit to the President of the Senate, the Speaker of the  
25 House of Representatives, and the Joint Legislative Auditing  
26 Committee a summary of significant findings and financial  
27 trends identified in audits of local government entities  
28 performed by the independent certified public accountants.

29       ~~13.12~~ In conducting a performance audit of any  
30 agency, the Auditor General shall use the Agency Strategic  
31



1 Plan of the agency in evaluating the performance of the  
2 agency.

3 (b) The Legislative Auditing Committee ~~may authorize~~  
4 ~~and direct the Auditor General to make a financial audit of~~  
5 ~~any municipality or independent agency or authority of any~~  
6 ~~municipality within the state, and the committee shall direct~~  
7 the Auditor General to make a financial audit of any  
8 municipality such audit whenever petitioned to do so by at  
9 least 20 percent of the electors of that any municipality.  
10 The supervisor of elections of the county in which the  
11 municipality is located shall certify whether or not the  
12 petition contains the signatures of at least 20 percent of the  
13 electors of the municipality. After the completion of the  
14 audit, the auditor General shall determine whether the  
15 municipality has the fiscal resources necessary to pay the  
16 cost of the audit. The municipality shall pay the cost of the  
17 audit within 90 days after the Auditor General's determination  
18 that the municipality has the available resources. If The  
19 ~~expenses of such audit shall be paid by the municipality and,~~  
20 ~~in the event~~ the municipality fails to pay the cost of the  
21 audit, the Department of Revenue shall, upon certification of  
22 the Auditor General, withhold from that portion of the  
23 municipal financial assistance trust fund for municipalities  
24 which is derived from the cigarette tax imposed under chapter  
25 210, and which is distributable to such municipality, a sum  
26 sufficient to pay the cost of the audit and shall deposit that  
27 sum into the General Revenue Fund of the state.

28 (c) The Auditor General shall at least every 2 years  
29 make a performance audit of the local government financial  
30 reporting system, which, for the purpose of this chapter,  
31 means the reporting provisions of this subsection and

1 subsection (4); s. 27.3455(1) and (2); part VII of chapter  
2 112; s. 163.05; s. 166.241; chapter 189; parts III and V of  
3 chapter 218; and s. 925.037(5). The performance audit shall  
4 analyze each component of the reporting system separately and  
5 analyze the reporting system as a whole. The purpose of such  
6 an audit is to determine the accuracy, efficiency, and  
7 effectiveness of the reporting system in achieving its goals  
8 and objectives and to make recommendations to the local  
9 governments, the Governor, and the Legislature as to how the  
10 reporting system can be improved and how program costs can be  
11 reduced. Such goals and objectives must include, but need not  
12 be limited to, the timely, accurate, uniform, and  
13 cost-effective accumulation of financial and other information  
14 that can be used by the members of the Legislature and other  
15 appropriate officials in order to:

- 16 1. Compare and contrast revenue sources and  
17 expenditures of local governmental entities;
- 18 2. Assess the fiscal impact of the formation,  
19 dissolution, and activity of special districts;
- 20 3. Evaluate the fiscal impact of state mandates on  
21 local governmental entities;
- 22 4. Assess financial or economic conditions of local  
23 governmental entities; and
- 24 5. Improve communication and coordination among state  
25 agencies and local governmental entities.

26 (d) Whenever a local governmental entity requests the  
27 Auditor General to conduct an audit of all or part of its  
28 operations and the Auditor General conducts the audit under  
29 his or her own authority or at the direction of the  
30 Legislative Auditing Committee ~~conducts the audit~~, the  
31 expenses of the audit shall be paid ~~for~~ by the local

1 governmental entity. The Auditor General shall estimate the  
2 cost of the audit. Fifty percent of the cost estimate shall be  
3 paid by the local governmental entity before the initiation of  
4 the audit and deposited into the General Revenue Fund of the  
5 state. After the completion of the audit, the Auditor General  
6 shall forward the actual cost of the audit to the local  
7 governmental entity. The local governmental entity shall remit  
8 the remainder of the cost of the audit to the Auditor General  
9 for deposit into the General Revenue Fund of the state. If the  
10 local governmental entity fails to pay the cost of the audit,  
11 the Auditor General shall notify the Legislative Auditing  
12 Committee, which may implement the provisions specified in s.  
13 11.45(3)(a)10.

14 (7)

15 (f) No later than 18 months after the release of a  
16 performance audit report, the agencies which are the subject  
17 of that report shall provide data and other information that  
18 describes with specificity what the agencies have done to  
19 respond to the recommendations contained in the report. The  
20 Auditor General or the Office of Program Policy Analysis and  
21 Government Accountability may verify the data and information  
22 provided by the agencies. If the data and information  
23 provided by the agencies are deemed sufficient and accurate,  
24 the Auditor General or the Office of Program Policy Analysis  
25 and Government Accountability shall report to the Joint  
26 Legislative Auditing Committee and to the legislative standing  
27 committees concerned with the subject areas of the audit. The  
28 report shall include a summary of the agencies' responses, the  
29 evaluation of those responses, and any recommendations deemed  
30 to be appropriate. The follow-up report required by this  
31 paragraph may be waived by joint action of the President of

1 the Senate and the Speaker of the House of Representatives  
2 upon the recommendation of the Director of the Office of  
3 Program Policy Analysis and Government Accountability.

4 Section 3. All statutory powers, duties, and functions  
5 related to investigating public assistance fraud are  
6 transferred from the Auditor General to the Department of Law  
7 Enforcement by a type two transfer, as defined in section  
8 20.06, Florida Statutes, effective October 1, 1999.

9 Section 4. Section 11.50, Florida Statutes, is  
10 transferred, renumbered as section 943.401, Florida Statutes,  
11 and amended to read:

12 943.401 ~~11.50~~ ~~Division of Public Assistance Fraud.--~~

13 (1)(a) The Department of Law Enforcement Auditor  
14 ~~General~~ shall investigate, ~~on his or her own initiative or~~  
15 ~~when required by the Legislative Auditing Committee,~~ public  
16 assistance made under the provisions of chapter 409 or chapter  
17 414. In the course of such investigation the Department of Law  
18 Enforcement Auditor General shall examine all records,  
19 including electronic benefits transfer records and make  
20 inquiry of all persons who may have knowledge as to any  
21 irregularity incidental to the disbursement of public moneys,  
22 food stamps, or other items or benefits authorizations to  
23 recipients.

24 (b) All public assistance recipients, as a condition  
25 precedent to qualification for assistance under the provisions  
26 of chapter 409 or chapter 414, shall first give in writing, to  
27 the Agency for Health Care Administration, ~~or~~ the Department  
28 of Health, and the Department of Children and Family  
29 ~~Rehabilitative Services~~, as appropriate, and to the Department  
30 of Law Enforcement ~~Division of Public Assistance Fraud,~~  
31

1 consent to make inquiry of past or present employers and  
2 records, financial or otherwise.

3 (2) In the conduct of such investigation the  
4 Department of Law Enforcement ~~Auditor General~~ may employ  
5 persons having such qualifications as are useful in the  
6 performance of this duty, ~~and those individuals shall be~~  
7 ~~assigned to the Division of Public Assistance Fraud which is~~  
8 ~~hereby created within the office of the Auditor General.~~

9 (3) The results of such investigation shall be  
10 reported by the Department of Law Enforcement ~~Auditor General~~  
11 to the appropriate legislative committees ~~Auditing Committee~~,  
12 the Agency for Health Care Administration, the Department of  
13 Health, and the Department of Children and Family  
14 ~~Rehabilitative~~ Services, and to such others as the Department  
15 of Law Enforcement ~~Legislative Auditing Committee or the~~  
16 ~~Auditor General~~ may determine.

17 (4) The Department of Health and the Department of  
18 Children and Family ~~Rehabilitative~~ Services shall report to  
19 the Department of Law Enforcement ~~Auditor General~~ the final  
20 disposition of all cases wherein action has been taken  
21 pursuant to s. 414.39, based upon information furnished by the  
22 Department of Law Enforcement ~~Division of Public Assistance~~  
23 ~~Fraud~~.

24 (5) All lawful fees and expenses of officers and  
25 witnesses, expenses incident to taking testimony and  
26 transcripts of testimony and proceedings are ~~requested by the~~  
27 ~~Legislative Auditing Committee or the Auditor General shall be~~  
28 a proper charge to the Department of Law Enforcement  
29 ~~appropriation of the Auditor General. All payments for these~~  
30 ~~purposes shall be on vouchers approved by the Auditor General.~~

31

1           (6) The provisions of this section shall be liberally  
2 construed in order to carry out effectively the purposes of  
3 this section in the interest of protecting public moneys and  
4 other public property.

5           Section 5. Paragraph (b) of subsection (6) of section  
6 402.3015, Florida Statutes, is amended to read:

7           402.3015 Subsidized child care program; purpose; fees;  
8 contracts.--

9           (6)

10          (b) Child care services, unless directly operated by a  
11 community child care coordinating agency, shall be provided  
12 under a service agreement or by voucher, which ensures, to the  
13 maximum extent possible, parental choice through flexibility  
14 in child care arrangements and payment arrangements. When  
15 used, a voucher must bear the name of the beneficiary and the  
16 child care provider and, when redeemed, must bear the  
17 signature of both the beneficiary and an authorized  
18 representative of the child care provider. If it is determined  
19 that a child care provider has provided any cash to the  
20 beneficiary in return for receiving the voucher, the license  
21 for each child care facility operated by the provider shall be  
22 immediately revoked and any facility operated by the provider  
23 is ineligible for relicensure for 3 years. Whether or not the  
24 provider is licensed, the department shall refer the matter to  
25 the Department of Law Enforcement ~~Division of Public~~  
26 ~~Assistance Fraud of the Office of the Auditor General~~ for  
27 investigation.

28          Section 6. Subsection (2) of section 414.33, Florida  
29 Statutes, is amended to read:

30          414.33 Violations of food stamp program.--

31

1           (2) In addition, the department shall establish  
2 procedures for referring to the Department of Law Enforcement  
3 ~~Division of Public Assistance Fraud~~ within the Office of the  
4 ~~Auditor General~~ any case that involves a suspected violation  
5 of federal or state law or rules governing the administration  
6 of the food stamp program.

7           Section 7. Section 414.34, Florida Statutes, is  
8 amended to read:

9           414.34 Annual report concerning administrative  
10 complaints and disciplinary actions involving food stamp  
11 program violations.--The department shall prepare and submit a  
12 report to the President of the Senate, the Speaker of the  
13 House of Representatives, the chairs of the appropriate  
14 legislative ~~Health and Rehabilitative Services~~ committees, and  
15 the Department of Law Enforcement ~~Division of Public~~  
16 ~~Assistance Fraud~~ by January 1 of each year. In addition to  
17 any other information the Legislature may require, the report  
18 must include statistics and relevant information detailing:

19           (1) The number of complaints received and  
20 investigated.

21           (2) The number of findings of probable cause made.

22           (3) The number of findings of no probable cause made.

23           (4) The number of administrative complaints filed.

24           (5) The disposition of all administrative complaints.

25           (6) The number of criminal complaints brought under s.  
26 414.39, and their disposition.

27           (7) The status of the development and implementation  
28 of rules governing the electronic benefits transfer program,  
29 including any recommendations for statutory changes.

30           Section 8. Subsection (9) of section 414.39, Florida  
31 Statutes, is amended to read:

1           414.39 Fraud.--

2           (9) All records relating to investigations of public  
3 assistance fraud in the custody of the department and the  
4 Agency for Health Care Administration are available for  
5 examination by the Department of Law Enforcement ~~Division of~~  
6 ~~Public Assistance Fraud of the office of the Auditor General~~  
7 pursuant to s. 11.50 and are admissible into evidence in  
8 proceedings brought under this section as business records  
9 within the meaning of s. 90.803(6).

10           Section 9. Section 414.40, Florida Statutes, is  
11 amended to read:

12           414.40 Stop Inmate Fraud Program established;  
13 guidelines.--

14           (1) There is created within the Department of Law  
15 Enforcement ~~Division of Public Assistance Fraud of the Office~~  
16 ~~of the Auditor General~~ a Stop Inmate Fraud Program.

17           (2) The Department of Law Enforcement ~~division~~ is  
18 directed to implement the Stop Inmate Fraud Program in  
19 accordance with the following guidelines:

20           (a) The program shall establish procedures for sharing  
21 public records not exempt from the public records law among  
22 social services agencies regarding the identities of persons  
23 incarcerated in state correctional institutions, as defined in  
24 s. 944.02(6), or in county, municipal, or regional jails or  
25 other detention facilities of local governments under chapter  
26 950 or chapter 951 who are wrongfully receiving public  
27 assistance benefits or entitlement benefits.

28           (b) Pursuant to these procedures, the program shall  
29 have access to records containing correctional information not  
30 exempt from the public records law on incarcerated persons  
31 which have been generated as criminal justice information. As



1 used in this paragraph, the term "record" is defined as  
2 provided in s. 943.045(7), and the term "criminal justice  
3 information" is defined as provided in s. 943.045(3).

4 (c) Database searches shall be conducted of the inmate  
5 population at each correctional institution or other detention  
6 facility. A correctional institution or a detention facility  
7 shall provide the Stop Inmate Fraud Program with the  
8 information necessary to identify persons wrongfully receiving  
9 benefits in the medium requested by the Stop Inmate Fraud  
10 Program if the correctional institution or detention facility  
11 maintains the information in that medium.

12 (d) Data obtained from correctional institutions or  
13 other detention facilities shall be compared with the client  
14 files of the Department of Children and Family Services, the  
15 Department of Labor and Employment Security, and other state  
16 or local agencies as needed to identify persons wrongfully  
17 obtaining benefits. Data comparisons shall be accomplished  
18 during periods of low information demand by agency personnel  
19 to minimize inconvenience to the agency.

20 (e) Results of data comparisons shall be furnished to  
21 the appropriate office for use in the county in which the data  
22 originated. The program may provide reports of the data it  
23 obtains to appropriate state, federal, and local government  
24 agencies or governmental entities, including, but not limited  
25 to:

26 1. The Child Support Enforcement Program of the  
27 Department of Revenue, so that the data may be used as locator  
28 information on persons being sought for purposes of child  
29 support.

30  
31

1           2. The Social Security Administration, so that the  
2 data may be used to reduce federal entitlement fraud within  
3 the state.

4           (f) Reports by the program to another agency or entity  
5 shall be generated bimonthly, or as otherwise directed, and  
6 shall be designed to accommodate that agency's or entity's  
7 particular needs for data.

8           (g) Only those persons with active cases, or with  
9 cases that were active during the incarceration period, shall  
10 be reported, in order that the funding agency or entity, upon  
11 verification of the data, may take whatever action is deemed  
12 appropriate.

13           (h) For purposes of program review and analysis, each  
14 agency or entity receiving data from the program shall submit  
15 reports to the program which indicate the results of how the  
16 data was used.

17           Section 10. Section 951.28, Florida Statutes, is  
18 amended to read:

19           951.28 Transmitting prisoner information to reduce  
20 public assistance fraud.--Upon consultation with the  
21 Department of Law Enforcement ~~Division of Public Assistance~~  
22 ~~Fraud of the Office of the Auditor General~~ and the Social  
23 Security Administration, the county sheriff or chief  
24 correctional officer or his or her designee shall establish  
25 and implement a process to submit to the Social Security  
26 Administration, directly or indirectly, sufficient and  
27 necessary information to identify incarcerated persons who are  
28 wrongfully receiving entitlement benefits and payments.

29           Section 11. Section 373.589, Florida Statutes, is  
30 amended to read:

31

1           373.589 Water management district audit by Auditor  
2 ~~General.~~--Each water management district shall have an annual  
3 financial audit of its accounts and records as provided in s.  
4 11.45. A copy of the audit shall be filed with the Governor,  
5 the Department of Environmental Protection, the Auditor  
6 General, the governing board of the district, and the clerks  
7 of the circuit courts of each county within or partly within  
8 the district.~~At the direction of the Governor, audit of the~~  
9 ~~district's accounts may be made from time to time by the~~  
10 ~~Auditor General, and such audit shall be within the authority~~  
11 ~~of said Auditor General, to make. Copy of such audit shall be~~  
12 ~~furnished the Governor and the governing board of the~~  
13 ~~district, and a copy shall be filed with the clerks of the~~  
14 ~~circuit courts of each county within or partly within said~~  
15 ~~district. The expense of said audit shall be paid by the~~  
16 ~~district upon a statement thereof rendered to the district by~~  
17 ~~the Auditor General. Payment of the amount thereof shall be~~  
18 ~~made to the State Department of Banking and Finance to be~~  
19 ~~entered in and to reimburse the account of the Auditor General~~  
20 ~~so as not to reduce the legislative appropriation for said~~  
21 ~~Auditor General.~~

22           Section 12. Subsection (7) of section 195.096, Florida  
23 Statutes, is amended to read:

24           195.096 Review of assessment rolls.--

25           (7) The Auditor General shall have the responsibility  
26 to perform performance audits of the administration of ad  
27 valorem tax laws by the department pursuant to the general  
28 authority granted in chapter 11. Such performance audits  
29 shall be conducted triennially ~~biennially~~ following completion  
30 of reviews pursuant to this section. The performance audit  
31 conducted pursuant to this subsection shall be formally

1 submitted to the Legislature no later than April 1, on a  
2 triennial ~~biennial~~ basis, reporting on the activities of the  
3 ad valorem tax program of the Department of Revenue related to  
4 the ad valorem tax rolls. The Auditor General shall include,  
5 for at least four counties so reviewed, findings as to the  
6 accuracy of assessment procedures, projections, and  
7 computations made by the division, utilizing the same  
8 generally accepted appraisal standards and procedures to which  
9 the division and the property appraisers are required to  
10 adhere. However, the report shall not include any findings or  
11 statistics related to any ad valorem tax roll which is in  
12 litigation between the state and county officials at the time  
13 the report is to be issued.

14 Section 13. Subsection (1) of section 232.44, Florida  
15 Statutes, is amended to read:

16 232.44 Audit of records of nonprofit corporations and  
17 associations handling interscholastic activities.--

18 (1) Each ~~The Auditor General shall, at least every 6~~  
19 ~~months, audit the books and records of any nonprofit~~  
20 ~~association or corporation that~~ which operates for the purpose  
21 of supervising and controlling interscholastic activities of  
22 the public high schools in the state and whose membership is  
23 composed of duly certified representatives of public high  
24 schools in the state, and whose rules and regulations are  
25 established by members thereof, shall have an annual financial  
26 audit of its accounts and records by an independent certified  
27 public accountant retained by it and paid from its funds. The  
28 accountant shall furnish a copy of the audit to the Auditor  
29 General for review.

30 Section 14. Section 946.516, Florida Statutes, is  
31 amended to read:

1           946.516 Report to Governor, ~~and~~ Legislature, and  
2 Auditor General by the corporation; Department of Corrections  
3 report; annual financial audit report to Governor and  
4 ~~Legislature by Auditor General.~~--

5           (1) The corporation shall submit to the Governor and  
6 the Legislature, on or before January 1 of each year, a report  
7 on the status of the correctional work programs, including,  
8 but not limited to, the proposed use of the profits from such  
9 programs, a breakdown of the amount of noninmate labor used,  
10 work subcontracted to other vendors, use of consultants,  
11 finished goods purchased for resale, and the number of inmates  
12 working in the correctional work programs at the time of such  
13 report. In addition, the corporation shall submit to the  
14 department, the Governor, ~~and~~ the Legislature, and the Auditor  
15 General an annual ~~independently audited~~ financial audit report  
16 ~~statement~~ and such other information as may be requested by  
17 the Legislature, together with recommendations relating to  
18 provisions for reasonable tax incentives to private  
19 enterprises which employ inmates, parolees, or former inmates  
20 who have participated in correctional work programs.

21           (2) The department shall include, as a portion of its  
22 annual report, a report on postrelease job placement and the  
23 rate of subsequent contact with the correctional system for  
24 those inmates who have participated in the correctional work  
25 programs operated by the corporation and by the department.

26           (3) The corporation shall have an annual financial  
27 audit of its accounts and records by an independent certified  
28 public accountant retained by it and paid from its funds. The  
29 Auditor General or the director of the Office of Program  
30 Policy Analysis and Government Accountability may, pursuant to  
31 his or her own authority or at the direction of the Joint

1 Legislative Auditing Committee, conduct an audit of the  
2 corporation. The Auditor General shall biennially conduct a  
3 financial and performance audit of the corporation, which  
4 shall be conducted in conjunction with an independent audit  
5 conducted by the auditors of the corporation. The Auditor  
6 General shall conduct additional audits upon the request of  
7 the Joint Legislative Auditing Committee.

8 (4) The corporation shall be governed by the generally  
9 accepted accounting principles as established by the Financial  
10 Accounting Standards Board (FASB) in order to carry out the  
11 intent of s. 946.502(2) and (5).

12 Section 15. Section 283.31, Florida Statutes, is  
13 amended to read:

14 283.31 Records of executive agency publications.--Each  
15 agency shall maintain a record of any publication the printing  
16 of which costs in excess of the threshold amount provided in  
17 s. 287.017 for CATEGORY THREE, at least part of which is paid  
18 for by state funds appropriated by the Legislature. Such  
19 record shall also contain the following: written  
20 justification of the need for such publication, purpose of  
21 such publication, legislative or administrative authority,  
22 sources of funding, frequency and number of issues, and  
23 reasons for deciding to have the publication printed in-house,  
24 by another agency or the Legislature, or purchased on bid. In  
25 addition, such record shall contain the comparative costs of  
26 alternative printing methods when such costs were a factor in  
27 deciding upon a method. The record of the corporation  
28 operating the correctional industry printing program  
29 ~~Compliance with the provisions of this section shall be~~  
30 ~~included within the scope of audits performed by the Auditor~~  
31 ~~General on each agency, and such audits shall be performed not~~

1 ~~less than once every 3 years. The Auditor General shall also~~  
2 ~~conduct a financial-related and performance audit of the~~  
3 ~~corporation operating the correctional industry program. Such~~  
4 ~~audit shall be conducted once every 3 years, and the first~~  
5 ~~audit shall be for the period July 1, 1988, through June 30,~~  
6 ~~1990, to be completed prior to the 1991 regular legislative~~  
7 ~~session. Such audit shall include a review of the printing~~  
8 ~~that the corporation has done for state agencies. This review~~  
9 shall include the cost of materials used, the cost of labor,  
10 the cost of overhead, the amount of profit made by the  
11 corporation for such printing, and whether the state agencies  
12 that contract with the corporation for printing are prudently  
13 determining the price paid for such printing. ~~Such audits~~  
14 ~~shall be completed no later than the first day of the regular~~  
15 ~~legislative session.~~

16 Section 16. Subsection (5) of section 944.719, Florida  
17 Statutes, is amended to read:

18 944.719 Adoption of rules, monitoring, and  
19 reporting.--

20 (5) The Office of Program Policy Analysis and  
21 Government Accountability Auditor General shall conduct a  
22 performance audit, including a review of the annual financial  
23 audit of the private entity and shall deliver a report to the  
24 Legislature by February ~~April~~ 1 of the third ~~first~~ year  
25 following any contract awarded by the department for the  
26 operation of a correctional facility by a private vendor.

27 (a) The report shall determine the reasonableness of  
28 the cost analysis procedures used by the department for  
29 comparing services provided under the contract and for  
30 comparing the quality of the services provided under the

31

1 contract with the costs and quality of similar services  
2 provided by the department.

3 (b) In preparing the report, the office Auditor  
4 ~~General~~ shall consider, in addition to other factors he or she  
5 determines are significant:

6 1. The extent to which the private vendor and the  
7 department have complied with the terms of the contract and  
8 ss. 944.710-944.719.

9 2. The wages and benefits that are provided to the  
10 staff of the private correctional facility as compared to  
11 wages and benefits provided to employees of the department  
12 performing comparable tasks.

13 Section 17. Paragraph (a) of subsection (3) and  
14 subsection (6) of section 11.511, Florida Statutes, are  
15 amended and subsection (7) is added to that section, to read:

16 11.511 Director of the Office of Program Policy  
17 Analysis and Government Accountability; appointment;  
18 employment of staff; powers and duties.--

19 (3)(a) ~~Within available funds,~~The director shall make  
20 all spending decisions under the annual operating budget  
21 approved by the President of the Senate and the Speaker of the  
22 House of Representatives. The director shall employ and set  
23 the compensation of such professional, technical, legal, and  
24 clerical staff as may be necessary to perform all the  
25 requirements of this section and s. 11.513, in accordance with  
26 the policies and procedures of the Legislative Auditing  
27 Committee, and may remove these personnel. The staff must be  
28 chosen to provide a broad background of experience and  
29 expertise and, to the maximum extent possible, to represent a  
30 range of disciplines that includes law, engineering, public  
31



1 administration, environmental science, policy science,  
2 economics, sociology, and philosophy.

3 (6) The director, with the consent of the Legislative  
4 Auditing Committee, may enter into contracts on behalf of the  
5 Office of Program Policy Analysis and Government  
6 Accountability. However, the director may enter into contracts  
7 that have been approved in the annual operating budget without  
8 the consent of the committee.

9 (7) The director, with the consent of the President of  
10 the Senate and the Speaker of the House of Representatives,  
11 may modify the work schedule of the office in order to  
12 concentrate its efforts on agency programs that are determined  
13 to have high oversight priority. The modification may include  
14 reduction or elimination of recurring performance audits  
15 existing in law on July 1, 1999, but which do not appear to be  
16 of critical interest to the Legislature. The director may at  
17 any time conduct a performance review of a governmental entity  
18 created by law.

19 Section 18. Subsection (4) of section 11.513, Florida  
20 Statutes, is amended, and subsection (8) is added to that  
21 section, to read:

22 11.513 Program evaluation and justification review.--

23 (4) No later than ~~December~~ July 1 of the second year  
24 following the year in which an agency begins operating under a  
25 performance-based program budget, the Office of Program Policy  
26 Analysis and Government Accountability shall submit a report  
27 of evaluation and justification review findings and  
28 recommendations to the President of the Senate, the Speaker of  
29 the House of Representatives, the chairpersons of the  
30 appropriate substantive committees, the chairpersons of the  
31 appropriations committees, the Legislative Auditing Committee,

1 the Governor, the head of each state agency that was the  
2 subject of the evaluation and justification review, and the  
3 head of any state agency that is substantially affected by the  
4 findings and recommendations.

5 (8) If recommended by the director of the Office of  
6 Program Policy Analysis and Government Accountability, the  
7 President of the Senate and the Speaker of the House of  
8 Representatives may jointly direct that any program evaluation  
9 and justification review existing on July 1, 1999, be  
10 postponed to allow the Office of Program Policy Analysis and  
11 Government Accountability to conduct a review of another  
12 program considered more urgent.

13 Section 19. Subsections (6) and (7), paragraph (a) of  
14 subsection (8), and paragraph (f) of subsection (9) of section  
15 112.3187, Florida Statutes, are amended to read:

16 112.3187 Adverse action against employee for  
17 disclosing information of specified nature prohibited;  
18 employee remedy and relief.--

19 (6) TO WHOM INFORMATION DISCLOSED.--The information  
20 disclosed under this section must be disclosed to any agency  
21 or federal government entity having the authority to  
22 investigate, police, manage, or otherwise remedy the violation  
23 or act, including, but not limited to, the Office of the Chief  
24 Inspector General, an agency inspector general or the employee  
25 designated as agency inspector general under s. 112.3189(1) or  
26 inspectors general under s. 20.055, ~~the Office of the Public~~  
27 ~~Counsel~~, and the whistle-blower's hotline created under s.  
28 112.3189. However, for disclosures concerning a local  
29 governmental entity, including any regional, county, or  
30 municipal entity, special district, community college  
31 district, or school district or any political subdivision of

1 any of the foregoing, the information must be disclosed to a  
2 chief executive officer as defined in s. 447.203(9) or other  
3 appropriate local official.

4 (7) EMPLOYEES AND PERSONS PROTECTED.--This section  
5 protects employees and persons who disclose information on  
6 their own initiative in a written and signed complaint; who  
7 are requested to participate in an investigation, hearing, or  
8 other inquiry conducted by any agency or federal government  
9 entity; who refuse to participate in any adverse action  
10 prohibited by this section; or who initiate a complaint  
11 through the whistle-blower's hotline; or employees who file  
12 any written complaint to their supervisory officials or  
13 employees who submit a complaint to the Chief Inspector  
14 General in the Executive Office of the Governor or to the  
15 employee designated as agency inspector general under s.  
16 112.3189(1), ~~or to the Office of the Public Counsel~~. The  
17 provisions of this section may not be used by a person while  
18 he or she is under the care, custody, or control of the state  
19 correctional system or, after release from the care, custody,  
20 or control of the state correctional system, with respect to  
21 circumstances that occurred during any period of  
22 incarceration. No remedy or other protection under ss.  
23 112.3187-112.31895 applies to any person who has committed or  
24 intentionally participated in committing the violation or  
25 suspected violation for which protection under ss.  
26 112.3187-112.31895 is being sought.

27 (8) REMEDIES.--

28 (a) Any employee of or applicant for employment with  
29 any state agency, as the term "state agency" is defined in s.  
30 216.011, who is discharged, disciplined, or subjected to other  
31 adverse personnel action, or denied employment, because he or

1 she engaged in an activity protected by this section may file  
2 a complaint, which complaint must be made in accordance with  
3 s. 112.31895. Upon receipt of notice from the Department of  
4 Legal Affairs ~~Public Counsel~~ of termination of the  
5 investigation, the complainant may elect to pursue the  
6 administrative remedy available under s. 112.31895 or bring a  
7 civil action within 180 days after receipt of the notice.

8 (9) RELIEF.--In any action brought under this section,  
9 the relief must include the following:

10 (f) Temporary reinstatement to the employee's former  
11 position or to an equivalent position, pending the final  
12 outcome on the complaint, if an employee complains of being  
13 discharged in retaliation for a protected disclosure and if a  
14 court of competent jurisdiction or the Department of Legal  
15 Affairs ~~Public Counsel~~, as applicable under s. 112.31895,  
16 determines that the disclosure was not made in bad faith or  
17 for a wrongful purpose or occurred after an agency's  
18 initiation of a personnel action against the employee which  
19 includes documentation of the employee's violation of a  
20 disciplinary standard or performance deficiency. This  
21 paragraph does not apply to an employee of a municipality.

22 Section 20. Paragraph (a) of subsection (2) of section  
23 112.3188, Florida Statutes, is amended to read:

24 112.3188 Confidentiality of information given to the  
25 Chief Inspector General, internal auditors, inspectors  
26 general, local chief executive officers, or other appropriate  
27 local officials.--

28 (2)(a) Except as specifically authorized by s.  
29 112.3189, all information received by the Chief Inspector  
30 General or an agency inspector general or information produced  
31 or derived from fact-finding or other investigations conducted

1 by the Department of Legal Affairs, ~~the Office of the Public~~  
2 ~~Counsel~~, or the Department of Law Enforcement is confidential  
3 and exempt from s. 119.07(1) if the information is being  
4 received or derived from allegations as set forth in paragraph  
5 (1)(a) or paragraph (1)(b), and an investigation is active.

6 Section 21. Section 112.31895, Florida Statutes, is  
7 amended to read:

8 112.31895 Investigative procedures in response to  
9 prohibited personnel actions.--

10 (1)(a) If a disclosure under s. 112.3187 includes or  
11 results in alleged retaliation by an employer, the employee or  
12 former employee of, or applicant for employment with, a state  
13 agency, as defined in s. 216.011, that is so affected may file  
14 a complaint alleging a prohibited personnel action, which  
15 complaint must be made by filing a written complaint with the  
16 Office of the Chief Inspector General in the Executive Office  
17 of the Governor or, the Department of Legal Affairs, ~~or the~~  
18 ~~Office of the Public Counsel~~, no later than 60 days after the  
19 prohibited personnel action.

20 (b) Within three working days after receiving a  
21 complaint under this section, the office or officer receiving  
22 the complaint shall acknowledge receipt of the complaint and  
23 provide copies of the complaint and any other preliminary  
24 information available concerning the disclosure of information  
25 under s. 112.3187 to each of the other parties named in  
26 paragraph (a), which parties shall each acknowledge receipt of  
27 such copies to the complainant.

28 (2) FACT FINDING.--The Department of Legal Affairs  
29 shall:

30 (a) Receive any allegation of a personnel action  
31 prohibited by s. 112.3187, including a proposed or potential

1 action, and conduct informal fact finding regarding any  
2 allegation under this section, to the extent necessary to  
3 determine whether there are reasonable grounds to believe that  
4 a prohibited personnel action under s. 112.3187 has occurred,  
5 is occurring, or is to be taken.

6 (b) Notify the complainant, within 15 days after  
7 receiving a complaint, that the complaint has been received by  
8 the department.

9 (c) Within 90 days after receiving the complaint,  
10 provide the ~~Public Counsel~~, the agency head, and the  
11 complainant with a fact-finding report that may include  
12 recommendations to the parties or proposed resolution of the  
13 complaint. The fact-finding report shall be presumed  
14 admissible in any subsequent or related administrative or  
15 judicial review.

16 (3) CORRECTIVE ACTION AND TERMINATION OF  
17 INVESTIGATION.--

18 (a) The Department of Legal Affairs ~~Public Counsel~~  
19 ~~established by s. 350.061~~, in accordance with this act and for  
20 the sole purpose of this act, is empowered to:

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

24 2. Protect employees and applicants for employment  
25 with such agencies from prohibited personnel practices under  
26 s. 112.3187.

27 3. Petition for stays and petition for corrective  
28 actions, including, but not limited to, temporary  
29 reinstatement.

30 4. Recommend disciplinary proceedings pursuant to  
31 investigation and appropriate agency rules and procedures.

1           5. Coordinate with the Chief Inspector General in the  
2 Executive Office of the Governor ~~and the Department of Legal~~  
3 ~~Affairs~~ to receive, review, and forward to appropriate  
4 agencies, legislative entities, or the Department of Law  
5 Enforcement disclosures of a violation of any law, rule, or  
6 regulation, or disclosures of gross mismanagement,  
7 malfeasance, misfeasance, nonfeasance, neglect of duty, or  
8 gross waste of public funds.

9           6. Review rules pertaining to personnel matters issued  
10 or proposed by the Department of Management Services, the  
11 Public Employees Relations Commission, and other agencies,  
12 and, if the Department of Legal Affairs ~~Public Counsel~~ finds  
13 that any rule or proposed rule, on its face or as implemented,  
14 requires the commission of a prohibited personnel practice,  
15 provide a written comment to the appropriate agency.

16           7. Investigate, request assistance from other  
17 governmental entities, and, if appropriate, bring actions  
18 concerning, allegations of retaliation by state agencies under  
19 subparagraph 1.

20           8. Administer oaths, examine witnesses, take  
21 statements, issue subpoenas, order the taking of depositions,  
22 order responses to written interrogatories, and make  
23 appropriate motions to limit discovery, pursuant to  
24 investigations under subparagraph 1.

25           9. Intervene or otherwise participate, as a matter of  
26 right, in any appeal or other proceeding arising under this  
27 section before the Public Employees Relations Commission or  
28 any other appropriate agency, except that the Department of  
29 Legal Affairs ~~Public Counsel~~ must comply with the rules of the  
30 commission or other agency and may not seek corrective action  
31

1 or intervene in an appeal or other proceeding without the  
2 consent of the person protected under ss. 112.3187-112.31895.

3 10. Conduct an investigation, in the absence of an  
4 allegation, to determine whether reasonable grounds exist to  
5 believe that a prohibited action or a pattern of prohibited  
6 action has occurred, is occurring, or is to be taken.

7 (b) Within 15 days after receiving a complaint that a  
8 person has been discharged from employment allegedly for  
9 disclosing protected information under s. 112.3187, the  
10 Department of Legal Affairs ~~Public Counsel~~ shall review the  
11 information and determine whether temporary reinstatement is  
12 appropriate under s. 112.3187(9)(f). If the Department of  
13 Legal Affairs ~~Public Counsel~~ so determines, it ~~he or she~~ shall  
14 apply for an expedited order from the appropriate agency or  
15 circuit court for the immediate reinstatement of the employee  
16 who has been discharged subsequent to the disclosure made  
17 under s. 112.3187, pending the issuance of the final order on  
18 the complaint.

19 (c) The Department of Legal Affairs ~~Public Counsel~~  
20 shall notify a complainant of the status of the investigation  
21 and any action taken ~~by the Public Counsel~~ at such times as  
22 the department ~~Public Counsel~~ considers appropriate.

23 ~~(d) The Public Counsel shall review the fact-finding~~  
24 ~~reports submitted by the Department of Legal Affairs and may~~  
25 ~~rely upon the findings and recommendations of those reports.~~

26 (d)(e) If the Department of Legal Affairs ~~Public~~  
27 ~~Counsel~~ is unable to conciliate a complaint within 60 days  
28 after receipt of the fact-finding report, the Department of  
29 Legal Affairs ~~Public Counsel~~ shall terminate the  
30 investigation. Upon termination of any investigation, the  
31 Department of Legal Affairs ~~Public Counsel~~ shall notify the



1 complainant and the agency head of the termination of the  
2 investigation, providing a summary of relevant facts found  
3 during the investigation and the reasons for terminating the  
4 investigation. A written statement under this paragraph is  
5 presumed admissible as evidence in any judicial or  
6 administrative proceeding but is not admissible without the  
7 consent of the complainant.

8 ~~(e)(f)~~1. The Department of Legal Affairs ~~Public~~  
9 ~~Counsel~~ may request an agency or circuit court to order a  
10 stay, on such terms as the court requires, of any personnel  
11 action for 45 days if the Department of Legal Affairs ~~Public~~  
12 ~~Counsel~~ determines that reasonable grounds exist to believe  
13 that a prohibited personnel action has occurred, is occurring,  
14 or is to be taken. The Department of Legal Affairs ~~Public~~  
15 ~~Counsel~~ may request that such stay be extended for appropriate  
16 periods of time.

17 2. If, in connection with any investigation, the  
18 Department of Legal Affairs ~~Public Counsel~~ determines that  
19 reasonable grounds exist to believe that a prohibited action  
20 has occurred, is occurring, or is to be taken which requires  
21 corrective action, the Department of Legal Affairs ~~Public~~  
22 ~~Counsel~~ shall report the determination together with any  
23 findings or recommendations to the agency head and may report  
24 that determination and those findings and recommendations to  
25 the Governor and the Comptroller. The Department of Legal  
26 Affairs ~~Public Counsel~~ may include in the report  
27 recommendations for corrective action to be taken.

28 3. If, after 20 days, the agency does not implement  
29 the recommended action, the Department of Legal Affairs ~~Public~~  
30 ~~Counsel~~ shall terminate the investigation and notify the  
31 complainant of the right to appeal under subsection (4), or

1 may petition the agency for corrective action under this  
2 subsection.

3 4. If the Department of Legal Affairs ~~Public Counsel~~  
4 finds, in consultation with the ~~Department of Legal Affairs or~~  
5 ~~the~~ individual subject to the prohibited action, that the  
6 agency has implemented the corrective action, the department  
7 ~~Public Counsel~~ shall file such finding with the agency head,  
8 together with any written comments that the individual  
9 provides, and terminate the investigation.

10 (f)~~(g)~~ If the Department of Legal Affairs ~~Public~~  
11 ~~Counsel~~ finds that there are no reasonable grounds to believe  
12 that a prohibited personnel action has occurred, is occurring,  
13 or is to be taken, the department ~~he or she~~ shall terminate  
14 the investigation.

15 (g)~~(h)~~1. If, in connection with any investigation  
16 under this section, it is determined that reasonable grounds  
17 exist to believe that a criminal violation has occurred which  
18 has not been previously reported, the Department of Legal  
19 Affairs ~~Public Counsel~~ shall report this determination to the  
20 Department of Law Enforcement and to the state attorney having  
21 jurisdiction over the matter.

22 2. If an alleged criminal violation has been reported,  
23 the Department of Legal Affairs ~~Public Counsel~~ shall confer  
24 with the Department of Law Enforcement and the state attorney  
25 before proceeding with the investigation of the prohibited  
26 personnel action and may defer the investigation pending  
27 completion of the criminal investigation and proceedings. The  
28 Department of Legal Affairs ~~Public Counsel~~ shall inform the  
29 complainant of the decision to defer the investigation and, if  
30 appropriate, of the confidentiality of the investigation.

31

1            (h)~~(i)~~ If, in connection with any investigation under  
2 this section, the Department of Legal Affairs ~~Public Counsel~~  
3 determines that reasonable grounds exist to believe that a  
4 violation of a law, rule, or regulation has occurred, other  
5 than a criminal violation or a prohibited action under this  
6 section, the department ~~Public Counsel~~ may report such  
7 violation to the head of the agency involved. Within 30 days  
8 after the agency receives the report, the agency head shall  
9 provide to the department ~~Public Counsel~~ a certification that  
10 states that the head of the agency has personally reviewed the  
11 report and indicates what action has been or is to be taken  
12 and when the action will be completed.

13            (i)~~(j)~~ During any investigation under this section,  
14 disciplinary action may not be taken against any employee of a  
15 state agency, as the term "state agency" is defined in s.  
16 216.011, for reporting an alleged prohibited personnel action  
17 that is under investigation, or for reporting any related  
18 activity, or against any employee for participating in an  
19 investigation without notifying the Department of Legal  
20 Affairs ~~Public Counsel~~.

21            (j)~~(k)~~ The Department of Legal Affairs ~~Public Counsel~~  
22 may also petition for an award of reasonable attorney's fees  
23 and expenses from a state agency, as the term "state agency"  
24 is defined in s. 216.011, pursuant to s. 112.3187(9).

25            (4) RIGHT TO APPEAL.--

26            (a) Not more than 60 days after receipt of a notice of  
27 termination of the investigation from the Department of Legal  
28 Affairs ~~Public Counsel~~, the complainant may file, with the  
29 Public Employees Relations Commission, a complaint against the  
30 employer-agency regarding the alleged prohibited personnel  
31 action. The Public Employees Relations Commission shall have

1 jurisdiction over such complaints under ss. 112.3187 and  
2 447.503(4) and (5).

3 (b) Judicial review of any final order of the  
4 commission shall be as provided in s. 120.68.

5 Section 22. Section 985.401, Florida Statutes, 1998  
6 Supplement, is amended to read:

7 985.401 Juvenile Justice Accountability Board.--

8 (1) The Juvenile Justice Accountability Board shall be  
9 composed of seven ~~nine~~ members appointed by the Governor.

10 Members of the board shall have direct experience and a strong  
11 interest in juvenile justice issues. ~~The authority to appoint~~  
12 ~~the board is allocated as follows:~~

13 ~~(a) Three members appointed by the Governor.~~

14 ~~(b) Three members appointed by the President of the~~  
15 ~~Senate.~~

16 ~~(c) Three members appointed by the Speaker of the~~  
17 ~~House of Representatives.~~

18 (2)(a) A full term shall be 3 years, and the term for  
19 each seat on the board commences on October 1 and expires on  
20 September 30, without regard to the date of appointment. Each  
21 appointing authority shall appoint a member to fill one of the  
22 three vacancies that occurs with the expiration of terms on  
23 September 30 of each year. A member is not eligible for  
24 appointment to more than two full, consecutive terms. A  
25 vacancy on the board shall be filled within 60 days after the  
26 date on which the vacancy occurs. The Governor appointing  
27 ~~authority that made the original appointment~~ shall make the  
28 appointment to fill a vacancy that occurs for any reason other  
29 than the expiration of a term, and the appointment shall be  
30 for the remainder of the unexpired term.

31

1           (b) The composition of the board must be broadly  
2 reflective of the public and must include minorities and  
3 women. The term "minorities" as used in this paragraph means a  
4 member of a socially or economically disadvantaged group and  
5 includes African Americans, Hispanics, and American Indians.

6           (c)~~(b)~~ The board shall annually select a chairperson  
7 from among its members.

8           (d)~~(c)~~ The board shall meet at least once each  
9 quarter. A member may not authorize a designee to attend a  
10 meeting of the board in place of the member. A member who  
11 fails to attend two consecutive regularly scheduled meetings  
12 of the board, unless the member is excused by the chairperson,  
13 shall be deemed to have abandoned the position, and the  
14 position shall be declared vacant by the board.

15           (3)(a) The board members shall serve without  
16 compensation, but are entitled to reimbursement for per diem  
17 and travel expenses pursuant to s. 112.061.

18           ~~(b) The board shall appoint an executive director and~~  
19 ~~other personnel who are exempt from part II of chapter 110,~~  
20 ~~relating to the Career Service System.~~

21           (b)~~(c)~~ Effective July 1, 1999, the board and its staff  
22 are is assigned, for the purpose of general oversight, to the  
23 Department of Juvenile Justice Joint Legislative Auditing  
24 Committee. The board shall develop a budget pursuant to  
25 procedures established by the Joint Legislative Auditing  
26 Committee.

27           ~~(d) The composition of the board shall be broadly~~  
28 ~~reflective of the public and shall include minorities and~~  
29 ~~women. The term "minorities" as used in this paragraph means a~~  
30 ~~member of a socially or economically disadvantaged group that~~  
31 ~~includes African Americans, Hispanics, and American Indians.~~

1 ~~Members of the board shall have direct experience and a strong~~  
2 ~~interest in juvenile justice issues.~~

3 (4)(a) The board shall establish and operate a  
4 comprehensive system to annually measure and report program  
5 outcomes and effectiveness for each program operated by the  
6 Department of Juvenile Justice or operated by a provider under  
7 contract with the department. The system shall include a  
8 standard methodology for interpreting the board's outcome  
9 evaluation reports, using, where appropriate, the  
10 performance-based program budgeting measures approved by the  
11 Legislature. The methodology must include:

12 1. Common terminology and operational definitions for  
13 measuring the performance of system administration, program  
14 administration, program outputs, and client outcomes.

15 2. Program outputs for each group of programs within  
16 each level of the juvenile justice continuum and specific  
17 program outputs for each program or program type.

18 3. Specification of desired client outcomes and  
19 methods by which to measure client outcomes for each program  
20 operated by the department or by a provider under contract  
21 with the department.

22 4. Recommended annual minimum thresholds of  
23 satisfactory performance for client outcomes and program  
24 outputs.

25  
26 For the purposes of this section, the term "program" or  
27 "program type" means an individual state-operated or  
28 contracted facility, site, or service delivered to at-risk or  
29 delinquent youth as prescribed in a contract, program  
30 description, or program services manual; and the term "program  
31 group" means a collection of programs or program types with

1 sufficient similarity of function, services, and clientele to  
2 permit appropriate comparisons among programs within the  
3 program group.

4 (b) In developing the standard methodology, the board  
5 shall consult with the department, the Office ~~Division~~ of  
6 Economic and Demographic Research, contract service providers,  
7 and other interested parties. It is the intent of the  
8 Legislature that this effort result in consensus  
9 recommendations, and, to the greatest extent possible,  
10 integrate the goals and legislatively approved measures of  
11 performance-based program budgeting provided in chapter  
12 94-249, Laws of Florida, the quality assurance program  
13 provided in s. 985.412, and the cost-effectiveness model  
14 provided in s. 985.404(11). The board shall notify the Office  
15 of Program Policy Analysis and Government Accountability of  
16 any meetings to develop the methodology.

17 (c) The board shall annually submit its outcome  
18 evaluation report to the Secretary of the Department of  
19 Juvenile Justice, the Governor, and the Legislature by  
20 February 15, which must describe:

21 1. The methodology for interpreting outcome  
22 evaluations, including common terminology and operational  
23 definitions.

24 2. The recommended minimum thresholds of satisfactory  
25 performance for client outcomes and program outputs applicable  
26 to the year for which the data are reported.

27 3. The actual client outcomes and program outputs  
28 achieved by each program operated by the department or by a  
29 provider under contract with the department, compared with the  
30 recommended minimum thresholds of satisfactory performance for  
31 client outcomes and program outputs for the year under review.

1 The report shall group programs or program types with  
2 similarity of function and services and make appropriate  
3 comparisons between programs within the program group.

4 (d) The board shall use its evaluation research to  
5 make advisory recommendations to the Legislature, the  
6 Governor, and the department concerning the effectiveness and  
7 future funding priorities of juvenile justice programs.

8 (e) The board shall annually review and revise the  
9 methodology as necessary to ensure the continuing improvement  
10 and validity of the evaluation process.

11 (5) The board shall:

12 (a) Review and recommend programmatic and fiscal  
13 policies governing the operation of programs, services, and  
14 facilities for which the Department of Juvenile Justice is  
15 responsible.

16 (b) Monitor the development and implementation of  
17 long-range juvenile justice policies, including prevention,  
18 early intervention, diversion, adjudication, and commitment.

19 (c) Monitor all activities of the executive and  
20 judicial branch and their effectiveness in implementing  
21 policies pursuant to this chapter.

22 (d) Advise the President of the Senate, the Speaker of  
23 the House of Representatives, the Governor, and the department  
24 on matters relating to this chapter.

25 (e) In coordination with the Department of Juvenile  
26 Justice, serve as a clearinghouse to provide information and  
27 assistance to the district juvenile justice boards and county  
28 juvenile justice councils.

29 (f) Hold public hearings and inform the public of  
30 activities of the board and of the Department of Juvenile  
31 Justice, as appropriate.



1           (g) Monitor the delivery and use of services,  
2 programs, or facilities operated, funded, regulated, or  
3 licensed by the Department of Juvenile Justice for juvenile  
4 offenders or alleged juvenile offenders, and for prevention,  
5 diversion, or early intervention of delinquency, and to  
6 develop programs to educate the citizenry about such services,  
7 programs, and facilities and about the need and procedure for  
8 siting new facilities.

9           ~~(h) Contract for consultants as necessary and~~  
10 ~~appropriate. The board may apply for and receive grants for~~  
11 ~~the purposes of conducting research and evaluation activities.~~

12           (h)(i) Conduct such other activities as the board may  
13 determine are necessary and appropriate to monitor the  
14 effectiveness of the delivery of juvenile justice programs and  
15 services under this chapter.

16           (i)(j) ~~The board shall~~ Submit an annual report to the  
17 President of the Senate, the Speaker of the House of  
18 Representatives, the Governor, and the secretary of the  
19 department not later than February 15 of each calendar year,  
20 summarizing the activities and reports of the board for the  
21 preceding year, and any recommendations of the board for the  
22 following year.

23           (6) ~~Each state agency shall provide assistance when~~  
24 ~~requested by the board.~~ The board shall have access to all  
25 records, files, and reports that are material to its duties  
26 and that are in the custody of a school board, a law  
27 enforcement agency, a state attorney, a public defender, the  
28 court, the Department of Children and Family Services, and the  
29 department.

30           (7) Unless reenacted by the Legislature, this section  
31 expires June 30, 2001.

