

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Tomkow offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 11.421, Florida Statutes, is created to 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

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14 Auditor General. The Florida Integrity Officer shall oversee the
15 efficient operation of the office and report to and be under the
16 general supervision of the Auditor General.

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

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

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

25 1. Specifically authorized by statute;

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

28 3. Recommended by a commission, council, or other similar
29 entity created in statute to make annual funding
30 recommendations, provided that such appropriation does not
31 exceed the amount of funding recommended by the commission,
32 council, or other similar entity;

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

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

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

42 (b) "Office" means the Florida Integrity Office.

43 (5) The Florida Integrity Officer may receive and
44 investigate a complaint alleging fraud, waste, abuse,
45 mismanagement, or misconduct in connection with the expenditure
46 of public funds.

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

49 (a) The President of the Senate.

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

51 (c) The chair of an appropriations committee of the Senate
52 or the House of Representatives.

53 (d) The Auditor General.

54 (7) (a) Upon receipt of a complaint, the Florida Integrity
55 Officer shall determine whether the complaint is supported by
56 sufficient information indicating a reasonable probability of
57 fraud, waste, abuse, mismanagement, or misconduct. If the
58 Florida Integrity Officer determines that the complaint is not
59 supported by sufficient information indicating a reasonable
60 probability of fraud, waste, abuse, mismanagement, or
61 misconduct, the Florida Integrity Officer shall notify the
62 complainant in writing and the complaint shall be closed.

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63 (b) If the complaint is supported by sufficient
64 information indicating a reasonable probability of fraud, waste,
65 abuse, mismanagement, or misconduct, the Florida Integrity
66 Officer shall determine whether an investigation into the matter
67 has already been initiated by a law enforcement agency, the
68 Commission on Ethics, the Chief Financial Officer, the Office of
69 Chief Inspector General, or the applicable agency inspector
70 general. If such an investigation has been initiated, the
71 Florida Integrity Officer shall notify the complainant in
72 writing and the complaint may be closed.

73 (c) If the complaint is supported by sufficient
74 information indicating a reasonable probability of fraud, waste,
75 abuse, mismanagement, or misconduct, and an investigation into
76 the matter has not already been initiated as described in
77 paragraph (b), the Florida Integrity Officer shall, within
78 available resources, conduct an investigation and issue a report
79 of the investigative findings to the complainant and to the
80 President of the Senate and the Speaker of the House of
81 Representatives. The Florida Integrity Officer may refer the
82 matter to the Auditor General, the appropriate law enforcement
83 agency, the Chief Financial Officer, the Office of the Chief
84 Inspector General, or the applicable agency inspector general.
85 The Auditor General may provide staff and other resources to
86 assist the Florida Integrity Officer.

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87 (8) (a) The Florida Integrity Officer, or his or her
88 designee, may inspect and investigate the books, records,
89 papers, documents, data, operation, and physical location of any
90 public agency in this state, including any confidential
91 information, and the public records of any entity that has
92 received direct appropriations. The Florida Integrity Officer
93 may agree to retain the confidentiality of confidential
94 information pursuant to s. 11.0431(2) (a).

95 (b) Upon the request of the Florida Integrity Officer, the
96 Legislative Auditing Committee or any other committee of the
97 Legislature may issue subpoenas and subpoenas duces tecum, as
98 provided in s. 11.143, to compel testimony or the production of
99 evidence when deemed necessary to an investigation authorized by
100 this section. Consistent with s. 11.143, such subpoenas and
101 subpoenas duces tecum may be issued as provided by applicable
102 legislative rules or, in the absence of applicable legislative
103 rules, by the chair of the Legislative Auditing Committee with
104 the approval of the Legislative Auditing Committee and the
105 President of the Senate and the Speaker of the House of
106 Representatives, or with the approval of the President of the
107 Senate or the Speaker of the House of Representatives if such
108 officer alone designated the Legislative Auditing Committee as
109 defined in s. 1.01.

110 (c) If a witness fails or refuses to comply with a lawful
111 subpoena or subpoena duces tecum issued pursuant to this

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112 subsection at a time when the Legislature is not in session, the
113 subpoena or subpoena duces tecum may be enforced as provided in
114 s. 11.143 and, in addition, the Auditor General, on behalf of
115 the committee issuing the subpoena or subpoena duces tecum, may
116 file a complaint before any circuit court of the state to
117 enforce the subpoena or subpoena duces tecum. Upon the filing of
118 such complaint, the court shall take jurisdiction of the witness
119 and the subject matter of the complaint and shall direct the
120 witness to respond to all lawful questions and to produce all
121 documentary evidence in the possession of the witness which is
122 lawfully demanded. The failure of a witness to comply with such
123 order constitutes a direct and criminal contempt of court, and
124 the court shall punish the witness accordingly.

125 (d) When the Legislature is in session, upon the request
126 of the Florida Integrity Officer directed to the committee
127 issuing the subpoena or subpoena duces tecum, either house of
128 the Legislature may seek compliance with the subpoena or
129 subpoena duces tecum in accordance with the State Constitution,
130 general law, the joint rules of the Legislature, or the rules of
131 the house of the Legislature whose committee issued the subpoena
132 or subpoena duces tecum.

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

135 (10) (a) Beginning with the 2021-2022 fiscal year, the
136 Auditor General and the Florida Integrity Officer, within

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137 available resources, shall randomly select and review
138 appropriations projects appropriated in the prior fiscal year
139 and, if appropriate, investigate and recommend an audit of such
140 projects. The review, investigation, or audit may be delayed on
141 a selected project until a subsequent year if the timeline of
142 the project warrants such delay. Each review, investigation, or
143 audit must include, but is not limited to, evaluating whether
144 the recipient of the appropriations project administered the
145 project in an efficient and effective manner. When an audit is
146 recommended by the Florida Integrity Officer under this
147 subsection, the Auditor General shall determine whether the
148 audit is appropriate.

149 (b) Beginning with the 2021-2022 fiscal year, the Auditor
150 General and the Florida Integrity Officer, within available
151 resources, shall select and review, investigate, or audit the
152 financial activities of any political subdivision, special
153 district, public authority, public hospital, state or local
154 council or commission, unit of local government, or public
155 education entity in this state, as well as any authority,
156 council, commission, direct-support organization, institution,
157 foundation, or similar entity created by law or ordinance to
158 pursue a public purpose, entitled by law or ordinance to any
159 distribution of tax or fee revenues, or organized for the sole
160 purpose of supporting one of the public entities listed in this
161 paragraph.

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162 Section 2. Paragraphs (i) through (m) of subsection (1) of
163 section 11.45, Florida Statutes, are redesignated as paragraphs
164 (j) through (n), respectively, paragraphs (a) and (e) of
165 subsection (1), paragraph (f) of subsection (2), and paragraph
166 (j) of subsection (7) are amended, and a new paragraph (i) is
167 added to subsection (1) of that section, to read:

168 11.45 Definitions; duties; authorities; reports; rules.—

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

170 (a) "Abuse" means behavior that is deficient or improper
171 when compared with behavior that a prudent person would consider
172 a reasonable and necessary operational practice given the facts
173 and circumstances. The term includes the misuse of authority or
174 position for personal gain or for the gain of an immediate or
175 close family member or business associate.

176 (e) "Fraud" means obtaining something of value through
177 willful misrepresentation, including, but not limited to,
178 intentional misstatements or intentional omissions of amounts or
179 disclosures in financial statements to deceive users of
180 financial statements, theft of an entity's assets, bribery, or
181 the use of one's position for personal enrichment through the
182 deliberate misuse or misapplication of an entity's
183 organization's resources.

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

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

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187 (f) At least every 3 years, conduct operational audits of
188 the accounts and records of state agencies, state universities,
189 state colleges, district school boards, the Florida Clerks of
190 Court Operations Corporation, water management districts, and
191 the Florida School for the Deaf and the Blind. At the conclusion
192 of each 3-year cycle, the Auditor General shall publish a report
193 consolidating common operational audit findings for all state
194 agencies, state universities, state colleges, and district
195 school boards.

196
197 The Auditor General shall perform his or her duties
198 independently but under the general policies established by the
199 Legislative Auditing Committee. This subsection does not limit
200 the Auditor General's discretionary authority to conduct other
201 audits or engagements of governmental entities as authorized in
202 subsection (3).

203 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

204 (j) The Auditor General shall notify the Legislative
205 Auditing Committee of any financial or operational audit report
206 prepared pursuant to this section which indicates that a
207 district school board, state university, or Florida College
208 System institution has failed to take full corrective action in
209 response to a recommendation that was included in the two
210 preceding financial ~~or operational~~ audit reports or a preceding
211 operational audit report.

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212 1. The committee may direct the district school board or
213 the governing body of the state university or Florida College
214 System institution to provide a written statement to the
215 committee explaining why full corrective action has not been
216 taken or, if the governing body intends to take full corrective
217 action, describing the corrective action to be taken and when it
218 will occur.

219 2. If the committee determines that the written statement
220 is not sufficient, the committee may require the chair of the
221 district school board or the chair of the governing body of the
222 state university or Florida College System institution, or the
223 chair's designee, to appear before the committee.

224 3. If the committee determines that the district school
225 board, state university, or Florida College System institution
226 has failed to take full corrective action for which there is no
227 justifiable reason or has failed to comply with committee
228 requests made pursuant to this section, the committee shall
229 refer the matter to the State Board of Education or the Board of
230 Governors, as appropriate, to proceed in accordance with s.
231 1008.32 or s. 1008.322, respectively.

232 Section 3. Subsections (1) through (5) of section 14.32,
233 Florida Statutes, are renumbered as subsections (2) through (6),
234 respectively, and new subsections (1) and (7) are added to that
235 section to read:

236 14.32 Office of Chief Inspector General.—

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

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

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

250 (c) "Independent contractor" has the same meaning as in s.
251 112.3187(3) (d).

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

254 (e) "Waste" means the act of using or expending resources
255 unreasonably, carelessly, extravagantly, or for no useful
256 purpose.

257 (7) (a) Within 6 months after the initiation of an
258 investigation of fraud, waste, abuse, mismanagement, or
259 misconduct in government, the Chief Inspector General or an
260 agency inspector general must determine whether there is
261 reasonable probability that fraud, waste, abuse, mismanagement,

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262 or misconduct in government has occurred. If there has not been
263 a determination of such reasonable probability and the
264 investigation continues, a new determination must be made every
265 3 months until the investigation is closed or such reasonable
266 probability is found to exist.

267 (b) If the Chief Inspector General or an agency inspector
268 general determines that there is reasonable probability that a
269 public official, independent contractor, or agency has committed
270 fraud, waste, abuse, mismanagement, or misconduct in government,
271 the inspector general shall report such determination to the
272 Florida Integrity Officer.

273 (c) If the findings of an investigation conducted pursuant
274 to this subsection conclude that a public official, independent
275 contractor, or agency has committed fraud, waste, abuse,
276 mismanagement, or misconduct in government, the Chief Inspector
277 General or agency inspector general shall report such findings
278 to the Chief Financial Officer within 30 days after the
279 investigation is closed. Such public official, independent
280 contractor, or person responsible within the agency is
281 personally liable for repayment of the funds that were diverted
282 or lost as a result of the fraud, waste, abuse, mismanagement,
283 or misconduct in government. If the person liable fails to repay
284 such funds voluntarily and the state does not agree to a
285 settlement, the Chief Financial Officer shall bring a civil

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286 action to recover the funds within 60 days after receipt of such
287 findings.

288 Section 4. Section 17.04, Florida Statutes, is amended to
289 read:

290 17.04 To audit and adjust accounts of officers and those
291 indebted to the state.—The Chief Financial Officer, using
292 generally accepted auditing procedures for testing or sampling,
293 shall examine, audit, adjust, and settle the accounts of all the
294 officers of this state, and any other person in anywise
295 entrusted with, or who may have received any property, funds, or
296 moneys of this state, or who may be in anywise indebted or
297 accountable to this state for any property, funds, or moneys,
298 and require such officer or persons to render full accounts
299 thereof, and to yield up such property or funds according to
300 law, or pay such moneys into the treasury of this state, or to
301 such officer or agent of the state as may be appointed to
302 receive the same, and on failure so to do, to cause to be
303 instituted and prosecuted proceedings, criminal or civil, at law
304 or in equity, against such persons, according to law. The Chief
305 Financial Officer may conduct investigations within or outside
306 of this state as it deems necessary to aid in the enforcement of
307 this section. The Chief Financial Officer may commence an
308 investigation pursuant to this section based on a complaint or
309 referral from any source. An employee of a state agency or a
310 state contractor having knowledge of suspected misuse of state

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311 funds may report such information to the Chief Financial
312 Officer. If during an investigation the Chief Financial Officer
313 has reason to believe that any criminal statute of this state
314 has or may have been violated, the Chief Financial Officer shall
315 refer any records tending to show such violation to state or
316 federal law enforcement or prosecutorial agencies and shall
317 provide investigative assistance to those agencies as required.

318 Section 5. Subsections (4) and (5) of section 17.325,
319 Florida Statutes, are renumbered as subsections (5) and (6),
320 respectively, and a new subsection (4) is added to that section
321 to read:

322 17.325 Governmental efficiency hotline; duties of Chief
323 Financial Officer.—

324 (4) A copy of each suggestion or item of information
325 received through the hotline or website that is logged pursuant
326 to this section must be reported to the Florida Integrity
327 Officer by the 15th of the month following receipt of the
328 suggestion or item of information.

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

331 20.055 Agency inspectors general.—

332 (7) In carrying out the investigative duties and
333 responsibilities specified in this section, each inspector
334 general shall initiate, conduct, supervise, and coordinate
335 investigations designed to detect, deter, prevent, and eradicate

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336 fraud, waste, mismanagement, misconduct, and other abuses in
337 state government. For these purposes, each inspector general
338 shall:

339 (g) Make determinations and reports as required by s.
340 14.32(7).

341 Section 7. Paragraphs (a) and (b) of subsection (1) and
342 subsection (2) of section 110.1245, Florida Statutes, are
343 amended, and subsections (6) and (7) are added to that section,
344 to read:

345 110.1245 Savings sharing program; bonus payments; other
346 awards.—

347 (1) (a) The Department of Management Services shall adopt
348 rules that prescribe procedures and promote a savings sharing
349 program for an individual or group of employees who propose
350 procedures or ideas that are adopted and that result in
351 eliminating or reducing state expenditures, including employees
352 reporting under the Whistle-blower's Act, if such proposals are
353 placed in effect and may be implemented under current statutory
354 authority.

355 (b) Each agency head shall recommend employees
356 individually or by group to be awarded an amount of money, which
357 amount shall be directly related to the cost savings realized.
358 Each proposed award and amount of money must be approved by the
359 Legislative Budget Commission, except an award issued under
360 subsection (6).

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361 (2) In June of each year, bonuses shall be paid to
362 employees from funds authorized by the Legislature in an
363 appropriation specifically for bonuses. For purposes of this
364 subsection, awards issued under subsection (6) are not
365 considered bonuses. Each agency shall develop a plan for
366 awarding lump-sum bonuses, which plan shall be submitted no
367 later than September 15 of each year and approved by the Office
368 of Policy and Budget in the Executive Office of the Governor.
369 Such plan shall include, at a minimum, but is not limited to:

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

372 (b) Eligibility criteria as follows:

373 1. The employee must have been employed before ~~prior to~~
374 July 1 of that fiscal year and have been continuously employed
375 through the date of distribution.

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

378 3. The employee must have had no sustained disciplinary
379 action during the period beginning July 1 through the date the
380 bonus checks are distributed. Disciplinary actions include
381 written reprimands, suspensions, dismissals, and involuntary or
382 voluntary demotions that were associated with a disciplinary
383 action.

384 4. The employee must have demonstrated a commitment to the
385 agency mission by reducing the burden on those served,

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386 continually improving the way business is conducted, producing
387 results in the form of increased outputs, and working to improve
388 processes.

389 5. The employee must have demonstrated initiative in work
390 and have exceeded normal job expectations.

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

394 (c) A periodic evaluation process of the employee's
395 performance.

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

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

400 (f) A limitation on bonus distributions equal to 35
401 percent of the agency's total authorized positions. This
402 requirement may be waived by the Office of Policy and Budget in
403 the Executive Office of the Governor upon a showing of
404 exceptional circumstances.

405 (6) Each agency inspector general shall report employees
406 whose reports under the Whistle-blower's Act resulted in savings
407 or recovery of public funds in excess of \$1,000. Awards shall be
408 awarded by each agency to the employee, or his or her designee,
409 whose report led to the savings or recovery, and each agency
410 head is authorized to incur expenditures to provide such awards.

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411 The award shall be paid from the specific appropriation or trust
412 fund from which the savings or recovery resulted, unless
413 otherwise prohibited by federal law. The agency inspector
414 general to whom the report was made or referred shall certify
415 the savings or recovery resulting from the investigation. If
416 more than one employee makes a relevant report, the award shall
417 be shared in proportion to each employee's contribution to the
418 investigation as certified by the agency inspector general.

419 Awards shall be made in the following amounts:

420 (a) A career service employee shall receive 10 percent of
421 the savings or recovery certified, but not less than \$500 and
422 not more than a total of \$50,000 for whistle-blower reports in
423 any 1 year. If the employee had any fault for the misspending or
424 attempted misspending of public funds identified in the
425 investigation that resulted in the savings or recovery, the
426 award may be denied at the discretion of the agency head. If the
427 award is not denied by the agency head, the award may not exceed
428 \$500. The agency inspector general shall certify any fault on
429 the part of the employee.

430 (b) A Senior Management Service employee or an employee in
431 a select exempt position shall receive 5 percent of the savings
432 or recovery certified, but not more than a total of \$1,000 for
433 whistle-blower reports in any 1 year. An employee may not
434 receive an award under this paragraph if he or she had any fault
435 for the misspending or attempted misspending of public funds

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436 identified in the investigation that resulted in the savings or
437 recovery. The agency inspector general shall certify any fault
438 on the part of the employee.

439 (7) Notwithstanding any other provision of law, an
440 employee whose name or identity is confidential or exempt from
441 disclosure under state or federal law may participate in the
442 savings sharing program authorized in this section. To maintain
443 confidentiality, upon notice of eligibility for an award, such
444 employee may designate an authorized agent, trustee, or
445 custodian to accept an award for which the employee is eligible
446 on behalf of the employee.

447 Section 8. The Division of Law Revision is directed to
448 create part IX of chapter 112, Florida Statutes, consisting of
449 s. 112.89, Florida Statutes, to be entitled "Fiduciary Duty of
450 Care for Appointed Public Officials and Executive Officers."

451 Section 9. Section 112.89, Florida Statutes, is created to
452 read:

453 112.89 Fiduciary duty of care.—

454 (1) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature
455 finds that appointed public officials and executive officers
456 acting on behalf of governmental entities owe a fiduciary duty
457 to the entities they serve. The Legislature finds that codifying
458 a fiduciary duty of care will require that appointed public
459 officials and executive officers stay adequately informed of
460 affairs, perform due diligence, perform reasonable oversight,

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461 and practice fiscal responsibility regarding decisions involving
462 corporate and proprietary commitments on behalf of the entity
463 they serve.

464 (2) DEFINITIONS.—

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

468 (b) "Executive officer" means the chief executive officer
469 of a governmental entity to which an appointed public official
470 is appointed.

471 (c) "General counsel" means the chief legal counsel of a
472 governmental entity to which an appointed public official or an
473 executive officer is appointed or hired.

474 (d) "Governmental entity" means the entity, or a board, a
475 council, a commission, an authority, or other body thereof, to
476 which an appointed public official or an executive officer is
477 appointed or hired.

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

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

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

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

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

490 (e) Use reasonable efforts to maintain documentation in
491 accordance with applicable laws.

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

496 1. Become reasonably informed in connection with any
497 decisionmaking function;

498 2. Become reasonably informed when devoting attention to
499 any oversight function;

500 3. Keep reasonably informed concerning the affairs of the
501 governmental entity; and

502 4. Keep reasonably informed concerning the performance of
503 a governmental entity's executive officers or other officers,
504 agents, or employees.

505
506 Upon appointment or hiring, each appointed public official and
507 executive officer subject to the fiduciary duty of care
508 requirements of this subsection must provide a written

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509 declaration, as provided for under s. 92.525(2), that he or she
510 has read, understood, and will comply with such requirements at
511 all times during his or her service to the governmental entity.
512 Such declaration shall be submitted to and maintained by the
513 governmental entity's custodian of records.

514 (4) APPOINTMENT OF EXECUTIVE OFFICERS AND GENERAL
515 COUNSELS.—The appointment of any executive officer or general
516 counsel is subject to approval by a majority vote of the
517 governmental entity.

518 (5) STANDARDS FOR LEGAL COUNSEL.—All legal counsel
519 employed by a governmental entity must represent the legal
520 interests and positions of the governmental entity and not the
521 interests of any individual or employee of the governmental
522 entity, unless such representation is directed by the
523 governmental entity or as authorized by law.

524 (6) CONSTRUCTION.—Nothing in this section shall be
525 construed to create a cause of action against an executive
526 officer, an appointed public official, or a governmental entity.

527 Section 10. Section 216.1366, Florida Statutes, is created
528 to read:

529 216.1366 Contract terms.—

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

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534 (a) Financial records, papers, and documents of the
535 contractor directly related to the execution of the contract or
536 the expenditure of state funds; and

537 (b) Programmatic records, papers, and documents of the
538 contractor that are necessary to monitor the performance of the
539 contract or ensure that the terms of the contract are being met,
540 as determined by the public agency.

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

544 Section 11. Paragraph (e) of subsection (3) of section
545 287.057, Florida Statutes, is amended, and subsection (24) is
546 added to that section, to read:

547 287.057 Procurement of commodities or contractual
548 services.—

549 (3) If the purchase price of commodities or contractual
550 services exceeds the threshold amount provided in s. 287.017 for
551 CATEGORY TWO, purchase of commodities or contractual services
552 may not be made without receiving competitive sealed bids,
553 competitive sealed proposals, or competitive sealed replies
554 unless:

555 (e) The following contractual services and commodities are
556 not subject to the competitive-solicitation requirements of this
557 section:

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558 1. Artistic services. As used in this subsection, the term
559 "artistic services" does not include advertising or typesetting.
560 As used in this subparagraph, the term "advertising" means the
561 making of a representation in any form in connection with a
562 trade, business, craft, or profession in order to promote the
563 supply of commodities or services by the person promoting the
564 commodities or contractual services.

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

567 3. Lectures by individuals.

568 4. Legal services, including attorney, paralegal, expert
569 witness, appraisal, or mediator services.

570 5. Health services involving examination, diagnosis,
571 treatment, prevention, medical consultation, or administration.
572 The term also includes, but is not limited to, substance abuse
573 and mental health services involving examination, diagnosis,
574 treatment, prevention, or medical consultation if such services
575 are offered to eligible individuals participating in a specific
576 program that qualifies multiple providers and uses a standard
577 payment methodology. Reimbursement of administrative costs for
578 providers of services purchased in this manner are also exempt.
579 For purposes of this subparagraph, the term "providers" means
580 health professionals and health facilities, or organizations
581 that deliver or arrange for the delivery of health services.

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582 6. Services provided to persons with mental or physical
583 disabilities by not-for-profit corporations that have obtained
584 exemptions under s. 501(c)(3) of the United States Internal
585 Revenue Code or when such services are governed by Office of
586 Management and Budget Circular A-122. However, in acquiring such
587 services, the agency shall consider the ability of the vendor,
588 past performance, willingness to meet time requirements, and
589 price.

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

592 8. Family placement services.

593 9. Prevention services related to mental health, including
594 drug abuse prevention programs, child abuse prevention programs,
595 and shelters for runaways, operated by not-for-profit
596 corporations. However, in acquiring such services, the agency
597 shall consider the ability of the vendor, past performance,
598 willingness to meet time requirements, and price.

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

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

602 12. Services or commodities provided by governmental
603 entities.

604 13. ~~Statewide~~ Public service announcement programs that
605 ~~provided by a Florida statewide nonprofit corporation under s.~~

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606 ~~501(c)(6) of the Internal Revenue Code which~~ have a guaranteed
607 documented match of at least \$3 to \$1.

608 (24) Notwithstanding any other provision of law, a state
609 employee who is registered to lobby the Legislature, other than
610 an agency head, may not participate in the negotiation or award
611 of any contract required or expressly funded under a specific
612 legislative appropriation or proviso in an appropriation act.
613 This subsection does not apply to a state employee who is:

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

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

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

618 Section 12. Section 288.00001, Florida Statutes, is
619 created to read:

620 288.00001 Use of state or local incentive funds to pay for
621 services.—Notwithstanding any other provision of law, a tax
622 incentive may not be awarded or paid to a state contractor or
623 any subcontractor for services provided or expenditures incurred
624 pursuant to a state contract.

625 Section 13. Paragraph (e) of subsection (4) of section
626 1001.20, Florida Statutes, is amended to read:

627 1001.20 Department under direction of state board.—

628 (4) The Department of Education shall establish the
629 following offices within the Office of the Commissioner of

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630 Education which shall coordinate their activities with all other
631 divisions and offices:

632 (e) Office of Inspector General.—Organized using existing
633 resources and funds and responsible for promoting
634 accountability, efficiency, and effectiveness and detecting
635 fraud and abuse within school districts, the Florida School for
636 the Deaf and the Blind, and Florida College System institutions
637 in Florida. If the Commissioner of Education determines that a
638 district school board, the Board of Trustees for the Florida
639 School for the Deaf and the Blind, or a Florida College System
640 institution board of trustees is unwilling or unable to address
641 substantiated allegations made by any person relating to waste,
642 fraud, abuse, or financial mismanagement within the school
643 district, the Florida School for the Deaf and the Blind, or the
644 Florida College System institution, the office shall conduct,
645 coordinate, or request investigations into such substantiated
646 allegations. The office shall investigate allegations or reports
647 of possible waste, fraud, ~~or abuse~~, or mismanagement against a
648 district school board or Florida College System institution made
649 by any member of the Cabinet, ~~+~~ the presiding officer of either
650 house of the Legislature, ~~+~~ a chair of a substantive or
651 appropriations legislative committee with jurisdiction, ~~+~~ or a
652 member of the board for which an investigation is sought. The
653 office shall have access to all information and personnel
654 necessary to perform its duties and shall have all of its

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655 current powers, duties, and responsibilities authorized in s.
656 20.055.

657 Section 14. The Office of the Auditor General is
658 authorized to use carryforward funds to fund the establishment
659 and operations of the Florida Integrity Office as created by
660 this act.

661 Section 15. This act shall take effect July 1, 2020.

662

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664 -----

665 **T I T L E A M E N D M E N T**

666 Remove everything before the enacting clause and insert:

667 A bill to be entitled

668 An act relating to government accountability; creating s.
669 11.421, F.S.; creating the Florida Integrity Office under the
670 Auditor General; providing definitions; providing duties and
671 powers of the Florida Integrity Officer and the Auditor General;
672 amending s. 11.45, F.S.; providing a definition; providing and
673 revising Auditor General reporting requirements; amending s.
674 14.32, F.S.; providing definitions; providing investigative
675 duties of the Chief Inspector General and agency inspectors
676 general; requiring such inspectors general to provide a report
677 to the Chief Financial Officer within a specified timeframe in
678 certain circumstances; providing liability for certain
679 officials, contractors, and persons in certain circumstances;

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680 amending s. 17.04, F.S.; authorizing the Chief Financial Officer
681 to commence an investigation based on certain complaints or
682 referrals; authorizing state agency employees and state
683 contractors to report certain information to the Chief Financial
684 Officer; amending s. 17.325, F.S.; requiring certain records to
685 be sent to the Florida Integrity Officer within a specified
686 timeframe; amending s. 20.055, F.S.; requiring agency inspectors
687 general to make certain determinations and reports; amending s.
688 110.1245, F.S.; providing requirements for awards given to
689 employees who report under the Whistle-blower's Act; authorizing
690 expenditures for such awards; providing a directive to the
691 Division of Law Revision to create part IX of ch. 112, F.S.;
692 creating s. 112.89, F.S.; providing legislative findings and
693 purpose; defining terms; establishing standards for the
694 fiduciary duty of care for appointed public officials and
695 executive officers of specified governmental entities; providing
696 that certain persons subject to the fiduciary duty of care
697 requirements must provide a certain written declaration;
698 specifying requirements for the appointment of executive
699 officers and general counsels of governmental entities;
700 specifying standards for legal counsel; providing construction;
701 creating s. 216.1366, F.S.; providing requirements for certain
702 public agency contracts; amending s. 287.057, F.S.; revising
703 provisions relating to contractual services and commodities that
704 are not subject to competitive-solicitation requirements;

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705 prohibiting certain state employees from participating in the
706 negotiation or award of state contracts; creating s. 288.00001,
707 F.S.; prohibiting tax incentives from being awarded or paid to a
708 state contractor or subcontractor; amending s. 1001.20, F.S.;
709 requiring the Office of Inspector General of the Department of
710 Education to conduct investigations relating to waste, fraud,
711 abuse, or mismanagement against a district school board or
712 Florida College System institution; authorizing the Office of
713 the Auditor General to use carryforward funds to fund the
714 Florida Integrity Office; providing an effective date.

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