

By: Representatives Brown, Mayo, Eads,
Whittington

To: Appropriations

HOUSE BILL NO. 1391

1 AN ACT TO CREATE THE MISSISSIPPI INTERNAL AUDIT ACT; TO
2 DECLARE THE PURPOSE AND APPLICABILITY OF THIS ACT; TO DEFINE
3 CERTAIN TERMS; TO PROVIDE FOR AGENCY INTERNAL AUDIT DIRECTORS AND
4 APPROPRIATE STAFF; TO PROVIDE QUALIFICATIONS FOR THE AGENCY
5 INTERNAL AUDIT DIRECTOR; TO PRESCRIBE THE DUTIES OF THE AGENCY
6 INTERNAL AUDIT DIRECTOR; TO PROVIDE PROFESSIONAL STANDARDS; TO
7 PROVIDE FOR WORKING PAPERS AND REPORTS; TO REQUIRE FOLLOW-UP ON
8 ISSUED REPORTS; TO PROVIDE FOR ACTIONS ON FINDINGS; TO PROVIDE FOR
9 PROFESSIONAL DEVELOPMENT; TO PROVIDE FOR QUALITY CONTROL; TO
10 ESTABLISH THE AUDIT COMMITTEE AND PRESCRIBE ITS DUTIES; TO PROVIDE
11 A STATE INTERAGENCY INTERNAL AUDIT FORUM; TO REQUIRE ANNUAL
12 REPORTS; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** This act shall be known and may be cited as the
15 "Mississippi Internal Audit Act."

16 **SECTION 2.** The purpose of this act is to establish a
17 full-time program of internal auditing to assist in improving
18 agency operations, to verify the existence of assets and to
19 identify opportunities for cost savings and revenue enhancement.
20 The agency internal audit director shall furnish independent
21 analyses, appraisals and recommendations concerning the adequacy
22 of each state agency's systems of internal control, and the
23 efficiency and effectiveness of agency management in carrying out
24 assigned responsibilities in accordance with applicable laws,
25 rules and regulations. The internal auditing program shall
26 evaluate and advise the organization in the establishment of
27 controls necessary to accomplish agency goals and objectives at
28 reasonable costs. The agency internal audit director shall be
29 alert to the possibility of abuse or illegal acts, errors and
30 omissions, and conflict of interest.



31 **SECTION 3.** The following words and phrases shall have the
32 meanings ascribed herein, unless the context clearly indicates
33 otherwise:

34 (a) "State agency" means and includes the Department of
35 Finance and Administration, the State Tax Commission, the
36 Department of Education, the State Department of Health, the
37 Department of Mental Health, the Department of Agriculture and
38 Commerce, the Mississippi Development Authority, the Department of
39 Environmental Quality, the Department of Wildlife Fisheries and
40 Parks, the Department of Corrections, the Division of Medicaid,
41 the Department of Rehabilitation Services, the Department of
42 Public Safety, the Mississippi Employment Security Commission, the
43 Mississippi Department of Information Technology Services, the
44 Public Employees Retirement System, the Mississippi Department of
45 Transportation and the Mississippi Gaming Commission.

46 (b) "Agency head" means an elected official who heads
47 an agency, an executive director or a governing board or
48 commission responsible for heading an agency.

49 (c) "Agency internal audit director" means the person
50 appointed by the agency head to direct the internal audit function
51 for the state agency. Where consistent with responsibilities
52 described in this act, the term agency internal audit director may
53 also be referred to as inspector general, audit director, chief
54 auditor or similar internal audit administrator descriptions.

55 (d) "Audit committee" means a standing committee
56 external to organization management that collectively has the
57 expertise to provide effective guidance regarding the acquisition
58 and provision of internal audit services and to provide guidance
59 in the provision of those services.

60 **SECTION 4.** The provisions of this act shall only apply to
61 the following agencies: (a) the Department of Finance and
62 Administration, (b) the State Tax Commission, (c) the Department
63 of Education, (d) the State Department of Health, (e) the



64 Department of Mental Health, (f) the Department of Agriculture and
65 Commerce, (g) the Mississippi Development Authority, (h) the
66 Department of Environmental Quality, (i) the Department of
67 Wildlife, Fisheries and Parks, (j) the Department of Corrections,
68 (k) the Division of Medicaid, (l) the Department of Rehabilitation
69 Services, (m) the Department of Public Safety, (n) the Mississippi
70 Employment Security Commission, (o) the Mississippi Department of
71 Information Technology Services, (p) the Public Employees
72 Retirement System, (q) the Mississippi Department of
73 Transportation and (r) the Mississippi Gaming Commission.

74 **SECTION 5.** (1) Except as otherwise provided by subsection
75 (2) of this section, each state agency shall, subject to available
76 funding, employ an agency internal audit director who shall be
77 appointed by the governing board or commission or the elected
78 official or executive director or his counterpart of a state
79 agency without a governing board or commission. The agency head
80 shall ensure that the director is allowed to employ, subject to
81 available funding, a sufficient number of professional and support
82 staff to implement an effective program of internal auditing.
83 Compensation, training, job tenure and advancement of internal
84 auditing staff shall be based upon merit. The internal audit
85 organization shall have organizational status outside the agency's
86 staff or line management functions or units subject to audit, and
87 shall be free of operational and management responsibilities that
88 would impair the ability to make independent audits of any aspects
89 of the agency's operations. An agency internal audit director may
90 be terminated by the appointing authority after a seven (7) day
91 notification period to the State Auditor and the Chairman of the
92 Joint Legislative Committee on Performance Evaluation and
93 Expenditure Review (PEER).

94 (2) The agency head of a state agency may outsource the
95 internal audit function if he determines that it is more cost
96 efficient than establishing the audit personnel and procedures



97 provided in subsection (1) of this section. Internal audit
98 services may not be outsourced to the same firm or individual who
99 performs independent audit or other consulting services to the
100 agency.

101 **SECTION 6.** The agency internal audit director shall possess
102 the following qualifications:

103 (a) A bachelor's degree from an accredited college or
104 university and five (5) years of progressively responsible
105 professional auditing experience as an internal auditor or
106 independent postauditor, electronic data processing auditor or any
107 combination thereof. The auditing experience shall at a minimum
108 consist of audits of units of government or private business
109 enterprises, operating for profit or not for profit; or

110 (b) A master's degree from an accredited college or
111 university and three (3) years of progressively responsible
112 professional auditing experience as an internal auditor or
113 independent postauditor, electronic data processing auditor or any
114 combination therefor; or

115 (c) A certificate as a certified internal auditor
116 issued by The Institute of Internal Auditors and three (3) years
117 of progressively responsible professional auditing experience as
118 an internal auditor or independent postauditor, electronic data
119 processing auditor or any combination thereof; or

120 (d) A certificate as a Certified Public Accountant with
121 at least three (3) years experience.

122 **SECTION 7.** The agency internal audit director shall:

123 (a) Report directly to the agency head or deputy agency
124 head.

125 (b) Conduct financial, compliance, electronic data
126 processing and operational and efficiency audits of agency
127 programs, activities and functions and prepare audit reports of
128 findings.



129 (c) Review and evaluate internal controls over agency
130 programs, accounting systems, administrative systems, electronic
131 data processing systems and all other major systems necessary to
132 ensure accountability of the state agency.

133 (d) Develop long-term and annual audit plans to be
134 based on the findings of periodic documented risk assessments.
135 The plan shall show the individual audits to be conducted during
136 each year and the related resources to be devoted to each of the
137 respective audits. The audit plan shall ensure that internal
138 controls are reviewed on a periodic basis. The plan shall be
139 submitted to the agency head for approval and the audit committee
140 for comment. A copy of the approved plan shall be available upon
141 request to the state an/or legislative auditor or other
142 appropriate external auditor to assist in planning and
143 coordination of any external financial, compliance, electronic
144 data processing or performance audit.

145 (e) The scope and assignment of the audits shall be
146 determined by the agency internal audit director; however, the
147 head of the agency may at any time request the agency internal
148 audit director to perform an audit of a special program, activity,
149 function or organizational unit.

150 **SECTION 8.** Audits shall be conducted in accordance with the
151 Standards for the Professional Practice of Internal Auditing
152 published by The Institute of Internal Auditors, Inc., and, when
153 required by law, regulation, agreement, contract or policy, in
154 accordance with Government Auditing Standards issued by the
155 Comptroller General of the United States. All audit reports
156 issued by internal audit staff shall include a statement that the
157 audit was conducted pursuant to the appropriate standards.

158 **SECTION 9.** (1) Audit working papers and reports shall be
159 public records to the extent that they do not include information
160 which has been made confidential pursuant to law.



161 (2) When the agency internal audit director or a member of
162 his or her staff receives from an individual a complaint or
163 information protected by whistleblower or other legislation, the
164 name or identity of the individual shall not be disclosed without
165 the written consent of the individual, or unless required by law
166 or judicial processes.

167 (3) The director and the internal audit staff shall have
168 access to all personnel and any records, data and other
169 information of the state agency deemed necessary to carry out
170 assigned duties. The agency internal audit director shall
171 maintain the confidentiality of any public records that are made
172 confidential by law, and shall be subject to the same penalties as
173 the custodian of those public records for violating
174 confidentiality statutes.

175 **SECTION 10.** (1) At the conclusion of each audit, the agency
176 internal audit director shall submit preliminary findings and
177 recommendations to the person responsible for supervision of the
178 program, activity, function or organizational unit being audited
179 who shall respond in writing to any findings of the agency
180 internal audit director within forty-five (45) working days after
181 receipt of the findings. Such response and, if necessary, the
182 agency internal audit director's response may be included in the
183 final audit report.

184 (2) The agency internal audit director shall submit the
185 final report to the head of the agency and the State Auditor.

186 **SECTION 11.** (1) No later than six (6) months after a
187 financial, compliance, electronic data processing or performance
188 audit is issued, the agency internal audit director shall inform
189 the agency head and audit committee of the status of corrective
190 actions taken by the agency manager responsible for supervision of
191 the program activity, function or organizational unit audited.

192 (2) If a follow-up report is issued, the agency internal
193 audit director shall submit the report to the head of the agency



194 and the audit committee. The follow-up report shall be provided
195 upon request to any legislative, executive or judicial branch
196 oversight body, appropriate state and/or legislative auditor or
197 other external auditor.

198 **SECTION 12.** (1) The state and/or the Joint Legislative
199 Committee on Performance Evaluation and Expenditure Review (PEER)
200 or other external auditor, in connection with planning independent
201 postaudits of the same agency, shall give appropriate
202 consideration to internal audit reports and the resolution of
203 findings therein.

204 (2) Appropriate legislative committees may inquire into the
205 reasons or justifications for failure of the agency to correct the
206 deficiencies reported in internal audits.

207 **SECTION 13.** (1) The agency head shall make available to the
208 internal audit director adequate resources to ensure the
209 professional development and continuing professional education of
210 the internal audit staff.

211 (2) The internal audit director shall cooperate with the
212 state and/or legislative auditor or other external auditor in the
213 exchange of technical assistance and access to current information
214 concerning audit techniques, policies and procedures.

215 **SECTION 14.** Each agency internal audit organization should
216 have an external quality control review at least once every three
217 (3) years to determine compliance of issued reports with current
218 Standards for the Professional Practice of Internal Auditing
219 and/or, if appropriate, Government Auditing Standards. The review
220 shall be performed by qualified persons who are independent of the
221 organization and who do not have a real or apparent conflict of
222 interest. The report issued on the external quality control
223 review shall be a public record to the extent authorized by law.

224 **SECTION 15.** (1) There is created the audit committee which
225 shall be comprised of one (1) member of the governing board or
226 commission appointed by the chairman of the governing board or



227 commission; however, in those cases where the agency has no board
228 or commission, a person with expertise in the mission of the
229 agency who is not an employee of the agency or contractor with the
230 agency and who shall be appointed by the head of the agency, one
231 (1) staff member of the Joint Legislative Committee on Performance
232 Evaluation and Expenditure Review (PEER), appointed by the
233 Director of PEER and one (1) staff member of the Department of
234 Finance and Administration (DFA), appointed by the Executive
235 Director of DFA. The audit committee shall monitor the activities
236 of the agency internal and external audit activities.

237 (2) The audit committee shall:

238 (a) Review and approve the annual internal audit plan
239 and budget, internal and external audit reports, follow-up reports
240 and quality assurance reviews;

241 (b) Periodically meet with the agency internal audit
242 director to discuss pertinent matters, including whether there are
243 any restrictions on the scope of audits; and

244 (c) Not be compensated for services provided. However,
245 they shall be reimbursed for travel expenses in accordance with
246 authorizing law.

247 **SECTION 16.** A State Interagency Internal Audit Forum shall
248 be established and composed of agency internal audit directors.
249 The annual report shall include a comparison of the audit annual
250 audit plan for the year with the actual audit report issued and an
251 explanation for any differences. The purpose of the forum will be
252 to promote the exchange of communication, to identify professional
253 development needs and/or conduct or coordinate training programs,
254 to share audit techniques and approaches, and to address ways to
255 improve agency operations and systems of internal control. The
256 forum will elect officers from its membership and shall meet
257 periodically throughout the year.

258 **SECTION 17.** Within one hundred twenty (120) days after the
259 end of each fiscal year, the agency internal audit director shall



260 issue an annual report which separately lists audit reports
261 issued, and other activities completed or in progress as of the
262 end of the fiscal year. The annual report shall describe
263 accomplishments of the internal audit activities. Copies of the
264 report shall be provided to the Governor, the agency head and the
265 audit committee. The annual report shall be provided upon request
266 to any legislative, executive or judicial branch oversight body,
267 and to the appropriate state and/or legislative auditor or other
268 external auditor.

269 **SECTION 18.** If, during the course of an audit, an auditor
270 determines that criminal activity may be involved, then
271 investigative records shall be confidential until the audit is
272 complete and shall be provided to the Attorney General to
273 determine if a criminal prosecution shall proceed.

274 **SECTION 19.** This act shall take effect and be in force from
275 and after July 1, 2002, and the agencies identified in this act
276 shall comply with the provisions of this act not later than July
277 1, 2004.

