

By: Senator(s) Ross

To: Judiciary

SENATE BILL NO. 2288

1 AN ACT TO AMEND SECTION 7-7-211, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT ENFORCEMENT EMPLOYEES OF THE DEPARTMENT OF  
3 INVESTIGATION OF THE STATE DEPARTMENT OF AUDIT SHALL BE EMPOWERED  
4 TO MAKE ARRESTS AND TO SERVE AND EXECUTE SEARCH WARRANTS AND OTHER  
5 VALID LEGAL PROCESS ANYWHERE WITHIN THE STATE OF MISSISSIPPI; AND  
6 FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 7-7-211, Mississippi Code of 1972, is  
9 amended as follows:

10 7-7-211. The department shall have the power and it shall be  
11 its duty:

12 (a) To identify and define for all public offices of  
13 the state and its subdivisions generally accepted accounting  
14 principles as promulgated by nationally recognized professional  
15 organizations and to consult with the State Fiscal Officer in the  
16 prescription and implementation of accounting rules and  
17 regulations;

18 (b) To prescribe, for all public offices of regional  
19 and local subdivisions of the state, systems of accounting,  
20 budgeting and reporting financial facts relating to said offices  
21 in conformity with legal requirements and with generally accepted  
22 accounting principles as promulgated by nationally recognized  
23 professional organizations; to assist such subdivisions in need of  
24 assistance in the installation of such systems; to revise such  
25 systems when deemed necessary, and to report to the Legislature at  
26 periodic times the extent to which each office is maintaining such  
27 systems, along with such recommendations to the Legislature for  
28 improvement as seem desirable;



29           (c) To study and analyze existing managerial policies,  
30 methods, procedures, duties and services of the various state  
31 departments and institutions upon written request of the Governor,  
32 the Legislature or any committee or other body empowered by the  
33 Legislature to make such request to determine whether and where  
34 operations can be eliminated, combined, simplified and improved;

35           (d) To postaudit each year and, when deemed necessary,  
36 preaudit and investigate the financial affairs of the departments,  
37 institutions, boards, commissions or other agencies of state  
38 government, as part of the publication of a comprehensive annual  
39 financial report for the State of Mississippi. In complying with  
40 the requirements of this subsection, the department shall have the  
41 authority to conduct all necessary audit procedures on an interim  
42 and year-end basis;

43           (e) To postaudit and, when deemed necessary, preaudit  
44 and investigate separately the financial affairs of (i) the  
45 offices, boards and commissions of county governments and any  
46 departments and institutions thereof and therein; (ii) public  
47 school districts, departments of education and junior college  
48 districts; and (iii) any other local offices or agencies which  
49 share revenues derived from taxes or fees imposed by the state  
50 Legislature or receive grants from revenues collected by  
51 governmental divisions of the state; the cost of such audits,  
52 investigations or other services to be paid as follows: Such part  
53 shall be paid by the state from appropriations made by the  
54 Legislature for the operation of the State Department of Audit as  
55 may exceed the sum of One Hundred Dollars (\$100.00) per day for  
56 the services of each staff person engaged in performing the audit  
57 or other service, which sum shall be paid by the county, district,  
58 department, institution or other agency audited out of its general  
59 fund or any other available funds from which such payment is not  
60 prohibited by law;



61           (f) To postaudit and, when deemed necessary, preaudit  
62 and investigate the financial affairs of the levee boards;  
63 agencies created by the Legislature or by executive order of the  
64 Governor; profit or nonprofit business entities administering  
65 programs financed by funds flowing through the State Treasury or  
66 through any of the agencies of the state, or its subdivisions; and  
67 all other public bodies supported by funds derived in part or  
68 wholly from public funds, except municipalities which annually  
69 submit an audit prepared by a qualified certified public  
70 accountant using methods and procedures prescribed by the  
71 department;

72           (g) To make written demand, when necessary, for the  
73 recovery of any amounts representing public funds improperly  
74 withheld, misappropriated and/or otherwise illegally expended by  
75 an officer, employee or administrative body of any state, county  
76 or other public office, and/or for the recovery of the value of  
77 any public property disposed of in an unlawful manner by a public  
78 officer, employee or administrative body, such demands to be made  
79 (i) upon the person or persons liable for such amounts and upon  
80 the surety on official bond thereof, and/or (ii) upon any  
81 individual, partnership, corporation or association to whom the  
82 illegal expenditure was made or with whom the unlawful disposition  
83 of public property was made, if such individual, partnership,  
84 corporation or association knew or had reason to know through the  
85 exercising of reasonable diligence that the expenditure was  
86 illegal or the disposition unlawful. Such demand shall be  
87 premised on competent evidence, which shall include at least one  
88 (1) of the following: (i) sworn statements, (ii) written  
89 documentation, (iii) physical evidence, or (iv) reports and  
90 findings of government or other law enforcement agencies. Other  
91 provisions notwithstanding, a demand letter issued pursuant to  
92 this subsection shall remain confidential by the State Auditor  
93 until the individual against whom the demand letter is being filed



94 has been served with a copy of such demand letter. If, however,  
95 such individual cannot be notified within fifteen (15) days using  
96 reasonable means and due diligence, such notification shall be  
97 made to the individual's bonding company, if he or she is bonded.  
98 Each such demand shall be paid into the proper treasury of the  
99 state, county or other public body through the office of the  
100 department in the amount demanded within thirty (30) days from the  
101 date thereof, together with interest thereon in the sum of one  
102 percent (1%) per month from the date such amount or amounts were  
103 improperly withheld, misappropriated and/or otherwise illegally  
104 expended. In the event, however, such person or persons shall  
105 refuse, neglect or otherwise fail to pay the amount demanded and  
106 the interest due thereon within the allotted thirty (30) days, the  
107 State Auditor shall have the authority and it shall be his duty to  
108 institute suit, and the Attorney General shall prosecute the same  
109 in any court of the state to the end that there shall be recovered  
110 the total of such amounts from the person or persons and surety on  
111 official bond named therein; and the amounts so recovered shall be  
112 paid into the proper treasury of the state, county or other public  
113 body through the State Auditor;

114 (h) To investigate any alleged or suspected violation  
115 of the laws of the state by any officer or employee of the state,  
116 county or other public office in the purchase, sale or the use of  
117 any supplies, services, equipment or other property belonging  
118 thereto; and in such investigation to do any and all things  
119 necessary to procure evidence sufficient either to prove or  
120 disprove the existence of such alleged or suspected violations.  
121 The Department of Investigation of the State Department of Audit  
122 may investigate, for the purpose of prosecution, any suspected  
123 criminal violation of the provisions of this chapter. For the  
124 purpose of administration and enforcement of this chapter, the  
125 enforcement employees of the Department of Investigation of the  
126 State Department of Audit have the powers of a law enforcement



127 officer of this state, and shall be empowered to make arrests and  
128 to serve and execute search warrants and other valid legal process  
129 anywhere within the State of Mississippi. All enforcement  
130 employees of the Department of Investigation of the State  
131 Department of Audit hired on or after July 1, 1993, shall be  
132 required to complete the Law Enforcement Officers Training Program  
133 and shall meet the standards of the program.

134 (i) To issue subpoenas, with the approval of, and  
135 returnable to, a judge of a chancery or circuit court, in termtime  
136 or in vacation, to examine the records, documents or other  
137 evidence of persons, firms, corporations or any other entities  
138 insofar as such records, documents or other evidence relate to  
139 dealings with any state, county or other public entity. The  
140 circuit or chancery judge must serve the county in which the  
141 records, documents or other evidence is located; or where all or  
142 part of the transaction or transactions occurred which are the  
143 subject of the subpoena;

144 (j) In any instances in which the State Auditor is or  
145 shall be authorized or required to examine or audit, whether  
146 preaudit or postaudit, any books, ledgers, accounts or other  
147 records of the affairs of any public hospital owned or owned and  
148 operated by one or more political subdivisions or parts thereof or  
149 any combination thereof, or any school district, including  
150 activity funds thereof, it shall be sufficient compliance  
151 therewith, in the discretion of the State Auditor, that such  
152 examination or audit be made from the report of any audit or other  
153 examination certified by a certified public accountant and  
154 prepared by or under the supervision of such certified public  
155 accountant. Such audits shall be made in accordance with  
156 generally accepted standards of auditing, with the use of an audit  
157 program prepared by the State Auditor, and final reports of such  
158 audits shall conform to the format prescribed by the State  
159 Auditor. All files, working papers, notes, correspondence and all



160 other data compiled during the course of the audit shall be  
161 available, without cost, to the State Auditor for examination and  
162 abstracting during the normal business hours of any business day.  
163 The expense of such certified reports shall be borne by the  
164 respective hospital, or any available school district funds other  
165 than minimum program funds, subject to examination or audit. The  
166 State Auditor shall not be bound by such certified reports and  
167 may, in his or their discretion, conduct such examination or audit  
168 from the books, ledgers, accounts or other records involved as may  
169 be appropriate and authorized by law.

170           (k) The State Auditor shall have the authority to  
171 contract with qualified public accounting firms to perform  
172 selected audits required in subsections (d), (e) and (f) of this  
173 section, if funds are made available for such contracts by the  
174 Legislature, or if funds are available from the governmental  
175 entity covered by subsections (d), (e) and (f). Such audits shall  
176 be made in accordance with generally accepted standards of  
177 auditing, with the use of an audit program prepared by the State  
178 Auditor, and final reports of such audits shall conform to the  
179 format prescribed by the State Auditor. All files, working  
180 papers, notes, correspondence and all other data compiled during  
181 the course of the audit shall be available, without cost, to the  
182 State Auditor for examination and abstracting during the normal  
183 business hours of any business day.

184           (l) The State Auditor shall have the authority to  
185 establish training courses and programs for the personnel of the  
186 various state and local governmental entities under the  
187 jurisdiction of the Office of the State Auditor. The training  
188 courses and programs shall include, but not be limited to, topics  
189 on internal control of funds, property and equipment control and  
190 inventory, governmental accounting and financial reporting, and  
191 internal auditing. The State Auditor is authorized to charge a  
192 fee from the participants of these courses and programs, which fee



193 shall be deposited into the Department of Audit Special Fund.  
194 State and local governmental entities are authorized to pay such  
195 fee and any travel expenses out of their general funds or any  
196 other available funds from which such payment is not prohibited by  
197 law.

198 (m) Upon written request by the Governor or any member  
199 of the State Legislature, the State Auditor may audit any state  
200 funds and/or state and federal funds received by any nonprofit  
201 corporation incorporated under the laws of this state.

202 (n) To conduct performance audits of personal or  
203 professional service contracts by state agencies on a random  
204 sampling basis, or upon request of the State Personal Service  
205 Contract Review Board under Section 25-9-120(3).

206 **SECTION 2.** This act shall take effect and be in force from  
207 and after its passage.

