

By: Senator(s) Davis

To: Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2301

1 AN ACT TO ENACT THE "MISSISSIPPI STRATEGIC PLANNING AND
2 PERFORMANCE BUDGET SYSTEM ENHANCEMENT ACT OF 2011"; TO DEFINE
3 CERTAIN TERMS; TO ESTABLISH A PROCESS FOR STATEWIDE STRATEGIC
4 PLANNING AND AGENCY BUDGETING; TO REQUIRE THAT CERTAIN FUNCTIONS
5 BE CARRIED OUT BY THE LEGISLATIVE BUDGET COMMITTEE AND THE
6 LEGISLATIVE BUDGET OFFICE; TO PROVIDE FOR THE ANNUAL PREPARATION
7 OF A STRATEGIC PLAN FOR THE OPERATION OF ALL STATE AGENCIES TO
8 COMPLY WITH THE GOALS FOR EACH AREA IN WHICH THE AGENCIES PROVIDE
9 SERVICES; TO PROVIDE FOR INDIVIDUAL AGENCY STRATEGIC PLANS BASED
10 UPON THE STATE PLAN TO BE SUBMITTED ANNUALLY BY STATE AGENCIES; TO
11 PROVIDE THAT FUNDS TO STATE AGENCIES SHALL BE BUDGETED AND
12 APPROPRIATED BASED UPON THE AGENCY STRATEGIC PLANS; TO PRESCRIBE
13 THE COMPONENTS OF THE STRATEGIC PLANS; TO REQUIRE ACHIEVEMENT
14 GOALS FOR EACH FUNCTIONAL AREA OF STATE GOVERNMENT TO BE
15 INCORPORATED IN THE AGENCY STRATEGIC PLAN, AND TO DIRECT THE
16 LEGISLATIVE BUDGET OFFICE TO ESTABLISH A SYSTEM OF PERFORMANCE
17 AUDITS AND EVALUATIONS TO DETERMINE THE EXTENT TO WHICH STATE
18 AGENCIES ARE COMPLYING WITH THE ADOPTED PERFORMANCE GOALS AS
19 PRESCRIBED IN THE AGENCIES APPROPRIATION BILL; TO PROVIDE THAT
20 BEGINNING WITH THE 2013 REGULAR SESSION THE LEGISLATURE SHALL
21 ENACT NINE APPROPRIATION BILLS TO DEFRAY THE EXPENSES OF ALL STATE
22 GENERAL-FUND AND SPECIAL-FUND AGENCIES BASED UPON CERTAIN
23 FUNCTIONAL AREAS TO CONFORM WITH THE ADOPTED STATE AGENCY
24 STRATEGIC PLAN; TO PROVIDE FOR CERTAIN DUTIES OF THE PEER
25 COMMITTEE RELATING TO PERFORMANCE MONITORING OF AGENCY BUDGETS AND
26 TO GRANT TO THE PEER COMMITTEE THE POWER OF COMPULSORY PROCESS AND
27 POWER OF ENFORCEMENT; TO DIRECT LBC TO ESTABLISH AN AGENCY
28 INNOVATION INCENTIVE PROGRAM; TO CODIFY SECTIONS 5-3-68 AND 5-3-70
29 AND TO AMEND SECTIONS 5-3-59, 27-103-101, 27-103-103, 27-103-111,
30 27-103-129, 27-103-131, 27-103-137, 27-103-209 AND 27-103-211, AND
31 TO BRING FORWARD SECTION 27-103-139, MISSISSIPPI CODE OF 1972, IN
32 CONFORMITY THERETO; TO AMEND SECTIONS 27-104-3 AND 27-104-5,
33 MISSISSIPPI CODE OF 1972, TO EMPOWER THE DEPARTMENT OF FINANCE AND
34 ADMINISTRATION AND ITS EXECUTIVE DIRECTOR TO PROVIDE STATE
35 AGENCIES WITH TRAINING REGARDING STRATEGIC PLANNING AND BUDGETING;
36 TO AMEND SECTION 7-7-211, MISSISSIPPI CODE OF 1972, TO ALLOW THE
37 STATE AUDITOR TO CONTRACT WITH THE PEER COMMITTEE TO REVIEW THE
38 PERFORMANCE OF AGENCIES; TO REPEAL SECTIONS 27-103-121,
39 27-103-123, 27-103-125 AND 27-103-127, MISSISSIPPI CODE OF 1972,
40 WHICH PROVIDE CERTAIN BUDGETING PRACTICES; TO REPEAL SECTIONS
41 27-103-151 THROUGH 27-103-157, MISSISSIPPI CODE OF 1972, WHICH ARE
42 THE BUDGET AND STRATEGIC PLANNING ACT OF 1994; AND FOR RELATED
43 PURPOSES.

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



45 **SECTION 1.** (1) This act shall be known as the "Mississippi
46 Strategic Planning and Performance Budget System Enhancement Act
47 of 2011."

48 (2) The Legislature finds that:

49 (a) There is little broad-based strategic planning and
50 preparation for the delivery of services that the citizens of
51 Mississippi need and expect;

52 (b) The executive and the legislative branches, while
53 empowered with separate constitutional responsibilities, must work
54 cooperatively to ensure that the needs of Mississippi's citizens
55 are met;

56 (c) The process by which the state budgets and plans
57 the delivery of state governmental services is in need of revision
58 and cooperation; and

59 (d) These ends may be achieved through a revised method
60 of planning and budgeting services and monitoring accountability
61 for the delivery of services and the use of state funds.

62 **SECTION 2.** For purposes of this act, the following terms
63 shall have the definitions set out herein ascribed to them:

64 (a) ACTION PLANS. Detailed methods of specifying how a
65 strategy is implemented. Task specification includes staff
66 assignments, material resource allocations, and schedules for
67 completion. Action plans separate strategies into manageable
68 parts for coordinated implementation of goals and objectives.
69 Action plans specify detailed cost and expenditure information and
70 are often referred to as "operational plans" or "implementation
71 plans."

72 (b) AGENCY GOALS. The general ends toward which
73 agencies direct their efforts. A goal addresses issues by stating
74 policy intention. Goals are both qualitative and quantifiable,
75 but not quantified. In a strategic planning system, goals are
76 ranked for priority. Goals stretch and challenge an agency, but
77 they are realistic and achievable.



78 (c) AGENCY MISSION. The reason for an agency's
79 existence. It succinctly identifies what the agency does, why,
80 and for whom. A mission statement declares to the public, the
81 Governor, legislators, the courts, and agency personnel, of the
82 unique purposes promoted and served by the agency.

83 (d) AGENCY PHILOSOPHY. Conduct of the agency in
84 carrying out its mission. It describes how the agency conducts
85 itself as it does its work.

86 (e) BENCHMARK. Benchmark is the quantified standard
87 against which achievement of a stated goal, objective, or strategy
88 can be measured. It is a tool for gauging "added value"
89 performance that benefits the customer/stakeholder or progress
90 toward achieving increased productivity and strategic efficiency.

91 (f) BENCHMARKING PROCESS. An integral part of the
92 external and internal assessment conducted during the strategic
93 planning process. It is an interactive method of identifying,
94 analyzing, and emulating the standards and best practices of
95 external organizations that achieve a high degree of productivity
96 or innovative success in program and service changes to internally
97 managed processes. It helps define any needed improvements to
98 individual sub-functions within an organization.

99 (g) BUDGET STRUCTURE. The framework used by an agency
100 in preparing its request for legislative appropriation. The
101 budget structure usually consists of goals, strategies, measures,
102 measure definitions, and other items of appropriation included in
103 the agency's strategic plan. Only elements in an approved budget
104 structure may be used by an agency as items in its request for
105 appropriation.

106 (h) CAPITAL IMPROVEMENTS. Building or infrastructure
107 projects that will be owned by the state and built with direct
108 appropriation or with the proceeds of state-issued bonds.

109 (i) CUSTOMER COMPACT. An agreement made with the
110 customers of an agency or institution to provide services that



111 follow a predetermined set of guiding principles. It sets forth
112 the rights of the customer and defines the standards that
113 customers should expect.

114 (j) EFFICIENCY MEASURES. Indicators of the input
115 resources required to produce a given level of output. They
116 measure resource cost in dollars, employee time, or equipment used
117 per unit of product or service output. An efficiency measure
118 relates agency efforts to agency outputs. Indicators of average
119 cost and average time normally serve as efficiency measures for
120 agency processes, but they may also serve as outcome measures when
121 cost per unit of outcome is the focus and can be meaningfully
122 captured.

123 (k) EXPLANATORY MEASURES. Provide information that can
124 help users to assess the significance of performance reported on
125 other types of measures. An agency may have limited or no control
126 over factors addressed by explanatory measures, including
127 environmental or demographic characteristics related to agency
128 target populations. A major use of this type of measure is to
129 describe the level of customer demand or public need for an
130 agency's products and services. Explanatory measures also may
131 focus on variables over which an agency has significant control,
132 such as staffing patterns for specific functions.

133 (l) EXTERNAL/INTERNAL ASSESSMENT. An evaluation of key
134 factors that influence an agency's success in achieving its
135 mission and goals. Detailed evaluation of trends, conditions,
136 opportunities, and obstacles directs the development of each
137 element of the strategic plan. This type of assessment should be
138 heavily quantitative. Key external factors may include economic
139 conditions, population shifts, technological advances,
140 geographical changes, and/or statutory changes. Key internal
141 factors include management policies, resource constraints,
142 organizational structure, automation, personnel, and operational
143 procedures.



(m) INDIRECT ADMINISTRATION. Support costs or expenditure requirements not directly attributable to the implementation of specific goals, objectives, and strategies, or the achievement of performance targets.

(n) INPUTS. The resources, including human, financial, facility, or material, that an agency uses to produce services.

(o) MANAGEMENT GOALS. Management goals reflect agency or institution management approaches in its overall administration. They may encompass activities and management approaches such as total quality management training, customer service initiatives, and other managerial techniques that support greater efficiency and effectiveness in short-term or long-term operations. A management goal and sub-elements frequently may be nonbudgetary in nature, that is, not included as a distinct and separate item in the appropriation request. It may have measures associated with successful implementation or accomplishments that remain internal to the agency and are not reported on a routine basis to oversight entities.

(p) NONBUDGETARY ELEMENTS. A strategic planning goal, objective, or strategy created to convey a tangible agency activity or service that is not separately and directly funded. They cannot be solely policy-related or philosophical statements. Nonbudgetary elements are not included as a distinct and separate item in the agency's appropriation request and may have measures that remain internal to the agency and are not routinely reported to oversight entities.

(q) OBJECTIVES. Clear targets for specific action. They mark interim steps toward achieving an agency's long-range mission and goals. Linked directly to agency goals, objectives are measurable, time-based statements of intent. They emphasize the results of agency actions at the end of a specific time.

(r) OUTCOME MEASURES. Indicators of the actual impact or effect on a stated condition or problem. They are tools to



177 assess the effectiveness of an agency's performance and the public
178 benefit derived therefrom. An outcome measure is typically
179 expressed as a percentage, rate, or ratio.

180 (s) OUTPUT MEASURES. Tools, or indicators, to count
181 the services and goods produced by an agency. The number of
182 people receiving a service and the number of services delivered
183 are often used as measures of output.

184 (t) STATE AGENCIES. State agencies covered by
185 strategic planning requirements are departments, commissions,
186 boards, offices, or other agencies within the executive branch of
187 state government as defined in Section 27-103-103.

188 (u) STATEWIDE GOALS. The general ends toward which the
189 state directs its efforts. Statewide goals address the primary
190 issues facing the state within broad groupings of interrelated
191 state concerns. Statewide goals are founded on the statewide
192 vision and may involve coordination among several agencies with
193 similar functions.

194 (v) STRATEGIC PLANNING. A long-term, future-oriented
195 process of assessment, goal-setting, and decision-making that maps
196 an explicit path between the present and a vision of the future;
197 that relies on careful consideration of an organization's
198 capabilities and environment; and that leads to priority-based
199 resource allocation and other decisions.

200 (w) STRATEGIES. Methods to achieve goals and
201 objectives. Formulated from goals and objectives, a strategy is
202 the means for transforming inputs into outputs and, ultimately,
203 outcomes, with the best use of resources. A strategy reflects
204 budgetary and other resources.

205 (x) VISION. An inspiring picture of a preferred
206 future. A vision is not bound by time, represents global and
207 continuing purposes, and serves as a foundation for a system of
208 strategic planning. A statewide vision depicts an ideal future
209 and the contributions that state government can make to that end.



SECTION 3.

(1) From the effective date of this section, until June 30, 2014, the Office of the Governor, acting through the Department of Finance and Administration, the Legislative Budget Committee, acting through the Legislative Budget Office, and the PEER Committee, acting through the PEER Committee Staff, shall have the following duties and responsibilities relative to ensuring an orderly transition to the program budgeting and planning practices required by this act.

(a) The Governor, acting through the Department of Finance and Administration, shall seek consultation and advice from the Legislative Budget Committee and the PEER Committee regarding the preparation of instructions, manuals, and other guidance, including rules, for agencies for the implementation of strategic planning required by this act,

(b) The PEER Committee, acting through the PEER Committee staff, shall seek consultation and advice from the Legislative Budget Committee and the Office of the Governor regarding the development of instructions, manuals and guidelines for performance measure management to be utilized in strategic plans and appropriation bills,

(c) The Legislative Budget Committee, acting through the Legislative Budget Office, shall seek consultation and advice from the Office of the Governor and the PEER Committee, regarding development of instructions, forms, rules, and templates necessary to direct agencies on the preparation of legislative appropriation requests.

(2) All preparations required by this section shall be complete for implementation of the Fiscal Year 2015 budget cycle.

(3) This section shall stand repealed from and after June 30, 2014.

SECTION 4.

(1) Beginning with the budget for fiscal year 2015, the following shall be components of the process by which



242 general-fund and special-fund agencies prepare strategic plans and
243 the Legislature sets the budget of the State of Mississippi.

244 (a) Strategic planning: The Governor, acting through
245 the Department of Finance and Administration, shall formulate a
246 vision, mission, and philosophy for state government. In
247 conjunction with the development of the state vision, mission, and
248 philosophy, the Governor shall devise statewide goals and
249 benchmarks for the achievement of this vision for the following
250 nine (9) functional areas of state government:

- 251 (i) General government;
- 252 (ii) Health and human services;
- 253 (iii) Education;
- 254 (iv) Public safety, corrections and administration
255 of justice;
- 256 (v) Natural resources;
- 257 (vi) Business and economic development;
- 258 (vii) Transportation;
- 259 (viii) Regulation; and
- 260 (ix) Legislature.

261 Prior to formulating the elements set out in this subsection,
262 the Governor, acting through the Department of Finance and
263 Administration, shall work with the Joint Legislative Budget
264 Committee (LBC), established in Section 27-103-101, to arrive at
265 the vision, mission, philosophy, goals, and benchmarks for state
266 government. Prior to publishing these elements of the strategic
267 plan, the Governor shall meet with LBC to discuss these elements.
268 The Governor shall make all reasonable efforts to incorporate any
269 recommendations LBC may have relative to the strategic elements
270 provided for in this subsection. Following the meeting with LBC,
271 the Governor shall publish the vision statement, along with the
272 statement of mission, philosophy, benchmarks, and goals of
273 government. The Governor, acting through the Department of



Finance and Administration, shall complete all requirements of this paragraph (a) by May 1 of each year.

(b) Agency strategic plans: Each general-fund agency and special-fund agency, as defined in Section 27-103-103, shall prepare an agency strategic plan for its operations in conformity with the vision and goals established by the Governor. Such plans shall contain, at minimum, the following:

- (i) Statewide vision, mission, and philosophy;
- (ii) Agency mission statements;
- (iii) Agency statements of philosophy;
- (iv) External/internal assessment;
- (v) Agency goals;
- (vi) Agency objectives;
- (vii) Outcome measures;
- (viii) Strategies;
- (ix) Output measures;
- (x) Efficiency measures;
- (xi) Explanatory measures; and
- (xii) Action plans.

Prior to issuing instructions to the agencies for the completion of their plans, the Governor shall meet with the Joint Legislative Budget Committee to discuss instructions for completion of agency strategic plans. The Governor shall make all reasonable efforts to include recommendations of LBC into the agency strategic planning instructions. Following the meeting, the Governor shall issue instructions to the agencies for the completion of their plans. Plans required by this paragraph (b) shall be completed by June 15 of each year and submitted to the Governor.

(c) The Joint Legislative Budget Committee shall prepare proposed instructions for all general-fund and special-fund agencies as defined by Section 27-103-103. Prior to adopting these instructions, LBC shall discuss the proposed



307 instructions with the Governor at the same meeting conducted for
308 the purpose of discussing agency strategic plans. LBC shall make
309 all reasonable efforts to incorporate the recommendations of the
310 Governor into its budget instructions, and shall, following the
311 completion of the meeting, issue such instructions to the
312 agencies.

313 (2) The Governor shall compile all agency plans prepared in
314 compliance with this section and file them with the Joint
315 Legislative Budget Committee no later than August 1 of each year.
316 The Governor may review all agency plans for conformity with the
317 requirements of this section and any instructions adopted to carry
318 out its purposes. The Governor, acting through the Department of
319 Finance and Administration, may reject an agency plan and either
320 direct the agency to refile such plan or may substitute a plan for
321 the agency plan. The Governor shall submit to the Legislature any
322 plan offered by the Board of Trustees of State Institutions of
323 Higher Learning, without revision, but the Governor may comment on
324 the components of such plan.

325 **SECTION 5.** (1) Beginning with the 2015 fiscal year budget,
326 by August 15 of each year, each general-fund agency and
327 special-fund agency as defined in Section 27-103-103 shall submit
328 to the Joint Legislative Budget Committee a legislative
329 appropriation request. This request shall consist of the
330 following:

- 331 (a) A summary of the agency's request by strategy;
332 (b) A summary of the agency's request by method of
333 financing; and
334 (c) A summary of the agency's request by objectives and
335 outcomes.

336 (2) The Joint Legislative Budget Committee, in conjunction
337 with the Governor, acting through the Department of Finance and
338 Administration, may establish supplemental requirements for any



339 additional information required to support and document the
340 legislative appropriation request.

341 (3) (a) By December 15 of each year, the Joint Legislative
342 Budget Committee, acting through the Legislative Budget Office,
343 shall prepare a balanced budget for the state and shall
344 additionally prepare for consideration in the next legislative
345 session appropriation bills for each of the nine (9) planning
346 categories set out in Section 3 of this act. Such bills shall
347 contain:

348 (i) The method of financing the agency and its
349 operations;

350 (ii) The number of full-time equivalent employment
351 positions;

352 (iii) The items of appropriation by goals and
353 strategies;

354 (iv) Major object of expense information; and

355 (v) Performance measure targets by each goal,
356 including outcomes, outputs, and efficiencies.

357 (b) The Joint Legislative Budget Committee, acting
358 through the Legislative Budget Office, may prepare any other
359 reports pertinent to the state budget that it deems necessary and
360 proper to support the appropriation process.

361 (4) (a) The Legislature hereby declares that the
362 preparation of a budget is a constitutional core function of the
363 Legislature in this state. To this end, the Legislature shall
364 cooperate with the Governor and the Department of Finance and
365 Administration and all state agencies in preparing this budget.
366 The ultimate responsibility for preparing a budget is, however, a
367 legislative function. To this end, the Legislature may proceed to
368 prepare a budget for all branches of government if the Governor or
369 any agency of the state fails to compile any plan for request
370 required by this act.



(b) The Legislature may utilize any outcome, output, or performance measure or other reporting indicator offered by any general-fund agency or special-fund agency in conformity with the requirements of this act. The Legislature may, after consultation with the Governor and the agencies, adopt for appropriation purposes any substitute measure, outcome, or objective the Legislature deems appropriate to ensure accountability and effectiveness of the appropriation process.

SECTION 6. (1) Beginning with fiscal year 2014, the Joint Legislative Budget Committee (LBC) shall monitor the performance of agencies in achieving the goals, strategies, outcomes, and outputs set out in the appropriation bills.

(2) No appropriation utilizing the components of a legislative appropriation request shall be required until fiscal year 2014.

(3) The Joint Legislative Budget Committee is hereby authorized and directed to establish an innovation incentive program whereby agencies which develop and implement innovative cost-saving measures can receive both public commendation and monetary reward in recognition of their efforts. LBC shall develop policies and procedures as may be required in order to properly administer said program and such policies and procedures shall include the development of evaluation criteria by which the cost-saving results of the various innovations can be calculated and compared against the innovations of other agencies. The Department of Finance and Administration shall make all agencies aware of the innovation incentive program and shall encourage the participation of agencies in the program.

LBC shall submit its recommendations for innovation incentive awards to the Legislature for consideration on or before January 1 of each year. The recommendations of LBC shall include the following items of information: (a) proposed recipients of awards, (b) the proposed amount of the monetary award, and (c) the



proposed manner in which the monetary award should be made available to the recipient. The Legislature may hold hearings in regard to the innovations recommended for consideration by LBC and may, in its discretion, appropriate funds to reward agencies for innovations.

SECTION 7. Beginning with the fiscal year 2015 budget, the Legislature shall enact nine (9) appropriation bills to defray the expenses of all state general-fund and special-fund agencies as defined in Section 27-103-103, based upon the following functional areas to conform with the state agency strategic plan adopted under Section 3 of this act:

- (a) General government;
- (b) Health and human services;
- (c) Education;
- (d) Public safety, corrections and administration of justice;
- (e) Natural resources;
- (f) Business and economic development;
- (g) Transportation;
- (h) Regulation; and
- (i) Legislature.

The Legislature may adopt deficit or supplemental appropriation bills in its discretion, in addition to the nine (9) functional bills prescribed above.

SECTION 8. Section 27-103-101, Mississippi Code of 1972, is amended as follows:

27-103-101. (1) There is created the Joint Legislative Budget Committee and the Legislative Budget Office which shall be governed by such committee. The joint committee shall be composed of the following members: The Chairman of the Senate Finance Committee, the President Pro Tempore of the Mississippi State Senate, the Lieutenant Governor of the State of Mississippi, the Chairman of the Senate Appropriations Committee and three (3)



437 members of the Senate to be named by the Lieutenant Governor; the
438 Chairman of the Ways and Means Committee of the House of
439 Representatives, the Chairman of the Appropriations Committee of
440 the House of Representatives, the Speaker of the House of
441 Representatives and four (4) members of the House of
442 Representatives to be named by the Speaker of the House. In the
443 event any ex officio member of the joint committee holds two (2)
444 positions entitling him to membership on the committee, the
445 Lieutenant Governor or the Speaker of the House, as the case may
446 be, shall appoint another member of the respective house to
447 membership on the committee. The chairmanship shall alternate for
448 twelve-month periods between the Speaker of the House of
449 Representatives and the Lieutenant Governor, with the Speaker of
450 the House of Representatives serving as the first chairman. In
451 the absence of the Chairman of the Senate Finance Committee,
452 Senate Appropriations Committee, House Appropriations Committee
453 and Ways and Means Committee, the vice chairman of any such
454 committee shall be entitled to attend; if the vice chairman is
455 unable to attend or if an appointed member is unable to attend,
456 another legislator may be designated to attend by the Lieutenant
457 Governor or the Speaker of the House, as the case may be. If the
458 Lieutenant Governor or Speaker of the House is unable to attend a
459 meeting, he may designate a legislator to substitute for him at
460 that meeting. If the President Pro Tempore of the State Senate is
461 unable to attend a meeting, the Lieutenant Governor shall
462 designate a member of the Senate to substitute for him at that
463 meeting. Any proxy shall have a vote at the meeting he was
464 selected to attend and also shall, when attending, receive
465 compensation and expenses in the same manner and amount as regular
466 members of the joint committee.

467 There shall be no business transacted, including adoption of
468 rules of procedure, without the presence of a quorum of the Joint
469 Legislative Budget Committee. A quorum shall be eight (8)



members, to consist of four (4) members from the Senate and four (4) members from the House of Representatives. No action shall be valid unless approved by the majority of those members present and voting, entered upon the minutes of the Joint Legislative Budget Committee and signed by the chairman and vice chairman. All actions of the Joint Legislative Budget Committee shall be approved by at least four (4) Senate members and four (4) House members.

As used in Sections 27-103-101 through 27-103-139, and in Sections 1 through 5 of this act, the term "committee," "joint committee" or "LBC" shall mean the Joint Legislative Budget Committee (LBC).

(2) The members of the committee shall receive, in addition to other compensation due them, per diem as is authorized by law for their services in carrying out the duties of the committee and, in addition thereto, shall receive a daily expense allowance equal to the maximum daily expense rate allowable to employees of the federal government for travel in the high rate geographical area of Jackson, Mississippi, as may be established by federal regulations, including mileage as authorized by Section 25-3-41, the same to be paid from the operating budget of the Legislative Budget Office. However, in no case shall the members of the committee draw per diem while the Legislature is in regular or special session, except that members may receive the per diem and expenses authorized by this section when the Legislature is in session but in recess under the terms of a concurrent resolution, or in recess during a special session.

(3) The committee may meet at least once each month; and the chairman or director may call additional meetings at such times as they deem necessary or advisable.

(4) The Legislative Budget Office shall, upon the request of a member or member-elect of the Senate or House of Representatives, make available one (1) copy of data, reports,



fiscal information or related information submitted to the budget office by any general or special fund agency, whether submitted in support of its budget request or pursuant to any requirement of law or rule of the budget committee or office.

(5) All expenses incurred by and on behalf of the committee shall be paid from funds appropriated therefor, or from a sum to be provided in equal portion from the contingency funds of the Senate and House of Representatives or from transfers of funds as provided in Section 7-13-7.

(6) LBC shall have all powers necessary, including the power to make rules and require forms and templates, to accomplish the purposes of this act, and all other duties conferred upon it by Section 27-103-101 et seq. LBC shall direct the Legislative Budget Office to conduct variance analyses as provided for in Section 27-103-111(2). Additionally, the LBC may direct the Legislative Budget Office to perform any other analysis or report necessary and proper to carry out the purposes of this act.

SECTION 9. Section 27-103-103, Mississippi Code of 1972, is amended as follows:

27-103-103. (1) For the purpose of Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-27, the term "state general-fund agency" or "general-fund agency" shall mean any agency, department, institution, board or commission of the State of Mississippi which is supported in whole or in part by appropriation from the General Fund; but such term shall not include the Legislature.

(2) For the purposes of Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-27, the term "state special-fund agency" or "special-fund agency" shall mean any agency, department, institution, board or commission of the State of Mississippi which receives no appropriation from the General Fund, but which is supported entirely from special-fund sources,



by appropriation, or otherwise, but such term shall not include * * * the Mississippi Industries for the Blind.

(3) For the purposes of Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-27, the term "state agency" shall mean any general-fund agency or special-fund agency as defined in this section, or the Mississippi Department of Transportation, or the Division of State Aid Road Construction of the Mississippi Department of Transportation as is evident from the context wherein it is used.

(4) For the purposes of Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-27, the term "special funds" shall mean all revenues and/or income other than appropriation from the State General Fund which are received, collected by, or available for the support of or expenditure by any state general-fund agency or special-fund agency or the Mississippi Department of Transportation or the Division of State Aid Road Construction of the Mississippi Department of Transportation, whether such funds be derived from taxes or fees collected by or for such general-fund agency or special-fund agency or the State Highway Department or the Division of State Aid Road Construction of the Mississippi Department of Transportation, as the case may be, or from any other types of revenue from any other source.

(5) For the purposes of Sections 27-103-101 through 27-103-139 and 27-104-1 through 27-104-27, the term "special funds" shall include revolving funds and all funds received from the United States Government by any state general-fund agency or special-fund agency, but shall not include any revolving fund established prior to July 1, 1984, for the purpose of paying or retiring any indebtedness as is authorized by statute.

SECTION 10. Section 27-103-111, Mississippi Code of 1972, is amended as follows:



27-103-111. (1) The business of the committee and the Legislative Budget Office shall be administered by a director, who shall be appointed by the committee and who shall serve at the will and pleasure of the committee. He shall receive such compensation as may be provided by the committee and shall perform such duties as may be prescribed by this or any other statute. Subject to the approval of the committee, he shall have the authority to appoint and employ such stenographic, secretarial, clerical and technical assistants as may be necessary to perform the duties required of the committee and to fix the salaries thereof. All salaries established herein shall be subject to the approval of the committee.

(2) The Legislative Budget Office shall analyze variances between actual and targeted agency and program performance, as directed by the Legislative Budget Committee. In conducting this analysis, the Legislative Budget Office shall identify those agencies and programs whose actual performance has fallen below or exceeded their targeted performance and determine the causes of disparities between targeted and actual performance and shall determine whether performance targets should be revised or maintained. Such report shall be prepared and published by December 15 of each year and shall be known as the Budget and Performance Assessment Report. The report shall incorporate the PEER audit prepared annually as required by Section 11 of this act. The Legislative Budget Office shall consult with the staff of the PEER Committee on the implications of any findings PEER reported and their implication for the budgeting and performance measurement efforts of the state.

SECTION 11. The following shall be codified as Section 5-3-68, Mississippi Code of 1972:

5-3-68. (1) In addition to any other duties provided for in law, the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall by October 15 of each year



600 following the implementation of Sections 8 through 11 of this act,
601 conduct and release an audit of the performance measures utilized
602 in the agency appropriation bills. The audit shall inform the
603 Legislature and the executive branch of government of the internal
604 controls utilized by each agency to ensure the collection of
605 accurate, reliable information on agency performance. The audit
606 shall include recommendations for the correction of any and all
607 deficiencies found in the reporting systems and controls reviewed.
608 In this review, the PEER Committee shall also identify and report
609 instances wherein projected and actual performance of programs and
610 agencies is more or less than the targeted performance by an
611 amount of five percent (5%) or more.

612 (2) The PEER Committee shall utilize all powers provided for
613 in Section 5-3-51 et seq. necessary to carry out the purposes of
614 this section, and may contract any and all reports, or parts
615 thereof, required by this section to the Department of Audit or a
616 private contractor, if the committee determines such to be
617 appropriate.

618 (3) In instances where it considers it beneficial to the
619 improvement of the state's system of program budgeting, the
620 committee may direct the staff to report on any aspect of the
621 budgeting system and offer recommendations for its improvement.

622 **SECTION 12.** Section 5-3-59, Mississippi Code of 1972, is
623 amended as follows:

624 5-3-59. (1) The director, after giving notice to the PEER
625 Committee, while in the discharge of official duties, shall have
626 the following additional powers:

627 (a) To subpoena and examine witnesses; to require the
628 appearance of any person and the production of any paper or
629 document; to order the appearance of any person for the purpose of
630 producing any paper or document; and to issue all process
631 necessary to compel such appearance or production. When such
632 process has been served, the committee may compel obedience



thereto by the attachment of the person, papers or records subpoenaed; and if any person shall willfully refuse to appear before such committee, or answer any question posed by a member of the committee, or to produce any paper or record in obedience to any process issued by the committee and served on that person, he shall be guilty of contempt of the committee shall be * * * punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than six (6) months, or both.

(b) To administer oaths to witnesses appearing before the committee when, by a majority vote, the committee deems the administration of an oath necessary and advisable as provided by law.

(c) To determine that a witness has perjured himself by testifying falsely before the committee, and to institute penal proceedings as provided by law.

(2) (a) Whenever facts alleged to constitute contempt under paragraph (a) of subsection (1) arise, the Chairman of the PEER Committee shall certify a statement to this effect to the Attorney General or to the appropriate county prosecuting attorney who shall institute and prosecute a criminal proceeding against the accused for contempt under the provisions of this section.

(b) Any offense defined in paragraph (a) of subsection (1) shall be deemed to have been committed in any of the following counties, and the trial for the offense may take place in any of such counties:

(i) In the county where the subpoena was issued;
(ii) In the county where the offender was served with the subpoena; or

(iii) In the county where the subpoena ordered the offender to give testimony or to produce papers or other evidence.

SECTION 13. The following shall be codified as Section 5-3-70, Mississippi Code of 1972:



666 5-3-70. (1) (a) As an alternative to a criminal proceeding
667 as provided in Section 53-3-59, in any instance wherein a witness
668 fails to respond to the lawful subpoena of the PEER Committee at
669 any time or, having responded, fails to answer all lawful
670 inquiries or to turn over evidence that has been subpoenaed, the
671 committee may seek judicial enforcement of the process as provided
672 in paragraph (b) of this subsection.

673 (b) The director, in the name of the PEER Committee,
674 may file a complaint before any chancery court of the state
675 setting up such failure on the part of the witness. On the filing
676 of such a complaint, the court shall take jurisdiction of the
677 witness and the subject matter of the complaint and shall direct
678 the witness to respond to all lawful questions and to produce all
679 documentary evidence in the possession of the witness that is
680 lawfully demanded. The failure of a witness to comply with the
681 order of the court constitutes contempt of court and the court
682 shall punish the witness as provided in Section 9-1-17.

683 (c) The director, in the name of the PEER Committee,
684 may utilize the Office of the Attorney General to bring a civil
685 enforcement action or may utilize contract counsel to commence an
686 enforcement action authorized in this subsection (1).

687 (2) The provisions of this section are hereby declared to be
688 supplemental to the powers of the Legislature and of the Senate
689 and of the House of Representatives to punish for contempt, and
690 the Legislature hereby reserves to itself and to the Senate and to
691 the House of Representatives all inherent and all constitutional
692 powers to punish for contempt.

693 **SECTION 14.** Section 27-103-129, Mississippi Code of 1972, is
694 amended as follows:

695 27-103-129. (1) To enable the Legislative Budget Office to
696 prepare an annual budget, it shall have full and plenary power and
697 authority to require all general-fund and special-fund agencies
698 and the Mississippi Department of Transportation and the Division



of State Aid Road Construction of the Mississippi Department of Transportation to file a legislative appropriation request with such information and in such form and in such detail as it may deem necessary and advisable, and it shall have the further power and authority to reduce or eliminate any item or items of requested appropriation by any state agency in the * * * office's recommended budget to the Legislature. However, where any item of requested appropriation shall be so reduced or eliminated, the head of the agency involved shall have the right to appear before the appropriate legislative committee to urge a revision of the budget to restore the item reduced or eliminated. * * *

* * *

(2) All agencies enumerated in subsection (1) of this section shall include in their legislative appropriation request the following information regarding contract workers for the most recently completed fiscal year:

- (a) The name of each worker;
- (b) The specific type of services provided;
- (c) Hourly rate of compensation, or the basis for compensation if a rate other than the hourly rate is used;
- (d) Total gross salary or wages paid; and
- (e) Whether the worker is a retired member of the Public Employees' Retirement System.

(3) (a) In addition to any other information required by law, each state agency, general-fund agency and special-fund agency, as defined in Section 27-103-103, desiring to purchase any vehicle as defined by this section shall submit as part of its legislative appropriation request to the Legislative Budget Office and the Department of Finance and Administration a detailed justification for the proposed purchase. The Legislative Budget Office and the Department of Finance and Administration shall jointly prescribe the forms and formats to be used by agencies



731 making the requests. Such forms shall require, at minimum, the
732 following information:

- 733 (i) The kind of vehicle to be purchased;
- 734 (ii) The person to whom the vehicle will be
735 assigned and the employment responsibilities of that person which
736 necessitate a state-owned vehicle;
- 737 (iii) Whether the vehicle is a work vehicle or
738 passenger vehicle; and
- 739 (iv) If the vehicle is assigned to a pool and not
740 an individual, the purposes for which the pool vehicle is assigned
741 and the names of the anticipated users of the pool vehicle.

742 (b) The Legislative Budget Office and the Department of
743 Finance and Administration shall offer a recommendation to the
744 Joint Legislative Budget Committee on all agency requests for
745 vehicles. In making the recommendation, the Legislative Budget
746 Office and the Department of Finance and Administration may
747 consider break-even analyses for the kind of vehicle requested,
748 the travel patterns of the person for whom the vehicle shall be
749 acquired, and shall determine if there exist surplus vehicles in
750 the possession of other agencies that could be used as a
751 substitute for a new vehicle and why such vehicle should not be
752 used. Beginning July 1, 2007, the purchase of vehicles by an
753 agency shall be a specific line item in the agency's appropriation
754 bill.

755 (c) If an agency determines that an urgent need exists
756 for a vehicle when it is not feasible to obtain prior legislative
757 approval, the agency may make an emergency request to the Bureau
758 of Fleet Management. Any emergency determination shall be made
759 only upon the existence of extraordinary circumstances. The
760 Bureau of Fleet Management shall make a recommendation to the
761 Executive Director of the Department of Finance and Administration
762 and shall give notification of such recommendation to the
763 Lieutenant Governor, the Speaker of the House and the Chairmen of



the Senate and House of Representatives Appropriations Committees. The Executive Director of the Department of Finance and Administration shall have the final authority to approve or disapprove the emergency request. The executive director must set forth specific reasons for approval which shall be a public record. If approved and if adequate funding is available, the agency may purchase a specific vehicle to meet its specific emergency needs. The Bureau of Fleet Management shall report any emergency purchase to the Legislative Budget Office. Any such vehicle shall be subject to the same rules and regulations as provided for nonemergency vehicles.

(d) For purposes of subsections (3) and (4) of this section, the term "passenger vehicle" shall mean a vehicle used primarily in transporting agency personnel and the agency's equipment from one location to another. This term shall include only those vehicles for which a license plate or tag is required under Chapter 19, Title 27, Mississippi Code of 1972.

(e) For purposes of subsections (3) and (4) of this section, the term "work vehicle" shall mean a vehicle used primarily to perform a work assignment or task while incidentally transporting agency personnel and agency equipment from one location to another. This term shall include only those vehicles for which a license plate or tag is required under Chapter 19, Title 27, Mississippi Code of 1972.

(4) All state agencies, special-fund agencies and general-fund agencies making budget requests under the authority of this section shall include with their budget requests a report of all passenger and work vehicles in their possession. Such report shall detail the persons to whom the vehicles are assigned and the purposes for the vehicles.

(5) Subsections (3) and (4) of this section shall not apply to any vehicle assigned to a sworn officer of the Department of Public Safety and used in undercover operations.



(6) The provisions of subsections (3) and (4) of this section shall not apply to any state institution of higher learning.

(7) Beginning July 1, 2007, the purchase of wireless communication devices as defined in Section 25-53-191 by any state agency, special-fund agency or general-fund agency making budget requests under the authority of this section shall be a specific line item in the agency's appropriation bill.

SECTION 15. Section 27-103-131, Mississippi Code of 1972, is amended as follows:

27-103-131. If any officer or employee of any state agency whose duty it is to do so shall refuse or fail to file a strategic plan or a legislative appropriation request with such information and in such form and in such detail and within such time as the Legislative Budget Office may require in the exercise of its authority, the Governor, acting through the Department of Finance and Administration, shall prepare such strategic plan for the officer or employee and the expense thereof shall be personally borne by said officer or employee, and he or she shall be responsible on his or her official bond for the payment of the expense; provided that a negligently prepared strategic plan or a legislative appropriation request shall be considered as a refusal or failure under the provisions of this section. The Director of the Legislative Budget Office shall prepare and file, or cause to be prepared and filed, a legislative appropriation request for such agency, and the expense thereof shall be personally borne by said officer or employee, and he or she shall be responsible on his or her official bond for the payment of the expense; provided that a negligently prepared budget shall be considered as a refusal or failure under the provisions of this section. The records of the Legislative Budget Office and the overall budget submitted by it to the Legislature shall clearly identify and set forth all the facts relative to any agency legislative



830 appropriation request prepared by the director under the authority
831 of this section.

832 **SECTION 16.** Section 27-103-137, Mississippi Code of 1972, is
833 amended as follows:

834 27-103-137. The Joint Legislative Budget Committee (LBC)
835 shall hold such hearings as may be necessary to determine the
836 actual budget requirements of the agencies. The Department of
837 Finance and Administration and representatives of the Governor's
838 Office may be present, and, with the consent of the Chairman of
839 LBC, direct questions to representatives of any agency making a
840 presentation to LBC. The Legislative Budget Office shall prepare
841 a sufficient number of copies of its proposed legislative
842 appropriation bills and any other reports deemed appropriate by
843 LBC in order that the data contained therein will be available to
844 the members of the Legislature * * * and to each state agency on
845 or about December 15 of each year. The Legislative Budget Office
846 shall also post such information on the Internet to facilitate
847 efficient distribution of the proposed bills.

848 **SECTION 17.** Section 27-103-139, Mississippi Code of 1972, is
849 brought forward as follows:

850 27-103-139. On or before November 15 preceding each regular
851 session of the Legislature, except the first regular session of a
852 new term of office, the Governor shall submit to the members of
853 the Legislature, the Legislative Budget Office or the
854 members-elect, as the case may be, and to the executive head of
855 each state agency a balanced budget for the succeeding fiscal
856 year. The budget submitted shall be prepared in a format that
857 will include performance measurement data associated with the
858 various programs operated by each agency. The total proposed
859 expenditures in the balanced budget shall not exceed the amount of
860 estimated revenues that will be available for appropriation or use
861 during the succeeding fiscal year, including any balances that
862 will be on hand at the close of the then current fiscal year, as



determined by the revenue estimate jointly adopted by the Governor and the Legislative Budget Committee. The total proposed expenditures from the State General Fund in the balanced budget shall not exceed ninety-eight percent (98%) of the amount of general fund revenue estimate for the succeeding fiscal year, plus any unencumbered balances in general funds that will be available and on hand at the close of the then current fiscal year. However, for fiscal years 2010, 2011 and 2012 only, the total proposed expenditures from the State General Fund in the balanced budget shall not exceed one hundred percent (100%) of the amount of the general fund revenue estimate for the succeeding fiscal year, plus any unencumbered balances in general funds that will be available and on hand at the close of the then current fiscal year. The general fund revenue estimate shall be the estimate jointly adopted by the Governor and the Joint Legislative Budget Committee. Unencumbered balances in general funds that will be available and on hand at the close of the fiscal year shall not include projected amounts required to be deposited into the Working Cash-Stabilization Reserve Fund and the Education Enhancement Fund under Section 27-103-203.

The revenues used in preparing the balanced budget shall be only those revenues that will be available under the general laws of the state as they exist when the balanced budget is prepared, and shall not include any proposed revenues that would become available only after the enactment of new legislation. If the Governor has any recommendations for additional proposed expenditures or proposed revenues that are not included in his balanced budget, he shall submit those recommendations in a supplement that is separate from his balanced budget, and whenever the Governor recommends any such additional proposed expenditures, he also shall recommend proposed revenues that are sufficient to fund the additional proposed expenditures, providing specific



895 details regarding the sources and the total amount of those
896 proposed revenues.

897 The Governor may employ a budget officer for the purpose of
898 receiving information from the State Fiscal Officer and preparing
899 his recommendations on the budget. If the Governor determines
900 that information received from the State Fiscal Officer is not
901 sufficient to enable him to prepare his budget recommendations, he
902 may request an appropriation from the Legislature to provide
903 additional staff within the Governor's office for that purpose.
904 At the first regular session after his election for Governor, the
905 Governor shall submit any budget recommendations plus the required
906 revenue source recommendations no later than January 31 of that
907 year.

908 **SECTION 18.** Section 27-103-209, Mississippi Code of 1972, is
909 amended as follows:

910 27-103-209. * * *

911 (1) The Joint Legislative Budget Committee * * * shall
912 prepare a report on privatization of government programs and
913 services. The study shall analyze all areas of state government
914 with the objective of identifying programs and services that can
915 be performed by the private sector with lower cost or increased
916 efficiency. Areas of privatization shall include, but not be
917 limited to, contracting-out, competitive bidding and sale of
918 assets. In determining and comparing the costs of performance
919 between the private and public sectors, the actual costs incurred
920 in engaging in the activity shall include the cost and value of
921 labor, real estate, equipment, overhead and other direct expenses.
922 Cost-benefit analysis of current and proposed regulations shall be
923 included. Generally accepted accounting principles shall be
924 followed. Input shall be solicited from representatives of the
925 private sector. Recommendations shall be provided to the
926 Legislature and the Governor by December 15, 2012.



927 (2) The Joint Legislative Budget Committee * * * shall
928 review the adequacy of financial statements of state government
929 and fiscal control systems including legal authority and
930 methodology of the agencies that prepare public financial
931 statements and exercise control over state expenditures. The
932 review shall focus on the SAAS accounting system and its
933 development, implementation and benefits. A report by the
934 committee on its findings shall be provided to the Legislature and
935 the Governor by December 15, 2012.

936 **SECTION 19.** Section 27-103-211, Mississippi Code of 1972, is
937 amended as follows:

938 27-103-211. The total sum appropriated by the Legislature
939 from the State General Fund for any fiscal year shall not exceed
940 ninety-eight percent (98%) of the general fund revenue estimate
941 for that fiscal year developed in writing and signed by the State
942 Fiscal Officer, the Executive Director of the Legislative Budget
943 Office, the Executive Director of the Department of Revenue, the
944 State Treasurer and the State Economist and adopted by the Joint
945 Legislative Budget Committee, plus any unencumbered balances in
946 general funds that will be available and on hand at the close of
947 the then current fiscal year. The unencumbered balances in
948 general funds that will be available and on hand at the close of
949 the fiscal year shall not include projected amounts required to be
950 deposited into the Working Cash-Stabilization Reserve Fund under
951 Section 27-103-203. However, for fiscal years 2010, 2011 and 2012
952 only, the total sum appropriated by the Legislature from the State
953 General Fund shall not exceed one hundred percent (100%) of the
954 amount of the general fund revenue estimate for that fiscal year,
955 plus any unencumbered balances in general funds that will be
956 available and on hand at the close of the then current fiscal
957 year.

958 **SECTION 20.** Section 27-104-3, Mississippi Code of 1972, is
959 amended as follows:



27-104-3. In addition to other powers and duties prescribed by statute, the Department of Finance and Administration shall have the following powers and duties, with regard to fiscal management:

(a) Provide direct technical assistance and training to state agencies and departments in implementing generally accepted accounting principles, in preparing financial statements as required by law, and in management and executive development.

(b) Provide temporary administrative services in financial accounting and public administration to any state agency, department or institution upon request of the governing board of the state agency, department or institution.

(c) Prepare and issue a comprehensive reference manual or manuals of policies and procedures for each state agency and department to use, which may include chapters on purchasing, personnel, payroll, travel, chart of accounts, fund classifications, receipts, warrants, expenditures, fixed assets, property inventory, and maintaining financial records and preparing financial reports as required and prescribed by law. The manual shall be revised on a continuing basis. The manual shall be prepared and revised in consultation with the State Auditor's office.

(d) Provide assistance to any state agency in preparing its strategic plan and any portion of an agency's legislative appropriation request as needed by the agency.

(e) Provide assistance to any state agency, department or institution in collecting a fee or other valid obligation that another agency, department or institution has failed to pay to it. For purposes of this paragraph, the agency, department or institution seeking to collect the funds shall be referred to as the "creditor agency," and the agency, department or institution that has not paid the creditor agency shall be referred to as the "delinquent agency." A valid obligation may be evidenced by an



993 invoice or any other documentation as may be required by the
994 Department of Finance and Administration, hereinafter referred to
995 as the department. A creditor agency may request assistance from
996 the department, and the department may require the creditor agency
997 to furnish detailed information regarding the obligation. Upon
998 determining that the delinquent agency owes the creditor agency a
999 specific amount, the State Fiscal Officer shall pay to the
1000 creditor agency that amount out of any funds in the State Treasury
1001 to the credit of the delinquent agency. The State Fiscal Officer
1002 shall notify the creditor agency and the delinquent agency of the
1003 total amount of funds transferred. Either agency may appeal the
1004 transfer of funds or the failure to transfer funds, under rules
1005 and regulations promulgated by the department and approved by the
1006 Office of the State Auditor. The Department of Finance and
1007 Administration shall report any actions taken under this paragraph
1008 (d) to the Chairmen of the Appropriations Committees of the House
1009 of Representatives and the Senate on a quarterly basis.

1010 **SECTION 21.** Section 27-104-5, Mississippi Code of 1972, is
1011 amended as follows:

1012 27-104-5. (1) The Executive Director of the Department of
1013 Finance and Administration shall receive an annual salary to be
1014 set by the State Personnel Board, unless otherwise provided for by
1015 law. He shall devote his full time to the office and shall not
1016 pursue any other business or occupation or hold any other office
1017 of profit. The executive director (a) shall be a certified public
1018 accountant; or (b) shall possess a master's degree in business,
1019 public administration or a related field; or (c) shall have at
1020 least ten (10) years' experience in fiscal management in the
1021 private or public sector and a minimum of five (5) years'
1022 experience in a high-level management position with a documented
1023 record of management. Said qualifications shall be certified by
1024 the State Personnel Board.



1025 The executive director shall execute a bond in some surety
1026 company authorized to do business in the state, to be approved by
1027 the Governor, and filed in the Office of the Secretary of State in
1028 the penal sum of One Hundred Thousand Dollars (\$100,000.00),
1029 conditioned for the faithful and impartial discharge of the duties
1030 of his office. The premium on such bond shall be paid as provided
1031 by law out of funds appropriated to the Department of Finance and
1032 Administration.

1033 (2) The executive director shall have the following powers
1034 and responsibilities:

1035 (a) Employment of such professional, administrative,
1036 stenographic, secretarial, clerical and technical assistance as
1037 may be necessary to perform the duties and responsibilities of the
1038 department subject to the rules and regulations of the State
1039 Personnel Board;

1040 (b) Developing accurate and timely revenue forecasts;

1041 (c) Allotting appropriated funds consistent with agency
1042 appropriation;

1043 (d) Prescribing and implementing an accounting system
1044 using generally accepted accounting principles;

1045 (e) From and after October 1, 1986, preaudit and
1046 payment of funds which shall be in accordance with all laws and
1047 regulations;

1048 (f) Development and implementation of fiscal management
1049 training;

1050 (g) Development of short- and long-range planning
1051 pertaining to matters of revenue forecasting;

1052 (h) Providing assistance and expertise to state agency
1053 and institution governing bodies or other agency management,
1054 pursuant to Section 27-104-3;

1055 (i) Cooperation and coordination with the State
1056 Auditor, State Treasurer, Commissioner of Revenue, University
1057 Research Center and the Mississippi Legislature on all matters



1058 pertaining to the fiscal matters of Mississippi state
1059 government; * * *

1060 (j) The authority to establish training courses in
1061 programs for the personnel of the various governmental entities
1062 under the jurisdiction of the department. The training courses
1063 and programs shall include, but not be limited to, topics on
1064 internal control of funds, governmental accounting and financial
1065 reporting, internal auditing, and budgeting. The executive
1066 director is authorized to charge a fee from the participants of
1067 these courses and programs, which fee shall be deposited into a
1068 special fund created for these deposits. State and local
1069 governmental entities are authorized to pay such fee, and any
1070 travel expenses, out of their general funds or any available funds
1071 from which such payment is not prohibited by law; and

1072 (k) To provide support to the Office of the Governor in
1073 preparing vision statements, statements of philosophy, goals and
1074 benchmarks for governmental activity as provided for in Section 3
1075 of this act; and

1076 (l) To assist agencies in preparing strategic plans
1077 that comply with the requirements of Section 3 of this act.

1078 **SECTION 22.** Section 7-7-211, Mississippi Code of 1972, is
1079 amended as follows:

1080 7-7-211. The department shall have the power and it shall be
1081 its duty:

1082 (a) To identify and define for all public offices of
1083 the state and its subdivisions generally accepted accounting
1084 principles as promulgated by nationally recognized professional
1085 organizations and to consult with the State Fiscal Officer in the
1086 prescription and implementation of accounting rules and
1087 regulations;

1088 (b) To provide best practices, for all public offices
1089 of regional and local subdivisions of the state, systems of
1090 accounting, budgeting and reporting financial facts relating to



1091 said offices in conformity with legal requirements and with
1092 generally accepted accounting principles as promulgated by
1093 nationally recognized professional organizations; to assist such
1094 subdivisions in need of assistance in the installation of such
1095 systems; to revise such systems when deemed necessary, and to
1096 report to the Legislature at periodic times the extent to which
1097 each office is maintaining such systems, along with such
1098 recommendations to the Legislature for improvement as seem
1099 desirable;

1100 (c) To study and analyze existing managerial policies,
1101 methods, procedures, duties and services of the various state
1102 departments and institutions upon written request of the Governor,
1103 the Legislature or any committee or other body empowered by the
1104 Legislature to make such request to determine whether and where
1105 operations can be eliminated, combined, simplified and improved;

1106 (d) To postaudit each year and, when deemed necessary,
1107 preaudit and investigate the financial affairs of the departments,
1108 institutions, boards, commissions or other agencies of state
1109 government, as part of the publication of a comprehensive annual
1110 financial report for the State of Mississippi. In complying with
1111 the requirements of this paragraph, the department shall have the
1112 authority to conduct all necessary audit procedures on an interim
1113 and year-end basis;

1114 (e) To postaudit and, when deemed necessary, preaudit
1115 and investigate separately the financial affairs of (i) the
1116 offices, boards and commissions of county governments and any
1117 departments and institutions thereof and therein; (ii) public
1118 school districts, departments of education and junior college
1119 districts; and (iii) any other local offices or agencies which
1120 share revenues derived from taxes or fees imposed by the State
1121 Legislature or receive grants from revenues collected by
1122 governmental divisions of the state; the cost of such audits,
1123 investigations or other services to be paid as follows: Such part



1124 shall be paid by the state from appropriation made by the
1125 Legislature for the operation of the State Department of Audit as
1126 may exceed the sum of Thirty Dollars (\$30.00) per man hour for the
1127 services of each staff person engaged in performing the audit or
1128 other service, which sum shall be paid by the county, district,
1129 department, institution or other agency audited out of its general
1130 fund or any other available funds from which such payment is not
1131 prohibited by law.

1132 Each school district in the state shall have its financial
1133 records audited annually, at the end of each fiscal year, either
1134 by the State Auditor or by a certified public accountant approved
1135 by the State Auditor, except that, beginning with audits of fiscal
1136 year 2011 activity, the State Auditor shall conduct the audit of
1137 each school district at least once every four (4) years. If
1138 financial and personnel resources are not made available to the
1139 State Auditor for the purpose of ensuring that school districts
1140 are audited by the State Auditor at least once every four (4)
1141 years then, beginning with the audits of fiscal year 2011
1142 activity, no certified public accountant shall be selected to
1143 perform the annual audit of a school district who has audited that
1144 district for three (3) or more consecutive years previously.
1145 Certified public accountants shall be selected in a manner
1146 determined by the State Auditor. The school district shall have
1147 the responsibility to pay for the audit, including the review by
1148 the State Auditor of audits performed by certified public
1149 accountants;

1150 (f) To postaudit and, when deemed necessary, preaudit
1151 and investigate the financial affairs of the levee boards;
1152 agencies created by the Legislature or by executive order of the
1153 Governor; profit or nonprofit business entities administering
1154 programs financed by funds flowing through the State Treasury or
1155 through any of the agencies of the state, or its subdivisions; and
1156 all other public bodies supported by funds derived in part or



1157 wholly from public funds, except municipalities which annually
1158 submit an audit prepared by a qualified certified public
1159 accountant using methods and procedures prescribed by the
1160 department;

1161 (g) To make written demand, when necessary, for the
1162 recovery of any amounts representing public funds improperly
1163 withheld, misappropriated and/or otherwise illegally expended by
1164 an officer, employee or administrative body of any state, county
1165 or other public office, and/or for the recovery of the value of
1166 any public property disposed of in an unlawful manner by a public
1167 officer, employee or administrative body, such demands to be made
1168 (i) upon the person or persons liable for such amounts and upon
1169 the surety on official bond thereof, and/or (ii) upon any
1170 individual, partnership, corporation or association to whom the
1171 illegal expenditure was made or with whom the unlawful disposition
1172 of public property was made, if such individual, partnership,
1173 corporation or association knew or had reason to know through the
1174 exercising of reasonable diligence that the expenditure was
1175 illegal or the disposition unlawful. Such demand shall be
1176 premised on competent evidence, which shall include at least one
1177 (1) of the following: (i) sworn statements, (ii) written
1178 documentation, (iii) physical evidence, or (iv) reports and
1179 findings of government or other law enforcement agencies. Other
1180 provisions notwithstanding, a demand letter issued pursuant to
1181 this paragraph shall remain confidential by the State Auditor
1182 until the individual against whom the demand letter is being filed
1183 has been served with a copy of such demand letter. If, however,
1184 such individual cannot be notified within fifteen (15) days using
1185 reasonable means and due diligence, such notification shall be
1186 made to the individual's bonding company, if he or she is bonded.
1187 Each such demand shall be paid into the proper treasury of the
1188 state, county or other public body through the office of the
1189 department in the amount demanded within thirty (30) days from the



1190 date thereof, together with interest thereon in the sum of one
1191 percent (1%) per month from the date such amount or amounts were
1192 improperly withheld, misappropriated and/or otherwise illegally
1193 expended. In the event, however, such person or persons or such
1194 surety shall refuse, neglect or otherwise fail to pay the amount
1195 demanded and the interest due thereon within the allotted thirty
1196 (30) days, the State Auditor shall have the authority and it shall
1197 be his duty to institute suit, and the Attorney General shall
1198 prosecute the same in any court of the state to the end that there
1199 shall be recovered the total of such amounts from the person or
1200 persons and surety on official bond named therein; and the amounts
1201 so recovered shall be paid into the proper treasury of the state,
1202 county or other public body through the State Auditor. In any
1203 case where written demand is issued to a surety on the official
1204 bond of such person or persons and the surety refuses, neglects or
1205 otherwise fails within one hundred twenty (120) days to either pay
1206 the amount demanded and the interest due thereon or to give the
1207 State Auditor a written response with specific reasons for
1208 nonpayment, then the surety shall be subject to a civil penalty in
1209 an amount of twelve percent (12%) of the bond, not to exceed Ten
1210 Thousand Dollars (\$10,000.00), to be deposited into the State
1211 General Fund;

1212 (h) To investigate any alleged or suspected violation
1213 of the laws of the state by any officer or employee of the state,
1214 county or other public office in the purchase, sale or the use of
1215 any supplies, services, equipment or other property belonging
1216 thereto; and in such investigation to do any and all things
1217 necessary to procure evidence sufficient either to prove or
1218 disprove the existence of such alleged or suspected violations.
1219 The Department of Investigation of the State Department of Audit
1220 may investigate, for the purpose of prosecution, any suspected
1221 criminal violation of the provisions of this chapter. For the
1222 purpose of administration and enforcement of this chapter, the



1223 enforcement employees of the Department of Investigation of the
1224 State Department of Audit have the powers of a law enforcement
1225 officer of this state, and shall be empowered to make arrests and
1226 to serve and execute search warrants and other valid legal process
1227 anywhere within the State of Mississippi. All enforcement
1228 employees of the Department of Investigation of the State
1229 Department of Audit hired on or after July 1, 1993, shall be
1230 required to complete the Law Enforcement Officers Training Program
1231 and shall meet the standards of the program;

1232 (i) To issue subpoenas, with the approval of, and
1233 returnable to, a judge of a chancery or circuit court, in termtime
1234 or in vacation, to examine the records, documents or other
1235 evidence of persons, firms, corporations or any other entities
1236 insofar as such records, documents or other evidence relate to
1237 dealings with any state, county or other public entity. The
1238 circuit or chancery judge must serve the county in which the
1239 records, documents or other evidence is located; or where all or
1240 part of the transaction or transactions occurred which are the
1241 subject of the subpoena;

1242 (j) In any instances in which the State Auditor is or
1243 shall be authorized or required to examine or audit, whether
1244 preaudit or postaudit, any books, ledgers, accounts or other
1245 records of the affairs of any public hospital owned or owned and
1246 operated by one or more political subdivisions or parts thereof or
1247 any combination thereof, or any school district, including
1248 activity funds thereof, it shall be sufficient compliance
1249 therewith, in the discretion of the State Auditor, that such
1250 examination or audit be made from the report of any audit or other
1251 examination certified by a certified public accountant and
1252 prepared by or under the supervision of such certified public
1253 accountant. Such audits shall be made in accordance with
1254 generally accepted standards of auditing, with the use of an audit
1255 program prepared by the State Auditor, and final reports of such



1256 audits shall conform to the format prescribed by the State
1257 Auditor. All files, working papers, notes, correspondence and all
1258 other data compiled during the course of the audit shall be
1259 available, without cost, to the State Auditor for examination and
1260 abstracting during the normal business hours of any business day.
1261 The expense of such certified reports shall be borne by the
1262 respective hospital, or any available school district funds other
1263 than minimum program funds, subject to examination or audit. The
1264 State Auditor shall not be bound by such certified reports and
1265 may, in his or their discretion, conduct such examination or audit
1266 from the books, ledgers, accounts or other records involved as may
1267 be appropriate and authorized by law;

1268 (k) The State Auditor shall have the authority to
1269 contract with qualified public accounting firms to perform
1270 selected audits required in paragraphs (d), (e), (f) and (j) of
1271 this section, if funds are made available for such contracts by
1272 the Legislature, or if funds are available from the governmental
1273 entity covered by paragraphs (d), (e), (f) and (j). Such audits
1274 shall be made in accordance with generally accepted standards of
1275 auditing. All files, working papers, notes, correspondence and
1276 all other data compiled during the course of the audit shall be
1277 available, without cost, to the State Auditor for examination and
1278 abstracting during the normal business hours of any business day;

1279 (l) The State Auditor shall have the authority to
1280 establish training courses and programs for the personnel of the
1281 various state and local governmental entities under the
1282 jurisdiction of the Office of the State Auditor. The training
1283 courses and programs shall include, but not be limited to, topics
1284 on internal control of funds, property and equipment control and
1285 inventory, governmental accounting and financial reporting, and
1286 internal auditing. The State Auditor is authorized to charge a
1287 fee from the participants of these courses and programs, which fee
1288 shall be deposited into the Department of Audit Special Fund.



1289 State and local governmental entities are authorized to pay such
1290 fee and any travel expenses out of their general funds or any
1291 other available funds from which such payment is not prohibited by
1292 law;

1293 (m) Upon written request by the Governor or any member
1294 of the State Legislature, the State Auditor may audit any state
1295 funds and/or state and federal funds received by any nonprofit
1296 corporation incorporated under the laws of this state;

1297 (n) To conduct performance audits of personal or
1298 professional service contracts by state agencies on a random
1299 sampling basis, or upon request of the State Personal Service
1300 Contract Review Board under Section 25-9-120(3);

1301 (o) The PEER Committee may contract with the Department
1302 of Audit to assess the accuracy of reported performance measures
1303 and verify that the performance measures were produced by
1304 management systems that have adequate controls. Such contract
1305 work shall be performed in accordance with standards promulgated
1306 by the PEER Committee.

1307 **SECTION 23.** Sections 27-103-121, 27-103-123, 27-103-125 and
1308 27-103-127, Mississippi Code of 1972, which provide for the
1309 separation of the state budget into parts, shall stand repealed
1310 from and after July 1, 2013.

1311 **SECTION 24.** Sections 27-103-151, 27-103-153, 27-103-155 and
1312 27-103-157, Mississippi Code of 1972, which are the Budget and
1313 Strategic Planning Act of 1994, shall stand repealed from and
1314 after July 1, 2013.

1315 **SECTION 25.** This act shall take effect and be in force from
1316 and after July 1, 2011, provided that Sections 8 through 11, and
1317 14 through 18, 20, 21, 22, 23 and 24 shall be effective from and
1318 after July 1, 2013.

