

By: Representative Turner

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 1184

1 AN ACT TO CREATE THE "AGENCY ACCOUNTABILITY REVIEW ACT OF
2 2018"; TO REQUIRE THE MISSISSIPPI JOINT COMMITTEE ON PERFORMANCE
3 EVALUATION AND EXPENDITURE REVIEW (PEER) TO ESTABLISH AN
4 ACCOUNTABILITY REVIEW SCHEDULE OF ALL STATE AGENCIES; TO ESTABLISH
5 CRITERIA FOR PEER'S REVIEW OF STATE AGENCIES; TO REQUIRE THE
6 AGENCY UNDER REVIEW TO SUBMIT CERTAIN INFORMATION TO PEER; TO
7 EXEMPT CERTAIN AGENCIES FROM REVIEW UNDER THIS ACT; TO AMEND
8 SECTION 5-3-57, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
9 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** This act is known and may be cited as the "Agency
12 Accountability Review Act of 2018."

13 **SECTION 2.** It is the policy of the State of Mississippi to
14 provide accountability to the taxpayers by prioritizing core
15 functions of government and doing away with that which is not a
16 core function. To that end, the Agency Accountability Review Act
17 of 2018 requires the Mississippi Joint Committee on Performance
18 Evaluation and Expenditure Review (PEER) to conduct a thorough and
19 regular review of agencies as a mechanism to help evaluate
20 agencies and to determine whether they are still relevant and
21 fulfilling a necessary function of government.



22 **SECTION 3.** As used in Sections 1 through 7 of this act, the
23 following words and phrases have the meanings ascribed in this
24 section unless the context clearly indicates otherwise:

25 (a) "Agency" means state agencies, boards, commissions,
26 advisory committees and task forces created by statute or
27 administrative regulation. The term does not include any agency,
28 board, commission, advisory committee or task force created by
29 executive order.

30 (b) "PEER" means the Mississippi Joint Committee on
31 Performance Evaluation and Expenditure Review.

32 (c) "Report" means the comprehensive written document
33 published yearly which details the review of the designated
34 agencies for that year and addresses the review criteria outlined
35 in Section 5 of this act.

36 **SECTION 4.** (1) Before October 1, 2018, PEER shall establish
37 an accountability review schedule designating three (3) to five
38 (5) agencies to be reviewed every year beginning in 2019.

39 (2) On January 1, 2019, PEER shall begin conducting an
40 accountability review of the designated agencies for that year and
41 continue thereafter to review agencies according to the review
42 schedule.

43 (3) Before December 15 of each year, PEER shall conclude the
44 review of the agencies designated for that year and publish the
45 report of the review. The report shall be a public record and
46 subject to the Mississippi Public Records Act of 1983.



47 (4) The report must be delivered to members of the
48 Legislature, the Lieutenant Governor and the Governor on December
49 15 of each year and made public on December 31 of each year.

50 **SECTION 5.** (1) PEER's review of a designated agency and
51 subsequent report must consider and address the following
52 criteria:

53 (a) The efficiency and effectiveness with which the
54 agency operates;

55 (b) An identification of the mission, goals and
56 objectives intended for the agency and of the problem or need that
57 the agency was intended to address and the extent to which the
58 mission, goals and objectives have been achieved and the problem
59 or need has been addressed;

60 (c) An identification of any activities of the agency
61 in addition to those granted by statute and of the authority for
62 those activities and the extent to which those activities are
63 needed;

64 (d) The extent to which the jurisdiction of the agency
65 and the programs administered by the agency overlap or duplicate
66 those of other agencies, the extent to which the agency
67 coordinates with those agencies, and the extent to which the
68 programs administered by the agency can be consolidated with the
69 programs of other state agencies;

70 (e) The promptness and effectiveness with which the
71 agency addresses complaints concerning entities or other persons



72 affected by the agency, including an assessment of the agency's
73 administrative hearings process;

74 (f) An assessment of the agency's rulemaking process
75 and the extent to which the agency has encouraged participation by
76 the public in making its rules and decisions and the extent to
77 which the public participation has resulted in rules that benefit
78 the public;

79 (g) The extent to which the agency has complied with:

80 (i) Federal and state laws and applicable rules
81 regarding equality of employment opportunity and the rights and
82 privacy of individuals; and

83 (ii) State law and applicable rules of any state
84 agency regarding purchasing guidelines and programs for
85 historically underutilized businesses;

86 (h) The extent to which the agency issues and enforces
87 rules relating to potential conflicts of interest of its
88 employees;

89 (i) The extent to which the agency complies with public
90 records requests and responds to such requests efficiently;

91 (j) The effect of federal intervention or loss of
92 federal funds if the agency is abolished; and

93 (k) The extent to which the purpose and effectiveness
94 of reporting requirements imposed on the agency justifies the
95 continuation of the requirement.

96 (2) The report also must address and make recommendations:



97 (a) On the abolition, continuation, reorganization or
98 consolidation of each affected state agency and on the need for
99 the performance of the functions of the agency;

100 (b) To improve the operations of the agency, its policy
101 body and its advisory committees, including management
102 recommendations that do not require a change in the agency's
103 enabling statute; and

104 (c) On the continuation or abolition of each reporting
105 requirement imposed on the agency by law.

106 (3) If possible, the report must include the estimated
107 fiscal impact of its recommendations and may recommend
108 appropriation levels for certain programs to improve the
109 operations of the state agency.

110 (4) If the report cannot sufficiently address any of the
111 criteria outlined in subsections (1) through (3) of this section,
112 the report should note why it does not address the criteria.

113 **SECTION 6.** (1) On December 1 before the year during which
114 an agency is subject to review, the agency may submit to PEER:

115 (a) Information related to and addressing the criteria
116 outlined in Section 5 of this act which PEER is required to
117 consider in its review; and

118 (b) Any other information that the agency considers
119 appropriate.

120 (2) On December 1 before the year during which an agency is
121 subject to review, the agency shall submit to PEER:



122 (a) A list of all reports that the agency is required
123 by statute to prepare; and

124 (b) An evaluation of the need for each report listed in
125 paragraph (a) of this subsection based on whether factors or
126 conditions have changed since the date the statutory requirement
127 to prepare the report was enacted.

128 **SECTION 7.** Certain agencies may be exempt from review under
129 this act under the following conditions:

130 (a) In any time during the two (2) calendar years
131 before PEER is to begin review of a particular agency, the
132 Legislature passes legislation exempting an agency for a
133 particular year's review; or

134 (b) PEER may exempt an agency that has been: (i)
135 inactive for two (2) calendar years before PEER is to begin review
136 of that particular agency; or (ii) rendered inactive by an action
137 of the Legislature.

138 **SECTION 8.** Section 5-3-57, Mississippi Code of 1972, is
139 amended as follows:

140 5-3-57. The committee shall have the following powers:

141 (a) To conduct, in any manner and at any time deemed
142 appropriate, a performance evaluation of all agencies. It may
143 examine or investigate the budget, files, financial statements,
144 records, documents or other papers of the agency deemed necessary
145 by the committee.



146 (b) To conduct, in any manner and at any time deemed
147 appropriate, a review of the budget, files, financial statements,
148 records, documents or other papers, as deemed necessary by the
149 committee, of any agency; to make selected review of any funds
150 expended and programs previously projected by such agency; to
151 investigate any and all salaries, fees, obligations, loans,
152 contracts, or other agreements or other fiscal function or
153 activity of any official or employee thereof (including
154 independent contractors where necessary); and to do any and all
155 things necessary and incidental to the purposes specifically set
156 forth in this section.

157 (c) To conduct an investigation of all agencies which
158 are, in whole or in part, operated or supported by any
159 appropriation or grant of state funds, or which are, in whole or
160 in part, supported or operated by any funds derived from any
161 statewide tax, license fee, or permit fee or which collects or
162 administers any statewide tax, license fee, or permit fee by
163 whatever name called; such committee shall also have full and
164 complete authority to investigate all laws administered and
165 enforced by any such offices, departments, agencies, institutions
166 and instrumentalities, and the manner and method of the
167 administration and enforcement of such laws; to investigate any
168 evasion of any statewide tax, privilege fee or license fee; to
169 investigate all disbursements of public funds by any office,
170 agency, department, institution or instrumentality specified



171 herein; to study the present laws relative to such agencies,
172 offices, departments, institutions and instrumentalities, and the
173 laws providing for the levying or imposition and collection of any
174 state tax, privilege fee or license fee; to make recommendations
175 to the Legislature as to the correction of any imperfections,
176 inequalities or injustices found to exist in any of such laws, and
177 to do any and all things necessary and incidental to the purposes
178 herein specifically set forth. * * * The committee shall, upon
179 petition by one-half (1/2) the elected membership of either the
180 Senate or House of Representatives, perform a complete
181 investigation and audit of any agency, entity or group subject to
182 investigation or audit by passage of Sections 5-3-51 through
183 5-3-69.

184 (d) The committee, in its discretion, if it determines
185 that such action is necessary to carry out the responsibilities of
186 Sections 5-3-51 through 5-3-69, may employ an attorney or
187 attorneys to file or assist the Attorney General's office in
188 filing actions for the recovery of any funds discovered to have
189 been misused or misappropriated and to prosecute or assist in
190 prosecution of criminal violations, if any, revealed or discovered
191 in the discharging of their duties and responsibilities.

192 (e) To carry out the provisions of the Agency
193 Accountability Review Act of 2018.

194 **SECTION 9.** This act shall take effect and be in force from
195 and after July 1, 2018.

