

By: Representatives Foster, Turner, Brown,
Henley

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 1418

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; TO AMEND SECTION 25-43-3.114, MISSISSIPPI
10 CODE OF 1972, TO REQUIRE THAT ALL RULES ADOPTED UNDER THE
11 PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT SHALL
12 AUTOMATICALLY REPEAL ON DECEMBER 31 OF THE FIFTH YEAR FOLLOWING
13 THE RULE'S INITIAL ADOPTION UNLESS THE RULE HAS BEEN READOPTED AT
14 LEAST 60 DAYS BEFORE ITS SCHEDULED REPEAL; TO REQUIRE THAT BY
15 JANUARY 15 OF EACH YEAR, EACH AGENCY SHALL PROVIDE A LIST AND
16 SUMMARY OF EACH RULE SCHEDULED TO EXPIRE THAT YEAR TO THE CHAIRS
17 OF THE APPROPRIATE STANDING COMMITTEES OF THE LEGISLATURE; AND FOR
18 RELATED PURPOSES.

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

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

22 **SECTION 2.** It is the policy of the State of Mississippi to
23 provide accountability to the taxpayers by prioritizing core
24 functions of government and doing away with that which is not a
25 core function. To that end, the Agency Accountability Review Act
26 of 2018 requires the Mississippi Joint Committee on Performance



Evaluation and Expenditure Review (PEER) to conduct a thorough and regular review of agencies as a mechanism to help evaluate agencies and to determine whether they are still relevant and fulfilling a necessary function of government.

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

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

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

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

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

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



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

56 (4) The report must be delivered to members of the
57 Legislature, the Lieutenant Governor and the Governor on December
58 15 of each year and made public on December 31 of each year.

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

62 (a) The efficiency and effectiveness with which the
63 agency operates;

64 (b) An identification of the mission, goals and
65 objectives intended for the agency and of the problem or need that
66 the agency was intended to address and the extent to which the
67 mission, goals and objectives have been achieved and the problem
68 or need has been addressed;

69 (c) An identification of any activities of the agency
70 in addition to those granted by statute and of the authority for
71 those activities and the extent to which those activities are
72 needed;

73 (d) The extent to which the jurisdiction of the agency
74 and the programs administered by the agency overlap or duplicate
75 those of other agencies, the extent to which the agency
76 coordinates with those agencies, and the extent to which the



77 programs administered by the agency can be consolidated with the
78 programs of other state agencies;

79 (e) The promptness and effectiveness with which the
80 agency addresses complaints concerning entities or other persons
81 affected by the agency, including an assessment of the agency's
82 administrative hearings process;

83 (f) An assessment of the agency's rulemaking process
84 and the extent to which the agency has encouraged participation by
85 the public in making its rules and decisions and the extent to
86 which the public participation has resulted in rules that benefit
87 the public;

88 (g) The extent to which the agency has complied with:
89 (i) Federal and state laws and applicable rules
90 regarding equality of employment opportunity and the rights and
91 privacy of individuals; and

92 (ii) State law and applicable rules of any state
93 agency regarding purchasing guidelines and programs for
94 historically underutilized businesses;

95 (h) The extent to which the agency issues and enforces
96 rules relating to potential conflicts of interest of its
97 employees;

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

(a) To conduct, in any manner and at any time deemed appropriate, a performance evaluation of all agencies. It may



152 examine or investigate the budget, files, financial statements,
153 records, documents or other papers of the agency deemed necessary
154 by the committee.

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

166 (c) To conduct an investigation of all agencies which
167 are, in whole or in part, operated or supported by any
168 appropriation or grant of state funds, or which are, in whole or
169 in part, supported or operated by any funds derived from any
170 statewide tax, license fee, or permit fee or which collects or
171 administers any statewide tax, license fee, or permit fee by
172 whatever name called; such committee shall also have full and
173 complete authority to investigate all laws administered and
174 enforced by any such offices, departments, agencies, institutions
175 and instrumentalities, and the manner and method of the
176 administration and enforcement of such laws; to investigate any



177 evasion of any statewide tax, privilege fee or license fee; to
178 investigate all disbursements of public funds by any office,
179 agency, department, institution or instrumentality specified
180 herein; to study the present laws relative to such agencies,
181 offices, departments, institutions and instrumentalities, and the
182 laws providing for the levying or imposition and collection of any
183 state tax, privilege fee or license fee; to make recommendations
184 to the Legislature as to the correction of any imperfections,
185 inequalities or injustices found to exist in any of such laws, and
186 to do any and all things necessary and incidental to the purposes
187 herein specifically set forth. * * * The committee shall, upon
188 petition by one-half (1/2) the elected membership of either the
189 Senate or House of Representatives, perform a complete
190 investigation and audit of any agency, entity or group subject to
191 investigation or audit by passage of Sections 5-3-51 through
192 5-3-69.

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



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

SECTION 9. Section 25-43-3.114, Mississippi Code of 1972, is amended as follows:

25-43-3.114. At least every five (5) years, each agency shall review all of its rules to determine whether any rule should be repealed, amended or a new rule adopted. All rules adopted under the provisions of this chapter shall automatically repeal on December 31 of the fifth year following the rule's initial adoption unless the rule has been readopted at least sixty (60) days before its scheduled repeal. If a rule is readopted, the rule-making process for formulation and adoption of a rule outlined in this chapter shall be used. By January 15 of each year, each agency shall provide a list and summary of each rule scheduled to expire that year to the chairs of the appropriate standing committees of the Legislature.

SECTION 10. This act shall take effect and be in force from and after July 1, 2018.

