

By: Senator(s) Polk, Younger

To: Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2689

1 AN ACT TO AMEND SECTION 7-7-213, MISSISSIPPI CODE OF 1972, TO  
2 INCREASE THE FEE WHICH MAY BE CHARGED BY THE STATE AUDITOR FOR  
3 PERFORMING AUDITS AND OTHER SERVICES; TO AMEND SECTION 7-7-211,  
4 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 7-7-213, Mississippi Code of 1972, is  
7 amended as follows:

8 7-7-213. (1) The costs of audits and other services  
9 required by Sections 7-7-201 through 7-7-215, except for those  
10 audits and services authorized by Section 7-7-211(k) which shall  
11 be funded by appropriations made by the Legislature from such  
12 funds as it deems appropriate, shall be paid from a special fund  
13 hereby created in the State Treasury, to be known as the State  
14 Department of Audit Fund, into which will be paid each year the  
15 amounts received for performing audits required by law. Except  
16 for any municipality required under this chapter to be audited by  
17 the State Auditor, the amounts to be charged for performing audits  
18 and other services shall be the actual cost, not to exceed \* \* \*

19 Fifty Dollars (\$50.00) per man-hour plus the actual cost of any



20 independent specialist firm contracted by the State Auditor to  
21 assist in the performance of the audit. Costs paid for  
22 independent specialists or firms contracted by the State Auditor  
23 shall be paid by the audited entity \* \* \* to the specialist or  
24 firm conducting the audit as determined by the State Auditor. In  
25 the event of failure by any unit of government to pay the charges  
26 authorized herein, the Department of Audit shall notify the State  
27 Fiscal Officer, and upon a determination that the charges are  
28 substantially correct, the State Fiscal Officer shall notify the  
29 defaulting unit of his determination. If payment is not made  
30 within thirty (30) days after such notification, the State Fiscal  
31 Officer shall notify the State Treasurer and Department of Public  
32 Accounts that no further warrants are to be issued to the  
33 defaulting unit until the deficiency is paid.

34 (2) The cost of any service by the department not required  
35 of it under the provisions of the cited sections, but made  
36 necessary by the willful fault or negligence of an officer or  
37 employee of any public office of the state, shall be recovered (i)  
38 from such officer or employee and/or surety on official bond  
39 thereof and/or (ii) from the individual, partnership, corporation  
40 or association involved, in the same manner and under the same  
41 terms, when necessary, as provided the department for recovering  
42 public funds in Section 7-7-211.

43 (3) The State Auditor shall deliver a copy of any audit of  
44 the fiscal and financial affairs of a county to the chancery clerk



45 of such county and shall deliver a notice stating that a copy of  
46 such audit is on file in the chancery clerk's office to some  
47 newspaper published in the county to be published. If no  
48 newspaper is published in the county, a copy of such notice shall  
49 be delivered to a newspaper having a general circulation therein.

50 **SECTION 2.** Section 7-7-211, Mississippi Code of 1972, is  
51 amended as follows:

52 7-7-211. The department shall have the power and it shall be  
53 its duty:

54 (a) To identify and define for all public offices of  
55 the state and its subdivisions generally accepted accounting  
56 principles or other accounting principles as promulgated by  
57 nationally recognized professional organizations and to consult  
58 with the State Fiscal Officer in the prescription and  
59 implementation of accounting rules and regulations;

60 (b) To provide best practices, for all public offices  
61 of regional and local subdivisions of the state, systems of  
62 accounting, budgeting and reporting financial facts relating to  
63 said offices in conformity with legal requirements and with  
64 generally accepted accounting principles or other accounting  
65 principles as promulgated by nationally recognized professional  
66 organizations; to assist such subdivisions in need of assistance  
67 in the installation of such systems; to revise such systems when  
68 deemed necessary, and to report to the Legislature at periodic  
69 times the extent to which each office is maintaining such systems,



70 along with such recommendations to the Legislature for improvement  
71 as seem desirable;

72 (c) To study and analyze existing managerial policies,  
73 methods, procedures, duties and services of the various state  
74 departments and institutions upon written request of the Governor,  
75 the Legislature or any committee or other body empowered by the  
76 Legislature to make such request to determine whether and where  
77 operations can be eliminated, combined, simplified and improved;

78 (d) To postaudit each year and, when deemed necessary,  
79 preaudit and investigate the financial affairs of the departments,  
80 institutions, boards, commissions, or other agencies of state  
81 government, as part of the publication of a comprehensive annual  
82 financial report for the State of Mississippi, or as deemed  
83 necessary by the State Auditor. In complying with the  
84 requirements of this paragraph, the department shall have the  
85 authority to conduct all necessary audit procedures on an interim  
86 and year-end basis;

87 (e) To postaudit and, when deemed necessary, preaudit  
88 and investigate separately the financial affairs of (i) the  
89 offices, boards and commissions of county governments and any  
90 departments and institutions thereof and therein; (ii) public  
91 school districts, departments of education and junior college  
92 districts; and (iii) any other local offices or agencies which  
93 share revenues derived from taxes or fees imposed by the State  
94 Legislature or receive grants from revenues collected by



95 governmental divisions of the state; the cost of such audits,  
96 investigations or other services \* \* \* shall be paid \* \* \* in  
97 accordance with Section 7-7-213. Costs paid for independent  
98 specialists or firms contracted by the State Auditor shall be paid  
99 by the audited entity \* \* \* to the specialist or firm conducting  
100 the postaudit as determined by the State Auditor.

101 Each school district in the state shall have its financial  
102 records audited annually, at the end of each fiscal year, either  
103 by the State Auditor or by a certified public accountant approved  
104 by the State Auditor. Beginning with the audits of fiscal year  
105 2010 activity, no certified public accountant shall be selected to  
106 perform the annual audit of a school district who has audited that  
107 district for three (3) or more consecutive years previously.  
108 Certified public accountants shall be selected in a manner  
109 determined by the State Auditor. The school district shall have  
110 the responsibility to pay for the audit, including the review by  
111 the State Auditor of audits performed by certified public  
112 accountants;

113 (f) To postaudit and, when deemed necessary, preaudit  
114 and investigate the financial affairs of the levee boards;  
115 agencies created by the Legislature or by executive order of the  
116 Governor; profit or nonprofit business entities administering  
117 programs financed by funds flowing through the State Treasury or  
118 through any of the agencies of the state, or its subdivisions; and  
119 all other public bodies supported by funds derived in part or



120 wholly from public funds, except municipalities which annually  
121 submit an audit prepared by a qualified certified public  
122 accountant using methods and procedures prescribed by the  
123 department;

124 (g) To make written demand, when necessary, for the  
125 recovery of any amounts representing public funds improperly  
126 withheld, misappropriated and/or otherwise illegally expended by  
127 an officer, employee or administrative body of any state, county  
128 or other public office, and/or for the recovery of the value of  
129 any public property disposed of in an unlawful manner by a public  
130 officer, employee or administrative body, such demands to be made  
131 (i) upon the person or persons liable for such amounts and upon  
132 the surety on official bond thereof, and/or (ii) upon any  
133 individual, partnership, corporation or association to whom the  
134 illegal expenditure was made or with whom the unlawful disposition  
135 of public property was made, if such individual, partnership,  
136 corporation or association knew or had reason to know through the  
137 exercising of reasonable diligence that the expenditure was  
138 illegal or the disposition unlawful. Such demand shall be  
139 premised on competent evidence, which shall include at least one  
140 (1) of the following: (i) sworn statements, (ii) written  
141 documentation, (iii) physical evidence, or (iv) reports and  
142 findings of government or other law enforcement agencies. Other  
143 provisions notwithstanding, a demand letter issued pursuant to  
144 this paragraph shall remain confidential by the State Auditor



145 until the individual against whom the demand letter is being filed  
146 has been served with a copy of such demand letter. If, however,  
147 such individual cannot be notified within fifteen (15) days using  
148 reasonable means and due diligence, such notification shall be  
149 made to the individual's bonding company, if he or she is bonded.  
150 Each such demand shall be paid into the proper treasury of the  
151 state, county or other public body through the office of the  
152 department in the amount demanded within thirty (30) days from the  
153 date thereof, together with interest thereon in the sum of one  
154 percent (1%) per month from the date such amount or amounts were  
155 improperly withheld, misappropriated and/or otherwise illegally  
156 expended. In the event, however, such person or persons or such  
157 surety shall refuse, neglect or otherwise fail to pay the amount  
158 demanded and the interest due thereon within the allotted thirty  
159 (30) days, the State Auditor shall have the authority and it shall  
160 be his duty to institute suit, and the Attorney General shall  
161 prosecute the same in any court of the state to the end that there  
162 shall be recovered the total of such amounts from the person or  
163 persons and surety on official bond named therein; and the amounts  
164 so recovered shall be paid into the proper treasury of the state,  
165 county or other public body through the State Auditor. In any  
166 case where written demand is issued to a surety on the official  
167 bond of such person or persons and the surety refuses, neglects or  
168 otherwise fails within one hundred twenty (120) days to either pay  
169 the amount demanded and the interest due thereon or to give the



170 State Auditor a written response with specific reasons for  
171 nonpayment, then the surety shall be subject to a civil penalty in  
172 an amount of twelve percent (12%) of the bond, not to exceed Ten  
173 Thousand Dollars (\$10,000.00), to be deposited into the State  
174 General Fund;

175 (h) To investigate any alleged or suspected violation  
176 of the laws of the state by any officer or employee of the state,  
177 county or other public office in the purchase, sale or the use of  
178 any supplies, services, equipment or other property belonging  
179 thereto; and in such investigation to do any and all things  
180 necessary to procure evidence sufficient either to prove or  
181 disprove the existence of such alleged or suspected violations.  
182 The \* \* \* Division of Investigation of the State Department of  
183 Audit may investigate, for the purpose of prosecution, any  
184 suspected criminal violation of the provisions of this chapter.  
185 For the purpose of administration and enforcement of this chapter,  
186 the enforcement employees of the \* \* \* Division of Investigation  
187 of the State Department of Audit have the powers of a law  
188 enforcement officer of this state, and shall be empowered to make  
189 arrests and to serve and execute search warrants and other valid  
190 legal process anywhere within the State of Mississippi. All  
191 enforcement employees of the \* \* \* Division of Investigation of  
192 the State Department of Audit hired on or after July 1, 1993,  
193 shall be required to complete the Law Enforcement Officers  
194 Training Program and shall meet the standards of the program;





195           (i) To issue subpoenas, with the approval of, and  
196 returnable to, a judge of a chancery or circuit court, in termtime  
197 or in vacation, to examine the records, documents or other  
198 evidence of persons, firms, corporations or any other entities  
199 insofar as such records, documents or other evidence relate to  
200 dealings with any state, county or other public entity. The  
201 circuit or chancery judge must serve the county in which the  
202 records, documents or other evidence is located; or where all or  
203 part of the transaction or transactions occurred which are the  
204 subject of the subpoena;

205           (j) In any instances in which the State Auditor is or  
206 shall be authorized or required to examine or audit, whether  
207 preaudit or postaudit, any books, ledgers, accounts or other  
208 records of the affairs of any public hospital owned or owned and  
209 operated by one or more political subdivisions or parts thereof or  
210 any combination thereof, or any school district, including  
211 activity funds thereof, it shall be sufficient compliance  
212 therewith, in the discretion of the State Auditor, that such  
213 examination or audit be made from the report of any audit or other  
214 examination certified by a certified public accountant and  
215 prepared by or under the supervision of such certified public  
216 accountant. Such audits shall be made in accordance with  
217 generally accepted standards of auditing, with the use of an audit  
218 program prepared by the State Auditor, and final reports of such  
219 audits shall conform to the format prescribed by the State



220 Auditor. All files, working papers, notes, correspondence and all  
221 other data compiled during the course of the audit shall be  
222 available, without cost, to the State Auditor for examination and  
223 abstracting during the normal business hours of any business day.  
224 The expense of such certified reports shall be borne by the  
225 respective hospital, or any available school district funds other  
226 than minimum program funds, subject to examination or audit. The  
227 State Auditor shall not be bound by such certified reports and  
228 may, in his \* \* \* discretion, conduct such examination or audit  
229 from the books, ledgers, accounts or other records involved as may  
230 be appropriate and authorized by law;

231 (k) The State Auditor shall have the authority to  
232 contract with qualified public accounting firms to perform  
233 selected audits required in paragraphs (d), (e), (f) and (j) of  
234 this section, if funds are made available for such contracts by  
235 the Legislature, or if funds are available from the governmental  
236 entity covered by paragraphs (d), (e), (f) and (j). Such audits  
237 shall be made in accordance with generally accepted standards of  
238 auditing. All files, working papers, notes, correspondence and  
239 all other data compiled during the course of the audit shall be  
240 available, without cost, to the State Auditor for examination and  
241 abstracting during the normal business hours of any business day;

242 (l) The State Auditor shall have the authority to  
243 establish training courses and programs for the personnel of the  
244 various state and local governmental entities under the



245 jurisdiction of the Office of the State Auditor. The training  
246 courses and programs shall include, but not be limited to, topics  
247 on internal control of funds, property and equipment control and  
248 inventory, governmental accounting and financial reporting, and  
249 internal auditing. The State Auditor is authorized to charge a  
250 fee from the participants of these courses and programs, which fee  
251 shall be deposited into the Department of Audit Special Fund.  
252 State and local governmental entities are authorized to pay such  
253 fee and any travel expenses out of their general funds or any  
254 other available funds from which such payment is not prohibited by  
255 law;

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

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

264 (o) At the discretion of the State Auditor, the Auditor  
265 may conduct risk assessments, as well as performance and  
266 compliance audits based on Generally Accepted Government Auditing  
267 Standards (GAGAS) of any state-funded economic development program  
268 authorized under Title 57, Mississippi Code of 1972. After risk  
269 assessments or program audits, the State Auditor may conduct



270 audits of those projects deemed high-risk, specifically as they  
271 identify any potential wrongdoing or noncompliance based on  
272 objectives of the economic development program. The Auditor is  
273 granted authority to gather, audit and review data and information  
274 from the Mississippi Development Authority or any of its agents,  
275 the Department of Revenue, and when necessary under this  
276 paragraph, the recipient business or businesses or any other  
277 private, public or nonprofit entity with information relevant to  
278 the audit project. The maximum amount the State Auditor may bill  
279 the oversight agency under this paragraph in any fiscal year is  
280 One Hundred Thousand Dollars (\$100,000.00), based on reasonable  
281 and necessary expenses;

282 (p) To review and approve any independent auditor  
283 selected by the Mississippi Lottery Corporation in accordance with  
284 Section 27-115-89, to conduct an annual audit of the corporation;  
285 and

286 (q) To conduct audits or investigations of the  
287 Mississippi Lottery Corporation if in the opinion of the State  
288 Auditor conditions justify such audits or investigations.

289 **SECTION 3.** This act shall take effect and be in force from  
290 and after July 1, 2021.

