

By: Representative Bell (65th)

To: Transportation

## HOUSE BILL NO. 141

1 AN ACT TO ESTABLISH THE MISSISSIPPI TRANSIT CORPORATION; TO  
2 PROVIDE THAT THE CORPORATION SHALL PROVIDE SAFE, RELIABLE AND  
3 COST-EFFECTIVE BUS, RAIL AND LIGHT RAIL TRANSIT SERVICES FOR THE  
4 STATE; TO PROVIDE THE COMPOSITION OF THE BOARD OF DIRECTORS OF THE  
5 CORPORATION; TO PROVIDE THE POWERS AND DUTIES OF THE BOARD OF  
6 DIRECTORS OF SUCH CORPORATION; TO AMEND SECTION 7-7-211,  
7 MISSISSIPPI CODE OF 1972, TO CONFORM TO A PRECEDING SECTION; AND  
8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) There is hereby established in the executive  
11 branch of state government the Mississippi Transit Corporation, a  
12 body corporate and politic with corporate succession. The  
13 corporation is hereby allocated within the Department of  
14 Transportation, but, notwithstanding this allocation, the  
15 corporation shall be independent of any supervision or control by  
16 the department or by any body or officer thereof. The corporation  
17 is hereby constituted as an instrumentality of the state  
18 exercising public and essential governmental functions, and the  
19 exercise by the corporation of the powers conferred by this act  
20 shall be deemed and held to be an essential governmental function  
21 of the state.



(2) (a) The corporation shall be governed by a board of directors which shall consist of seventeen (17) members. The composition of the board is as follows:

(b) The Speaker of the Mississippi House of Representatives, or his designee;

(c) The Lieutenant Governor of the Senate, or his designee;

(d) The Executive Director of the Mississippi Department of Transportation;

(e) The Chairperson of the Jackson-Medgar Wiley Evers International Airport;

(f) Two (2) appointees made by the Mayor of the City of Canton, Mississippi;

(g) Two (2) appointees made by the Mayor of the City of Clinton, Mississippi;

(h) Two (2) appointees made by the Mayor of the City of Jackson, Mississippi;

(i) Two (2) appointees made by the Mayor of the City of Madison, Mississippi;

(j) Two (2) appointees made by the Mayor of the City of Meridian, Mississippi;

(k) Two (2) appointees made by the Mayor of the City of Vicksburg, Mississippi; and



(1) One (1) member who shall be a regular user of the public transit system, appointed by the Chairperson of the Commission of the Mississippi Department of Transportation.

All appointees, with the exception of the director appointed by the Executive Director of the Department of Transportation, shall each have experience as either a regular corporation motorbus regular route service rider or regular corporation rail passenger service or light rail service rider or have a professional background in passenger rail service, freight rail management, transportation capital planning, transportation and public transportation capital construction, federal transportation policy, state transportation policy, human resources management, or transportation capital finance.

(3) All public members shall serve for four (4) years staggered terms and until their successors are appointed and qualified, provided, however, that a board member shall not serve beyond the expiration of that board member's term for more than ninety (90) days following the expiration of the term unless reappointed.

(4) Each public member may be removed from office by the Governor for cause. A vacancy in the membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. The first appointments shall be for one (1), two (2), three (3) and four (4) years respectively, and thereafter for



70 terms of four (4) years as stated. The board shall annually  
71 designate a vice chairperson and secretary. The secretary need  
72 not be a member.

73 For the purposes of this subsection "experience as a regular  
74 corporation motorbus regular route service rider" includes any  
75 rider who is a regular corporation motorbus regular route service  
76 rider at the time of the member's appointment or reappointment and  
77 any rider who has been a regular corporation motorbus regular  
78 route service rider in three (3) of the seven (7) years preceding  
79 the member's appointment or reappointment. Further, "experience  
80 as a regular corporation rail passenger service or light rail  
81 service rider" includes any rider who is a regular corporation  
82 rail passenger service or light rail service rider at the time of  
83 the member's appointment or reappointment and any rider who has  
84 been a regular corporation rail passenger service or light rail  
85 service rider in three (3) of the seven (7) years preceding the  
86 member's appointment or reappointment.

87 (5) Board members shall serve without compensation, but  
88 members shall be reimbursed for actual expenses necessarily  
89 incurred in the performance of their duties.

90 (6) The Executive Director of the Department of  
91 Transportation shall serve as chairperson of the board, chair  
92 board meetings, and shall have responsibility for the scheduling  
93 and convening of all meetings of the board. In the absence of the  
94 chairperson, the vice chairperson shall chair the board meeting.



95 A designee may lawfully vote and otherwise act on behalf of the  
96 member for whom the person constitutes the designee. Any such  
97 designation shall be delivered to the board in writing and shall  
98 continue in effect until revoked or amended by a writing delivered  
99 to the board requesting such revocation and amendment.

100 (7) Nine (9) members of the board shall constitute a quorum  
101 at any meeting thereof. Actions may be taken and motions and  
102 resolutions adopted by the board at any meeting thereof by the  
103 affirmative vote of at least nine (9) members. No vacancy in the  
104 membership of the board shall impair the right of a quorum to  
105 exercise all the rights and perform all the duties of the board.

106 (8) A true copy of the minutes of every meeting of the board  
107 shall be published on the website of the corporation and available  
108 for inspection at the office of the corporation.

109 **SECTION 2.** The board meetings shall be subject to the Open  
110 Meetings Act and the board shall hold a minimum of ten (10) public  
111 board meetings per year. Public hearings held pursuant to this  
112 subsection shall not be considered public board meetings for the  
113 purposes of this subsection.

114 **SECTION 3.** (1) The board of directors of the corporation  
115 shall:

116 (a) Execute direct oversight of the corporation's  
117 executive director and other management in the effective and  
118 ethical management of the corporation, including review and  
119 approval of any quarterly changes to the schedules for motorbus



regular route service, rail passenger service, or light rail service;

(b) Understand, review, and monitor the implementation of fundamental financial and management controls and operational decisions of the corporation, including review and approval of any quarterly changes to the schedules for motorbus regular route service, rail passenger service, or light rail service;

(c) Establish policies regarding the payment of salary, compensation, and reimbursements to, and establish rules for the time and attendance of, the executive director and management consistent with state law;

(d) Adopt a code of ethics, in consultation with the chief ethics officer, applicable to each board member, officer, and employee that, at a minimum, includes the applicable standards established by state law;

(e) Require that the corporation establish written policies and procedures on personnel including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee of the corporation;

(f) Adopt a policy that provides guidelines for when it is appropriate for the chief ethics officer to forward the results and findings of a preliminary investigation conducted by the chief ethics officer to the Mississippi Ethics Commission, Office of the



Attorney General, county prosecutor's office, or any other appropriate agency for further investigation or action; and

(g) Adopt a defense and indemnification policy and disclose such plan to any and all prospective board members.

The members of the board shall perform each of their duties as board members, including, but not limited, to those imposed by this section, in good faith and with that degree of diligence, care, and skill which an ordinarily prudent person in like position would use under similar circumstances, and may take into consideration the views and policies of any elected official or body, or other person and ultimately apply independent judgment in the best interest of the corporation, its mission, and the public.

(2) At the time that a board member takes and subscribes the board member's oath of office, the board member shall execute an acknowledgement, in a form developed by the corporation, in which the board member shall, at a minimum:

(a) Acknowledge that the board member understands that a board member has a fiduciary obligation to perform duties and responsibilities to the best of the board member's abilities, in good faith and with proper diligence and care, consistent with the enabling compact, mission, and bylaws of the corporation and the applicable laws of this state; and that the fiduciary duty to the corporation is derived from and governed by its mission;

(b) Acknowledge that the board member understands the board member's duty of loyalty and care to the corporation and



169 commitment to the corporation's mission and the public interest;  
170 and the board member's obligation to act in the best interest of  
171 the corporation and the people whom the corporation serves;

172 (c) Agree that a board member has an obligation to  
173 become knowledgeable about the mission, purpose, functions,  
174 responsibilities, and statutory duties of the corporation and,  
175 when necessary, to make reasonable inquiry of management and  
176 others with knowledge and expertise so as to inform the board  
177 member's decisions;

178 (d) Agree to exercise independent judgment on all  
179 matters before the board;

180 (e) Agree not to divulge confidential discussions and  
181 confidential matters that come before the board for consideration  
182 or action;

183 (f) Agree to disclose to the board any conflicts, or  
184 the appearance of a conflict, of a personal, financial, ethical,  
185 or professional nature that could inhibit the board member from  
186 performing the board member's duties in good faith and with due  
187 diligence and care; and

188 (g) Certify that the board member does not have any  
189 interest in, financial or otherwise, direct or indirect, or engage  
190 in any business or transaction or professional activity or incur  
191 any obligation of any nature, which is in substantial conflict  
192 with the proper discharge of the board member's duties in the





public interest or as determined by the Mississippi State Ethics Commission.

(3) Individuals appointed to the board of directors shall participate in training regarding their legal, fiduciary, financial, and ethical responsibilities as directors of the corporation within six (6) months of appointment to the board. Board members shall participate in continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities, and to adhere to the highest standards of responsible governance.

(4) No board member, including the chairperson, shall serve as the corporation's executive director, chief financial officer, or hold any senior management position while serving as a member of the board.

**SECTION 4.** In addition to the powers and duties conferred upon it elsewhere in this act, the corporation may do all acts necessary and reasonably incident to carrying out the objectives of this act, including, but not in limitation thereof, the following:

- (a) Sue and be sued;
- (b) Have an official seal and alter the same at pleasure;



216 (c) Make and alter bylaws for its organization and  
217 internal management and for the conduct of its affairs and  
218 business;

219 (d) Maintain an office at such place or places within  
220 the state as it may determine;

221 (e) Adopt, amend and repeal such rules and regulations  
222 as it may deem necessary to effectuate the purposes of this act,  
223 which shall have the force and effect of law; it shall publish the  
224 same and file them in accordance with state law;

225 (f) Call to its assistance and avail itself of the  
226 service of such employees of any federal, state, county or  
227 municipality or state agency as it may require and as may be  
228 available to it for said purpose;

229 (g) Apply for, accept and expend monies from any  
230 federal, state, county or municipal agency or instrumentality and  
231 from any private source; comply with federal statutes, rules and  
232 regulations, and qualify for and receive all forms of financial  
233 assistance available under federal law to assure the continuance  
234 of, or for the support or improvement of public transportation and  
235 as may be necessary for that purpose to enter into agreements,  
236 including federally required labor protective agreements;

237 (h) Plan, design, construct, equip, operate, improve  
238 and maintain, either directly or by contract with any public or  
239 private entity, public transportation services, capital equipment  
240 and facilities or any parts or functions thereof, and other



241 transportation projects, or any parts or functions thereof, which  
242 may be funded with federal, state or local proceeds or any  
243 successor or additional federal funds having substantially the  
244 same or similar purposes or functions; the operation of the  
245 facilities of the corporation, by the corporation or any public or  
246 private entity, may include appropriate and reasonable limitations  
247 on competition in order that maximum service may be provided most  
248 efficiently to the public;

249 (i) Apply for and accept, from appropriate regulatory  
250 bodies, authority to operate public transportation services where  
251 necessary;

252 (j) Purchase, lease as lessee, or otherwise acquire,  
253 own, hold, improve, use and otherwise deal in and with real or  
254 personal property, or any interest therein, from any public or  
255 private entity, wherever situated;

256 (k) Lease as lessor, sell or otherwise dispose of on  
257 terms which the corporation may prescribe, real and personal  
258 property, including tangible or intangible property and consumable  
259 goods, or any interest therein, to any public or private entity,  
260 in the exercise of its powers and the performance of its duties  
261 under this act. In order to provide or encourage adequate and  
262 efficient public transportation service, the corporation may lease  
263 or otherwise permit the use or occupancy of property without cost  
264 or at a nominal rental;



265           (1) Restrict the rights of persons to enter upon or  
266 construct any works in or upon any property owned or leased by the  
267 corporation, except under such terms as the corporation may  
268 prescribe; perform or contract for the performance of all acts  
269 necessary for the management, maintenance and repair of real or  
270 personal property leased or otherwise used or occupied pursuant to  
271 this act;

272           (m) Establish one or more operating divisions as deemed  
273 necessary;

274           (n) Set and collect fares and determine levels of  
275 service for service provided by the corporation either directly or  
276 by contract including, but not limited to, such reduced fare  
277 programs as deemed appropriate by the corporation; revenues  
278 derived from such service may be collected by the corporation and  
279 shall be available to the corporation for use in furtherance of  
280 any of the purposes of this act;

281           (o) Set and collect rentals, fees, charges or other  
282 payments from the lease, use, occupancy or disposition of  
283 properties owned or leased by the corporation; such revenues shall  
284 be available to the corporation for use in furtherance of any of  
285 the purposes of this act;

286           (p) Deposit corporate revenues in interest bearing  
287 accounts or in the State General Fund;



288           (q) Delegate to subordinate officers of the corporation  
289 such powers and duties as the corporation shall deem necessary and  
290 proper to carry out the purposes of this act;

291           (r) Procure and enter into contracts for any type of  
292 insurance and indemnify against loss or damage to property from  
293 any cause, including loss of use and occupancy, against death or  
294 injury of any person, against employees' liability, against any  
295 act of any member, officer, employee or servant of the  
296 corporation, whether part-time, full-time, compensated or  
297 noncompensated, in the performance of the duties of his office or  
298 employment or any other insurable risk. In addition, the  
299 corporation may carry its own liability insurance and may also  
300 establish and utilize a wholly-owned insurance subsidiary or  
301 captive provided the subsidiary or captive is domiciled in the  
302 United States in a state which is accredited by the National  
303 Association of Insurance Commissioners and which licenses and  
304 regulates wholly-owned insurance subsidiaries or captives;

305           (s) Promote the use of public transportation services,  
306 coordinate ticket sales and passenger information and sell, lease  
307 or otherwise contract for advertising in or on the equipment or  
308 facilities of the corporation;

309           (t) Adopt and maintain employee benefit programs for  
310 employees of the corporation including, but not limited to,  
311 pension, deferred compensation, medical disability, and death  
312 benefits, and which programs may utilize insurance contracts,



trust funds, and any other appropriate means of providing the stipulated benefits, and may involve new plans or the continuation of plans previously established by entities acquired by the corporation;

(u) Own, control, vote, and exercise any and all other rights incidental to the ownership of any equity, membership interest, or any shares of the capital stock of any incorporated entity acquired, formed, incorporated, or established by law by the corporation pursuant to the powers granted by this act. Any such corporate entity may be utilized in order to enable the corporation to participate with other private or public entities in any transaction, memorandum of understanding, undertaking, or arrangement that the corporation would have the power to conduct by itself, whether or not such participation involves sharing or delegation of control with or to other public or private entities regarding the ownership, operation, control, and management of services, equipment or facilities. For purposes of this subsection, "corporate entity" means any business entity, including, but not limited to, any corporation, limited liability company, joint venture, limited partnership, general partnership, association of any kind, or collaborative arrangement that may be jointly owned by the corporation and any other public or private entities that provide public transportation services;

(v) Enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all



acts or things necessary, convenient or desirable for the purposes of the corporation, or to carry out any power expressly or implicitly given in this act;

(w) (i) Issue operating grant anticipation notes which shall be secured and retired from operating assistance grants or any successor or additional federal act having substantially the same or similar purposes or functions, (ii) issue capital grant anticipation notes which shall be secured and retired from capital assistance grants or any successor or additional federal act having substantially the same or similar purposes or functions; (iii) borrow money or issue general obligation bonds or notes secured by the full faith and credit of the State of Mississippi; (iv) issue revenue bonds or notes secured by operating fares or the general fund of the corporation; and (v) issue limited obligation bonds secured by a regional transit tax. As used in this paragraph, "operating grant anticipation notes" or "capital grant anticipation notes" (hereinafter referred to as "notes") means credit obligations issued in anticipation of these grants. As used in this paragraph, "general obligation bonds, limited obligation bonds and revenue bonds" (hereinafter referred to as "bonds") means securities issued for the purpose of capital improvements along with acquiring, improving, enlarging, or extending the corporation's transportation system.

The notes and bonds shall be authorized by a resolution or resolutions of the corporation, and may be issued in one or more



363 series and shall bear the date, or dates, bear interest at the  
364 rate or rates of interest per annum, be in the denomination or  
365 denominations, be in the form, carry the conversion or  
366 registration privileges, have the rank or priority, be executed in  
367 such manner as the resolution or resolutions require. The notes  
368 and bonds may be sold at public or private sale at the price or  
369 prices and in the manner that the corporation determines. The  
370 notes and bonds of the corporation, the sale or transfer thereof,  
371 and the income derived therefrom by the purchasers of the notes,  
372 shall, at all times, be free from taxation for state or local  
373 purposes, under any law of the state or any political subdivision  
374 thereof. Notes and bonds may be issued without obtaining the  
375 consent of any department, division, commission, board, bureau or  
376 agency of the state, and without any other proceedings or  
377 conditions except when secured by the general obligation of the  
378 state, the corporation shall obtain the approval of the State Bond  
379 Commission.

380       The notes and bonds shall be payable from (i) note proceeds,  
381 to the extent not disbursed to the corporation, (ii) grant  
382 payments if, as, and when received from the federal government,  
383 (iii) investment earnings on note proceeds, to the extent not  
384 disbursed to the corporation, (iv) revenues received from fares  
385 collected by the corporation, (v) regional transit tax and (vi)  
386 the general obligations of the State of Mississippi. Each note or  
387 bond shall contain on its face a statement to the effect that the





388 corporation is obligated to pay the principal thereof or the  
389 interest thereon. Neither the members of the corporation's board  
390 nor any person executing the transactions are personally liable on  
391 those notes nor are they otherwise liable for their actions;

392 (x) Enter into agreements with local government units  
393 of the state under Section 57-64-1, et. seq., and have all powers  
394 afforded to the corporation pursuant to the Regional Economic  
395 Development Act;

396 (y) Enter into agreements with a public or private  
397 entity or consortia thereof to provide for the development of  
398 demonstration projects through the use of public-private  
399 partnerships; and

400 (z) Levy and collect a regional transit tax within the  
401 service area of the corporation dedicated to the purpose of public  
402 transportation.

403 **SECTION 5.** (1) The corporation or any subsidiary thereof  
404 shall not be considered a public utility as defined under Section  
405 77-3-3.

406 (2) Before implementing the substantial curtailment or  
407 abandonment of motorbus regular route or rail passenger services,  
408 the corporation shall hold at least two (2) public hearings in the  
409 affected counties, within one-half (1/2) mile of the route and, to  
410 the extent practicable, near each terminus of the route. At least  
411 one (1) of the two (2) hearings shall take place on a state  
412 working day. Each public hearing shall be attended by at least



413 two (2) members of the corporation's board of directors. Each  
414 public hearing in an affected county shall consist of two (2)  
415 sessions, the first of which shall be for at least two (2) hours  
416 in the afternoon between 2:00 p.m. and 6:00 p.m. and the second of  
417 which shall take place in the evening in the same place and on the  
418 same day for at least two (2) hours between 6:00 p.m. and 10:00  
419 p.m.

420 (3) Before implementing any fare increase for any motorbus  
421 regular route or rail passenger services, at least ten (10) public  
422 hearings shall be held and shall be distributed geographically  
423 throughout the state. Not more than one (1) hearing shall take  
424 place in each county, and each hearing shall be located within  
425 one-quarter (1/4) mile of both a rail passenger service line and a  
426 motorbus regular route. At least half of the hearings shall take  
427 place on state working days. Each public hearing shall be  
428 attended by at least two (2) members of the corporation's board of  
429 directors. Each public hearing in an affected county shall  
430 consist of two (2) sessions, the first of which shall be for at  
431 least two (2) hours in the afternoon between 2:00 p.m. and 6:00  
432 p.m. and the second of which shall take place in the evening in  
433 the same place and on the same day for at least two (2) hours  
434 between 6:00 p.m. and 10:00 p.m.

435 (4) For the hearings required under subsections (2) and (3)  
436 of this section, notice of the hearing shall be given by the  
437 corporation at least fifteen (15) days prior to the hearing to the



governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected; the notice shall also be posted at least fifteen (15) days prior to the hearing in prominent places on the railroad cars and buses serving the routes to be affected. In addition to the public hearing, the corporation shall post, in prominent places on the railroad cars and buses serving the routes to be affected, a postal mailing address and electronic mailing address where members of the public may provide written comments to the corporation regarding the proposed fare increase or substantial curtailment or abandonment of service. The corporation shall prepare and publish a written response concerning any issue or concern raised by a member of the public at any public hearing or in any written comment provided pursuant to this subsection.

(5) Notice of its intent to discontinue, substantially curtail, or abandon any motorbus regular route service or rail passenger service shall be given by the corporation to the governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected at least forty-five (45) days prior to implementation of the change in service.

For the purposes of this subsection, "substantial curtailment" and "substantially curtail" shall include, but need not be limited to: the elimination of a motorbus regular route,



scheduled trip, or scheduled stop along a motorbus regular route or of a rail passenger service line, scheduled trip, or scheduled stop along a rail passenger service line; a reduction of thirty (30) minutes or more in the beginning or end of service for the corporation's adopted schedule or timetable for a scheduled stop along a motorbus regular route or rail passenger service line; and any change to a motorbus regular route or rail passenger service which may increase barriers to accessibility for a person with disabilities.

**SECTION 6.** (1) The State Auditor shall conduct audits of the corporation, which shall occur at least once every seventy-two (72) months in a manner that is consistent with the Government Auditing Standards for audits utilized by the United States Government Accountability Office or its successor, the first of which shall be completed within twelve (12) months of the effective date of this act and shall focus on a specific area of the corporation's operations, as determined by the State Auditor.

(2) (a) At least once every five (5) years, the corporation shall hire an independent firm to: conduct a study on the financial management practices and budget reporting practices of mass transit agencies throughout the country; and prepare a report with findings regarding the best practices for financial management and budget reporting by mass transit agencies and a comparison of those best practices with the practices and policies of the corporation.



(b) The first such report shall be issued within twenty-four (24) months of the effective date of this act. Each report shall be submitted to the Governor and the Legislature.

(3) The corporation shall adopt any best practices included in the report within six (6) months of the issuance of any report issued pursuant to subsection (b) of this section. Upon the affirmative vote of seven (7) members of the board of directors, the corporation may opt not to adopt individual policies or practices that are in line with the best practices of mass transit agencies throughout the country. If the corporation exercises this option, the corporation shall provide a detailed explanation of why adoption of that policy or practice is not in the best interest of the corporation.

**SECTION 7.** (1) The corporation, at the request of the chairperson of any standing legislative committee, as approved by the Speaker of the House or the Lieutenant Governor of the Senate as appropriate, shall be required to appear before that committee to present testimony and provide documents on any topic or subject requested by the committee and to respond to any questions by members of the committee.

(2) Unless otherwise agreed to by the chairperson of the committee, the corporation shall, at a minimum, be represented by the chairperson of the board of directors, the executive director, and the chief financial officer, and any staff deemed necessary by the chairperson of the board, executive director, or chief



financial officer to present testimony, provide documents, or respond to questions at any appearance required pursuant to this section. The chairperson of the legislative committee may require the appearance of any officer or employee of the corporation.

**SECTION 8.** (1) The corporation shall, by September 15 of each year, file with the Commissioner of Transportation, a report in such format and detail as the Commissioner may require setting forth the actual, operational, capital and financial results of the previous fiscal year, the operational, capital and financial plan for the current fiscal year and a proposed operational, capital and financial plan for the next ensuing fiscal year.

(2) On or before October 31 of each year, the corporation shall make an annual report of its activities for the preceding fiscal year to the Governor, Speaker of the House, Lieutenant Governor of the Senate and to the Chairperson of the Mississippi House of Representatives Transportation Committee and the Highways and Transportation Committee of the Mississippi Senate. Each such report shall set forth a complete operating and financial statement covering its operations and capital projects during the year. The report shall also include an account of the on-time performance of rail passenger service, including light rail service, operated by, or under contract to, the corporation, including data for each such passenger line. The report shall provide a detailed discussion of the methodology used by the corporation in measuring on-time performance. The report shall



include certain personnel information of employees of the corporation, including the average salary, number of employees in management positions, and number of employees that are not in management positions in key demographic groups, which shall include, at a minimum, race, ethnicity and gender.

(3) All records of minutes, accounts, bills, vouchers, contracts or other papers connected with or used or filed with the corporation or with any officer or employee acting on its behalf are hereby declared to be government records and shall be open to public inspection in accordance with the Open Records Act and regulations prescribed by the corporation.

(4) The corporation shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a cost of operation. The audit shall be filed within four (4) months after the close of the fiscal year of the corporation and a certified duplicate copy thereof shall be filed with the Secretary of State.

(5) Notwithstanding the provisions of any law to the contrary, the State Auditor or a legally authorized representative may examine the accounts and books of the corporation.

(6) On or before May 1 of each year, the board shall approve and the corporation shall transmit an annual proposed budget recommendation to the Chairman of the Commission of the Mississippi Department of Transportation, Speaker of the House, Lieutenant Governor of the Senate and to the Chairperson of the



Mississippi House of Representatives Transportation Committee and the Highways and Transportation Committee of the Mississippi Senate. The budget document shall be a two-year budget which covers the most recent completed fiscal year, estimated results for the fiscal year in progress, a recommendation for the fiscal year to commence, and estimated needs and projections for the following fiscal year. At a minimum, the budget shall provide detailed information in the following areas:

(a) An executive summary outlining the highlights of the budget document;

(b) A profile describing the history of the corporation and the services it provides;

(c) An analysis of regional and agency transportation trends, including a detailed ridership analysis;

(d) A synopsis of the current corporation business plan;

(e) A list of key performance indicators;

(f) A statement of current budget year assumptions regarding funding and ridership;

(g) A summary of the internal corporation budgeting process and its interaction with the statewide budgeting process;

(h) A description of the current corporation organizational structure;

(i) Detailed operating revenue and expense projections for each division within the corporation, with ten (10) year





revenue and expense trends and five (5) year revenue and expense projections;

(j) A detailed headcount analysis by the department or unit, which includes actual employee count, funded headcount, actual salary and fringe expenses, and recent employment trends; and

(k) A summary of the capital program and analysis of current capital projects for which capital funds have already been appropriated, but where the project is not yet complete, which includes the years of appropriation, amounts expended, future appropriations required to complete the project, and a brief analysis of project progress.

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

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

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

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



613 said offices in conformity with legal requirements and with  
614 generally accepted accounting principles or other accounting  
615 principles as promulgated by nationally recognized professional  
616 organizations; to assist such subdivisions in need of assistance  
617 in the installation of such systems; to revise such systems when  
618 deemed necessary, and to report to the Legislature at periodic  
619 times the extent to which each office is maintaining such systems,  
620 along with such recommendations to the Legislature for improvement  
621 as seem desirable;

622 (c) To study and analyze existing managerial policies,  
623 methods, procedures, duties and services of the various state  
624 departments and institutions upon written request of the Governor,  
625 the Legislature or any committee or other body empowered by the  
626 Legislature to make such request to determine whether and where  
627 operations can be eliminated, combined, simplified and improved;

628 (d) To postaudit each year and, when deemed necessary,  
629 preaudit and investigate the financial affairs of the departments,  
630 institutions, boards, commissions, or other agencies of state  
631 government, as part of the publication of a comprehensive annual  
632 financial report for the State of Mississippi, or as deemed  
633 necessary by the State Auditor. In complying with the  
634 requirements of this paragraph, the department shall have the  
635 authority to conduct all necessary audit procedures on an interim  
636 and year-end basis;



637           (e) To postaudit and, when deemed necessary, preaudit  
638 and investigate separately the financial affairs of (i) the  
639 offices, boards and commissions of county governments and any  
640 departments and institutions thereof and therein; (ii) public  
641 school districts, departments of education and junior college  
642 districts; and (iii) any other local offices or agencies which  
643 share revenues derived from taxes or fees imposed by the State  
644 Legislature or receive grants from revenues collected by  
645 governmental divisions of the state; the cost of such audits,  
646 investigations or other services to be paid as follows: Such part  
647 shall be paid by the state from appropriations made by the  
648 Legislature for the operation of the State Department of Audit as  
649 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour  
650 for the services of each staff person engaged in performing the  
651 audit or other service plus the actual cost of any independent  
652 specialist firm contracted by the State Auditor to assist in the  
653 performance of the audit, which sum shall be paid by the county,  
654 district, department, institution or other agency audited out of  
655 its general fund or any other available funds from which such  
656 payment is not prohibited by law. Costs paid for independent  
657 specialists or firms contracted by the State Auditor shall be paid  
658 by the audited entity through the State Auditor to the specialist  
659 or firm conducting the postaudit.

660           Each school district in the state shall have its financial  
661 records audited annually, at the end of each fiscal year, either



662 by the State Auditor or by a certified public accountant approved  
663 by the State Auditor. Beginning with the audits of fiscal year  
664 2010 activity, no certified public accountant shall be selected to  
665 perform the annual audit of a school district who has audited that  
666 district for three (3) or more consecutive years previously.  
667 Certified public accountants shall be selected in a manner  
668 determined by the State Auditor. The school district shall have  
669 the responsibility to pay for the audit, including the review by  
670 the State Auditor of audits performed by certified public  
671 accountants;

672 (f) To postaudit and, when deemed necessary, preaudit  
673 and investigate the financial affairs of the levee boards;  
674 agencies created by the Legislature or by executive order of the  
675 Governor; profit or nonprofit business entities administering  
676 programs financed by funds flowing through the State Treasury or  
677 through any of the agencies of the state, or its subdivisions; and  
678 all other public bodies supported by funds derived in part or  
679 wholly from public funds, except municipalities which annually  
680 submit an audit prepared by a qualified certified public  
681 accountant using methods and procedures prescribed by the  
682 department;

683 (g) To make written demand, when necessary, for the  
684 recovery of any amounts representing public funds improperly  
685 withheld, misappropriated and/or otherwise illegally expended by  
686 an officer, employee or administrative body of any state, county



687 or other public office, and/or for the recovery of the value of  
688 any public property disposed of in an unlawful manner by a public  
689 officer, employee or administrative body, such demands to be made  
690 (i) upon the person or persons liable for such amounts and upon  
691 the surety on official bond thereof, and/or (ii) upon any  
692 individual, partnership, corporation or association to whom the  
693 illegal expenditure was made or with whom the unlawful disposition  
694 of public property was made, if such individual, partnership,  
695 corporation or association knew or had reason to know through the  
696 exercising of reasonable diligence that the expenditure was  
697 illegal or the disposition unlawful. Such demand shall be  
698 premised on competent evidence, which shall include at least one  
699 (1) of the following: (i) sworn statements, (ii) written  
700 documentation, (iii) physical evidence, or (iv) reports and  
701 findings of government or other law enforcement agencies. Other  
702 provisions notwithstanding, a demand letter issued pursuant to  
703 this paragraph shall remain confidential by the State Auditor  
704 until the individual against whom the demand letter is being filed  
705 has been served with a copy of such demand letter. If, however,  
706 such individual cannot be notified within fifteen (15) days using  
707 reasonable means and due diligence, such notification shall be  
708 made to the individual's bonding company, if he or she is bonded.  
709 Each such demand shall be paid into the proper treasury of the  
710 state, county or other public body through the office of the  
711 department in the amount demanded within thirty (30) days from the



712 date thereof, together with interest thereon in the sum of one  
713 percent (1%) per month from the date such amount or amounts were  
714 improperly withheld, misappropriated and/or otherwise illegally  
715 expended. In the event, however, such person or persons or such  
716 surety shall refuse, neglect or otherwise fail to pay the amount  
717 demanded and the interest due thereon within the allotted thirty  
718 (30) days, the State Auditor shall have the authority and it shall  
719 be his duty to institute suit, and the Attorney General shall  
720 prosecute the same in any court of the state to the end that there  
721 shall be recovered the total of such amounts from the person or  
722 persons and surety on official bond named therein; and the amounts  
723 so recovered shall be paid into the proper treasury of the state,  
724 county or other public body through the State Auditor. In any  
725 case where written demand is issued to a surety on the official  
726 bond of such person or persons and the surety refuses, neglects or  
727 otherwise fails within one hundred twenty (120) days to either pay  
728 the amount demanded and the interest due thereon or to give the  
729 State Auditor a written response with specific reasons for  
730 nonpayment, then the surety shall be subject to a civil penalty in  
731 an amount of twelve percent (12%) of the bond, not to exceed Ten  
732 Thousand Dollars (\$10,000.00), to be deposited into the State  
733 General Fund;

734 (h) To investigate any alleged or suspected violation  
735 of the laws of the state by any officer or employee of the state,  
736 county or other public office in the purchase, sale or the use of



any supplies, services, equipment or other property belonging thereto; and in such investigation to do any and all things necessary to procure evidence sufficient either to prove or disprove the existence of such alleged or suspected violations. The Division of Investigation of the State Department of Audit may investigate, for the purpose of prosecution, any suspected criminal violation of the provisions of this chapter. For the purpose of administration and enforcement of this chapter, the enforcement employees of the Division of Investigation of the State Department of Audit have the powers of a law enforcement officer of this state, and shall be empowered to make arrests and to serve and execute search warrants and other valid legal process anywhere within the State of Mississippi. All enforcement employees of the Division of Investigation of the State Department of Audit hired on or after July 1, 1993, shall be required to complete the Law Enforcement Officers Training Program and shall meet the standards of the program;

(i) To issue subpoenas, with the approval of, and returnable to, a judge of a chancery or circuit court, in termtime or in vacation, to examine the records, documents or other evidence of persons, firms, corporations or any other entities insofar as such records, documents or other evidence relate to dealings with any state, county or other public entity. The circuit or chancery judge must serve the county in which the records, documents or other evidence is located; or where all or



part of the transaction or transactions occurred which are the subject of the subpoena;

(j) In any instances in which the State Auditor is or shall be authorized or required to examine or audit, whether preaudit or postaudit, any books, ledgers, accounts or other records of the affairs of any public hospital owned or owned and operated by one or more political subdivisions or parts thereof or any combination thereof, or any school district, including activity funds thereof, it shall be sufficient compliance therewith, in the discretion of the State Auditor, that such examination or audit be made from the report of any audit or other examination certified by a certified public accountant and prepared by or under the supervision of such certified public accountant. Such audits shall be made in accordance with generally accepted standards of auditing, with the use of an audit program prepared by the State Auditor, and final reports of such audits shall conform to the format prescribed by the State Auditor. All files, working papers, notes, correspondence and all other data compiled during the course of the audit shall be available, without cost, to the State Auditor for examination and abstracting during the normal business hours of any business day. The expense of such certified reports shall be borne by the respective hospital, or any available school district funds, subject to examination or audit. The State Auditor shall not be bound by such certified reports and may, in his or their





787 discretion, conduct such examination or audit from the books,  
788 ledgers, accounts or other records involved as may be appropriate  
789 and authorized by law;

790           (k) The State Auditor shall have the authority to  
791 contract with qualified public accounting firms to perform  
792 selected audits required in paragraphs (d), (e), (f) and (j) of  
793 this section, if funds are made available for such contracts by  
794 the Legislature, or if funds are available from the governmental  
795 entity covered by paragraphs (d), (e), (f) and (j). Such audits  
796 shall be made in accordance with generally accepted standards of  
797 auditing. All files, working papers, notes, correspondence and  
798 all other data compiled during the course of the audit shall be  
799 available, without cost, to the State Auditor for examination and  
800 abstracting during the normal business hours of any business day;

801           (l) The State Auditor shall have the authority to  
802 establish training courses and programs for the personnel of the  
803 various state and local governmental entities under the  
804 jurisdiction of the Office of the State Auditor. The training  
805 courses and programs shall include, but not be limited to, topics  
806 on internal control of funds, property and equipment control and  
807 inventory, governmental accounting and financial reporting, and  
808 internal auditing. The State Auditor is authorized to charge a  
809 fee from the participants of these courses and programs, which fee  
810 shall be deposited into the Department of Audit Special Fund.  
811 State and local governmental entities are authorized to pay such



812 fee and any travel expenses out of their general funds or any  
813 other available funds from which such payment is not prohibited by  
814 law;

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

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

823 (o) At the discretion of the State Auditor, the Auditor  
824 may conduct risk assessments, as well as performance and  
825 compliance audits based on Generally Accepted Government Auditing  
826 Standards (GAGAS) of any state-funded economic development program  
827 authorized under Title 57, Mississippi Code of 1972. After risk  
828 assessments or program audits, the State Auditor may conduct  
829 audits of those projects deemed high-risk, specifically as they  
830 identify any potential wrongdoing or noncompliance based on  
831 objectives of the economic development program. The Auditor is  
832 granted authority to gather, audit and review data and information  
833 from the Mississippi Development Authority or any of its agents,  
834 the Department of Revenue, and when necessary under this  
835 paragraph, the recipient business or businesses or any other  
836 private, public or nonprofit entity with information relevant to



837 the audit project. The maximum amount the State Auditor may bill  
838 the oversight agency under this paragraph in any fiscal year is  
839 One Hundred Thousand Dollars (\$100,000.00), based on reasonable  
840 and necessary expenses;

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

845 (q) To conduct audits or investigations of the  
846 Mississippi Lottery Corporation if, in the opinion of the State  
847 Auditor, conditions justify such audits or investigations \* \* \* ;  
848 and

849 (r) To conduct audits of the Mississippi Transit  
850 Corporation as authorized under Section 6 of this act.

851 **SECTION 10.** This act shall take effect and be in force from  
852 and after July 1, 2025.

