

By: Senator(s) Parker

To: Accountability,  
Efficiency, TransparencyCOMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2847

1       AN ACT TO REQUIRE THAT ALL STATE AGENCIES AND OFFICIALS SHALL  
2 PROVIDE THE GOVERNOR AND LEGISLATURE WITH WRITTEN NOTICE BEFORE  
3 ENTERING INTO ANY AGREED JUDGMENT, CONSENT DECREE OR OTHER  
4 SETTLEMENT OF ANY LITIGATION OR CLAIM AGAINST THE STATE IF THE  
5 SETTLEMENT WOULD REQUIRE AN EXPENDITURE IN AN AMOUNT THAT EXCEEDS  
6 \$5,000,000.00, OR WOULD IMPACT THE ADMINISTRATION OF ANY ELECTION;  
7 TO PROVIDE THAT ANY SETTLEMENT AGREEMENT SUBJECT TO THE PROVISIONS  
8 OF THIS SECTION WILL NOT GO INTO EFFECT UNTIL 30 DAYS AFTER  
9 WRITTEN NOTICE IS PROVIDED TO THE GOVERNOR AND LEGISLATURE; TO  
10 PROVIDE THAT ANY SETTLEMENT AGREEMENT THAT IS SUBJECT TO THE  
11 PROVISIONS OF THIS SECTION BUT FAILS TO PROVIDE WRITTEN NOTICE TO  
12 THE GOVERNOR AND LEGISLATURE IS VOID; TO AMEND SECTION 7-7-211,  
13 MISSISSIPPI CODE OF 1972, TO REQUIRE THE OFFICE OF THE STATE  
14 AUDITOR TO AUDIT NONPROFIT OR PROFIT ORGANIZATIONS WHO RECEIVE  
15 \$10,000,000.00 OR MORE IN STATE OR GENERAL FUNDS; TO AUTHORIZE THE  
16 AUDIT OF NONPROFIT OR PROFIT ORGANIZATIONS WHO RECEIVE LESS THAN  
17 \$10,000,000.00 IN STATE OR FEDERAL FUNDS; TO REMOVE THE AUTHORITY  
18 AND DUTY OF THE STATE AUDITOR TO INSTITUTE SUIT AGAINST A PERSON  
19 OR PERSONS WHO REFUSE, NEGLECT OR OTHERWISE FAIL TO PAY AMOUNTS  
20 DEMANDED AND THE INTEREST DUE THEREON; TO REQUIRE THAT AUDITS  
21 OUTSOURCED BY THE OFFICE OF THE STATE AUDITOR ARE FINANCIAL  
22 STATEMENT AUDITS; TO DEFINE THE TERM "FINANCIAL AFFAIRS" WITHIN  
23 THE ARTICLE PROVIDING FOR THE DEPARTMENT OF AUDIT; AND FOR RELATED  
24 PURPOSES.

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

26       SECTION 1. (1) No agency, board, commission, public officer  
27 or official of the State of Mississippi shall, without prior  
28 written notification to the Governor and the Legislature, enter

29 into any agreed judgment, consent decree or other settlement of  
30 any litigation or claim against the state if the settlement:

31 (a) Would require an expenditure in an amount that  
32 exceeds Five Million Dollars (\$5,000,000.00); or

33 (b) Would impact the administration of any election.

34 (2) For the purposes of this section, written notification  
35 to the Governor and the Legislature shall be provided on a form as  
36 prescribed by the Attorney General and delivered to the Governor  
37 and the Lieutenant Governor and Speaker of the House of  
38 Representatives on behalf of the Legislature.

39 (3) Any agreed judgment, consent decree or other settlement  
40 of any litigation or claim against the state that would require an  
41 expenditure in an amount that exceeds Five Million Dollars  
42 (\$5,000,000.00) or would impact the administration of any  
43 election, shall be subject to the provisions of this section, and  
44 shall not go into effect until thirty (30) days after written  
45 notification to the Governor and the Legislature, unless said  
46 period is waived by the Governor, Lieutenant Governor and Speaker  
47 of the House.

48 (4) Any agreed judgment, consent decree or other settlement  
49 of any litigation or claim entered into in violation of this  
50 section shall be void.

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

53           7-7-211. (1) The department shall have the power and it  
54 shall be its duty:

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

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

73           (c) To study and analyze existing managerial policies,  
74 methods, procedures, duties and services of the various state  
75 departments and institutions upon written request of the Governor,  
76 the Legislature or any committee or other body empowered by the



77 Legislature to make such request to determine whether and where  
78 operations can be eliminated, combined, simplified and improved;

102 audit or other service plus the actual cost of any independent  
103 specialist firm contracted by the State Auditor to assist in the  
104 performance of the audit, which sum shall be paid by the county,  
105 district, department, institution or other agency audited out of  
106 its general fund or any other available funds from which such  
107 payment is not prohibited by law. Costs paid for independent  
108 specialists or firms contracted by the State Auditor shall be paid  
109 by the audited entity through the State Auditor to the specialist  
110 or firm conducting the postaudit.

111        Each school district in the state shall have its financial  
112 records audited annually, at the end of each fiscal year, either  
113 by the State Auditor or by a certified public accountant approved  
114 by the State Auditor. Beginning with the audits of fiscal year  
115 2010 activity, no certified public accountant shall be selected to  
116 perform the annual audit of a school district who has audited that  
117 district for three (3) or more consecutive years previously.

118 Certified public accountants shall be selected in a manner  
119 determined by the State Auditor. The school district shall have  
120 the responsibility to pay for the audit, including the review by  
121 the State Auditor of audits performed by certified public  
122 accountants;

123                (f) To postaudit and \* \* \* preaudit and investigate the  
124 financial affairs of the levee boards; agencies created by the  
125 Legislature or by executive order of the Governor; profit or  
126 nonprofit business entities administering programs financed by



127 funds in the amount of Ten Million Dollars (\$10,000,000.00) or  
128 more flowing through the State Treasury or through any of the  
129 agencies of the state, or its subdivisions and may postaudit and  
130 preaudit profit and nonprofit business entities administering  
131 programs financed by funds in an amount less than Ten Million  
132 Dollars (\$10,000,000.00) flowing through the State Treasury or  
133 through any of the agencies of the state, or its subdivisions; and  
134 all other public bodies supported by funds derived in part or  
135 wholly from public funds, except municipalities which annually  
136 submit an audit prepared by a qualified certified public  
137 accountant using methods and procedures prescribed by the  
138 department;

139 (g) To make written demand, when necessary, for the  
140 recovery of any amounts representing public funds improperly  
141 withheld, misappropriated and/or otherwise illegally expended by  
142 an officer, employee or administrative body of any state, county  
143 or other public office, and/or for the recovery of the value of  
144 any public property disposed of in an unlawful manner by a public  
145 officer, employee or administrative body, such demands to be made  
146 (i) upon the person or persons liable for such amounts and upon  
147 the surety on official bond thereof, and/or (ii) upon any  
148 individual, partnership, corporation or association to whom the  
149 illegal expenditure was made or with whom the unlawful disposition  
150 of public property was made, if such individual, partnership,  
151 corporation or association knew or had reason to know through the



152 exercising of reasonable diligence that the expenditure was  
153 illegal or the disposition unlawful. Such demand shall be  
154 premised on competent evidence, which shall include at least one  
155 (1) of the following: (i) sworn statements, (ii) written  
156 documentation, (iii) physical evidence, or (iv) reports and  
157 findings of government or other law enforcement agencies. Other  
158 provisions notwithstanding, a demand letter issued pursuant to  
159 this paragraph shall remain confidential by the State Auditor  
160 until the individual against whom the demand letter is being filed  
161 has been served with a copy of such demand letter. If, however,  
162 such individual cannot be notified within fifteen (15) days using  
163 reasonable means and due diligence, such notification shall be  
164 made to the individual's bonding company, if he or she is bonded.  
165 Each such demand shall be paid into the proper treasury of the  
166 state, county or other public body through the office of the  
167 department in the amount demanded within thirty (30) days from the  
168 date thereof, together with interest thereon in the sum of one  
169 percent (1%) per month from the date such amount or amounts were  
170 improperly withheld, misappropriated and/or otherwise illegally  
171 expended. In the event, however, such person or persons or such  
172 surety shall refuse, neglect or otherwise fail to pay the amount  
173 demanded and the interest due thereon within the allotted thirty  
174 (30) days, \* \* \* the Attorney General shall prosecute the same in  
175 any court of the state to the end that there shall be recovered  
176 the total of such amounts from the person or persons and surety on



177 official bond named therein; and the amounts so recovered shall be  
178 paid into the proper treasury of the state, county or other public  
179 body through the State Auditor. In any case where written demand  
180 is issued to a surety on the official bond of such person or  
181 persons and the surety refuses, neglects or otherwise fails within  
182 one hundred twenty (120) days to either pay the amount demanded  
183 and the interest due thereon or to give the State Auditor a  
184 written response with specific reasons for nonpayment, then the  
185 surety shall be subject to a civil penalty in an amount of twelve  
186 percent (12%) of the bond, not to exceed Ten Thousand Dollars  
187 (\$10,000.00), to be deposited into the State General Fund;

188 (h) To investigate any alleged or suspected violation  
189 of the laws of the state by any officer or employee of the state,  
190 county or other public office in the purchase, sale or the use of  
191 any supplies, services, equipment or other property belonging  
192 thereto; and in such investigation to do any and all things  
193 necessary to procure evidence sufficient either to prove or  
194 disprove the existence of such alleged or suspected violations.

195 The Division of Investigation of the State Department of Audit may  
196 investigate, for the purpose of prosecution, any suspected  
197 criminal violation of the provisions of this chapter. For the  
198 purpose of administration and enforcement of this chapter, the  
199 enforcement employees of the Division of Investigation of the  
200 State Department of Audit have the powers of a law enforcement  
201 officer of this state, and shall be empowered to make arrests and



202 to serve and execute search warrants and other valid legal process  
203 anywhere within the State of Mississippi. All enforcement  
204 employees of the Division of Investigation of the State Department  
205 of Audit hired on or after July 1, 1993, shall be required to  
206 complete the Law Enforcement Officers Training Program and shall  
207 meet the standards of the program;

218 (j) In any instances in which the State Auditor is or  
219 shall be authorized or required to examine or audit, whether  
220 preaudit or postaudit, any books, ledgers, accounts or other  
221 records of the affairs of any public hospital owned or owned and  
222 operated by one or more political subdivisions or parts thereof or  
223 any combination thereof, or any school district, including  
224 activity funds thereof, it shall be sufficient compliance  
225 therewith, in the discretion of the State Auditor, that such  
226 examination or audit be made from the report of any audit or other

227 examination certified by a certified public accountant and  
228 prepared by or under the supervision of such certified public  
229 accountant. Such audits shall be financial statement audits which  
230 are to be made in accordance with generally accepted standards of  
231 auditing, with the use of an audit program prepared by the State  
232 Auditor, and final reports of such audits shall conform to the  
233 format prescribed by the State Auditor. All files, working  
234 papers, notes, correspondence and all other data compiled during  
235 the course of the audit shall be \* \* \* provided, without cost, to  
236 the State Auditor for examination and abstracting during the  
237 normal business hours of any business day. The expense of such  
238 certified reports shall be borne by the respective hospital, or  
239 any available school district funds, subject to examination or  
240 audit. The State Auditor shall not be bound by such certified  
241 reports and \* \* \* shall conduct such examination or audit from the  
242 books, ledgers, accounts or other records involved as may be  
243 appropriate and authorized by law;

244 (k) The State Auditor shall have the authority to  
245 contract with qualified public accounting firms to perform  
246 selected audits required in paragraphs (d), (e), (f) and (j) of  
247 this section, if funds are made available for such contracts by  
248 the Legislature, or if funds are available from the governmental  
249 entity covered by paragraphs (d), (e), (f) and (j). Such audits  
250 shall be financial statement audits which are to be made in  
251 accordance with generally accepted standards of auditing. All



252 files, working papers, notes, correspondence and all other data  
253 compiled during the course of the audit shall be \* \* \* provided,  
254 without cost, to the State Auditor for examination and abstracting  
255 during the normal business hours of any business day;

256 (1) The State Auditor shall have the authority to  
257 establish training courses and programs for the personnel of the  
258 various state and local governmental entities under the  
259 jurisdiction of the Office of the State Auditor. The training  
260 courses and programs shall include, but not be limited to, topics  
261 on internal control of funds, property and equipment control and  
262 inventory, governmental accounting and financial reporting, and  
263 internal auditing. The State Auditor is authorized to charge a  
264 fee from the participants of these courses and programs, which fee  
265 shall be deposited into the Department of Audit Special Fund.

266 State and local governmental entities are authorized to pay such  
267 fee and any travel expenses out of their general funds or any  
268 other available funds from which such payment is not prohibited by  
269 law;

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

274 (n) To conduct performance audits of personal or  
275 professional service contracts by state agencies on a random



276 sampling basis, or upon request of the State Personal Service  
277 Contract Review Board under Section 25-9-120(3);  
278 (o) At the discretion of the State Auditor, the Auditor  
279 may conduct risk assessments, as well as performance and  
280 compliance audits based on Generally Accepted Government Auditing  
281 Standards (GAGAS) of any state-funded economic development program  
282 authorized under Title 57, Mississippi Code of 1972. After risk  
283 assessments or program audits, the State Auditor may conduct  
284 audits of those projects deemed high-risk, specifically as they  
285 identify any potential wrongdoing or noncompliance based on  
286 objectives of the economic development program. The Auditor is  
287 granted authority to gather, audit and review data and information  
288 from the Mississippi Development Authority or any of its agents,  
289 the Department of Revenue, and when necessary under this  
290 paragraph, the recipient business or businesses or any other  
291 private, public or nonprofit entity with information relevant to  
292 the audit project. The maximum amount the State Auditor may bill  
293 the oversight agency under this paragraph in any fiscal year is  
294 One Hundred Thousand Dollars (\$100,000.00), based on reasonable  
295 and necessary expenses;

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

300 (q) To conduct audits or investigations of the  
301 Mississippi Lottery Corporation if, in the opinion of the State  
302 Auditor, conditions justify such audits or investigations.

303       (2) As used in this article, "financial affairs" shall mean  
304       an entity's income, expenses, assets, liabilities, and recent  
305       financial transactions.

306       **SECTION 3.** This act shall take effect and be in force from  
307       and after July 1, 2025.

