

HB485 INTRODUCED



1 HB485
2 NK4HJTT-1
3 By Representative Kiel
4 RFD: State Government
5 First Read: 23-Apr-24



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SYNOPSIS:

Under existing law, the State Auditor is an elected position in the executive branch responsible for monitoring the accounts and records of the Department of Finance and the State Treasurer and maintaining property records of all state-owned, nonconsumable property.

This bill would require property managers of state agencies to report loss or theft of certain state property in certain circumstances.

This bill would create a new Division of Investigations within the Office of the State Auditor to investigate the loss, theft, or damage of certain state property and to demand repayment for the value of lost, stolen, or damaged property due to an act of negligence.

This bill would authorize the Attorney General to bring civil actions for cases of negligent loss or damage of state property.

This bill would authorize the State Auditor to refer to the Attorney General or an applicable district attorney any matter where there is a reasonable belief that a criminal violation has occurred.

This bill would also make nonsubstantive, technical revisions to update the existing code



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29 language to current style.

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A BILL

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TO BE ENTITLED

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AN ACT

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36 Relating to the State Auditor; to amend Sections
37 36-16-1, 36-16-3, 36-16-6, 36-16-8, 36-16-10, and 36-16-11 of
38 the Code of Alabama 1975; to add Section 36-16-1.1 to the Code
39 of Alabama 1975; to provide further for the duties and
40 authorities of the State Auditor; to create a Division of
41 Investigations within the Office of the State Auditor and
42 authorize the division to carry out certain investigations and
43 make referrals to the Attorney General or district attorneys;
44 to authorize the Attorney General to bring civil actions to
45 recover amounts in certain circumstances; to update the code
46 to reflect changes in practices and powers granted to the
47 State Auditor; and to make nonsubstantive, technical revisions
48 to update the existing code language to current style.

49 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

50 Section 1. Sections 36-16-1, 36-16-3, 36-16-6, 36-16-8,
51 36-16-10, and 36-16-11, Code of Alabama 1975, are amended to
52 read as follows:

53 "§36-16-1

54 (a) The ~~sole powers, functions and~~ duties of the State
55 Auditor shall ~~be as follows~~ include all of the following:

56 (1) Those enumerated in the constitution~~r~~.



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57 (2) ~~The keeping of~~ To keep a seal with the devise, "The
58 State of Alabama, Auditor's Office~~;~~."

59 ~~(3) If the Treasurer, in the event of his resignation
60 or removal, fails to comply with the provisions of this code,
61 or if he dies or absconds, the stating of his account in the
62 presence of any person attending on the part of such late
63 Treasurer and the delivering of the books, papers and moneys
64 belonging to the Treasury to his successor, taking his receipt
65 for the same, and recording and filing such receipts and
66 statement and reporting the same to the next Legislature;~~

67 ~~(4) The postauditing of the accounts and records of the
68 Department of Finance and the Treasurer;~~

69 ~~(5)~~ (3) ~~The serving~~ To serve on the boards and
70 commissions of which he or she is by law an ex officio member~~;~~
71 and.

72 ~~(6) The making of a full and complete report to the
73 Governor at the close of each fiscal year showing the audited
74 receipts and disbursements of the government for the last
75 completed fiscal year, as required by the constitution and as
76 shown by the records and documents in the office of the
77 Department of Finance, which records shall be audited by him.
78 The report shall also include the results of his audit of all
79 taxes and revenues collected and paid into the Treasury and
80 shall give the results of all other audits made by him. The
81 report shall be printed and bound with, and as a part of, the
82 annual financial report of the state prepared by the
83 Department of Finance. The Auditor shall make reports oftener
84 upon, and matters pertaining to, his office if required by the~~



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85 ~~Governor or the Legislature.~~

86 (b) In the event the State Treasurer resigns or is
87 removed from office, fails to comply with this chapter, or
88 dies or leaves office for any reason, the successor to the
89 treasurer shall submit a detailed report regarding the
90 transfer of duties to the successor during the next
91 legislative session following the transfer.

92 (c) Notwithstanding any law to the contrary, the Office
93 of the State Auditor may do any of the following:

94 (1) Not more frequently than once every four calendar
95 years, beginning October 1, 2024, adjust the threshold value
96 of state property that must be inventoried pursuant to this
97 chapter to reflect the cumulative change in the Consumer Price
98 Index, as published by the United States Department of Labor,
99 rounded to the nearest one hundred dollars (\$100). The State
100 Auditor shall notify property managers described in Section
101 36-16-8 of the adjusted threshold value at least 90 days prior
102 to the effective date of the adjusted threshold value, and the
103 adjusted threshold values shall apply only to property
104 acquired after that effective date. Notwithstanding the
105 foregoing, property managers, upon written request from the
106 head of the department or agency and approval by the State
107 Auditor, may make a complete inventory of all used and
108 acquired property reflecting the adjusted threshold value if
109 doing so is determined to be in the best interest of the
110 department or agency.

111 (2) Investigate loss or damage to state property as
112 further provided in Section 36-16-1.1."



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113 "§36-16-3

114 The State Auditor may employ a ~~chief clerk~~chief of
115 staff, whose employment shall be at the pleasure of the State
116 Auditor. Subject to the provisions of the Merit System, ~~he the~~
117 chief of staff may employ principal accountants, account
118 clerks, and ~~senior stenographers~~other clerical staff."

119 "§36-16-6

120 The official acts of the ~~chief clerk~~chief of staff
121 shall be presumed to be by the authority of, and shall be
122 taken as done by, the State Auditor, who shall be responsible
123 for the same."

124 "§36-16-8

125 (a) As used in this section, "threshold value" means a
126 value of five hundred dollars (\$500) or the threshold amount
127 adjusted by the State Auditor pursuant to Section
128 36-16-1(b)(1).

129 (b) The Property Inventory Control Division shall
130 establish a control in the following manner of all
131 nonconsumable state personal property not exempt under Section
132 36-16-11~~7~~:

133 (1) The head of each department or agency of the state
134 shall designate one of its employees as property manager for
135 the department or agency. Except for books, the property
136 manager shall make a full and complete inventory of all
137 nonconsumable personal property and certain other items of
138 personal property deemed sufficiently important or sensitive
139 ~~enough~~ by the Property Inventory Control Division to be
140 included in the inventory of state property ~~of the value of~~



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141 ~~five hundred dollars (\$500) or more~~ that meets or exceeds the
142 threshold value owned by the state and used or acquired by the
143 department or agency. The inventory shall show the complete
144 description, manufacturer's serial number, cost price, date of
145 purchase, location, ~~and~~ custodial agency, responsible officer,
146 or employee, and the state property control marking. A copy of
147 the inventory shall be submitted to the Property Inventory
148 Control Division on October 1 and April 1 of each year for
149 small agencies with read-only access to Asset Works or similar
150 electronic reporting system used by the Office of the State
151 Auditor. Each inventory shall show all property acquired since
152 the date of the last inventory. When any inventory fails to
153 show any property shown on the previous inventory, ~~then~~ a
154 complete explanation accounting for the property or the
155 disposition thereof shall be attached to the inventory and
156 submitted to the Property Inventory Control Division. All
157 property managers shall keep at all times in their files a
158 copy of all inventories submitted to the Property Inventory
159 Control Division, and the copies shall be subject to
160 examination by any and all state auditors or employees of the
161 Department of Examiners of Public Accounts.

162 (2) Each property manager shall be the custodian of,
163 and responsible for, all property in his or her department or
164 agency. When any property is entrusted to other employees or
165 officers of the department or agency, the property manager
166 shall require a written receipt of the property so entrusted,
167 ~~which~~ The receipt shall be ~~executed~~ signed by the ~~person~~
168 individual receiving the property. In that event, the property



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169 manager shall be relieved of responsibility of the property,
170 and the employee or officer of the department or agency shall
171 be responsible for the property.

172 (3) No property, except property being transferred to
173 the Department of Archives and History under Section 41-6-10,
174 shall be disposed of, transferred, assigned, or entrusted to
175 any other department, agency, or employee thereof without the
176 written permission of ~~the~~ any of the following or his or her
177 designee:

178 a. The Director of the Alabama Department of Economic
179 and Community Affairs, Surplus Property Division ~~or the.~~

180 b. The Governor ~~of the State of Alabama or the designee~~
181 ~~of either of them.~~

182 c. The Chief of the Property Inventory Control Division
183 of the Office of the State Auditor.

184 (4)a. Each property manager shall report to the Office
185 of the State Auditor, on a form and in a manner prescribed by
186 the State Auditor, the loss or theft of any property required
187 to be inventoried pursuant to this section not more than 30
188 days after the property manager learns of the loss or theft.

189 b. The Property Inventory Control Division shall report
190 the loss or theft to the Division of Investigations, in a
191 manner prescribed by the State Auditor, and provide a brief
192 summary detailing the circumstances surrounding the loss,
193 regardless of whether the loss or theft was marked
194 "non-negligent."

195 ~~(4)~~ (5) Biannually, Every two years, the Property
196 Inventory Control Division shall conduct an inventory of all



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197 ~~such~~ state personal property, excluding historical materials
198 in the custody of the Department of Archives and History,
199 holding every officer or employee strictly accountable for all
200 personal property assigned to his or her custody.

201 ~~(5)~~ (6) No later than November 30 of each new fiscal
202 year, the State Auditor shall report in writing to the
203 Governor all losses and missing items of state property ~~valued~~
204 ~~at more than five hundred dollars (\$500)~~ that meet or exceed
205 the threshold value as revealed by the most recent inventory
206 of state personal property. No later than November 30 of each
207 fiscal year, the State Auditor shall publish on the website of
208 the Office of the State Auditor the Annual Production Report
209 and Losses Reports for the prior fiscal year. Quarterly Losses
210 Reports shall be published on the website within 30 days of
211 the close of each quarter.

212 ~~(6)~~ (7) Whenever any property manager ceases for any
213 reason to be the property manager of his or her department or
214 agency, the director of the department or agency, or the
215 supervisor of the property manager, shall immediately notify
216 in writing the Property Inventory Control Division. The
217 division shall immediately check the inventories of all
218 property assigned to the property manager in the department or
219 agency, and the successor to the property manager shall
220 execute a written receipt for all property received by him or
221 her or coming into his or her custody or control. ~~The last~~
222 ~~payment of salary due the property manager shall be withheld~~
223 ~~until a complete check of the inventory of the property has~~
224 ~~been made and approved.~~ In the event of any shortages, the



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225 property manager ~~shall~~may be held strictly accountable based
226 on internal agency written procedures. Notwithstanding the
227 foregoing, the property manager shall not be held accountable
228 for property entrusted to any other employee or officer of the
229 department or agency and for which he or she holds the written
230 receipt of the employee or officer.

231 (c) The State Auditor or, if delegated by the State
232 Auditor, the Chief of the Property Inventory Control Division,
233 may review and analyze the internal policies relating to the
234 inventorying of state property of a state department, office,
235 bureau, board, or agency to ensure that state property is
236 being properly inventoried. Upon receiving a written request
237 from the State Auditor, a property manager shall submit the
238 internal policies to the State Auditor for review."

239 "§36-16-10

240 (a) The Chief of the Property Inventory Control
241 Division shall have the authority to carry out ~~the provisions~~
242 ~~of~~ Sections 36-16-8 through 36-16-11, and shall require that
243 each department, office, bureau, board, or agency of the state
244 carry out fully ~~the provisions of~~ Sections 36-16-8 through
245 36-16-11 applicable to ~~such~~ the department, office, bureau,
246 board, or agency.

247 (b) In the event the Chief of the Property Inventory
248 Control Division neglects to perform the duties imposed upon
249 him or her by Sections 36-16-8 through 36-16-11, the State
250 Auditor shall report such neglect to the ~~personnel board~~ State
251 Personnel Board, ~~which and the~~ board shall administer ~~such~~
252 disciplinary action against the chief of the division,



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253 including the right to discharge him or her, as the board
254 deems proper under the circumstances.

255 (c) In the event the head of any department or officer
256 in charge of any office, bureau, board, or agency of the state
257 neglects to perform the duties imposed upon him or her by
258 Sections 36-16-8 through 36-16-11, he or she shall be liable
259 ~~for the sum of \$5.00~~ in the amount of five dollars (\$5) for
260 each day ~~such~~ the neglect continues and for the value of ~~any~~
261 ~~and~~ all personal property losses to the state as a result of
262 ~~such~~ the neglect."

263 "§36-16-11

264 There is ~~hereby expressly~~ exempt from Sections 36-16-8
265 to 36-16-10, inclusive, all ~~livestock,~~ of the following:

266 (1) Livestock, animals, and farm and agricultural
267 products.

268 (2) ~~and property~~ Property owned or used by, or in
269 connection with, or under the control of, ~~all public schools,~~
270 ~~universities, colleges, trade schools, Alabama Institute for~~
271 ~~Deaf and Blind, State Library Service, and all~~ any public
272 preK-12 school, state preK-12 school, or two-year or four-year
273 public institution of higher education.

274 (3) Property owned or used by, or in connection with or
275 under the control of, any facility owned or operated by the
276 Department of Mental Health which provides mental health or
277 psychiatric care services.

278 (4) Any fire control or fire rescue equipment acquired
279 by the Alabama Forestry Commission from sources other than
280 state agencies and subsequently donated to volunteer fire



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281 departments pursuant to Section 9-3-19; ~~provided, Sections~~
282 ~~36-16-8 to 36-16-10, inclusive, shall not apply to the Alabama~~
283 ~~hospitals for the insane and the Partlow State School and~~
284 ~~Hospital."~~

285 Section 2. Section 36-16-1.1 is added to the Code of
286 Alabama 1975, to read as follows:

287 §36-16-1.1

288 (a) For purposes of this section, the term "state
289 property" refers to any state property that meets or exceeds
290 the threshold value, as defined in Section 36-16-8.

291 (b) There is created within the Office of State Auditor
292 the Division of Investigations which shall be responsible for
293 carrying out investigations described in this section. The
294 division may initiate an investigation upon a request of the
295 State Auditor or the Property Inventory Control Division or,
296 upon receiving notice, whether through its website or through
297 another channel of communication, of acts of negligence in the
298 loss, theft, or damage of state property.

299 (c) (1) The Division of Investigation may investigate
300 any instance of lost, stolen, or damaged state property,
301 including instances where marked as "non-negligent" by the
302 custodial agency. If in carrying out a full investigation,
303 including the procuring of evidence, the division confirms
304 that the loss, theft, or damage was not negligent, the
305 division shall issue a finding of "non-negligence."

306 (2) If the division finds that the loss, theft, or
307 damage was caused by negligence or willful neglect, the State
308 Auditor may compel the offending public official or public



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309 employee to pay the value of the lost, stolen, or damaged
310 property, and if such amount is not recovered, the State
311 Auditor shall certify the facts and amount due to the Attorney
312 General. The Attorney General may bring civil action in the
313 name of the state against the employee.

314 (d) Governmental entities, including any agency or
315 board of the state or political subdivision thereof that is
316 audited by the State Auditor, shall cooperate with and provide
317 assistance to the Division of Investigations by providing
318 necessary information to allow the division to carry out its
319 investigations in a timely manner.

320 (e) The Division of Investigations shall refer to the
321 Attorney General or the appropriate district attorney any
322 matter where there is a reasonable belief that a criminal
323 violation has occurred.

324 Section 3. This act shall become effective on October
325 1, 2024.