

**SB274 INTRODUCED**



1 SB274  
2 MALC11W-1  
3 By Senators Jones, Gudger, Givhan, Melson, Shelnuttt, Stutts  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 02-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;~~ In  
67 the event the State Treasurer resigns or is removed from  
68 office, fails to comply with this code, or dies or leaves  
69 office for any reason, to deliver the books, papers, and  
70 monies belonging to the State Treasurer to his or her  
71 successor, record and file any receipts and statements  
72 relating to the transfer, and submit a comprehensive report on  
73 the transfer to the Legislature during the next legislative  
74 session.

75 ~~(4) The postauditing of the accounts and records of the~~  
76 ~~Department of Finance and the Treasurer;~~

77 ~~(5)~~ (4) ~~The serving~~ To serve on the boards and  
78 commissions of which he or she is by law an ex officio member~~;~~  
79 ~~and.~~

80 ~~(6) The making of a full and complete report to the~~  
81 ~~Governor at the close of each fiscal year showing the audited~~  
82 ~~receipts and disbursements of the government for the last~~  
83 ~~completed fiscal year, as required by the constitution and as~~  
84 ~~shown by the records and documents in the office of the~~



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85 ~~Department of Finance, which records shall be audited by him.~~  
86 ~~The report shall also include the results of his audit of all~~  
87 ~~taxes and revenues collected and paid into the Treasury and~~  
88 ~~shall give the results of all other audits made by him. The~~  
89 ~~report shall be printed and bound with, and as a part of, the~~  
90 ~~annual financial report of the state prepared by the~~  
91 ~~Department of Finance. The Auditor shall make reports oftener~~  
92 ~~upon, and matters pertaining to, his office if required by the~~  
93 ~~Governor or the Legislature.~~

94 (b) Notwithstanding any law to the contrary, the Office  
95 of the State Auditor may do any of the following:

96 (1) No more frequently than once every two calendar  
97 years, adjust the threshold value of state property that must  
98 be inventoried pursuant to this chapter to reflect the  
99 cumulative change in the Consumer Price Index, as published by  
100 the United States Department of Labor, rounded to the nearest  
101 five dollars (\$5). The State Auditor shall notify property  
102 managers described in Section 36-16-8 of the adjusted  
103 threshold value at least 90 days prior to the effective date  
104 of the adjusted threshold value.

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

107 "§36-16-3

108 The State Auditor may employ a ~~chief clerk~~chief of  
109 staff, whose employment shall be at the pleasure of the State  
110 Auditor. Subject to the provisions of the Merit System, ~~he the~~  
111 chief of staff may employ principal accountants, account  
112 clerks, ~~and senior stenographers~~other clerical staff."



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113           "§36-16-6

114           The official acts of the ~~chief clerk~~ chief of staff  
115 shall be presumed to be by the authority of, and shall be  
116 taken as done by, the State Auditor, who shall be responsible  
117 for the same."

118           "§36-16-8

119           (a) As used in this section, "threshold value" means a  
120 value of five hundred dollars (\$500) or the threshold amount  
121 adjusted by the State Auditor pursuant to Section  
122 36-16-1(b) (1).

123           (b) The Property Inventory Control Division shall  
124 establish a control in the following manner of all  
125 nonconsumable state personal property not exempt under Section  
126 36-16-11-:

127           (1) The head of each department or agency of the state  
128 shall designate one of its employees as property manager for  
129 the department or agency. Except for books, the property  
130 manager shall make a full and complete inventory of all  
131 nonconsumable personal property and certain other items of  
132 personal property deemed sufficiently important or sensitive  
133 ~~enough~~ by the Property Inventory Control Division to be  
134 included in the inventory of state property ~~of the value of~~  
135 ~~five hundred dollars (\$500) or more~~ that meets or exceeds the  
136 threshold value owned by the state and used or acquired by the  
137 department or agency. The inventory shall show the complete  
138 description, manufacturer's serial number, cost price, date of  
139 purchase, location, ~~and~~ custodial agency, responsible officer,  
140 or employee, and the state property control marking. A copy of



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141 the inventory shall be submitted to the Property Inventory  
142 Control Division on October 1 and April 1 of each year for  
143 small agencies with read-only access to Asset Works or similar  
144 electronic reporting system used by the Office of the State  
145 Auditor. Each inventory shall show all property acquired since  
146 the date of the last inventory. When any inventory fails to  
147 show any property shown on the previous inventory, ~~then~~ a  
148 complete explanation accounting for the property or the  
149 disposition thereof shall be attached to the inventory and  
150 submitted to the Property Inventory Control Division. All  
151 property managers shall keep at all times in their files a  
152 copy of all inventories submitted to the Property Inventory  
153 Control Division, and the copies shall be subject to  
154 examination by any and all state auditors or employees of the  
155 Department of Examiners of Public Accounts.

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

166 (3) No property, except property being transferred to  
167 the Department of Archives and History under Section 41-6-10,  
168 shall be disposed of, transferred, assigned, or entrusted to



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169 any other department, agency, or employee thereof without the  
170 written permission of ~~the~~ any of the following or his or her  
171 designee:

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

174 b. The Governor ~~of the State of Alabama or the designee~~  
175 ~~of either of them.~~

176 c. The Chief of the Property Inventory Control Division  
177 of the Office of the State Auditor.

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

183 b. The Property Inventory Control Division shall report  
184 the loss or theft to the Division of Investigations, in a  
185 manner prescribed by the State Auditor, and provide a brief  
186 summary detailing the circumstances surrounding the loss,  
187 regardless of whether the loss or theft was marked  
188 "non-negligent."

189 ~~(4)~~ (5) ~~Biannually,~~ Every two years, the Property  
190 Inventory Control Division shall conduct an inventory of all  
191 ~~such~~ state personal property, excluding historical materials  
192 in the custody of the Department of Archives and History,  
193 holding every officer or employee strictly accountable for all  
194 personal property assigned to his or her custody.

195 ~~(5)~~ (6) No later than November 30 of each new fiscal  
196 year, the State Auditor shall report in writing to the



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

206 ~~(6)~~ (7) Whenever any property manager ceases for any  
207 reason to be the property manager of his or her department or  
208 agency, the director of the department or agency, or the  
209 supervisor of the property manager, shall immediately notify  
210 in writing the Property Inventory Control Division. The  
211 division shall immediately check the inventories of all  
212 property assigned to the property manager in the department or  
213 agency, and the successor to the property manager shall  
214 execute a written receipt for all property received by him or  
215 her or coming into his or her custody or control. ~~The last~~  
216 ~~payment of salary due the property manager shall be withheld~~  
217 ~~until a complete check of the inventory of the property has~~  
218 ~~been made and approved.~~ In the event of any shortages, the  
219 property manager ~~shall~~ may be held strictly accountable based  
220 on internal agency written procedures. Notwithstanding the  
221 foregoing, the property manager shall not be held accountable  
222 for property entrusted to any other employee or officer of the  
223 department or agency and for which he or she holds the written  
224 receipt of the employee or officer.



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

233 "§36-16-10

234 (a) The Chief of the Property Inventory Control  
235 Division shall have the authority to carry out ~~the provisions~~  
236 ~~of~~ Sections 36-16-8 through 36-16-11, and shall require that  
237 each department, office, bureau, board, or agency of the state  
238 carry out fully ~~the provisions of~~ Sections 36-16-8 through  
239 36-16-11 applicable to ~~such the~~ department, office, bureau,  
240 board, or agency.

241 (b) In the event the Chief of the Property Inventory  
242 Control Division neglects to perform the duties imposed upon  
243 him or her by Sections 36-16-8 through 36-16-11, the State  
244 Auditor shall report such neglect to the ~~personnel board~~ State  
245 Personnel Board, ~~which and the~~ board shall administer ~~such~~  
246 disciplinary action against the chief of the division,  
247 including the right to discharge him or her, as the board  
248 deems proper under the circumstances.

249 (c) In the event the head of any department or officer  
250 in charge of any office, bureau, board, or agency of the state  
251 neglects to perform the duties imposed upon him or her by  
252 Sections 36-16-8 through 36-16-11, he or she shall be liable



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253 ~~for the sum of \$5.00~~ in the amount of five dollars (\$5) for  
254 each day ~~such~~the neglect continues and for the value of ~~any~~  
255 ~~and~~ all personal property losses to the state as a result of  
256 ~~such~~ the neglect."

257 "§36-16-11

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

260 (1) Livestock, animals, and farm and agricultural  
261 products.

262 (2) ~~and property~~ Property owned or used by, or in  
263 connection with, or under the control of, ~~all public schools,~~  
264 ~~universities, colleges, trade schools, Alabama Institute for~~  
265 ~~Deaf and Blind, State Library Service, and all~~ any public  
266 preK-12 school, state preK-12 school, or two-year or four-year  
267 public institution of higher education.

268 (3) Property owned or used by, or in connection with or  
269 under the control of, any facility owned or operated by the  
270 Department of Mental Health which provides mental health or  
271 psychiatric care services.

272 (4) Any fire control or fire rescue equipment acquired  
273 by the Alabama Forestry Commission from sources other than  
274 state agencies and subsequently donated to volunteer fire  
275 departments pursuant to Section 9-3-19; ~~provided, Sections~~  
276 ~~36-16-8 to 36-16-10, inclusive, shall not apply to the Alabama~~  
277 ~~hospitals for the insane and the Partlow State School and~~  
278 ~~Hospital."~~

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



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281 §36-16-1.1

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

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

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

300 (2) If the division finds that the loss, theft, or  
301 damage was caused by negligence or willful neglect, the State  
302 Auditor may compel the offending public official or public  
303 employee to pay the value of the lost, stolen, or damaged  
304 property, and if such amount is not recovered, the State  
305 Auditor shall certify the facts and amount due to the Attorney  
306 General. The Attorney General may bring civil action in the  
307 name of the state against the employee.

308 (d) Governmental entities, including any agency or



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309 board of the state or political subdivision thereof that is  
310 audited by the State Auditor, shall cooperate with and provide  
311 assistance to the Division of Investigations by providing  
312 necessary information to allow the division to carry out its  
313 investigations in a timely manner.

314 (e) The Division of Investigations shall refer to the  
315 Attorney General or the appropriate district attorney any  
316 matter where there is a reasonable belief that a criminal  
317 violation has occurred.

318 Section 3. This act shall become effective on October  
319 1, 2026.