



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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



29 language to current style.

30

31

32

A BILL

33

TO BE ENTITLED

34

AN ACT

35

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~~.~~.



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~~



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."



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~~



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



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



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





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,



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



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



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.