

SB163 INTRODUCED



1 SB163

2 JDTVFFY-1

3 By Senators Jones, Shelnuttt, Givhan, Stutts, Gudger

4 RFD: Fiscal Responsibility and Economic Development

5 First Read: 12-Feb-25



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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 provide an exception to the standard property inventory process conducted by the State Auditor for all Department of Corrections and Department of Youth Services secured facility property that is located behind security bars.

This bill would create a new Division of Property 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



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29 refer to the Attorney General or an applicable district
30 attorney any matter where there is a reasonable belief
31 that a criminal violation has occurred.

32 This bill would also make nonsubstantive,
33 technical revisions to update the existing code
34 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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Relating to the State Auditor; to amend Sections

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36-16-1, 36-16-3, 36-16-6, 36-16-8, 36-16-10, and 36-16-11 of

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the Code of Alabama 1975; to add Section 36-16-1.1 to the Code

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of Alabama 1975; to provide further for the duties and

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authorities of the State Auditor; to provide an exception to

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the standard inventory process for Department of Corrections

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and Department of Youth Services' secured facility property

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located behind security bars; to create a Division of Property

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Investigations within the Office of the State Auditor and

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authorize the division to carry out certain investigations of

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lost property and make referrals to the Attorney General or

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district attorneys; to authorize the Attorney General to bring

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civil actions to recover amounts in certain circumstances; to

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update the code to reflect changes in practices and powers

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granted to the State Auditor; and to make nonsubstantive,

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technical revisions to update the existing code language to



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57 current style.

58 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

59 Section 1. Sections 36-16-1, 36-16-3, 36-16-6, 36-16-8,
60 36-16-10, and 36-16-11, Code of Alabama 1975, are amended to
61 read as follows:

62 "§36-16-1

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

65 (1) Those enumerated in the constitution ~~;~~ .

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

68 ~~(3) If the Treasurer, in the event of his resignation~~
69 ~~or removal, fails to comply with the provisions of this code,~~
70 ~~or if he dies or absconds, the stating of his account in the~~
71 ~~presence of any person attending on the part of such late~~
72 ~~Treasurer and the delivering of the books, papers and moneys~~
73 ~~belonging to the Treasury to his successor, taking his receipt~~
74 ~~for the same, and recording and filing such receipts and~~
75 ~~statement and reporting the same to the next Legislature;~~

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

78 ~~(5)~~ (3) ~~The serving~~ To serve on the boards and
79 commissions of which he or she is by law an ex officio member ~~;~~
80 and.

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



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

95 (b) In the event the State Treasurer resigns or is
96 removed from office, fails to comply with this chapter, or
97 dies or leaves office for any reason, the successor to the
98 treasurer shall submit a detailed report regarding the
99 transfer of duties to the successor during the next
100 legislative session following the transfer.

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

103 (1) Not more frequently than once every four calendar
104 years, beginning October 1, 2025, adjust the threshold value
105 of state property that must be inventoried pursuant to this
106 chapter to reflect the cumulative change in the Consumer Price
107 Index, as published by the United States Department of Labor,
108 rounded to the nearest one hundred dollars (\$100). The State
109 Auditor shall notify property managers described in Section
110 36-16-8 of the adjusted threshold value at least 90 days prior
111 to the effective date of the adjusted threshold value, and the
112 adjusted threshold values shall apply only to property



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113 acquired after that effective date. Notwithstanding the
114 foregoing, property managers, upon written request from the
115 head of the department or agency and approval by the State
116 Auditor, may make a complete inventory of all used and
117 acquired property reflecting the adjusted threshold value if
118 doing so is determined to be in the best interest of the
119 department or agency.

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

122 "§36-16-3

123 The State Auditor may employ a ~~chief clerk~~ chief of
124 staff, whose employment shall be at the pleasure of the State
125 Auditor. Subject to the provisions of the Merit System, ~~he the~~
126 chief of staff may employ principal accountants, account
127 clerks, and ~~senior stenographers~~ other clerical staff."

128 "§36-16-6

129 The official acts of the ~~chief clerk~~ chief of staff
130 shall be presumed to be by the authority of, and shall be
131 taken as done by, the State Auditor, who shall be responsible
132 for the same."

133 "§36-16-8

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

137 (b) The Property Inventory Control Division shall
138 establish a control in the following manner of all
139 nonconsumable state personal property not exempt under Section
140 36-16-11-:



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141 (1) The head of each department or agency of the state
142 shall designate one of its employees as property manager for
143 the department or agency. Except for books, the property
144 manager shall make a full and complete inventory of all
145 nonconsumable personal property and certain other items of
146 personal property deemed sufficiently important or sensitive
147 ~~enough~~ by the Property Inventory Control Division to be
148 included in the inventory of state property ~~of the value of~~
149 ~~five hundred dollars (\$500) or more~~ that meets or exceeds the
150 threshold value owned by the state and used or acquired by the
151 department or agency. The inventory shall show the complete
152 description, manufacturer's serial number, cost price, date of
153 purchase, location, ~~and~~ custodial agency, responsible officer,
154 or employee, and the state property control marking. A copy of
155 the inventory shall be submitted to the Property Inventory
156 Control Division on October 1 and April 1 of each year for
157 small agencies with read-only access to Asset Works or similar
158 electronic reporting systems used by the Office of the State
159 Auditor. Each inventory shall show all property acquired since
160 the date of the last inventory. When any inventory fails to
161 show any property shown on the previous inventory, ~~then~~ a
162 complete explanation accounting for the property or the
163 disposition thereof shall be attached to the inventory and
164 submitted to the Property Inventory Control Division. All
165 property managers shall keep at all times in their files a
166 copy of all inventories submitted to the Property Inventory
167 Control Division, and the copies shall be subject to
168 examination by any and all state auditors or employees of the



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169 Department of Examiners of Public Accounts.

170 (2) Each property manager shall be the custodian of,
171 and responsible for, all property in his or her department or
172 agency. When any property is entrusted to other employees or
173 officers of the department or agency, the property manager
174 shall require a written receipt of the property so entrusted,
175 ~~which.~~ The receipt shall be ~~executed~~ signed by the ~~person~~
176 individual receiving the property. In that event, the property
177 manager shall be relieved of responsibility of the property,
178 and the employee or officer of the department or agency shall
179 be responsible for the property.

180 (3) No property, except property being transferred to
181 the Department of Archives and History under Section 41-6-10,
182 shall be disposed of, transferred, assigned, or entrusted to
183 any other department, agency, or employee thereof without the
184 written permission of ~~the~~ any of the following or his or her
185 designee:

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

188 b. The Governor ~~of the State of Alabama or the designee~~
189 ~~of either of them.~~

190 c. The Chief of the Property Inventory Control Division
191 of the Office of the State Auditor.

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



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197 b. The Property Inventory Control Division shall report
198 the loss or theft to the Division of Property Investigations,
199 in a manner prescribed by the State Auditor, and provide a
200 brief summary detailing the circumstances surrounding the
201 loss, regardless of whether the loss or theft was marked
202 "non-negligent."

203 ~~(4)~~ (5) a. Biannually, Every two years, the Property
204 Inventory Control Division shall conduct an inventory of all
205 ~~such~~ state personal property, excluding: (i) historical
206 materials in the custody of the Department of Archives and
207 History, ~~holding every officer or employee strictly~~
208 accountable for all personal property assigned to his or her
209 custody; and (ii) property located behind security bars at any
210 Department of Corrections and Department of Youth Services
211 facility subject to paragraph b.

212 b. The Department of Corrections and the Department of
213 Youth Services operate highly secured facilities. Dangerous
214 conditions within a facility may impede the State Auditor's
215 staff's ability to gain the necessary security clearance for
216 physical entry into a facility to conduct the required audit.
217 The State Auditor shall permit an alternative audit method in
218 all areas located behind bars within a secure facility. All
219 state property located within a Department of Corrections or
220 Department of Youth Services facility that is not located
221 behind bars, shall be audited according to normal processes.

222 ~~(5)~~ (6) No later than November 30 of each new fiscal
223 year, the State Auditor shall report in writing to the
224 Governor all losses and missing items of state property ~~valued~~



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225 ~~at more than five hundred dollars (\$500)~~ that meet or exceed
226 the threshold value as revealed by the most recent inventory
227 of state personal property. No later than November 30 of each
228 fiscal year, the State Auditor shall publish on the website of
229 the Office of the State Auditor the Annual Production Report
230 and Losses Reports for the prior fiscal year. Quarterly Losses
231 Reports shall be published on the website within 30 days of
232 the close of each quarter.

233 ~~(6)~~ (7) Whenever any property manager ceases for any
234 reason to be the property manager of his or her department or
235 agency, the director of the department or agency, or the
236 supervisor of the property manager, shall immediately notify
237 in writing the Property Inventory Control Division. The
238 division shall immediately check the inventories of all
239 property assigned to the property manager in the department or
240 agency, and the successor to the property manager shall
241 execute a written receipt for all property received by him or
242 her or coming into his or her custody or control. ~~The last~~
243 ~~payment of salary due the property manager shall be withheld~~
244 ~~until a complete check of the inventory of the property has~~
245 ~~been made and approved.~~ In the event of any shortages, the
246 property manager ~~shall~~ may be held strictly accountable based
247 on internal agency written procedures. Notwithstanding the
248 foregoing, the property manager shall not be held accountable
249 for property entrusted to any other employee or officer of the
250 department or agency and for which he or she holds the written
251 receipt of the employee or officer.

252 (c) The State Auditor or, if delegated by the State



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253 Auditor, the Chief of the Property Inventory Control Division,
254 may review and analyze the internal policies relating to the
255 inventorying of state property of a state department, office,
256 bureau, board, or agency to ensure that state property is
257 being properly inventoried. Upon receiving a written request
258 from the State Auditor, a property manager shall submit the
259 internal policies to the State Auditor for review."

260 "§36-16-10

261 (a) The Chief of the Property Inventory Control
262 Division shall have the authority to carry out ~~the provisions~~
263 ~~of~~ Sections 36-16-8 through 36-16-11, and shall require that
264 each department, office, bureau, board, or agency of the state
265 carry out fully ~~the provisions of~~ Sections 36-16-8 through
266 36-16-11 applicable to ~~such the~~ department, office, bureau,
267 board, or agency.

268 (b) In the event the Chief of the Property Inventory
269 Control Division neglects to perform the duties imposed upon
270 him or her by Sections 36-16-8 through 36-16-11, the State
271 Auditor shall report such neglect to the ~~personnel board~~ State
272 Personnel Board, ~~which and the~~ board shall administer ~~such~~
273 disciplinary action against the chief of the division,
274 including the right to discharge him or her, as the board
275 deems proper under the circumstances.

276 (c) In the event the head of any department or officer
277 in charge of any office, bureau, board, or agency of the state
278 neglects to perform the duties imposed upon him or her by
279 Sections 36-16-8 through 36-16-11, he or she shall be liable
280 ~~for the sum of \$5.00~~ in the amount of five dollars (\$5) for



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281 each day ~~such~~the neglect continues and for the value of ~~any~~
282 ~~and~~ all personal property losses to the state as a result of
283 ~~such~~ the neglect."

284 "§36-16-11

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

287 (1) Livestock, animals, and farm and agricultural
288 products.

289 (2) ~~and property~~ Property owned or used by, or in
290 connection with, or under the control of, ~~all public schools,~~
291 ~~universities, colleges, trade schools, Alabama Institute for~~
292 ~~Deaf and Blind, State Library Service, and all~~ any public
293 preK-12 school, state preK-12 school, or two-year or four-year
294 public institution of higher education.

295 (3) Property owned or used by, or in connection with or
296 under the control of, any facility owned or operated by the
297 Department of Mental Health which provides mental health or
298 psychiatric care services.

299 (4) Any fire control or fire rescue equipment acquired
300 by the Alabama Forestry Commission from sources other than
301 state agencies and subsequently donated to volunteer fire
302 departments pursuant to Section 9-3-19; ~~provided, Sections~~
303 ~~36-16-8 to 36-16-10, inclusive, shall not apply to the Alabama~~
304 ~~hospitals for the insane and the Partlow State School and~~
305 ~~Hospital."~~

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

308 §36-16-1.1



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

312 (b) There is created within the Office of the State
313 Auditor the Division of Property Investigations which shall be
314 responsible for carrying out investigations described in this
315 section. The division may initiate an investigation upon a
316 request of the State Auditor or the Property Inventory Control
317 Division or, upon receiving notice, whether through its
318 website or through another channel of communication, of acts
319 of negligence in the loss, theft, or damage of state property.

320 (c) (1) The Division of Property Investigations may
321 investigate any instance of lost, stolen, or damaged state
322 property, including instances where marked as "non-negligent"
323 by the custodial agency. If in carrying out a full
324 investigation, including the procuring of evidence, the
325 division confirms that the loss, theft, or damage was not
326 negligent, the division shall issue a finding of
327 "non-negligence."

328 (2) If the division finds that the loss, theft, or
329 damage was caused by negligence or willful neglect, the State
330 Auditor may compel the offending public official or public
331 employee to pay the value of the lost, stolen, or damaged
332 property, and if such amount is not recovered, the State
333 Auditor shall certify the facts and amount due to the Attorney
334 General. The Attorney General may bring civil action in the
335 name of the state against the employee.

336 (d) Governmental entities, including any agency or



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337 board of the state or political subdivision thereof that is
338 audited by the State Auditor, shall cooperate with and provide
339 assistance to the Division of Property Investigations by
340 providing necessary information to allow the division to carry
341 out its investigations in a timely manner.

342 (e) The Division of Property Investigations shall refer
343 to the Attorney General or the appropriate district attorney
344 any matter where there is a reasonable belief that a criminal
345 violation has occurred.

346 Section 3. This act shall become effective on October
347 1, 2025.