

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 237 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 204

4
5 By: Senators Malone, Madison, Bisbee, Hill, Argue, Whitaker, Trusty, J. Jeffress, Faris, Wooldridge,
6 Miller, Hendren, Luker, Altes, Salmon, Brown, J. Taylor, B. Johnson, Steele, Wilkins, Broadway,
7 Higginbotham, Baker, G. Jeffress, J. Bookout, Womack, Critcher, Horn, T. Smith, Lavery, Glover,
8 Capps, Bryles

For An Act To Be Entitled

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10
11 AN ACT TO ELIMINATE PERFORMANCE-BASED BUDGETING
12 FOR STATE AGENCIES; AND FOR OTHER PURPOSES.

Subtitle

13
14
15 AN ACT TO ELIMINATE PERFORMANCE-BASED
16 BUDGETING FOR STATE AGENCIES.

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19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. LEGISLATIVE PURPOSE. The ability to automate the
23 performance-based budgeting process was an important component of the
24 Arkansas Administrative Statewide Information System. SAP, the vendor
25 contracted to provide the performance-based budgeting component of the
26 Arkansas Administrative Statewide Information System, failed to deliver the
27 component as required by contract and the state was unable to automate the
28 performance-based budgeting process necessitating the need to repeal the law
29 requiring performance-based budgeting.

30
31 SECTION 2. Arkansas Code § 19-4-519(c), pertaining to performance-
32 based budget transfers, is repealed.

33 ~~(c)(1) If a state agency or program within the state agency has~~
34 ~~received a performance-based appropriation from the General Assembly, the~~
35 ~~state agency may request approval from the Chief Fiscal Officer of the State~~



1 and the Legislative Council or Joint Budget Committee to transfer a portion
 2 of the performance-based appropriation from one program to a performance-
 3 based appropriation of another program or programs.

4 (2) Accompanying the transfer request shall be documentation
 5 reflecting the need for the transfer and the effects that the proposed
 6 transfer may have on the performance goals and targets as approved by the
 7 General Assembly and the Legislative Council for the programs.

8 (3) The Chief Fiscal Officer of the State may approve,
 9 disapprove, or modify the requested transfer.

10 (4)(A) If the transfer request, when combined with other
 11 approved transfers for the applicable programs, proposes to increase or
 12 decrease any of the applicable appropriations for the fiscal year by more
 13 than five percent (5%), the Chief Fiscal Officer of the State shall submit
 14 his or her recommendation along with the request to the Legislative Council
 15 or the Joint Budget Committee for its review, approval, disapproval, or
 16 modification.

17 (B) Otherwise, the decision of the Chief Fiscal Officer of
 18 the State on the transfer request shall be reported to the Legislative
 19 Council or the Joint Budget Committee in the same month as the decision is
 20 made.

21 (5)(A) The Legislative Council or the Joint Budget Committee,
 22 after consultation on the merits and justification of the request, shall
 23 notify the Chief Fiscal Officer of the State of the decision.

24 (B) In no event shall a transfer be approved by the
 25 Legislative Council that, when combined with other approved transfers for the
 26 applicable programs, would increase or decrease a performance-based
 27 appropriation provided by law by the General Assembly by more than twenty
 28 percent (20%).

29 (6) The Chief Fiscal Officer of the State shall make the
 30 appropriate adjustments on the books of the state after receiving the
 31 notification.

32 (7)(A) The amounts listed in the performance-based budget
 33 sections in appropriation acts for funding sources shall be estimates of
 34 available resources to finance the appropriations in the appropriation
 35 section of the state agency's appropriation act.

36 (B) The state agency may revise those funding estimates

1 from time to time as funds may or may not become available upon approval of
 2 the Chief Fiscal Officer of the State.

3 ~~(8)(A)(i) Determining the maximum amount of appropriation and~~
 4 ~~general revenue funding for a state agency each fiscal year is the~~
 5 ~~prerogative of the General Assembly.~~

6 ~~(ii) This is accomplished by delineating the~~
 7 ~~maximums in the appropriation act or acts for a state agency and the general~~
 8 ~~revenue allocations authorized for each fund and fund account by amendment to~~
 9 ~~the Revenue Stabilization Law, § 19-5-101 et seq.~~

10 ~~(B)(i)(a) Further, the General Assembly has determined~~
 11 ~~that state agencies' programs which receive performance based appropriations~~
 12 ~~may operate more efficiently if some flexibility is provided under the~~
 13 ~~provisions of this subsection.~~

14 ~~(b) Therefore, it is both necessary and~~
 15 ~~appropriate that the General Assembly maintain oversight by requiring prior~~
 16 ~~approval of the Legislative Council or the Joint Budget Committee, as~~
 17 ~~provided by this subsection.~~

18 ~~(ii) The requirement of approval by the Legislative~~
 19 ~~Council or the Joint Budget Committee is not a severable part of this~~
 20 ~~subsection.~~

21 ~~(iii) If the requirement of approval by the~~
 22 ~~Legislative Council or the Joint Budget Committee is ruled unconstitutional~~
 23 ~~by a court of competent jurisdiction, this subsection is void.~~

24
 25 SECTION 2. Arkansas Code §§ 19-4-605 and 19-4-606 are repealed.

26 ~~19-4-605. Strategic planning.~~

27 ~~(a)(1) Each state agency and constitutional agency, other than the~~
 28 ~~elected constitutional officers and their staff offices and those boards or~~
 29 ~~commissions listed in subdivision (a)(2) of this section, shall prepare a~~
 30 ~~strategic plan containing those elements as set out under § 19-4-~~
 31 ~~606(b)(6)(A)-(D) for the operation of each of its assigned programs for~~
 32 ~~submission to the Legislative Council, the appropriate interim committees,~~
 33 ~~and the Governor.~~

34 ~~(2) The following agencies are exempt from the provisions of~~
 35 ~~subdivision (a)(1) of this section:~~

36 ~~(i) Abstracters' Board of Examiners;~~

- 1 ~~(ii) — Arkansas State Board of Public Accountancy;~~
- 2 ~~(iii) — State Board of Examiners of Alcoholism and~~
- 3 ~~Drug Abuse Counselors;~~
- 4 ~~(iv) — Arkansas Appraiser Licensing and Certification~~
- 5 ~~Board;~~
- 6 ~~(v) — Arkansas State Board of Architects;~~
- 7 ~~(vi) — Arkansas State Board of Athletic Training;~~
- 8 ~~(vii) — State Athletic Commission;~~
- 9 ~~(viii) — Auctioneer's Licensing Board;~~
- 10 ~~(ix) — Professional Bail Bond Company and Professional~~
- 11 ~~Bail Bondsman Licensing Board;~~
- 12 ~~(x) — State Board of Barber Examiners;~~
- 13 ~~(xi) — Burial Association Board;~~
- 14 ~~(xii) — State Board of Private Career Education;~~
- 15 ~~(xiii) — Arkansas Cemetery Board;~~
- 16 ~~(xiv) — State Board of Collection Agencies;~~
- 17 ~~(xv) — Contractors Licensing Board;~~
- 18 ~~(xvi) — State Board of Cosmetology;~~
- 19 ~~(xvii) — Arkansas Board of Examiners in Counseling;~~
- 20 ~~(xviii) — State Board of Registered Interior~~
- 21 ~~Designers;~~
- 22 ~~(xix) — State Board of Embalmers & Funeral Directors;~~
- 23 ~~(xx) — State Board of Registration for Professional~~
- 24 ~~Engineers and Land Surveyors;~~
- 25 ~~(xxi) — Arkansas State Board of Registration of~~
- 26 ~~Foresters;~~
- 27 ~~(xxii) — State Board of Registration for Professional~~
- 28 ~~Geologists;~~
- 29 ~~(xxiii) — Arkansas State Board of Landscape~~
- 30 ~~Architects;~~
- 31 ~~(xxiv) — Arkansas State Board of Massage Therapy;~~
- 32 ~~(xxv) — Arkansas State Board of Physical Therapy;~~
- 33 ~~(xxvi) — Arkansas Real Estate Commission;~~
- 34 ~~(xxvii) — Arkansas State Board of Sanitarians;~~
- 35 ~~(xxviii) — Arkansas Social Work Licensing Board;~~
- 36 ~~(xxix) — Arkansas State Board of Registration for~~

1 ~~Professional Soil Classifiers;~~
 2 ~~(xxx) — Arkansas Towing and Recovery Board;~~
 3 ~~(xxxi) — Arkansas Title Insurance Agents' Licensing~~
 4 ~~Board;~~
 5 ~~(xxxii) — Arkansas Fire Protection Licensing Board;~~
 6 ~~(xxxiii) — Arkansas State Board of Chiropractic~~
 7 ~~Examiners;~~
 8 ~~(xxxiv) — Arkansas State Board of Dental Examiners;~~
 9 ~~(xxxv) — Arkansas Dietetics Licensing Board;~~
 10 ~~(xxxvi) — Arkansas Board of Hearing Instrument~~
 11 ~~Dispensers;~~
 12 ~~(xxxvii) — State Board of Disease Intervention~~
 13 ~~Specialists;~~
 14 ~~(xxxviii) — Arkansas State Medical Board;~~
 15 ~~(xxxix) — Arkansas State Board of Nursing;~~
 16 ~~(xl) — Arkansas Board of Dispensing Opticians;~~
 17 ~~(xli) — State Board of Optometry;~~
 18 ~~(xlii) — Arkansas State Board of Pharmacy;~~
 19 ~~(xliii) — Arkansas Board of Podiatric Medicine;~~
 20 ~~(xliv) — Arkansas Psychology Board;~~
 21 ~~(xlv) — Arkansas State Board of Acupuncture and~~
 22 ~~Related Techniques;~~
 23 ~~(xlvi) — Board of Examiners in Speech Language~~
 24 ~~Pathology and Audiology;~~
 25 ~~(xlvii) — Veterinary Medical Examining Board;~~
 26 ~~(xlviii) — Arkansas Beef Council;~~
 27 ~~(xlix) — Arkansas Corn and Grain Sorghum Promotion~~
 28 ~~Board;~~
 29 ~~(l) — Arkansas Manufactured Home Commission;~~
 30 ~~(li) — Arkansas Governor's Mansion Commission;~~
 31 ~~(lii) — Capitol Zoning District Commission;~~
 32 ~~(liii) — Arkansas Catfish Promotion Board;~~
 33 ~~(liv) — Arkansas Motor Vehicle Commission;~~
 34 ~~(lv) — Arkansas Legislative Commission on Nursing;~~
 35 ~~(lvi) — Arkansas Rice Research and Promotion Board;~~
 36 ~~(lvii) — Arkansas Soybean Promotion Board; and~~

~~(lviii) — Arkansas Wheat Promotion Board.~~

~~(b)(1)(A) — The strategic plan shall be prepared in the form and submitted at the same time as determined by the Governor or the agency designated by him or her and after consultation with the Legislative Council.~~

~~(B) — The plan shall be submitted no less frequently than biennially.~~

~~(2) — The form, content, and submission timetable of the strategic plan for constitutional agencies shall be determined by the Legislative Council.~~

~~19-4-606. Performance budgeting and accountability system.~~

~~(a) — As used in this section, unless the context otherwise requires:~~

~~(1) — "Activities" means distinct types of functions, processes, or services carried out or provided as part of a program;~~

~~(2) — "Appropriate interim committee" means an interim committee of the General Assembly as selected by the Legislative Council;~~

~~(3) — "Appropriation" means a legal authorization to make expenditures for specific purposes within the amounts authorized in an appropriation act;~~

~~(4) — "Constitutional agency" means the Arkansas State Highway and Transportation Department and the Arkansas State Game and Fish Commission;~~

~~(5) — "Consultation" means to deliberate and seek advice in an open and forthright manner with the full committee, a subcommittee thereof, the chair, or the staff, as deemed appropriate by the chair of the respective committee or by law;~~

~~(6) — "Disincentive" means a sanction, as set out in law, imposed due to not achieving performance;~~

~~(7) — "Efficiency measures" means numerical indicators that reflect the program cost, unit cost, or productivity associated with a given outcome;~~

~~(8) — "Effort measures" means numerical measurements reflecting a count of resources used in performing the entity's strategies;~~

~~(9) — "Executive department" means the executive department of the state as set out in Arkansas Constitution, Article 6, and the agencies, boards, commissions, and offices of the executive department;~~

~~(10) — "Fiscal year" means a period of time beginning July 1 and~~

1 ending on the following June 30;

2 (11) ~~"Goal" means a general statement of purpose of the entity~~
3 ~~that identifies broad and desired results;~~

4 (12) ~~"Incentive" means a mechanism, set out either as special~~
5 ~~language in a state agency's appropriation act or another act of the General~~
6 ~~Assembly, for recognizing the achievement of performance standards or for~~
7 ~~motivating performance that exceeds performance standards;~~

8 (13) ~~"Judicial department" means all state officers, state~~
9 ~~employees, and offices of the Supreme Court, the Court of Appeals, the~~
10 ~~circuit courts, and the Administrative Office of the Courts;~~

11 (14) ~~"Key performance measures" means those measures critical to~~
12 ~~the mission, effectiveness, and efficiency of a program selected by the~~
13 ~~Legislative Council;~~

14 (15) ~~"Legislative Auditor" means the Legislative Auditor of the~~
15 ~~Legislative Joint Auditing Committee;~~

16 (16) ~~"Legislative department" means the legislative department~~
17 ~~of the state as set out in Arkansas Constitution, Article 5, and its various~~
18 ~~officers, agencies, committees, and other units of the legislative department~~
19 ~~of the state;~~

20 (17) ~~"Measures" means a numerical set of indicators which, in~~
21 ~~the aggregate, are used to assist the executive branch and legislative branch~~
22 ~~in evaluating the level of success of a state agency and its programs and are~~
23 ~~categorized as effort measures, output measures, outcome measures, and~~
24 ~~efficiency measures;~~

25 (18) ~~"Mission" means a concise statement of the organizational~~
26 ~~entity's purpose and reason for existence;~~

27 (19) ~~"Objective" means a statement that specifies desired~~
28 ~~results which will lead to the accomplishment of the entity's goals;~~

29 (20) ~~"Outcome measures" means indicators that measure the actual~~
30 ~~impact or effect upon a stated condition or problem utilizing the entity's~~
31 ~~strategies;~~

32 (21) ~~"Output measures" means numerical measurements reflecting a~~
33 ~~count of services produced in performing the entity's strategies;~~

34 (22) ~~"Performance based appropriation" means an appropriation~~
35 ~~incorporating performance measures and targets for the programs included in~~
36 ~~the regular operations appropriation act;~~

1 ~~(23) "Program" means an aggregation of similar activities~~
2 ~~performed by a state agency, not necessarily along organizational lines,~~
3 ~~which can logically be considered an entity for budgeting, accounting, and~~
4 ~~reporting purposes, and which contribute to common goals;~~

5 ~~(24) "Regular operations appropriation act" means the~~
6 ~~authorization by an act of the General Assembly for each year of a biennial~~
7 ~~period, based upon budget requests presented to the Legislative Council and~~
8 ~~the Joint Budget Committee or based upon legislative findings of the~~
9 ~~necessity for an authorization when no budget request was presented, for the~~
10 ~~expenditure of amounts of money by a state agency or institution, the~~
11 ~~judicial branch, or the legislative branch for stated purposes in the~~
12 ~~performance of the functions it is authorized by law to perform;~~

13 ~~(25) "Special language" means a section or sections of text~~
14 ~~within an appropriation act that qualifies, restricts, or clarifies the~~
15 ~~intent of a specific appropriation, and which can be logically and directly~~
16 ~~related to the specific appropriation or appropriation subject;~~

17 ~~(26) "State agency" means any official, officer, commission,~~
18 ~~board, authority, council, committee, or department of the executive branch~~
19 ~~that receives an appropriation by the General Assembly, but excludes the~~
20 ~~institutions of higher education, the Arkansas State Highway and~~
21 ~~Transportation Department, the Arkansas State Game and Fish Commission,~~
22 ~~elected constitutional officers, and the staff offices of the elected~~
23 ~~constitutional officers;~~

24 ~~(27) "Strategic plan" means a comprehensive operational plan for~~
25 ~~a required period of time consisting of those elements required by law, by~~
26 ~~the Legislative Council, and by the Governor;~~

27 ~~(28) "Strategy" means a narrative setting out the steps to be~~
28 ~~taken to accomplish the entity's objectives; and~~

29 ~~(29) "Target" means that level of the performance measure to~~
30 ~~which the program shall aspire and shall be held accountable for the period~~
31 ~~covered by the appropriation act.~~

32 ~~(b)(1)(A) On February 13, 2001, the Governor or the state agency~~
33 ~~designated by the Governor shall proceed to implement a program that directly~~
34 ~~correlates the operating budget of a state agency for each fiscal year, as~~
35 ~~reflected in the regular operations appropriation act of the state agency,~~
36 ~~with the objectives of that approved budget as reflected in the state~~

1 ~~agency's strategic plan.~~

2 ~~(B) The program shall be known as the "Performance~~
 3 ~~Budgeting and Accountability System".~~

4 ~~(2)(A) The Performance Budgeting and Accountability System shall~~
 5 ~~be implemented statewide in phases.~~

6 ~~(B)(i) Phase I shall include consultation with the~~
 7 ~~appropriate interim committee and the Legislative Council on the proposed~~
 8 ~~strategic plan of the state agency and the collection of data by the state~~
 9 ~~agency as required for performance measures.~~

10 ~~(ii) Phase II shall include the submission of a~~
 11 ~~biennial budget request by the state agency, as selected by the Legislative~~
 12 ~~Council, to the Governor, the Legislative Council, and the Joint Budget~~
 13 ~~Committee in a performance budget format for approval by the next General~~
 14 ~~Assembly and for implementation by the state agency on the next following~~
 15 ~~July 1.~~

16 ~~(iii) The performance budget format shall include~~
 17 ~~the incorporation of key performance measures into the regular biennial~~
 18 ~~operations appropriation act, and the measures shall be used as a basis for~~
 19 ~~determining legislative intent in the appropriating of funds.~~

20 ~~(3) Included in the state agencies to be required to participate~~
 21 ~~in Phase I of the system shall be:~~

22 ~~(A) On July 1, 2001, the:~~

- 23 ~~(i) Arkansas Department of Emergency Management;~~
- 24 ~~(ii) Arkansas Department of Environmental Quality;~~
- 25 ~~(iii) Arkansas Employment Security Department;~~
- 26 ~~(iv) Arkansas Forestry Commission;~~
- 27 ~~(v) Arkansas Public Employees' Retirement System;~~
- 28 ~~(vi) Arkansas Rehabilitation Services of the~~
 29 ~~Department of Workforce Education;~~
- 30 ~~(vii) Arkansas Science and Technology Authority;~~
- 31 ~~(viii) Arkansas State Library of the Department of~~
 32 ~~Education;~~
- 33 ~~(ix) Arkansas Student Loan Authority;~~
- 34 ~~(x) Arkansas Teacher Retirement System;~~
- 35 ~~(xi) Arkansas Valley Technical Institute of Arkansas~~
 36 ~~Tech University;~~

- 1 ~~(xii) — Arkansas Northeastern College;~~
- 2 ~~(xiii) — Crowley’s Ridge Technical Institute;~~
- 3 ~~(xiv) — Delta Technical Institute;~~
- 4 ~~(xv) — Department of Arkansas State Police;~~
- 5 ~~(xvi) — Department of Community Correction;~~
- 6 ~~(xvii) — Department of Correction;~~
- 7 ~~(xiii) — Department of Economic Development;~~
- 8 ~~(xix) — Department of Education;~~
- 9 ~~(xx) — Department of Health;~~
- 10 ~~(xxi) — Department of Higher Education;~~
- 11 ~~(xxii) — Department of Information Systems;~~
- 12 ~~(xxiii) — Department of Labor;~~
- 13 ~~(xxiv) — Department of Rural Services;~~
- 14 ~~(xxv) — Department of Veterans’ Affairs;~~
- 15 ~~(xxvi) — Department of Workforce Education;~~
- 16 ~~(xxvii) — Division of Children and Family Services of~~
- 17 ~~the Department of Human Services;~~
- 18 ~~(xxiii) — Division of County Operations of the~~
- 19 ~~Department of Human Services;~~
- 20 ~~(xxix) — Division of Medical Services of the~~
- 21 ~~Department of Human Services;~~
- 22 ~~(xxx) — Division of Youth Services of the Department~~
- 23 ~~of Human Services;~~
- 24 ~~(xxxi) — Educational Television Division of the~~
- 25 ~~Department of Education;~~
- 26 ~~(xxxii) — Arkansas State University — Searcy;~~
- 27 ~~(xxxiii) — University of Arkansas at Monticello~~
- 28 ~~College of Technology — Crossett;~~
- 29 ~~(xxxiv) — Great Rivers Comprehensive Lifelong Learning~~
- 30 ~~Center;~~
- 31 ~~(xxxv) — Health Services Permit Agency;~~
- 32 ~~(xxxvi) — Northwest Technical Institute;~~
- 33 ~~(xxxvii) — Office of Child Support Enforcement of the~~
- 34 ~~Revenue Division of the Department of Finance and Administration;~~
- 35 ~~(xxxviii) — National Park Community College;~~
- 36 ~~(xxxix) — Revenue Services Division of the Department~~

1 ~~of Finance and Administration;~~
2 ~~(xl) State Department for Social Security~~
3 ~~Administration for Disability Determination; and~~
4 ~~(xli) State Insurance Department; or~~
5 ~~(xlii) Their successors.~~
6 (B) ~~On July 1, 2003, the~~
7 ~~(i) Assessment Coordination Department;~~
8 ~~(ii) State Bank Department;~~
9 ~~(iii) Arkansas Building Authority;~~
10 ~~(iv) Arkansas Development Finance Authority;~~
11 ~~(v) Division of Administrative Services of the~~
12 ~~Department of Finance and Administration;~~
13 ~~(vi) Division of Management Services Division of the~~
14 ~~Department of Finance and Administration;~~
15 ~~(vii) Division of Administrative Services of the~~
16 ~~Department of Human Services;~~
17 ~~(viii) Division of Child Care and Early Childhood~~
18 ~~Education of the Department of Human Services;~~
19 ~~(ix) Division of Developmental Disabilities Services~~
20 ~~of the Department of Human Services;~~
21 ~~(x) Division of Behavioral Health of the Department~~
22 ~~of Human Services;~~
23 ~~(xi) Arkansas State Game and Fish Commission;~~
24 ~~(xii) Arkansas Geological Commission;~~
25 ~~(xiii) Department of Arkansas Heritage;~~
26 ~~(xvi) Arkansas Geological Commission;~~
27 ~~(xv) Office of Information Technology;~~
28 ~~(xvi) State Military Department;~~
29 ~~(xvii) Oil and Gas Commission;~~
30 ~~(xviii) Department of Parks and Tourism;~~
31 ~~(xix) State Plant Board;~~
32 ~~(xx) Arkansas Public Service Commission;~~
33 ~~(xxi) Arkansas School for the Blind;~~
34 ~~(xxii) Arkansas Crime Information Center;~~
35 ~~(xxiii) State Crime Laboratory;~~
36 ~~(xxiv) Arkansas School for the Deaf;~~

1 ~~(xxv) — State Securities Department;~~
 2 ~~(xxvi) — Arkansas Soil and Water Conservation~~
 3 ~~Commission;~~
 4 ~~(xxvii) — Arkansas Tobacco Settlement Commission; and~~
 5 ~~(xxviii) — Arkansas Transitional Employment Board; or~~
 6 ~~(C) — Their successors.~~

7 ~~(4) — Any regulatory board or commission not enumerated in~~
 8 ~~subdivision (b)(3) of this section that is supported entirely by fees may~~
 9 ~~choose to participate voluntarily in the system upon notification to the~~
 10 ~~Governor and the Legislative Council.~~

11 ~~(5)(A) — All rules and regulations to implement the system shall~~
 12 ~~be promulgated by the Governor or the state agency designated by the Governor~~
 13 ~~in consultation with the Legislative Council.~~

14 ~~(B) — The Legislative Council shall review the final rules~~
 15 ~~and regulations prior to their implementation.~~

16 ~~(6) — The system regulations shall require each state agency to~~
 17 ~~prepare for the state agency a long range strategic plan of no fewer than~~
 18 ~~five (5) years and shall require for those agencies operating under a~~
 19 ~~performance based appropriation to align their accounting and budgeting~~
 20 ~~coding structures with the approved strategic plans to the extent necessary~~
 21 ~~to report the costs of programs and objectives in subsequent budget request~~
 22 ~~documents and interim progress reports. The plan shall include:~~

23 ~~(A) — A mission statement and goals for the state agency;~~

24 ~~(B) — A listing of programs and the program definitions of~~
 25 ~~the state agency, as approved by the Legislative Council after considering~~
 26 ~~the recommendations of the appropriate interim committee;~~

27 ~~(C) — Goals and objectives for each program in the state~~
 28 ~~agency or constitutional agency, as approved by the Legislative Council after~~
 29 ~~considering the recommendations of the appropriate interim committee;~~

30 ~~(D) — Strategies that the state agency plans to use to~~
 31 ~~accomplish each program's goals and objectives;~~

32 ~~(E) — Measures for each program, which shall:~~

33 ~~(i) — Consist of a combination of effort, output,~~
 34 ~~outcome, and efficiency measures for each program goal; and~~

35 ~~(ii) — Be approved by the Legislative Council after~~
 36 ~~considering the recommendations of the appropriate interim committee; and~~

1 ~~(F)—A description of the method and sources to be used to~~
2 ~~obtain the data required for the program measures.~~

3 ~~(7)(A)—Participating agencies and programs shall submit a~~
4 ~~semiannual report on progress toward meeting performance goals to the~~
5 ~~Legislative Council and the appropriate interim committees.~~

6 ~~(B)—The Legislative Council may change, on a program by-~~
7 ~~program or agency by agency basis, the frequency of the report to such time~~
8 ~~as it determines will best provide the appropriate monitoring.~~

9 ~~(C)—The detail in the report to the Legislative Council~~
10 ~~and the appropriate interim committee and its format and method of~~
11 ~~transmission shall be determined by the Legislative Council.~~

12 ~~(D)—Failure by any state agency to submit the required~~
13 ~~report shall result in the administrative head of the state agency's~~
14 ~~appearing before the next meeting of the Legislative Council and the~~
15 ~~appropriate interim committee to explain the failure.~~

16 ~~(E)—The General Assembly shall have final approval of all~~
17 ~~programs, performance measures, and targets through the enactment of the~~
18 ~~appropriation acts for the various state agencies participating in Phase II~~
19 ~~of the system.~~

20 ~~(c)(1)—The Bureau of Legislative Research shall:~~

21 ~~(A)—Review the agencies' periodic reports and report~~
22 ~~recommendations and findings to the Legislative Council or Joint Budget~~
23 ~~Committee and appropriate interim committees;~~

24 ~~(B)—Recommend changes to the Legislative Council or~~
25 ~~appropriate interim committee of any measure, program, program definition,~~
26 ~~program objective, and target submitted by a state agency or constitutional~~
27 ~~agency;~~

28 ~~(C)—Assist state agencies and interim committees in~~
29 ~~determining appropriate measures, program structures, and program~~
30 ~~definitions;~~

31 ~~(D)—Serve as the lead legislative agency in the~~
32 ~~implementation and design of the system; and~~

33 ~~(E)—Provide a continuous review of the system's process~~
34 ~~and recommend changes to the Legislative Council, as appropriate;~~

35 ~~(F)—Maintain the official state performance information~~
36 ~~system for approved programs, objectives, key measures, targets, and actual~~

1 ~~reported accomplishments for key measures, if not maintained by the Governor~~
2 ~~or the state agency designated by the Governor; and~~

3 ~~(G) Maintain performance data in an electronic format~~
4 ~~readily accessible to the citizens of the state, if not maintained by the~~
5 ~~Governor or the state agency designated by the Governor.~~

6 ~~(2) The Division of Legislative Audit shall:~~

7 ~~(A) Verify that the data being reported and collected by~~
8 ~~the state agencies are accurate and in such a form as is required by the~~
9 ~~Legislative Council and evaluate management controls surrounding the~~
10 ~~collection and reporting of the data;~~

11 ~~(B) Perform detailed performance audits in accordance with~~
12 ~~"Generally Accepted Government Auditing Standards", as issued by the United~~
13 ~~States General Accounting Office, upon request by any legislative committee~~
14 ~~and after approval of the request by the Legislative Joint Auditing~~
15 ~~Committee.~~

16 ~~(3) Notwithstanding the provisions of the Freedom of Information~~
17 ~~Act of 1967, § 25-19-101 et seq., the audit results shall not be public~~
18 ~~information until presented to the requesting interim committee, the~~
19 ~~Legislative Joint Auditing Committee, the Legislative Council, the Governor,~~
20 ~~and the applicable state agency.~~

21 ~~(4) The Governor or the state agency designated by the Governor,~~
22 ~~for the institutions of higher education, shall:~~

23 ~~(A) Review submitted performance reports and recommend~~
24 ~~changes as appropriate to the state agencies and the Legislative Council in~~
25 ~~measurements, programs, goals, objectives, and strategies;~~

26 ~~(B) Provide adequate training to state agency personnel in~~
27 ~~performance measurements and strategic planning;~~

28 ~~(C) Prepare and distribute approved forms, manuals, and~~
29 ~~procedures to the state agencies as required to meet the implementation~~
30 ~~timeline;~~

31 ~~(D) Oversee the process of strategic planning for state~~
32 ~~agencies and recommend changes to the Legislative Council; and~~

33 ~~(E) Assist state agencies in determining appropriate~~
34 ~~measures, program structures, and program definitions.~~

35 ~~(5) The Governor or the state agency designated by the Governor~~
36 ~~shall, for all state agencies:~~

1 ~~(A)(i)—Develop, with the Bureau of Legislative Research~~
2 ~~and the Division of Legislative Audit, and by January 1, 2004, implement and~~
3 ~~maintain the official state performance information system for approved~~
4 ~~programs, objectives, key measures, targets, and actual reported~~
5 ~~accomplishments for key measures.~~

6 ~~(ii)—If the official state performance information~~
7 ~~system is not developed or maintained by the Governor or the state agency~~
8 ~~designated by the Governor, the Department of Finance and Administration~~
9 ~~shall consult with the General Assembly and the Bureau of Legislative~~
10 ~~Research to develop procedures, forms, and processes in lieu of the~~
11 ~~performance information system until such time as the permanent performance~~
12 ~~information system is developed and ready for use;~~

13 ~~(B)—Maintain performance data in an electronic format~~
14 ~~readily accessible to the citizens of the state; and~~

15 ~~(C)—Enforce a uniform use of the state accounting and~~
16 ~~budgeting systems so as to provide the proper accounting and reporting of~~
17 ~~costs of approved programs and performance data in accordance with the~~
18 ~~requirements of this section.~~

19 ~~(d)(1)(A)—Performance measures for the various programs shall be~~
20 ~~revised only in connection with the biennial budget process.~~

21 ~~(B)—The changes may be proposed by the state agency or by~~
22 ~~the appropriate interim committee.~~

23 ~~(C)—The changes can occur only upon the approval of the~~
24 ~~Legislative Council, the General Assembly, or both.~~

25 ~~(2)(A)—A state agency may request a change in any performance~~
26 ~~target only based upon matters beyond the control of the state agency.~~

27 ~~(B)—Matters beyond the control of the state agency may~~
28 ~~include a significant change in funding of a program or a change in the~~
29 ~~legislation affecting the state agency's or program's mission.~~

30 ~~(C)—Any change in any requested performance target must~~
31 ~~have the approval of the Legislative Council.~~

32 ~~(e)(1)—Incentives and disincentives may only be authorized or imposed~~
33 ~~by the General Assembly in the operating appropriation act of an agency~~
34 ~~receiving performance-based appropriations.~~

35 ~~(2)—The decision to authorize an incentive or impose a~~
36 ~~disincentive shall be based upon the actual performance results of an agency~~

1 as compared to the approved performance targets for a program. In making a
2 determination of whether to recommend an incentive or a disincentive, the
3 Legislative Council or Joint Budget Committee shall consider interim progress
4 reports, any recommendations of the Governor or of the staff of the Bureau of
5 Legislative Research, reports of the Legislative Auditor, and any other
6 additional information deemed necessary.

7 (3) Performance incentives may include one (1) or more of the
8 following:

9 (A) An allocation of any performance incentive funds
10 authorized by the General Assembly;

11 (B) Authorization in the appropriation act to carry
12 forward a specified percentage of general revenue savings to a subsequent
13 fiscal year; and

14 (C) Authorization in the appropriation act to transfer
15 funds between programs in amounts in excess of the general limitations as
16 provided by § 19-4-519.

17 (4) Performance disincentives may include one (1) or more of the
18 following:

19 (A) Requiring an agency to submit a corrective action or
20 performance improvement to the Governor or agency designated by the Governor
21 and to the legislative oversight committee for any program failing to meet
22 approved performance targets;

23 (B) The return of one (1) or more agency programs to line
24 item appropriation controls;

25 (C) A portion of the agency funding or appropriation, or
26 both, may be made unavailable pending corrective action or improved
27 performance to the satisfaction of the Legislative Council; and

28 (D) Transfer of agency resources to another agency or
29 private vendor to provide intended services to citizens.

30
31 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that ability to automate the
33 performance-based budgeting process was an important component of the
34 Arkansas Administrative Statewide Information System; that SAP, the vendor
35 contracted to provide the performance-based budgeting component of the
36 Arkansas Administrative Statewide Information System, failed to deliver the

1 component as required by contract; that the state was unable to automate the
2 performance-based budgeting process; that, additionally, the performance-
3 based budgeting model does not accurately reflect state agency goals and
4 objectives; that the performance-based budgeting process is burdensome to
5 state agencies; that state resources could be used more efficiently if
6 performance-based budgeting is eliminated; and that the immediate elimination
7 of performance-based budgeting will benefit the state agency appropriation
8 process of the Eighty-fifth General Assembly. Therefore, an emergency is
9 declared to exist and this act being immediately necessary for the
10 preservation of the public peace, health, and safety shall become effective
11 on:

12 (1) The date of its approval by the Governor;

13 (2) If the bill is neither approved nor vetoed by the Governor,
14 the expiration of the period of time during which the Governor may veto the
15 bill; or

16 (3) If the bill is vetoed by the Governor and the veto is
17 overridden, the date the last house overrides the veto.

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20 APPROVED: 2/17/2005
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