

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.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2297

4  
5 By: Joint Budget Committee  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO AMEND THE ARKANSAS CODE IN ORDER TO  
10 CLARIFY AND ADD ADDITIONAL PROVISIONS AND  
11 REQUIREMENTS IN THE PERFORMANCE BUDGETING AND  
12 ACCOUNTABILITY SYSTEM; AND FOR OTHER PURPOSES.  
13

## Subtitle

14  
15 AMENDMENTS TO THE ARKANSAS PERFORMANCE  
16 BUDGETING AND ACCOUNTABILITY SYSTEM.  
17  
18

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

21 SECTION 1. Arkansas Code §19-4-605(a) relating to agency participation  
22 in the strategic planning portion of the Performance Budgeting and  
23 Accountability System is amended to read as follows:

24 (a) Each state agency, constitutional agency, and institution of higher  
25 education, other than the elected constitutional officers and their staff  
26 offices, shall prepare a strategic plan, containing those elements as set out  
27 under § 19-4-606(b)(6)(A) through 19-4-606(b)(6)(D), for the operation of  
28 each of its assigned programs for submission to the Legislative Council, the  
29 appropriate interim committees, and the Governor.  
30

31 SECTION 2. Arkansas Code §19-4-606(a) defining terms used in the  
32 Performance Budgeting and Accountability System is amended by adding the  
33 following item:

34 (14) "Key performance measures" means those measures critical to the  
35 mission, effectiveness and efficiency of a program selected by the  
36 Legislative Council.



1  
 2 SECTION 3. Arkansas Code §19-4-606 (b)(2) and (3) relating to the  
 3 biennial budget submission requirements for performance-based budgets is  
 4 amended to read as follows:

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

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

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

16 (iii) The performance budget format shall include the  
 17 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 in  
 21 Phase I of the system ~~on July 1, 2001~~, 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 within the Department of
- 29 Workforce Education;
- 30 (vii) Arkansas Science and Technology Authority;
- 31 (viii) Arkansas State Library within the Department of
- 32 Education;
- 33 (ix) Arkansas Student Loan Authority;
- 34 (x) Arkansas Teacher Retirement System;
- 35 (xi) Arkansas Tech University;
- 36 (xii) Arkansas Valley Technical Institute;

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

1 Administration;

2 (xlii) State Department for Social Security Administration for  
3 Disability Determination; and

4 (xliii) State Insurance Department; or

5 (xliv) their successors.

6 (B) July 1, 2003 the: ~~Their successors.~~

7 ( i) Assessment Coordination Department

8 ( ii) Arkansas State Bank Department

9 ( iii) State Building Services

10 (iv) Arkansas Development Finance Authority

11 ( v) Department of Finance and Administration - Administrative  
12 Services Division

13 ( vi) Department of Finance and Administration - Management

14 Services Division

15 ( vii) Department of Human Services - Administrative Services

16 ( viii) Department of Human Services - Child Care and Early

17 Childhood Education

18 ( ix) Department of Human Services - Developmental Disabilities

19 ( x) Department of Human Services - Mental Health Services

20 ( xi) Arkansas Game and Fish Commission

21 ( xii) Arkansas Geological Commission

22 ( xiii) Department of Arkansas Heritage

23 ( xiv) Arkansas Highway and Transportation Department

24 ( xv) Office of Information Technology

25 (xvi) State Military Department

26 ( xvii) Oil and Gas Commission

27 ( xviii) Department of Parks and Tourism

28 ( xix) State Plant Board

29 ( xx) Arkansas Public Service Commission

30 ( xxi) Arkansas School for the Blind

31 (xxii) Arkansas Crime Information Center

32 (xxiii) Arkansas State Crime Laboratory

33 ( xxiv) Arkansas School for the Deaf

34 ( xxv) Arkansas Securities Department

35 ( xxvi) Arkansas Soil and Water Conservation Commission

36 ( xxvii) Arkansas Tobacco Settlement Commission

- 1 (xxviii) Arkansas Transitional Employment Board
- 2 (xxix) Arkansas State University System
- 3 (xxx) Arkansas Tech University
- 4 (xxx1) Henderson State University
- 5 (xxxii) Southern Arkansas University - Magnolia
- 6 (xxxiii) University of Arkansas - System Administration
- 7 (xxxiv) University of Arkansas - Fayetteville
- 8 (xxxv) University of Arkansas - Division of Agriculture
- 9 (xxxvi) University of Arkansas - Arkansas Archeological Survey
- 10 (xxxvii) University of Arkansas - Criminal Justice Institute
- 11 (xxxviii) University of Arkansas - Clinton School
- 12 (xxxix) University of Arkansas at Little Rock
- 13 (xl) University of Arkansas at Monticello
- 14 (xli) University of Arkansas for Medical Sciences
- 15 (xlii) Arkansas State University - Jonesboro
- 16 (xliii) University of Arkansas at Pine Bluff
- 17 (xliv) University of Central Arkansas
- 18 (xlv) Arkansas State University - Beebe
- 19 (xlvi) Arkansas State University - Newport
- 20 (xlvii) Arkansas State University - Mountain Home
- 21 (xlviii) Black River Technical College
- 22 (xlix) Cossatot Technical College
- 23 (l) East Arkansas Community College
- 24 (li) Garland County Community College
- 25 (lii) Mid-South Community College
- 26 (liii) Mississippi County Community College
- 27 (liv) North Arkansas College
- 28 (lv) Northwest Arkansas Community College
- 29 (lvi) Ouachita Technical College
- 30 (lvii) Ozarka College
- 31 (lviii) Petit Jean College
- 32 (lix) Phillips Community College of the University of Arkansas
- 33 (lx) Pulaski Technical College
- 34 (lxi) Rich Mountain Community College
- 35 (lxii) South Arkansas Community College
- 36 (lxiii) Southeast Arkansas College

- 1           ( lxiv)   Southern Arkansas University - TECH
- 2           ( lxv)   University of Arkansas Community College at Batesville
- 3           ( lxvi)   University of Arkansas Community College at Hope
- 4           ( lxvii) University of Arkansas Fort Smith,
- 5           (C) or their successors.

6

7           SECTION 4. Arkansas Code 19-4-606(b)(6) relating to the regulations  
 8 required for the Performance Budgeting and Accountability System and the  
 9 contents of the strategic plan is amended to read as follows:

10           (b)(6) The system regulations shall require each state agency to  
 11 prepare for the state agency a long-range strategic plan of no fewer than  
 12 five (5) years and shall require for those agencies operating under a  
 13 performance-based appropriation to align their accounting and budgeting  
 14 coding structures with the approved strategic plans to the extent necessary  
 15 to report the costs of programs and objectives in subsequent budget request  
 16 documents and interim progress reports; and the plan shall include:

17                   (A) A mission statement and goals for the state agency;

18                   (B) A listing of programs and the program definitions of  
 19 the state agency, as approved by the Legislative Council after considering  
 20 the recommendations of the appropriate interim committee;

21                   (C) Goals and objectives for each program in the state  
 22 agency or constitutional agency, as approved by the Legislative Council ~~and~~  
 23 ~~reviewed by~~ after considering the recommendations of the appropriate interim  
 24 committee;

25                   (D) Strategies that the state agency plans to use to  
 26 accomplish each program's goals and objectives;

27                   (E) Measures for each program, which shall

28                           (i) ~~(a) Be selected by the General Assembly and the~~  
 29 ~~Legislative Council to be incorporated into each state agency's regular~~  
 30 ~~biennial operations appropriation act;~~

31                                   ~~(b) Be used as the basis for determining~~  
 32 ~~legislative intent in the appropriating of such funds;~~

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

35   (b) Be approved by the Legislative Council  
 36 after ~~review by~~ considering the recommendations of the appropriate interim

1 committee; and

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

4

5 SECTION 5. Arkansas Code §19-4-606(b)(7) relating to the reports required  
6 by the Performance Budgeting and Accountability System is amended to read as  
7 follows:

8 (7)(A) Participating agencies and programs shall submit a  
9 semiannual report on progress toward meeting performance goals to the  
10 Legislative Council and the appropriate interim committees.

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

14 (C) The Governor and the Arkansas Higher Education  
15 Coordinating Board, as applicable, may require reports at such times as are  
16 determined will best meet the requirements for implementing state policy.

17 (D) The detail in the report to the Legislative Council  
18 and the appropriate interim committee and its format and method of  
19 transmission shall be determined by the Legislative Council.

20 (E) Failure by any state agency to submit the required  
21 report shall result in the administrative head of the state agency's  
22 appearing before the next meeting of the Legislative Council and the  
23 appropriate interim committee to explain the failure.

24 (F) The General Assembly shall have final approval of all  
25 programs, performance measures, and targets through the enactment of the  
26 appropriation acts for the various ~~state~~-agencies participating in Phase II  
27 of the system.

28

29 SECTION 6. Arkansas Code §19-4-606(c) relating to the responsibilities of  
30 various agencies under the Performance Budgeting and Accountability System is  
31 amended to read as follows:

32 (c)(1) The Bureau of Legislative Research shall:

33 (A) Review the agencies' periodic reports and report  
34 recommendations and findings to the Legislative Council or Joint Budget  
35 Committee and appropriate interim committees;

36 (B) Recommend changes to the Legislative Council or

1 appropriate interim committee of any measure, program, and program definition  
2 program objective, and target submitted by a state agency or constitutional  
3 agency;

4 (C) Assist state agencies and interim committees in  
5 determining appropriate measures, program structures, and program  
6 definitions;

7 (D) Serve as the lead legislative agency in the  
8 implementation and design of the system; and

9 (E) Provide a continuous review of the system's process  
10 and recommend changes to the Legislative Council, as appropriate; and

11 (F) Maintain the official state performance information  
12 system for approved programs, objectives, key measures, targets, and actual  
13 reported accomplishments for key measures, if not maintained by the governor  
14 or the state agency designated by the governor.

15 (G) Maintain performance data in an electronic format  
16 readily accessible to the citizens of the state, if not maintained by the  
17 governor or the state agency designated by the governor.

18 (2) The Division of Legislative Audit shall:

19 (A) ~~Verify, as a part of the regular financial audits of~~  
20 ~~the state agencies,~~ that the data being reported and collected by the state  
21 agencies are accurate and in such a form as is required by the Legislative  
22 Council and evaluate management controls surrounding the collection and  
23 reporting of the data;

24 (B) Perform detailed performance audits in accordance with  
25 "Generally Accepted Government Auditing Standards", as issued by the United  
26 States General Accounting Office, upon request by any legislative committee  
27 and after approval of the request by the Legislative Joint Auditing  
28 Committee.

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

34 (4) The Governor or the state agency designated by the Governor,  
35 except for the institutions of higher education, shall:

36 (A) Review submitted performance reports and recommend



1 changes as appropriate to the state agencies and the Legislative Council in  
 2 measurements, programs, goals, objectives, and strategies;

3 (B) Provide adequate training to state agency personnel in  
 4 performance measurements and strategic planning;

5 (C) Prepare and distribute approved forms, manuals, and  
 6 procedures to the state agencies as required to meet the implementation  
 7 timeline;

8 (D) Oversee the process of strategic planning for state  
 9 agencies and recommend changes to the Legislative Council; and

10 (E) Assist state agencies in determining appropriate  
 11 measures, program structures, and program definitions.

12 (5) The Governor or the state agency designated by the Governor  
 13 shall, for all state agencies, ~~including the institutions of higher~~  
 14 ~~education:~~

15 (A)(1) ~~Maintain an accounting system for approved~~  
 16 ~~programs, objectives, and measures in accordance with the reporting~~  
 17 ~~requirements of this section; and~~ Develop, with the Bureau of Legislative  
 18 Research and the Division of Legislative Joint Audit, and by January 1, 2004,  
 19 implement and maintain the official state performance information system for  
 20 approved programs, objectives, key measures, targets, and actual reported  
 21 accomplishments for key measures.

22 (2) If the official state performance information  
 23 system is not developed or maintained by the governor or the state agency  
 24 designated by the governor, the Department of Finance and Administration  
 25 shall transfer the necessary resources to the Bureau of Legislative Research  
 26 to do so.

27 (B) Maintain performance data in an electronic format  
 28 readily accessible to the citizens of the state or transfer the necessary  
 29 resources to do so to the Bureau of Legislative Research.

30 (C) Enforce a uniform use of the state accounting and  
 31 budgeting systems so as to provide the proper accounting and reporting of  
 32 costs of approved programs ~~and performance data~~ in accordance with the  
 33 requirements of this section.

34 (6) The Arkansas Higher Education Coordinating Board and the  
 35 Department of Higher Education for the institutions of higher education  
 36 shall:

1 (A) Review submitted performance reports and recommend  
 2 changes as are appropriate to the institutions of higher education and to the  
 3 Legislative Council in measurements, programs, goals, objectives, and  
 4 strategies;

5 (B) Provide adequate training to the personnel of the  
 6 institutions of higher education in performance measurements and strategic  
 7 planning;

8 (C) Prepare and distribute approved forms, manuals, and  
 9 procedures to the institutions of higher education, as are required to meet  
 10 the implementation timeline;

11 (D) Oversee the process of strategic planning for  
 12 institutions of higher education and recommend changes to the Legislative  
 13 Council; and

14 (E) Assist the institutions of higher education in  
 15 determining appropriate measures, program structures, and program  
 16 definitions.

17 (F) Maintain such systems and procedures as necessary to  
 18 insure that information required for the official state performance  
 19 information system for institutions of higher education is electronically  
 20 transmitted to the agency maintaining the official performance information  
 21 system.

22  
 23 SECTION 7. Arkansas Code §19-4-606 is amended by adding an additional  
 24 subsection (e) to read as follows:

25 (e)(1) Incentives and Disincentives may only be authorized or imposed  
 26 by the General Assembly in the operating appropriation act of an agency  
 27 receiving performance-based appropriations.

28 (2) The decision to authorize an incentive or impose a  
 29 disincentive shall be based upon the actual performance results of an agency  
 30 as compared to the approved performance targets for a program. In making a  
 31 determination of whether to recommend an incentive or a disincentive, the  
 32 Legislative Council or Joint Budget Committee shall consider interim  
 33 progress reports, any recommendations of the Governor or of the staff of the  
 34 Bureau of Legislative Research, reports of the Legislative Auditor and any  
 35 other additional information deemed necessary.

36 (3) Performance incentives may include one or more of the

1 following:

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

4 (B) Authorization in the appropriation act to carry  
 5 forward a specified percentage of general revenue savings to a subsequent  
 6 fiscal year; and

7 (C) Authorization in the appropriation act to transfer  
 8 funds between programs in amounts in excess of the general limitations as  
 9 provided by Arkansas Code 19-4-519.

10 (4) Performance disincentives may include one or more of the  
 11 following:

12 (A) Requiring an agency to submit a corrective action or  
 13 performance improvement to the governor, or agency designated by the  
 14 governor, and to the legislative oversight committee for any program failing  
 15 to meet approved performance targets;

16 (B) The return of one or more agency programs to line item  
 17 appropriation controls;

18 (C) A portion of agency funding or appropriation or both  
 19 may be made unavailable pending corrective action or improved performance to  
 20 the satisfaction of the Legislative Council;

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

23  
 24 SECTION 8. Arkansas Code §19-4-519(c) relating to appropriation transfers  
 25 for agencies operating under a performance based budget is amended to read as  
 26 follows:

27 (c)(1)(A) If a state agency or program within the state  
 28 agency has received a performance-based appropriation from the General  
 29 Assembly, the state agency may request approval from the Chief Fiscal Officer  
 30 of the State and the Legislative Council or Joint Budget Committee to  
 31 transfer a portion of the performance-based appropriation from one program to  
 32 a performance-based appropriation of another program or programs.

33 (B) An institution of higher education shall submit the  
 34 transfer request to the Department of Higher Education, which shall then  
 35 forward the request to the Chief Fiscal Officer of the State, with the  
 36 Department of Higher Education's recommendation and comments.

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

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

7 (4)(A) If the transfer request, when combined with other  
 8 approved transfers for the applicable programs, proposes to increase or  
 9 decrease any of the applicable appropriations for the fiscal year by more  
 10 than five percent (5%) ~~and by more than one hundred thousand dollars~~  
 11 ~~(\$100,000)~~, the Chief Fiscal Officer of the State shall submit his  
 12 recommendation along with the request to the Legislative Council or the Joint  
 13 Budget Committee for its review, approval, disapproval, or modification.

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

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

21 (B) In no event shall a transfer be approved by the  
 22 Legislative Council that, when combined with other approved transfers for the  
 23 applicable programs, would increase or decrease a performance-based  
 24 appropriation provided by law by the General Assembly by more than ~~ten~~  
 25 ~~percent (10%)~~ twenty percent (20%).

26 (6) The Chief Fiscal Officer of the State shall make the  
 27 appropriate adjustments on the books of the state after receiving the  
 28 notification.

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

33 (B) The state agency may revise those funding estimates  
 34 from time to time as funds may or may not become available upon approval of  
 35 the Chief Fiscal Officer of the State.

36 (8)(A)(i) Determining the maximum amount of appropriation and

1 general revenue funding for a state agency each fiscal year is the  
 2 prerogative of the General Assembly.

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

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

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

15 (ii) The requirement of approval by the Legislative  
 16 Council or the Joint Budget Committee is not a severable part of this  
 17 subsection.

18 (iii) If the requirement of approval by the  
 19 Legislative Council or the Joint Budget Committee is ruled unconstitutional  
 20 by a court of competent jurisdiction, this subsection is void.

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