

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
4

As Engrossed: H4/2/03
A Bill

HOUSE BILL 2297

5 By: Joint Budget Committee
6
7

8 **For An Act To Be Entitled**

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

14 **Subtitle**

15 AMENDMENTS TO THE ARKANSAS PERFORMANCE
16 BUDGETING AND ACCOUNTABILITY SYSTEM.
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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, and constitutional agency, ~~and institution of~~*
25 ~~higher education~~, other than the elected constitutional officers and their
26 staff offices, shall prepare a strategic plan, containing those elements as
27 set out under § 19-4-606(b)(6)(A) through 19-4-606(b)(6)(D), for the
28 operation of each of its assigned programs for submission to the Legislative
29 Council, the 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 (C) or their successors.

3
 4 SECTION 4. Arkansas Code 19-4-606(b)(6) relating to the regulations
 5 required for the Performance Budgeting and Accountability System and the
 6 contents of the strategic plan is amended to read as follows:

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

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

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

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

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

24 (E) Measures for each program, which shall

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

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

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

32 (b) Be approved by the Legislative Council
 33 after ~~review by~~ considering the recommendations of the appropriate interim
 34 committee; and

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

1
2 SECTION 5. Arkansas Code §19-4-606(b)(7) relating to the reports required
3 by the Performance Budgeting and Accountability System is amended to read as
4 follows:

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

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

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

14 ~~(D)~~(C) The detail in the report to the Legislative Council
15 and the appropriate interim committee and its format and method of
16 transmission shall be determined by the Legislative Council.

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

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

25
26 SECTION 6. Arkansas Code §19-4-606(c) relating to the responsibilities of
27 various agencies under the Performance Budgeting and Accountability System is
28 amended to read as follows:

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

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

33 (B) Recommend changes to the Legislative Council or
34 appropriate interim committee of any measure, program, and program definition
35 program objective, and target submitted by a state agency or constitutional
36 agency;

1 (C) Assist state agencies and interim committees in
2 determining appropriate measures, program structures, and program
3 definitions;

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

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

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

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

15 (2) The Division of Legislative Audit shall:

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

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

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

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

33 (A) Review submitted performance reports and recommend
34 changes as appropriate to the state agencies and the Legislative Council in
35 measurements, programs, goals, objectives, and strategies;

36 (B) Provide adequate training to state agency personnel in

1 performance measurements and strategic planning;

2 (C) Prepare and distribute approved forms, manuals, and
3 procedures to the state agencies as required to meet the implementation
4 timeline;

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

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

9 (5) The Governor or the state agency designated by the Governor
10 shall, for all state agencies, ~~including the institutions of higher~~
11 ~~education:~~

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

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

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

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

31 ~~(6) The Arkansas Higher Education Coordinating Board and the~~
32 ~~Department of Higher Education for the institutions of higher education~~
33 ~~shall:~~

34 (A) ~~Review submitted performance reports and recommend~~
35 ~~changes as are appropriate to the institutions of higher education and to the~~
36 ~~Legislative Council in measurements, programs, goals, objectives, and~~

1 ~~strategies;~~

2 ~~(B) Provide adequate training to the personnel of the~~
 3 ~~institutions of higher education in performance measurements and strategic~~
 4 ~~planning;~~

5 ~~(C) Prepare and distribute approved forms, manuals, and~~
 6 ~~procedures to the institutions of higher education, as are required to meet~~
 7 ~~the implementation timeline;~~

8 ~~(D) Oversee the process of strategic planning for~~
 9 ~~institutions of higher education and recommend changes to the Legislative~~
 10 ~~Council; and~~

11 ~~(E) Assist the institutions of higher education in~~
 12 ~~determining appropriate measures, program structures, and program~~
 13 ~~definitions.~~

14
 15 SECTION 7. Arkansas Code §19-4-606 is amended by adding an additional
 16 subsection (e) to read as follows:

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

20 (2) The decision to authorize an incentive or impose a
 21 disincentive shall be based upon the actual performance results of an agency
 22 as compared to the approved performance targets for a program. In making a
 23 determination of whether to recommend an incentive or a disincentive, the
 24 Legislative Council or Joint Budget Committee shall consider interim
 25 progress reports, any recommendations of the Governor or of the staff of the
 26 Bureau of Legislative Research, reports of the Legislative Auditor and any
 27 other additional information deemed necessary.

28 (3) Performance incentives may include one or more of the
 29 following:

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

32 (B) Authorization in the appropriation act to carry
 33 forward a specified percentage of general revenue savings to a subsequent
 34 fiscal year; and

35 (C) Authorization in the appropriation act to transfer
 36 funds between programs in amounts in excess of the general limitations as

1 provided by Arkansas Code 19-4-519.

2 (4) Performance disincentives may include one or more of the
3 following:

4 (A) Requiring an agency to submit a corrective action or
5 performance improvement to the governor, or agency designated by the
6 governor, and to the legislative oversight committee for any program failing
7 to meet approved performance targets;

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

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

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

15
16 SECTION 8. Arkansas Code §19-4-519(c) relating to appropriation transfers
17 for agencies operating under a performance based budget is amended to read as
18 follows:

19 (c)(1)(A) If a state agency or program within the state
20 agency has received a performance-based appropriation from the General
21 Assembly, the state agency may request approval from the Chief Fiscal Officer
22 of the State and the Legislative Council or Joint Budget Committee to
23 transfer a portion of the performance-based appropriation from one program to
24 a performance-based appropriation of another program or programs.

25 ~~*(B) An institution of higher education shall submit the*~~
26 ~~*transfer request to the Department of Higher Education, which shall then*~~
27 ~~*forward the request to the Chief Fiscal Officer of the State, with the*~~
28 ~~*Department of Higher Education's recommendation and comments.*~~

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

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

35 (4)(A) If the transfer request, when combined with other
36 approved transfers for the applicable programs, proposes to increase or

1 decrease any of the applicable appropriations for the fiscal year by more
2 than five percent (5%) ~~and by more than one hundred thousand dollars~~
3 ~~(\$100,000)~~, the Chief Fiscal Officer of the State shall submit his
4 recommendation along with the request to the Legislative Council or the Joint
5 Budget Committee for its review, approval, disapproval, or modification.

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

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

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

18 (6) The Chief Fiscal Officer of the State shall make the
19 appropriate adjustments on the books of the state after receiving the
20 notification.

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

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

28 (8)(A)(i) Determining the maximum amount of appropriation and
29 general revenue funding for a state agency each fiscal year is the
30 prerogative of the General Assembly.

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

35 (B)(i)(a) Further, the General Assembly has determined
36 that state agencies' programs which receive performance-based appropriations

1 may operate more efficiently if some flexibility is provided under the
2 provisions of this subsection.

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

7 (ii) The requirement of approval by the Legislative
8 Council or the Joint Budget Committee is not a severable part of this
9 subsection.

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

13

14 *SECTION 9. Arkansas Code 19-4-605(b) relating to strategic planning is*
15 *amended to read as follows:*

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

19 (B) *The plan shall be submitted no less frequently than biennially.*

20 (2) *The form, content, and submission timetable of the strategic plan for*
21 *constitutional agencies ~~and institutions of higher education~~ shall be*
22 *determined by the Legislative Council.*

23

24 *SECTION 10. Arkansas Code 19-4-606(a)(9) relating to terms used in the*
25 *Performance Budgeting and Accountability System is amended to read as*
26 *follows:*

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

30

31 *SECTION 11. Arkansas Code 19-4-606(a)(25) relating to terms used in the*
32 *Performance Budgeting and Accountability System is amended to read as*
33 *follows:*

34 (25) *"State agency" means any official, officer, commission, board,*
35 *authority, council, committee, or department of the executive branch that*
36 *receives an appropriation by the General Assembly, but excludes the*

1 institutions of higher education, the Arkansas State Highway and
2 Transportation Department, the Arkansas State Game and Fish Commission,
3 elected constitutional officers, and the staff offices of the elected
4 constitutional officers;

5
6 SECTION 12. The Arkansas Department of Higher Education (ADHE), in
7 consultation with the institutions of higher education, shall develop an
8 Arkansas Higher Education Performance Reporting System. The Legislative
9 Council shall have final approval of the form and content of the performance
10 reports to be provided to the General Assembly, the various interim
11 committees and the public, after considering the recommendations of the House
12 and Senate Education Committees.

13 To the extent possible, the Arkansas Higher Education Performance
14 Reporting System will utilize information from the North Central Association
15 assessment outcomes measures which are required for reaffirmation of
16 accreditation, federal IPEDS report data, and data collected annually through
17 ADHE's Statewide Student Information System.

18 In developing the Arkansas Higher Education Performance Reporting
19 System, ADHE will review and analyze higher education performance reporting
20 systems used in other states so as to incorporate the best aspects of those
21 plans.

22 The Arkansas Higher Education Performance Reporting System will provide
23 the General Assembly and the public with quantitative, objective information
24 which will reveal institutional weaknesses and strengths. Performance-based
25 reports shall be provided annually to the House and Senate Education
26 Committees and to the Legislative Council.

27 To the extent possible, and taking into account the differences in
28 institutional missions, the Arkansas Higher Education Performance Reporting
29 System will contain uniform accountability elements which reveal trends,
30 strengths, and weaknesses and assist policy makers and prospective students
31 and their parents in comparing institutions and judging the extent to which
32 they are effectively and efficiently accomplishing their missions."

33
34 /s/ Joint Budget Committee
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