

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1070

5 By: Representative Davis
6 By: Senator Hester
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES
10 ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS;
11 TO TRANSFER STATE ENTITIES; TO DECLARE AN EMERGENCY;
12 AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO CREATE THE TRANSFORMATION AND
16 EFFICIENCIES ACT OF 2019; TO ESTABLISH
17 CABINET-LEVEL DEPARTMENTS; TO TRANSFER
18 STATE ENTITIES; AND TO DECLARE AN
19 EMERGENCY.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 25 is amended to add an additional
26 chapter to read as follows:

Chapter 43

TRANSFORMATION AND EFFICIENCIES ACT OF 2019

Subchapter 1 – General Provisions

25-43-101. Title.

31
32 This chapter shall be known and may be cited as the “Transformation and
33 Efficiencies Act of 2019”.
34

25-43-102. Legislative findings and intent – Construction.

35
36

1 (a) The General Assembly finds that this chapter is necessary to:

2 (1) Reorganize the structure of state government;

3 (2) Improve the delivery of services to the people of this
 4 state;

5 (3) Provide sufficient flexibility to meet changing conditions;

6 (4) Establish a clear master organizational chart for all
 7 executive branch agencies;

8 (5) Provide a reasonable opportunity to create budgetary and
 9 administrative efficiencies within an orderly organizational structure of
 10 state government;

11 (6) Effect the grouping of state agencies primarily according to
 12 function into a limited number of cabinet-level departments; and

13 (7) Eliminate the overlap and duplication of effort.

14 (b) It is the intent of the General Assembly to provide for an orderly
 15 transfer of powers, duties, and functions of the various state agencies to
 16 the cabinet-level departments with a minimum of disruption of governmental
 17 services and functions and with a minimum of expense.

18 (c) This chapter shall be liberally construed.

19
 20 25-43-103. Definitions.

21 As used in this chapter:

22 (1)(A) "Administrative functions" means the day-to-day business
 23 operations of a state entity, including without limitation employment,
 24 payroll, property management, benefit management, human resource operations,
 25 and accounting operations for all state entities, and all other duties as
 26 assigned by the secretary of the cabinet-level department or his or her
 27 designee.

28 (B) "Administrative functions" does not include the
 29 promulgation of rules or issuance of orders on behalf of any state entity
 30 unless specifically designated by statute, rule, order, or directive;

31 (2) "Cabinet-level department" means one (1) of the fifteen (15)
 32 executive agencies designated by the Governor to provide state services and
 33 provide direct reports to the Governor;

34 (3) "Employee" means a member of personnel employed to carry out
 35 the functions of state government; and

36 (4) "State entity" means any instrumentality of state

1 government, including without limitation a board, commission, advisory board,
2 office, department, institution, bureau, council, administrative program,
3 agency, or division.

4
5 25-43-104. Effect of act on preexisting rules, regulations, etc.

6 (a) This act does not affect the orders, rules, regulations,
7 directives, or standards made or promulgated prior to its enactment by any
8 state entity, the functions, powers, and duties of which have been assigned
9 or transferred by this chapter to a cabinet-level department established by
10 this act.

11 (b) The orders, rules, regulations, directives, or standards under
12 subsection (a) of this section shall continue with full force and effect
13 until amended or repealed by law.

14
15 25-43-105. Cabinet-level departments.

16 The following cabinet-level departments are created:

- 17 (1) The Department of Agriculture;
- 18 (2) The Department of Commerce;
- 19 (3) The Department of Corrections;
- 20 (4) The Department of Education;
- 21 (5) The Department of Energy and Environment;
- 22 (6) The Department of Finance and Administration;
- 23 (7) The Department of Health;
- 24 (8) The Department of Human Services;
- 25 (9) The Department of the Inspector General;
- 26 (10) The Department of Labor and Licensing;
- 27 (11) The Department of Military;
- 28 (12) The Department of Parks, Heritage, and Tourism;
- 29 (13) The Department of Public Safety;
- 30 (14) The Department of Transformation and Shared Services; and
- 31 (15) The Department of Veteran Affairs.

32 (b) All cabinet-level departments are executive agencies and report to
33 the Governor.

34 (c) The General Assembly may prescribe duties to the cabinet-level
35 departments and the various state entities that are administered by the
36 cabinet-level departments.

1
2 25-43-106. Cabinet-level department secretary.

3 (a) The executive head of each cabinet-level department shall be named
4 the secretary.

5 (b) The secretary shall be appointed by the Governor, unless otherwise
6 specified by law.

7 (c) The secretary shall serve at the pleasure of the Governor.

8 (d) The secretary may:

9 (1) Delegate to the employees of his or her cabinet-level
10 department any of the powers or duties of the cabinet-level department
11 required to administer the department;

12 (2) Hire cabinet-level department personnel;

13 (3) Perform or assign duties assigned to the cabinet-level
14 department; and

15 (4) Serve as the director, administrative, or executive head of
16 any state entity under the administrative control of the cabinet-level
17 department if the secretary also meets all statutory requirements for the
18 position.

19
20 25-43-107. Cabinet-level departments – Powers and duties.

21 (a) A cabinet-level department shall:

22 (1) Execute the powers and duties prescribed by law;

23 (2) Administer each state entity transferred to the cabinet-
24 level department under this chapter;

25 (3) Make contracts, grants, and employ, to the extent funds are
26 available, such personnel as may be necessary to carry out the purposes of
27 the cabinet-level department and each state entity administered by the
28 cabinet-level department; and

29 (4) Perform all administrative functions of state entities
30 transferred under this chapter or as designated by law.

31 (b) A cabinet-level department may:

32 (1) Assist other state entities and federal departments,
33 agencies, boards, commissions, and institutions, when so requested, by
34 performing services in conformity with the purposes of the cabinet-level
35 department;

36 (2) Maintain and administer real property on behalf of each

1 state entity transferred under this chapter as delegated by law;

2 (3) Maintain and administer all personal property on behalf of
3 each state entity transferred under this chapter;

4 (4) Provide administrative support, employment needs, and staff
5 to carry out the orders, rules, regulations, directives, or standards
6 promulgated or issued by each state entity over which the cabinet-level
7 department has administrative control; and

8 (5) Share business and administrative services across each
9 cabinet-level department as determined necessary by the secretary.

10
11 25-43-108. Cabinet-level department transfers.

12 (a) Transfers of state entities made under this chapter shall be
13 referred to as "cabinet-level department transfers" and shall incorporate by
14 reference this chapter.

15 (b) All administrative functions of a state entity transferred under
16 this chapter shall be administered under the direction and supervision of the
17 cabinet-level department into which the state entity is transferred.

18 (c) A state entity subject to a cabinet-level department transfer of
19 the state entity's administrative functions under this chapter shall make
20 available to the cabinet-level department all records concerning the
21 administrative functions of the state entity.

22 (d)(1) All personnel employed by a state entity transferred under this
23 chapter shall be considered employees of the cabinet-level department.

24 (2) All job descriptions, duties, salaries, and benefits of the
25 employee positions shall be determined by the secretary of the cabinet-level
26 department as consistent with Arkansas law unless otherwise specifically
27 stated by statute.

28 (3) All programs and positions funded by special funds allocated
29 by law to a state entity subject to the cabinet-level department transfer
30 under this chapter shall continue to be used for the designated purposes of
31 the programs and positions.

32 (e) A cabinet-level department shall provide all administrative
33 support, employment needs, and staff to carry out the orders, rules,
34 regulations, directives, or standards promulgated or issued by the state
35 entities transferred under this chapter, unless statutorily directed
36 otherwise.

1 (f) The transferred state entities shall be administered under the
2 direction and supervision of the cabinet-level department but shall continue
3 to exercise the stated statutory authority, powers, duties, and functions as
4 exercised before the cabinet-level department transfer, including without
5 limitation the promulgation of rules and regulations, the collection of fees,
6 licensing, certification, or registration authority over designated
7 occupations, and the creation of programs.

8 (g) Any revenue, including without limitation cash funds, special
9 revenue, trust fund income, federal grants, aid, reimbursements, nonrevenue
10 receipts, and other moneys held in accounts by the transferred state
11 entities, including without limitation unexpended balances that may be
12 carried forward, shall continue to be held in the accounts and shall be used
13 solely for the purposes for which the revenue was collected as provided by
14 law.

15 (h) All records, personnel, unexpended balances of state
16 appropriations or state allocations, and functions of budgeting and
17 purchasing of a transferred state entity are transferred to the cabinet-level
18 department.

19 (i)(1) All real property owned in fee simple by a transferred state
20 entity shall remain in the name of the transferred state entity, to be
21 administered by the cabinet-level department.

22 (2) All other property of the transferred state entity,
23 including without limitation personal property, fixtures, contracts, and
24 assignable leases, shall be transferred to the cabinet-level department.

25 (j) State entities transferred under a cabinet-level transfer may
26 continue to use all remaining stationary, branded material, or other similar
27 items until the stationary, branded material, or other similar items are
28 expended.

29
30 25-43-109. Correction of technical errors related to reorganization of
31 state government.

32 (a)(1) The General Assembly finds that:

33 (A) The reorganization of the structure of state
34 government under this chapter involves changes to hundreds of sections of the
35 Arkansas Code concerning state entities;

36 (B) Many of the changes required are highly technical and

1 require careful study of the purpose and context of each Arkansas Code
2 section, with some of the changes not becoming apparent until the
3 implementation of the reorganization of state government under this chapter;

4 (C) With a project as large and comprehensive as the
5 reorganization of state government under this chapter, it is inevitable that
6 certain sections of the Arkansas Code requiring technical changes to follow
7 the intent of this chapter will be either omitted or amended in a manner that
8 is later found to be erroneous and unintentional; and

9 (D) If the correct statutory change to remedy an
10 unintentional error is readily apparent and consistent with the intent of
11 this chapter, the unintentional error should be corrected as part of the
12 codification process due to the technical nature of the unintentional error.

13 (2) It is the intent of the General Assembly to empower the
14 Arkansas Code Revision Commission to correct technical errors identified in
15 the Arkansas Code during the reorganization of the structure of state
16 government under this chapter to allow this chapter to be fully implemented.

17 (b)(1)(A) Any person or state entity identifying one (1) or more
18 sections of the Arkansas Code that requires revision to implement the intent
19 of this chapter may notify the Director of the Bureau of Legislative Research
20 or his or her designee of the section or sections at issue.

21 (B) If the Bureau of Legislative Research, while assisting
22 the commission with the commission's powers and duties, becomes aware of one
23 (1) or more sections of the Arkansas Code that require revision to implement
24 the intent of this chapter for which it appears that the bureau and the
25 commission do not have authority to make the necessary revision under § 1-2-
26 303(d), the bureau may notify the commission of the section or sections at
27 issue.

28 (2) If the commission determines that the revision necessary to
29 one (1) or more sections of the Arkansas Code under subdivision (b)(1) of
30 this section is technical in nature, germane to the intent of this chapter,
31 and consistent with this chapter's policy and purposes, the commission may
32 make the revision to the Arkansas Code.

33 (3) The commission shall notify the publisher of the Arkansas
34 Code of a revision to the Arkansas Code under subdivision (b)(2) of this
35 section as soon as possible so that the revision may be reflected in the
36 official hard copy version of the Arkansas Code and official electronic

1 version of the Arkansas Code.

2 (4)(A) Except as provided in subdivision (b)(4)(B) of this
3 section, when the commission approves a revision to the Arkansas Code under
4 subdivision (b)(2) of this section, the commission shall notify the following
5 of the revision within thirty (30) days:

6 (i) The Speaker of the House of Representatives;

7 (ii) The President Pro Tempore of the Senate; and

8 (iii) The Legislative Council.

9 (B) The commission is not required to make a notification
10 under subdivision (b)(4)(A) of this section if the revision is made under §
11 1-2-303(d).

12 (c) The authority granted to the commission under this section is
13 supplemental to the commission's authority under § 1-2-303.

14
15 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that this act revises the duties of
17 certain state entities; that this act establishes new departments of the
18 state; that these revisions impact the expenses and operations of state
19 government; and that the provisions of this act should become effective at
20 the beginning of the fiscal year to allow for implementation of the new
21 provisions at the beginning of the fiscal year. Therefore, an emergency is
22 declared to exist, and this act being necessary for the preservation of the
23 public peace, health, and safety shall become effective on July 1, 2019.