

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.

State of Arkansas

As Engrossed: H3/24/05

85th General Assembly

# A Bill

Regular Session, 2005

HOUSE BILL 2623

By: Representatives J. Martin, Wood

## For An Act To Be Entitled

AN ACT CONCERNING THE REVIEW OF THE EFFICIENT  
OPERATION OF STATE GOVERNMENT; AND FOR OTHER  
PURPOSES.

## Subtitle

THE GOVERNMENT EFFICIENCY AND  
ACCOUNTABILITY ACT.

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

### SECTION 1. Legislative intent.

(a) The General Assembly finds that current economic trends dictate that state government operate as efficiently as possible and that the purposes of state government are more easily achieved through the efficient operation of state government.

(b) The General Assembly further finds that every division of state government must be accountable for the performance of its designated purpose.

(c) The purpose of this act is to provide for a review of the efficient operation of state government.

SECTION 2. Arkansas Code Title 25 is amended to add an additional chapter to read as follows:

### 25-37-101. Short title.

This chapter shall be known as "The Government Efficiency and Accountability Act."

### 25-37-102. Definitions.



1       As used in this chapter:

2               (1) "Committee" means the Government Efficiency and  
3 Accountability Review Committee; and

4               (2) "State agency" means an agency, department, board,  
5 commission, institution, council, advisory committee, program, or service of  
6 the State of Arkansas.

7  
8       25-37-103. Government Efficiency and Accountability Review Committee

9       (a) There is created the Government Efficiency and Accountability  
10 Review Committee.

11       (b)(1) The committee shall consist of:

12               (A) Four (4) members of the Senate appointed by the  
13 President Pro Tempore of the Senate;

14               (B) One (1) member of the Senate appointed by the majority  
15 leader of the Senate;

16               (C) One (1) member of the Senate appointed by the minority  
17 leader of the Senate;

18               (D) Four (4) members of the House of Representatives  
19 appointed by the Speaker of the House of Representatives;

20               (E) One (1) member of the House of Representatives  
21 appointed by the majority leader of the House of Representatives; and

22               (F) One (1) member of the House of Representatives  
23 appointed by the minority leader of the House of Representatives.

24       (2) Each appointing authority may designate himself or herself  
25 as one (1) of the legislative appointees.

26       (3) Members of the committee shall serve two-year terms.

27       (B) If any appointing authority serves on the committee, he or she  
28 shall continue to serve until he or she:

29               (i) Resigns from the committee; or

30               (ii) Ceases to hold the office of President Pro  
31 Tempore of the Senate, Speaker of the House of Representatives, or majority  
32 or minority leader of the Senate or the House of Representatives.

33       (5) A legislative member who serves more than one-half  
34 (1/2) of a full term on the committee shall not be appointed to an  
35 immediately succeeding term.

36       (c)(1) The appointing authorities shall make their appointments before

1 September 1 of each odd-numbered year.

2 (2) If a member ceases to be a member of the house from which he  
3 or she was appointed, the member shall vacate his or her membership on the  
4 committee.

5 (3) If a vacancy occurs on the committee, the person who  
6 appointed the person to the position that has become vacant shall appoint a  
7 person to serve for the remainder of the unexpired term.

8 (d)(1) The committee shall have a chair and vice chair as presiding  
9 officers.

10 (2) The chair and vice chair positions shall alternate every two  
11 (2) years between the membership groups appointed by the various appointing  
12 authorities.

13 (3) The chair and the vice chair shall not be from the same  
14 membership group.

15 (4) The appointing authority shall each designate a presiding  
16 officer from his or her appointed membership group.

17 (e)(1) Seven (7) members of the committee shall constitute a quorum.

18 (2) A final action or recommendation shall not be made unless  
19 approved by a majority vote of the committee's full membership.

20 (f)(1) Each member of the committee shall be entitled to reimbursement  
21 for actual and necessary expenses incurred in performing committee duties.

22 (2) Each member shall receive reimbursement from the appropriate  
23 fund of the member's respective house.

24  
25 25-37-104. Staff.

26 (a) The Government Efficiency and Accountability Review Committee  
27 shall employ an executive director to act as the executive head of the  
28 committee.

29 (b) The executive director shall employ persons necessary to carry out  
30 the provisions of this chapter through funds appropriated by the General  
31 Assembly.

32 (c) The chair and vice chair of the committee may each employ a staff  
33 to assist them on matters related to committee activities.

34  
35 25-37-105. Agency report to committee.

36 Before October 30 of the odd-numbered year before the year in which a

1 state agency is to be abolished, the agency shall report to the Government  
2 Efficiency and Accountability Review Committee:

3 (1) Information regarding the application to the agency of the  
4 criteria in § 25-37-108; and

5 (2) Any other information that the agency considers appropriate  
6 or that is requested by the committee.

7  
8 25-37-106. Committee duties.

9 (a) Before September 1 of the even-numbered year before the year in  
10 which a state agency subject to this chapter is abolished, the Government  
11 Efficiency and Accountability Review Committee shall:

12 (1) Review and take action necessary to verify the reports  
13 submitted by the agency under § 25-37-105;

14 (2) Consult the Legislative Council, the Governor's Office, the  
15 Legislative Auditor, and the Director of Department of Finance and  
16 Administration on the application to the agency of the criteria provided in §  
17 25-37-108;

18 (3) Conduct a performance evaluation of the agency based on the  
19 criteria provided in § 25-37-108 and prepare a written report; and

20 (4) Review the implementation of committee recommendations  
21 contained in the reports presented to the General Assembly during the  
22 preceding legislative session.

23 (b) The written report prepared by the committee under subdivision  
24 (a)(3) of this section shall be considered a public record.

25  
26 25-37-107. Committee report.

27 (a)(1) At each regular session of the General Assembly, the Government  
28 Efficiency and Accountability Review Committee shall present to the General  
29 Assembly a report on the agencies and advisory committees scheduled to be  
30 abolished.

31 (2) The General Assembly shall forward a copy of the report to  
32 the Governor, the Lieutenant Governor, and the Legislative Auditor for their  
33 review.

34 (b) The committee shall include in the report:

35 (1) Its specific findings regarding each of the criteria  
36 prescribed by § 25-37-108;

1           (2) Its recommendations based on the matters prescribed by § 25-  
2   37-109; and

3           (3) Other information the committee considers necessary for a  
4   complete evaluation of the agency.

5  
6           25-37-108. Criteria for review.

7           The Government Efficiency and Accountability Review Committee and its  
8   staff shall consider the following criteria in determining whether a public  
9   need exists for the continuation of a state agency or for the performance of  
10   the functions of the agency:

11           (1) The efficiency with which the agency operates;

12           (2) An identification of the objectives intended for the agency  
13   and the problem or need that the agency was intended to address, the extent  
14   to which the objectives have been achieved, and any activities of the agency  
15   in addition to those granted by statute and the authority for these  
16   activities;

17           (3) An assessment of less restrictive or alternate methods of  
18   performing any regulation that the agency performs that could adequately  
19   protect the public;

20           (4) The extent to which the state agency is needed and is used;

21           (5) The extent to which the jurisdiction of the agency and the  
22   programs administered by the agency overlap or duplicate those of other  
23   agencies and the extent to which the programs administered by the agency can  
24   be consolidated with the programs of other state agencies;

25           (6) Whether the agency has recommended to the legislature  
26   statutory changes calculated to be of benefit to the public rather than to an  
27   occupation, business, or institution that the agency regulates;

28           (7) The promptness and effectiveness with which the agency  
29   disposes of complaints concerning persons affected by the agency;

30           (8) The extent to which the agency has encouraged participation  
31   by the public in making its rules and decisions as opposed to participation  
32   solely by those it regulates and the extent to which the public participation  
33   has resulted in rules compatible with the objectives of the agency;

34           (9) The extent to which the agency has complied with the  
35   applicable requirements of:

36           (A) An agency of the United States or of this state

1 regarding equality of employment opportunity and the rights and privacy of  
2 individuals; and

3 (B) State law and applicable rules of any state agency  
4 regarding purchasing goals and programs for historically underutilized  
5 businesses;

6 (10) The extent to which changes are necessary in the enabling  
7 statutes of the agency so that the agency can adequately comply with the  
8 criteria listed in this section;

9 (11) The extent to which the agency issues and enforces rules  
10 relating to potential conflicts of interest of its employees;

11 (12) The extent to which the agency follows record management  
12 practices that enable the agency to respond efficiently to requests for  
13 public information; and

14 (13) The effect of federal intervention or loss of federal funds  
15 if the agency is abolished.

16  
17 25-37-109. Recommendations.

18 (a) In its report on a state agency, the *Government Efficiency and*  
19 *Accountability Review Committee* shall:

20 (1) Make recommendations on the abolition, continuation, or  
21 reorganization of each affected state agency and on the need for the  
22 performance of the functions of the agency;

23 (2) Make recommendations on the consolidation, transfer, or  
24 reorganization of programs within state agencies not under review when the  
25 programs duplicate functions performed in agencies under review;

26 (3) Recommend appropriation levels for each state agency for  
27 which abolition or reorganization is recommended under subdivision (a)(1) or  
28 subdivision (a)(2) of this section; and

29 (4) Include drafts of legislation necessary to carry out the  
30 committee's recommendations under subdivisions (a)(1) and (2) of this  
31 section.

32 (b)(1) The General Assembly shall forward a copy of the report to the  
33 *Legislative Auditor*.

34 (2) Based on a risk assessment of and subject to the Legislative  
35 Joint Audit Committee's approval of including the examination in the audit  
36 plan under § 25-37-110, the *Legislative Auditor* may examine the

1 recommendations which do not require a statutory change and include as part  
2 of the next approved audit of the agency a report on whether the agency has  
3 implemented the recommendations and, if so, in what manner.

4  
5 25-37-110. Review of certain agencies.

6 (a) In the two-month period preceding the date scheduled for the  
7 abolition of a state agency under this chapter, the *Governmental Efficiency*  
8 *and Accountability Review Committee* may exempt certain agencies from the  
9 provisions of this chapter relating to staff reports, hearings, and  
10 evaluations.

11 (b) The committee may only exempt agencies that have been inactive for  
12 a period of two (2) years preceding the date the agency is scheduled for  
13 abolition.

14 (c) The committee's action in exempting agencies under this section  
15 shall be done by a majority vote of the committee.

16  
17 25-37-111. Monitoring of recommendations.

18 During each regular legislative session, the staff of the *Government*  
19 *Efficiency and Accountability Review Committee* shall monitor legislation  
20 affecting agencies that have undergone review under this chapter and shall  
21 periodically report to the members of the committee on proposed changes that  
22 would modify recommendations of the committee.

23  
24 25-37-112. Continuation by law.

25 (a) During the regular legislative session immediately before the  
26 abolition of a state agency that is subject to this chapter, the General  
27 Assembly by law may continue the agency for a period not to exceed twelve  
28 (12) years.

29 (b) This chapter does not prohibit the General Assembly from:

30 (1) Terminating a state agency subject to this chapter at a date  
31 earlier than that provided in this chapter; or

32 (2) Considering any other legislation relative to a state agency  
33 subject to this chapter.

34  
35 25-37-113. Legislative consideration.

36 (a) Except as provided by subsection (b) of this section, the General

1 Assembly may not consider in one (1) bill the continuation, transfer, or  
2 modification of more than one (1) state agency and the agency's functions.

3 (b) If more than one (1) agency or function is to be consolidated, the  
4 General Assembly may consider in one (1) bill only the agencies to be  
5 consolidated.

6 (c) A bill to continue a state agency, to transfer its functions, or  
7 to consolidate it with another agency shall mention the affected agencies in  
8 the title of the bill.

9  
10 25-37-114. Procedure after termination.

11 (a)(1) A state agency that is abolished in an odd-numbered year may  
12 continue in existence until June 30 of the following year to conclude its  
13 business.

14 (2) Unless the law provides otherwise, abolishment shall not  
15 reduce or otherwise limit the powers and authority of the state agency during  
16 the concluding year.

17 (3) A state agency is terminated and shall cease all activities  
18 at the end of the one-year period.

19 (4) Unless the law provides otherwise, all rules that have been  
20 adopted by the state agency expire at the expiration of the one-year period.

21 (b) Any unobligated and unexpended appropriations of an abolished  
22 agency shall lapse on June 30 of the even-numbered year after abolishment.

23 (c)(1) Except as provided by subsection (f) of this section or as  
24 otherwise provided by law, all money in a dedicated fund of an abolished  
25 state agency on June 30 of the even-numbered year after abolishment shall be  
26 transferred to the General Revenue Fund Account of the State Apportionment  
27 Fund.

28 (2) The part of the law dedicating the money to a specific fund  
29 of an abolished agency becomes void on June 30 of the even-numbered year  
30 after abolishment.

31 (d) Unless the law or a line item appropriation in an appropriation  
32 act of the General Assembly provides otherwise, an abolished state agency  
33 funded in an appropriation act of the General Assembly for both years of the  
34 biennium may not spend or obligate any of the money appropriated to it for  
35 the second year of the biennium.

36 (e)(1) Unless the Governor designates an appropriate state agency as



1 prescribed by subsection (f) of this section, property and records in the  
2 custody of an abolished state agency on June 30 of the even-numbered year  
3 after abolishment shall be transferred to the Office of State Procurement of  
4 the Department of Finance and Administration.

5 (2) If the Governor designates an appropriate state agency, the  
6 property and records shall be transferred to the designated state agency.

7 (f)(1) The General Assembly recognizes the state's continuing  
8 obligation to pay bonded indebtedness and all other obligations, including  
9 lease, contract, and other written obligations, incurred by a state agency  
10 abolished under this chapter, and this chapter does not impair or impede the  
11 payment of bonded indebtedness and all other obligations, including lease,  
12 contract, and other written obligations, in accordance with their terms.

13 (2) If an abolished state agency has outstanding bonded  
14 indebtedness or other outstanding obligations, including, but not limited to,  
15 lease, contract, and other written obligations, the bonds and all other  
16 obligations shall remain valid and enforceable in accordance with their terms  
17 and subject to all applicable terms and conditions of the laws and  
18 proceedings authorizing the bonds and all other obligations, including lease,  
19 contract, and other written obligations.

20 (3) The Governor shall designate an appropriate state agency  
21 that shall continue to carry out all covenants contained in the bonds and in  
22 all other obligations, including, lease, contract, and other written  
23 obligations, and the proceedings authorizing them, including the issuance of  
24 bonds, and the performance of all other obligations, including lease,  
25 contract, and other written obligations, to complete the construction of  
26 projects or the performance of other obligations, including lease, contract,  
27 and other written obligations.

28 (4) The designated state agency shall provide payment from the  
29 sources of payment of the bonds in accordance with the terms of the bonds and  
30 shall provide payment from the sources of payment of all other obligations,  
31 including lease, contract, and other written obligations, in accordance with  
32 their terms, whether from taxes, revenues, or otherwise, until all bonds and  
33 interest on the bonds are paid in full and all other obligations, including  
34 lease, contract, and other written obligations, are performed and paid in  
35 full.

36 (5) If the proceedings so provide, all funds established by laws

1 or proceedings authorizing the bonds or authorizing other obligations,  
2 including lease, contract, and other written obligations, shall remain with  
3 the Director of the Department of Finance and Administration or the  
4 previously designated trustees.

5 (6) If the proceedings do not provide that the funds remain with  
6 the Director of the Department of Finance and Administration or the  
7 previously designated trustees, the funds shall be transferred to the  
8 designated state agency.

9  
10 25-37-115. Subpoena power.

11 (a)(1) The Government Efficiency and Accountability Review Committee  
12 may issue process to compel the attendance of witnesses and the production of  
13 books, records, papers, and other objects necessary or proper for the  
14 purposes of the committee proceedings.

15 (2) The process may be served on a witness at any place in this  
16 state.

17 (b) If a majority of the committee directs the issuance of a subpoena,  
18 the chair of the committee shall issue the subpoena in the name of the  
19 committee.

20 (c) If the chair is absent, the chair's designee may issue a subpoena  
21 or other process in the same manner as the chair.

22 (d)(1) If necessary to obtain compliance with a subpoena or other  
23 process, the committee may issue attachments.

24 (2) The attachments may be addressed to and served by any peace  
25 officer in this state.

26 (e) Testimony taken under subpoena shall be reduced to writing and  
27 given under oath subject to the penalty of perjury.

28 (f) A witness who attends a committee proceeding under process is  
29 entitled to the same mileage and per diem as a witness who appears before a  
30 grand jury in this state.

31  
32 25-37-116. Assistance and access to state agencies.

33 (a)(1) The Government Efficiency and Accountability Review Committee  
34 may request the assistance of state agencies and officers.

35 (2) When assistance is requested, a state agency or officer may  
36 assist the committee.

1       (b) In carrying out its functions under this chapter, the committee or  
2 its designated staff member may inspect the records, documents, and files of  
3 any state agency.

4  
5       25-37-117. Records protected from disclosure.

6       A record held by another entity that is confidential by law and that  
7 the Government Efficiency and Accountability Review Committee receives in  
8 connection with the performance of the committee's functions under this  
9 chapter or another law remains confidential and is excepted from the Freedom  
10 of Information Act of 1967, § 25-19-101 et seq.

11  
12       25-37-118. Relocation of employees.

13       If an employee is displaced because a state agency or its advisory  
14 committee is abolished, reorganized, or continued, the state agency and the  
15 Arkansas Employment Security Department shall make a reasonable effort to  
16 relocate the displaced employee.

17  
18       25-37-119. Saving provision.

19       Except as otherwise provided, abolition of a state agency does not  
20 affect rights and duties that matured, penalties that were incurred, civil or  
21 criminal liabilities that arose, or proceedings that were begun before the  
22 effective date of the abolition.

23  
24       25-37-120. Review of proposed legislation creating regulatory agency.

25       (a) Each bill filed in the General Assembly that would create a new  
26 state agency having regulatory authority shall be forwarded to the Government  
27 Efficiency and Accountability Review Committee.

28       (b) The committee shall review the bill to determine if:

29               (1) The proposed regulatory or other functions of the agency or  
30 committee could be administered by one (1) or more existing state agencies;

31               (2) The form of regulation, if any, proposed by the bill is the  
32 least restrictive form of regulation that will adequately protect the public;

33               (3) The bill provides for adequate public input regarding any  
34 regulatory function proposed by the bill; and

35               (4) The bill provides for adequate protection against conflicts  
36 of interest within the agency.

1       (c) After reviewing the bill, the committee shall forward a written  
2 comment on the legislation to the sponsor of the bill and to the chair of the  
3 committee to which the bill is referred.

4  
5       25-37-121. Gifts and grants.

6       (a) The Government Efficiency and Accountability Review Committee may  
7 accept gifts, grants, and donations from any organization described in  
8 Section 501(c)(3) of the Internal Revenue Code as it existed on January 1,  
9 2005, for the purpose of funding any activity under this chapter.

10       (b) All gifts, grants, and donations shall:

11               (1) Be accepted in an open meeting by a majority of the voting  
12 members of the committee; and

13               (2) Reported in the public record of the committee with the name  
14 of the donor and the purpose of the gift, grant, or donation.

15  
16       25-37-122. Rules.

17       The Government Efficiency and Accountability Review Committee shall  
18 promulgate rules necessary to carry out the provisions of this subchapter.

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21                       /s/ J. Martin, et al  
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