

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 *As Engrossed: H3/24/05 S3/31/05 S4/7/05*

2 85th General Assembly

# A Bill

3 Regular Session, 2005

HOUSE BILL 2623

4

5 By: Representatives J. Martin, Wood, Adcock, Bond, Bright, Chesterfield, Edwards, L. Evans, Hardwick,  
6 Jeffrey, J. Johnson, Key, Maloch, Matayo, Mathis, Maxwell, Pace, Pickett, S. Prater, Reep, Roebuck,  
7 Saunders, Schulte, Scroggin, Sumpter, Walters, Wills

8 By: Senator Faris

9

10

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## For An Act To Be Entitled

12

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

15

16

## Subtitle

17

THE GOVERNMENT EFFICIENCY AND  
18 ACCOUNTABILITY ACT.

19

20

21

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

22

23

SECTION 1. Legislative intent.

24

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

28

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

30

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

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

35

25-37-101. Short title.

36

This chapter shall be known as the "Government Efficiency and



1 Accountability Act".

2  
3 25-37-102. Definitions.

4 As used in this chapter:

5 (1) "Subcommittee" means the Government Efficiency and  
6 Accountability Review Subcommittee of the House and Senate Interim Committees  
7 on State Agencies and Governmental Affairs and the House and Senate  
8 Committees on State Agencies and Governmental Affairs; and

9 (2) "State agency" means an agency, department, board,  
10 commission, institution, council, advisory committee, program, or service of  
11 the State of Arkansas.

12  
13 25-37-103. Government Efficiency and Accountability Review  
14 Subcommittee.

15 (a) There is created the Government Efficiency and Accountability  
16 Review Subcommittee.

17 (b)(1)(A) The subcommittee shall be a joint subcommittee of the House  
18 and Senate Interim Committees on State Agencies and Governmental Affairs.

19 (B) During legislative sessions, the subcommittee is  
20 authorized to meet as a subcommittee of the House and Senate Committees on  
21 State Agencies and Governmental Affairs.

22 (2) The voting membership of the subcommittee shall be comprised  
23 of:

24 (A) Up to a maximum of seven (7) House members appointed  
25 by the Speaker of the House from the membership of the House Interim  
26 Committee on State Agencies and Governmental Affairs; and

27 (B) Up to a maximum of seven (7) Senate members appointed  
28 by the Chair of the Senate Interim Committee on State Agencies and  
29 Governmental Affairs.

30 (3) The voting members of the subcommittee shall be no more than  
31 the voting members of the House and Senate Interim Committees on State  
32 Agencies and Governmental Affairs.

33 (4) The nonvoting membership shall consist of the following:

34 (A) The Executive Director of the Arkansas State Employees  
35 Association;

36 (B) The Director of the Arkansas Public Employees'

1 Retirement System;

2 (C) The Director of the Department of Finance and  
3 Administration or an agency deputy director as designated by the director;

4 (D) The Director of the Office of Personnel Management;  
5 and

6 (E) Two (2) executive branch appointees that shall serve  
7 one-year terms and may be reappointed for a maximum of three (3) years.

8 (5)(A) The House cochair and vice chair shall be determined by  
9 the Speaker of the House and shall be from the membership of the House  
10 Interim Committee on State Agencies and Governmental Affairs; and

11 (B) The Senate cochair and vice chair shall be determined  
12 by the chair of the Senate Interim Committee on State Agencies and  
13 Governmental Affairs and shall be from the Senate membership.

14 (6) For interim meetings, legislative members shall be entitled  
15 to reimbursement for expenses and per diem at the same rate and from the same  
16 source as provided by law for attending other meetings of the interim  
17 committee and interim subcommittee.

18  
19 25-37-104. Staff.

20 The Bureau of Legislative Research and Legislative Council shall  
21 provide staff support for the Government Efficiency and Accountability Review  
22 Subcommittee to ensure prudent fiscal stewardship of taxpayer dollars.

23  
24 25-37-105. State agency report to the Government Efficiency and  
25 Accountability Review Subcommittee.

26 Before October 30 of the odd-numbered year before the year in which a  
27 state agency is to be abolished, the state agency shall report to the  
28 Government Efficiency and Accountability Review Subcommittee:

29 (1) Information regarding the application to the state agency of  
30 the criteria in § 25-37-108; and

31 (2) Any other information that the state agency considers  
32 appropriate or that is requested by the subcommittee.

33  
34 25-37-106. Subcommittee duties.

35 (a) Before September 1 of the even-numbered year before the year in  
36 which a state agency subject to this chapter is abolished, the Government

1 Efficiency and Accountability Review Subcommittee shall:

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

4 (2) Consult the Legislative Council, the Office of the Governor,  
5 the Legislative Auditor, and the Director of the Department of Finance and  
6 Administration on the application to the state agency of the criteria  
7 provided in § 25-37-108;

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

10 (4) Review the implementation of subcommittee recommendations  
11 contained in the reports presented to the General Assembly during the  
12 preceding legislative session.

13 (b) The written report prepared by the subcommittee under subdivision  
14 (a)(3) of this section shall be considered a public record.

15  
16 25-37-107. Subcommittee report.

17 (a)(1) At each regular session of the General Assembly, the Government  
18 Efficiency and Accountability Review Subcommittee shall present to the  
19 General Assembly a report on the state agencies scheduled to be abolished on  
20 June 30 of the year in which the regular session occurs.

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

24 (b) The subcommittee shall include in the report:

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

27 (2) Its recommendations based on the matters prescribed by § 25-  
28 37-109; and

29 (3) Other information the subcommittee considers necessary for a  
30 complete evaluation of the state agency.

31  
32 25-37-108. Criteria for review.

33 The Government Efficiency and Accountability Review Subcommittee and  
34 its staff shall consider the following criteria in determining whether a  
35 public need exists for the continuation of a state agency or for the  
36 performance of the functions of the state agency:

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

2 (2) An identification of the objectives intended for the state  
3 agency and the problem or need that the state agency was intended to address,  
4 the extent to which the objectives have been achieved, and any activities of  
5 the state agency in addition to those granted by statute and the authority  
6 for these activities;

7 (3) An assessment of less restrictive or alternate methods of  
8 performing any regulation that the state agency performs that could  
9 adequately protect the public;

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

11 (5) The extent to which the jurisdiction of the state agency and  
12 the programs administered by the state agency overlap or duplicate those of  
13 other state agencies and the extent to which the programs administered by the  
14 state agency can be consolidated with the programs of other state agencies;

15 (6) Whether the state agency has recommended to the legislature  
16 statutory changes calculated to be of benefit to the public rather than to an  
17 occupation, a business, or an institution that the state agency regulates;

18 (7) The promptness and effectiveness with which the state agency  
19 disposes of complaints concerning persons affected by the state agency;

20 (8) The extent to which the state agency has encouraged  
21 participation by the public in making its rules and decisions as opposed to  
22 participation solely by those it regulates and the extent to which the public  
23 participation has resulted in rules compatible with the objectives of the  
24 state agency;

25 (9) The extent to which the state agency has complied with the  
26 applicable requirements of:

27 (A) An agency of the United States or of this state  
28 regarding equality of employment opportunity and the rights and privacy of  
29 individuals; and

30 (B) State law and applicable rules of any state agency  
31 regarding purchasing goals and programs for historically underutilized  
32 businesses;

33 (10) The extent to which changes are necessary in the enabling  
34 statutes of the state agency so that the state agency can adequately comply  
35 with the criteria listed in this section;

36 (11) The extent to which the state agency issues and enforces

1 rules relating to potential conflicts of interest of its employees;

2 (12) The extent to which the state agency follows record  
3 management practices that enable the state agency to respond efficiently to  
4 requests for public information; and

5 (13) The effect of federal intervention or loss of federal funds  
6 if the state agency is abolished.

7  
8 25-37-109. Recommendations.

9 (a) In its report on a state agency, the Government Efficiency and  
10 Accountability Review Subcommittee shall:

11 (1) Make recommendations on the abolition, continuation, or  
12 reorganization of each affected state agency and on the need for the  
13 performance of the functions of the state agency;

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

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

20 (4) Include drafts of legislation necessary to carry out the  
21 subcommittee's recommendations under subdivisions (a)(1) and (2) of this  
22 section.

23 (b)(1) The General Assembly shall forward a copy of the report to the  
24 Legislative Auditor.

25 (2) Based on a risk assessment of and subject to the Legislative  
26 Joint Audit Committee's approval of including the examination in the audit  
27 plan under § 25-37-110, the Legislative Auditor may examine the  
28 recommendations which do not require a statutory change and include as part  
29 of the next approved audit of the state agency a report on whether the state  
30 agency has implemented the recommendations and, if so, in what manner.

31  
32 25-37-110. Review of certain state agencies.

33 (a) In the two-year period preceding the date scheduled for the  
34 abolition of a state agency under this chapter, the Governmental Efficiency  
35 and Accountability Review Subcommittee may exempt certain state agencies from  
36 the provisions of this chapter relating to staff reports, hearings, and

1 evaluations.

2 (b) The subcommittee may only exempt state agencies that have been  
3 inactive for a period of two (2) years preceding the date the state agency is  
4 scheduled for abolition.

5 (c) The subcommittee's action in exempting state agencies under this  
6 section shall be done by a majority vote of the subcommittee.

7  
8 25-37-111. Monitoring of recommendations.

9 During each regular legislative session, the Government Efficiency and  
10 Accountability Review Subcommittee shall monitor legislation affecting state  
11 agencies that have undergone review under this chapter.

12  
13 25-37-112. Continuation by law.

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

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

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

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

23  
24 25-37-113. Procedure after termination.

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

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

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

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

35 (b) Any unobligated and unexpended appropriations of an abolished  
36 state agency shall lapse on June 30 of the even-numbered year after

1 abolishment.

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

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

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

15 (e)(1) Unless the Governor designates an appropriate state agency as  
16 prescribed by subsection (f) of this section, property and records in the  
17 custody of an abolished state agency on June 30 of the even-numbered year  
18 after abolishment shall be transferred to the Office of State Procurement of  
19 the Department of Finance and Administration.

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

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

28 (2) If an abolished state agency has outstanding bonded  
29 indebtedness or other outstanding obligations, including, but not limited to,  
30 lease, contract, and other written obligations, the bonds and all other  
31 obligations shall remain valid and enforceable in accordance with their terms  
32 and subject to all applicable terms and conditions of the laws and  
33 proceedings authorizing the bonds and all other obligations, including lease,  
34 contract, and other written obligations.

35 (3) The Governor shall designate an appropriate state agency  
36 that shall continue to carry out all covenants contained in the bonds and in

1 all other obligations, including lease, contract, and other written  
2 obligations, and the proceedings authorizing them, including the issuance of  
3 bonds, and the performance of all other obligations, including lease,  
4 contract, and other written obligations, to complete the construction of  
5 projects or the performance of other obligations, including lease, contract,  
6 and other written obligations.

7 (4) The designated state agency shall provide payment from the  
8 sources of payment of the bonds in accordance with the terms of the bonds and  
9 shall provide payment from the sources of payment of all other obligations,  
10 including lease, contract, and other written obligations, in accordance with  
11 their terms, whether from taxes, revenues, or otherwise, until all bonds and  
12 interest on the bonds are paid in full and all other obligations, including  
13 lease, contract, and other written obligations, are performed and paid in  
14 full.

15 (5) If the proceedings so provide, all funds established by laws  
16 or proceedings authorizing the bonds or authorizing other obligations,  
17 including lease, contract, and other written obligations, shall remain with  
18 the Director of the Department of Finance and Administration or the  
19 previously designated trustees.

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

24  
25 25-37-114. Subpoena power.

26 (a)(1) The Government Efficiency and Accountability Review  
27 Subcommittee may issue process to compel the attendance of witnesses and the  
28 production of books, records, papers, and other objects necessary or proper  
29 for the purposes of the subcommittee proceedings.

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

32 (b) If a majority of the subcommittee directs the issuance of a  
33 subpoena, the chair of the subcommittee shall issue the subpoena in the name  
34 of the subcommittee.

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

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

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

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

7 (f) A witness who attends a subcommittee proceeding under process is  
8 entitled to the same mileage and per diem as a witness who appears before a  
9 grand jury in this state.

10  
11 25-37-115. Assistance and access to state agencies.

12 (a)(1) The Government Efficiency and Accountability Review  
13 Subcommittee may request the assistance of state agencies and officers.

14 (2) When assistance is requested, a state agency or officer may  
15 assist the subcommittee.

16 (b) In carrying out its functions under this chapter, the subcommittee  
17 or its designated staff member may inspect the records, documents, and files  
18 of any state agency.

19  
20 25-37-116. Records protected from disclosure.

21 A record held by another entity that is confidential by law and that  
22 the Government Efficiency and Accountability Review Subcommittee receives in  
23 connection with the performance of the subcommittee's functions under this  
24 chapter or another law remains confidential and is excepted from the Freedom  
25 of Information Act of 1967, § 25-19-101 et seq.

26  
27 25-37-117. Relocation of employees.

28 If an employee is displaced because a state agency is abolished,  
29 reorganized, or continued, the state agency and the Arkansas Employment  
30 Security Department shall make a reasonable effort to relocate the displaced  
31 employee.

32  
33 25-37-118. Saving provision.

34 Except as otherwise provided, abolition of a state agency does not  
35 affect rights and duties that matured, penalties that were incurred, civil or  
36 criminal liabilities that arose, or proceedings that were begun before the

1 effective date of the abolition.

2  
3 25-37-119. Gifts and grants.

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

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

9 (1) Be accepted in an open meeting by a majority of the voting  
10 members of the subcommittee; and

11 (2) Reported in the public record of the subcommittee with the  
12 name of the donor and the purpose of the gift, grant, or donation.

13  
14 25-37-120. Attrition.

15 Whenever possible, state government is encouraged to utilize attrition  
16 as a long-term approach to reducing state agency costs and as a means of  
17 saving taxpayer money.

18  
19 25-37-121. Review of proposed legislation creating regulatory state  
20 agency.

21 (a) Each bill filed in the General Assembly that would create a new  
22 state agency having regulatory authority shall be forwarded to the Government  
23 Efficiency and Accountability Review Subcommittee.

24 (b) The subcommittee shall review the bill to determine if:

25 (1) The proposed regulatory or other functions of the state  
26 agency or committee may be administered by one (1) or more existing state  
27 agencies;

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

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

32 (4) The bill provides for adequate protection against conflicts  
33 of interest within the state agency.

34 (c) After reviewing the bill, the subcommittee shall forward a written  
35 comment on the legislation to the sponsor of the bill and to the chair of the  
36 committee to which the bill is referred.

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25-37-122. Rules.

The Government Efficiency and Accountability Review Subcommittee shall promulgate rules necessary to carry out the provisions of this chapter.

/s/ J. Martin