

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1070

By: Representative Davis

By: Senator Hester

For An Act To Be Entitled

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

Subtitle

TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO TRANSFER STATE ENTITIES; AND TO DECLARE AN EMERGENCY.

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

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

Chapter 43

TRANSFORMATION AND EFFICIENCIES ACT OF 2019

Subchapter 1 – General Provisions

25-43-101. Title.

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

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



- (a) The General Assembly finds that this chapter is necessary to:
- (1) Reorganize the structure of state government;
 - (2) Improve the delivery of services to the people of this state;
 - (3) Provide sufficient flexibility to meet changing conditions;
 - (4) Establish a clear master organizational chart for all executive branch agencies;
 - (5) Provide a reasonable opportunity to create budgetary and administrative efficiencies within an orderly organizational structure of state government;
 - (6) Effect the grouping of state agencies primarily according to function into a limited number of cabinet-level departments; and
 - (7) Eliminate the overlap and duplication of effort.
- (b) It is the intent of the General Assembly to provide for an orderly transfer of powers, duties, and functions of the various state agencies to the cabinet-level departments with a minimum of disruption of governmental services and functions and with a minimum of expense.
- (c) This chapter shall be liberally construed.

25-43-103. Definitions.

As used in this chapter:

- (1)(A) "Administrative functions" means the day-to-day business operations of a state entity, including without limitation employment, payroll, property management, benefit management, human resource operations, and accounting operations for all state entities, and all other duties as assigned by the secretary of the cabinet-level department or his or her designee.
- (B) "Administrative functions" does not include the promulgation of rules or issuance of orders on behalf of any state entity unless specifically designated by statute, rule, order, or directive;
- (2) "Cabinet-level department" means one (1) of the fifteen (15) executive agencies designated by the Governor to provide state services and provide direct reports to the Governor;
- (3) "Employee" means a member of personnel employed to carry out the functions of state government; and
- (4) "State entity" means any instrumentality of state

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

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

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

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

25-43-105. Cabinet-level departments.

The following cabinet-level departments are created:

- (1) The Department of Agriculture;
- (2) The Department of Commerce;
- (3) The Department of Corrections;
- (4) The Department of Education;
- (5) The Department of Energy and Environment;
- (6) The Department of Finance and Administration;
- (7) The Department of Health;
- (8) The Department of Human Services;
- (9) The Department of the Inspector General;
- (10) The Department of Labor and Licensing;
- (11) The Department of Military;
- (12) The Department of Parks, Heritage, and Tourism;
- (13) The Department of Public Safety;
- (14) The Department of Transformation and Shared Services; and
- (15) The Department of Veteran Affairs.

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

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

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

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

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

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

(d) The secretary may:

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

(2) Hire cabinet-level department personnel;

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

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

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

(a) A cabinet-level department shall:

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

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

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

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

(b) A cabinet-level department may:

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

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

state entity transferred under this chapter as delegated by law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

version of the Arkansas Code.

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

(i) The Speaker of the House of Representatives;

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

(iii) The Legislative Council.

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

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

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