

1 HB46  
2 179139-1  
3 By Representative Poole  
4 RFD: Ways and Means Education  
5 First Read: 16-AUG-16

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8 SYNOPSIS: In order to further provide for efficient  
9 and effective budgeting of the revenues of the  
10 state, this bill amends the Budget Management Act  
11 of 1976 so as to provide for biennial budget  
12 periods, annual fiscal accounting, and performance  
13 review. Provision is made for the State General and  
14 Education biennial budgets to be considered on  
15 alternate years, enrolling sufficient financial  
16 detail into each budget so as to adequately define  
17 each source of revenue and totals for each budgeted  
18 program, cost center, and line item in each budget  
19 and the entire appropriation bill by each source of  
20 revenue, and to further provide for performance  
21 review of the state agencies, departments, boards,  
22 bureaus, the Legislature, and institutions of the  
23 state. This bill becoming law is contingent upon  
24 the constitutional amendment proposed by HB \_\_\_\_  
25 providing for biennial budgeting sessions of the  
26 legislature and approval in a statewide referendum  
27 as is provided for in law governing such election.

1  
2 A BILL  
3 TO BE ENTITLED  
4 AN ACT  
5

6 To amend The Budget Management Act of 1976, so as to  
7 provide for biennial budgeting by the State of Alabama and to  
8 further provide for performance review of entities funded by  
9 the State of Alabama.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 41-19-1, 41-19-3 through  
12 41-19-8, and 41-19-10 through 41-19-12, Code of Alabama 1975,  
13 are hereby amended to read as follows:

14 "§41-19-1.

15 "This chapter may be cited as The Budget Management  
16 and Performance Review Act of 2016.

17 "§41-19-3.

18 "It is the purpose of this chapter to establish a  
19 comprehensive system for budgeting, ~~and~~ financial management, ~~and~~  
20 and performance review which furthers the capacity of the  
21 Governor and the Legislature to plan and finance the services  
22 which they determine the state will provide for citizens. The  
23 system shall include procedures for all of the following:

24 "(1) The orderly establishment, continuing review,  
25 and periodic revision of the program and financial goals and  
26 policies of the state.

1           "(2) The development, coordination, and review of  
2 ~~long-range~~ program and financial plans that will implement  
3 established state goals and policies.

4           "(3) The preparation, coordination, analysis, and  
5 enactment of ~~a budget~~ budgets, organized to focus on state  
6 services and their costs, and that ~~authorizes~~ authorize the  
7 implementation of policies and plans in the succeeding budget  
8 period.

9           "(4) The evaluation of alternatives to existing  
10 policies, plans, and procedures that offer potential for more  
11 efficient or effective state services.

12           "(5) The regular appraisal and reporting of program  
13 performance.

14           "To this end, each Governor shall develop a  
15 ~~four-year~~ strategic plan and executive budget for presentation  
16 to the Legislature ~~prior to the first day of the second~~  
17 ~~regular~~ seven days in advance of each fiscal legislative  
18 session in a format to be determined by the Governor ~~each term~~  
19 ~~of office~~. The plan shall encompass the basic appropriations  
20 for fiscal years included in the budget period to be addressed  
21 in the fiscal session and shall include program, ~~long-range~~  
22 revenue and expenditure plans ~~for the quadrennium~~,  
23 improvements in the state infrastructure requiring capital  
24 outlay, and recommended steps to reduce the cost of operation  
25 of state government.

26           "§41-19-3.1.

1           "The Legislative Council shall serve in an advisory  
2 capacity to the Governor in the development of the ~~long-range~~  
3 program, revenue and expenditure plans, and in the performance  
4 review of agencies, departments, boards, bureaus, the  
5 Legislature, and institutions of the state. The Legislative  
6 Council shall be aided by the Legislative Fiscal Office.

7           "§41-19-4.

8           "~~The Beginning in the calendar year 2017, the~~  
9 Governor shall present, on or before the seventh day in  
10 advance of each fiscal session of the Legislature, is  
11 ~~responsible for the preparation and administration of the~~  
12 ~~state~~ an executive budget for the two years of basic  
13 appropriations to be addressed in that fiscal session. The  
14 executive budget shall be based on ~~and the evaluation of the~~  
15 ~~long-range~~ agency/department program plans plans, and  
16 requested budgets, and the examination of alternatives. ~~to~~  
17 ~~state agency/department policies and programs and formulation~~  
18 ~~and recommendation for consideration by the Legislature of a~~  
19 ~~proposed comprehensive program and financial plan which~~ The  
20 executive budget shall cover all estimated receipts and  
21 expenditures of the state government, including all grants,  
22 loans and moneys received from the federal government.  
23 Proposed expenditures shall not exceed estimated revenues and  
24 resources.

25           For transition purposes, the Governor shall present  
26 a one-year executive budget for the ordinary expenses of the  
27 executive, legislative, and judicial departments, and

1 associated debt service, of the state on or before the first  
2 legislative day of the regular session of 2017 for fiscal year  
3 2018.

4 "§41-19-5.

5 "The Department of Finance shall:

6 "(1) Assist the Governor in the preparation and  
7 explanation of the proposed comprehensive program and  
8 financial plan, including the coordination and analysis of  
9 state agency/department program goals and objectives, program  
10 plans and program budget requests;

11 "(2) Develop procedures to produce the information  
12 needed for effective decision making;

13 "(3) Assist agencies/departments in preparing their  
14 statement of goals and objectives, program plans, program  
15 budget requests and reporting of program performance and  
16 review;

17 "(4) Administer its responsibilities under the  
18 program execution provisions of this chapter so that the  
19 policy decisions and budget determination of the Governor and  
20 the Legislature are implemented to the fullest extent possible  
21 within the concepts of proper management;

22 "(5) Provide the Legislature with budget information  
23 related to the development of recommendations for each fiscal  
24 year of each biennial period; and

25 "(6) Assist agencies/departments in the preparation  
26 of their proposals under Section 41-19-6. This assistance  
27 shall include organization of materials, provision of

1 centrally collected accounting, budgeting and personnel  
2 information, standards and guidelines formulation, provision  
3 of population and other required data, and any other  
4 assistance that will help the state agencies/departments  
5 produce the information necessary for efficient  
6 agency/department management and effective decision making by  
7 the Governor and the Legislature for each fiscal year of the  
8 biennial budget period.

9 "§41-19-6.

10 "(a) Each state agency/department, on the date and  
11 in the form and content prescribed by the Department of  
12 Finance, shall prepare and forward to the Budget Officer the  
13 following program and financial information:

14 "(1) The goals and objectives of the  
15 agency/department programs, together with proposed  
16 supplements, deletions and revisions to such programs for each  
17 fiscal year of the biennial budget period;

18 "(2) Its proposed plans to implement the goals and  
19 objectives, including estimates of future service needs,  
20 planned methods of administration, proposed modification of  
21 existing program services and establishment of new program  
22 services, and the estimated resources needed to carry out the  
23 proposed plan;

24 "(3) The budget ~~requested~~ request for each fiscal  
25 year of the biennial budget period to carry out its proposed  
26 plans ~~in the succeeding fiscal year~~. The budget request  
27 information shall include the expenditures during the last

1 fiscal year, those estimated for the current fiscal year,  
2 those proposed for each of the two succeeding fiscal ~~year~~  
3 years of the budget period, and any other information  
4 requested by the Department of Finance;

5 "(4) A report of the revenues during the last fiscal  
6 year, an estimate of the revenues during the current fiscal  
7 year and an estimate for ~~the~~ each succeeding fiscal year of  
8 the biennial budget period;

9 "(5) A statement of legislation required to  
10 implement the proposed programs and financial plans; and

11 "(6) An evaluation of the advantages and  
12 disadvantages of specific alternatives to existing or proposed  
13 program policies or administrative methods.

14 "(b) The state agency/department proposals prepared  
15 under subsection (a) of this section shall describe the  
16 relationships of their programs services to those of other  
17 state agencies/departments and other branches of state  
18 government.

19 "(c) If any state agency/department fails to  
20 transmit the program and financial information required under  
21 subsection (a) of this section on the specified date, the  
22 Department of Finance may prepare such information.

23 "(d) The Department of Finance shall compile and  
24 submit to the Governor or the Governor-elect for any year when  
25 a new Governor has been elected, not later than November 20, a  
26 summary of the program and financial information prepared by  
27 state agencies/departments.

1           "§41-19-7.

2           "(a) The Governor shall formulate the program and  
3 financial plan to be recommended to the Legislature after  
4 considering each state agency's proposed program and financial  
5 plan. The Governor's plan shall include his recommended goals  
6 and policies, recommended plans to implement the goals and  
7 policies, recommended budget for the two succeeding fiscal  
8 ~~year~~ years of the biennial budget period and recommended  
9 revenue measures to balance the budget.

10           "Beginning in the calendar year 2017, the Governor's  
11 plan shall focus on the basic appropriations and fiscal years  
12 included in the biennial budget period to be addressed in the  
13 fiscal session.

14           "(b) The proposed comprehensive program and  
15 financial plan shall be presented by the Governor in a message  
16 to a joint session of the Legislature on ~~or before~~ the ~~fifth~~  
17 first legislative day of each ~~regular~~ fiscal session of the  
18 Legislature. This presentation shall explain the budget plan  
19 previously submitted to the Legislature seven days in advance  
20 of the Legislative Fiscal Session. The message shall be  
21 accompanied by an explanatory report which summarizes  
22 recommended goals, plans and appropriations. The explanatory  
23 report shall be furnished each member of the Legislature and  
24 each state agency/department on ~~or before~~ the ~~fifth~~ seventh  
25 day in advance of the first legislative day of the ~~regular~~  
26 fiscal session of the Legislature. The report shall contain  
27 the following information:

1           "(1) The coordinate program goals and objectives  
2 that the Governor recommends to guide the decisions on the  
3 proposed program plans and budget appropriations;

4           "(2) The program and budget recommendations of the  
5 Governor for each fiscal year of the succeeding ~~fiscal year~~  
6 biennial budget period;

7           "(3) A summary of state revenues in the last fiscal  
8 year, a revised estimate for the current fiscal year and an  
9 estimate for ~~the succeeding~~ each fiscal year of the succeeding  
10 biennial budget period;

11           "(4) A summary of expenditures during the last  
12 fiscal year, those estimated for the current fiscal year and  
13 those recommended by the Governor for ~~the~~ each fiscal year of  
14 the succeeding ~~fiscal year~~ biennial budget period; and

15           "(5) Any additional information which will  
16 facilitate understanding of the Governor's proposed program  
17 and financial plan by the Legislature and the public.

18           "§41-19-8.

19           "The Legislature shall:

20           "(1) Consider the program and financial plan  
21 recommended by the Governor, including proposed goals and  
22 policies, tax rate and other revenue changes and long range  
23 program plans;

24           "(2) Adopt programs and alternatives to the plan  
25 recommended by the Governor which it deems appropriate;

1           "(3) Adopt legislation to authorize the  
2 implementation of a comprehensive program and financial plan;  
3 and

4           "(4) Provide for performance review of  
5 agency/departments in each fiscal year of the biennial budget  
6 period and for a post audit of financial transactions, program  
7 accomplishments and execution of legislative policy direction.

8           "§41-19-10.

9           "(a) Except as limited by policy decisions of the  
10 Governor, appropriations by the Legislature and other  
11 provisions of law, the several state agencies/departments  
12 shall have full authority for administering their program  
13 assignments and appropriations and shall be responsible for  
14 their proper management.

15           "(b) Each state agency/department shall prepare an  
16 annual plan for the operation of each of its assigned programs  
17 for each fiscal year of the biennial budget period. The  
18 operations plan shall be prepared in the form and content and  
19 be transmitted on the date prescribed to the Department of  
20 Finance. The operations plan shall be separate for each fiscal  
21 year of the biennium; provided, however, that unexpended funds  
22 for the first fiscal year of a biennial budget period may be  
23 carried forward and expended in the second fiscal year of the  
24 biennial budget period. Funds unexpended at the end of the  
25 biennial budget period shall revert to the respective fund.

26           "(c) The Department of Finance shall:

1           "(1) Review each operations plan to determine that  
2 it is consistent with the policy decisions of the Governor and  
3 appropriations by the Legislature, that it reflects proper  
4 planning and efficient management methods and that  
5 appropriations have been made for the planned purpose and will  
6 not be exhausted before the end of each fiscal year of the  
7 biennial budget period;

8           "(2) Approve the operations plan if satisfied that  
9 it meets the requirements under subdivision (1) of this  
10 subsection; otherwise, the Department of Finance shall require  
11 revision of the operations plan in whole or in part; and

12           "(3) Modify or withhold the planned expenditures at  
13 any time during the appropriation period if the Department of  
14 Finance finds that such expenditures are greater than those  
15 necessary to execute the programs at the level authorized by  
16 the Governor and the Legislature or that the revenues and  
17 resources will be insufficient to meet the authorized  
18 expenditure levels.

19           "(d) No state agency/department may increase  
20 salaries of its employees, employ additional employees or  
21 expend money or incur any obligations except in accordance  
22 with law and with a properly approved operations plan by the  
23 Director of Finance.

24           "(e) Appropriation transfers or changes as between  
25 objects of expenditures within a program may be made only by  
26 the Director of Finance. Appropriation transfers or changes  
27 between programs within an agency/department may be made only

1 by the Governor and shall be reported to the Legislature  
2 quarterly. No transfers shall be made between  
3 agencies/departments except pursuant to interagency agreements  
4 executed for purposes of accomplishing objectives for which  
5 the funds involved were appropriated.

6 "(f) The Department of Finance shall report  
7 quarterly to the Governor and the Legislature on the  
8 operations of each state agency/department, relating actual  
9 accomplishments to those planned and modifying, if necessary,  
10 the operations plan of any agency/department for the balance  
11 of ~~the~~ each fiscal year of the biennial budget period for  
12 non-recurring expenses.

13 "§41-19-11.

14 "(a) Each state agency/department, shall submit a  
15 performance report to the Department of Finance on or before  
16 November 1 for the preceding fiscal year. These reports shall  
17 be in the form prescribed by the Budget Officer and shall  
18 include statements concerning:

19 "(1) The work accomplished and the services provided  
20 in the preceding fiscal year or other meaningful work period,  
21 relating actual accomplishments to those planned under  
22 subsection (b) of Section 41-19-10;

23 "(2) The relationship of accomplishments and  
24 services to the policy decisions and budget determinations of  
25 the Governor and the Legislature;

1           "(3) The costs of accomplishing the work and  
2 providing the services, to the extent feasible, citing  
3 meaningful measures of program effectiveness and costs; and

4           "(4) The administrative improvements made in the  
5 preceding year, potential improvements in future years and  
6 suggested changes in legislation or administrative procedures  
7 to make further improvements.

8           "(b) The Finance Department shall summarize the  
9 performance reports and forward ~~copies~~ these reports to each  
10 member of the Legislature annually in a form to be determined  
11 by the Finance Department.

12           "(c) In order to accomplish the provisions of this  
13 Act, there is hereby created within the Office of the State  
14 Finance Director the Division of Planning. The Director of  
15 this Division shall be appointed by the Finance Director and  
16 shall not be under the state merit system. Additional  
17 employees of this Division may be subject to the state merit  
18 system.

19           "(d) In order to assure effective administration of  
20 the planning and performance management provisions of this  
21 Act, The Budget and Planning Divisions of the Finance  
22 Department shall be funded by an assessment made against each  
23 state agency, department, board, bureau, the Legislature, and  
24 each institution of higher education of the state receiving a  
25 state appropriation and required to participate in the  
26 requirements of this Chapter.

27           "§41-19-12.

1           "(a) Any person in state government, including  
2           elected or appointed officials, who prepares false budget or  
3           fiscal information to be presented to any legislative  
4           committee or who presents false budget or fiscal information  
5           to any legislative committee, knowing such budget or fiscal  
6           information to be false, shall be guilty of a misdemeanor and,  
7           on conviction, shall be imprisoned in the county jail for not  
8           more than one year and may also be fined not more than  
9           ~~\$1,000.00~~ \$10,000.00.

10           "(b) In the event of a second conviction under this  
11           section, such person shall be forever ineligible to hold any  
12           position with the State of Alabama."

13           Section 2. Section 41-19-3.2, Code of Alabama 1975,  
14           is hereby added to read as follows:

15           "§41-19-3.2

16           "Beginning in the calendar year 2017, regular  
17           session of the Legislature shall begin on the last Tuesday of  
18           January in each calendar year from which bills making  
19           appropriations shall be excluded. On the fourth Tuesday of  
20           April of each calendar year, a fiscal session of the  
21           Legislature shall be held annually following the regular  
22           session. The fiscal session shall be limited to 12 legislative  
23           days and 30 calendar days. While in fiscal session, the  
24           Legislature shall consider only bills making basic  
25           appropriations for the two succeeding fiscal years or amending  
26           such bills as the legislature shall determine. The basic

1 appropriations in these bills shall be itemized and totaled  
2 for each fiscal year of the biennial budget period.

3 "The term "basic appropriations" means such  
4 appropriations as the Legislature may deem appropriate for the  
5 ordinary expenses of the executive, legislative, and judicial  
6 departments of the state, for payment of the public debt, and  
7 for education. The legislature shall divide appropriations  
8 into two parts, passing basic appropriations for the ordinary  
9 expenses of the executive, legislative, and judicial  
10 departments of the state in one annual fiscal session, and  
11 passing basic appropriations for education in the succeeding  
12 annual fiscal session. Appropriations for interest on the  
13 public debt shall be divided between the two parts according  
14 to the purposes served by the debt.

15 "Beginning in the calendar year 2017, the  
16 Legislature in the fiscal session held in an even calendar  
17 year shall pass bills making basic appropriations for the  
18 ordinary expenses of the executive, legislative, and judicial  
19 departments, and associated debt service, of the state in the  
20 fiscal session for the biennial budgeting period beginning  
21 with an odd-numbered fiscal year. This bill shall contain  
22 basic appropriations for the two succeeding fiscal years.

23 "Beginning in the calendar year 2018, the  
24 Legislature in the fiscal session held in an odd calendar year  
25 shall pass bills making basic appropriations for education,  
26 and associated debt service, in the fiscal session for the  
27 biennial budgeting period beginning with an even-numbered

1 fiscal year. These bills shall contain basic appropriations  
2 for the two succeeding fiscal years.

3 "Basic appropriations for interest on the public  
4 debt shall be divided between the two types of making basic  
5 appropriations according to the purposes served by the debt.

6 "For transition purposes, the Legislature shall pass  
7 a one-year bill making basic appropriations for ordinary  
8 expenses of the executive, legislative, and judicial  
9 departments, and associated debt service, during the regular  
10 legislative session of calendar year 2017. This bill shall  
11 provide basic appropriations for fiscal year 2018."

12 Section 3. Any provision of law in conflict with the  
13 provisions of this Act are hereby repealed.

14 Section 4. If a court of competent jurisdiction  
15 shall adjudge to be invalid or unconstitutional any clause,  
16 sentence, paragraph, section or part of this Act, such  
17 judgment or decree shall not affect, impair, invalidate or  
18 nullify the remainder of this Act, but the effect thereof  
19 shall be confined to the clause, sentence, paragraph, section,  
20 part of this Act so adjudged to be invalid or  
21 unconstitutional.

22 Section 5. This act shall become effective upon its  
23 passage and approval by the Governor, or it's otherwise  
24 becoming law, and contingent upon the constitutional amendment  
25 contained in HB \_\_\_\_\_ becomes law and approval in a statewide  
26 referendum as is provided for in law governing such election.