

1 HB74  
2 189371-1  
3 By Representative Sells  
4 RFD: State Government  
5 First Read: 05-MAR-19  
6 PFD: 03/04/2019

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8 SYNOPSIS: Under existing law, the heads of the Alabama  
9 Department of Transportation, Medicaid Agency,  
10 Department of Mental Health, Department of Revenue,  
11 Alabama State Law Enforcement Agency, Department of  
12 Corrections, and the Department of Finance are  
13 appointed by the Governor and are not subject to  
14 confirmation by the Senate.

15 This bill would provide that the heads of  
16 those agencies are subject to confirmation by the  
17 Senate.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 To amend Sections 14-1-1.3, 22-50-16, 23-1-21,  
24 40-2-41, 41-4-30, and 41-27-2, Code of Alabama 1975, to  
25 provide that commencing on January 16, 2023, the appointments  
26 of the head of the Alabama Department of Transportation,  
27 Medicaid Agency, Department of Mental Health, Department of

1 Revenue, Alabama State Law Enforcement Agency, Department of  
2 Corrections, and the Department of Finance, by the Governor  
3 are subject to confirmation by the Senate.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 14-1-1.3, 22-50-16, 23-1-21,  
6 40-2-41, 41-4-30, and 41-27-2, Code of Alabama 1975, are  
7 amended to read as follows:

8 "§14-1-1.3.

9 "The department shall be headed by and under the  
10 independent direction, supervision and control of a  
11 Commissioner of Corrections, hereinafter referred to as "the  
12 commissioner," who shall be appointed by ~~and serve at the~~  
13 ~~pleasure of the Governor~~ and, commencing January 16, 2023,  
14 confirmed by the Senate. Upon confirmation by the Senate, he  
15 or she shall serve at the pleasure of the Governor. The  
16 Governor is hereby authorized to set the salary of the  
17 commissioner at the same level of any cabinet officer or at a  
18 reasonable level in excess thereof. The commissioner, without  
19 additional compensation, shall also serve as and exercise the  
20 authority, functions and duties of the Commissioner of  
21 Corrections as that position otherwise exists under the laws  
22 of Alabama, it being the intention of this section that there  
23 be but one Commissioner of Corrections.

24 "§22-50-16.

25 "The ~~Governor shall appoint the~~ Mental Health  
26 Commissioner shall be appointed by the Governor and,  
27 commencing January 16, 2023, confirmed by the Senate. Upon

1 confirmation by the Senate, he or she shall serve at the  
2 pleasure of the Governor. and The Governor shall fix his the  
3 ~~term of office and salary of the commissioner, such salary to~~  
4 ~~be established~~ without regard to any limitations now, or  
5 hereafter, established by law unless such law specifically  
6 refers to such Mental Health Commissioner. ~~The commissioner~~  
7 ~~shall serve at the pleasure of the Governor.~~ The said Mental  
8 Health Commissioner ~~so appointed~~ shall appoint all officers  
9 and employees of the department or ~~he may~~ authorize any  
10 superintendent, division, or bureau head, or other  
11 administrator to select with his or her approval all staff  
12 members and employees, and shall fix the salaries of the  
13 officers and employees of the Mental Health Department,  
14 without regard to any limitation established by law, unless  
15 such law passed hereafter shall refer to the particular  
16 officer or employee of the Mental Health Department. The  
17 commissioner may appoint an Associate Commissioner for Mental  
18 Illness, an Associate Commissioner for Intellectual  
19 Disabilities and an Associate Commissioner for Administration  
20 and Personnel. The associate commissioners shall serve at the  
21 pleasure of the commissioner. The Mental Health Commissioner  
22 shall exercise supervision over all the officers and employees  
23 of the Mental Health Department and should any ~~such~~ officer or  
24 employee fail to perform faithfully any of the duties which  
25 are lawfully prescribed for him or her, or if he or she fails  
26 or refuses to observe or conform to any rule, regulation, or

1 policy of the Mental Health Department, the Mental Health  
2 Commissioner may remove ~~him~~ that person from office.

3 "§23-1-21.

4 "The chief executive officer of the State Department  
5 of Transportation shall be known as the Director of  
6 Transportation, who shall be appointed by the Governor and,  
7 commencing January 16, 2023, confirmed by the Senate. ~~and~~  
8 ~~shall~~ Upon confirmation, the director shall hold office at the  
9 pleasure of the Governor. All the powers, authority, and  
10 duties vested in the State Department of Transportation shall  
11 be exercised by the Director of Transportation.

12 "Before entering upon the duties of office, the  
13 Director of Transportation shall execute to the State of  
14 Alabama a bond, to be approved by the Governor, in an amount  
15 to be fixed by the Governor, for the faithful performance of  
16 his or her duties.

17 "§40-2-41.

18 "The Commissioner of Revenue shall be appointed by  
19 the Governor and, commencing January 16, 2023, confirmed by  
20 the Senate. ~~and shall hold office~~ Upon confirmation, the  
21 commissioner shall serve at the pleasure of the Governor. He  
22 or she shall be a qualified elector and known to possess high  
23 character and knowledge of the general subject of taxation and  
24 matters pertaining thereto, a citizen of Alabama for at least  
25 five years, and at least 30 years of age. He or she shall not  
26 hold another office under the government of the United States  
27 or under any other state or of this state, or any political

1 subdivision thereof, during his or her incumbency in such  
2 office and shall not hold any position of trust or profit or  
3 engage in any occupation or business the conduct of which  
4 shall interfere or be inconsistent with the duties he or she  
5 assumes as Commissioner of Revenue under the provisions of  
6 this title; provided, that no one shall be eligible to serve  
7 as Commissioner of Revenue while employed by or financially  
8 interested in any public service corporation, ~~nor unless he~~  
9 ~~shall have been a citizen of Alabama for a period of five~~  
10 ~~years and shall be over 30 years of age.~~

11 "§41-4-30.

12 "The Department of Finance shall be headed by, and  
13 shall be under the direction, supervision, and control of, an  
14 officer who shall be known and designated as the Director of  
15 Finance. The Director of Finance shall be the chief financial  
16 officer of the state and the advisor of the Governor and of  
17 the Legislature in financial matters, and he or she shall at  
18 all times be charged with protecting the financial interests  
19 of the state. He or she shall be responsible to the Governor  
20 for the administration of the Department of Finance. The  
21 Director of Finance shall be appointed ~~and hold office at the~~  
22 ~~pleasure of the Governor~~ by the Governor and, commencing  
23 January 16, 2023, confirmed by the Senate. Upon confirmation  
24 by the Senate, he or she shall serve at the pleasure of the  
25 Governor. Vacancies for any reason shall be filled in the same  
26 manner as original appointments are made. Before entering upon  
27 the discharge of his or her duties, the Director of Finance

1 shall take the constitutional oath of office. The Director of  
2 Finance shall devote full time to his or her office and shall  
3 not hold another office under the government of the United  
4 States, or under any other state, or of this state or any  
5 political subdivision thereof, during his or her incumbency in  
6 such office, and ~~he~~ shall not hold any position of trust or  
7 profit or engage in any occupation or business, the conduct of  
8 which shall interfere or be inconsistent with the performance  
9 of ~~his~~ that person's duties as Director of Finance.

10 "§41-27-2.

11 "(a) The position of Secretary of the Alabama State  
12 Law Enforcement Agency is created. The secretary shall serve  
13 as the appointing authority and executive head of the agency  
14 and the appointing authority and department head of the  
15 Department of Public Safety and State Bureau of  
16 Investigations. The secretary may delegate all or part of the  
17 functions of appointing authority and department head for the  
18 department and bureau to the Director of the Department of  
19 Public Safety and the Director of the State Bureau of  
20 Investigations, respectively.

21 "(b) (1) The secretary shall be appointed by ~~and hold~~  
22 ~~office at the pleasure of the Governor and, commencing January~~  
23 16, 2023, confirmed by the Senate. ~~and Upon confirmation by~~  
24 the Senate, he or she shall serve at the pleasure of the  
25 Governor shall serve until his or her successor is appointed.  
26 The salary of the secretary shall be set by the Governor, and  
27 shall not be subject to Section 36-6-6.

1           "(2) A person appointed secretary shall have an  
2 extensive law enforcement background and, by virtue of office,  
3 is a state law enforcement officer with the immunity set forth  
4 in Section 6-5-338.

5           "(c) The secretary is a member of the Governor's  
6 Cabinet who shall advise the Governor on matters of public  
7 safety.

8           "(d) The secretary shall serve as the Homeland  
9 Security Advisor for this state, assume all duties of the  
10 Director of Homeland Security, including all functions of the  
11 Alabama Fusion Center, and shall be responsible for  
12 coordinating, designing, and implementing Alabama's program  
13 for homeland security, including immigration enforcement. The  
14 secretary shall be the principal point of contact between the  
15 State of Alabama and the federal government with respect to  
16 homeland security issues. Any reference in law to the  
17 authority of the Director of Homeland Security shall be deemed  
18 a reference to the Secretary of the Alabama State Law  
19 Enforcement Agency. The secretary may delegate all or a  
20 portion of the functions required by this section to the State  
21 Bureau of Investigations."

22           Section 2. The Commissioner of the Medicaid Agency  
23 shall be appointed by the Governor and, commencing January 16,  
24 2023, confirmed by the Senate. Upon confirmation by the  
25 Senate, the commissioner shall serve at the pleasure of the  
26 Governor.



1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.