

State of Arkansas
89th General Assembly
First Extraordinary Session, 2013

A Bill

Call Item 5

HOUSE BILL 1011

By: Representatives Wren, Alexander, Baltz, Bragg, Broadaway, Carnine, Copenhaver, Dale, J. Edwards, Gillam, Hillman, Hodges, House, Jett, Kizzia, Lampkin, Leding, Love, Magie, McCrary, B. Overbey, Ratliff, Richey, Sabin, Scott, T. Thompson, W. Wagner

By: Senators J. Key, Rapert, Bledsoe, Caldwell, E. Cheatham, L. Chesterfield, J. Dismang, Elliott, J. English, S. Flowers, J. Hendren, Hickey, Holland, J. Hutchinson, K. Ingram, U. Lindsey, B. Pierce, D. Sanders

For An Act To Be Entitled

AN ACT TO CREATE A MORE SUSTAINABLE SYSTEM OF HEALTH INSURANCE BENEFITS FOR PUBLIC SCHOOL EMPLOYEES; TO CLARIFY THE DUTIES AND RESPONSIBILITIES OF THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE BOARD; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE A MORE SUSTAINABLE SYSTEM OF HEALTH INSURANCE BENEFITS FOR PUBLIC SCHOOL EMPLOYEES AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The health insurance program provided by the State and Public School Life and Health Insurance Board for public school employees and public school employee retirees is in a state of crisis;

(2) Since 2005 the General Assembly has authorized supplemental funding for the Department of Education to send to the Employee Benefits Division of the Department of Finance and Administration for the purpose of



offsetting premium increases for public school employees without implementing long term systemic and structural reforms;

(3) In addition to the need for short-term action by the General Assembly to avert the impending premium increases for public school employees and public school employees, the General Assembly must take an active role in crafting a long-term solution to ensure the stability of the State and Public School Life and Health Insurance Program;

(4) The composition of the board should be diverse and reflect the racial, ethnic, and gender demographics of the state to ensure that multiple viewpoints are involved in board actions that impact state employees, state employee retirees, public school employees, and public school employee retirees;

(5) The board has failed to fulfill their mission and provide a stable and actuarially sound system of health insurance benefits for public school employees by:

(A) Failing to make the adjustments necessary to health plan options for public school employees that would prevent significant premium increases, resulting in burdensome costs to both public school employees and taxpayers; and

(B) Refusing to acknowledge that parity between insurance programs for state employees and public school employees is a goal, not a mandate, resulting in unnecessary costs to both public school employees and taxpayers and exacerbating the instability of the program; and

(6) The failure of the board has resulted in the need for the General Assembly to inject additional money into the program to maintain the integrity of the program by offsetting premium increases for public school employees, which allowed the program to maintain participation levels.

(b) It is the intent of the General Assembly that:

(1) Any additional funding provided for public school employee health insurance during this special session be considered a one-time infusion of money, not a permanent funding source;

(2) Funding will revert to the current level unless there is meaningful reform and restructuring of the program that restores permanent stability and actuarial soundness;

(3) The General Assembly, through the State and Public School Life and Health Insurance Program Legislative Task Force, study, develop, and

recommend fundamental restructuring of the program, including without limitation the:

- (A) Governance of the program;
- (B) Management of the program; and
- (C) Goals of the program; and

(4) While the task force is conducting the study, the General Assembly, through the Joint Performance Review Committee, the Senate Committee on Revenue and Taxation and the House Committee on Revenue and Taxation, shall continue to provide oversight of the board, including without limitation board activities and decisions.

SECTION 2. Arkansas Code Title 21, Chapter 5, Subchapter 4, is amended to read as follows:

21-5-401. State and Public School Life and Health Insurance Program established – Legislative intent.

(a) The State and Public School Life and Health Insurance Program is established to manage life and health insurance plan options for the benefit of state employees, state employee retirees, public school employees, and public school employee retirees.

(b) It is the purpose of this subchapter to:

(1) Create a single board to administer the program and to select and offer life and health insurance and life insurance plan coverages options under the program for state and public school employees and retirees to participants;

(2) Develop self-funded health ~~programs to~~ plan options that enhance the ability to control premiums and utilize managed care capabilities if feasible and in the best interest of ~~plan members~~ participants; and

(3) Enable a single board to:

(A) Set and manage policies for the ~~health insurance and life insurance programs of state and public school employees~~ program;

(B) Work in a concerted effort toward a common goal of parity between public school and state employee insurance programs;

(C) Improve the quality of ~~health care~~ healthcare services under the ~~programs~~ program;

(D) Increase participants' understanding of program features by educating state employees, state employee retirees, public school

employees, and public school employee retirees on the program and plan options available under the program, including the advantages and disadvantages of each available plan option; and

(E) Slow the rate of growth ~~in health care~~ of healthcare expenses under the ~~programs~~ program.

21-5-402. Creation of board – Members.

(a)(1) ~~There is created the~~ The State and Public School Life and Health Insurance Board is created, composed of the following ~~twelve (12)~~ fourteen (14) voting members:

(A) A state employee who is eligible to participate in the insurance program under this subchapter ~~to be~~ appointed by the Governor;

(B) A certified classroom teacher ~~to be~~ appointed by the Governor;

(C) The Insurance Commissioner or his or her designee;

(D) The Commissioner of Education or his or her designee;

(E) The Director of the Department of Finance and Administration or his or her designee;

(F) ~~One (1) member~~ Three (3) members who ~~is~~ are engaged in employee benefits management or risk management in private industry ~~to be~~ appointed by the Governor;

(G) Two (2) additional member positions that shall be filled by a retired teacher and by a retired state employee appointed by the Governor;

(H) One (1) public school administrator ~~to be~~ appointed by the Governor;

(I) The Executive Director of the Arkansas State Board of Pharmacy or his or her state employee pharmacist designee;

(J) The Director of Health Facility Services of the Department of Health or his or her designee; and

(K) One (1) member who is a licensed health care provider appointed by the Governor.

(2) All appointments made by the Governor are subject to confirmation by the Senate.

(3) ~~However, any~~ An appointee who has a conflict of interest ~~shall be~~ is disqualified to serve on the board.

(b)(1) ~~All members~~ Members appointed by the Governor shall be appointed for terms of four (4) years but may be reappointed for additional terms.

(2)(A) ~~Vacancies in the Governor appointed positions~~ A vacancy in a position appointed by the Governor shall be filled by appointment ~~of~~ by the Governor for the unexpired term.

(B) Members appointed by the Governor shall serve at the will of the Governor.

(c) A chair and vice chair of the board shall be selected annually by and from the membership of the board and shall serve no more than two (2) years.

21-5-403. Policy-making body only – Reports.

(a) The State and Public School Life and Health Insurance Board ~~shall~~ be is a policy-making body only.

(b) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration and the board shall report upon request to the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce regarding the ~~state and public school employees and retirees insurance program~~ State and Public School Life and Health Insurance Program.

21-5-404. Powers—~~Functions—Duties,~~ functions, and duties of board.

The State and Public School Life and Health Insurance Board ~~shall have~~ has the following powers, functions, and duties:

(1)(A) To explore various cost-containment measures and funding options for plan options offered under the State and Public School Life and Health Insurance Program for the benefit of state employees, state employee retirees, public school employees, and public school employee retirees.

(B) Beginning in the 2015 plan year, the board shall not adopt a health insurance plan option that has no deductible for participants;

(2) To promote competition among vendors and create a systematic formula for measuring competitiveness of ~~programs~~ the plan options offered under the program, quality-of-care delivery, portability, and accessibility to and affordability of health care;

(3) To prepare a comprehensive analysis of the various ~~health~~

~~benefit plan options approved by the board to provide coverage to state and public school employees and retirees~~ offered under the program, including cost, quality, and access differentials ~~among the various plans~~ as well as any other comparisons of the ~~plans~~ plan options offered under the program;

(4) To undertake studies and to take any appropriate action that the board determines will promote the financial soundness and overall well-being of the ~~members' health insurance programs~~ program;

(5) To establish and set penalties as allowed under § 21-5-415;

(6)(A) To develop, with the assistance of the Office of State Procurement ~~of the Department of Finance and Administration~~, bid specifications and requests for proposals and to evaluate bids and proposals.

(B) ~~However, the~~ The board shall allow the office to execute all other actions relating to the purchasing procedures in contracting for consultants, ~~third party~~ third-party administrators, providers, or insurance companies on behalf of the ~~programs~~ program and all plan options offered under the program;

(7) To evaluate responses to requests for proposals, select contractors for all services, and approve the award of contracts resulting from bids for ~~all health and life insurance offerings for participants~~ the program and all plan options offered under the program;

(8) To perform program and plan option design, summarize plan document approval, including, ~~but not limited to,~~ without limitation lifetime limitations, copayments, deductibles, and eligibility rules;

(9) To promote increased access to and participation in the program and ~~various health~~ the plan options offered under the program and models by educating state employees, state employee retirees, public school employees, and public school employee retirees about the program and all plan options offered under the program, including the advantages and disadvantages of each available plan option;

(10)(A) To direct the office to contract with qualified vendors, as defined by the board, offering the ~~benefit plans~~ plan options under the program as prescribed by the board without regard to § 19-11-228 or other statutes requiring competitive bidding.

(B) Each contract shall be for a term of at least one (1) year but may be made automatically renewable from term to term in the absence of notice of termination by either party;

(11)(A) To obtain quality-of-care information from systems, networks, hospitals, and clinical providers to inform plan option design, plan option management, and consumer decisions.

(B) The board shall:

(i) Use accepted national standards for assessment of quality-of-care information provided by systems, networks, hospitals, and clinical providers; and

(ii) Be empowered to:

(a) ~~determine~~ Determine the appropriate use of quality-of-care information and scope of system, network, hospital, and clinical provider accountability;

~~(iii)(b) Be empowered to request~~ Request aggregate performance information for patients; and

~~(iv)(c) Be empowered to publicly~~ Publicly report conclusions of quality-of-care assessment; and

(12) To appoint three (3) subcommittees of the board to study and research ~~health and life plan option benefits~~ options offered under the program, formulary management, quality of care provided, and the financial impact of implementing the recommendations made to the board as follows:

(A)(i) The Benefits Subcommittee of the State and Public School Life and Health Insurance Board shall consist of:

(a) Three (3) board members;

(b) Two (2) state employees; and

(c) Two (2) ~~school district~~ public school employees.

(ii) The Benefits Subcommittee of the State and Public School Life and Health Insurance Board shall review, evaluate, and investigate benefits, new benefit offerings, and annual insurance rates;

(B)(i) The Drug Utilization and Evaluation Subcommittee of the State and Public School Life and Health Insurance Board shall consist of:

(a) Three (3) pharmacists as follows:

(1) The Executive Director of the Arkansas State Board of Pharmacy or his or her pharmacist designee;

(2) The Dean of the University of Arkansas for Medical Sciences College of Pharmacy or his or her pharmacist designee; and

(3) A pharmacist selected by the Arkansas Pharmacists Association;

(b) Four (4) physicians as follows:

(1) The Dean of the University of Arkansas for Medical Sciences College of Medicine or his or her physician designee;

(2) ~~The Associate Medical Director~~ Senior Associate Hospital Director of the University of Arkansas for Medical Sciences Medical Center or his or her physician designee;

(3) The Medical Director of the Arkansas Poison & and Drug Information Center or his or her physician designee; and

(4) A physician selected by the Arkansas Medical Society;

(c) One (1) registered nurse who is the Dean of the University of Arkansas for Medical Sciences College of Nursing or his or her registered nurse designee; and

(d) One (1) state employee and one (1) public school employee appointed by the board, each of whom ~~shall have~~ has expertise in accounting, finance, auditing, or insurance.

(ii) The Drug Utilization and Evaluation Subcommittee of the State and Public School Life and Health Insurance Board shall review drugs for formulary management and evaluate the financial impact of its recommendations; and

(C)(i) The Quality of Care Subcommittee of the State and Public School Life and Health Insurance Board shall consist of:

(a) Three (3) board members;

(b) Two (2) state employees;

(c) Two (2) ~~school-district~~ public school employees;

(d) One (1) representative from the Arkansas Foundation for Medical Care;

(e) One (1) representative from the Arkansas Pharmacists Association;

(f) One (1) representative from the Arkansas Center for Health Improvement;

(g) One (1) representative from the Arkansas

Medical Association;

(h) One (1) representative from the Arkansas Osteopathic Medical Association; and

(i) One (1) representative from the Arkansas Hospital Association.

(ii) The Quality of Care Subcommittee of the State and Public School Life and Health Insurance Board may review and recommend quality performance indicators for use, recommend baseline performance goals, recommend alignment of financial incentives to improve performance, and track improvements in delivery of care.

21-5-405. Additional duties of board.

(a)(1) The State and Public School Life and Health Insurance Board and the ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall take a risk management approach in designing the ~~state and public school employees and retirees benefit programs~~ State and Public School Life and Health Insurance Program.

(2) The board shall ensure that the ~~state and public school employees and retirees benefit programs~~ program, including all plan options offered under the program, are maintained on an actuarially sound basis as determined by actuarial standards established by the board.

(b) In addition to the objectives stated in § 21-5-404, the board shall:

(1) Develop uniform standards of vendor plan option funding;

(2) Promote increased access to ~~various~~ plan options ~~and health care models~~ offered under the program;

(3) Promote access to ~~those~~ vendors who will enhance plan options availability in rural Arkansas and in bordering states;

(4)(A) ~~Utilize~~ Use the ~~combined~~ purchasing power of the ~~state employee and public school personnel programs~~ program to foster competition among vendors and providers for the ~~programs~~ plan options offered under the program.

(B) ~~Any~~ A state agency or school district that accepts state funds intended to partially defray the cost of health and life insurance for the ~~state~~ state employees ~~of the state and~~ or public ~~schools~~ school employees shall:

(i) Use those funds only for the ~~state and public school employees health benefit plans~~ program sponsored by the board; and

(ii) Agree to rules of program participation as stated in the policies adopted by the board and as defined in the regulations and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration, including, ~~but not limited to,~~ without limitation timely eligibility reporting, prepayment of insurance premiums, actuarial adjustment for new enrollees, and any other requirements deemed necessary by the board.

(C)(i) A school district shall ensure that all funding allocated for public school employee health insurance through the matrix per-student funding calculation used in the most recent adequacy study conducted under the Continuing Adequacy Evaluation Act of 2004, § 10-3-2101 et seq., is used to support public school employee health insurance premiums by:

(a) Increasing the amount that the school district contributes for health insurance per participating public school employee; or

(b) Making contributions to the health savings accounts of participating public school employees.

(ii) The Department of Education, with the assistance of the Bureau of Legislative Research, shall notify a school district of the amount allocated for public school employee health insurance through the matrix per-student funding calculation used in the most recent adequacy study conducted under the Continuing Adequacy Evaluation Act of 2004, § 10-3-2101 et seq., when the Department of Education disburses foundation funds to a school district;

(5) Assure guaranteed issue; and

(6) Ensure an annual enrollment period.

(c) ~~Benefit plan vendors are required to~~ Vendors of plan options offered under the program shall provide detailed information in order to justify rate increases or inadequate performance reporting as defined by the board.

21-5-406. Executive director – Staff.

(a)(1) The State and Public School Life and Health Insurance Board shall choose ~~an executive director~~ the Executive Director of the Employee

Benefits Division of the Department of Finance and Administration with the approval of the Director of the Department of Finance and Administration.

(2)(A) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall be employed by and serve at the pleasure of the Director of the Department of Finance and Administration.

(B) However, the board may recommend the removal of the ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration, but removal ~~shall be~~ is subject to the approval of the Director of the Department of Finance and Administration.

(3) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall employ staff adequate to manage the ~~program~~ State and Public School Life and Health Insurance Program within the funds appropriated ~~therefor~~ for the program within the Department of Finance and Administration.

(b) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall establish internal controls for the fiscal management of the ~~health and life insurance plans~~ program.

(c)(1) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration and his or her staff shall be located in the Employee Benefits Division of the Department of Finance and Administration.

(2) Premiums collected from employers, participating employees, and retirees for ~~health and life insurance plans~~ the program, including plan options offered under the program, shall be collected one (1) month in advance and shall be used solely to pay medical claims, premiums, and direct administrative expenses of the ~~health and life insurance programs~~ program.

(d) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall ~~be charged with the duty of administering the provisions of~~ administer this subchapter and the rules, ~~regulations,~~ and orders of the division and the board.

(e)(1) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration may require all participating entities to appoint health insurance representatives, who

~~will be required to~~ shall adhere to the policies adopted by the board and the ~~regulations~~ rules and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration in managing the enrollment and premium payment processes of the state agency or school district.

(2) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration may request the removal of a health insurance representative to ensure necessary internal controls.

(3)(A) The ~~executive director shall have~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration has the authority to supervise the implementation and day-to-day management of the ~~health insurance programs~~ program and other employee ~~benefit programs~~ benefits, plans, and individual and group policies made available to ~~state and public school employees~~ participants, if applicable.

(B) ~~This may include, but not be limited to~~ The authority granted under subdivision (e)(3)(A) of this section includes without limitation supervising:

- (i) Life insurance coverage;
- (ii) Accident coverage;
- (iii) Dental coverage;
- (iv) Disability benefit programs;
- (v) Optional retirement programs;
- (vi) Deferred compensation;
- (vii) Cafeteria plans; and
- (viii) Such other benefit plans, benefit programs, and individual and group benefit coverage that are offered from time to time to ~~members~~ state employees, state employee retirees, public school employees, and public school employee retirees.

(C) ~~This authority shall not include~~ The authority granted under subdivision (e)(3)(A) of this section does not include supervising the State Employees Benefit Corporation benefit plan which is in effect on July 1, 1995.

(D) In addition, the ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration and the board may utilize the services of ~~health care~~

healthcare consultants and actuaries if necessary as provided for through the appropriation of the division.

(E) The Arkansas State Police Employee Health Plan ~~shall~~ be is exempt from any mandatory participation required by this section.

21-5-407. Definitions.

As used in this subchapter:

(1) "Aggregate performance information" means a report or other means of communication about the measurement of accomplishment of the execution of certain tasks, achievement of certain results, or occurrence of certain events related to all patients or to a class or group of patients identifiable by certain criteria;

~~(2)(A) "Alternate retirement plan retiree" means a retiree in an alternate retirement plan as defined in § 24-7-801 of a certain institution whose employer does not contribute to the State or Public School Health Insurance Plan during his or her active employment.~~

~~(B) Further, an alternate retirement plan, for the purposes of this section, is a defined contribution plan allowed under the Internal Revenue Service regulations and allowed but not created by Arkansas state law~~ "Consumer-driven health insurance plan option" means a qualified high deductible health plan option with high out-of-pocket costs adopted by the State and Public School Life and Health Insurance Board that is consistent with guidance provided by the Internal Revenue Service for health savings accounts, annual contribution limits, and high deductible health insurance plans under Revenue Procedure 2013-25 and subsequent guidance;

(3) "Dependent" means ~~any a~~ member of ~~an employee's or retiree's~~ a participant's family who ~~meets the eligibility~~ is eligible for coverage under the ~~health benefit plans approved~~ State and Public School Life and Health Insurance Program by the State and Public School Life and Health Insurance Board;

~~(4) "Dual eligibility" means simultaneous participation as an employee, dependent, or retiree in the multiple programs offered by the Employee Benefits Division;~~

~~(5)~~(4)(A) "Eligible inactive retiree" means a former member of the General Assembly or a state-elected constitutional officer who has served a sufficient number of years of credited service to be eligible for

retirement benefits but who has not yet reached retirement age.

~~(B) Eligible inactive retirees who enroll~~ An eligible inactive retiree who enrolls in the ~~plan must~~ program shall pay the entire premium cost of the plan option selected under the program as set by the ~~board~~ State and Public School Life and Health Insurance Board;

~~(6) "Employee" means a state employee or a public school district employee;~~

~~(7) "Health insurance representative" means an individual appointed by a participating entity to act as an agent for the Employee Benefits Division of the Department of Finance and Administration;~~

~~(8) "Ineligible inactive retiree" means a terminated employee who has worked a sufficient number of years to be considered vested but who has not yet reached the age to qualify to receive a retirement benefit;~~

~~(9) "Internal Revenue Service" means the United States Government agency responsible for tax collection and tax law enforcement;~~

~~(10)~~(5) "Health savings account" means an account established by a participant under a medical care savings account program to pay the eligible medical expenses of a participant and the dependents of the participant;

(6) "High deductible" means the deductible limitations for a qualified high deductible health plan under the Internal Revenue Service, as adjusted annually for inflation based upon the board's calculation using the formula provided by 26 U.S.C. § 1(f)(3) – (6);

(7) "Member" "Participant" means any enrolled state or public school employee, retiree, an individual or an individual's covered dependent who is enrolled in a plan option offered under the program;

~~(11)~~(8) "Participating entity" means an organization authorized to participate in a plan offered under this subchapter the program, including without limitation a state agency, school district, public charter school, or education service cooperative;

~~(12)~~(9) "Participating institution" means any a two-year or four-year college that is participating in a plan offered under this subchapter the program;

~~(13)~~(10) "Prepayment" means collection of medical or life insurance premiums or both medical and life insurance premiums from the employee and employer one (1) month in advance;

(11) "Public school employee" means an employee of a school district or public charter school;

~~(14)~~(12) "Qualifying event" means a change in an employee's personal life that may impact his or her eligibility or a dependent's eligibility for benefits, as defined by Internal Revenue Service guidelines;

~~(15)~~(13) "Quality-of-care information" means the contents of medical records, member claims, patient surveys, pharmacy data, lab data, and other records of or reports about systems, networks, hospitals, and clinical providers to be gathered for assessment of the quality and costs of health care provided by systems, networks, hospitals, and clinical providers;

~~(16)~~(14) "Quality performance indicator" means a specific inquiry or standard that, when applied to quality-of-care information, reveals a quantifiable measure of success or failure in system, network, hospital, or clinical provider care;

~~(17)~~(15) "Retiree" means a retired employee who is eligible under ~~the provisions of~~ § 21-5-411;

(16) "State employee" means an employee of a state agency, board, or commission whose position is budgeted for by the General Assembly;

~~(18) "State" means the State of Arkansas; and~~

~~(19)~~(17) "Vendor" means a corporation, partnership, or other organization that is:

(A) ~~A corporation, partnership, or other organization licensed~~ Licensed to do business and in good standing with the State of Arkansas; and

(B) ~~A corporation, partnership, or other organization licensed to do business and in good standing with the State of Arkansas that is lawfully~~ Lawfully engaged in administering employer-funded or employee-funded benefit plans for employer groups in consideration of an administration fee ~~payable to the vendor.~~

21-5-408. Compensation.

State and Public School Life and Health Insurance Board members may receive from the Department of Finance and Administration expense reimbursement ~~as authorized by law~~ and stipends ~~in accordance with~~ as allowable under § 25-16-901 et seq.

21-5-410. ~~Employees~~— Eligibility generally.

(a) ~~Eligible employees shall~~ Individuals eligible to participate in the State and Public School Life and Health Insurance Program include:

(1) ~~All actively employed, eligible active state employees, active public school employees, or other eligible employees of a participating agencies, boards, commissions, institutions, and constitutional offices~~ entity or participating institution;

(2) Members of the General Assembly;

(3) Elected constitutional officers;

(4) Appointed or elected board and commission members who are on a full-time salaried basis; and

(5)(A) Those state contract employees hired by the Arkansas National Guard on a full-time basis in accordance with ~~the provisions of~~ 10 U.S.C. § 2304.

(B) ~~Membership of the~~ Program participation for contract employees of the Arkansas National Guard is conditioned upon the United States Government contributing the employer's share to the Employee Benefits Division of the Department of Finance and Administration.

(b) ~~Membership of~~ Program participation for a state employee is conditioned upon the ~~employee~~ state employee's being in a budgeted state employee position or a position authorized by the General Assembly.

(c) ~~An~~ A state employee is one whose actual performance of duty requires one thousand (1,000) or more working hours per year.

(d) If a participating institution discontinues its participation in the ~~group health and life insurance program instituted pursuant to the provisions of this subchapter,~~ then the participating institution ~~may~~ shall not re-participate in the program for two (2) years after the institution's final date of participation in the program unless the Executive Director of the Employee Benefits Division of the Department of Finance and Administration gives his or her consent to an earlier date.

(e) ~~Members~~ Participants are not allowed ~~dual-eligibility simultaneous participation in either~~ benefits provided by the state employee insurance plan or the public school employee insurance plan.

(f) The Arkansas State Police Employee Health Plan ~~shall be~~ is exempt from any mandatory participation required by this section.

21-5-411. Eligibility of certain retired employees.

(a)(1) ~~State~~ If qualified, state employee retirees and public school ~~employees shall be allowed to~~ employee retirees may continue coverage and, ~~if qualified, to participate in the group health insurance program instituted pursuant to the provisions of this subchapter and other laws enacted to implement the program who are~~ State and Public School Life and Health Insurance Program if the state employee retirees or public school employee retirees are:

(A) Participating members of:

(i) The Arkansas Public Employees' Retirement System, including the members of the legislative division and the contract personnel of the Arkansas National Guard;

(ii) The Arkansas Teacher Retirement System;

(iii) The Arkansas State Highway Employees' Retirement System;

(iv) The Arkansas Judicial Retirement System; or

(v) An alternate retirement plan of a qualifying institution under § 24-7-801; and

(B) Retired and drawing benefits under one (1) or more of the retirement systems listed under subdivision (a)(1)(A) of this section.

(2)(A)(i) ~~If members of these retirement systems receive a state employee retiree or a public school employee retiree who is a member of a retirement system listed under subdivision (a)(1)(A) of this section receives retirement benefits, thereby becoming an active retiree, the active retiree shall~~ retiree may elect to enroll in the ~~health benefit program sponsored by the State and Public School Life and Health Insurance Board.~~

(ii) The election to enroll in the ~~retiree insurance~~ program shall be made within thirty-one (31) days of the ~~member's~~ state employee retiree or public school employee retiree becoming an active retiree and shall be made in writing to the Employee Benefits Division of the Department of Finance and Administration on forms required by the ~~Employee Benefits Division~~ division.

(B)(i) To be eligible to continue coverage or to qualify for coverage after electing to decline participation in the program, the ~~member~~ retiree must have been eligible for coverage on the last day of the ~~member's~~ retiree's employment.

(ii) If a retiree declines coverage to participate in the program at the time of retirement due to other health insurance coverage that is not an accident only, ~~specific~~ specified disease, or other limited benefit policy, the retiree may make a one-time election to ~~return to participate in the retiree insurance~~ program with proof of continued insurance coverage if the retiree experiences a qualifying event or at the time of open enrollment.

(iii) The ~~board~~ State and Public School Life and Health Insurance Board may allocate available subsidies to cover the retirees ~~making an election participating in the program~~.

(C)(i) Except as provided in subdivision (a)(2)(C)(ii) of this section, an active retiree's failure to make an election to participate in the program during the thirty-one-day election period or an active retiree's election to decline participation in the ~~health~~ program is final.

(ii)(a) If an active retiree declining coverage to participate in the program specifies in writing and provides a letter of creditable employer group coverage to show that the reason for the declination is ~~because that~~ the active retiree ~~has had~~ coverage through another employer group health plan and the active retiree's coverage ~~is was~~ subsequently terminated because of a loss of eligibility, as defined by Internal Revenue Service regulations, and provides information from the former insurance company of the loss of eligibility, then the active retiree and any dependents shall qualify for coverage participation in the ~~health benefit~~ program ~~under this subsection~~ upon payment of the appropriate premium as established by the board, ~~provided the~~ if the active retiree applies for coverage participation in the program within thirty (30) days of the loss of eligibility.

~~(a) Loss of coverage is defined~~ As used in this subdivision (a)(2)(C)(ii), "loss of coverage" has the meaning provided by Internal Revenue Service and Health Insurance Portability and Accountability Act ~~(HIPPA)~~ guidelines for special enrollment periods.

(3)(A) Notwithstanding any other provision to the contrary in this section, ~~an~~ a state employee or public school employee with ten (10) or more years of creditable service under the terms of a retirement plan listed in this section shall qualify for ~~continuation of health insurance coverage offered by the board if that~~ continued participation in the program if the

state employee or public school employee is separated from employment because of the expiration of a fixed period of employment.

(B)(i) ~~An~~ A state employee or public school employee qualifying for ~~continuation of coverage~~ continued participation in the program under this subsection shall be considered an "inactive retiree" and shall have thirty-one (31) days from the effective date of termination to elect to continue ~~health insurance coverage~~ participation in the program under this section by notifying the ~~Employee Benefits Division~~ division.

(ii) The election to continue participation in the program shall be made in writing on forms required by the ~~Employee Benefits Division~~ division.

(C)(i) Except as provided in subdivision (a)(3)(C)(ii) of this section, an inactive retiree's failure to ~~make an election~~ elect to continue participation in the program during the thirty-one-day election period or an inactive retiree's election to decline participation in the ~~health~~ program is final.

(ii) If an inactive retiree as ~~defined~~ described in ~~§ 21-5-407~~ subdivision (a)(3)(B) of this section declining ~~coverage~~ participation in the program specifies in writing that the reason for the declination is ~~because that~~ the inactive retiree has coverage through another group health plan and the inactive retiree's coverage is subsequently terminated because of a loss of eligibility, then the inactive retiree and any dependents shall qualify for ~~coverage~~ participation in a board-sponsored health benefit the program upon payment of the appropriate premium as established by the board, provided the inactive retiree applies for ~~coverage program participation~~ within thirty-one (31) days of the loss of eligibility.

(D) An eligible inactive retiree shall be reclassified as an "active retiree" upon electing to receive a retirement benefit by a retirement system listed ~~within~~ under subdivision (a)(1)(A) of this section and shall be charged the premium rate appropriate for his or her rating category as an active retiree.

(4)(A) As used in this subsection, "loss of eligibility" means a loss of coverage as a result of:

(i) a legal separation;

(ii) divorce, Divorce;

(iii) death Death of the insured;

(iv) ~~termination~~ Termination of employment; or
 (v) a A reduction in the number of hours of
 employment.

(B) "Loss of eligibility" ~~shall~~ does not include:

(i) a A loss of coverage from a failure to pay
 premiums on a timely basis;

(ii) ~~voluntary~~ Voluntary termination of coverage;

or

(iii) a A termination of coverage for cause, such as
 making a fraudulent claim.

(b)(1) ~~Persons~~ Retirees who draw retirement benefits under the
 Arkansas Public Employees' Retirement System, the Arkansas Teacher Retirement
 System, or the Arkansas State Highway Employees' Retirement System, and
 retired contract employees of the Arkansas National Guard who wish to
 participate in the ~~group insurance~~ program ~~provided for in this subchapter~~
 shall pay the retiree amount of the premium or the cost of the policy issued
 to the retired participant.

(2)(A) The retiree portion of the premium ~~or cost~~ shall be
 deducted from:

(i) The retirement benefit check of the retired
~~participants~~ participant; or

(ii) A bank account of the retired participant to be
 paid by a monthly bank draft on the date designated by the ~~Employee Benefits~~
~~Division~~ division.

(B) If the retirement benefit is to be withheld from a
 retirement benefit check and the retirement benefit check is not large enough
 for the premium deduction, the premium shall be paid by monthly bank draft on
 a designated date prescribed by the ~~Employee Benefits Division~~ division.

(c) Members of the Arkansas Public Employees' Retirement System and
 the Arkansas State Highway Employees' Retirement System who retire before
 January 2, 1988, under ~~the provisions of~~ the Incentives for Early Retirement
 Act, §§ 24-4-732, 24-5-122, and 24-6-102, shall not ~~have to~~ pay the full
 amount of the premium ~~and~~ but shall pay a portion of the cost of the policy
 as set forth by the Incentives for Early Retirement Act, §§ 24-4-732, 24-5-
 122, and 24-6-102.

(d) Any future change in ~~coverage~~ program participation other than

cancellation shall be extended only to newly acquired dependents, except that if an active or inactive retiree declined dependent coverage at the time of election to be an active or inactive retiree and specified in writing that the reason for the declination was that the dependent had other coverage, and if subsequently the dependent involuntarily loses such coverage, except for fraud or voluntary cessation of premium payment while the active or inactive retiree is covered by ~~the plan~~ a plan option offered under the program, then the dependent may be added within thirty-one (31) days of the involuntary termination to the active or inactive retiree's health insurance coverage for payment of the appropriate premium as established by the board.

(e)(1) If a retiree dies and has covered dependents at the time of death, the dependents have the right to continue ~~coverage under the plan~~ participation in the program.

(2) Dependent children may ~~be covered~~ continue to participate in the program until marriage or until the maximum age limit for a dependent child has been reached.

(3) A surviving spouse may continue ~~coverage under the plan~~ participation in the program.

(4) If a surviving spouse or dependent declines ~~coverage~~ participation in the program or cancels existing ~~coverage~~ participation, then the surviving spouse or dependent has no further privileges under the ~~plan~~ program.

21-5-412. Eligibility of certain elected ~~officers~~ officials.

(a) Members of the General Assembly and the state-elected constitutional officers who have served a sufficient number of years of credited service to be eligible for retirement benefits upon attainment of retirement age, but who have not yet reached retirement age, shall be eligible to continue to participate in ~~state employees', life and health programs~~ the State and Public School Life and Health Insurance Program upon leaving elective service.

(b)(1) ~~Any~~ A person who is leaving the General Assembly or any state-elected constitutional ~~officer~~ office who wishes to participate in the ~~state employees' life and disability~~ program ~~provided for in this subchapter~~ shall be offered continuation of coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272.

(2)(A) An ~~employee~~ electd official with ten (10) or more years of creditable service under the terms of a retirement plan listed ~~in this section under § 21-5-411(a)(1)(A)~~ shall qualify for continuation of ~~health insurance coverage offered by the board~~ participation in the program if ~~that employee~~ the elected official is separated from employment because of the expiration of a fixed period of employment.

(B)(i) An elected ~~officer~~ official qualifying for continuation of ~~coverage~~ participation in the program under this subsection shall be considered an eligible inactive retiree and shall have thirty-one (31) days from the effective date of termination to elect to continue ~~health insurance coverage under this section~~ program participation by notifying the Employee Benefits Division of the Department of Finance and Administration in writing on forms required by the ~~Employee Benefits Division~~ division.

(ii) The eligible inactive retiree shall pay the full amount of the insurance premium.

(C)(i) Except as provided in subdivision (b)(2)(C)(ii) of this section, an eligible inactive retiree's failure to ~~make an election~~ elect to participate in the program during the ~~thirty-one day~~ thirty-one-day election period or an eligible inactive retiree's election to decline participation in the ~~health~~ program is final.

(ii) An eligible inactive retiree who declined ~~coverage~~ to participate in the program and any dependents of the eligible inactive retiree shall qualify for ~~coverage~~ participation in the board-sponsored health benefit program upon payment of the appropriate premium as established by the ~~board~~ State and Public School Life and Health Insurance Board, provided the eligible inactive retiree ~~applied~~ applies for ~~coverage~~ program participation within thirty-one (31) days of the loss of eligibility if:

(a) The eligible inactive retiree who declined ~~coverage~~ to participate in the program specifies in writing that the reason for the declination is ~~because~~ that the eligible inactive retiree ~~has~~ had coverage through another group health plan;

(b) The eligible inactive retiree's coverage ~~is~~ was subsequently terminated because of a loss of eligibility; and

(c) The eligible inactive retiree provides information from the former insurance company confirming the loss of

coverage.

(D)(i) An eligible inactive retiree shall be charged the premium under the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, ~~premium~~ as determined by the board to be actuarially sound with administrative fees deemed appropriate.

(ii) An eligible inactive retiree shall be reclassified as an active retiree upon electing to receive a retirement benefit by a retirement system listed ~~within this section~~ under § 21-5-411(a)(1)(A) and shall be charged the premium rate appropriate for his or her rating category as an active retiree.

21-5-414. State contributions generally – Partial state contribution of employees' premiums.

(a) The Department of Finance and Administration shall seek the advice of the Legislative Council and the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce before additional state contributions can be made to the State and Public School Life and Health Insurance Program on behalf of state employees.

(b)(1) The State of Arkansas, on behalf of state agencies participating in the ~~plans adopted by the state program,~~ is authorized to make a monthly contribution equal to the number of budgeted state employee positions multiplied by the monthly contribution authorized by the Chief Fiscal Officer of the State, not to exceed four hundred twenty-five dollars (\$425) monthly for each state employee budgeted position into a fund designated for state employee health benefits, to partially defray the cost of life and health insurance for state employees ~~of the state~~ participating in the ~~plan program sponsored by the State and Public School Life and Health Insurance Board.~~

(2) The department may make a monthly contribution to partially defray the cost of health insurance for state employee retirees, utilizing funds made available for that purpose, not to exceed the amount authorized by the Chief Fiscal Officer of the State.

21-5-415. Nonpayment of premiums and failure to file reports by agency or school district.

(a)(1) If any participating state agency or school district does not

remit insurance premiums and required monthly reports to the Employee Benefits Division of the Department of Finance and Administration by the last calendar day of each billing month, the division shall impose a penalty of two dollars (\$2.00) per insured member or one hundred dollars (\$100), whichever is greater.

(2)(A) Penalties ~~will~~ shall be assessed and invoiced based on the actual number of members included on the monthly billing report that is past due.

(B) Invoices ~~will~~ shall be processed at the beginning of the month following the infraction.

(3) Penalties ~~shall be~~ are payable to the ~~Employee Benefits Division~~ division and ~~must be received by~~ shall be delivered to the division no later than the last calendar day of the month following invoicing.

(4) If payment is not ~~received by~~ delivered to the division by the due date, the following collection methods may be used:

(A)(i) The Chief Fiscal Officer of the State may cause the amount sought to be transferred to the division from:

(a) Funds the state agency or school district has on deposit with the Treasurer of State; or

(b) Any funds the state agency or school district is due from the state.

(ii) If a transfer ~~must be~~ is made, a transfer penalty of twenty dollars (\$20.00) per transfer shall be assessed each state agency or school district fund and included in the transfer;

(B) The state agency director or school district superintendent may be required to appear before the State and Public School Life and Health Insurance Board to report the reasons for nonpayment or incorrect reporting; and

(C) The Chief Fiscal Officer of the State may use his or her powers outlined in § 19-4-301 et seq. to aid in collection.

(5) Nonpayment of premiums ~~could also~~ by a school district, state agency, or agency assuming the responsibility for paying health and life insurance premiums for its employees may result in a lapse of health and life insurance coverage for participating state employees and public school employees of the school district, or state agency, or the agency assuming responsibility for paying health and life claims for its employees.

(b)(1) If ~~any a~~ participating ~~agency or school district~~ entity or participating institution fails to follow established policy and procedures set by the ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration, including ~~but not limited to~~ without limitation notifying the division of an insured's leave without pay, family medical leave, or military leave status or if any participating ~~agency or school district~~ entity or participating institution provides incorrect benefit information or processes unauthorized benefit changes, including system entries that result in unreimbursed expenses to the State Employees ~~Benefits~~ Benefit Trust Fund or Public School ~~Employees~~ Insurance Trust Fund, the division ~~shall have the right to~~ may:

(A) Require the ~~agency~~ participating entity or participating institution to pay the total amount of the insured's premium; and

(B) Impose a penalty of fifty dollars (\$50.00) per insured.

(2)(A) Penalties ~~will~~ shall be assessed and invoiced based on the actual number of violations.

(B) Invoices ~~will~~ shall be processed at the beginning of the month following discovery of the infraction.

(3) Penalties ~~shall be~~ are payable to the ~~Employee Benefits Division~~ division and ~~must be received~~ shall be delivered to the division by the last calendar day of the month following invoicing.

(4) The Chief Fiscal Officer of the State may cause the amount sought to be transferred from:

(A) Funds the state agency or school district has on deposit with the Treasurer of State; or

(B) Any funds the state agency or school district is due from the state.

(5) If a transfer is made, a transfer penalty of twenty dollars (\$20.00) per transfer shall be assessed each state agency or school district fund and included in the transfer.

(c) The division may correct any error regarding an insured's benefits according to existing documentation without authorization or prior notification to the state agency or school district.

21-5-416. Annual performance audits.

The Legislative Joint Auditing Committee shall annually conduct a performance audit of the:

- (1) ~~entity~~ Entity administering claims; and
- (2) ~~of the~~ Employee Benefits Division of the Department of Finance and Administration.

21-5-417. State contribution for employee receiving workers' compensation.

Notwithstanding any other provisions of the law, a state agency shall remit the employer's contribution for a state employee participating in the State and Public School Life and Health Insurance Program to the Employee Benefits Division of the Department of Finance and Administration ~~for state employees~~ when the state employee is:

- (1) ~~in~~ In a leave-without-pay status because of a work-related injury; and
- (2) ~~is receiving~~ Receiving benefits from workers' compensation.

21-5-418. Health savings account.

(a) A health savings account shall be a component of a consumer-driven health insurance plan option adopted by the State and Public School Life and Health Insurance Board.

(b) A school district may make an employer contribution into a participating public school employee's health savings account up to the maximum amount allowed by the Internal Revenue Service.

(c) A school district shall ensure that any vendor the school district contracts with to provide health savings account management for the school district provides annual education to the school district's public school employees concerning the:

- (1) Advantages and disadvantages of a consumer-driven health plan option; and
- (2) Effective strategies for using a health savings account.

SECTION 3. TEMPORARY LANGUAGE. DO NOT CODIFY. State and Public School Life and Health Insurance Program Legislative Task Force – Creation – Membership – Duties.

(a) There is created the State and Public School Life and Health Insurance Program Legislative Task Force.

(b)(1) The task force shall consist of the following twelve (12) members:

(A) The Chair of the House Committee on Education or the chair's designee;

(B) The Chair of the Senate Committee on Education or the chair's designee;

(C) The Chair of the House Committee on Insurance and Commerce or the chair's designee;

(D) The Chair of the Senate Committee on Insurance and Commerce or the chair's designee;

(E) Four (4) Senators appointed by the President Pro Tempore of the Senate; and

(F) Four (4) Representatives appointed by the Speaker of the House of Representatives.

(2) If a vacancy occurs on the task force, the vacancy shall be filled by the same process as the original appointment.

(3) Legislative members of the task force shall be paid per diem and mileage as authorized by law for attendance at meetings of interim committees of the General Assembly.

(c)(1) The Chair of the Senate Committee on Education or the chair's designee shall call the first meeting of the task force within thirty (30) days of the effective date of this act and shall serve as chair of the task force at the first meeting.

(2) At the first meeting of the task force, the members of the task force shall elect from its membership a chair and other officers as needed for the transaction of its business.

(3)(A) The task force shall conduct its meetings in Pulaski County at the State Capitol or another site with teleconferencing capabilities.

(B) Meetings of the task force shall be held at least one (1) time every two (2) months but may occur more often at the call of the chair.

(4) The task force shall establish rules and procedures for conducting its business.

(5)(A) A majority of the members of the task force shall constitute a quorum for transacting business of the task force.

(B) No action may be taken by the task force except by a majority vote at a meeting at which a quorum is present.

(6) The Bureau of Legislative Research shall provide staff for the task force.

(d) The purpose of the task force is to:

(1) Develop an implementation plan for the State and Public School Life and Health Insurance Program that will allow the program to operate on an actuarially sound basis while ensuring a high-quality, low-cost program of insurance for state employees, state employee retirees, public school employees, and public school employee retirees;

(2) Increase public awareness and transparency of the:

(A) Program, including plan options available under the program; and

(B) Governance and operation of the program; and

(3) Develop a legislative framework that will promote the actuarial soundness and stability of the program.

(e) To meet the goals of the task force the task force shall:

(1) Study all aspects of the state and public school life and health insurance program for the purpose of recommending changes that will ensure the financial stability of the program while offering participants affordable healthcare coverage, including without limitation:

(A) Researching current insurance concepts, market conditions, regulatory issues, the effects of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and best practices from other states;

(B) Exploring:

(i) Cost-containment measures and funding options for plan options offered under the program;

(ii) Ways to promote competition among vendors and the offering of competitive health insurance plan options that include quality-of-care delivery, portability, and accessible and affordable healthcare; and

(iii) The role that current structure of the program, and plan options under the program, have historically contributed to

the volatility of the system;

(B) Reviewing state statutes that may be barriers to the overall actuarial soundness and stability of the program;

(C) Preparing a comprehensive analysis of recommended health insurance plan options to be offered under the program; and

(D) Evaluating the governance and structure of the State and Public School Life and Health Insurance Board;

(2) If the task force determines necessary, contract with consultants to assist the task force with the study;

(3) On or before June 30, 2014, file with the Speaker of the House of Representatives and the President Pro Tempore of the Senate a written, preliminary report of the task force's activities, findings, and recommendations; and

(4) On or before June 29, 2015, file with the Speaker of the House of Representatives and the President Pro Tempore of the Senate a written, final report of the task force's activities, findings, and recommendations.

(f) The task force expires June 30, 2015.

SECTION 4. TEMPORARY LANGUAGE. DO NOT CODIFY.

(a) The term of a member who is on the State and Public School Life and Health Insurance Board on October 16, 2013 shall expire on November 30, 2013.

(b) New board membership under § 21-5-402 shall be seated on December 1, 2013.

(c) The Governor shall call the first meeting of the newly seated board on or after December 1, 2013.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Public School Insurance Trust Fund is inadequate to provide affordable health insurance for public school employees; that an urgent need exists to address the administration and funding of public school employee health insurance plans in order to avoid severe financial hardship to plan participants; that enrollment for the 2014 plan year has been delayed as long as feasible to permit more time to develop a proper short-term and long-term solution; and that this act is

immediately necessary to provide affordable health insurance options to the state's public school employees in a timely fashion. Therefore, an emergency is declared to exist, and this act is immediately necessary for the preservation of the public peace, health, and safety, shall become effective on:

(1) The date of this act's approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

APPROVED: 10/21/2013