

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 693

By: Senators Hickey, Rice
By: Representative Wardlaw

For An Act To Be Entitled

AN ACT TO ABOLISH THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE BOARD; TO TRANSFER THE DUTIES OF THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM TO THE STATE BOARD OF FINANCE; TO AMEND THE DUTIES OF THE STATE BOARD OF FINANCE; TO AMEND THE STATE ENTITIES TRANSFERRED TO THE DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO TRANSFER THE DUTIES OF THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE BOARD TO THE STATE BOARD OF FINANCE; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Abolition of the State and Public School Life and Health Insurance Board and transfer of duties and responsibilities to State Board of Finance – Legislative findings.

(a) The General Assembly finds that:

(1) The State and Public School Life and Health Insurance Program is underfunded and will operate in a deficit;

(2) The State and Public School Life and Health Insurance Board has not been effective in developing a strong State and Public School Life and Health Insurance Program;



(3) The State Board of Finance is established to manage the state's financial concerns;

(4) The State Board of Finance is the entity that is currently best suited to make decisions and policy for the State and Public School Life and Health Insurance Program; and

(5) The State Board of Finance shall make decisions and policy determinations for the State and Public School Life and Health Insurance Program until the General Assembly adopts a permanent governance system to ensure solvency of the State and Public School Life and Health Insurance Program and state and public school employee benefits.

(b) The State and Public School Life and Health Insurance Board is abolished and all duties and responsibilities of the State and Public School Life and Health Insurance Board be vested in the State Board of Finance.

(c)(1) The administrative functions of the State and Public School Life and Health Insurance Board are transferred in the same manner as a cabinet-level department transfer under § 25-43-101 et seq. from the Department of Transformation and Shared Services to the State Board of Finance.

(2) All duties assigned to the State and Public School Life and Health Insurance Program administered by the Employee Benefits Division of the Department of Transformation and Shared Services shall remain with the division.

(3) All employees of the department performing duties for the State and Public School Life and Health Insurance Board shall remain employees of the department and are not transferred by this act.

(4) All duties assigned under § 25-43-101 et seq. to the Secretary of the Department of Transformation and Shared Services concerning the State and Public School Life and Health Insurance Board shall be performed by the designee of the State Board of Finance.

(d) The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting or purchasing of the State and Public School Life and Health Insurance Board, are transferred from the department to the State Board of Finance.

(e)(1) The transfer of the State and Public School Life and Health Insurance Board does not affect the orders, rules, regulations, directives,

or standards made or promulgated by the State and Public School Life and Health Insurance Board before the effective date of this act.

(2) The orders, rules, regulations, directives, or standards under subdivision (e)(1) of this section shall continue with full force and effect until amended or repealed under authority given by law.

(3) All commitments, decisions, plans, or other actions taken by the State and Public School Life and Health Insurance Board with regard to plans, plan design, plan benefits, premiums, premium increases, deductibles, or cost-containment measures for plans to take effect January 1, 2022, or thereafter are subject to modification, change, or other action by the State Board of Finance and shall be submitted to the Legislative Council for approval before implementation by the State Board of Finance.

(f) The department shall grant access to and provide all information requested by the State Board of Finance to accomplish the transfer of the State and Public School Life and Health Insurance Board and the statutory duties of the State and Public School Life and Health Insurance Board.

(g) The terms of all members of the State and Public Life and Health Insurance Board are terminated and shall end on the effective date of this act.

SECTION 2. Arkansas Code § 6-17-1109(a), concerning the notice, evaluation, and approval of bid proposals for life and disability insurance for public school employees, is amended to read as follows:

(a) Before selecting a policy or entering into an agreement with an insurance company for the providing of life or disability insurance for public school employees as authorized in this subchapter, the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance shall publicize, by inserting in one (1) or more newspapers having a general circulation in the State of Arkansas, notice that bid proposals for the providing of life or disability insurance for public school employees will be received by the board on the date and at the place stated in the notice.

SECTION 3. Arkansas Code § 6-17-1114 is amended to read as follows:
6-17-1114. Cooperation.

It is the duty of the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance, the Supervisor of the Public School Employees

Insurance Section and the insurance section employees, the Division of Elementary and Secondary Education, and each public school district and their officers and employees:

(1) To cooperate with one another, when called upon to do so, in all such reasonable ways as will assist or further the objectives of the board by making available records and statistical or other data or information to provide legal and actuarial advice; and

(2) If required, to occasionally make available the services of their officers and employees.

SECTION 4. Arkansas Code § 6-17-117(b)(1)(A), concerning the definition of health insurance for the public school employees' health insurance program, is amended to read as follows:

(b)(1)(A) The Division of Elementary and Secondary Education shall pay the Employee Benefits Division a minimum of sixty-one dollars (\$61.00) per month for each eligible employee electing to participate in the public school employees' health insurance program administered by the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance.

SECTION 5. Arkansas Code § 6-58-104(b)(1)(A)(ii), concerning the effect of merger on employees, is amended to read as follows:

(ii) The health insurance plan adopted by the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance for state employees.

SECTION 6. Arkansas Code § 6-58-113(b)(2), concerning employee health insurance plan for National Park College, is amended to read as follows:

(2) The health insurance plan adopted by the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance for state employees, if the Board of Trustees of National Park College authorizes college employees to participate in the plan subject to the conditions and rates established by the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance.

SECTION 7. Arkansas Code § 6-59-104(b)(1)(A)(ii), concerning the effect of a merger on employees, is amended to read as follows:

(ii) The health insurance plan adopted by the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance for state employees.

SECTION 8. Arkansas Code § 19-3-704, concerning the powers and duties of the State Board of Finance, is amended to add an additional subsection to read as follows:

(f) The board shall supervise and administer the State and Public School Life and Health Insurance Program and carry out the duties set out under §§ 25-1-404 and 25-1-405.

SECTION 9. Arkansas Code § 19-4-1602(a)(4)(B), concerning payroll deductions for state employees, is amended to read as follows:

(B) However, any payroll deductions through the Arkansas state mechanized payroll system for state employees for coverages other than the state-authorized plan shall be approved by the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance;

SECTION 10. Arkansas Code § 21-5-401(b), concerning the legislative intent for the establishment of the State and Public School Life and Health Insurance Program, is amended to read as follows:

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

(1) ~~Create a single board~~ Direct the State Board of Finance to administer develop the policies, guidance, and directives to the program and to select and offer life and health insurance plan options under the program to participants;

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

(3) Enable ~~a single~~ the board to:

(A) Set and manage policies for the 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 healthcare services under the 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 of healthcare expenses under the program.

SECTION 11. Arkansas Code § 21-5-402 is repealed.

~~21-5-402. Creation of board—Members.~~

~~(a)(1) The State and Public School Life and Health Insurance Board is created, composed of the following fifteen (15) voting members:~~

~~(A) A state employee who is eligible to participate in the State and Public School Life and Health Insurance Program, appointed by the Governor;~~

~~(B) Two (2) public school employees, at least one (1) of whom is employed by a rural school district, appointed by the Governor;~~

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

~~(D) The Commissioner of Elementary and Secondary Education or his or her designee;~~

~~(E) The Secretary of the Department of Transformation and Shared Services or his or her designee;~~

~~(F) Three (3) members who are engaged in employee benefits management or risk management, at least one (1) of whom is a licensed healthcare provider, appointed by the Governor;~~

~~(G) Two (2) members, one (1) of whom is a retired public school employee and one (1) of whom is a retired state employee, appointed by the Governor;~~

~~(H) One (1) public school employee who is employed by a school district as an administrator, appointed by the Governor;~~

~~(I) The 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 member of the Arkansas Medical, Dental, and Pharmaceutical Association, appointed by the Governor.~~

~~(2) All appointments made by the Governor are subject to~~

~~confirmation by the Senate.~~

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

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

~~(2)(A) A vacancy in a position appointed by the Governor shall be filled by appointment 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.~~

SECTION 12. Arkansas Code § 21-5-403 is amended to read as follows:

21-5-403. ~~Policy-making body only—Reports.~~ Report of Director of the Employee Benefits Division.

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

~~(b) The Director of the Employee Benefits Division 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 Life and Health Insurance Program.~~

SECTION 13. Arkansas Code § 21-5-404 is amended to read as follows:

21-5-404. Powers, functions, and duties of board.

~~The State and Public School Life and Health Insurance Board~~ State Board of Finance 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~~ The board shall not adopt a health insurance plan option that has no deductible for participants.

(C) The board shall recommend that an active employee in a consumer-driven health insurance plan option offered under the program

establish a health savings account if the active employee is eligible to establish a health savings account under federal law;

(2) To promote competition among vendors and create a systematic formula for measuring competitiveness of 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 plan options offered under the program, including cost, quality, and access differentials as well as any other comparisons of the 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 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, bid specifications and requests for proposals and to evaluate bids and proposals.

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

(8) To perform program and plan option design, summarize plan document approval, including without limitation lifetime limitations, copayments, deductibles, and eligibility rules;

(9) To promote increased access to and participation in the program and the plan options offered under the program 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 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 the appropriate use of quality-of-care information and scope of system, network, hospital, and clinical provider accountability;

(b) Request aggregate performance information for patients; and

(c) Publicly report conclusions of quality-of-care assessment; and

(12) To appoint three (3) subcommittees of the board to study and research plan 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~~ State Board of Finance shall consist of:

(a) Three (3) board members;

(b) Two (2) state employees;

(c) Three (3) public school employees, at least one (1) of whom is employed by a rural school district; and

(d) One (1) retired public school employee.

(ii) The Benefits Subcommittee of the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance 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~~ State Board of Finance 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~~ Pharmacist's 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 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, Inc.;

(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)(1) One (1) state employee and two (2) public school employees, appointed by the board.

(2) A member appointed under this subdivision (12)(B)(i)(d) shall have 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~~ State Board of Finance 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~~ State Board of Finance shall consist of:

- (a) Three (3) board members;
- (b) Two (2) state employees;
- (c) Two (2) public school employees;
- (d) One (1) representative from the Arkansas Foundation for Medical Care, Inc.;
- (e) One (1) representative from the Arkansas ~~Pharmacists~~ Pharmacist's Association;
- (f) One (1) representative from the Arkansas Center for Health Improvement;
- (g) One (1) representative from the Arkansas Medical Association, Inc.;
- (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~~ State Board of Finance 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.

SECTION 14. Arkansas Code § 21-5-405(a)(1), concerning additional duties of the State and Public School Life and Health Insurance Board, is amended to read as follows:

(a)(1) The ~~State and Public School Life and Health Insurance Board~~ State Board of Finance and the Director of the Employee Benefits Division shall take a risk management approach in designing the State and Public School Life and Health Insurance Program.

SECTION 15. Arkansas Code § 21-5-406(a), concerning the director and staff of the State and Public School Life and Health Insurance Board, is amended to read as follows:

(a)(1) The ~~State and Public School Life and Health Insurance Board~~ State Board of Finance shall choose the Director of the Employee Benefits Division with the approval of the Secretary of the Department of Transformation and Shared Services.

(2)(A) The director shall be employed by and serve at the pleasure of the secretary, and shall perform all duties in consultation with the secretary.

(B) However, the board may recommend the removal of the director, but removal is subject to the approval of the secretary.

(3) The director shall employ staff adequate to manage the State and Public School Life and Health Insurance Program within the funds appropriated for the program within the Department of Transformation and Shared Services.

SECTION 16. Arkansas Code § 21-5-406(d), concerning the director and staff of the State and Public School Life and Health Insurance Board, is amended to read as follows:

(d) The director shall administer this subchapter and the rules and orders of ~~the division and~~ the board.

SECTION 17. Arkansas Code § 21-5-408 is amended to read as follows:

21-5-408. Compensation.

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

SECTION 18. Arkansas Code § 21-5-411(a)(2)(C)(ii), concerning eligibility of certain retired employees, is amended to read as follows:

(ii) If an active retiree declines participation in the program because the active retiree has health insurance coverage through another employer group health plan and the active retiree's coverage 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 shall qualify for participation in the program upon payment of the appropriate premium as determined by the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance under subdivision (a)(5) of this section if the active retiree applies for participation in the program within thirty (30) days of the loss of eligibility.

SECTION 19. Arkansas Code § 21-5-412(b)(2)(C)(ii), concerning eligibility of certain elected officials, is amended to read as follows:

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

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

(b) The eligible inactive retiree's coverage 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.

SECTION 20. Arkansas Code § 21-5-415(a)(4)(B), concerning nonpayment of premiums and failure to file reports by an agency or school district, is amended to read as follows:

(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~~ State Board of Finance to report the reasons for nonpayment or incorrect reporting; and

SECTION 21. Arkansas Code § 21-5-418(a), concerning health savings accounts, is amended to read as follows:

(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~~ State Board of Finance.

SECTION 22. Arkansas Code § 23-79-1503(b), concerning rules, is amended to read as follows:

(b) The ~~State and Public School Life and Health Insurance Board~~ State

Board of Finance may develop and promulgate rules for the administration of this subchapter for the plans providing health benefits to state and public school employees under § 21-5-401 et seq.

SECTION 23. Arkansas Code § 23-79-1702(1), concerning definitions under the Emerging Therapy Act of 2017, is amended to read as follows:

(1) "Board" means the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance;

SECTION 24. Arkansas Code § 23-79-1703 is amended to read as follows:

23-79-1703. ~~State and Public School Life and Health Insurance Board~~ State Board of Finance – Requirements.

(a) By the end of plan year 2017, the ~~State and Public School Life and Health Insurance Board~~ State Board of Finance shall explore the evidence supporting opportunities for benefit modification informed by:

- (1) The Choosing Wisely Initiative;
- (2) Emerging therapies; and
- (3) Therapeutic alternatives to invasive surgical procedures, such as regenerative injection therapy.

(b) By July 2018, the board shall:

- (1) Identify and consider implementation of pilot programs that include stepped therapy or center of excellence approaches, or both, for which evidence demonstrates cost savings to the plan; and
- (2) Identify opportunities to stimulate conversations between patients and providers about appropriate and necessary treatment, including treatment recommendations identified by the Choosing Wisely Initiative.

SECTION 25. Arkansas Code § 23-79-1704(1), concerning legislative findings under the Emerging Therapy Act of 2017, is amended to read as follows:

(1) The ~~State and Public School Life and Health Insurance Board~~ State Board of Finance has a fiduciary obligation to explore cost-effective treatments for its members;

SECTION 26. Arkansas Code § 25-1-302(a)(21), concerning members of specified executive branch boards and commissions not to be members of the

General Assembly, is repealed.

~~(21) State and Public School Life and Health Insurance Board, § 21-5-402;~~

SECTION 27. Arkansas Code § 25-16-903(49), concerning authorization for a sixty-dollar stipend, is repealed.

~~(49) State and Public School Life and Health Insurance Board;~~

SECTION 28. Arkansas Code § 25-43-1502(a)(9), concerning the state entities transferred to the Department of Transformation and Shared Services; is repealed.

~~(9) The State and Public School Life and Health Insurance Board, created under § 21-5-402; and~~

SECTION 29. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the decisions currently made by the State and Public School Life and Health Insurance Board are of critical importance to the financial health of the state; that the State Board of Finance shall preserve the public peace, health, and safety by effectively administering the State and Public School Life and Health Insurance Program; that this act provides for the abolition of the State and Public School Life and Health Insurance Board, and the transfer of the duties of the State and Public School Life and Health Insurance Board to the State Board of Finance; and that this act is immediately necessary because the decisions made by the State Board of Finance are necessary to ensure that the State and Public School Life and Health Insurance Program administered by the State Board of Finance provides its vital services to the public school and state employees and to ensure that there are no disruptions or complications with vital employee benefits. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its 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.