

Stricken language would be deleted from and underlined language would be added to present law.  
Act 78 of the 2nd Extraordinary Session

1 State of Arkansas  
2 84th General Assembly  
3 Second Extraordinary Session, 2003  
4

As Engrossed: 5/30/04  
**A Bill**

Call Item 5

HOUSE BILL 1158

5 By: Representative R. Smith  
6  
7

**For An Act To Be Entitled**

9 AN ACT TO AMEND AND REORGANIZE THE ARKANSAS  
10 PUBLIC SCHOOL INSURANCE AND MOTOR VEHICLE  
11 INSURANCE PROGRAMS; AND FOR OTHER PURPOSES.  
12

**Subtitle**

14 AN ACT TO AMEND AND REORGANIZE THE  
15 ARKANSAS PUBLIC SCHOOL INSURANCE AND  
16 MOTOR VEHICLE INSURANCE PROGRAMS.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Purpose.

22 (a) The purpose of this act is to provide for the administration and  
23 regulation of the Public Elementary and Secondary School Insurance Program  
24 and the School Motor Vehicle Insurance Program by the State Insurance  
25 Department and to amend various provisions of Arkansas Code §§ 6-20-1501 to  
26 6-20-1515 and §§ 6-21-701 to 6-21-711. The responsibilities of the Department  
27 of Education for the regulation and administration of the Public Elementary  
28 and Secondary School Self-Insurance Program and the School Motor Vehicle  
29 Self-Insurance Program shall cease and its responsibilities shall be  
30 transferred to the State Insurance Department. The programs shall be known  
31 as the Public Elementary and Secondary School Insurance Program and the  
32 Public School Motor Vehicle Insurance Program.

33 (b) The statutory authority, powers, duties, functions, including  
34 budgeting and purchasing, records, property, unexpended balances of  
35 appropriations, allocations, or other funds, and authorized positions but not  
36 the personnel of the Public Elementary and Secondary School Self-Insurance



1 Program and the School Motor Vehicle Self-Insurance Program are transferred  
2 to the department. The transfer shall include each program's prescribed  
3 powers, duties, and functions, including but not limited to rulemaking,  
4 regulation, and licensing; and the rendering of findings, orders and  
5 adjudications.

6 (c) All forms for the administration and regulation of the programs,  
7 all trust agreements and arrangements, and all documents presently in use  
8 which have been previously approved by the Department of Education or the  
9 State Board of Education shall continue to be approved until otherwise  
10 determined by the Insurance Commissioner.

11 (d) The Insurance Services Division of the Department of Education is  
12 transferred to the State Insurance Department by a type two (2) transfer  
13 under § 25-2-105. The transfer shall include the authorized positions but  
14 shall not include the personnel of the division.

15  
16 SECTION 2. Arkansas Code § 6-20-1501 is amended to read as follows:  
17 6-20-1501. Title.

18 This subchapter shall be known as the "Public Elementary and Secondary  
19 School ~~Self-Insurance Act of 1973~~".

20  
21 SECTION 3. Arkansas Code § 6-20-1502 is amended to read as follows:

22 6-20-1502. Establishment of ~~self-insurance system — Insurance Service~~  
23 ~~Division.~~

24 The purpose of this subchapter is ~~to permit school districts to~~  
25 ~~establish and maintain a system of self-insurance for the public elementary~~  
26 ~~and secondary schools, education cooperatives, and open-enrollment charter~~  
27 ~~schools of Arkansas. The State Board of Education is authorized, directed,~~  
28 ~~and empowered to establish an Insurance Service Division within the~~  
29 ~~Department of Education.~~

30  
31 SECTION 4. Arkansas Code § 6-20-1503 is amended to read as follows:

32 6-20-1503. ~~State Board of Education~~ State Insurance Department -  
33 Powers and duties generally.

34 It shall be the power and duty of the ~~State Board of Education~~ State  
35 Insurance Department, hereinafter referred to as the board to:

36 (1) Adopt such rules and regulations as may be necessary to provide

1 for the insuring of public elementary and secondary school, educational  
2 cooperative, and open-enrollment charter school property within the State of  
3 Arkansas;

4 (2) Administer the Public Elementary and Secondary School Insurance  
5 Fund;

6 (3) Delegate to the Director of the ~~Department of Education~~ Risk  
7 Management Division within the State Insurance Department and the staff of  
8 the ~~Department of Education~~ department, hereinafter referred to as the  
9 ~~department~~, responsibilities in connection with the administration of this  
10 subchapter;

11 (4) Establish and administer a program of ~~self~~-insurance to cover  
12 buildings and contents of public school districts, education cooperatives,  
13 and open-enrollment charter schools of this state which have elected to  
14 ~~establish a system of self insurance~~ participate in a multi-school insurance  
15 program. The programs shall be in accordance with recognized and established  
16 insurance practices;

17 (5) Establish, and from time to time modify, the premium rates to be  
18 charged for the various risks. ~~The rates shall be based upon those reported~~  
19 ~~by the Insurance Service Office on similar risks in this state;~~

20 (6) ~~Promulgate~~ Specify the form for insurance policies and other forms  
21 required for the purposes of this subchapter;

22 (7) ~~Reinsure, upon terms which the board deems most advantageous, with~~  
23 Purchase insurance in compliance with all state purchasing laws from  
24 insurance companies authorized to do business in this state. ~~Reinsurance~~  
25 ~~shall be provided~~ in keeping with recognized principles of good risk  
26 management. The ~~board~~ director shall prescribe, from time to time, ~~such~~  
27 rules and regulations ~~as the board deems necessary in~~ for placing and  
28 handling the insurance ~~reinsurance and shall publish the rules and~~  
29 ~~regulations in order that all insurance companies interested in writing~~  
30 ~~reinsurance may have an opportunity to participate in seeking to write~~  
31 ~~reinsurance;~~

32 (8) Employ necessary ~~officials~~ adjusters, engineers, appraisers, and  
33 other personnel required in the administration of this subchapter;

34 (9) Engage in a program of ~~fire~~ prevention loss control to assist the  
35 various public schools in improving and minimizing potential insurance  
36 losses; ~~and~~

1 (10) Perform all additional powers and duties necessary to maintain  
 2 sound insurance underwriting practices recognized by good risk management, ~~in~~  
 3 ~~the furtherance of the board's powers and duties under this subchapter;~~

4 (11) Periodically review the status of the insurance fund and the  
 5 adequacy of insurance premium rates and compare these rates with rates for  
 6 comparable risks for private insurance companies;

7 (12) Confer with superintendents and boards of directors of school  
 8 districts, the governing boards of education cooperatives, and open-  
 9 enrollment charter schools concerning insurance practices of the various  
 10 districts, education cooperatives, and open-enrollment charter schools;

11 (13) Promulgate rules and regulations for the administration of the  
 12 state public school insurance program; and

13 (14) Perform other duties that will expedite the operation of the  
 14 public elementary and secondary school insurance program.

15  
 16 SECTION 5. Arkansas Code § 6-20-1504 is repealed.

17 ~~6-20-1504. School Self Insurance Advisory Committee.~~

18 ~~(a) There is established a School Self Insurance Advisory Committee~~  
 19 ~~consisting of five (5) members as follows:~~

20 ~~(1) One (1) person to be appointed by the Chair of the Senate~~  
 21 ~~Interim Committee on Education;~~

22 ~~(2) One (1) person to be appointed by the Chair of the House~~  
 23 ~~Interim Committee on Education;~~

24 ~~(3) The Insurance Commissioner;~~

25 ~~(4) The Director of the Department of Finance and~~  
 26 ~~Administration; and~~

27 ~~(5) One (1) person to be appointed by the Governor.~~

28 ~~(b) The appointed members of the advisory committee shall be appointed~~  
 29 ~~for a term of two (2) years.~~

30 ~~(c)(1) The advisory committee shall meet at such times and places as~~  
 31 ~~it shall deem necessary for the purpose of carrying out its duties under the~~  
 32 ~~provisions of this subchapter.~~

33 ~~(2)(A) The advisory committee shall select one (1) of its~~  
 34 ~~members as chair and such other officers as may be deemed necessary for~~  
 35 ~~transaction of committee business.~~

36 ~~(B) The Assistant Director for Public School Finance and~~

1 ~~Administrative Support of the Department of Education shall serve as~~  
 2 ~~secretary of the advisory committee.~~

3 ~~(d) A majority of the members of the advisory committee shall~~  
 4 ~~constitute a quorum for the purpose of transacting business, and all action~~  
 5 ~~of the advisory committee shall be by a majority vote of the full membership~~  
 6 ~~of the committee.~~

7 ~~(e) Members of the advisory committee shall serve without pay but may~~  
 8 ~~receive expense reimbursement in accordance with § 25-16-902.~~

9 ~~(f) It shall be the duty of the advisory committee to:~~

10 ~~(1) Advise the State Board of Education with respect to the~~  
 11 ~~operation of the public elementary and secondary school self-insurance~~  
 12 ~~program authorized by this subchapter;~~

13 ~~(2) Periodically review the status of the self-insurance fund~~  
 14 ~~and the adequacy of insurance premium rates and compare these rates with~~  
 15 ~~rates for comparable risks for private insurance companies;~~

16 ~~(3) Confer with superintendents and boards of directors of~~  
 17 ~~school districts concerning insurance practices of the various districts;~~

18 ~~(4) Promulgate proposed rules and regulations for submission to~~  
 19 ~~the state board with respect to the administration of the state self-~~  
 20 ~~insurance program; and~~

21 ~~(5) Perform such other duties in an advisory capacity to the~~  
 22 ~~state board and the department as will expedite the operation of the public~~  
 23 ~~elementary and secondary school self-insurance program.~~

24 ~~(g) All proposed rules, regulations, and other recommendations~~  
 25 ~~pertaining to the self-insurance program recommended by the advisory~~  
 26 ~~committee under this subchapter shall be advisory to the state board. The~~  
 27 ~~state board shall adopt, modify, or reject recommendations of the advisory~~  
 28 ~~committee as the state board deems to be in the best interests of the public~~  
 29 ~~elementary and secondary school self-insurance program.~~

30  
 31 SECTION 6. Arkansas Code § 6-20-1505 is amended to read as follows:  
 32 6-20-1505. Information to be furnished.

33 (a) The Director of the ~~Department of Education~~ Risk Management  
 34 Division within the State Insurance Department, with the approval of the  
 35 ~~board~~ Insurance Commissioner, shall require district school superintendents,  
 36 ~~or~~ county school supervisors, ~~or~~ clerks, or governing boards of the education

1 cooperatives or open-enrollment charter schools to furnish the ~~Department of~~  
 2 Education State Insurance Department a complete list showing the location of  
 3 every school building ~~along with the location and the names and addresses of~~  
 4 ~~the school district board of directors~~ thirty (30) sixty (60) days prior to  
 5 entering the program and upon written request by the department.

6 ~~(b) The department shall request full information in regard to the~~  
 7 ~~character of construction, value, location, and exposure of the buildings and~~  
 8 ~~any other pertinent information desired.~~

9 ~~(e)(b)~~ The department shall have authority to require each school  
 10 district, education cooperative, or open-enrollment charter school to furnish  
 11 a complete report of its insurance program, including the expiration dates of  
 12 its contracts, a history of losses, or any additional information required by  
 13 the insurer.

14  
 15 SECTION 7. Arkansas Code § 6-20-1506 is amended to read as follows:  
 16 6-20-1506. Finding of uninsurability - Effect.

17 (a)(1) The ~~Department of Education~~ State Insurance Department is  
 18 authorized to maintain an inspection and engineering service and a training  
 19 program designed to reduce the hazards ~~of fire~~ in public school buildings  
 20 insured under this program.

21 (2) The ~~State Board of Education~~ department shall have authority  
 22 to cancel or not renew insurance on any school property if the property is  
 23 deemed no longer insurable; ~~however, thirty (30) days' notice must be given~~  
 24 ~~in advance of cancellation.~~

25 (3) The ~~board~~ department may refuse to insure property when it  
 26 ~~believes such coverage to be unsound~~ determines the property does not meet  
 27 program guidelines.

28 ~~(b) If the board denies an application or cancels an insurance policy~~  
 29 ~~on any property, any applicant affected by the action of the board may,~~  
 30 ~~within thirty (30) days after written notice of the action, appeal to the~~  
 31 ~~Insurance Commissioner who, after a hearing held upon not less than ten (10)~~  
 32 ~~days' written notice to the applicant and the board, may affirm or reverse~~  
 33 ~~the action.~~

34 ~~(e)(b)~~ In carrying out ~~his~~ its duties pursuant to this section, the  
 35 ~~commissioner~~ department may request and the ~~board~~ affected district shall  
 36 provide any information requested ~~he deems necessary~~ for a determination

1 concerning the reasons for the denial, nonrenewal, or cancellation of ~~the~~  
2 ~~application~~ insurance coverage.

3  
4 SECTION 8. Arkansas Code § 6-20-1507 is amended to read as follows:

5 6-20-1507. Premium rate and payment.

6 (a) The premium rate shall be actuarially sound ~~approved by the State~~  
7 ~~Board of Education. The rate shall not be in excess of, but may be less~~  
8 ~~than, the rate which, in the opinion of the board, would be charged by~~  
9 ~~reliable commercial companies writing fire and extended coverage insurance in~~  
10 ~~Arkansas.~~

11 (b) School districts, education cooperatives, or open-enrollment  
12 charter schools shall make payment of premium when demand is made as  
13 scheduled in the contract.

14 (c)(1) Any school district, education cooperative, or open-enrollment  
15 charter school which does not pay the premium when due shall be charged a  
16 rate of interest at five percent (5%) per annum on all payments due and  
17 unpaid on the policy issued.

18 (2) The State Insurance Department may cancel insurance coverage  
19 for school districts, educational cooperatives, or open-enrollment charter  
20 schools that fail to pay the premium due within thirty (30) days.

21 (3) The department shall give thirty (30) days notice before any  
22 cancellation for nonpayment.

23 (d) Rules and regulations of the ~~board~~ department shall include such  
24 items as payment of premiums and other pertinent items with reference to the  
25 premium rate, but the rules and regulations shall not be more stringent than  
26 practices of ~~reliable commercial companies writing fire and extended coverage~~  
27 similar insurance in Arkansas.

28 (e) Premiums collected by the state ~~self-public elementary and~~  
29 secondary school insurance program shall continue to be subject to any  
30 premium tax now or hereafter levied for the support of the firemen's pension  
31 and relief fund.

32  
33 SECTION 9. Arkansas Code § 6-20-1508 is amended to read as follows:

34 6-20-1508. Appraisal and payment of losses.

35 (a) In the event of loss of school district, education cooperative, or  
36 open-enrollment charter school property under this program, the Public School

1 Elementary and Secondary School Insurance Fund ~~fund~~ shall pay the loss as  
 2 specified in the contract, ~~which must not exceed the maximum as prescribed by~~  
 3 ~~the State Board of Education.~~

4 (b) When an agreement as to the extent of loss or damage cannot be  
 5 reached between the ~~board~~ State Insurance Department and officials having  
 6 charge of the property, the amount of the loss or damage shall be determined  
 7 by three (3) appraisers, one (1) to be named by the ~~board~~ department, one (1)  
 8 by the school district, education cooperative, or open-enrollment charter  
 9 school governing board, and a third to be selected by the two (2) appointed  
 10 appraisers, all of whom shall be disinterested persons and qualified from  
 11 experience to appraise and value such property.

12 (c) If a third appraiser is not agreed upon within thirty (30) days,  
 13 the ~~board~~ Insurance Commissioner shall have authority to appoint a third  
 14 appraiser.

15 (d) It shall be the duty of the department ~~Education~~ to coordinate,  
 16 facilitate, and expedite details in connection with responsibilities outlined  
 17 in this section.

18 (e) The ~~board~~ department is granted authority to contract for services  
 19 with licensed real estate brokers in order to expedite and facilitate the  
 20 proper operation of the program.

21  
 22 SECTION 10. Arkansas Code § 6-20-1509 is amended to read as follows:  
 23 6-20-1509. Effect of federal assistance.

24 Any school district, education cooperative, or open-enrollment charter  
 25 school which may receive financial assistance from the federal government as  
 26 a result of federal legislation pertaining to disasters shall not be  
 27 adversely affected as a result of any moneys due from the fund because of  
 28 coverage by the ~~self-public school~~ insurance program.

29  
 30 SECTION 11. Arkansas Code § 6-20-1512 is amended to read as follows:  
 31 6-20-1512. Disposition of funds.

32 All funds received by the ~~State Board of Education~~ State Insurance  
 33 Department as premiums, adjustments, earnings, and the like, as provided in  
 34 this subchapter, shall be used for the following purposes, listed in a  
 35 descending order of priority:

36 (1) To defray administrative costs;



- 1           (2) To pay claims;
- 2           (3) To maintain the Permanent Insurance Reserve Fund of two
- 3 million dollars (\$2,000,000); and
- 4           (4) To pay back the initial loan of two million dollars
- 5 (\$2,000,000).

6  
7           SECTION 12. Arkansas Code § 6-20-1513 is amended to read as follows:  
8           6-20-1513. Bond obligations.

9           (a) ~~The State Board of Education~~ State Insurance Department is  
10 authorized and directed to meet legal requirements with reference to coverage  
11 on buildings as a result of school district, education cooperative, or open-  
12 enrollment charter school bond obligations.

13           (b) The specific intent of this section is to ensure that policies  
14 issued by the program include provisions required by existing school district  
15 bond contracts.

16  
17           SECTION 13. Arkansas Code § 6-20-1514 is amended to read as follows:  
18           6-20-1514. Investments.

19           (a) ~~The State Board of Education~~ State Insurance Department is  
20 authorized to invest ~~reserve~~ funds of the program.

21           (b) ~~The investments shall be made by the State Board of Finance under~~  
22 ~~existing laws regarding the investment of public funds and in keeping with~~  
23 ~~the Arkansas Insurance Investment Code~~ Funds of the program may be invested  
24 and reinvested as the Insurance Commissioner may determine.

25           (c) Moneys invested and interest earned thereon shall be administered  
26 as program funds.

27           (d) Moneys deposited to the program shall not be subject to any  
28 deduction, tax, levy, or any other type of assessment.

29  
30           SECTION 14. Arkansas Code § 6-20-1515 is amended to read as follows:  
31           6-20-1515. Annual Reports.

32           ~~The Department of Education~~ State Insurance Department shall report  
33 annually to the Governor, ~~the board,~~ and the General Assembly on the status  
34 of the program. The report shall include a detailed statement of investments  
35 and earnings.

1 SECTION 15. Arkansas Code § 6-21-701 is amended to read as follows:  
2 6-21-701. Title.

3 This subchapter shall be known and may be cited as "The School Motor  
4 Vehicle ~~Self-Insurance Act of 1991~~".

5  
6 SECTION 16. Arkansas Code § 6-21-702 is amended to read as follows:  
7 6-21-702. Purpose.

8 This subchapter is to establish and maintain a system of motor vehicle  
9 insurance for all public elementary and secondary schools, education  
10 cooperatives, and open enrollment charter schools of Arkansas electing to  
11 participate in the program from and after July 1, 1991, with the ~~State Board~~  
12 ~~of Education~~ State Insurance Department, Division of Risk Management,  
13 authorized, directed, and empowered to administer the program. ~~through the~~  
14 ~~insurance section within the Department of Education.~~ The ~~board department~~  
15 shall adopt ~~such procedural requirements~~ rules and regulations as may be  
16 necessary to provide for the insuring of motor vehicles owned by  
17 participating public school districts within the State of Arkansas.

18  
19 SECTION 17. Arkansas Code § 6-21-703 is amended to read as follows:  
20 6-21-703. School Motor Vehicle ~~Self-Insurance~~ Program --

21 Participation.

22 (a) There is hereby established a Public School Motor Vehicle ~~Self-~~  
23 Insurance Program for all school motor vehicles of participating public  
24 school districts, educational cooperatives, and open-enrollment charter  
25 schools in the State of Arkansas.

26 (b) Participation in the program provided for herein shall be optional  
27 with each school district, ~~or~~ educational cooperative, ~~and nothing contained~~  
28 ~~herein shall be construed to require any district or educational cooperative~~  
29 ~~to participate in the program~~ or open-enrollment charter school.

30  
31 SECTION 18. Arkansas Code § 6-21-704 is amended to read as follows:  
32 6-21-704. Administration - Reports.

33 (a) The ~~State Board of Education~~ State Insurance Department, hereafter  
34 the "~~board~~", shall administer the School Motor Vehicle ~~Self-Insurance~~  
35 Program, hereafter the "~~program~~".

36 (b) The ~~board~~ department is authorized to delegate to the director and

1 staff of the ~~Department of Education~~ Risk Management Division within the  
 2 department such responsibilities as are deemed necessary in connection with  
 3 the administration of this subchapter.

4 (c) The department shall report annually to the Governor, ~~the board,~~  
 5 and the General Assembly on the status of the program, including a detailed  
 6 statement of investments and earnings.

7  
 8 SECTION 19. Arkansas Code § 6-21-705 is amended to read as follows:

9 6-21-705. Powers and duties of ~~board~~ Insurance Commissioner.

10 It shall be the power and duty of the ~~State Board of Education~~ Insurance  
 11 Commissioner to:

12 (1) ~~Include~~ Establish in the ~~insurance section of the Department~~  
 13 ~~of Education~~ State Insurance Department a program of ~~self-~~insurance to cover  
 14 motor vehicles owned by public school districts, educational cooperatives,  
 15 and open-enrollment charter schools. Such program shall be in accordance with  
 16 recognized and established insurance practices;

17 (2) Establish and, from time to time, modify the premium rates  
 18 to be charged for various risks;

19 (3) ~~Promulgate~~ Specify the form for insurance policies and other  
 20 forms required for the purposes of this subchapter;

21 (4) Employ or contract for necessary officials, adjusters,  
 22 appraisers, attorneys, and other personnel required in the administration of  
 23 this subchapter;

24 (5) Engage in a loss control program ~~of safety prevention~~ to  
 25 assist the public schools in improving and minimizing potential loss of life  
 26 and property; and

27 (6) Perform all additional powers and duties necessary to  
 28 maintain sound insurance underwriting practices recognized by good risk-  
 29 management, ~~in the furtherance of the board's powers and duties under this~~  
 30 ~~subchapter.~~

31 ~~(7)(A) Establish minimum requirements for drivers of buses and~~  
 32 ~~other school vehicles.~~

33 ~~(B) Such requirements may include, but need not be limited~~  
 34 ~~to the following:~~

35 ~~(i) Age;~~

36 ~~(ii) Physical condition;~~

1                   ~~(iii) Visual;~~  
 2                   ~~(iv) Hearing;~~  
 3                   ~~(v) Training;~~  
 4                   ~~(vi) Past driving violations; and~~  
 5                   ~~(vii) Any other restrictions or guidelines as~~  
 6 ~~determined in the best interest of safety or precautionary measures.~~  
 7

8           SECTION 20. Arkansas Code § 6-21-706 is amended to read as follows:

9           6-21-706. Information furnished by ~~districts~~ participants.

10          ~~(a) The Director of the Department of Education, with the approval of~~  
 11 ~~the State Board of Education,~~ Insurance Commissioner shall require each  
 12 ~~district~~ entity participating in the School Motor Vehicle Insurance Program  
 13 to furnish to the ~~Department of Education~~ Risk Management Division within the  
 14 State Insurance Department a complete list of each and every motor vehicle  
 15 with full information in regard to the year, make, model, value, condition,  
 16 and any other pertinent information.

17          ~~(b) The department~~ commissioner shall have authority to require each  
 18 participating ~~school district~~ entity to furnish a complete report of its  
 19 motor vehicle insurance program, including the expiration dates of its  
 20 contracts and loss histories.  
 21

22           SECTION 21. Arkansas Code § 6-21-707 is amended to read as follows:

23           6-21-707. Inspection and safety program.

24          ~~(a) The Department of Education~~ State Insurance Department is  
 25 authorized to maintain an inspection and safety program designed to reduce  
 26 the hazard of accidents involving motor vehicles insured under the School  
 27 Motor Vehicle ~~Self-Insurance~~ Program.

28          ~~(b) The board shall have authority to declare any school motor vehicle~~  
 29 ~~unsafe for transporting students if deficiencies are found in the braking~~  
 30 ~~system, steering system, or any other mechanical or electrical system~~  
 31 ~~constituting a hazard to life or property.~~

32          ~~(e)(b)~~ The board department may refuse to insure motor vehicles when  
 33 it believes such vehicles to be a hazard to life ~~and~~ or property. If the  
 34 vehicle is deemed no longer insurable, thirty (30) days' notice must be given  
 35 in advance of cancellation or non-renewal.

36          ~~(d)(1) If the board declines to insure any vehicle owned by a public~~

1 ~~school district, the affected school district may, within thirty (30) days~~  
2 ~~after written notice of such action, appeal to the Insurance Commissioner~~  
3 ~~who, after a hearing held upon not less than ten (10) days' written notice to~~  
4 ~~the applicant and the board, may affirm or reverse such action.~~

5 ~~(2) In carrying out the duties pursuant to this subsection, the~~  
6 ~~commissioner may request and the board shall provide any information~~  
7 ~~necessary for a determination concerning the reasons for the denial or~~  
8 ~~cancellation of coverage.~~

9  
10 SECTION 22. Arkansas Code § 6-21-708 is amended to read as follows:

11 6-21-708. Policy limits.

12 ~~(a) The State Board of Education is hereby authorized and directed~~  
13 ~~that liability Liability policies shall meet the minimum legal requirements~~  
14 ~~of the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., with~~  
15 ~~reference to coverage on motor vehicles. In no event shall the bodily injury~~  
16 ~~and property damage limit under the School Motor Vehicle Self Insurance~~  
17 ~~Program be less than the minimum legal requirements of the Motor Vehicle~~  
18 ~~Safety Responsibility Act, § 27-19-101 et seq.~~

19 (b) ~~The board~~ State Insurance Department is also authorized to include  
20 in the program, and make available to the participating ~~school districts~~  
21 entities, physical damage and medical payments coverage. Medical payments  
22 coverage shall be limited to five thousand dollars (\$5,000) per occupant of a  
23 school vehicle and shall be in addition to any other automobile medical  
24 payments coverage available to any occupant.

25  
26 SECTION 23. Arkansas Code § 6-21-709 is amended to read as follows:

27 6-21-709. Payment of claims – Subrogation – Premium rate – Excess  
28 insurance.

29 (a)(1) The School Vehicle Insurance Reserve Trust Fund shall pay all  
30 losses and claims the insured is legally obligated to pay as specified in the  
31 contract ~~prescribed by the State Board of Education.~~

32 (2) It shall be the duty of the State Insurance Department ~~of~~  
33 ~~Education~~ to coordinate, facilitate, and expedite details in connection with  
34 responsibilities outlined in the insurance contract.

35 (3) The ~~board~~ department is hereby granted authority to contract  
36 for services with appraisers, adjusters, attorneys, or other professionals

1 needed in order to expedite and facilitate the proper operation of the School  
2 Motor Vehicle ~~Self-~~ Insurance Program.

3 (b) The program may require an assignment of rights of recovery to the  
4 extent that payment is made under any coverage provided by the program.

5 (c) ~~Any other insurance purchased by a participating local school~~  
6 ~~district shall be excess to the coverage provided under the program~~  
7 ~~established by this subchapter;~~ If other insurance coverage exists, the  
8 program will pay its proportional share of the loss. The program's share  
9 shall be the proportion that the program's limits of liability bear to the  
10 total of all applicable limits.

11 (d)(1) Participating ~~school districts~~ entities shall make payment of  
12 premium when demand is made as scheduled in the contract.

13 ~~(2) The premium rate shall be approved by the School Motor~~  
14 ~~Vehicle Self-Insurance Advisory Committee and the board.~~

15 (2) Any school district, education cooperative, or open-  
16 enrollment charter school which does not pay the premium when due shall be  
17 charged a rate of interest at five percent (5%) per annum on all payments due  
18 and unpaid on the policy issued.

19 (3) The Department may cancel insurance coverage for school  
20 districts, educational cooperatives, or open-enrollment charter schools that  
21 fail to pay the premium due within thirty (30) days.

22 (4) The department shall give thirty (30) days notice before any  
23 cancellation for nonpayment.

24 (e) ~~Procedural requirements of the board~~ The department's rules and  
25 regulations shall include such items as payment of premium, and other  
26 pertinent items with reference to the premium rate but its requirements shall  
27 not be more stringent than practices of ~~reliable~~ commercial companies writing  
28 ~~motor vehicle~~ similar insurance in Arkansas.

29  
30 SECTION 24. Arkansas Code § 6-21-710 is amended to read as follows:

31 6-21-710. School Vehicle Insurance Trust Fund – Investments.

32 (a)(1) There is hereby established on the books of the Treasurer of  
33 State, a separate fund to be known as the School Vehicle Insurance Reserve  
34 Trust Fund, to be funded initially by one million five hundred thousand  
35 dollars (\$1,500,000), a loan from the Public Elementary and Secondary School  
36 Insurance Fund as established by The Public Elementary and Secondary School

1 Self- Insurance Act of 1973, § 6-20-1501 et seq.

2 (2) No money shall be appropriated from this fund for any  
3 purpose except for the use and benefit of participating governmental entities  
4 for school motor vehicle claims, program expenses, and for School Motor  
5 Vehicle ~~Self-Insurance Program Advisory Committee~~ expenses.

6 (3) All funds received by the ~~State Board of Education~~ State  
7 Insurance Department as premiums, adjustments, earnings, and the like, as  
8 provided in this subchapter, shall be used for the following purposes, listed  
9 in a descending order of priority:

10 (A) To defray administrative costs;

11 (B) To pay claims;

12 (C) To maintain the reserve trust fund ~~as required by the~~  
13 ~~advisory committee and the board~~; and

14 (D) To pay back the initial loan.

15 (b)(1) ~~The reserve assets of the fund may be invested and reinvested~~  
16 ~~as the board may determine.~~ The department is authorized to invest funds of  
17 the program.

18 (2) ~~Such investments shall be made by the State Board of Finance~~  
19 ~~under existing laws regarding the investment of public funds and in keeping~~  
20 ~~with the Arkansas Insurance Investment Code.~~ Funds of the program may be  
21 invested and reinvested as the Insurance Commissioner may determine.

22 (3) Moneys invested and interest earned thereon shall be  
23 administered as program funds.

24 ~~(3)(4)~~ All moneys deposited to the fund shall not be subject to  
25 any deduction, tax, levy or any other type of assessment.

26  
27 *SECTION 25. Arkansas Code § 6-22-711 is amended to read as follows:*

28 *6-21-711. Advisory committee – Members – Duties.*

29 (a) *There is hereby established a Public Elementary and Secondary*  
30 *School Insurance Program and School Motor Vehicle ~~Self-Insurance Program~~*  
31 *Advisory Committee, consisting of five (5) members as follows:*

32 (1) *The ~~Chairman~~ Chair and Cochair of the Senate ~~Interim~~*  
33 *Committee on ~~Education~~ Insurance and Commerce;*

34 (2) *The ~~Chairman~~ Chair and Cochair of the House ~~Interim~~*  
35 *Committee on ~~Education~~ Insurance and Commerce; and*

36 ~~(3) The Insurance Commissioner;~~

1           ~~(4)(3)~~ The Director of the Department of Finance and  
2 Administration, ~~and~~.

3           ~~(5)(A)~~ One ~~(1)~~ person to be appointed by the Governor.

4           ~~(B)~~ The appointed member shall be appointed for a term of  
5 two ~~(2)~~ years.

6           (b) The committee shall meet at the times and places as it shall deem  
7 necessary for the purpose of carrying out its duties under the provisions of  
8 this subchapter.

9           (c) The committee shall select one (1) of its members as ~~chairman~~  
10 chair and such other officers as may be deemed necessary for transaction of  
11 business.

12           ~~(d)~~ The Assistant Director for Public School Finance and  
13 Administrative Support of the Department of Education shall serve as  
14 secretary of the committee.

15           ~~(e)~~(d) A majority of the members of the committee shall constitute a  
16 quorum for the purpose of transacting business.

17           ~~(f)~~(e) All action of the committee shall be by a majority vote of the  
18 full membership of the committee.

19           ~~(g)~~(f) Members shall serve without pay but may receive expense  
20 reimbursement in accordance with § 25-16-901 et seq.

21           ~~(h)~~ It shall be the duty of the committee to advise the State Board of  
22 Education with respect to the operation of the School Motor Vehicle Self-  
23 Insurance Program authorized by this subchapter.

24           ~~(i)~~(g) The advisory committee shall periodically review the status of  
25 the Public Elementary and Secondary School Insurance Fund and the School  
26 Vehicle Insurance Reserve Trust Fund and the adequacy of insurance premium  
27 rates and shall promulgate proposed operational procedures with respect to  
28 the administration of the programs.

29           ~~(j)~~(h) The advisory committee shall perform such other duties in an  
30 advisory capacity to the board and the Department of Education State  
31 Insurance Department as will expedite the operation of the ~~program~~ programs.

32           ~~(k)~~(i) All proposed procedures, guidelines, and other recommendations  
33 pertaining to the ~~program~~ programs recommended by the advisory committee  
34 under this subchapter shall be advisory to the board State Insurance  
35 Department.

36



1 SECTION 26. Emergency Clause. It is hereby found and determined by  
 2 the General Assembly that assistance is necessary to minimize public school  
 3 insurance costs; that the administration of public school insurance programs  
 4 by the State Insurance Department will permit the Department of Education to  
 5 concentrate its efforts and resources on improving public education; that  
 6 this subchapter is designed to provide property and automobile liability and  
 7 physical damage coverage for state public schools, educational cooperatives,  
 8 and open-enrollment charter schools participating in the programs as  
 9 economically as possible; and that this act should be effective immediately.  
 10 Therefore, an emergency is declared to exist and this act being necessary for  
 11 the immediate preservation of the public peace, health, and safety, shall  
 12 become effective on:

13 (1) The date of its approval by the Governor;

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

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

19  
20 /s/ R. Smith

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23 APPROVED: 2/6/2004  
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