

1 State of Arkansas
2 93rd General Assembly
3 Fiscal Session, 2022

A Bill

HOUSE BILL 1100

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By: Representatives Wardlaw, Shepherd, Beaty Jr., Beck, M. Berry, S. Berry, Bragg, Brown, C. Cooper, Crawford, Dalby, M. Davis, Dotson, Ennett, Eubanks, K. Ferguson, C. Fite, D. Garner, Godfrey, Hawks, M. Hodges, Hollowell, Hudson, Jett, Love, Maddox, McCullough, S. Meeks, Nicks, Perry, Scott, S. Smith, Speaks, Vaught, Warren, D. Whitaker, Wing, Wooten

By: Senators Hickey, Irvin, Beckham, L. Chesterfield, J. Dismang, Elliott, J. English, Flippo, Gilmore, Hill, K. Ingram, B. Johnson, G. Leding, Rice, B. Sample, D. Sullivan

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For An Act To Be Entitled

AN ACT TO ESTABLISH A GOVERNING BODY FOR THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO CREATE ADVISORY COMMISSIONS FOR HEALTH BENEFITS FOR STATE EMPLOYEES AND PUBLIC SCHOOL EMPLOYEES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

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Subtitle

TO ESTABLISH A GOVERNING BODY FOR THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO CREATE ADVISORY COMMISSIONS FOR HEALTH BENEFITS FOR STATE EMPLOYEES AND PUBLIC SCHOOL EMPLOYEES; AND TO DECLARE AN EMERGENCY.

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

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SECTION 1. DO NOT CODIFY. Legislative findings – Public School Employee Health Benefit Advisory Commission – State Employee Health Benefit Advisory Commission.

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The General Assembly finds that:

(1) The State and Public School Life and Health Insurance Program needs proper governance and oversight to ensure solvency of the State



1 and Public School Life and Health Insurance Program and state and public
 2 school employee benefits;

3 (2) The State and Public School Life and Health Insurance
 4 Program needs to remain viable to provide continued benefits to state
 5 employees and public school employees;

6 (3) State employees and public school employees need to be able
 7 to provide input and recommendations for decisions concerning the health
 8 benefit options available under the State and Public School Life and Health
 9 Insurance Program;

10 (4) The State Board of Finance has managed the State and Public
 11 School Life and Health Insurance Program and is established as the permanent
 12 governing entity to manage the health benefits of state employees and public
 13 school employees with input and recommendations from state employees and
 14 public school employees through an advisory commission; and

15 (5) The State Board of Finance is the appropriate entity to make
 16 decisions and policy for the State and Public School Life and Health
 17 Insurance Program.

18
 19 SECTION 2. Arkansas Code § 19-3-701(b), concerning the creation of the
 20 State Board of Finance, is amended to add an additional subdivision to read
 21 as follows:

22 (11)(A) The Insurance Commissioner.

23 (B) The Insurance Commissioner shall be a voting member
 24 only for the purpose of voting on health benefit plans.

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 26 SECTION 3. Arkansas Code Title 21, Chapter 5, Subchapter 4, is amended
 27 to add additional sections to read as follows:

28 21-5-419. Public School Employee Health Benefit Advisory Commission –
 29 Creation – Members – Expense reimbursement.

30 (a)(1) The Public School Employee Health Benefit Advisory Commission
 31 is created, to be composed of the following voting members:

32 (A)(i) Three (3) members appointed by the Governor and
 33 subject to confirmation by the Senate, who have a minimum of five (5) years
 34 of professional experience or fiscal expertise in the industry of health
 35 insurance, actuarial services, or financial or banking services.

36 (ii) Members appointed by the Governor shall serve

1 at the pleasure of the Governor;

2 (B)(i) One (1) member who shall:

3 (a) Be employed by a public school; and

4 (b) Have five (5) years of consecutive
 5 participation in the State and Public School Life and Health Insurance
 6 Program.

7 (ii) A member under subdivision (a)(1)(B)(i) of this
 8 section may be:

9 (a) Selected from a list of three (3) names
 10 submitted by the Executive Director of the Arkansas Education Association to
 11 the appointing authority under subdivision (a)(1)(B)(iii) of this section; or

12 (b) An individual not on the list submitted
 13 under subdivision (a)(1)(B)(ii)(a) of this section who otherwise meets the
 14 qualifications under subdivision (a)(1)(B)(i) of this section.

15 (iii) The Speaker of the House of Representatives
 16 shall make the initial appointment under this subdivision (a)(1)(B), and
 17 every three (3) years the authority to make the appointment shall alternate
 18 between the Speaker of the House of Representatives and the President Pro
 19 Tempore of the Senate; and

20 (C)(i) One (1) member who:

21 (a) Is a retired public school employee; and

22 (b) Has participated in the program for:

23 (1) Five (5) consecutive years as an
 24 active public school employee; and

25 (2) Two (2) years as a retired public
 26 school employee.

27 (ii) The President Pro Tempore of the Senate shall
 28 make the initial appointment under this subdivision (a)(1)(C), and every
 29 three (3) years the authority to make the appointment shall alternate between
 30 the President Pro Tempore of the Senate and the Speaker of the House of
 31 Representatives.

32 (2) An appointee under this section who has a conflict of
 33 interest as described in § 19-11-718 is disqualified from serving on the
 34 commission.

35 (b)(1) Members shall be appointed for terms of three (3) years but may
 36 be reappointed for unlimited additional three-year terms.

1 (2) A vacancy in a position shall be filled in the same manner
2 as the original appointment for the unexpired term.

3 (c)(1) A chair and vice chair of the commission shall be selected
4 annually by and from the membership of the commission.

5 (2)(A) The first meeting of the commission shall be called by
6 the Secretary of the Department of Education.

7 (B) The commission shall have an initial meeting by July
8 1, 2022.

9 (3) The commission shall meet monthly and have a minimum of
10 twelve (12) meetings annually.

11 (4) The commission shall meet at a central location in Arkansas
12 as provided by the Employee Benefits Division.

13 (5)(A) If a member misses two (2) consecutive meetings or four
14 (4) meetings in a calendar year, the commission shall report the member's
15 absence to the appointing authority for review.

16 (B) The appointing authority shall determine whether or
17 not the member shall continue to serve on the commission.

18 (C) If the member is removed due to absences under
19 subdivision (c)(5)(B) of this section, the appointing authority shall appoint
20 a new member to serve the remainder of the unexpired term of the member who
21 is removed from the commission.

22 (d) Each appointed member shall be paid a stipend of five hundred
23 dollars (\$500) per month plus mileage.

24 (e) The duties of the commission shall include without limitation to:

25 (1) Review and confirm the financial information and the
26 potential viability of funding for public school employees for purposes of
27 the program;

28 (2) Review and comment on proposed policies, guidance, and
29 directives to the program offered by the division;

30 (3) Provide input and recommendations to the State Board of
31 Finance for decisions concerning the health benefit options available under
32 the program;

33 (4) Review drugs for formulary management;

34 (5) Evaluate the financial impact of the commission's
35 recommendations for formulary management;

36 (6) Review and evaluate medical management and medical

1 management policies;

2 (7) Make recommendations to the board on the evaluation of
 3 medical management and medical management policies;

4 (8) Review and analyze the actuarial soundness of the program in
 5 coordination with an actuary of the division;

6 (9) Project:

7 (A) Annual premium adjustments; and

8 (B) Annual monthly contribution adjustments for
 9 participating entities; and

10 (10) Make initial recommendations to the board by January 31,
 11 2023, and by January 31 of each year thereafter.

12 (f) The division shall provide staff support for the activities of the
 13 commission.

14
 15 21-5-420. State Employee Health Benefit Advisory Commission – Creation
 16 – Members – Expense reimbursement.

17 (a)(1) The State Employee Health Benefit Advisory Commission is
 18 created, to be composed of the following voting members:

19 (A)(i) Three (3) members appointed by the Governor and
 20 subject to confirmation by the Senate, who have a minimum of five (5) years
 21 of professional experience or fiscal expertise in the industry of health
 22 insurance, actuarial services, or financial or banking services.

23 (ii) Members appointed by the Governor shall serve
 24 at the pleasure of the Governor;

25 (B)(i) One (1) member who shall have five (5) years
 26 consecutive participation in the State and Public School Life and Health
 27 Insurance Program.

28 (ii) A member under subdivision (a)(1)(B)(i) of this
 29 section may be:

30 (a) Selected from a list of three (3) names
 31 submitted by the Executive Director of the Arkansas State Employees
 32 Association, Inc., to the appointing authority under subdivision
 33 (a)(1)(B)(iii) of this section; or

34 (b) An individual not on the list submitted
 35 under subdivision (a)(1)(B)(ii)(a) of this section who otherwise meets the
 36 qualifications under subdivision (a)(1)(B)(i) of this section.

1 (iii) The President Pro Tempore of the Senate shall
 2 make the initial appointment under this subdivision (a)(1)(B), and every
 3 three (3) years the authority to make the appointment shall alternate between
 4 the President Pro Tempore of the Senate and the Speaker of the House of
 5 Representatives; and

6 (C)(i) One (1) member who:

7 (a) Is a retired state employee; and

8 (b) Has participated in the program for:

9 (1) Five (5) consecutive years as an
 10 active employee; and

11 (2) Two (2) years as a retired state
 12 employee.

13 (ii) The Speaker of the House of Representatives
 14 shall make the initial appointment under this subdivision (a)(1)(C), and
 15 every three (3) years the authority to make the appointment shall alternate
 16 between the Speaker of the House of Representatives and the President Pro
 17 Tempore of the Senate.

18 (2) An appointee under this section who has a conflict of
 19 interest as described in § 19-11-718 is disqualified from serving on the
 20 commission.

21 (b)(1) Members shall be appointed for terms of three (3) years but may
 22 be reappointed for unlimited additional three-year terms.

23 (2) A vacancy in a position shall be filled in the same manner
 24 as the original appointment for the unexpired term.

25 (c)(1) A chair and vice chair of the commission shall be selected
 26 annually by and from the membership of the commission.

27 (2)(A) The first meeting of the commission shall be called by
 28 the Director of the Employee Benefits Division.

29 (B) The commission shall have an initial meeting by July
 30 1, 2022.

31 (3) The commission shall meet monthly and have a minimum of
 32 twelve (12) meetings annually.

33 (4) The commission shall meet at a central location in Arkansas
 34 as provided by the Employee Benefits Division.

35 (5)(A) If a member misses two (2) consecutive meetings or four
 36 (4) meetings in a calendar year, the commission shall report the member's

1 absence to the appointing authority for review.

2 (B) The appointing authority shall determine whether or
3 not the member shall continue to serve on the commission.

4 (C) If the member is removed due to absences under
5 subdivision (c)(5)(B) of this section, the appointing authority shall appoint
6 a new member to serve the remainder of the unexpired term of the member who
7 is removed from the commission.

8 (d) Each appointed member shall be paid a stipend of five hundred
9 dollars (\$500) per month plus mileage.

10 (e) The duties of the commission shall include without limitation to:

11 (1) Review and confirm the financial information and the
12 potential viability of funding for state employees for purposes of the
13 program;

14 (2) Review and comment on proposed policies, guidance, and
15 directives to the program offered by division;

16 (3) Provide input and recommendations to the State Board of
17 Finance for decisions concerning the health benefit options available under
18 the program;

19 (4) Review drugs for formulary management;

20 (5) Evaluate the financial impact of the commission's
21 recommendations for formulary management;

22 (6) Review and evaluate medical management and medical
23 management policies;

24 (7) Make recommendations to the board on the evaluation of
25 medical management and medical management policies;

26 (8) Review and analyze the actuarial soundness of the program in
27 coordination with an actuary of the division;

28 (9) Project:

29 (A) Annual premium adjustments; and

30 (B) Annual monthly contribution adjustments for
31 participating entities; and

32 (10) Make initial recommendations to the board by January 31,
33 2023, and by January 31 of each year thereafter.

34 (f) The division shall provide staff support for the activities of the
35 commission.

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1 SECTION 4. Arkansas Code § 21-5-401(b), concerning the legislative
 2 intent for the establishment of the State and Public School Life and Health
 3 Insurance Program, is amended to read as follows:

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

5 (1) Direct the State Board of Finance to ~~develop:~~

6 (A) Develop the policies, guidance, and directives for the
 7 program and to select and offer life and health insurance plan options under
 8 the program to participants; and

9 (B) Allow the Insurance Commissioner to serve as a voting
 10 member of the board only for the purpose of voting on health benefit plans;

11 (2) Create the Public School Employee Health Benefit Advisory
 12 Commission and the State Employee Health Benefit Advisory Commission to
 13 recommend life and health insurance plan options under the program for state
 14 employees and public school employees;

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

18 ~~(3)~~(4) Enable the board to:

19 (A) Set and manage policies for the program;

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

22 (C) Improve the quality of healthcare services under the
 23 program;

24 (D) Increase participants' understanding of program
 25 features by educating state employees, state employee retirees, public school
 26 employees, and public school employee retirees on the program and plan
 27 options available under the program, including the advantages and
 28 disadvantages of each available plan option; and

29 (E) Slow the rate of growth of healthcare expenses under
 30 the program.

31
 32 SECTION 5. Arkansas Code § 21-5-404 is amended to read as follows:

33 21-5-404. Powers, functions, and duties of board.

34 The State Board of Finance has the following powers, functions, and
 35 duties:

36 (1)(A) To explore various cost-containment measures and funding

1 options for plan options offered under the State and Public School Life and
2 Health Insurance Program for the benefit of state employees, state employee
3 retirees, public school employees, and public school employee retirees.

4 (B) The board shall not adopt a health insurance plan
5 option that has no deductible for participants.

6 (C) The board shall recommend that an active employee in a
7 consumer-driven health insurance plan option offered under the program
8 establish a health savings account if the active employee is eligible to
9 establish a health savings account under federal law;

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

14 (3) To prepare a comprehensive analysis of the various plan
15 options offered under the program, including cost, quality, and access
16 differentials as well as any other comparisons of the plan options offered
17 under the program;

18 (4) To undertake studies and to take any appropriate action that
19 the board determines will promote the financial soundness and overall well-
20 being of the program;

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

22 (6)(A) To develop, with the assistance of the Office of State
23 Procurement, bid specifications and requests for proposals and to evaluate
24 bids and proposals.

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

29 (7) To evaluate responses to requests for proposals, select
30 contractors for all services, and approve the award of contracts resulting
31 from bids for the program and all plan options offered under the program;

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

35 (9) To promote increased access to and participation in the
36 program and the plan options offered under the program by educating state

1 employees, state employee retirees, public school employees, and public
 2 school employee retirees about the program and all plan options offered under
 3 the program, including the advantages and disadvantages of each available
 4 plan option;

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

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

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

15 (B) The board shall:

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

19 (ii) Be empowered to:

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

23 (b) Request aggregate performance information
 24 for patients; and

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

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

31 ~~(A)(i) The Benefits Subcommittee of the State Board of~~
 32 ~~Finance shall consist of:~~

33 ~~(a) Three (3) board members;~~

34 ~~(b) Two (2) state employees;~~

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

1 ~~(C)(i) The Quality of Care Subcommittee of the State Board~~
 2 ~~of Finance shall consist of:~~

- 3 ~~(a) Three (3) board members;~~
- 4 ~~(b) Two (2) state employees;~~
- 5 ~~(c) Two (2) public school employees;~~
- 6 ~~(d) One (1) representative from the Arkansas~~
 7 ~~Foundation for Medical Care, Inc.;~~
- 8 ~~(e) One (1) representative from the Arkansas~~
 9 ~~Pharmacist's Association;~~
- 10 ~~(f) One (1) representative from the Arkansas~~
 11 ~~Center for Health Improvement;~~
- 12 ~~(g) One (1) representative from the Arkansas~~
 13 ~~Medical Association, Inc.;~~
- 14 ~~(h) One (1) representative from the Arkansas~~
 15 ~~Osteopathic Medical Association; and~~
- 16 ~~(i) One (1) representative from the Arkansas~~
 17 ~~Hospital Association, Inc.~~

18 ~~(ii) The Quality of Care Subcommittee of the State~~
 19 ~~Board of Finance may review and recommend quality performance indicators for~~
 20 ~~use, recommend baseline performance goals, recommend alignment of financial~~
 21 ~~incentives to improve performance, and track improvements in delivery of~~
 22 ~~care.~~

23

24 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
 25 General Assembly of the State of Arkansas that the State and Public School
 26 Life and Health Insurance Program is inadequate to provide sustainable
 27 affordable health benefits for public school employees and state employees;
 28 that an urgent need exists to address the state's funding and administration
 29 of benefits for public school employees and state employees in order for the
 30 program to remain viable and to avoid severe financial hardship to plan
 31 participants; and that this act is immediately necessary to provide
 32 affordable health benefit options in a timely manner to the state's public
 33 school employees participating in the program and state employees
 34 participating in the program. Therefore, an emergency is declared to exist,
 35 and this act being immediately necessary for the preservation of the public
 36 peace, health, and safety shall become effective on:

- 1 (1) The date of its approval by the Governor;
- 2 (2) If the bill is neither approved nor vetoed by the Governor,
- 3 the expiration of the period of time during which the Governor may veto the
- 4 bill; or
- 5 (3) If the bill is vetoed by the Governor and the veto is
- 6 overridden, the date the last house overrides the veto.

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APPROVED: 3/1/22