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Memorandum

TO :	State and Public School Life and Health Insurance Program Legislative Task Force
FROM:	Nell Smith, Policy Analysis and Research Section
DATE :	December 17, 2013
SUBJECT :	History of Public School Employees' Health Insurance

The following memo provides a timeline of events affecting the structure and funding of the Public School Employees' Health Insurance Plan. This timeline was drafted with great assistance from BLR staff members Lori Bowen, fiscal analyst, and Sarah Ganahl, legal analyst.

Pre-1995-1997 Biennium

The current method of funding and administering the public school employees' health insurance plan began with changes enacted in the 1995 legislative session. Prior to that time, the public school employees' insurance program was administered by the School Insurance Section of the Arkansas Department of Education (ADE). The General Assembly appropriated about $45 million annually for the plan, and special language called for the State Board of Education to establish the state's contribution level within the amount of funds available. The appropriation legislation also prohibited the contribution rate per public school employee from exceeding the amount authorized and expended for state employees.

1995 Session, 1995-1997 Biennium

Two changes were made during the 1995 session that affected the public school employee health insurance program, beginning with FY1997:

1.) The method of funding schools changed. Under the new method, districts received "state equalization funding aid" beginning with the 1996-97 school year, and the funding for health insurance was distributed to school districts as part of the $1.3 billion appropriation. Rather than funding health insurance as a separate line item appropriation for the Department of Education, the funding was provided as part of the per-student funding districts received, and **districts were then responsible for paying the health insurance contribution** for eligible employees. The appropriation for Public School Employee Health Insurance dropped from $43 million for FY1996 to $480,500 for FY1997. The $480,500 appropriation that remained in 1997 was intended to pay the state contribution for the health insurance of employees in the educational cooperatives, vocational centers and the school operated by the Department of Correction, which did not receive state equalization funding aid.

2.) Act 1206 of 1995 **created a single board to administer both the state employees and public school personnel insurance programs**, known as the Arkansas State Employee/Public School Personnel Board. One of Act 1206's stated purposes was to "enable a single board to manage the programs in a concerted effort and to work toward a common goal that the **same multiple benefit options be made available to participants under both public school and state employee current programs**." However, according to the language in the Public School Fund appropriation bill, the State Board of Education remained responsible for setting the school district contribution rates.

Act 1206 resulted from work completed by a legislative study committee formed by Act 1051 of 1993. The study was "partially motivated due to the disparity between the various programs offered to State Employees and Public School Personnel," according to the final report of the State Employee-Public School Personnel Health Insurance Study Committee. The committee hired two consulting companies to examine the merits of merging the state employees' plan and the public school employees' plan. Both consulting groups recommended the plans be placed under one administrative body, but both stopped short of recommending merging the plans — at least initially. According to one consultant, the two plans "have migrated to a point where the obstacles created by these differences are of significant impact to the state as an employer, and to the plan participants as relates to their ability to purchase affordable quality health care." One of the two consultants recommended combining the plans "at a later date."

The Study Committee took the consultants' advice and recommended forming a "singular management configuration" to oversee both plans. Additionally, the Study Committee unanimously recommended that the Governor and the Joint Budget Committee "make a serious study of dramatically increasing the contributions to the Public School Personnel Program," according to the report. It concluded that, "Of major concern to the Committee were the consequences that might result if no action is taken, and health care cost increases return to the levels experienced by these plans in prior plan years."

1997 Session, 1997-1999 Biennium

A few legislative changes were made to the public school employees' health insurance plan in the 1997 session. Act 1295 of 1997 added a new provision to the statute governing the state and public school employees insurance board. It requires districts to purchase health insurance through the state plan, rather than on their own. The provision specified:

> "Any agency or school district that accepts state funds intended to defray the cost of health insurance for the employees of the state and public schools shall use those funds only for the state employees and public school personnel health benefit plans sponsored by the board." A.C.A. §21-5-405

Additionally, the appropriation bill for FY1998 and FY1999 dropped language included in previous appropriations bills ensuring that monthly contributions per public school employee "shall not exceed" the amount authorized and expended for state employees.

In 1998, following the announcement of steep premium increases, the State Board of Education voted to use Education Department reserves to give districts an **additional $12.4 million** and encouraged them to use the funding to offset rising health insurance costs. The decision to provide the additional funding was made in lieu of raising the required district contribution rate, an action that had been considered, according to *Arkansas Democrat-Gazette* articles written at the time.

Around the same time, a legislator requested an Attorney General's opinion on whether school districts were legally permitted to purchase health insurance outside the state's public school employees' health plan. The March 1999 opinion (99-028) noted that state law "in all likelihood" did not permit districts to purchase their own health insurance. The opinion stated that it would be "contrary to the legislative intent expressed under A.C.A. § 21-5-401(1)," the statute establishing the Arkansas State Employee and Public School Personnel Board. The opinion further noted, "My review of these provisions compels me to conclude that only one public school employee health insurance plan is contemplated, and that is the one designed and administered by the Board."

1999 Session, 1999-2001 Biennium

The General Assembly's 1999 public school funding appropriation bill noted the $12.4 million in additional funding released by the State Board of Education, and encouraged districts to raise their contribution "to a reasonable level consistent with the funding increase received by each district." The bill also changed the State Board-established district contribution level ($114 at the time) into a *minimum* contribution level, allowing districts to contribute more if they chose.

2001 Session, 2001-2003 Biennium

Act 1745 of 2001 took the responsibility for setting the school districts' contribution level from the State Board of Education and, instead, **set the level in statute**. The 2001 legislation set the contribution level for FY2002, 2003, and 2004. Beginning in July 2001, the statutory minimum was $114 per month. Beginning in October 2003, the level increased to $122, and in October 2004, the level increased again to $131. The contribution rate was not increased again until Act 517 of 2013.

2003 Sessions, 2003-2005 Biennium

Act 59 of the Second Extraordinary Session of 2003 again changed the way the state funded public schools from State Equalization Funding to State Foundation Funding. The law provided $5,400 per student in foundation funding in addition to new categorical funding for professional development, economically disadvantaged (National School Lunch) students, English language learners and alternative learning environments. Districts were expected to use these funds and others (e.g., federal funds) to pay the monthly $131 per employee enrolled in the health plan. The law did not specify the amount of the foundation funding or categorical funding intended to cover employee health insurance, but the adequacy study process identified **at least $129.11 per student (ADM) of foundation funding** that was provided for this purpose.

2005 and 2006 Sessions, 2005-2007 Biennium

The 2005 Regular Session established the infusion of another **$35 million for public school employees' health insurance**. Act 2131 increased the appropriation for Public School Employee Insurance from about $1 million in 2004-05 to $36.8 million in 2005-06 and $36.9 million in 2006-07. (That appropriation included the state contribution for employees in the co-ops, vocational centers, and the Department of Correction's school.) The $35 million, which had not been part of the Governor's proposed balanced budget, was directed to the Employee Benefits Division (EBD) through Act 1842. That legislation required ADE to pay EBD

$61 per month for each eligible public school employee participating in the public school employees' health insurance program. The law did not require EBD to distribute the $61 per employee equally among all participants. The General Assembly has continued to appropriate this $35 million every year since FY2006.

In a June 2005 order in the Lakeview lawsuit, the Arkansas Supreme Court appointed Special Masters to assess the state's progress toward meeting its constitutional requirements of providing a general, suitable and efficient education system. In October 2005, the Special Masters submitted their report, in which they found the $35 million increase in funding for teachers' health insurance to be "undoubtedly a good thing." However, they also noted "its effect upon education is indirect at best and does not excuse the failure to fund educational resources adequately."

Increasing insurance premiums, however, continued to be a concern. In the final report of the 2006 Educational Adequacy Study, the House and Senate Interim Committee on Education and the Senate Interim Committee on Education referred the issue of teacher health insurance for further study. Specifically, the study was to examine the impact of removing from foundation funding the amount that funds the monthly $131 district contribution.

2007 Session, 2007-2009 Biennium

Act 229 of 2007 again appropriated $35 million annually to enhance the state's contribution for public school employees' health insurance premiums. Act 1420 required ADE to pay EBD *a minimum* of $61 per month for each eligible public school employee participating in the public school employees' health insurance program, and called for the transfer of the $35 million for that purpose. The minimum district contribution of $131 per participating employee remained unchanged.

Act 1009 of 2007 introduced the concept of parity between the state employees' plan and the school employees' plan. The measure changed the legislative intent of the State and Public School Life and Health Insurance Board from:

> Setting and managing policies "for the programs in a concerted effort and to work toward a common goal that multiple benefit options be made available to participants under both public school and state employee current programs"
>
> To:
>
> Enabling a single board to "set and manage policies for the health insurance and life insurance programs of state and public school employees" and to "work in a concerted effort toward **a common goal of parity** between public school and state employee insurance programs."

With insurance premiums continuing to rise in 2008, the Legislature again examined options for more efficiently funding health insurance for public school employees. As part of the 2008 Educational Adequacy Study, the House and Senate Education Committees requested an actuarial analysis to compare:

- The cost of funding based on the number of public school employees *eligible* for insurance, instead of those actually participating.
- The cost of merging the state employees and the public school employees into one group and applying the same percentage of employee contributions for public school employees and state employees.

- The cost of providing an equal percentage contribution to state employees' and public school employees' coverage (i.e., contributing 75% of the cost of employees' coverage and 50% of the cost of coverage for dependents).

The actuarial analysis, provided by EBD's actuary Milliman, found that funding based on eligible employees, rather than participating employees, would cost $31 million more each year than the existing configuration of the plan. Merging the two plans together and applying the same percentage of employee contributions for public school employees as state employees would cost $107 million more than the existing plan configuration in first year (FY2010) and would increase each year to about $216 million in additional cost by FY2015. The cost of providing a percentage contribution equal to the state employees' plan would be an additional $104 million the first year and $209 million by FY2015. If that contribution were equalized gradually over six plan years, it would cost an additional $15.8 million the first year, $47 million the second year and $197 million more than the current plan configuration by FY2015.

The 2008 Final Report and Recommendations of the Adequacy Study Oversight Subcommittee noted that "no evidence" was presented that "the cost of health insurance premiums for public school employees will prevent Arkansas public schools from teaching the required curriculum or prevent Arkansas public school students from achieving proficiency." The Education Committees, however, recognized "the employee health insurance cost is one factor that impacts teacher recruitment and retention in Arkansas, but there has been no clear evidence that health insurance costs, alone, deprive the public school system of the teachers needed for providing a substantially equal opportunity for an adequate education."

That said, the Education Committees **recommended increasing ADE's health insurance appropriation by $63 million** to be paid to EBD. This proposed funding was intended to provide $15.8 million in FY2010 and $47 million for FY2011 to fund the "Scenario 1B" option Milliman presented to gradually equalize the percentage contribution of public school employees' and state employees' health insurance.

The Adequacy Study report noted, however, that the recommendation "is **not a determination that this amount is needed to provide educational adequacy**. However, the increase in funding will help stabilize the premium costs for public school employees and begin the process of equalizing premium costs between public school employees and state employees, which will require two additional bienna to complete."

2009 and 2010 Sessions, 2009-2011 Biennium

In the 2009 Regular Session, the General Assembly appropriated another **$15 million for public school employees' health insurance** for FY2010. When added to the $35 million annual appropriation, the combined amount provided a $50 million total contribution on top of funding made available through foundation funding and other state funding. The additional $15 million had not been part of the Governor's proposed balance budget, and its connection to the Adequacy Study's recommended $15.8 million is unclear.

Act 1421 of 2009 authorized up to $15 million to be paid by ADE to EBD for public school employee health insurance contingent upon an equal amount of growth in Uniform Rate of Tax (URT) collections above originally projected levels. The URT collection growth that year was adequate to allow ADE to provide the maximum $15 million. The General Assembly did not increase the requirement that ADE pay EBD $61 per public school employee participating in the plan. Instead, Act 1421 required ADE to transfer the $15 million to EBD, where the funds were to be "administered by the board for the benefit of the employee participants of the public school employees' health insurance program." The additional $15 million has continued to be appropriated in each subsequent fiscal year through the current FY2014.

In 2010, the General Assembly conducted its first fiscal session. The $47 million recommended by the Education Committees in the 2008 Adequacy Study was not included in the Governor's balanced budget, and the General Assembly did not appropriate or provide the funding. The General Assembly also made no additional changes to the way it funded health insurance for public school employees for FY2011, FY2012 and FY2013.

2011 and 2012 Sessions, 2011-2013 Biennium

Amid news that public school employees' health insurance premiums would again increase substantially for 2013, the Senate Education Committee Chairman appointed eight legislators to a subcommittee to examine the issue. The subcommittee held five meetings and discussed three proposals:

- Providing a $10 million supplemental appropriation to the Employee Benefits Division (EBD) of the Department of Finance and Administration (DF&A) for public school employee health insurance.
- Freezing the state contribution for state employee health insurance at $390.
- Increasing the employer contribution rate for the public school employee health insurance program to $150.

The subcommittee did not vote on a recommendation. However in a March 2013 supplement to the 2012 Final Report of the Adequacy Study, the Education Committees recommended increasing the funding intended for public school employees' health insurance. They recommended adopting a 2% inflationary adjustment to the per-pupil foundation amount for fiscal years 2014 and 2015. **A portion of that increase (0.2%) is intended to support an increase in the minimum district contribution** for employees participating in the Public School Employees Health Insurance Plan.

2013 Sessions, 2013-2015 Biennium

Act 517 of 2013 **increased the minimum monthly district contribution from $131 per participating employee to $150** beginning Jan. 1, 2014, and required the district contribution to increase annually thereafter. The law requires the same percentage increase as the increase in the salary and benefit component of the foundation funding.

In response to a request by the Governor, the General Assembly appropriated a total of $10 million in **General Improvement Funds** for teacher health insurance benefits, and $8 million in funding was provided to replenish the Public School Employee Health Insurance Catastrophic Reserves, which had become depleted. According to EBD, this $8 million also helped avoid 2013 mid-year rate increases.

Despite the new funding and district contribution rate, the Public School Employees' Health Insurance Plan announced significant rate increases for the 2014 plan year. The board announced that the employees' share of most plan premiums was to increase by about 50% over 2013 rates. In October, Gov. Beebe called a special session to address the issue. The General Assembly passed four measures to generate $43 million for 2013-14 and $26.4 million for 2014-15 for the Public School Employees Health Insurance Plan.

	2013-14	2014-15
Transfer savings from General Facilities Funding		$7.3 million
Transfer savings from Supplemental Millage Incentive Funding		$9 million
Cut professional development per-student funding rate		$10.1 million
New "Additional Public School Employee Health Insurance" appropriation from General Improvement Funds	$43 million	

Act 1 of the 1st Extraordinary Session of 2013 redirected savings from two school facilities funding programs to the Employee Benefits Division to help fund the health insurance for public school employees beginning in FY2014-15. The General Facilities Funding and the Supplemental Millage Incentive Funding programs are the predecessors to the Partnership Program, which funds the construction and renovation of school buildings in Arkansas today. The two programs are being phased out over a ten-year period. Under state statute, the amount of money distributed to districts from the programs is to be reduced annually by one-tenth over ten years. However, the programs were designed to receive level funding each year, so the amount left over after distribution to the districts would increase over time. Since at least FY2006-07, the General Facilities Funding program received $8.1 million annually, while the Supplemental Millage program received $10 million annually. Any remaining funding after distribution to the districts was shifted to the Educational Facilities Partnership Program Fund Account. In 2013, about $5.7 million was transferred from the General Facilities Funding program to the Partnership Program, and about $7 million was transferred from the Supplemental Millage program. ADE estimates that about $7.3 million will be available for transfer from General Facilities Funding to EBD in 2015 (the first year the transfer will be made to EBD) and about $9 million from Supplemental Millage Incentive Funding.

Act 2 of the 1st Extraordinary Session of 2013 eliminated statutory references to the requirement that educators receive at least 60 hours professional development each year. The number of professional development hours required is established in Department of Education rules and this statutory change was made with the expectation that the State Board of Education would approve a rules change reducing the required number of professional development hours from 60 to 36.

Act 2 also cut the per-student funding rate for professional development for the 2014-15 fiscal year, from $54 to 32.40. This change was expected to free up $10.1 million, with the intention of appropriating an additional $10 million in General Revenue during the 2014 Fiscal Session for public school employee health insurance in 2015.

Act 5 of the 1st Extraordinary Session of 2013 appropriated an additional $43 million for Additional Public School Employee Health Insurance from unobligated General Improvement Funds to the Education Department's Public School Fund Account.

Acts 3 and 6 of the 1st Extraordinary Session of 2013, which are twin measures, call for a number of changes to the structure of the State and Public School Life and Health Insurance Board.

Board Structure Changes

- Added two members to the State and Public School Life and Health Insurance Board. The statute called for the two new members to be appointed by the Governor, like other members of the Board, and defined them as individuals who are "engaged in employee benefits management or risk management in private industry."

- Required the Governor's appointees to be confirmed by the Senate.
- Called for the terms of current Board members to expire on Nov. 30, 2013 and new board members to be seated on Dec. 1. The Governor is required to call the first meeting of the newly seated board.

Plan Changes

- Required all plans to have a deductible.
- Required the board to educate plan participants about plan options and the advantages and disadvantages of each.
- Required school districts to use all funding allocated for health insurance through the matrix to be used for health insurance. Districts can use the funding to either increase the contribution level for the state health insurance plan or make contributions to employees' health savings accounts.
- Required the Board to offer a health savings account as a component of a consumer-driven health insurance plan option.

Task Force Creation

- Created the State and Public School Life and Health Insurance Program Legislative Task Force to study and recommend proposals to restructure the Public School Health Insurance Plan. The Task Force's duties include:
  - ✓ Developing a plan that allows the health insurance plan to operate on an actuarially sound basis.
  - ✓ Increasing the public awareness of the program and its governance.
  - ✓ Developing a legislative framework that promotes program stability.
  - ✓ Producing a preliminary report by June 30, 2014, and a final report by June 29, 2015.