

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1738

By: Representative Lundstrum

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE STATE AND  
PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO  
ENSURE A SUSTAINABLE SYSTEM OF HEALTH BENEFITS FOR  
STATE EMPLOYEES AND PUBLIC SCHOOL EMPLOYEES; TO  
CLARIFY THE DUTIES AND RESPONSIBILITIES OF THE STATE  
AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE BOARD; TO  
INCREASE REPRESENTATION OF MEMBERS OF THE STATE AND  
PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM ON  
THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE  
BOARD; TO INCREASE OVERSIGHT OF THE STATE AND PUBLIC  
SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO INCREASE  
THE STATE CONTRIBUTION TO THE STATE AND PUBLIC SCHOOL  
LIFE AND HEALTH INSURANCE PROGRAM; TO DECLARE AN  
EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING THE STATE AND  
PUBLIC SCHOOL LIFE AND HEALTH INSURANCE  
PROGRAM; TO ENSURE A SUSTAINABLE SYSTEM  
OF HEALTH BENEFITS FOR STATE EMPLOYEES  
AND PUBLIC SCHOOL EMPLOYEES; AND TO  
DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 21-5-401(b), concerning the legislative  
intent of 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~~ an advisory board to administer 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~~ an advisory board and the Secretary of the Department of Transformation and Shared Services 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 2. Arkansas Code § 21-5-402(a)(1), concerning the membership 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 is created, composed of the following ~~fifteen (15)~~ seventeen (17) voting members:

(A) A Two (2) state ~~employee~~ employees who ~~is~~ are 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

1 or his or her designee;

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

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

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

10 (H) One (1) retired public school employee, appointed by  
11 the Governor;

12 (I) Two (2) members, at least one (1) of whom is a current  
13 public school employee who is employed by a school district as an  
14 administrator and one (1) of whom may be a current or retired public school  
15 employee who was employed by a school district as an administrator, appointed  
16 by the Governor;

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

19 ~~(J) The Director of Health Facility Services of the~~  
20 ~~Department of Health or his or her designee,~~ and

21 ~~(K)~~(K) One (1) member who is a member of the Arkansas  
22 Medical, Dental, and Pharmaceutical Association, Inc., appointed by the  
23 Governor.  
24

25 SECTION 3. Arkansas Code § 21-5-403 is amended to read as follows:

26 21-5-403. ~~Policy-making body~~ Advisory board only – Reports.

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

29 (b) The Director of the Employee Benefits Division and the ~~board~~  
30 Secretary of the Department of Transformation and Shared Services shall  
31 ~~report upon request~~ quarterly to the House Committee on Insurance and  
32 Commerce and the Senate Committee on Insurance and Commerce regarding the  
33 State and Public School Life and Health Insurance Program.  
34

35 SECTION 4. Arkansas Code § 21-5-404 is amended to read as follows:

36 21-5-404. Powers, functions, and duties of board.

1           The State and Public School Life and Health Insurance Board has the  
2 following powers, functions, and duties:

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

7           (B) ~~Beginning in the 2015 plan year, the~~ The board shall  
8 not adopt a health insurance plan option that has no deductible for  
9 participants.

10           (C) The board shall recommend that an active employee in a  
11 consumer-driven health insurance plan option offered under the program  
12 establish a health savings account if the active employee is eligible to  
13 establish a health savings account under federal law.

14           (D) Beginning in the 2022 plan year, the board, the  
15 Director of the Employee Benefits Division, and the Secretary of the  
16 Department of Transformation and Shared Services shall report to the  
17 Legislative Council, the House Committee on Insurance and Commerce, and the  
18 Senate Committee on Insurance and Commerce in a public meeting for review and  
19 approval before final adoption of the changes to the program:

20                   (i) Any new or significantly modified cost-  
21 containment measures;

22                   (ii) Any premium increases greater than five percent  
23 (5%) over the previous plan year;

24                   (iii) Any proposals to limit or eliminate plan  
25 benefits or eligibility;

26                   (iv) Any other significant changes to the plan  
27 design under the program;

28                   (v) Any approved recommendations on premium  
29 increases over the previous plan year; and

30                   (vi) Any recommendations:

31                           (a) For any new cost-containment measures;

32                           (b) To limit or eliminate plan benefits or  
33 eligibility; or

34                           (c) To make any other significant changes to  
35 the plan design under the program;

36           (2) To promote competition among vendors and create a systematic

1 formula for measuring competitiveness of the plan options offered under the  
 2 program, quality-of-care delivery, portability, and accessibility to and  
 3 affordability of health care;

4 (3) To ~~prepare~~ perform a comprehensive analysis of the various  
 5 plan options offered under the program, including cost, quality, and access  
 6 differentials as well as any other comparisons of the plan options offered  
 7 under the program;

8 (4) To ~~undertake~~ evaluate studies and to ~~take~~ recommend any  
 9 appropriate action that the board determines will promote the financial  
 10 soundness and overall well-being of the program;

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

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

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

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

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

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

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

35 ~~(B) Each contract shall be for a term of at least one (1)~~  
 36 ~~year but may be made automatically renewable from term to term in the absence~~

~~of notice of termination by either party;~~

~~(11)(A)(6)(A)~~ To ~~obtain~~ review 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)(7)~~ 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 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;

and

(e) Two (2) retired state employees.

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

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

(a) Three (3) pharmacists as follows:

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

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

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

(2) A member appointed under this ~~subdivision (12)(B)(i)(d)~~ subdivision (7)(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 shall review drugs for formulary management and evaluate the financial impact of its recommendations; and

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

(a) Three (3) board members;

(b) Two (2) state employees;

(c) Two (2) 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;

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

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

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

SECTION 5. Arkansas Code § 21-5-405 is amended to read as follows:  
21-5-405. Additional duties of board.

(a)(1) The State and Public School Life and Health Insurance Board and the Director of the Employee Benefits Division, with the approval of the Secretary of the Department of Transformation and Shared Services, shall take a risk management approach in designing the State and Public School Life and Health Insurance Program.

(2) The board shall ensure that the program, including all plan options offered under the program, is maintained on an actuarially sound basis as determined by actuarial standards established by the board.

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

(1) ~~Develop~~ Review uniform standards of vendor plan option funding as developed by the Employee Benefits Division and the Department of Transformation and Shared Services;

(2) Promote increased access to plan options offered under the program;

(3) Promote access to vendors who will enhance plan option



1 availability in rural Arkansas and in bordering states;

2 (4)(A) Use the purchasing power of the program to foster  
3 competition among vendors and providers for the plan options offered under  
4 the program.

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

8 (i) Use those funds only for the program; and

9 (ii) Agree to rules of program participation as  
10 stated in the policies adopted by the board and as defined in the rules and  
11 procedures issued by the director, including without limitation timely  
12 eligibility reporting, prepayment of insurance premiums, actuarial adjustment  
13 for new enrollees, and any other requirements deemed necessary by the board;

14 (5) Assure guaranteed issue; and

15 (6) Ensure an annual enrollment period;

16 ~~(7) Verify that a dependent is eligible for coverage under the~~  
17 ~~program as determined by the board; and~~

18 ~~(8) Beginning in the 2015 plan year, implement a policy~~  
19 ~~applicable to a participating entity to identify funds that are not required~~  
20 ~~to be paid for federal taxes under the Federal Insurance Contributions Act,~~  
21 ~~26 U.S.C. § 3101 et seq., generated from health insurance pretaxed premiums~~  
22 ~~only, and use the identified funds for premium assistance.~~

23 (c) Vendors of plan options offered under the program shall provide  
24 detailed information to the director in order to justify rate increases or  
25 inadequate performance reporting as defined by the board.

26  
27 SECTION 6. Arkansas Code § 21-5-406(a)(1), concerning the selection of  
28 the Director of the Employee Benefits Division, is amended to read as  
29 follows:

30 (a)(1) The State and Public School Life and Health Insurance Board  
31 shall choose candidates for the Director of the Employee Benefits Division  
32 ~~with the approval of~~ and submit those candidates to the Secretary of the  
33 Department of Transformation and Shared Services for his or her final  
34 selection.

35  
36 SECTION 7. Arkansas Code § 21-5-406, concerning the Director of the

Employee Benefits Division, is amended to add additional subsections to read as follows:

(f)(1) The director shall:

(A) Develop, with the assistance of the Office of State Procurement, bid specifications and requests for proposals, and evaluate bids and proposals for the program;

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

(C) 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;

(D)(i) Contract with a qualified vendor offering plan options under the program as prescribed by the board.

(ii) Section 19-11-228 or other statutes requiring competitive bidding do not apply to the director's duty to contract under subdivision (f)(1)(D)(i) of this section; and

(E)(i) Contract with a qualified vendor offering plan options under the program for a term of at least one (1) year.

(ii) A contract under subdivision (f)(1)(E)(i) of this section may be made automatically renewable from term-to-term in the absence of notice of termination by either party.

(2) The functions and duties described in subdivision (f)(1) of this section shall be reviewed and approved by the secretary.

(g)(1)(A) The director shall perform program and plan option design and submit a summary of the plan document to the board for review and approval.

(B) The summary described in subdivision (g)(1)(A) of this section shall include without limitation:

(i) Lifetime limitations;

(ii) Copayments;

(iii) Deductibles; and

(iv) Eligibility rules.

(2) The director may:

(A) Verify that a dependent is eligible for coverage under

1 the program as determined by the program and plan option design approved by  
 2 the secretary; and

3 (B) Implement a policy applicable to a participating  
 4 entity to identify funds that are not required to be paid for federal taxes  
 5 under the Federal Insurance Contributions Act, 26 U.S.C. § 3101 et seq.,  
 6 generated from health insurance pretaxed premiums only, and use the  
 7 identified funds for premium assistance.

8  
 9 SECTION 8. Arkansas Code § 21-5-414 is amended to read as follows:  
 10 21-5-414. State contributions generally – Partial state contribution  
 11 of employees' premiums.

12 (a) The Department of Transformation and Shared Services shall seek  
 13 the ~~advice~~ review and approval of the Legislative Council and the House  
 14 Committee on Insurance and Commerce and the Senate Committee on Insurance and  
 15 Commerce before additional state contributions can be made to the State and  
 16 Public School Life and Health Insurance Program on behalf of state employees.

17 (b) Participating entities shall make a monthly contribution equal to  
 18 the number of budgeted state employee positions multiplied by the monthly  
 19 contribution authorized by the Chief Fiscal Officer of the State, not to  
 20 exceed ~~four hundred fifty dollars (\$450)~~ six hundred dollars (\$600) monthly  
 21 for each state employee budgeted position into a fund designated for state  
 22 employee health benefits to partially defray the cost of life and health  
 23 benefits for state employees and retirees participating in the program.

24  
 25 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the  
 26 General Assembly of the State of Arkansas that the State and Public School  
 27 Life and Health Insurance Board requires an expansion of representation of  
 28 members of the State and Public School Life and Health Insurance Program, and  
 29 the State and Public School Life and Health Insurance Program requires  
 30 additional oversight to ensure affordable health insurance options are  
 31 available to state and public school employees; that an urgent need exists to  
 32 expand representation on the State and Public School Life and Health  
 33 Insurance Board and start implementing the necessary oversight of the State  
 34 and Public School Life and Health Insurance Program to avoid increased and  
 35 unnecessary costs; and that this act is immediately necessary to improve the  
 36 financial stability and viability of the State and Public School Life and

1 Health Insurance Program through increased oversight and membership  
2 representation on the State and Public School Life and Health Insurance  
3 Board. Therefore, an emergency is declared to exist, and this act being  
4 immediately necessary for the preservation of the public peace, health, and  
5 safety shall become effective on:

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

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

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