

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

# A Bill

SENATE BILL 85

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5 By: Senators Irvin, Hickey, Beckham, L. Chesterfield, J. Dismang, Elliott, J. English, Flippo, Gilmore,  
6 Hill, K. Ingram, B. Johnson, G. Leding, Rice, B. Sample, D. Sullivan  
7 By: Representatives Evans, Shepherd, Wardlaw, Beaty Jr., Beck, M. Berry, S. Berry, Bragg, Brown, C.  
8 Cooper, Crawford, Dalby, M. Davis, Dotson, Ennett, Eubanks, K. Ferguson, C. Fite, D. Garner, Godfrey,  
9 Hawks, M. Hodges, Hollowell, Hudson, Jett, Love, Maddox, McCullough, S. Meeks, Nicks, Perry, Scott,  
10 S. Smith, Speaks, Vaught, Warren, D. Whitaker, Wing, Wooten

## For An Act To Be Entitled

11  
12 AN ACT TO CLARIFY THE DEFINITION OF "ELIGIBLE  
13 INACTIVE RETIREE"; TO MODIFY THE ELIGIBILITY OF  
14 RETIREEES TO PARTICIPATE IN THE STATE AND PUBLIC  
15 SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO DECLARE  
16 AN EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

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19  
20 TO CLARIFY THE DEFINITION OF "ELIGIBLE  
21 INACTIVE RETIREE"; TO MODIFY THE  
22 ELIGIBILITY OF RETIREEES TO PARTICIPATE IN  
23 THE STATE AND PUBLIC SCHOOL LIFE AND  
24 HEALTH INSURANCE PROGRAM; AND TO DECLARE  
25 AN EMERGENCY.  
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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

30  
31 SECTION 1. Arkansas Code § 21-5-407(5), concerning the definition of  
32 "eligible inactive retiree" under the State and Public School Life and Health  
33 Insurance Program, is amended to read as follows:

34 (5)(A) "Eligible inactive retiree" means a former member of the  
35 General Assembly or a state-elected constitutional officer who has served a  
36 sufficient number of years of credited service to be eligible for retirement



1 benefits but who has not yet reached retirement age.

2 (B) An eligible inactive retiree is qualified to enroll in  
3 the program as a retiree if he or she participated in the program for at  
4 least five (5) cumulative years before retirement.

5 (C) An eligible inactive retiree who enrolls in the  
6 program shall pay the entire premium cost of the plan option selected under  
7 the program as set by the board;

8  
9 SECTION 2. Arkansas Code § 21-5-411 is amended to read as follows:  
10 21-5-411. Eligibility of certain retired employees – Definition.

11 (a)(1) ~~If qualified, state employee retirees and public school~~  
12 ~~employee retirees may continue coverage and participate in the State and~~  
13 ~~Public School Life and Health Insurance Program if the state employee~~  
14 ~~retirees or public school employee retirees are~~ State employee retirees and  
15 public school retirees are qualified to enroll in the State and Public School  
16 Life and Health Insurance Program as retirees if they:

17 (A) ~~Participating~~ Have participated in the program for at  
18 least five (5) cumulative years before retirement as participating members  
19 of:

20 (i) The Arkansas Public Employees’ Retirement  
21 System, including the members of the legislative division and the contract  
22 personnel of the Arkansas National Guard;

23 (ii) The Arkansas Teacher Retirement System;

24 (iii) The Arkansas State Highway Employees’  
25 Retirement System;

26 (iv) The Arkansas Judicial Retirement System; or

27 (v) An alternate retirement plan of a qualifying  
28 institution under § 24-7-801; and

29 (B) ~~Retired~~ Are retired and drawing benefits under one (1)  
30 or more of the retirement systems listed under subdivision (a)(1)(A) of this  
31 section.

32 (2)(A)(i) If a state employee retiree or a public school  
33 employee retiree who is a member of a retirement system listed under  
34 subdivision (a)(1)(A) of this section receives retirement benefits, thereby  
35 becoming an active retiree, and has participated in the program for at least  
36 five (5) cumulative years before retirement, the active retiree may elect to

1 enroll in the program.

2 (ii) The election to enroll in the program shall be  
3 made within thirty (30) days of the state employee retiree's or public school  
4 employee retiree's becoming an active retiree and shall be made in writing to  
5 the Employee Benefits Division on forms required by the division.

6 (B)(i) To be eligible to continue coverage or to qualify  
7 for coverage after electing to decline participation in the program, the  
8 retiree must have been covered ~~on the last day of~~ for at least five (5)  
9 cumulative years before the retiree's employment ended.

10 (ii) If a retiree declines to participate in the  
11 program at the time of retirement because the retiree is already covered  
12 under another employer-sponsored group health insurance policy, the retiree  
13 may make a one-time election to participate in the program if the retiree  
14 experiences a qualifying event with proof of continued insurance coverage at  
15 the time of open enrollment and documentation that the retiree was covered  
16 under the program for at least five (5) cumulative years before retirement ~~or~~  
17 ~~if the retiree experiences a qualifying event~~.

18 (C)(i) Except as provided in subdivision (a)(2)(C)(ii) of  
19 this section, an active retiree's failure to make an election to participate  
20 in the program during the thirty-day election period or an active retiree's  
21 election to decline participation in the program is final.

22 (ii) If an active retiree declines participation in  
23 the program because the active retiree has health insurance coverage through  
24 another employer group health plan and the active retiree's coverage was  
25 subsequently terminated because of a loss of eligibility, as defined by  
26 Internal Revenue Service regulations, and provides information from the  
27 former insurance company of the loss of eligibility, then the active retiree  
28 shall qualify for participation in the program upon confirmation that the  
29 active retiree participated in the program for at least five (5) cumulative  
30 years before retirement and payment of the appropriate premium as determined  
31 by the State Board of Finance under subdivision (a)(5) of this section if the  
32 active retiree applies for participation in the program within thirty (30)  
33 days of the loss of eligibility.

34 (3)(A) Notwithstanding any other provision to the contrary in  
35 this section, a state employee or public school employee ~~with~~ who has five  
36 (5) cumulative years of participation in the program before retirement and

1 ten (10) or more years of creditable service under the terms of a retirement  
 2 plan listed in this section shall qualify for continued participation in the  
 3 program if the state employee or public school employee is separated from  
 4 employment because of the expiration of a fixed period of employment.

5 (B)(i) A state employee or public school employee  
 6 qualifying for continued participation in the program under this subsection  
 7 shall be considered an inactive retiree and shall have thirty-one (31) days  
 8 from the effective date of termination to elect to continue participation in  
 9 the program under this section by notifying the division.

10 (ii) The election to continue participation in the  
 11 program shall be made in writing on forms required by the division.

12 (C)(i) Except as provided in subdivision (a)(2)(B)(ii) of  
 13 this section, an inactive retiree's failure to elect to continue  
 14 participation in the program during the thirty-day election period or an  
 15 inactive retiree's election to decline participation in the program is final.

16 (ii) If an inactive retiree as described in  
 17 subdivision (a)(3)(B) of this section declines participation in the program  
 18 because the inactive retiree has health insurance coverage through another  
 19 employer-sponsored group health plan and the inactive retiree's coverage is  
 20 subsequently terminated because of a loss of eligibility, then the inactive  
 21 retiree and any dependents shall qualify for participation in the program if,  
 22 within thirty (30) days of the inactive retiree's involuntary loss of  
 23 coverage, the inactive retiree submits to the board:

24 (a) Payment of the appropriate premium as  
 25 determined by the board under subdivision (a)(5) of this section; ~~and~~

26 (b) Proof that, until the inactive retiree's  
 27 involuntary loss of coverage through another employer-sponsored group health  
 28 plan, the coverage had been continuous; and

29 (c) Proof that the inactive retiree  
 30 participated in the program for at least five (5) cumulative years before  
 31 retirement.

32 (D) An eligible inactive retiree shall be reclassified as  
 33 an active retiree upon electing to receive a retirement benefit by a  
 34 retirement system listed under subdivision (a)(1)(A) of this section and  
 35 shall be charged the premium rate appropriate for his or her rating category  
 36 as an active retiree as determined by the board under subdivision (a)(5) of

1 this section.

2 (4)(A) As used in this subsection, "loss of eligibility" means a  
3 loss of coverage as a result of:

- 4 (i) A legal separation;
- 5 (ii) Divorce;
- 6 (iii) Death of the insured;
- 7 (iv) Termination of employment; or
- 8 (v) A reduction in the number of hours of  
9 employment.

10 (B) "Loss of eligibility" does not include:

- 11 (i) A loss of coverage from a failure to pay  
12 premiums on a timely basis;
- 13 (ii) Voluntary termination of coverage; or
- 14 (iii) A termination of coverage for cause, such as  
15 making a fraudulent claim.

16 (5)(A) A qualified retiree hired as a new employee or elected as  
17 a public official after December 31, 2015, who applies for participation in  
18 the program shall pay a premium as determined by the board that includes:

- 19 (i) If a retiree enrolled in the program within the  
20 first three (3) years of employment with a participating entity, an  
21 appropriate premium rate for a retiree;
- 22 (ii) If a retiree enrolled in the program between  
23 the fourth and thirteenth year of employment with a participating entity, an  
24 additional five percent (5%) of the premium rate;
- 25 (iii) If a retiree enrolled in the program between  
26 the fourteenth and twenty-third year of employment with a participating  
27 entity, an additional ten percent (10%) of the premium rate; and
- 28 (iv) If a retiree enrolled in the program after the  
29 twenty-third year of employment with a participating entity, an additional  
30 fifteen percent (15%) of the premium rate.

31 (B)(i) A retiree shall be continuously enrolled in the  
32 program if actively employed in a position that is eligible to participate in  
33 the program.

34 (ii)(a) A retiree who has a break in enrollment in  
35 the program may be considered to be continuously enrolled in the program if  
36 the retiree:

1 (1) Applies for participation in the  
2 program within thirty-one (31) days of returning to active employment; ~~and~~

3 (2) Is employed in a position that is  
4 eligible to participate in the program; and

5 (3) Was a participant in the program for  
6 at least five (5) cumulative years before retirement.

7 (b) If a retiree declines to participate in  
8 the program upon returning to active employment under subdivision

9 (a)(5)(B)(ii)(a) of this section, the retiree may participate in the program  
10 based on the year of the retiree's most recent enrollment in the program if  
11 the retiree has participated in the program for at least five (5) cumulative  
12 years before retirement.

13 (iii) A retiree who declines to participate in the  
14 program at the time of retirement is not considered continuously enrolled in  
15 the program.

16 (b)(1) ~~Retirees~~ Qualified retirees who draw retirement benefits under  
17 the Arkansas Public Employees' Retirement System, the Arkansas Teacher  
18 Retirement System, or the Arkansas State Highway Employees' Retirement System  
19 and retired contract employees of the Arkansas National Guard who wish to  
20 participate in the program shall pay the retiree amount of the premium as  
21 determined by the board under subdivision (a)(5) of this section or the cost  
22 of the policy issued to the retired participant.

23 (2)(A) The retiree portion of the premium shall be deducted  
24 from:

25 (i) The retirement benefit check of the retired  
26 participant; or

27 (ii) A bank account of the retired participant, to  
28 be paid by a monthly bank draft on the date designated by the division.

29 (B) If the retirement benefit is to be withheld from a  
30 retirement benefit check and the retirement benefit check is not large enough  
31 for the premium deduction, the premium shall be paid by monthly bank draft on  
32 a designated date prescribed by the division.

33 (c) Members of the Arkansas Public Employees' Retirement System and  
34 the Arkansas State Highway Employees' Retirement System who retire before  
35 January 2, 1988, under ~~the Incentives for Early Retirement Act~~, §§ 24-4-732,  
36 24-5-122, and 24-6-102, shall not pay the full amount of the premium but

1 shall pay a portion of the cost of the policy as set forth by ~~the Incentives~~  
 2 ~~for Early Retirement Act~~, §§ 24-4-732, 24-5-122, and 24-6-102.

3 (d)(1) Except as provided in subdivision (d)(2) of this section, any  
 4 future change in program participation other than cancellation shall be  
 5 allowed only for newly acquired dependents.

6 (2) A dependent may be added to ~~an~~ a qualified active or  
 7 inactive retiree's health insurance coverage by payment of the appropriate  
 8 premium as established by the board if:

9 (A) The active or inactive retiree declined health  
 10 insurance coverage for the dependent at the time of election to be an active  
 11 or inactive retiree because the dependent had other employer-sponsored group  
 12 health insurance coverage;

13 (B) Subsequent to the active or inactive retiree's  
 14 declination of health insurance coverage for the dependent under subdivision  
 15 (d)(2)(A) of this section, the dependent involuntarily lost his or her  
 16 employer-sponsored group health insurance coverage and the loss of health  
 17 insurance coverage was not the result of:

18 (i) Fraud; or

19 (ii) Voluntary cessation of premium payment while  
 20 the active or inactive retiree was covered by a plan option offered under the  
 21 program; and

22 (C) Within thirty (30) days of a dependent's involuntary  
 23 loss of health insurance coverage under subdivision (d)(2)(B) of this  
 24 section, the active or inactive retiree submits to the board proof that:

25 (i) The dependent involuntarily lost health  
 26 insurance coverage; ~~and~~

27 (ii) Until the dependent's loss of health insurance  
 28 coverage, the coverage had been continuous; and

29 (iii) The retiree was a participant in the program  
 30 for at least five (5) cumulative years before the active or inactive  
 31 retiree's retirement.

32 (e)(1) If a retiree dies and has covered dependents at the time of  
 33 death, the dependents have the right to continue participation in the  
 34 program.

35 (2) Dependent children may continue to participate in the  
 36 program until marriage or until the maximum age limit for a dependent child

1 has been reached.

2 (3) A surviving spouse may continue participation in the  
3 program.

4 (4) If a surviving spouse or dependent declines participation in  
5 the program or cancels existing participation, then the surviving spouse or  
6 dependent has no further privileges under the program.

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8 SECTION 3. DO NOT CODIFY. Applicability. This act does not apply to  
9 a public school employee or a state employee who is employed on the effective  
10 date of this act.

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12 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
13 General Assembly of the State of Arkansas that the State and Public School  
14 Life and Health Insurance Program is inadequate to provide sustainable  
15 affordable health benefits for public school employees and state employees;  
16 that an urgent need exists to address the state’s funding and administration  
17 of benefits for public school employees and state employees in order for the  
18 program to remain viable and to avoid severe financial hardship to plan  
19 participants; and that this act is immediately necessary to provide  
20 affordable health benefit options in a timely manner to the state’s public  
21 school employees participating in the program and state employees  
22 participating in the program. Therefore, an emergency is declared to exist,  
23 and this act being immediately necessary for the preservation of the public  
24 peace, health, and safety shall become effective on:

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

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