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A Bill

SENATE BILL 481

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For An Act To Be Entitled

AN ACT TO CREATE A MORE SUSTAINABLE SYSTEM OF
PROPERTY INSURANCE FOR PUBLIC SCHOOLS, STATE-
SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, AND
STATE-OWNED PROPERTY; TO CREATE THE OFFICE OF
PROPERTY RISK WITHIN THE DEPARTMENT OF TRANSFORMATION
AND SHARED SERVICES; TO AMEND THE PUBLIC ELEMENTARY
AND SECONDARY SCHOOL INSURANCE ACT; TO REVISE THE
EMPLOYEE BENEFITS DIVISION OVERSIGHT SUBCOMMITTEE; TO
AMEND THE ARKANSAS MULTI-AGENCY INSURANCE TRUST FUND
ACT; TO COMBINE PUBLIC ELEMENTARY AND SECONDARY
SCHOOLS WITH STATE-SUPPORTED INSTITUTIONS OF HIGHER
EDUCATION AND STATE-OWNED PROPERTY UNDER A SINGLE
PROGRAM TO ENSURE PROPER VALUATION FOR PROPERTY
INSURANCE PURPOSES; TO CREATE THE STATE CAPTIVE
INSURANCE PROGRAM ACT; TO PROHIBIT THE USE OF PUBLIC
ADJUSTING IN PROPERTY INSURANCE CLAIMS; TO ALLOW FOR
THE CREATION OF A CAPTIVE INSURANCE COMPANY BY THE
STATE OF ARKANSAS; TO DECLARE AN EMERGENCY; AND FOR
OTHER PURPOSES.

Subtitle

TO CREATE A MORE SUSTAINABLE SYSTEM OF
PROPERTY INSURANCE FOR PUBLIC SCHOOLS,



1 STATE-SUPPORTED INSTITUTIONS OF HIGHER
2 EDUCATION, AND STATE-OWNED PROPERTY; AND
3 TO DECLARE AN EMERGENCY.
4

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
6

7 SECTION 1. DO NOT CODIFY. Cooperation by state entities with State
8 Captive Insurance Program.

9 The Insurance Commissioner, the State Insurance Department, the
10 Director of the Risk Management Division, the Secretary of the Department of
11 Transformation and Shared Services, the Division of Higher Education, the
12 Commission for Arkansas Public School Academic Facilities and Transportation,
13 the Department of Education, and the State Board of Finance shall cooperate
14 with the State Captive Insurance Program and coordinate to ensure proper and
15 effective coverage requirements and guidelines for all buildings, structures,
16 facilities, and business personal property owned by a public school, a state-
17 supported institution of higher education, or the state for the benefit of
18 the State Captive Insurance Program.
19

20 SECTION 2. DO NOT CODIFY. Transitional provisions for property
21 insurance programs transferring to State Captive Insurance Program – Transfer
22 of property insurance programs administered by Director of Risk Management
23 Division.

24 (a) The property insurance programs administered by the Director of
25 the Risk Management Division are transferred to the Department of
26 Transformation and Shared Services, and the programs' authority, duties,
27 functions, records, contracts, personnel, property, and unexpended balances
28 of appropriations, allocations, and other funds, including without limitation
29 the functions of budgeting or purchasing, are transferred to the State
30 Captive Insurance Program as it relates to the property insurance programs
31 only.

32 (b)(1) The Director of the Risk Management Division and the State
33 Insurance Department may continue to carry out the functions of the property
34 insurance programs until such time that the transfer of the property
35 insurance programs of the Department of Commerce - Division of Insurance -
36 Arkansas Multi-Agency Insurance Trust established under the Arkansas Multi-

1 Agency Insurance Trust Fund Act, § 25-35-101 et seq. and the Public School
2 Insurance Trust Fund established under the Public Elementary and Secondary
3 School Insurance Act, § 6-20-1501 et seq., from the State Insurance
4 Department to the Department of Transformation and Shared Services is
5 complete or November 30, 2025, whichever is earlier.

6 (2) The Secretary of the Department of Transformation and Shared
7 Services may extend the date by rule only for purposes of adjustment and
8 payment of claims, as set out in Section 26 of this act.

9 (c) The Insurance Commissioner and the Director of the Risk Management
10 Division shall cooperate with the State Captive Insurance Program to ensure
11 an efficient and timely transition of operations once the State Captive
12 Insurance Program begins operations to provide coverage for all buildings,
13 structures, facilities, and business personal property owned by a public
14 school, a state-supported institution of higher education, or the state for
15 the benefit of the State Captive Insurance Program.

16
17 SECTION 3. DO NOT CODIFY. Legislative findings and intent.

18 (a) The General Assembly finds that:

19 (1) The property insurance programs for public schools, state-
20 supported institutions of higher education, and state-owned properties are in
21 a state of crisis;

22 (2) In 2023, the General Assembly authorized supplemental
23 funding to send to public schools for the purpose of offsetting premium
24 increases for public schools without implementing long-term systemic and
25 structural reforms;

26 (3) In addition to the need for short-term action by the General
27 Assembly to avert the impending premium increases for public schools, the
28 General Assembly must take an active role in crafting a long-term solution to
29 ensure the stability of the property insurance programs for public schools,
30 state-supported institutions of higher education, and state-owned properties;

31 (4) Significant market adjustments in response to natural
32 disasters in this state and in this country have resulted in the need for the
33 General Assembly to restructure and combine the property insurance programs
34 for public schools, state-supported institutions of higher education, and
35 state-owned properties under the State Captive Insurance Program created by
36 this act and to inject additional money into the State Captive Insurance

1 Program to maintain the integrity of the State Captive Insurance Program by
2 offsetting premium increases for public schools, state-supported institutions
3 of higher education, and state-owned properties;

4 (5) The use of public adjusting by certain public schools has
5 caused an increase in property insurance premiums and a lack of viable
6 options on the insurance market for future years;

7 (6) Properties of state-supported institutions of higher
8 education have historically been undervalued, and including state-supported
9 institutions of higher education in the State Captive Insurance Program will
10 provide more attractive options for the State Captive Insurance Program on
11 the insurance market;

12 (7) Properties of state-supported institutions of higher
13 education will need to be reappraised by independent adjusters under the
14 State Captive Insurance Program to ensure proper valuation of properties;

15 (8) The continual evaluation of the State Captive Insurance
16 Program by the General Assembly is critical for:

17 (A) Maximizing the benefits to public schools, state-
18 supported institutions of higher education, and the state that are
19 participants in the State Captive Insurance Program; and

20 (B) Maintaining the continued viability of the State
21 Captive Insurance Program; and

22 (9) Accountability and transparency in the operation of the
23 State Captive Insurance Program are vital to a proper evaluation of the State
24 Captive Insurance Program.

25 (b) It is the intent of the General Assembly that:

26 (1) The property insurance programs for public schools, state-
27 supported institutions of higher education, and state-owned property are
28 restructured and combined for public schools, state-supported institutions of
29 higher education, and state-owned property under the State Captive Insurance
30 Program;

31 (2) Additional money shall be injected into the State Captive
32 Insurance Program to maintain the integrity of the State Captive Insurance
33 Program by managing risks for public schools, state-supported institutions of
34 higher education, and the state;

35 (3) Any additional funding provided for public schools or state-
36 supported institutions of higher education for purposes of property insurance

1 during the Regular Session of the 95th General Assembly be considered a one-
2 time infusion of money, not a permanent funding source;

3 (4) Funding will be calculated under the State Captive Insurance
4 Program with meaningful reforms that restore permanent stability and
5 actuarial soundness;

6 (5) The use of public adjusting is prohibited by public schools
7 and state-supported institutions of higher education under the State Captive
8 Insurance Program; and

9 (6) The Insurance Commissioner, the State Insurance Department,
10 the Director of the Risk Management Division, the Secretary of the Department
11 of Transformation and Shared Services, the Division of Higher Education, the
12 Commission for Arkansas Public School Academic Facilities and Transportation,
13 the Department of Education, and the State Board of Finance shall coordinate
14 to ensure proper and effective coverage requirements and guidelines for all
15 buildings, structures, facilities, and business personal property owned by a
16 public school, state-supported institution of higher education, or the state
17 for the benefit of the State Captive Insurance Program.

18 (c) The General Assembly intends this transfer to streamline the
19 delivery of property insurance coverage for all state-owned buildings, public
20 schools and state-supported institutions of higher education to promote
21 stability and fiduciary soundness for all structures covered and potential
22 claims.

23 (d)(1) The property insurance programs of the Department of Commerce -
24 Division of Insurance - Arkansas Multi-Agency Insurance Trust established
25 under the Arkansas Multi-Agency Insurance Trust Fund Act, § 25-35-101 et seq.
26 and the Public School Insurance Trust Fund established under the Public
27 Elementary and Secondary School Insurance Act, § 6-20-1501 et seq., shall be
28 transferred by cabinet-level department transfer under § 25-43-101 et seq.,
29 from the Department of Commerce to the Department of Transformation and
30 Shared Services no later than December 1, 2025, to provide for the operation
31 of the State Captive Insurance Program.

32 (2) The Department of Commerce and the Department of
33 Transformation and Shared Services shall coordinate the transfer to coincide
34 with the start date of the State Captive Insurance Program established under
35 § 25-44-103.

36 (e) The transfer of the statutory authority, powers, duties,

functions, records, personnel, property, contracts, and unexpended balances of appropriations, allocations, or other funds shall begin at the direction of the Chief Fiscal Officer of the State in cooperation with the Secretary of the Department of Commerce and the Secretary of the Department of Transformation and Shared Services on July 1, 2025, and shall be fully complete by December 1, 2026, for the establishment of the State Captive Insurance Program.

(f) The orders, rules, regulations, directives, or standards in this section shall continue with full force and effect until amended or repealed under authority given by law.

(g) The Department of Commerce shall grant access to and provide all information requested by the Department of Transformation and Shared Services to accomplish the transfer of the property insurance coverage from the Arkansas Multi-Agency Insurance Trust Fund and the Public School Insurance Trust Fund and the missions of these programs to the new State Captive Insurance Program.

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

6-20-1503. State Insurance Department – Powers and duties regarding cybersecurity risks insurance for public elementary and secondary schools.

It shall be the power and duty of the State Insurance Department to:

(1) Adopt such rules as may be necessary to provide for the insuring of public elementary and secondary school, education service cooperative, and open-enrollment public charter school ~~property~~ cybersecurity risks insurance within the State of Arkansas;

(2) Administer the Public School Insurance Trust Fund;

(3) Delegate responsibilities in connection with the administration of this subchapter to the Director of the Risk Management Division and the staff of the department;

(4)(A) Establish and administer a program of insurance to cover ~~buildings and contents~~ cybersecurity risks insurance of public school districts, education service cooperatives, and open-enrollment public charter schools of this state that have elected to participate in a multischool insurance program.

(B) The ~~programs~~ program shall be in accordance with recognized and established insurance practices;

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

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

(7)(A) Purchase insurance in compliance with all state purchasing laws from insurance companies authorized to do business in this state in keeping with recognized principles of good risk management.

(B) The director shall prescribe, from time to time, rules for placing and handling the insurance;

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

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

~~(10)~~(9) Perform all additional powers and duties necessary to maintain sound insurance underwriting practices recognized by good risk management;

~~(11)~~(10) Periodically review the status of the fund and the adequacy of insurance premium rates and compare these rates with rates for comparable risks for private insurance companies;

~~(12)~~(11) Confer with superintendents and boards of directors of school districts, the governing boards of education service cooperatives, and open-enrollment public charter schools concerning insurance practices of the various school districts, education service cooperatives, and open-enrollment public charter schools;

~~(13)~~(12) Promulgate rules for the administration of the ~~state~~ public school cybersecurity risks insurance program; and

~~(14)~~(13) Perform other duties that will expedite the operation of the Public Elementary and Secondary School Insurance Program.

SECTION 5. Arkansas Code § 6-20-1505 is amended to read as follows:
6-20-1505. Information to be furnished.

~~(a) The Director of the Risk Management Division of the State Insurance Department, with the approval of the Insurance Commissioner, shall require school district superintendents, county school supervisors, clerks, or governing boards of the education service cooperatives or open-enrollment~~

~~public charter schools to furnish the State Insurance Department a complete list showing the location of every school building sixty (60) days before entering the program and upon written request by the department.~~

(b) The ~~department~~ State Insurance Department shall have authority to require each school district, education service cooperative, or open-enrollment public charter school to furnish a complete report of its cybersecurity risks insurance program, including the expiration dates of its contracts, a history of losses, or any additional information required by the insurer.

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

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

~~(2) The department shall have authority to cancel or not renew insurance on any school property if the property is deemed no longer insurable.~~

~~(3) The department~~ may refuse to insure property insured for cybersecurity risks when it determines that the property does not meet program guidelines for cybersecurity risks insurance coverage.

(b) ~~In carrying out its duties pursuant to this section, the~~ The department may request and the affected school district shall provide any information requested for a determination concerning the reasons for ~~the~~ a denial, nonrenewal, or cancellation of cybersecurity risks insurance coverage.

SECTION 7. Arkansas Code § 6-20-1508 is amended to read as follows:
6-20-1508. ~~Appraisal and payment~~ Payment of losses.

~~(a)~~ In the event of loss of a school district, education service cooperative, or open-enrollment public charter school property under the Public Elementary and Secondary School Insurance Program, the Public School Insurance Trust Fund shall pay the loss as specified in the contract.

~~(b) When an agreement as to the extent of loss or damage cannot be reached between the State Insurance Department and officials having charge of the property, the amount of the loss or damage shall be determined by three~~

~~(3) appraisers, one (1) to be named by the department, one (1) by the school district, education service cooperative, or open enrollment public charter school governing board, and a third to be selected by the two (2) appointed appraisers, all of whom shall be disinterested persons and qualified from experience to appraise and value such property.~~

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

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

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

SECTION 8. Arkansas Code § 6-20-1513 is repealed.

~~6-20-1513. Bond obligations.~~

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

~~(b) The specific intent of this section is to ensure that policies issued by the Public Elementary and Secondary School Insurance Program include provisions required by existing school district bond contracts.~~

SECTION 9. Arkansas Code § 6-21-114(d) and (e), concerning authorized and required actions of the Commission for Arkansas Public School Academic Facilities and Transportation, is amended to read as follows:

(d) The commission shall:

(1) Oversee the operations of the Division of Public School Academic Facilities and Transportation;

(2)(A) Promulgate rules in consultation with the ~~Insurance Commissioner~~ Department of Transformation and Shared Services to establish property, boiler and machinery, and extended coverage insurance requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a school district.

(B) The rules promulgated by the commission under

subdivision (d)(2)(A) of this section shall:

(i) Attempt to provide the most cost-efficient manner for protecting each school district from loss of or damage to the school district's buildings, structures, facilities, and business personal property;

~~(ii) Require property, boiler and machinery, and extended coverage insurers to have a minimum A.M. Best rating;~~

~~(iii)~~ Establish bidding requirements and procedures, if applicable to any insurance coverage; ~~and~~

~~(iv)-(a)-(iii)(a)~~ Be binding upon each school district for any placement or renewal of insurance coverage after June 1, 2007.

(b) The state's financial participation under the Academic Facilities Partnership Program provided by § 6-20-2507 or the Academic Facilities Catastrophic Program provided by § 6-20-2508 may be withheld or reduced by the commission if a school district does not comply with the rules promulgated under subdivision (d)(2)(A) of this section; and

(iv) Require a public school district to be insured under the State Captive Insurance Program with respect to insurance coverage of the buildings, structures, facilities, and business personal property owned by the public school district in order to be eligible for the state's financial participation under the Academic Facilities Partnership Program under § 6-20-2507 and the Academic Facilities Catastrophic Program under § 6-20-2508; and

(3) Appoint all members of the Advisory Committee on Public School Academic Facilities.

(e) The commission may:

(1) Perform any act and provide for the performance of any function necessary or desirable to carry out the purposes of the Arkansas Public School Academic Facilities Program and any other related program;

(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

(B) The commission shall report to the Administrative Rules Subcommittee of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any proposed rule related to the administration of the Arkansas Public School Academic

Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq., or any other related program;

(3) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program; ~~and~~

(4) Study and promulgate rules in consultation with the department concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to:

~~(i) Earth~~ earth movement; ~~or~~

~~(ii) The operation of a school district's motor vehicles and buses;~~ and

(B) The appropriate amount of insurance coverage under this subdivision (e)(4); and

(5) Study and promulgate rules in consultation with the Insurance Commissioner concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to the operation of a school district's motor vehicles and buses; and

(B) The appropriate amount of insurance coverage under this subdivision (e)(5).

SECTION 10. Arkansas Code § 6-21-806 is amended to read as follows:

6-21-806. Academic Facilities Master Plan Program – School districts.

(a) The Academic Facilities Master Plan Program shall require each school district to:

(1) Develop a six-year districtwide facilities master plan that shall be approved by the school district's board of directors for submission to and approval by the Division of Public School Academic Facilities and Transportation and the Department of Transformation and Shared Services;

(2) Base its facilities master plan on ~~the provisions;~~

(A) Provisions of the Arkansas Public School Academic Facility Manual as adopted by the Commission for Arkansas Public School

1 Academic Facilities and Transportation,~~on priorities;~~

2 (B) Priorities indicated by statewide assessment,~~on~~
3 ~~priorities;~~

4 (C) Priorities established by the division statewide
5 facility needs priority list,~~and on other;~~

6 (D) Rules promulgated by the department as they relate to
7 requirements associated with public school district schedules for
8 maintenance, repair, and renovation activities in public school academic and
9 nonacademic facilities; and

10 (E) Other pertinent data specific to the needs of the
11 school district with regard to academic facilities and equipment;

12 (3) Present a draft of the school district's facilities master
13 plan in a public hearing in the same locality as the school district and take
14 public comments;

15 (4) Submit evidence of the school district's insurance coverage
16 to the division and the department, including coverage amounts, types of
17 coverage, identification of buildings covered, policy renewal dates, and all
18 riders;

19 (5) Submit the school district's facilities master plan with a
20 summary of comments made at public hearing to the division and the department
21 by February 1 of each even-numbered year;

22 (6) Submit a report to the division and the department by
23 February 1 of each odd-numbered year that includes a description of all
24 projects completed in the school district since the submission of the school
25 district's most recent facilities master plan, the school district's current
26 enrollment projections, new or continuing needs of the school district with
27 regard to academic facilities and equipment, and an accounting of any changes
28 in the school district's insurance coverage from the most recent submission;
29 and

30 (7)(A) Submit a report to the division and the department by
31 February 1 of each year that identifies:

32 (i) All unused or underutilized public school
33 facilities in the school district; and

34 (ii) The unused or underutilized public school
35 facilities, if any, that are designated in the district's facilities master
36 plan to be reused, renovated, or demolished as part of a specific committed

1 project or planned new construction project.

2 (B)(i) The division shall identify a public school
3 facility or other real property as an unused or underutilized public school
4 facility if the school district fails to identify in the report the public
5 school facility or other real property.

6 (ii) A school district may appeal an identification
7 made by the division under subdivision (a)(7)(B)(i) of this section to the
8 commission.

9 (b) A facilities master plan shall include, at a minimum, the
10 following:

11 (1) A schedule of custodial activities for each public school
12 facility used by a school district;

13 (2)(A) A schedule of maintenance, repair, and renovation
14 activities for each public school facility used by a school district, that
15 shall be based on the rules promulgated by the department.

16 (B) The schedule shall distinguish between work associated
17 with academic facilities and work associated with nonacademic public school
18 facilities;

19 (3)(A) Documentation that describes preventive maintenance work
20 for each public school facility as required by rules promulgated by the
21 department and identifies the completion date of the work.

22 (B) The documentation shall distinguish between preventive
23 maintenance work associated with academic facilities and preventive
24 maintenance work associated with nonacademic public school facilities;

25 (4)(A) Annual expenditures of the school district for all
26 custodial, maintenance, repair, and renovation activities in the school
27 district.

28 (B) The section of the facilities master plan pertaining
29 to the annual expenditures under subdivision (b)(4)(A) of this section shall
30 distinguish between expenditures associated with academic facilities and
31 expenditures associated with nonacademic public school facilities;

32 (5) A projected replacement schedule for major building systems
33 in each public school facility, that shall be based on the rules promulgated
34 by the department;

35 (6) Identification of issues with regard to public school
36 facility and program access to individuals with disabilities and, if

1 necessary, proposed methods for improving access;

2 (7)(A) Identification of committed projects within the school
3 district that includes, as applicable, a breakdown of the portion of each
4 project into maintenance, repair, and renovation activities and new
5 construction activities, that shall be based on the rules promulgated by the
6 department.

7 (B) The portion of a committed project pertaining to
8 maintenance, repair, and renovation activities shall identify, as applicable,
9 maintenance, repair, and renovation activities associated with academic
10 facilities and maintenance, repair, and renovation activities associated with
11 nonacademic public school facilities;

12 (8) Annual expenditures of the school district for capital
13 outlay;

14 (9) A description of planned new construction projects with cost
15 estimates for each public school facility within the school district and
16 needs prioritized as follows:

17 (A) Immediate needs that the school district intends to
18 address within three (3) years following the submission of the facilities
19 master plan; and

20 (B) Long-term needs that the school district intends to
21 address within the four (4) to six (6) years following the submission of the
22 facilities master plan;

23 (10) Evidence of the school district's insurance coverage,
24 including coverage amounts, types of coverage, identification of public
25 school facilities covered, policy renewal dates, and all riders; and

26 (11) An update in a format prescribed by the division of any new
27 public school facilities, as defined in § 6-21-803, constructed since the
28 last master plan submission, including individual room types and sizes.

29 (c) A consultation meeting between representatives of the school
30 district and members of the division and the department to discuss the
31 development of the school district's facilities master plan shall be held
32 upon request of the school district.

33 (d) The division and the department shall review and upon all
34 ~~requirements~~ requirements being met approve a school district's facilities
35 master plan no later than September 1 of each even-numbered year and shall
36 notify a school district no later than May 1 of each odd-numbered year

1 whether the school district's application for state financial participation
2 during the upcoming biennium in an eligible new construction project has been
3 approved.

4 (e)(1) A school district may amend its facilities master plans at any
5 time during the six-year cycle specified in § 6-21-803.

6 (2) An amendment may be submitted to the division and the
7 department out of the regular even-numbered year cycle if the school
8 district:

9 (A) Has encountered:

- 10 (i) A major enrollment change;
- 11 (ii) A major curriculum change;
- 12 (iii) A major disaster; or
- 13 (iv) An unforeseen occurrence; or

14 (B)(i) Has begun or completed a self-funded construction
15 project over which the division has only review authority.

16 (ii) An amendment submitted under subdivision
17 (e)(2)(B)(i) of this section may be submitted in the form of an appendix to
18 the existing school district facilities master plan.

19 (f) In addition to the rules promulgated by the commission as required
20 by § 6-21-804, the department, in consultation with the division, shall
21 promulgate rules regarding the following without limitation:

22 (1) The requirements associated with public school district
23 schedules for maintenance, repair, and renovation activities in public school
24 academic and nonacademic facilities, that shall be included in the Public
25 School Facilities Custodial, Maintenance, Repair, and Renovation Manual
26 required by § 6-21-808;

27 (2) Insurance coverage requirements, including without
28 limitation:

29 (A) Insurance coverage amounts; and

30 (B) Types of insurance coverage;

31 (3) Preventive maintenance work requirements for each public
32 school academic and nonacademic facility;

33 (4) Projected replacement schedule requirements for major
34 building systems in each public school academic and nonacademic facility; and

35 (5) A depreciation schedule for roofs and heating, ventilation,
36 and air conditioning systems.

SECTION 11. Arkansas Code § 10-3-320 is amended to read as follows:

10-3-320. ~~Employee Benefits Division~~ State Insurance Programs
Oversight Subcommittee – Definition.

(a) The Legislative Council shall establish by rule the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee, which shall have oversight of all decisions of the State Board of Finance related to the State and Public School Life and Health Insurance Program and the State Captive Insurance Program.

(b) The following decisions of the board pertaining to the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program shall be referred to the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee:

(1)(A) A new or significantly modified cost-containment measure.

(B) As used in this subdivision (b)(1), “cost-containment measure” means a process or practice of controlling and managing expenses of the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program by reducing or limiting the amount of spending required to administer the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program and remain within specific, preplanned budgetary constraints;

(2) Any change in plan options offered under the:

(A) ~~program~~ State and Public School Life and Health Insurance Program for state employees or public school employees; or

(B) State Captive Insurance Program for property owned by public schools, state-supported institutions of higher education, or the state;

(3) Potential funding changes to the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program;

(4) Any premium increases or decreases over the previous plan year;

(5) Any concern involving the reserve balance for ~~state employees or public school employees~~ the State and Public School Life and Health Insurance Program or the State Captive Insurance Program;

(6) Changes to the four-year projections for the ~~program~~ State

1 and Public School Life and Health Insurance Program or the State Captive
 2 Insurance Program;

3 (7) Changes that would limit, eliminate, or increase benefits of
 4 plan options offered under the ~~program~~ State and Public School Life and
 5 Health Insurance Program or the State Captive Insurance Program and the
 6 effect these changes would have on the fiscal viability of the ~~program~~ State
 7 and Public School Life and Health Insurance Program or the State Captive
 8 Insurance Program, including the reserve balance for ~~state employees or~~
 9 ~~public school employees~~ the State and Public School Life and Health Insurance
 10 Program or the State Captive Insurance Program;

11 (8) Changes that would limit, eliminate, or increase eligibility
 12 requirements for the ~~program~~ State and Public School Life and Health
 13 Insurance Program or the State Captive Insurance Program;

14 (9) Vendor issues or changes in vendors from the previous plan
 15 year;

16 (10) Proposed contracts or changes in contracts from the
 17 previous plan year;

18 (11) Any change in consultants from the previous plan year;

19 (12) Rules promulgated by the board, ~~or~~ by the Employee Benefits
 20 Division, or by the Secretary of the Department of Transformation and Shared
 21 Services regarding the implementation, administration, or enforcement of the
 22 ~~program~~ State and Public School Life and Health Insurance Program or the
 23 State Captive Insurance Program; and

24 (13) Such other matters related to the ~~program~~ State and Public
 25 School Life and Health Insurance Program or the State Captive Insurance
 26 Program as the ~~Employee Benefits Division~~ State Insurance Programs Oversight
 27 Subcommittee considers necessary to perform its oversight of all matters
 28 related to the ~~program~~ State and Public School Life and Health Insurance
 29 Program or the State Captive Insurance Program.

30 (c)(1) Except as provided in subdivision (c)(2) of this section, if a
 31 matter referred to the ~~Employee Benefits Division~~ State Insurance Programs
 32 Oversight Subcommittee under subsection (b) of this section would otherwise
 33 require review or approval, or both, by a subcommittee of the Legislative
 34 Council, the ~~Employee Benefits Division~~ State Insurance Programs Oversight
 35 Subcommittee shall serve as the subcommittee of the Legislative Council that
 36 performs the required review or approval, or both, of the matter.

(2) Proposed rules submitted to the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee under this section are not subject to approval by the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee but are submitted for review purposes only.

(d)(1) During a regular, fiscal, or extraordinary session of the General Assembly, the Joint Budget Committee shall perform the functions assigned to the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee.

(2) The Joint Budget Committee may establish a subcommittee to perform the functions of the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee that are assigned to the Joint Budget Committee under subdivision (d)(1) of this section.

SECTION 12. Arkansas Code Title 19, Chapter 3, Subchapter 7, is amended to add an additional section to read as follows:

19-3-706. Authority to establish and maintain captive insurance company.

(a) With the approval of the State Board of Finance under this section and notwithstanding § 23-63-1625, the Treasurer of State may establish, and the Secretary of the Department of Transformation and Shared Services shall maintain, a captive insurance company as defined in § 23-63-1601 to maintain the State Captive Insurance Program under the State Captive Insurance Program Act, § 25-44-101 et seq.

(b) The captive insurance company described under subsection (a) of this section is:

(1) Subject to § 23-63-1601 et seq. and other applicable laws and rules, whether or not adequate insurance markets are available to cover the risks, hazards, and liabilities described in this section;

(2) A separate legal entity, owned and controlled by the state, and shall insure only the losses, exposures, and risks of entities that are subject to insurance and self-insurance requirements under state law, including without limitation executive, legislative, and judicial branch state agencies, public schools, and state-supported institutions of higher education; and

(3) Administratively attached to the Department of Transformation and Shared Services for the purposes of administration and

1 personnel.

2 (c) Through the establishment of the captive insurance company
3 described under subsection (a) of this section, the board shall:

4 (1) Annually review and approve the captive insurance company's
5 actuarial plan;

6 (2) Periodically determine, reevaluate, and revise:

7 (A) The potential losses, exposures, and risks that will
8 be insured through the captive insurance company;

9 (B) The nature and scope of insurance coverage or
10 coverages to be provided through the captive insurance company;

11 (C) The method by which coverage or coverages are to be
12 extended and contributions are to be paid and collected, including without
13 limitation premiums and assessments;

14 (D) The amount of the exposure for each line of insurance
15 coverage as well as the premium amounts for each entity, including without
16 limitation public schools, state-supported institutions of higher education,
17 and the state;

18 (E) A process through which premiums may be collected
19 directly from each entity; and

20 (F)(i) The initial and continuing capital requirements to
21 form and maintain the captive insurance company, including without limitation
22 the amount and funding source for the initial and continuing capital.

23 (ii) Initial or continuing capital may be funded by
24 general revenues from the State Captive Insurance Program Trust Fund or other
25 sources allowable under applicable laws and rules;

26 (3)(A) Establish an investment policy for the investment and
27 reinvestment of capital, premiums, and other funds and assets of the captive
28 insurance company.

29 (B) The investment policy described under subdivision
30 (c)(3)(A) of this section may authorize the funds and assets to be invested
31 in a security, investment, or investment interest that is not otherwise
32 prohibited by Arkansas Constitution, Article 12, § 5.

33 (C) Collateral that is required to secure an investment or
34 investment interest authorized in the investment policy may be in the form of
35 a security, investment, or investment interest in which the funds and assets
36 of the captive insurance company may be directly invested, including cash;

1 (4) Approve regulatory filings to be made by the state on behalf
 2 of the captive insurance company in compliance with applicable laws and
 3 rules;

4 (5)(A) Delegate to the secretary the day-to-day operations and
 5 responsibilities of the captive insurance company and promulgation of rules
 6 to implement this section.

7 (B) The secretary shall implement the board directives and
 8 exercise the state's powers, duties, and responsibilities contained in this
 9 section to implement the captive insurance company.

10 (C) The secretary may assign duties and responsibilities
 11 to the secretary's staff or private vendors and contractors, as the secretary
 12 deems necessary and proper, and may consult with professionals as necessary
 13 about the administration of the captive insurance company.

14 (D) The secretary may also establish, implement, and adopt
 15 policies, guidelines, and operating procedures under this section and the
 16 board's delegation;

17 (6) Approve the dissolution of the captive insurance company
 18 with the prior approval of the Legislative Council or, if the General
 19 Assembly is in session, the Joint Budget Committee; and

20 (7) Perform other duties or actions necessary for the effective
 21 implementation, operation, and administration of the captive insurance
 22 company.

23
 24 SECTION 13. Arkansas Code § 19-5-1134 is amended to read as follows:
 25 19-5-1134. Public School Insurance Trust Fund.

26 (a) There is established on the books of the Treasurer of State, the
 27 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
 28 be known as the "Public School Insurance Trust Fund".

29 (b) The Public School Insurance Trust Fund shall consist of:

30 (1) A Permanent Insurance Reserve Fund, insurance premiums,
 31 adjustments, earnings, interest income, and the like, as provided by the
 32 Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq.,
 33 and the School Motor Vehicle Insurance Act, § 6-21-701 et seq.; and

34 (2) ~~All funds transferred from the former Public Elementary and~~
 35 ~~Secondary School Insurance Fund established under §§ 6-20-1510 [repealed] and~~
 36 ~~19-5-908 [repealed]; and~~

1 ~~(3)~~ All funds transferred from the former School Vehicle
 2 Insurance Reserve Trust Fund established under §§ 6-21-710 and ~~19-5-981~~
 3 ~~{repealed}~~.

4 (c)(1) The Public School Insurance Trust Fund shall be used for the
 5 operation, maintenance, and execution of the Public Elementary and Secondary
 6 School Insurance Program under the Public Elementary and Secondary School
 7 Insurance Act, § 6-20-1501 et seq., and the Public School Motor Vehicle
 8 Insurance Program under the School Motor Vehicle Insurance Act, § 6-21-701 et
 9 seq.

10 (2) No money shall be appropriated from the Public School
 11 Insurance Trust Fund for any purpose except for the use and benefit of the
 12 Public Elementary and Secondary School Insurance Program and the Public
 13 School Motor Vehicle Insurance Program.

14 (3) All funds received by the State Insurance Department in the
 15 administration of the Public Elementary and Secondary School Insurance
 16 Program and the Public School Motor Vehicle Insurance Program as premiums,
 17 adjustments, earnings, and the like:

18 (A) Shall be used for the following purposes, listed in a
 19 descending order of priority:

20 (i) To defray administrative costs;
 21 (ii) To pay claims; and
 22 (iii) To maintain the Public School Insurance Trust
 23 Fund; and

24 (B) May be invested and reinvested as the Insurance
 25 Commissioner may determine.

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

28 (5) All moneys deposited into the Public School Insurance Trust
 29 Fund shall not be subject to any deduction, tax, levy, or any other type of
 30 assessment.

31 ~~(d) The initial loan from the former Public Elementary and Secondary~~
 32 ~~School Insurance Fund as established by the Public Elementary and Secondary~~
 33 ~~School Insurance Act, § 6-20-1501 et seq., of one million five hundred~~
 34 ~~thousand dollars (\$1,500,000) to fund the former School Vehicle Insurance~~
 35 ~~Reserve Trust Fund established under the School Motor Vehicle Insurance Act,~~
 36 ~~§ 6-21-701 et seq., is cancelled.~~

1
2 SECTION 14. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
3 amended to add an additional section to read as follows:

4 19-5-1161. State Captive Insurance Program Trust Fund.

5 (a) There is created on the books of the Treasurer of State, the
6 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
7 be known as the "State Captive Insurance Program Trust Fund".

8 (b) The State Captive Insurance Program Trust Fund shall consist of
9 all funds transferred by the Department of Transformation and Shared Services
10 from the captive insurance company established under § 19-3-706 and any other
11 funds provided by law.

12 (c)(1) The State Captive Insurance Program Trust Fund shall be
13 administered by and disbursed at the direction of the state.

14 (2) Moneys shall not be appropriated from the State Captive
15 Insurance Program Trust Fund for any purpose except for:

16 (A) The use and benefit of the captive insurance company
17 established under § 19-3-706 for claims;

18 (B) Expenses of the captive insurance company established
19 under § 19-3-706, including without limitation actuarial fees, consultant
20 expenses, operating expenses, and service contract fees; and

21 (C) The personnel costs for the Department of
22 Transformation and Shared Services to support the captive insurance company
23 established under § 19-3-706.

24 (3) All moneys deposited into the State Captive Insurance
25 Program Trust Fund shall not be subject to any deduction, tax, levy, or any
26 other type of assessment.

27 (d)(1) There is created a reserve balance sub-fund in the State
28 Captive Insurance Program Trust Fund as authorized under § 25-44-105 with all
29 requirements as defined in that section.

30 (2) Funding allocated for operations and claims for the State
31 Captive Insurance Program shall not be considered part of the net legal
32 balance of the reserve balance sub-fund as described in § 25-44-105.

33
34 SECTION 15. Arkansas Code § 23-63-1614, concerning the premium tax
35 levied on captive insurers, is amended to add an additional subsection to
36 read as follows:

1 (k) This section does not apply to a captive insurance company
2 established under § 19-3-706 to administer a public elementary and secondary
3 school, state-supported institution of higher education, and state-owned
4 property insurance program.

5
6 SECTION 16. Arkansas Code Title 23, Chapter 63, Subchapter 16, is
7 amended to add an additional section to read as follows:

8 23-63-1625. Authority for expenditure of public funds.

9 The state or a political subdivision of the state may expend public
10 funds for the purchase of capital stock in a captive insurance company
11 established under § 19-3-706.

12
13 SECTION 17. Arkansas Code § 23-65-315 is amended to read as follows:

14 23-65-315. Tax on surplus lines brokers.

15 (a) ~~No~~ Except as otherwise provided in this section, no later than
16 sixty (60) days following the end of the calendar quarter in which surplus
17 lines insurance was procured, the surplus lines broker shall remit to the
18 Treasurer of State through the Insurance Commissioner a tax of four percent
19 (4%) on the direct premiums written, less return premiums and exclusive of
20 sums collected to cover state or federal taxes, on surplus lines insurance
21 subject to tax transacted by the surplus lines broker during the preceding
22 calendar quarter for the privilege of transacting business as a surplus lines
23 broker in this state.

24 (b) The commissioner may participate in a multistate agreement or
25 enter into a compact for the purpose of reporting, collecting, and
26 apportioning surplus lines insurance premium taxes.

27 (c) If a surplus lines insurance policy covers risks or exposures only
28 partially in this state and the commissioner has entered into an agreement
29 with other states for the apportionment of premium taxes for multistate
30 risks, the tax payable by the surplus lines broker shall be computed and paid
31 on the proportion of the premium that is properly allocable to the risks or
32 exposures located in this state according to the terms of the agreement.

33 (d) This section does not apply to a captive insurance company
34 established under § 19-3-706 to administer a public elementary and secondary
35 school, state-supported institutions of higher education, and state-owned
36 property insurance program.

SECTION 18. Arkansas Code § 25-35-102 is amended to read as follows:

25-35-102. Definitions.

For the purposes of this chapter:

(1) "Annual aggregate deductible" means the maximum amount payable annually from the Arkansas Multi-Agency Insurance Trust Fund for covered losses;

~~(2) "Insurance Commissioner" means the Insurance Commissioner of the State Insurance Department or the commissioner's successor;~~

~~(3)~~ "Risk manager" means the Administrator of the Risk Management Division of the State Insurance Department;

~~(4)~~(3) "State agency" means any state agency, board, bureau, commission, council, department, institution, or other similar entity; and

~~(5)~~(4) "Trust fund" means the Arkansas Multi-Agency Insurance Trust Fund.

SECTION 19. Arkansas Code § 25-35-103(b), concerning the purposes of the Arkansas Multi-Agency Insurance Trust Fund, is amended to read as follows:

(b) No money shall be appropriated from the Arkansas Multi-Agency Insurance Trust Fund for any purpose except to pay:

(1) Insurance and reinsurance premiums for a motor vehicle;

(2) Loss adjustment expenses;

(3) Related educational and training expenses;

(4) Insured claims falling below the annual aggregate deductible level;

(5) Expenses including actuarial, consultant, and service contract fees; and

(6) Cybersecurity risk insurance premiums and expenses.

SECTION 20. Arkansas Code § 25-35-104(a), concerning the agencies that are allowed to participate in the Arkansas Multi-Agency Insurance Trust Fund, is amended to read as follows:

(a) The following agencies shall participate in the Arkansas Multi-Agency Insurance Trust Fund:

~~(1) State agencies participating in the State Master Property~~

1 ~~Policy as of June 30, 2003;~~

2 ~~(2)~~ The Division of Correction;

3 ~~(3)(2)~~ The Division of Community Correction; ~~and~~

4 ~~(4)(3)~~ State agencies participating in the Arkansas State Master
5 Vehicle Policy as of June 30, 2003; and

6 (4) State agencies participating in the Arkansas Multi-Agency
7 Insurance Trust Cyber Liability Insurance Program as of June 30, 2025.
8

9 SECTION 21. Arkansas Code § 25-35-105(b), concerning the duties of the
10 risk manager of the State Insurance Department, is amended to read as
11 follows:

12 (b) At the discretion of the commissioner, the risk manager may:

13 (1) Enter into contracts;

14 (2) Purchase insurance and reinsurance in accordance with the
15 Arkansas Procurement Law, § 19-11-201 et seq.;

16 (3) Adjust, settle, and pay or deny claims with notice to a
17 claimant;

18 (4) Pay expenses and costs;

19 (5) Study the risks of all participating state agencies and
20 ~~properties their~~ the state agencies' motor vehicle or cybersecurity risk
21 insurance coverages;

22 (6) Promulgate the form for insurance and reinsurance policies
23 and other forms;

24 (7) Issue certificates of coverage to state agencies for any
25 risks covered by the trust fund;

26 (8) Make recommendations about risk management and risk
27 reduction strategies to participating state agencies;

28 ~~(9) Review participating state agency building construction,~~
29 ~~major remodeling plans, program plans, and make recommendations to the~~
30 ~~participating state agency about needed changes to address risk~~
31 ~~considerations;~~

32 ~~(10)~~ Utilize underwriting discretion and authority to deny
33 coverage of any risk deemed to adversely affect the financial stability of
34 the trust fund;

35 ~~(11) Establish values for participating state agency buildings~~
36 ~~and structures to be insured;~~

1 ~~(12)~~(10) Attend state agency planning and management meetings;
 2 ~~(13)~~(11) Review any proposed legislation and communicate with
 3 members of the General Assembly and legislative committees about the
 4 liability or risk management issues connected with any legislation; and
 5 ~~(14)~~(12) Solicit any needed information about state agency
 6 plans, state agency programs, or state agency risks necessary to perform the
 7 responsibilities under this chapter.

8
 9 SECTION 22. Arkansas Code § 25-35-107 is amended to read as follows:
 10 25-35-107. Payment of losses.

11 The risk manager shall establish:

12 (1) Appropriate policies and procedures governing the payment of
 13 losses from the Arkansas Multi-Agency Insurance Trust Fund, including notice
 14 or proof of loss by any participating state agency; and

15 (2) Policies and procedures governing disputes that may arise
 16 between the risk manager and any person having charge over the ~~property~~ motor
 17 vehicle or cybersecurity risk insurance in question concerning the extent of
 18 loss or damage.

19
 20 SECTION 23. Arkansas Code § 25-35-108 is repealed.

21 ~~25-35-108. Limits on use of risk management data as evidence.~~

22 ~~Notwithstanding any other provision of law, any report, recommendation,~~
 23 ~~survey, schedule, list, or data compiled, or action taken or not taken by or~~
 24 ~~at the request of the risk manager to identify, evaluate, or plan the safety~~
 25 ~~enhancement or risk reduction of any potential accident sites or other~~
 26 ~~hazards related to any entity covered by the Arkansas Multi-Agency Insurance~~
 27 ~~Trust Fund may not be admitted into evidence in any court or used for any~~
 28 ~~other purposes in any action for damages arising from any occurrence at a~~
 29 ~~location mentioned or addressed in the reports, recommendation, survey,~~
 30 ~~schedule, list, or data.~~

31
 32 SECTION 24. Arkansas Code Title 25, is amended to add an additional
 33 chapter to read as follows:

34
 35 CHAPTER 44

36 STATE CAPTIVE INSURANCE PROGRAM ACT

1
2 25-44-101. Title.

3 This chapter shall be known and may be cited as the "State Captive
4 Insurance Program Act".

5
6 25-44-102. Definitions.

7 As used in this chapter:

8 (1) "Cost-containment measure" means a process or practice of
9 controlling and managing expenses of the State Captive Insurance Program
10 established under § 19-5-706 by reducing or limiting the amount of spending
11 required to administer the program and remain within specific and preplanned
12 budgetary constraints;

13 (2) "Insured entity" means a public school or state agency
14 insured under this chapter;

15 (3)(A) "Public insurance adjuster" means:

16 (i) An individual who, for direct, indirect, or any
17 other compensation:

18 (a) Acts on behalf of an insured in
19 negotiating for or effecting the settlement of a claim or claims for loss or
20 damage under a policy of insurance coverage real or personal property; or

21 (b) On behalf of any other public insurance
22 adjuster, investigates, settles, or adjusts, advises, or assists an insured
23 with a claim or claims for loss or damage under any policy of insurance
24 covering real or personal property; or

25 (ii) An individual who advertises, solicits
26 business, or holds himself or herself out to the public as an adjuster of
27 claims for loss or damage under any policy of insurance covering real or
28 personal property.

29 (B) "Public insurance adjuster" does not mean an
30 individual employed by the State Captive Insurance Program or employed for
31 the benefit of the program;

32 (4) "Public school" means a public elementary school, a public
33 secondary school, an education service cooperative, an open-enrollment public
34 charter school, or a state-supported institution of higher education; and

35 (5) "State agency" means any state agency, board, bureau,
36 commission, council, department, division, institution, or other similar

1 entity.

2
3 25-44-103. State Captive Insurance Program – Creation – Mandatory
4 participation.

5 (a) There is established the State Captive Insurance Program.

6 (b) The program shall be a system of insurance provided by a captive
7 insurance company established under § 19-3-706 for public schools and state-
8 owned properties.

9 (c) If a public school or state agency with state-owned property
10 accepts a state appropriation for a facility, then the public school or state
11 agency with state-owned property shall participate in the program.

12
13 25-44-104. Department of Transformation and Shared Services – Powers
14 and duties regarding insurance for insured entities.

15 (a) Upon the State Board of Finance’s approval of the formation of the
16 captive insurance company described under § 19-3-706, the Secretary of the
17 Department of Transformation and Shared Services shall:

18 (1) Provide administrative support and employ staff to
19 implement, administer, and operate the captive insurance company;

20 (2) Facilitate the creation, implementation, or modification of
21 the insurance policy issued by the captive insurance company;

22 (3) Facilitate agreements between the captive insurance company
23 and other insurers and reinsurers;

24 (4)(A) Facilitate contracts, agreements, and procurements on
25 behalf of the captive insurance company to effectuate this chapter, including
26 without limitation contracting with financial consultants, investment
27 consultants, actuaries, auditors, accountants, brokers, adjusters, attorneys,
28 third-party administrators, and other contractors as necessary to carry out
29 the duties and responsibilities of establishing, implementing, and
30 administering the captive insurance company.

31 (B) Payment for expenses for these services may come from
32 the State Captive Insurance Program Trust Fund under § 19-5-1161 or the
33 assets of the captive insurance company;

34 (5) Prepare or assist in the preparation of financial statements
35 and reports of financial condition;

36 (6) Maintain or assist in maintaining accounting for the captive

1 insurance company;

2 (7) Ensure the captive insurance company's compliance with
3 applicable laws and rules;

4 (8) Perform other duties or actions necessary for the effective
5 implementation, operation, and administration of the captive insurance
6 company;

7 (9) Recommend a minimum reserve balance for the State Captive
8 Insurance Program Trust Fund;

9 (10) Enforce the prohibition of the employment of a public
10 adjuster by a public school that is utilizing the State Captive Insurance
11 Program;

12 (11) Coordinate with the Commission for Arkansas Public School
13 Academic Facilities and Transportation to ensure timely and proper
14 inspections of public schools participating in the program;

15 (12) Require every public school or state agency with state-
16 owned property to furnish to the secretary a complete list showing the
17 location of every building located on a public school or state agency's real
18 property; and

19 (13) Employ necessary adjusters, engineers, appraisers, and
20 other personnel required in the administration of this subchapter.

21 (b) Funds received by the captive insurance company shall be:

22 (1) Used exclusively for the purposes and activities stated in
23 this chapter; and

24 (2) Invested and reinvested in the name of the captive insurance
25 company according to the business plan that is submitted by the captive
26 insurance and approved by the State Insurance Department to ensure the
27 investments provide the greatest benefit for the captive insurance company.

28 (c) Notwithstanding any law to the contrary:

29 (1) A reserve balance remaining unexpended at the end of a
30 fiscal year in the captive insurance company's fund or account does not
31 revert to the General Revenue Fund Account, but is carried forward into the
32 subsequent fiscal year; and

33 (2) Interest accruing on investments and deposits of the captive
34 insurance company shall:

35 (A) Be credited to the captive insurance company's fund or
36 account;

1 (B) Not revert to the General Revenue Fund Account; and

2 (C) Be carried forward into the subsequent fiscal year.

3 (d)(1) The captive insurance company shall maintain a policy that is
4 consistent with the state's claims administration process under the Arkansas
5 Insurance Code and other applicable laws and rules related to the adjustment,
6 adjudication, and settlement of claims filed against the state.

7 (2) The granting or denial of claims filed pursuant to the
8 captive insurance company's policy shall be done according to the Arkansas
9 Insurance Code and other applicable laws and rules.

10 (e) The captive insurance company established under § 19-3-706 is
11 subject to:

12 (1) Applicable laws and rules that apply to captive insurers
13 under § 23-63-1601 et seq. and the applicable laws and rules governing the
14 captive insurance company's business structure unless specifically exempted;
15 and

16 (2) An annual audit by Arkansas Legislative Audit.

17 (f) The captive insurance company shall file annually a copy of the
18 examination performed by the State Insurance Department with the Legislative
19 Council or, if the General Assembly is in session, the Joint Budget
20 Committee.

21 (g) If the captive insurance company established under § 19-3-706
22 ceases to exist, then its assets remaining after its obligations and
23 liabilities have been satisfied or discharged shall pass to and become the
24 property of the Restricted Reserve Fund under § 19-5-1263.

25
26 25-44-105. Creation – Office of Property Risk.

27 (a) There is created within the Department of Transformation and
28 Shared Services the Office of Property Risk that shall administer the State
29 Captive Insurance Program.

30 (b) The program shall be administered by the Secretary of the
31 Department of Shared Services that shall employ a director and administrative
32 staff in such numbers as are necessary to carry out this subchapter.

33
34 25-44-106. Reserve balance – Funding mechanism established to maintain
35 reserve balance – Definition.

36 (a) As used in this section, "reserve balance" means the amount in a

1 fund that includes the existing balance, minus the claims that have been
2 incurred but not reported, case reserves, and unearned premium reserves for
3 each year for the State Captive Insurance Program.

4 (b)(1) Beginning on December 1, 2026, and annually thereafter, the
5 Secretary of the Department of Transformation and Shared Services shall take
6 any actions necessary to achieve and maintain an optimal reserve balance to
7 ensure the solvency of the program as actuarially determined and commensurate
8 with the insured exposure.

9 (2) As of December 1, 2025, an optimal reserve balance amount is
10 no less than fifty million dollars (\$50,000,000) or no more than seventy-five
11 million dollars (\$75,000,000).

12 (3) The secretary shall annually establish an optimal reserve
13 balance to ensure solvency of the program as actuarially determined and
14 commensurate with the insured exposure of the program with the approval of
15 the State Board of Finance and the Legislative Council or, if the General
16 Assembly is in session, the Joint Budget Committee.

17 (c) Annually by December 1, the secretary shall:

18 (1) Calculate the projected reserve balance for:

19 (A) The remaining calendar year; and

20 (B) The next three (3) calendar years;

21 (2) Determine whether the amount of revenue collected by the
22 secretary is projected to satisfy the optimal reserve balance for the program
23 established under subdivision (b)(1) of this section for the remaining
24 calendar year;

25 (3) Notify the board and the Legislative Council or, if the
26 General Assembly is in session, the Joint Budget Committee, of the projected
27 reserve balance for the remaining calendar year as described in subdivision
28 (c)(1)(A) of this section; and

29 (4) Submit for prior approval by the board and the Legislative
30 Council or, if the General Assembly is in session, the Joint Budget
31 Committee, his or her plan to achieve or maintain the optimal reserve
32 balance.

33 (d) If the secretary's determination under subdivision (c)(2) of this
34 section does not equal or exceed the acceptable reserve balance amount as
35 described in subdivision (b)(3) of this section, the secretary shall notify
36 the Legislative Council or, if the General Assembly is in session, the Joint

Budget Committee, of the need to convene to consider providing additional funding.

(e)(1) If during the Legislative Council's or, if the General Assembly is in session, the Joint Budget Committee's, review of the secretary's determination as required under subdivision (c)(4) of this section it is determined that additional funding is needed to maintain the acceptable reserve balance amount as described in subdivision (b)(3) of this section, the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, may:

(A) Recommend that the Governor call an extraordinary session of the General Assembly; or

(B) Take further action as may be appropriate.

(2) If the General Assembly fails to provide funding by March 1 following the Legislative Council's or, if the General Assembly is in session, the Joint Budget Committee's review, the secretary shall initiate a process to collect the required additional revenue from program participants through premium rate increases or reducing program benefits, or both, for the next plan year.

(f)(1) If the secretary determines that the reserve balance for the program will exceed seventy-five million dollars (\$75,000,000), the secretary may elect to use the excess reserve balance by lowering the premium rates for the next plan year with prior approval from the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(2) If the secretary does not elect to use the excess reserve balance in the manner prescribed under subdivision (f)(1) of this section, the secretary shall report to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, the reason for the secretary's decision not to use the excess reserve balance.

25-44-107. Accountability – Legislative oversight – Transparency – Annual reports – Definition.

(a) The Secretary of the Department of Transformation and Shared Services and the State Board of Finance shall report annually to the Legislative Council, or if the General Assembly is in session, the Joint Budget Committee, on the status of the State Captive Insurance Program.

(b) The annual report required under subsection (a) of this section

1 shall:

2 (1) Be known as the "State Captive Insurance Program Annual
3 Report";

4 (2) Be submitted to the Legislative Council or, if the General
5 Assembly is in session, the Joint Budget Committee, no later than thirty (30)
6 calendar days after the end of each plan year; and

7 (3) Include without limitation the following information
8 regarding the program:

9 (A) A detailed statement of investments and earnings;

10 (B) A new or significantly modified cost-containment
11 measure;

12 (C) Any change in plan options offered under the program;

13 (D) Potential funding changes to the program;

14 (E) Any premium increases or decreases over the previous
15 plan year;

16 (F) Any concern involving the reserve balance for the
17 program;

18 (G) Changes to the current calendar year projections and
19 the three-year projections for the program;

20 (H) Changes that would limit, eliminate, or increase
21 benefits of plan options offered under the program and the impact these
22 changes would have on the fiscal viability of the program, including the
23 reserve balance for the program;

24 (I) Changes that would limit, eliminate, or increase
25 eligibility requirements for the program;

26 (J) Vendor or broker issues or changes in vendors or
27 brokers from the previous year;

28 (K) Proposed contracts or changes in contracts from the
29 previous year;

30 (L) Any change in consultants from the previous year;

31 (M) Rules promulgated by the Department of Transformation
32 and Shared Services or the secretary regarding the implementation,
33 administration, or enforcement of the program; and

34 (N) Such other matters related to the program as the
35 Legislative Council considers necessary to perform its oversight of all
36 matters related to the program.

1
2 25-44-108. Finding of uninsurability – Effect.

3 (a)(1) The Secretary of the Department of Transformation and Shared
4 Services may maintain an inspection and engineering service designed to
5 reduce the hazards in buildings insured under the State Captive Insurance
6 Program.

7 (2) Upon review of the Legislative Council or, if the General
8 Assembly is in session, the Joint Budget Committee, the secretary may:

9 (A) Cancel or choose to not renew insurance on any insured
10 entity's property if the property is deemed no longer insurable; and

11 (B) Refuse to insure property when it determines that the
12 property does not meet program guidelines.

13 (b) In carrying out his or her duties under this section, the
14 secretary may request, and the insured entity shall provide, any information
15 requested for a determination concerning the reasons for the denial,
16 nonrenewal, or cancellation of insurance coverage.

17
18 25-44-109. Premium rate and payment.

19 (a) The premium rate established under this chapter shall be
20 actuarially determined and commensurate with the insured exposure.

21 (b) An insured entity shall make payment of the insured entity's
22 premium when demand is made as scheduled in the contract.

23 (c)(1) An insured entity that does not pay the premium when due shall
24 be charged a rate of interest at five percent (5%) per annum on all payments
25 due and unpaid on the policy issued.

26 (2) If an insured entity does not pay the premium due within
27 thirty (30) days, the insurance coverage may be canceled upon thirty (30)
28 days' notice.

29
30 25-44-110. Public insurance adjuster – Prohibited.

31 The use of a public insurance adjuster or any type of public adjusting
32 is prohibited by an insured entity under the State Captive Insurance Program.

33
34 25-44-111. Expeditious claims filing.

35 A claim made under the State Captive Insurance Program is required to
36 be filed no later than one (1) year after the loss is incurred.

1
2 SECTION 25. DO NOT CODIFY. Severability.

3 The provisions of this act shall be severable, and if any phrase,
4 clause, sentence, or provision is deemed unenforceable, the remaining
5 provisions of the act shall be enforceable.
6

7 SECTION 26. DO NOT CODIFY. Transitional provision for outstanding
8 claims.

9 (a) The Secretary of the Department of Transformation and Shared
10 Services shall promulgate rules to address the filing dates for a property
11 claim that is incurred but not reported under the Public Elementary and
12 Secondary School Insurance Act, § 6-20-1501 et seq. or the Arkansas Multi-
13 Agency Insurance Trust Fund Act, § 25-35-101 et seq., once the State Captive
14 Insurance Program is operational.

15 (b) At a date to be determined by the secretary by rule, a property
16 claim shall be adjusted and paid, under the:

17 (1) Public Elementary and Secondary School Insurance Act, § 6-
18 20-1501 et seq.; or

19 (2) Arkansas Multi-Agency Insurance Trust Fund Act, § 25-35-101
20 et seq.

21 (c)(1) The Arkansas School Boards Association shall be responsible for
22 a property claim that is incurred before the State Captive Insurance Program
23 is operational but has not been reported under the plan that is administered
24 by the Arkansas School Boards Association and the property claim shall be
25 adjusted and paid under the plan that is administered by the Arkansas School
26 Boards Association.

27 (2) The State Captive Insurance Program is not responsible for a
28 property claim that is incurred on the date determined by the secretary under
29 subsection (b) of this section that has not been reported under the plan that
30 is administered by the Arkansas School Boards Association.

31 (d) A property claim that is incurred on and after a date to be
32 determined by the secretary by rule shall be filed with the State Captive
33 Insurance Program.
34

35 SECTION 27. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that an instability in the property

insurance industry has led to increases in costs for public schools, state-supported institutions of higher education, and taxpayers for state-owned property; that these increases are not sustainable under the current system; that a new system for property insurance for public schools, state-supported institutions of higher education, and state-owned property is needed to alleviate the impact of high costs and provide a greater amount of certainty concerning costs; and that this act is immediately necessary because it establishes a new system for property insurance for public schools, state-supported institutions of higher education, and state-owned property to allow for better utilization of state resources and greater control to regulate costs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

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