

ENROLLED SENATE
BILL NO. 546

BY: ROBERTS of the SENATE

and

BENSON, DUNLAP, WEAVER, VAUGHN
(Ray) and MADDUX (Elmer) of the
HOUSE

AN ACT RELATING TO SCHOOLS AND STATE GOVERNMENT;

AMENDING SECTIONS 1 AND 2, CHAPTER 165, O.S.L. 1988
(70 O.S. SUPP. 1990, SECTIONS 5-117.5 AND 14-
108.1), AND 74 O.S. 1981, SECTIONS 1303, AS LAST
AMENDED BY SECTION 1, CHAPTER 244, O.S.L. 1990,
1304, AS LAST AMENDED BY SECTION 2, CHAPTER 244,
O.S.L. 1990, 1305, AS LAST AMENDED BY SECTION 5,
CHAPTER 318, O.S.L. 1989, SECTION 6, CHAPTER 318,
O.S.L. 1989, 1306, AS LAST AMENDED BY SECTION 3,
CHAPTER 244, O.S.L. 1990, SECTION 8, CHAPTER 165,
O.S.L. 1988, AS LAST AMENDED BY SECTION 24, CHAPTER
337, O.S.L. 1990, SECTION 18, CHAPTER 165, O.S.L.
1988, AS LAST AMENDED BY SECTION 9, CHAPTER 244,
O.S.L. 1990, AND 1320, AS LAST AMENDED BY SECTION
10, CHAPTER 244, O.S.L. 1990, SECTION 6, CHAPTER
370, O.S.L. 1989, SECTIONS 7 AND 8, CHAPTER 370,
O.S.L. 1989, AS AMENDED BY SECTIONS 11 AND 12,
CHAPTER 244, O.S.L. 1990, AND SECTION 9, CHAPTER
370, O.S.L. 1989, AS AMENDED BY SECTION 3, CHAPTER
244, O.S.L. 1990 (74 O.S. SUPP. 1990, SECTIONS
1303, 1304, 1305, 1305.1, 1306, 1308.1, 1316.3,
1320, 1342, 1343, 1344 AND 1345), WHICH RELATE TO
EDUCATION EMPLOYEE HEALTH INSURANCE PLANS AND THE
STATE AND EDUCATION EMPLOYEES GROUP INSURANCE ACT;
MODIFYING TYPE OF HEALTH INSURANCE PLAN THAT SCHOOL
DISTRICTS ARE REQUIRED TO PROVIDE FOR DISTRICT

EMPLOYEES AND CERTAIN FUTURE RETIREES; REQUIRING CERTAIN FUTURE RETIREES AND TEACHERS' RETIREMENT SYSTEM TO PAY CERTAIN AMOUNTS OF PREMIUM RATES; MODIFYING STANDARDS FOR ALTERNATIVE INSURANCE BENEFITS; PLACING NO REQUIREMENT ON SCHOOL DISTRICTS TO PAY PREMIUMS FOR EMPLOYEES OR EMPLOYEE DEPENDENTS; PROHIBITING SCHOOL DISTRICTS FROM OFFERING CERTAIN INSURANCE TO CERTAIN PERSONS AND PAYING FOR CERTAIN PREMIUMS UNDER CERTAIN CONDITIONS; MODIFYING CERTAIN DATES FOR CERTAIN ELECTIONS; CLARIFYING PROVISIONS; MODIFYING LEAVE TIME PERIOD FOR WHICH CERTAIN EMPLOYEES ARE ELIGIBLE TO CONTINUE INSURANCE COVERAGE; MODIFYING MEMBERSHIP ON AND DUTIES AND AUTHORITY OF STATE AND EDUCATION EMPLOYEES GROUP BOARD; MODIFYING CERTAIN COVERAGE TO COMPLY WITH CERTAIN RULES; DELETING OBSOLETE LANGUAGE; AUTHORIZING CERTAIN SUPPLEMENTAL INSURANCE PLANS; CREATING THE JOINT LIAISON COMMITTEE FOR STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BENEFITS; PROVIDING FOR MEMBERSHIP AND ORGANIZATION; PROVIDING POWERS AND DUTIES; MODIFYING CERTAIN DATES FOR CERTAIN EMPLOYERS TO PARTICIPATE IN CERTAIN HEALTH BENEFIT PLANS REGARDLESS OF PREEXISTING CONDITIONS; DELETING CERTAIN RESTRICTIONS ON WITHDRAWING FROM CERTAIN PLANS; ELIMINATING MANDATORY PARTICIPATION REQUIREMENTS AND RELATED WITHDRAWAL RIGHTS FOR CERTAIN BENEFIT PLANS; PROVIDING PARTICIPATION REQUIREMENT FOR CONTINUATION BY CERTAIN PERSONS IN CERTAIN BENEFIT PLANS; DELETING CERTAIN EMPLOYMENT REQUIREMENTS; AUTHORIZING ADDITIONAL UNCLASSIFIED PERSONNEL AND ESTABLISHING CERTAIN EMPLOYMENT

REQUIREMENTS; MODIFYING CERTAIN DEFINITION AND
CONFORMING LANGUAGE TO REFLECT CHANGE; AND
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 165, O.S.L. 1988 (70 O.S. Supp. 1990, Section 5-117.5), is amended to read as follows:

Section 5-117.5 A. Beginning October 1, 1991, the board of education of each school district in this state shall provide a health insurance plan for the employees of the school district. School districts may obtain health and dental insurance coverage as provided for in the State and Education Employees Group Insurance Act or may obtain other health insurance coverage. Any school district that does not participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act by October 1, 1991, shall obtain health insurance coverage for the employees which provides open enrollment and, if the school district provides other health insurance coverage pursuant to the provisions of paragraph 1 of subsection B of Section 168 of Title 51 of the Oklahoma Statutes, shall provide for the continuation of health insurance coverage, including supplemental Medicare insurance coverage, for those district employees who retire from said district after September 30, 1991 with a vested benefit in the Teachers' Retirement System of Oklahoma. A retired person who begins receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1991, who retires from a school district that provides other health insurance coverage pursuant to the provisions of paragraph 1 of subsection B of Section 168 of Title 51 of the Oklahoma Statutes, and who elects to continue said health insurance coverage shall pay the premium rate for the health insurance minus an amount equal to the premium rate of the Medicare supplement or Seventy-five Dollars (\$75.00), whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the health insurance coverage provider.

B. A school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act shall not be required to pay any portion of the premiums for the employees or the dependents of the employees of said school district. Unless a school district negotiates an agreement with its employees regarding health insurance pursuant to Sections 509.1 through 509.9 of this title, and to the extent that the agreement provides for the members of the recognized bargaining unit, a school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act is prohibited from acquiring additional or supplemental health or dental insurance for any board member, school superintendent or any other employee which is not available to all employees of said district, and said school district shall not pay a greater portion of the employee or dependent premium for any health or dental insurance plan or plans provided by said school district on behalf of any board member, school superintendent or employee than that portion paid on behalf of all participating employees of said district.

C. If a school district obtains health insurance coverage from a source other than through the State and Education Employees Group Insurance Act, the employees of the school district who would be eligible to participate in the health and dental plans may, beginning October 1, 1991, require the board of education of the school district to call an election to allow said employees to vote as to whether the school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the school district, the board of education shall call an election for the purpose of determining whether the school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the board of education of the school district shall apply for such participation within thirty (30) days of the election.

D. If a school district does not have any health insurance coverage of the type required by this section as of September 30, 1991, that school district shall be enrolled in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act on October 1, 1991.

SECTION 2. AMENDATORY Section 2, Chapter 165, O.S.L. 1988 (70 O.S. Supp. 1990, Section 14-108.1), is amended to read as follows:

Section 14-108.1 A. Beginning October 1, 1991, the board of education of each area vocational-technical school district in this state shall provide a health insurance plan for the employees of the area vocational-technical school district. Area vocational-technical school districts may obtain health and dental insurance coverage as provided for in the State and Education Employees Group Insurance Act or may obtain other health insurance coverage. Any area vocational-technical district that does not participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act by October 1, 1991, shall obtain health insurance coverage for the employees which provides open enrollment and, if the area vocational-technical school district provides other health insurance coverage pursuant to the provisions of paragraph 1 of subsection B of Section 168 of Title 51 of the Oklahoma Statutes, shall provide for the continuation of health insurance coverage, including supplemental Medicare insurance coverage, for those district employees who retire from said district after September 30, 1991 with a vested benefit in the Teachers' Retirement System of Oklahoma. A retired person who begins receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1991, who retires from an area vocational-technical school district that provides other health insurance coverage pursuant to the provisions of paragraph 1 of subsection B of Section 168 of Title 51 of the Oklahoma Statutes, and who elects to continue said health insurance coverage shall pay the premium rate for the health insurance minus an amount equal to the premium rate of the Medicare supplement or Seventy-five Dollars (\$75.00), whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the health insurance coverage provider.

B. An area vocational-technical school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act shall not be required to pay any portion of the

premium for the employees or the dependents of the employees of said school district. Unless a school district negotiates an agreement with its employees regarding health insurance pursuant to Sections 509.1 through 509.9 of this title, and to the extent that the agreement provides for the members of the recognized bargaining unit, an area vocational-technical school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act is prohibited from acquiring additional or supplemental health or dental insurance for any board member, area school superintendent or any other employee which is not available to all employees of said district, and said school district shall not pay a greater portion of the employee or dependent premium for any health or dental insurance plan or plans provided by said school district on behalf of any board member, area school superintendent or employee than that portion paid on behalf of all participating employees of said district.

C. If an area vocational-technical school district obtains health insurance coverage from a source other than through the State and Education Employees Group Insurance Act, the employees of the area vocational-technical school district who would be eligible to participate in the health and dental plans may, beginning October 1, 1991, require the board of education of the area vocational-technical school district to call an election to allow said employees to vote as to whether the school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the area vocational-technical school district, the board of education shall call an election for the purpose of determining whether the area vocational-technical school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the board of education of the area vocational-technical school district shall apply for such participation within thirty (30) days of the election.

D. If an area vocational-technical school district does not have any health insurance coverage of the type required by this section as of September 30, 1991, that area vocational-technical school district shall be enrolled in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act on October 1, 1991.

SECTION 3. AMENDATORY 74 O.S. 1981, Section 1303, as last amended by Section 1, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1303), is amended to read as follows:

Section 1303. For the purposes of and as used in this act:

- (a) "Board" means the State and Education Employees Group Insurance Board as created by this act;
- (b) "Employee" means those state employees, education employees and other eligible employees participating in the State and Education Employees Group Insurance Act;
- (c) "Education Employee" means those employees other than adjunct professors employed by a state institution of higher education, in the service of an education entity who are members or are or will be eligible to become members of the Teachers' Retirement System of Oklahoma and who receive compensation for such service after the education entity begins to participate in the State and Education Employees Group Insurance Act and visiting

faculty who are not eligible for membership in the Teachers' Retirement System of Oklahoma;

(d) "Adjunct Professor" means a person employed by an institution of higher education who is attached in a subordinate or temporary capacity to the faculty or staff, and who is contracted to instruct in a given specific discipline;

(e) "Visiting Faculty" means a person employed by an institution of higher education who is not eligible for academic rank or tenure, other than an adjunct professor, and who is contracted to instruct in a given specific discipline generally not to exceed one (1) academic year;

(f) "Education Entity" means a school district, an area vocational-technical school district, an institution comprising The Oklahoma State System of Higher Education or the office of the county superintendent of schools;

(g) "State Employee" means and includes each officer or employee in the service of the State of Oklahoma who, after January 1, 1966, received his compensation for service rendered to the State of Oklahoma on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of the state or who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Treasurer against appropriations made by the Legislature from any state fund or against trust funds held by the State Treasurer, who is employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours per year, and whose employment is not seasonal or temporary, except that a person elected by popular vote will be considered an employee during his tenure in office. Provided however, that employees who are otherwise eligible who are on approved leave without pay shall be eligible to continue coverage during such leave not to exceed twenty-four (24) months, as provided in the Merit Rules for Employment published by the Office of Personnel Management, from the date the employee goes on such leave provided the employee pays the full premiums due or persons who are drawing disability benefits under Section 1331 et seq. of this title or meet each and every requirement of the State Employees Disability Program shall be eligible to continue coverage provided the person pays the full premiums due;

(h) "Carrier" means the State of Oklahoma or a state designated Health Maintenance Organization (HMO). Such HMO shall be a federally qualified Health Maintenance Organization under 42 U.S.C., Section 300e et seq.;

(i) "Health Insurance Plan" means a self-insured plan by the State of Oklahoma for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan or prepaid medical plan(s) offered to employees as an alternative to the state-administered plan by federally qualified HMOs which have contracted with the state;

(j) "Life Insurance Plan" means a self-insured plan for the purpose of paying death and dismemberment benefits up to the maximum coverage provided by said plan;

(k) "Dental Insurance Plan" means a self-insured plan by the State of Oklahoma for the purpose of paying the cost of dental care up to the maximum coverage provided by said plan;

(l) "Other insurance" means any type of coverage other than basic hospital and medical benefits, major medical benefits, comprehensive benefits, life insurance benefits or dental insurance benefits, which the Board may be directed to offer;

(m) "Dependent" means an employee's spouse and any unmarried child (1) under the age of nineteen (19) years, regardless of residence, providing that the employee is primarily responsible for their support, including (a) an adopted child and (b) a stepchild or

child who lives with the employee in a regular parent-child relationship, or (2) under the age of twenty-three (23) and who is dependent upon the employee for support who is enrolled as a full-time student at an accredited secondary school, college, university or institution of higher learning accredited by the State Department of Education, State Board of Vocational and Technical Education, State Regents for Higher Education or the Oklahoma Board of Private Schools, and (3) regardless of age who is incapable of self-support because of mental or physical incapacity that existed prior to his reaching the age of nineteen (19) years;

(n) "Comprehensive benefits" means benefits which reimburse the expense of hospital room and board, other hospital services, certain out-patient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, physicians' services provided by house and office calls, treatments administered in physicians' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care and such other benefits as may be determined by the Board. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by the Board; and

(o) "Life insurance coverage" shall include a maximum amount of basic life insurance or benefit with or without a double indemnity provision and an amount of accidental death and dismemberment insurance or benefit per employee other than education employees to be provided by the State of Oklahoma, and the employee other than an education employee shall have the option to purchase additional life insurance or benefits on his life up to the amount provided by the plan. The Board may also extend dependent life insurance in an amount to be determined by the Board to each insured employee other than an education employee who elects to insure his eligible dependents. Premiums for the dependent life insurance shall be paid wholly by the employee other than an education employee.

SECTION 4. AMENDATORY 74 O.S. 1981, Section 1304, as last amended by Section 2, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1304), is amended to read as follows:

Section 1304. (1) There is hereby created the State and Education Employees Group Insurance Board which shall consist of seven (7) members as follows: The State Insurance Commissioner, two members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President Pro Tempore of the Senate. The appointed members shall each receive compensation of Five Hundred Dollars (\$500.00) per month. Appointed members who fail to attend a regularly scheduled monthly meeting of the Board shall not receive the related monthly compensation. In the event an appointed member does not attend at least seventy-five percent (75%) of the regularly scheduled monthly meetings of the Board during a calendar year, the appointing authority may remove said member. A member may also be removed for any other cause as provided by law. A vacancy in the office of the appointed member shall be filled for the unexpired term of office in the same manner as the original appointment.

(2) The initial term of office of the members appointed by the Governor shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(3) The initial term of office of one of the members appointed each by the Speaker of the House of Representatives and by the

President Pro Tempore of the Senate shall be for the period ending June 30, 1992. The initial term of office of the other member appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1994. Thereafter, the term of office of the members appointed by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be four (4) years.

(4) The appointed members shall:

(a) have demonstrated professional experience in investment or funds management, public funds management, public or private group health or pension fund management, or group health insurance management; or

(b) be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

(c) be licensed by the Oklahoma State Board of Public Accountancy to practice in this state as a public accountant or a certified public accountant.

In making appointments that conform to the requirements of this subsection, at least one (1) but not more than two (2) members shall be appointed each from paragraphs (b) and (c) of this subsection by the combined appointing authorities.

(5) No appointed member of the State and Education Employees Group Insurance Board shall be a lobbyist registered in this state as provided by law, a health care provider, a plan participant, be employed, directly or indirectly, by any insurance company or carrier, or health care provider, or be employed directly or indirectly, by any firm under contract to the Board for any goods or services whatsoever.

(6) The State and Education Employees Group Insurance Board shall not be subject to the provisions of the Oklahoma Sunset Law.

(7) The Attorney General shall furnish the Board with legal representation.

(8) The Court Administrator shall designate grievance panel members as shall be necessary. The members of the grievance panel shall consist of two attorneys licensed to practice law in this state and one state licensed health care professional or health care administrator who has at least three (3) years practical experience, has had or has admitting privileges to a State of Oklahoma hospital, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in their career. The state health care professional shall be appointed by the Governor.

(9) The Board shall at its first meeting elect one of its members as chairman. He shall preside over meetings of the Board and perform such other duties as may be required by the Board.

(10) The Board shall elect another member to serve as vice-chairman who shall perform the duties of the chairman in the absence of the latter or upon his inability or refusal to act.

(11) The Board shall also elect a secretary who shall keep minutes of all meetings and who shall certify to actions of the Board.

(12) The Board shall adopt rules and regulations requiring payment for medical and dental services and treatment rendered by duly licensed hospitals, physicians and dentists.

(13) The State and Education Employees Group Insurance Board will not have the authority to enter into a contract with out-of-state providers in connection with any PPO or hospital or medical network plan; provided however, said Board may process medical claims in catastrophic or emergency situations by (1) eliminating any per confinement deductible and (2) allowing covered medical expense up to usual and prevailing charges. These exceptions will only be allowed according to rules defined by the Board and by prior approval as to catastrophic illness expenses.

(14) The Board shall contract with the Oklahoma Medical Center for the provision of its services, on the same basis as other hospitals and providers in the state network, provided however the Board shall have discretion to reduce the co-payment and the deductibles up to fifty percent (50%) at the Oklahoma Medical Center, and its medical staff. For purposes of this subsection, the phrase "Oklahoma Medical Center" shall be limited to the Oklahoma Memorial Hospital, the Children's Hospital of Oklahoma, the O'Donaghue Rehabilitation Institute, and the George Nigh Rehabilitation Institute.

(15) The Administrator shall appoint an advisory committee to the State and Education Employees Group Insurance Board. The advisory committee shall consist of seven (7) members. Of the members appointed to the advisory committee, at least one member must be an active state employee, at least one member must be a retired state employee, at least one member must be an active education employee, at least one member must be a retired education employee, and at least one member must be either an active county employee or a retired county employee.

SECTION 5. AMENDATORY 74 O.S. 1981, Section 1305, as last amended by Section 5, Chapter 318, O.S.L. 1989 (74 O.S. Supp. 1990, Section 1305), is amended to read as follows:

Section 1305. (1) The Board shall hold regular meetings at least once each quarter in Oklahoma City, the date, time, and place thereof to be fixed by the Board. The Board shall in July of each year hold a regular meeting which shall be the annual meeting, at which meeting it shall elect its officers.

(2) Special meetings may be called upon written notice of the chairman or by agreement of any five members of the Board. Notice of a special meeting shall be delivered to all members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

(3) A majority of the members of the Board shall constitute a quorum for the transaction of business, and any official action of the Board must have a favorable vote by a majority of the members of the Board present.

(4) The members shall be reimbursed for their expenses, according to the State Travel Reimbursement Act, as are incurred in the performance of their duties, which shall be paid from the Health Insurance Reserve Fund. No Board member shall be individually or personally liable for any action of the Board.

(5) The members of the Board, the Administrator and the employees of the Board shall not accept gifts or gratuities from an individual organization with a value in excess of Fifty Dollars (\$50.00) per year. The provisions of this section shall not be construed to prevent the members of the Board, the Administrator or the employees of the Board from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

SECTION 6. AMENDATORY Section 6, Chapter 318, O.S.L. 1989 (74 O.S. Supp. 1990, Section 1305.1), is amended to read as follows:

Section 1305.1 (1) The State and Education Employees Group Insurance Board shall discharge their duties with respect to the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act solely in the interest of said Acts and:

(a) for the exclusive purpose of:

(i) providing benefits to the participants and their dependents, and

(ii) defraying reasonable expenses of administering the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) by diversifying investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) in accordance with the laws, documents and instruments governing the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act.

(2) The monies received by the State and Education Employees Group Insurance Board shall be invested only in assets eligible for the investment of funds of legal reserve life insurance companies in this state as provided for in Sections 1602 through 1611, 1613 through 1620, and 1622 through 1624 of Title 36 of the Oklahoma Statutes. The term admitted assets shall mean the amount of the monies received by the Board and the provisions relating to limitation of investments as a percentage of surplus and loans to policyholders shall be inapplicable with respect to investment of the monies received by the Board.

(3) The Board may procure insurance indemnifying the members of the Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board.

(4) The Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board appointed by the chairman of the Board. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of the Board, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board nor take effect without the approval of the Board as provided by law.

(5) The Board shall retain qualified investment managers to provide for the investment of the monies received by the Board. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. Subject to the overall investment guidelines set by the Board, the investment managers shall have full discretion in the management of those monies of the Board allocated to the investment managers. The Board shall manage those monies not specifically allocated to the investment managers. The monies of the Board allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

(6) Funds and revenues for investment by the investment managers or the Board shall be placed with a custodian selected by the Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a

competitive bid basis pursuant to standards set by the Board. In compliance with the investment policy guidelines of the Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Board are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the Board as to the investment of the monies of the Board in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

(7) By November 1, 1989, and prior to August 1 of each year thereafter, the Board shall develop a written investment plan for the monies received by the Board.

(8) The Administrator shall compile a quarterly financial report of all the funds of the Board on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the State Insurance Commissioner for all domestic insurance companies. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall be distributed to the Governor, the Legislative Service Bureau and the Joint Committee on Fiscal Operations.

SECTION 7. AMENDATORY 74 O.S. 1981, Section 1306, as last amended by Section 3, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1306), is amended to read as follows:

Section 1306. (1) The Board shall administer and manage the group insurance plans and the flexible benefits plan and, subject to the provisions of the State and Education Employees Group Insurance Act, Section 1301 et seq. and the State Employees Flexible Benefits Act, Section 1341 et seq. of this title, shall have the following powers and duties:

(a) The preparation of specifications for such insurance plans as the Board may be directed to offer;

(b) The authority and duty to request bids through the Purchasing Division of the Office of Public Affairs, for a contract to be the claims administrator for all or any part of such insurance and benefit plans as the Board may be directed to offer;

(c) The determination of the methods of claims administration under such insurance and benefit plans as the Board may be directed to offer;

(d) The determination of the eligibility of employees and their dependents to participate in each of the Group Insurance Plans and in such other insurance and benefit plans as the Board may be directed to offer and the eligibility of employees other than education employees to participate in the Life Insurance Plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;

(e) The determination of the amount of employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;

(f) The establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such

grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, Sections 301 through 325 of Title 75 of the Oklahoma Statutes including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense;

(g) The continuing study of the operation of such insurance and benefit plans as the Board may be directed to offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;

(h) The administration of the Health, Dental and Life Insurance Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the Education Employees Group Insurance Reserve Fund;

(i) The auditing of the claims paid pursuant to the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

(j) To select and contract with federally qualified Health Maintenance Organizations under the provisions of 42 U.S.C., Section 300e et seq. for consideration by employees as an alternative to the state self-insured health plan, and to transfer to the HMOs such funds as may be approved for an employee electing HMO alternative services;

(k) To assess and collect reasonable fees from such contracted and federally qualified HMOs to offset the costs of administration;

(l) To contract for re-insurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board;

(m) The Board, pursuant to the provisions of Sections 301 through 325 of Title 75 of the Oklahoma Statutes, shall adopt such rules and regulations consistent with the provisions of the State and Education Employees Group Insurance Act as it deems necessary to carry out its statutory duties and responsibilities;

(n) The Board shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board may be directed to offer. No contract for claims administration services shall be made unless such contract has been offered for bids through the Purchasing Division of the Office of Public Affairs. By July 1, 1991, the Board shall contract with a private insurance carrier or other experienced claims administrator to process claims with software that is normally used for its customers;

(o) The Board shall contract for utilization review services with a company experienced in utilization review, data base evaluation, market research, and planning and performance of the health insurance plan;

(p) The Board shall approve the amount of employee premiums and dependent premiums for such insurance plans as the Board shall be directed to offer for each fiscal year no later than December 1 of the previous fiscal year. The Board shall submit notice of the amount of employee premiums and dependent premiums along with an actuarial projection of the upcoming fiscal year's enrollment, employee contributions, employer contributions, investment earnings, paid claims, internal expenses, external expenses and changes in liabilities to the Director of the Office of State Finance and the Director of the Legislative Services Bureau no later than December 1 of the previous fiscal year. The actuarial projection shall include and disclose an estimate of the future trend of medical costs, the

impact from HMO enrollment, antiselection, changes in law, and other contingencies that could impact the financial status of the plan;

(q) The Board shall establish a prescription drug card network for the fiscal year beginning July 1, 1990.

(r) The Board shall have the authority to intercept monies owing to plan participants from other state agencies, when those participants in turn, owe money to the Board. The Board shall be required to adopt rules and regulations ensuring the participants due process of law.

(s) The Board is authorized to make available to eligible employees supplemental health care benefit plans to include but not be limited to long-term care, deductible reduction plans and employee co-payment reinsurance. Premiums for said plans shall be actuarially based and the cost for such supplemental plans shall be paid by the employee.

(t) There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on State and Education Employees Group Insurance Benefits, which Joint Committee shall consist of three members of the Senate to be appointed by the President Pro Tempore thereof and three members of the House of Representatives to be appointed by the Speaker thereof. The Chairman and Vice Chairman of the Joint Committee shall be appointed from the membership thereof by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, one of whom shall be a member of the Senate and the other shall be a member of the House of Representatives. At the beginning of the first regular session of each Legislature, starting in 1991, the Chairman shall be from the Senate; thereafter the chairmanship shall alternate every two (2) years between the Senate and the House of Representatives.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall function as a committees of the State Legislature when the Legislature is in session and when the Legislature is not in session. Each appointed member of said committee shall serve until his or her successor is appointed.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefit shall serve as a liaison with the State and Education Employees Group Insurance Board regarding advice, guidance, policy, management, operations, plans, programs and fiscal needs of said Board. Said Board shall not be bound by any action of the Joint Committee.

SECTION 8. AMENDATORY Section 8, Chapter 165, O.S.L. 1988, as last amended by Section 24, Chapter 337, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1308.1), is amended to read as follows:

Section 1308.1 (1) An educational entity may extend the benefits of the health insurance plan, the dental insurance plan, and the life insurance plan to education employees employed by said entity. Notwithstanding the provisions of Section 1308.2 of this title, a period shall exist for enrolling education entities from April 1, 1989 through October 1, 1991, whereby education employees of a participating education entity may be enrolled, pursuant to this act, during the entities' initial enrollment period, regardless of preexisting conditions. The Board shall adopt rules and regulations for enrollment by which education entities may apply to participate in said insurance plans. Once an education entity becomes a participant in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the education entity may withdraw from said participation, in a manner prescribed by the Board. If a school district is participating in the health and dental insurance plans pursuant to the State and Education Employees Group Insurance Act, the employees of the school district who are eligible to participate in the health and dental plans, at such time as the school district may withdraw

from such participation, may require the board of education of the school district to call an election to allow said employees to vote as to whether the school district shall continue participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the school district, the board of education shall call an election for the purpose of determining whether the school district shall continue participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to continue participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the board of education shall be prohibited from withdrawing the school district from such participation. If a majority of those eligible employees voting at the election vote against continued participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the board of education of the school district shall apply to discontinue such participation within thirty (30) days of the election and within the times the school district is authorized to withdraw from participation in accordance with rules established for withdrawal by the State and Education Employees Group Insurance Board.

(2) Except as otherwise provided in this subsection, when an education entity participates in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, all employees shall be advised of Health Maintenance Organizations prepaid plans available as an alternative to the state self-insured health insurance plan. Eligible part-time education employees, at the option of the employee, may enroll in the plans either at the time the education entity begins participation in the plans or, if later, upon a showing of insurability to the satisfaction of the Board.

(3) Any employee of an education entity participating in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act who is employed after the education entity began said participation may be enrolled in the health and dental insurance plans or HMO plans approved by the Board on the first day of the second month of employment.

(4) Upon initial enrollment of an institution of higher education to participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, all individuals presently insured by said institution's present group health insurance plan shall become enrolled in said state plans for the remaining period of said institution's contractual liabilities.

(5) Education employees who shall be absent from the teaching service because of election or appointment as a local, state, or national education association officer shall be allowed to retain coverage pursuant to the State and Education Employees Group Insurance Act upon the payment of the full cost of the coverage at the rate and under such terms and conditions established by the Board.

SECTION 9. AMENDATORY Section 18, Chapter 165, O.S.L. 1988, as last amended by Section 9, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1316.3), is amended to read as follows:

Section 1316.3 (1) Any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma or who is employed with a qualifying employer prior to July 1, 1990, and terminates service with a vested benefit, pursuant to the provisions

of the Teachers' Retirement System of Oklahoma may continue in force the health and dental insurance benefits authorized by the provisions of the State and Education Employees Group Insurance Act or may begin the health and dental insurance coverage if the education entity of the person is not a participant in the State and Education Employees Group Insurance Act or if the person did not participate when the education entity of the person participated in the State and Education Employees Group Insurance Act if such election to continue in force or begin is made within thirty (30) days from the date of termination of service. All persons who are members or are eligible to be members of the Teachers' Retirement System of Oklahoma and who commence employment with a qualifying employer on or after July 1, 1990, must have a total of at least fifteen (15) years of credited service with a qualifying employer before they may continue to participate in the health and dental insurance plan following termination of employment. For those persons who retired or terminated service with a vested benefit from the Teachers' Retirement System of Oklahoma prior to October 1, 1988, the election shall be made prior to October 1, 1989. Health and dental insurance coverage may not be reinstated at a later time if the election to continue in force or begin coverage is declined. Such vested persons who have terminated service and are not receiving pension benefits shall pay up to the full cost of said insurance at the rate and pursuant to the terms and conditions established by the Board.

(2) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, is under sixty-five (65) years of age and pursuant to subsection (1) of this section elects to begin or to continue the health insurance plan shall pay the premium rate for the health insurance minus an amount equal to the premium rate of the medicare supplement or Seventy-five Dollars (\$75.00), whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (5) of this section.

(3) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, made contributions to the system and is sixty-five (65) years of age or older, and is a participant in the State and Education Employees Group Insurance Act shall have the premium rate of the medicare supplement, which includes prescription drugs, or Seventy-five Dollars (\$75.00), whichever is less paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (5) of this section. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the medicare supplement, the retired person shall pay to the Board the remaining amount if the retired person wants to continue the coverage.

(4) If a person retires and begins to receive benefits from the Teachers' Retirement System of Oklahoma or terminates service and has a vested benefit with the Teachers' Retirement System of Oklahoma, the person may elect, in the manner provided in subsection (1) of this section, to participate in the dental insurance plan offered through the State and Education Employees Group Insurance Act. The person shall pay the full cost of the dental insurance.

(5) Those persons who are receiving benefits from the Teachers' Retirement System of Oklahoma and have health insurance coverage which on the operative date of this section is being paid by the education entity from which the person retired shall make the election required in subsection (1) of this section within thirty (30) days of the termination of said health insurance coverage. The person making the election shall give the Board certified documentation satisfactory to the Board of the termination date of the other health insurance coverage.

(6) Dependents of a deceased education employee who was on active work status or on a disability leave at the time of death or of a participating retirant or of any person who has elected to receive a vested benefit under the Teachers' Retirement System of Oklahoma may continue the health and dental insurance benefits in force provided said dependents pay the full cost of such insurance and they were covered as eligible dependents at the time of such death and such election is made within thirty (30) days of date of death. The eligibility for said benefits shall terminate for the surviving spouse when said spouse remarries or becomes eligible for another group health insurance plan. The eligibility for said benefits shall terminate for the surviving children when said children cease to qualify as dependents.

(7) The amounts required to be paid by the Teachers' Retirement System of Oklahoma pursuant to this section shall be forwarded no later than the tenth day of each month following the month for which payment is due by the Board of Trustees of the Teachers' Retirement System of Oklahoma to the State and Education Employees Group Insurance Board for deposit in the Education Employees Group Insurance Reserve Fund.

(8) Notwithstanding any provision in this section to the contrary, any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma after June 30, 1995, or terminates service with a vested benefit, pursuant to the provisions of the Teachers' Retirement System of Oklahoma after June 30, 1995 may continue to participate in the health and dental plans authorized by the provisions of the State and Education Employees Group Insurance Act only if said person participated in said insurance plans for a period of at least three (3) consecutive years immediately prior to retirement or termination of service.

SECTION 10. AMENDATORY 74 O.S. 1981, Section 1320, as last amended by Section 10, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1320), is amended to read as follows:

Section 1320. A. The Board is authorized to hire and appoint an administrator who shall be in the unclassified service.

The Board may hire a director of internal audit and attorneys licensed to practice law in this state, which positions shall be in the unclassified service. Attorneys hired by the Board shall have not less than five (5) years of experience in matters related to the insurance industry. The Board shall directly supervise the duties of the director of internal audit, and shall not delegate said supervision to the Administrator or any other employee of the Board. In addition to duties assigned by the Board, the director of internal audit is authorized to audit all records of health providers and pharmacists who enter into any contract with the Board in order to ensure compliance with said contract provisions.

B. The administrator shall employ such persons as are necessary to administer the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act. The administrator shall hire two (2) deputy administrators, and seven (7) assistant administrators, which positions shall be in the unclassified service. The administrator or one of the deputy administrators shall have not less than seven (7) years of group health insurance administration experience on a senior managerial level.

C. The Board shall not contract for private legal counsel except for extraordinary situations other than normal day to day situations, and when approved by the Attorney General. The Board may contract with a nonemployee consulting actuary, a nonemployee medical consultant and a nonemployee dental consultant subject to competitive bid at least every three (3) years. The Board may contract with health care providers for a level of reimbursement for the payment of claims incurred by the plan participants. The Board

may at its request use the services of the office of the Attorney General and the actuarial services of any actuary employed by the State Board for Property and Casualty Rates and may also seek the advice and counsel of the Insurance Commissioner of the State of Oklahoma or any employee of the Insurance Commissioner's office.

SECTION 11. AMENDATORY Section 6, Chapter 370, O.S.L. 1989 (74 O.S. Supp. 1990, Section 1342), is amended to read as follows:

Section 1342. As used in the State Employees Flexible Benefits Act:

1. "Board" means the State and Education Employees Group Insurance Board;
2. "Flexible benefits plan" means a written plan providing benefits to eligible employees which meets the requirements of Title 26, Section 125 et seq. of the Internal Revenue Code of the United States and regulations promulgated thereunder;
3. "Employee" means any person eligible to participate in the State and Education Employees Group Insurance Act or an employee of the Oklahoma Employment Security Commission. "Employee" shall not include a person who is an employee of the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education or any person who is an employee of any school district or political subdivision of this state;
4. "Employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution or statutes, but shall not include the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, any school district, or political subdivision of the state; and
5. "Salary adjustment agreement" means a written agreement between an eligible employee and an employer whereby the employer agrees to adjust the salary of the employee by a stated amount or an amount equal to the cost of benefits selected under a flexible benefits plan and the employer agrees to contribute such amount to cover certain costs of the benefits selected by the eligible employee.

SECTION 12. AMENDATORY Section 7, Chapter 370, O.S.L. 1989, as amended by Section 11, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1343), is amended to read as follows:

Section 1343. The Board shall retain qualified agencies, persons or entities to design, develop, communicate, implement or administer the state employees flexible benefits plan. The Board shall solicit proposals on a competitive bid basis for such agencies, persons or entities according to the standards set out in the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes. When requested by the Board, the Office of Public Affairs shall assist the Board in the process of selecting contracts for the design, development, communication or implementation of the state employees flexible benefits plan.

When awarding a contract for services pursuant to this subsection, the Board shall satisfy itself that the contractor has no interests which would impair its ability to perform the tasks and services required and that the contractor will exercise independent judgment when performing its responsibilities under the act and under the agreement.

SECTION 13. AMENDATORY Section 8, Chapter 370, O.S.L. 1989, as amended by Section 12, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1344), is amended to read as follows:

Section 1344. A. The Board shall establish a flexible benefits plan. All state employers as defined in Section 1342 of this title shall offer the flexible benefits plan to employees.

B. Expenses included in an employee's salary adjustment agreement pursuant to the flexible benefits plan shall be limited to expenses for:

1. Dependent health insurance pursuant to the provisions of Section 1309 of Title 74 of the Oklahoma Statutes;
2. Insurance premiums or retirement plan premiums or payments which are supplemental to insurance or retirement programs offered by the State of Oklahoma or which are paid for under salary adjustment agreements pursuant to the provisions of paragraph 1 or 2 of subsection D of Section 7.10 of Title 62 of the Oklahoma Statutes;
3. Dependent care;
4. Medical care as defined by the Board; or
5. All other eligible programs offered under Title 26, Section 125 et seq. of the Internal Revenue Code of the United States.

C. The amount by which an employee's salary is adjusted pursuant to a salary adjustment agreement shall be excluded from income in computation of income tax withholding, unemployment payments and workers' compensation coverage. Such amount shall be included as income in computation of state retirement contributions and benefits. Provided, if the inclusions and exclusions provided in this subsection conflict with the provisions of federal law or regulations pertaining to flexible benefits plans, the Board is authorized to modify or abolish such inclusions and exclusions.

D. The Administrator of the State and Education Employees Group Insurance Board with approval of the Board shall promulgate rules, regulations and procedures as necessary for implementation and administration of the flexible benefits plan.

E. The Administrator of the State and Education Employees Group Insurance Board under the direction of the Board shall contract with one or more private firms or organizations to administer the flexible benefits plan. The contract shall be made at no cost to any employee of the State of Oklahoma.

F. All employers shall begin offering the flexible benefits plan to employees not later than January 1, 1990.

SECTION 14. AMENDATORY Section 9, Chapter 370, O.S.L. 1989, as amended by Section 13, Chapter 244, O.S.L. 1990 (74 O.S. Supp. 1990, Section 1345), is amended to read as follows:

Section 1345. In the event that federal law, through legislation or through ruling of the United States Internal Revenue Service, provides that Social Security (FICA) and unemployment (FUTA) taxes shall be due and payable on any amount by which an employee's salary is reduced pursuant to a salary adjustment agreement, the State Employees Flexible Benefits Act shall cease to be effective. In such event, payroll deductions may be made for expenses included in an employee's salary adjustment agreement pursuant to procedures established by the Board.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.