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STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

3RD CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 483 By: Monson of the Senate

and

Roberts of the House

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to health; amending Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994, 1302, 1303, as amended by Section 54, Chapter 239, O.S.L. 1993, 1304, as last amended by Section 3, Chapter 359, O.S.L. 1993, 1305.1, 1306, as last amended by Section 15, Chapter 10, O.S.L. 1993, 1308, 1309, 1310.1, 1311.1, 1312, 1312.1, 1312.2, 1314.2, 1314.3, 1315, as amended by Section 5, Chapter 359, O.S.L. 1993, 1316.1, 1316.2, 1316.3, as amended by Section 6, Chapter 359, O.S.L. 1993, 1320, as amended by Section 17, Chapter 400, O.S.L. 1992, 1342, as last amended by Section 7, Chapter 359, O.S.L. 1993, 1343, 1344, Section 2, Chapter 163, O.S.L. 1992, as amended by Section 18, Chapter 400, O.S.L. 1992, Section 2, Chapter 400, O.S.L. 1992, as amended by Section 8, Chapter 359, O.S.L. 1993, Section 3, Chapter 400, O.S.L. 1992, as last amended by Section 32, Chapter 2, O.S.L. 1994, Section 4, Chapter 400, O.S.L. 1992, as amended by Section 23, Chapter 322, O.S.L. 1993, Section 5, Chapter 400, O.S.L. 1992, as amended by Section 10, Chapter 359, O.S.L. 1993, Section 6, Chapter 400, O.S.L. 1992, Section 7, Chapter 400, O.S.L. 1992, Section 8, Chapter 400, O.S.L. 1992, Section 10, Chapter 400, O.S.L. 1992, as amended by Section 1, Chapter 221, O.S.L. 1993, Section 11, Chapter 400, O.S.L. 1992, as amended by Section 11, Chapter 359, O.S.L. 1993, and Section 12, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, Sections 840-2.10, 1303, 1304, 1306, 1315, 1316.3, 1320, 1342, 1348, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1370, 1371 and 1372), which relate to the Oklahoma State and Education Employees Group Insurance Act, the Oklahoma State Employees Benefits Act,

and the Employee Assistance Program; transferring the Employee Assistance Program; clarifying certain terms; defining terms; determining eligibility; deleting certain obsolete references; requiring certain financial information; changing certain reporting times; providing for annual open enrollment; providing for premium payment; transferring authority to the Council; allowing rural water districts to participate; consolidating retirement references; extending certain deadlines; allowing certain positions; providing for direct plan marketing; allowing certain restrictions; providing for consideration of selection criteria; collecting certain fees; exemption from Central Purchasing; providing for certain expenditures; standardizing benefit plans; requiring certain liaisons; providing for recodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-2.10), is amended to read as follows:

Section 840-2.10 A. ~~There is hereby created a~~ Effective July 1, 1995, the State Employee Assistance Program ~~within~~ shall be transferred from the Office of Personnel Management to the Oklahoma State Employees Benefits Council. The program may provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance. The program may also provide for assessment and referral assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems. Participation in the State Employee Assistance Program shall be on a voluntary basis. Said transfer shall include any personnel and equipment assigned to the program.

B. The ~~Administrator~~ Director of the ~~Office of Personnel Management~~ State Employee Assistance Program is hereby directed to:

1. Promulgate rules necessary for the administration of the State Employee Assistance Program and the maintenance and release of participant records;

2. Conduct training specific to the State Employee Assistance Program; and

3. Establish evaluation methods to assess the effectiveness of the State Employee Assistance Program.

C. Nothing in this act is intended to nullify any agency's existing employee assistance program or to prohibit any state agency from establishing its own employee assistance program; provided, however, such programs established by state agencies shall be subject to compliance with rules promulgated by the ~~Administrator~~ Director of the ~~Office of Personnel Management~~ State Employee Assistance Program to ensure equitable treatment of employees.

D. Records that relate to participation by an individual in the State Employee Assistance Program or an employee assistance program established by a state agency shall be maintained separate and apart from regular personnel records and shall not become part of an employee's personnel file. Such records relating to an individual's participation in an employee assistance program shall be confidential and not subject to subpoena unless a participant poses a threat to deliberately harm himself or others. Such determination shall be made by an Employee Assistance Program Professional. A participant in an employee assistance program shall have a right of access to his or her own employee assistance program records.

E. No provision of this act or the rules promulgated pursuant to this act shall be construed to conflict with an appointing authority's responsibility and authority to maintain discipline or to take disciplinary measures against employees for misconduct or unacceptable performance. Further, participation or nonparticipation in any state employee assistance program shall not excuse an employee from discipline or otherwise affect the terms and conditions of such employee's employment status or opportunities for advancement with the state.

F. ~~1. There is hereby created the Employee Assistance Program Advisory Council to assist in the implementation of the state's employee assistance program. The Council shall advise the Administrator on policy issues and provide support to expand and improve program services that are available to state employees and their families.~~

~~2. The Employee Assistance Program Advisory Council shall consist of the current nine (9) members who shall continue to hold their current positions through June 30, 1995. Effective July 1, 1995, three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the President Pro Tempore of the Senate. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy in office shall be filled by the individual who made the initial appointment. The Council shall select a chair and vice-chair from among its membership. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.~~

~~3. Members of the Council shall receive no compensation for serving on the Council, but shall receive necessary travel reimbursement by the employing agency for members who are state employees or appointing authorities of agencies pursuant to the State Travel Reimbursement Act. Any member employed in state government shall receive the reimbursement from their employing entity. Members who are not employed in state government shall receive travel reimbursement from the Office of Personnel Management.~~

~~4. The Council shall not have authority to adopt rules pursuant to the Administrative Procedures Act.~~

~~G. The Legislature and the judicial branch of state government may utilize the services of the State Employee Assistance Program at their discretion.~~ The executive director of

the Council shall employ and fix the compensation of a Director of the State Employee Assistance Program. The Program shall employ not to exceed four (4) full-time-equivalent personnel as deemed necessary for the proper administration of the duties and functions of the Program. Said program personnel authorized in this section shall be in addition to those full-time-equivalent personnel described in Section 3601 of this title.

G. There is hereby created in the State Treasury a revolving fund for the State Employee Assistance Program, to be designated the "State Employee Assistance Program Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies except appropriated monies received by the State Employee Assistance Program. The fund shall also include all monies transferred from the Oklahoma State and Education Employees Group Insurance Board. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Employee Assistance Program for the purpose of paying the costs incurred in performing the duties and functions imposed upon the State Employee Assistance Program by law.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 1302, is amended to read as follows:

Section 1302. It is hereby declared that the purpose of this act is:

(a) To provide uniformity in Accident and Health Insurance and/or Benefits Coverage and Life Insurance on all employees ~~of the State of Oklahoma~~;

(b) To enable the state to attract and retain qualified employees by providing health, dental and life insurance benefits similar to those commonly provided in private industry;

(c) To recognize and protect the state's investment in each permanent employee by promoting and preserving good health and longevity among state employees;

(d) To recognize the service to the state by elected and appointed officials by extending to them the same health, dental and life insurance benefits as are provided herein for state employees;

(e) To recognize long and faithful service, and to encourage employees to remain in state service until eligible for retirement by providing health, dental and life insurance benefits for employees; and

(f) To ensure state compliance with the Health Maintenance Organization Act of 1973 pursuant to 42 U.S.C., Section 300e et seq.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 1303, as amended by Section 54, Chapter 239, O.S.L. 1993 (74 O.S. Supp. 1994, 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 or an institution comprising The Oklahoma State System of Higher Education;

(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.~~ and Education Employees Group Insurance Board;

(i) "Health Insurance Plan" means a self-insured plan offered by the State ~~of Oklahoma~~ and Education Employees Group Insurance Board for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan ~~or~~ and any prepaid medical ~~plan(s)~~ plan offered by the State and Education Employees Group Insurance Board to employees as an alternative to the ~~state-administered~~ self-insured 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~~ and Education Employees Group Insurance Board 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~~ twenty-five (25), who is dependent upon the employee for support, and 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. Such basic life insurance benefits, with or without double indemnity, and accidental death and dismemberment benefits shall not exclude coverage for death or dismemberment resulting from war, insurrection or riot. 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~~;

(p) "Eligibility" means the determination:

(i) for purposes of supplemental life insurance:

(A) during the initial offering, whether an employee or his dependents with regard to the supplemental life plan meet the underwriting

guidelines as adopted by the Board to protect the financial assets of the plan, and

(B) during the annual open enrollment period in which an employee or his dependents first elect to purchase supplemental life insurance or increases the amount of a prior election, whether the employee or his dependents with regard to the supplemental life plan meet the underwriting guidelines as adopted by the Board to protect the financial assets of the plan, and

(C) during the annual open enrollment period in which an employee or his dependents renew a prior election to purchase supplemental life insurance, whether the employee or his dependents meet the underwriting guidelines as adopted by the Board to protect the financial assets of the plan shall be specifically excluded from this definition, or

(ii) for purposes of health and dental insurance:

(A) during the annual open enrollment period in which an employee or his dependents first elect to purchase health and dental insurance, whether the Board may provide for preexisting condition exclusions to protect the financial assets of the plan for an employee or his dependents with regard to the health and dental plans. Noting however that any person eligible to begin coverage in a comprehensive benefits plan pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title shall not be subject to a preexisting condition exclusion if the person was continuously covered under a previous comprehensive group benefits plan, was eligible to use military medical facilities, or was eligible to use Indian health services medical facilities, and

(B) during the annual open enrollment period in which an employee or his dependents renew a prior election to purchase health or dental insurance, whether the Board may provide for preexisting condition exclusions to protect the financial assets of the plan for the employee or his dependents shall be specifically excluded from this definition;

(q) "Council" means the Oklahoma State Employees Benefits Council; and

(r) "Initial offering" refers only to the employee and his or her dependents first opportunity to participate in the plans offered under this act.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 1304, as last amended by Section 3, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1994, 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 eight (8) members as follows: The State Insurance Commissioner, or his or her designee who shall be an employee of the Insurance Department, the Director of the Office of State Finance, 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~~ 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 three (3) 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. Provided however, if an appointed member

of the Board was a plan participant of any insurance plans offered by the Board at the time he or she was appointed to serve as a member of the Board, and the appointed member of the Board forfeited participation in the insurance plans in order to serve on the Board, the member of the Board may resume participation in said insurance plans upon leaving the Board.

(6) The State and Education Employees Group Insurance Board shall not be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title.

(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 may enter into a contract with out-of-state providers in connection with any PPO or hospital or medical network plan which

shall include, but not be limited to, special care facilities and hospitals outside the borders of the State of Oklahoma. The contract for out-of-state providers shall be identical to the in-state provider contracts.

(14) The Board shall contract with the Oklahoma Medical Center and the George Nigh Rehabilitation Institute for the provision of their 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 the George Nigh Rehabilitation Institute, and their medical staffs. 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 Child Study Center.

(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.

The advisory committee shall have the duty of developing and monitoring statistical measurements relating to all aspects of the plans offered by the State and Education Employees Group Insurance Board. Upon request by the advisory committee, the Board shall provide the advisory committee any and all information available to the Oklahoma State and Education Employees Group Insurance Board members.

SECTION 5. AMENDATORY 74 O.S. 1991, 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~~ 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 Board shall include in the quarterly financial report all commissions, fees or payments for investment services performed on behalf of the Board. The report shall be distributed to the Governor, the Legislative Service Bureau and the Joint Committee on Fiscal Operations.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 1306, as last amended by Section 15, Chapter 10, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1306), is amended to read as follows:

Section 1306. (1) The State and Education Employees Group Insurance 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, and 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 Department of Central Services 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~~ as provided ~~that evidence of insurability shall not be a requirement in determining an employee's initial eligibility~~ in subsection (p) of Section 1303 of this title;

(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~~ 250.2 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)~~ (f) 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)~~ (g) 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)~~ (h) 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) (1) To select and contract with federally qualified Health Maintenance Organizations under the provisions of 42 U.S.C., Section 300e et seq. or with Health Maintenance Organizations licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes 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.~~

~~(2) HMO contracts shall provide for a risk adjustment factor for adverse selection, that may occur as determined by the Board, based on generally accepted actuarial principles;~~

~~(k)~~ (i) For the fiscal year beginning July 1, 1992, to assess and collect ~~a four percent (4%) fee~~ two percent (2%) of the premiums received from such ~~contracted~~ HMOs as the Council may contract with for coverage for retirees, education employees, and their dependents, to offset the costs of administration~~, and to appropriate and pay to the Benefits Council Administration Fund an amount equal to fifty~~. Fifty percent (50%) of ~~said~~ this fee

~~within ten (10) days of collection~~ shall be used to pay the Board's administrative costs. The remaining fifty percent (50%) shall be deposited directly into the Board's reserves;

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

~~(m)~~ (k) The Board, pursuant to the provisions of Sections ~~301~~ 250.2 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)~~ (l) 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 Department of Central Services. 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)~~ (m) 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)~~ (n) 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 ~~March 1~~ two o'clock p.m. the second Wednesday in January 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 Service Bureau no later than ~~March 1~~ the second Wednesday in January of the previous fiscal year;

~~(q)~~ (o) Before December 1 of each year the Board shall submit to the Director of the Office of State Finance a report outlining the financial condition for the previous fiscal year of all insurance plans offered by the Board. The report shall include a complete explanation of all reserve funds and the actuarial projections on the need for such reserves. The report 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. The Director of the Office of State Finance shall make written comment on the report and shall provide such comment, along with the report submitted by the Board, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chairman of the Oklahoma State Employees Benefits Council by January 15;

~~(r)~~ (p) The Board shall ~~establish~~ maintain a prescription drug card network ~~for the fiscal year beginning July 1, 1990;~~

~~(s) 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;~~

~~(t) 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~~; and

~~(u)~~ (q) 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 committee 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.

~~(v) For the fiscal year beginning July 1, 1993, certain duties and responsibilities of the Board shall be transferred to the Oklahoma State Employees Benefits Council pursuant to the provisions of the Oklahoma State Employees Benefits Act. During the fiscal year beginning July 1, 1992, the Board shall cease activities related to the implementation of said transferred duties and responsibilities for the next fiscal year and implement all reasonable actions to ensure the effective and efficient transfer of said duties and responsibilities to the Oklahoma State Employees Benefits Council.~~

SECTION 7. AMENDATORY 74 O.S. 1991, Section 1308, is amended to read as follows:

Section 1308. (1) Any <u>state</u> employee ~~other than an education employee~~ eligible for membership in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan upon its effective date shall be enrolled in the plan unless he elects not to be enrolled within thirty (30) days of such effective dates. ~~The employee shall be advised of Health Maintenance Organization~~

~~prepaid plans available as an alternative to the state self-insured Health Insurance Plan.~~ The Board shall establish the procedure by which eligible employees not electing to be enrolled initially in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan may be subsequently enrolled.

(2) Any eligible employee ~~other than an education employee who is employed after the effective dates of the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan or HMO plans approved by the Board~~ may become enrolled on the first day of the second month of employment.

~~(3) Any person that becomes a participant in the State and Education Employees Group Insurance Act pursuant to subsection (2) or (3) of Section 17 of this act shall not be eligible to enroll in a HMO plan until the next option period after said enrollment, as set by the Board.~~

SECTION 8. AMENDATORY 74 O.S. 1991, Section 1309, is amended to read as follows:

Section 1309. (1) Any eligible employee may elect to have his dependent or dependents covered by the Health Insurance Plan and Dental Insurance Plan ~~or by any available Health Maintenance Organization (HMO) approved~~ offered by the Board. Such election shall be made at the time the employee becomes enrolled in the Plan, under such procedures as the Board may establish. If dependent coverage is not elected at the time an employee becomes enrolled in the Plan, dependent coverage cannot be elected until the ~~next~~ annual open enrollment ~~period as established by the Board~~. ~~Such subsequent election~~ Subsequent elections of dependent coverage shall be made ~~under such conditions as the Board may impose~~ only upon a determination of eligibility of the dependent as defined in subsection (P) of Section 1303 of this title.

(2) Any employee with dependent coverage, as provided in this section, who has a change in the number of his dependents may at the time of such change increase or decrease the number of dependents covered by the Health Insurance Plan and Dental Insurance Plan ~~or approved HMO plans,~~ under procedures established by the Board.

(3) Any employee who has no eligible dependents at the time he becomes enrolled may elect dependent coverage at the time his dependency status changes under procedures established by the Board.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 1310.1, is amended to read as follows:

Section 1310.1 (1) The premium for each ~~employee of an~~ participating education ~~entity which is~~ employee of a participating ~~in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act~~ education employer shall be paid as follows:

(a) one-third (1/3) of the premium shall be paid by the participating education ~~entity~~ employer; and

(b) two-thirds (2/3) of the premium shall be paid by the participating education employee, provided that the participating education ~~entity~~ employer may pay all or any portion of participating education employees' portion of premium.

(2) The premium for ~~education entities that participate in the~~ health and dental ~~insurance~~ benefit plans ~~offered through the State and Education Employees Group Insurance Act~~ for participating education employees shall be the same as paid by state agencies for said plans.

(3) ~~All~~ The amount of contribution to be made by participating education employees shall be deducted from the salaries of such employees and the participating education ~~entities that participate in the insurance plans offered through the State and Education Employees Group Insurance Act~~ employers shall forward the participating employer and participating employee premiums to the ~~Board no later than the tenth day of each month following the month for which payment is due~~ Council.

(4) The procedure for such deductions and remittances shall be established by the Council subject to the following:

(a) all premium payments shall be made either on a monthly, semimonthly, or biweekly basis, and

(b) all premium collection and remittance to the benefit plans shall be the responsibility of the Employees Benefits Council.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 1311.1, is amended to read as follows:

Section 1311.1 The amount of monthly contribution to be made by persons who are drawing disability benefits under Section 1331 et seq. of Title 74 of the Oklahoma Statutes and who are enrolled in the ~~Group Insurance Plans~~ benefit plans offered through the Oklahoma State Employees Benefits Act shall be deducted from the monthly disability benefits of such persons and remitted to the ~~Board~~ Council. The procedures for such deductions and remittances shall be established by the ~~Board~~ Council.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 1312, is amended to read as follows:

Section 1312. ~~(1)~~ Except as otherwise provided by law, all employee and employer contributions, appropriations and dividend payments related to the health and dental plans administered by the State and Education Employees Group Insurance Board shall be deposited in a fund in the State Treasury which is hereby created and which shall be known as the Health and Dental Insurance Reserve Fund. The money in such fund shall be invested by the Board in the manner specified in Section 1305.1 of this title. Investment income of the fund shall be added to the fund. Money payable to the claims administrator and all expenses in connection with the plans shall be paid from the fund. The Board shall have responsibility for management of the fund.

~~(2) All monies in the Health and Dental Insurance Reserve Fund that are reserves for the life insurance plan administered by the State and Education Employees Group Insurance Board shall be transferred to the Life Insurance Reserve Fund on July 1, 1989.~~

SECTION 12. AMENDATORY 74 O.S. 1991, Section 1312.1, is amended to read as follows:

Section 1312.1 There is hereby created in the State Treasury a Revolving Fund for the State and Education Employees Group Insurance Plan. The revolving fund shall consist of funds

transferred from the Health and Dental Insurance Reserve Fund and the Life Insurance Reserve Fund for operational expenses of the State Health and Life Insurance Plan ~~and monies assessed from or collected for and due a Health Maintenance Organization (HMO) as approved by the Board~~. Expenditures from said funds shall be made pursuant to the laws of the state and statutes relating to the Plan. This revolving fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the State and Education Employees Group Insurance Board.

SECTION 13. AMENDATORY 74 O.S. 1991, Section 1312.2, is amended to read as follows:

Section 1312.2 ~~(1)~~ There is hereby created in the State Treasury, the Life Insurance Reserve Fund. Except as otherwise provided by law, all contributions, appropriations, transfers, dividend payments, and investment income of the fund received from or for the benefit of the life insurance plan administered by the State and Education Employees Group Insurance Board shall be deposited in the reserve fund.

The monies in said reserve fund shall be invested by the Board in the manner specified in Section 1305.1 of this title. The Board shall have responsibility for management of the fund.

Money payable to the claims administrator and all expenses in connection with the life insurance plan shall be paid from the reserve fund.

~~(2) All monies in the Life Insurance Reserve Fund that are reserves for the health and dental plans administered by the State and Education Employees Group Insurance Board shall be transferred to the Health and Dental Insurance Reserve Fund on July 1, 1989.~~

SECTION 14. AMENDATORY 74 O.S. 1991, Section 1314.2, is amended to read as follows:

Section 1314.2 As used in Sections ~~1~~ 14 through ~~5~~ 16 of this act:

(a) "Agency Plan" means the health insurance program offered by the Oklahoma Employment Security Commission to its employees as

of the effective date of this act. The Agency Plan presently conforms to the Federal Plan;

(b) "State Plan" means the health insurance ~~program~~ programs provided for state employees pursuant to the Oklahoma State ~~and Education~~ Employees ~~Group Insurance~~ Benefits Act;

(c) "Federal Plan" means the health insurance program provided for federal employees upon which the Agency Plan is based, and is more specifically defined in 5 CFR Ch.1, PART 890--FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM, as may be amended from time to time, and represents the standard against which the State Plan is to be measured to determine material differences for purposes of securing the supplemental health insurance for which provision is made in this act; and

(d) "Commission" means the Oklahoma Employment Security Commission.

SECTION 15. AMENDATORY 74 O.S. 1991, Section 1314.3, is amended to read as follows:

Section 1314.3 (1) All otherwise eligible employees hired by the Oklahoma Employment Security Commission after ~~the effective date of this act~~ May 30, 1990, shall participate in the State Plan and shall not be entitled to the supplemental health insurance for which provision is made in this act nor to any other Commission benefit plan not generally available to state employees, and no other provisions of this act shall apply to such future hirees.

(2) ~~All otherwise eligible Commission employees not participating in the Agency Plan as of the effective date of this act shall be enrolled in the State Plan on July 1, 1990. Said nonparticipating Commission employees shall not be entitled to the supplemental health insurance for which provision is made in this act.~~

~~(3) All Commission employees, retirees and dependents participating in the Agency Plan as of the effective date of this act shall be permitted to transfer to the State Plan and receive the supplemental insurance benefits for which provision is made in Section 3 of this act at such time as the supplemental insurance is available. If not sooner transferred, all Agency Plan~~

~~participants shall be transferred to the State Plan on January 1, 1991. Such mandatory transfer shall occur simultaneously with any cancellation by the insurance provider of the Agency Plan, occurring prior to January 1, 1991.~~

~~(4) All Commission employees, retirees and dependents enrolling in or transferring to the State Plan under the provisions of this section shall be given the opportunity to participate in all options under the State Plan at the time of their enrollment or transfer.~~

~~(5)~~ For active employees of the Commission, the Commission shall pay the same monthly premium toward employee-only coverage as that set by the Oklahoma State ~~and Education~~ Employees ~~Group Insurance Board~~ Benefits Council and paid by the other state agencies participating in the ~~state health insurance program~~ Plan. For retirees of the Commission who retired pursuant to the provisions of the Oklahoma Public Employees Retirement System, the Oklahoma Public Employees Retirement System shall pay the same monthly contribution towards premiums for regular or Medicare supplement health insurance coverage for those retirees as the amount paid towards the premiums for the Oklahoma Public Employees Retirement System retirees from other agencies. For retirees of the Commission who retired under the provisions of another retirement plan, the Commission shall pay the same monthly contribution towards premiums for regular or Medicare supplement health insurance coverage for those retirees as the amount paid towards premiums by the Oklahoma Public Employees Retirement System for retirees of other state agencies.

~~(6) Employees and retirees of the Commission, and their dependents, shall not be subject to any preexisting condition limitations at the time of their initial participation in the State Plan.~~

~~(7) Employees and retirees of the Commission, and their dependents, shall be deemed to have satisfied their 1990 annual health insurance individual and/or family deductible under the State Plan if the individual and/or family deductible under Agency Plan was fully met for 1990. If the individual and/or family~~

~~deductible was not fully met under the Agency Plan, then the unreimbursed medical expense amounts applied towards deductibles under the Agency Plan shall also be applied to deductibles under the State Plan.~~

~~(8)~~ (3) Except as provided in this subsection, employees and retirees of the Commission, and their dependents, shall be covered under the dental and life insurance plans provided by the Oklahoma State ~~and Education~~ Employees ~~Group Insurance Board~~ Benefits Council pursuant to the same provisions and premiums as apply to the employees and retirees of other state agencies. Employees and retirees may elect to keep their present agency offered life insurance, in addition to the state life insurance. Any employee who elects to keep their agency offered life insurance shall pay the premium for the life insurance provided pursuant to the Oklahoma State ~~and Education~~ Employees ~~Group Insurance~~ Benefits Act. Any Commission retiree who elects to participate in the life insurance program provided pursuant to the Oklahoma State ~~and Education~~ Employees ~~Group Insurance~~ Benefits Act shall pay the premium for such coverage.

~~(9)~~ (4) In the event that the agency offered life insurance plan is canceled by the insurer offering it, the Commission shall contract with the State and Education Employees Group Insurance Board through the Employees Benefits Council for replacement coverage equal to that lost by said cancellation. Said Board is expressly authorized and directed to enter into such a contract. The Commission and the participants shall pay the full actuarial costs and all reasonable administrative costs for such coverage. Said actuarial and administrative costs shall be divided between the Commission and the participants in the same ratio as premiums are now divided for the agency offered life insurance. The Board shall maintain separate reserves for said coverage.

SECTION 16. AMENDATORY 74 O.S. 1991, Section 1315, as amended by Section 5, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1315), is amended to read as follows:

Section 1315. Upon application in writing approved by a majority action of the board of county commissioners of any county

or the governing body of any city, town, county hospital, the trustees of any public trust for which the state is the primary beneficiary, rural water districts, or the Oklahoma Conservation Commission on behalf of the conservation districts ~~participating in the Oklahoma Public Employees Retirement System,~~ the ~~Board~~ Council may extend the benefits of ~~the State and Education Employees Group Health and Life Insurance~~ health and dental insurance plans to employees who are employed in positions requiring actual performance of duty during not less than one thousand (1,000) hours per year, and to all full-time employees of such county, city, town, county hospital, public trust, rural water district or conservation district, provided that such county, city, town, county hospital, public trust, rural water district or conservation district participating therein shall pay all costs attributable to its participation therein. The benefits of said plans for a participant provided coverage pursuant to this section shall be the same and shall include the same plan options as would be made available to a state employee participating in the plan that resided at the same location. The premium for participating counties, cities, towns, county hospitals, public trusts, rural water districts, and conservation districts shall be the same as paid by the State and Education Employees Group Health and Life Insurance Plan. Such county, city, town, county hospital, public trust, rural water district or conservation district shall not be required to offer dental insurance as defined in paragraph (k) of Section 1303 of this title, or other insurance as defined in paragraph (l) of Section 1303 of this title. However, if dental insurance or any other insurance is offered, it must be provided to all eligible employees. ~~If an employee retires and begins to receive benefits from the Oklahoma Public Employees Retirement System or terminates service and has a vested benefit with the Oklahoma Public Employees Retirement System, the employee may elect, in the manner provided in Section 1316.2 of this title, to participate in the dental insurance plan offered through the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title. The employee shall pay~~

~~the full cost of the dental insurance.~~ Any employee who retires or who has a vested benefit pursuant to the Oklahoma Public Employees Retirement System as defined in Section 1316.2 of this title may begin ~~the health insurance coverage if~~ to participate in the plans offered by the Council regardless of whether the employer of the employee is ~~not~~ a ~~participant of~~ participating employer in the ~~State and Education Employees Group Insurance~~ Oklahoma State Employees Benefits Act if the election to begin coverage is made within thirty (30) days from the date of termination of service. ~~For those persons who retired or terminated service with a vested benefit from the Oklahoma Public Employees Retirement System prior to October 1, 1988, the election shall be made prior to October 1, 1989.~~

SECTION 17. AMENDATORY 74 O.S. 1991, Section 1316.1, is amended to read as follows:

Section 1316.1 Any person who retires or who has elected to receive a vested benefit under the provisions of the ~~State of~~ Oklahoma Public Employees Retirement ~~Systems~~ System, the Uniform Retirement System for Justices and Judges, the Teachers' Retirement System of Oklahoma, or the Oklahoma Law Enforcement Retirement System, or persons who are currently drawing disability benefits under Section 1331 et seq. of this title or who meet each and every requirement of the State Employees Disability Program or the spouse of any such employee may continue in force the life insurance benefits authorized by this act in a face amount of not less than one-fourth (1/4) but not more than three-fourths (3/4) of the basic life insurance amount, if such election to continue in force is made within thirty (30) days from the time of severance; provided such persons pay the full cost of such life insurance at the rate and under such terms and conditions as established by the Board.

SECTION 18. AMENDATORY 74 O.S. 1991, Section 1316.2, is amended to read as follows:

Section 1316.2 (1) Any employee ~~other than an education employee~~ who retires pursuant to the provisions of the Oklahoma Public Employees Retirement System 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 Oklahoma Public Employees Retirement System, The Uniform Retirement System for Justices and Judges, the Teachers' Retirement System of Oklahoma, or the Oklahoma Law Enforcement Retirement System may continue in force the health and dental insurance benefits authorized by the provisions of the Oklahoma State ~~and Education~~ Employees ~~Group Insurance~~ Benefits Act, Section ~~1301~~ 1361 et seq. of this title, if such election to continue in force is made within thirty (30) days from the date of termination of service. All persons ~~other than an education employee~~ 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 employees other than education employees who retired or terminated service with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System or the Oklahoma Law Enforcement Retirement System prior to October 1, 1988, the election shall be made prior to October 1, 1989. For those employees other than education employees who retired or terminated service with a vested benefit pursuant to the provisions of the Uniform Retirement System for Justices and Judges prior to July 1, 1991, the election shall be made prior to October 1, 1991.~~ Health and dental insurance coverage may not be reinstated at a later time if the election to continue in force is declined. Such vested employees ~~other than education employees~~ 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~~ Council.

(2) (a) A retired employee ~~other than an education employee~~ who is receiving benefits from the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law Enforcement Retirement System after September 30, 1988, is under sixty-five (65) years of age and

pursuant to subsection (1) of this section elects 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~~ a Medicare supplement or Medicare risk-sharing contract, whichever the retiree elects in which to participate, or Seventy-five Dollars ($75.00), whichever is less, which shall be paid by the ~~Oklahoma Public Employees Retirement System~~ retirement system of which the retiree is a member to the ~~Board~~ Council in the manner specified in subsection (5) of this section.

(b) 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 a Medicare supplement or Medicare risk-sharing contract, whichever the retiree elects in which to participate, or the amount determined pursuant to subsection (1) of Section 1316.3 of this title, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the Council in the manner specified in subsection (5) of this section,

(c) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, is under sixty-five (65) years of age and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the Oklahoma State Employees Benefits Act shall pay the premium rate for the health insurance minus an amount equal to the premium rate of a Medicare supplement or Medicare risk-sharing contract, whichever the retiree elects in which to participate, or the amount determined pursuant to subsection (1) of Section 1316.3 of this title, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to said education employer that provides the health insurance plan to said retired person.

(3) (a) A retired employee ~~other than an education employee~~ who is receiving benefits from the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law Enforcement Retirement System after September 30, 1988, is sixty-five (65) years of age or older and pursuant to subsection (1) of this section elects to continue the health insurance plan shall have the premium rate of ~~the~~ a Medicare supplement, which includes prescription drugs, or Medicare risk-sharing contract, whichever the retiree elects in which to participate, or Seventy-five Dollars ($75.00), whichever is less paid by the ~~Oklahoma Public Employees Retirement System~~ retirement system of which the retiree is a member to the ~~Board~~ Council in the manner specified in subsection (5) of this section. If the amount paid by the Oklahoma Public Employees Retirement System does not cover the full cost of the Medicare supplement, or Medicare risk-sharing contract, whichever the retiree elects in which to participate, the retired employee shall pay to the ~~Board~~ Council the remaining amount if the retired employee wants to continue coverage.

(b) 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 Oklahoma State Employees Benefits Act shall have the premium rate of a Medicare supplement, which includes prescription drugs, or Medicare risk-sharing contract, whichever the retiree elects in which to participate, or the amount determined pursuant to subsection (1) of Section 1316.3 of this title, whichever is less, paid by the Teachers' Retirement System of Oklahoma to the Council 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 Council the remaining amount if the retired person wants to continue coverage.

(c) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, made

contributions to the system and is sixty-five (65) years of age or older, and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the Oklahoma State Employees Benefits Act shall have the premium rate of a Medicare supplement which includes prescription drugs, or Medicare risk-sharing contract, whichever the retiree elects in which to participate, or the amount determined pursuant to subsection (1) of Section 1316.3 of this title, whichever is less, paid by the Teachers' Retirement System of Oklahoma to the education employer that provides the health insurance plan to said retired person. 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 Council the remaining amount if the retired person wants to continue the coverage.

(4) ~~A retired employee other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System after September 30, 1988, is under sixty-five (65) years of age and pursuant to subsection (1) of this section elects 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 Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection (9) of this section.~~

~~(5) A retired employee other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System after September 30, 1988, is sixty-five (65) years of age or older and pursuant to subsection (1) of this section elects to continue the health insurance plan 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 Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection (9) of this section. If the amount paid by the Oklahoma Law Enforcement Retirement System does not~~

~~cover the full cost of the medicare supplement, the retired employee shall pay to the Board the remaining amount if the retired employee wants to continue coverage.~~

~~(6) A retired employee other than an education employee who is receiving benefits from the Uniform Retirement System for Justices and Judges after September 30, 1988, is under sixty-five (65) years of age and pursuant to subsection (1) of this section elects 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 Uniform Retirement System for Justices and Judges to the Board in the manner specified in subsection (9) of this section.~~

~~(7) A retired employee other than an education employee who is receiving benefits from the Uniform Retirement System for Justices and Judges after September 30, 1988, is sixty-five (65) years of age or older and pursuant to subsection (1) of this section elects to continue the health insurance plan 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 Uniform Retirement System for Justices and Judges to the Board in the manner specified in subsection (9) of this section. If the amount paid by the Uniform Retirement System for Justices and Judges does not cover the full cost of the medicare supplement, the retired employee shall pay to the Board the remaining amount if the retired employee wants to continue coverage.~~

~~(8)~~ Dependents of a deceased employee other than an 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 Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges or the Oklahoma Law Enforcement Retirement System, or 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)~~ sixty (60) 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.

~~(9)~~ (5) The amounts required to be paid by the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Oklahoma Law Enforcement Retirement System, and 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 Oklahoma Public Employees Retirement System Board of Trustees ~~or~~, the Oklahoma Law Enforcement Retirement Board, the Teachers' Retirement System of Oklahoma or the Uniform Retirement System for Justices and Judges, to the ~~State and Education Employees Group Insurance Board~~ Oklahoma State Employees Benefits Council for deposit in the Health, Dental and Life Insurance Reserve Fund.

SECTION 19. AMENDATORY 74 O.S. 1991, Section 1316.3, as amended by Section 6, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1994, 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. Except as provided in subsection E of Sections 5-117.5 and 14-108.1 of Title 70 of the Oklahoma Statutes, 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) 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 the amount determined pursuant to subsection (4) of this section, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (6) of this section.~~

~~(b) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, is under sixty-five (65) years of age and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act~~

~~shall pay the premium rate for the health insurance minus an amount equal to the premium rate of the medicare supplement or the amount determined pursuant to subsection (4) of this section, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to said education employer that provides the health insurance plan to said retired person.~~

~~(3) (a) 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 the amount determined pursuant to subsection (4) of this section, whichever is less paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (6) 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.~~

~~(b) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, made contributions to the system and is sixty-five (65) years of age or older, and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act shall have the premium rate of the medicare supplement, which includes prescription drugs, or the amount determined pursuant to subsection (4) of this section, whichever is less, paid by the Teachers' Retirement System of Oklahoma to the education employer that provides the health insurance plan to said retired person. 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~~

~~said employer the remaining amount if the retired person wants to continue the coverage.~~

~~(4)~~ Beginning July 1, 1993, the maximum benefit payable by the Teachers' Retirement System of Oklahoma on behalf of a retired person toward said person's monthly premium for health insurance shall be determined in accordance with the following schedule:

AVERAGE SALARY USED FOR DETERMINING RETIREMENT ALLOWANCE	LESS THAN 15 YEARS OF CREDITABLE SERVICE	LESS THAN 25 YEARS BUT GREATER THAN 14.99 YEARS OF CREDITABLE SERVICE	GREATER THAN 24.99 YEARS OF CREDITABLE SERVICE
Less than $20,000.00	$73.00	$74.00	$75.00
Less than $30,000.00 but greater than $19,999.99	$72.00	$73.00	$74.00
Less than $40,000.00 but greater than $29,999.99	$71.00	$72.00	$73.00
$40,000.00 or greater	$70.00	$71.00	$72.00

~~(5)~~ (2) 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~~ Section 1316.2 of this title, to participate in the dental insurance plan offered through the Oklahoma State ~~and Education~~ Employees ~~Group Insurance~~ Benefits Act. The person shall pay the full cost of the dental insurance.

~~(6) 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.~~

~~(7) 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.~~

~~(8) 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.~~

~~(9) 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 participate in the health and dental plans authorized by the provisions of the State and Education Employees Group Insurance Act only if said person continues to participate in said insurance plans offered by the State and Education Employees Group Insurance Board for a period of at least three (3) consecutive years immediately prior to retirement or termination of service, or the education employer from which the person either retires or terminates service with a vested benefit obtains health~~

~~and dental insurance coverage as provided for in the State and Education Employees Group Insurance Act.~~

SECTION 20. AMENDATORY 74 O.S. 1991, Section 1320, as amended by Section 17, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, 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 one attorney licensed to practice law in this state, which positions shall be in the unclassified service. The attorney 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, a maximum of two (2) attorneys, and ~~seven (7)~~ <u>eight (8)</u> assistant administrators, <u>six (6) division deputy directors, and seven (7) account managers,</u> 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 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1324 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Board shall be responsible for transferring sufficient funds to operate the State Employee Assistance Program for plan year 1996 to the State Employee Assistance Program Revolving Fund. Such a transfer of funds shall take place on or before July 31, 1995.

B. Until July 1, 1996, the Board shall continue providing services which, prior to passage of this act, the Board was required to provide in the State Employees Group Insurance Act.

SECTION 22. AMENDATORY 74 O.S. 1991, Section 1342, as last amended by Section 7, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1342), is amended to read as follows:

Section 1342. As used in the State Employees Flexible Benefits Act, Section 1341 et seq. of this title:

1. "~~Board~~ Council" means the Oklahoma State ~~and Education~~ Employees ~~Group Insurance Board~~ Benefits Council;

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, Section 1301 et seq. of this title, 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, except as provided for in Section 1348 of this title;

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 any school district, or political subdivision of the state, except as provided for in Section 1348 of this title. Provided the term "employer" shall also mean the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education upon agreement between the State Regents for Higher Education or the appropriate governing board of an institution under the authority of the State Regents for Higher Education and the Council; 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 23. AMENDATORY 74 O.S. 1991, Section 1343, is amended to read as follows:

Section 1343. The ~~Board~~ Council shall retain qualified agencies, persons or entities to design, develop, communicate, implement or administer the state employees flexible benefits plan. The ~~Board~~ Council 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~~ Council, the Office of Public Affairs shall assist the ~~Board~~ Council 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~~ section, the ~~Board~~ Council 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 24. AMENDATORY 74 O.S. 1991, Section 1344, is amended to read as follows:

Section 1344. A. The ~~Board~~ Council 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~~ this title;

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~~ Council; 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~~ Council is authorized to modify or abolish such inclusions and exclusions.

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

E. The ~~Administrator~~ Executive Director of the Oklahoma State ~~and Education~~ Employees ~~Group Insurance Board~~ Benefits Council under the direction of the ~~Board~~ Council 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 25. AMENDATORY Section 2, Chapter 163, O.S.L. 1992, as amended by Section 18, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, Section 1348), is amended to read as follows:

Section 1348. The ~~Board~~ Council shall develop a flexible benefits plan, in accordance with the provisions of Section 1344 of ~~Title 74 of the Oklahoma Statutes~~ this title, to be made available to the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, counties, municipalities, political subdivisions or school districts. If the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, any individual county, municipality, political subdivision or school district chooses to participate in the plan, it must, by a resolution adopted by the governing body, adopt a written flexible benefits plan and notify the ~~Board~~ Council in order to participate in the program. All full-time employees of a participating entity shall be given the option of participating in the program. The ~~Board~~ Council is authorized to contract with the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, any county, municipality, political subdivision or school district within this

state for providing a flexible benefits plan and is authorized to assess charges to participating entities to cover the costs associated with administering this program.

SECTION 26. AMENDATORY Section 2, Chapter 400, O.S.L. 1992, as amended by Section 8, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1362), is amended to read as follows:

Section 1362. It is hereby declared that the purpose of this act is:

1. To recognize that the employee benefit needs of individual ~~state~~ employees differ, depending on the age, salary and family status of the employee, and that it is needful to permit participating employees to select and tailor the benefits they receive in a manner calculated to best meet the particular needs of themselves and their families;

2. To furnish ~~state~~ employees with choices among various employee benefits or cash compensation;

3. To provide ~~state~~ employees and their dependents with basic group health insurance, basic group dental insurance, basic group term life insurance, and basic long-term disability insurance;

4. To provide ~~state~~ employees and their dependents with optional employee benefits, to include, but not be limited to, enhanced health insurance coverage, health maintenance organization services, life insurance, dental insurance and enhanced long-term disability insurance;

5. To provide ~~state~~ employees with reimbursement for qualifying dependent care expenses for which a dependent care tax credit is not taken, reimbursement for qualifying health care expenses not reimbursed by any other insurance plan or taken as a tax deduction, additional benefits which are currently taxable, additional benefits which are not currently taxable, and cash compensation;

6. To provide ~~state~~ employees with tax sheltered income deferment plans;

7. To provide uniform benefit options for all ~~state~~ employees regardless of their place of residence within the State of Oklahoma;

8. To manage the provision of health care benefits in a manner that allows for the long term control of costs;

9. To provide for the coordination and design, in accordance with applicable law, of all employee benefits offered to ~~state~~ employees so as to increase the efficient delivery and effectiveness of those benefits;

10. To enable the state to attract and retain qualified employees by providing employee benefits which are competitive with those provided private industry;

11. To offer uniformity in those benefits that are offered to ~~both state~~ employees ~~and those eligible for participation in the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title~~;

12. To ensure compliance with the Health Maintenance Organization Act of 1973, 42 U.S.C., Section 300e et seq.;

13. To recognize and protect the state's investment in each employee by promoting and preserving good health and longevity among state employees;

14. To recognize the service to the state by elected and appointed officials by extending to them the same benefits as are provided under the flexible benefits program to state employees; and

15. To recognize long and faithful service, and to encourage employees to remain in state service until eligible for retirement by providing employee benefits.

SECTION 27. AMENDATORY Section 3, Chapter 400, O.S.L. 1992, as last amended by Section 32, Chapter 2, O.S.L. 1994 (74 O.S. Supp. 1994, Section 1363), is amended to read as follows:

Section 1363. The following words and phrases as used in this act, unless a different meaning is clearly required by the context, shall have the following meanings:

1. "Authority" means the Oklahoma Health Care Authority;

2. "Basic plan" means the plan that provides the least amount of benefits each ~~participant~~ <u>participating employee</u> is required to purchase pursuant to the provisions of the plan. The basic plan shall include only health, dental, disability and life benefits;

3. "Benefit" means any of the benefits which may be purchased or is required to be purchased under the plan;

4. "Benefit plan" means the specific terms and conditions regarding a benefit which may be purchased under the plan, including the terms and conditions of any separate plan document, group insurance policy or administrative services contract entered into by the Council;

5. "Benefit price" means the number of flexible benefit dollars needed to purchase a benefit under the plan;

6. "Board" means the State and Education Employees Group Insurance Board, as created by the State and Education Employees Group Insurance Act;

7. "Code" means the Internal Revenue Code of 1986, as amended, from time to time;

8. "Compensation" means the remuneration directly paid to a participating employee by a participating employer exclusive of overtime pay, and longevity pay, calculated prior to and without regard to adjustments arising out of an employee's participation in the plan authorized pursuant to this act, or amounts deferred under the tax sheltered income deferment plans as authorized by Section 1701 et seq. of this title;

9. "Council" means the Oklahoma State Employees Benefits Council, as created by this act;

10. "Default benefit" means any benefit a ~~participant~~ participating state employee who fails to make a proper election under the plan shall be deemed to have purchased;

11. "Dependent" means a ~~participant's~~ participating employee's spouse or any of his or her dependents as defined in Code Section 152 and regulations promulgated thereunder;

12. "Flexible benefit allowance" means the annual amounts credited by the participating employer for each ~~participant~~ participating employee for the purchase of benefits under the plan;

13. "Flexible benefit dollars" means the sum of the flexible benefit allowance and pay conversion dollars allocated by a

~~participant~~ participating employee pursuant to provisions of the plan;

14. "~~Participant~~ Participating state employee" means any officer or employee of a participating state employer who is a member of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, any officer or employee of a participating state employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary and wage is equal to or greater than the hourly wage for state employees as provided in Section 284 of this title, and any employee of a participating state employer who is a member of the Teachers' Retirement System of Oklahoma;

15. "Participating education employee" means:

a. those employees other than adjunct professors employed by a state institution of higher education, in the service of a participating education employer who are members or are or will be eligible to become members of the Teachers' Retirement System of Oklahoma, and visiting faculty who are not eligible for membership in the Teachers' Retirement System of Oklahoma, and

b. who also receive compensation for such service after the education entity begins to participate in the Oklahoma State Employees Benefits Act, and

c. who also elect to purchase benefits under Section 1361 et seq. of this title;

16. "Participating employee" means those participating state employees, participating education employees, and other eligible employees participating in the Oklahoma State Employees Benefits Act;

17. "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;

18. "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;

19. "Participating education employer" means all school districts, area vocational-technical school districts, or other entities created by the Oklahoma Constitution or statutes that are participating employers of the Teachers' Retirement System of Oklahoma;

20. "Participating state employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution or statute that is a participating employer of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, but shall not include any county, county hospital, city or town, conservation district, any private or public trust in which a county, city or town participates and is the primary beneficiary, any school district or vocational-technical school district, or political subdivision of the state, but shall include the State Department of Education, the Oklahoma Department of Wildlife Conservation, the Oklahoma Employment Security Commission, the Teachers' Retirement System of Oklahoma and the State Department of Vocational and Technical Education. Provided the term "participating employer" shall also mean the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education upon agreement between the State Regents for Higher Education or the appropriate governing board of an institution under the authority of the State Regents for Higher Education and the Council;

~~16.~~ 21. "Participating employer" means those participating state employers, participating education employers, and other eligible employers participating in the Oklahoma State Employees Benefits Act;

22. "Pay conversion dollars" means amounts by which a ~~participant~~ participating employee elects to reduce his or her compensation to purchase benefits under the plan;

~~17.~~ 23. "Plan" means the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act as modified by the provisions of this act;

~~18.~~ 24. "Plan year" means the twelve-month period commencing on July 1 and ending on the following June 30;

~~19.~~ 25. "Salary Adjustment Agreement" means a written agreement between a ~~participant~~ participating employee and participating employer whereby the employer agrees to adjust the salary of the participant by a stated amount or an amount equal to the cost of benefits selected under the plan and the participating employer agrees to contribute such amount to cover certain costs of the benefits selected by the ~~participant~~ participating employee to the Council; ~~and~~

~~20.~~ 26. "Termination" means the termination of a ~~participant's~~ participating employee's employment as an employee of a participating employer, whether by reasons of discharge, voluntary termination, retirement, death or reduction-in-force;

27. "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 300 et seq. or shall be licensed by the State Department of Health pursuant to Sections 2501 through 2512 of Title 63 of the Oklahoma Statutes;

28. "Health insurance plan" means a self-insured plan offered by the State and Education Employees Group Insurance Board for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan or a prepaid plan offered to participating employees or retirees as an alternative to the self-insured plan administered by the state or any Medicare supplement policy approved by the Insurance Commissioner, or any Medicare risk-sharing contract between the Health Care Financing Administration and a prepaid health or competitive medical plan to

arrange for health care services for Medicare beneficiaries as defined in Section 1876(g) of the Social Security Act;

29. "Dental insurance plan" means a self-insured plan by the State and Education Employees Group Insurance Board for the purpose of paying the cost of dental care up to the maximum coverage provided by said plan or qualified dental plans offered to participating employees as an alternative to the self-insured plan administered by the state;

30. "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' offices, 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 Council. 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;

31. "Eligibility" means the determination whether the employee qualifies as a participating employee as defined in this section; and

32. "Dependent" means an employee's spouse and any unmarried child:

a. under the age of nineteen (19) years, regardless of residence, providing that the employee is primarily responsible for their support, including:

(1) an adopted child, and

(2) a stepchild or child who lives with the employee in a parent-child relationship, or

b. under the age of twenty-five (25), who is dependent upon the employee for support and 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

c. 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.

SECTION 28. AMENDATORY Section 4, Chapter 400, O.S.L. 1992, as amended by Section 23, Chapter 332, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1364), is amended to read as follows:

Section 1364. A. There is hereby created within the ~~Office of Personnel Management, until July 1, 1994~~ Oklahoma Health Care Authority, the Oklahoma State Employees Benefits Council. ~~On and after July 1, 1994, the Employees Benefits Council shall be transferred to the Oklahoma Health Care Authority.~~ The powers, duties and responsibilities of the Council that relate to the purchase of health care benefits shall be made under the direction and with the approval of the Oklahoma Health Care Authority in accordance with the plan adopted pursuant to Section 4 of the Oklahoma Health Care Authority Act.

B. The Oklahoma State Employees Benefits Council shall be composed of the five (5) following individuals:

1. The Administrator of the Office of Personnel Management;

2. Two members appointed by the Governor;

3. One member appointed by the President Pro Tempore of the Senate; and

4. One member appointed by the Speaker of the House of Representatives.

C. The initial term of office of the members appointed by the Governor shall expire on January 9, 1995. 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. The initial term of office of the

member appointed by the Speaker of the House of Representatives shall expire on January 11, 1994. The initial term of office of the member appointed by the President Pro Tempore of the State Senate shall expire on January 9, 1996. The members thereafter appointed by the Speaker of the House of Representatives and the President Pro Tempore of the State Senate shall serve a term of office of four (4) years.

D. No member of the Council shall be a lobbyist registered in this state as provided by law, or be employed, directly or indirectly, by any firm or health care provider under contract to the Council or Board, or any benefit program under its jurisdiction, for any goods or services whatsoever.

E. Any vacancy that occurs on the Council shall be filled for the unexpired term in the same manner as the office was previously filled.

F. The general administration and responsibility for the proper design, selection or operation of the benefits offered under the plan and for making effective the provisions of ~~this act~~ Section 1361 et seq. of this title are hereby vested in the Council, which shall be organized immediately after a majority of the Council members provided for in this section shall have been qualified and taken the oath of office.

G. The Council shall at its first meeting elect one of its members as chairman. The chairman shall preside over meetings of the Council and perform such other duties as may be required by the Council. The Council shall elect one of its members 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. The Council shall elect one of its members to serve as secretary.

H. The Council and staff shall act and hold regular meetings ~~at least once each month in Oklahoma City, the date, time, and place thereof to be fixed by the Council. The Council shall, in July of each year, hold a regular meeting which shall be the annual meeting, at which meeting it shall elect officers~~ in accordance with the provisions of the Oklahoma Open Meeting Act,

the Oklahoma Open Records Act, and the Administrative Procedures Act.

I. Special meetings may be called upon written notice by the chairman or by agreement of any three (3) members of the Council. 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.

J. The majority of the members of the Council shall constitute a quorum for the transaction of business. Each Council member shall be entitled to one vote on the Council. Any official action of the Council must have three (3) votes of the members of the Council present.

K. All resolutions, proceedings, acts and determinations of the Council shall be recorded and all such records, together with such documents and instruments as may be necessary for the administration of the plan, shall be preserved in the custody of the executive director.

L. Each member of the Council shall serve without compensation except that each of the Council members shall receive travel expenses in accordance with the State Travel Reimbursement Act.

M. The Council shall not be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title.

SECTION 29. AMENDATORY Section 5, Chapter 400, O.S.L. 1992, as amended by Section 10, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1365), is amended to read as follows:

Section 1365. A. The Oklahoma State Employees Benefits Council shall have the following duties, responsibilities and ~~authority with respect to the administration of the plan~~ authority:

1. To construe and interpret the plan, and decide all questions of eligibility in accordance with ~~this act~~ Section 1361 et seq. of this title and the Code;

2. To select those benefits which shall be made available to ~~participants~~ participating employees under the plan, according to ~~this act~~ Section 1361 et seq. of this title, and other applicable laws and regulations;

3. To retain or employ qualified agencies, persons or entities to design, develop, communicate, implement or administer the plan;

4. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;

5. To prepare and distribute information communicating and explaining the plan to participating employers and participants; provided that ~~neither~~ the Board, health maintenance organizations, ~~nor~~ and other third-party insurance vendors ~~shall~~ may be directly or indirectly involved in the distribution of said communicated information to participating employers and participants subject to the following conditions:

a. the Council shall verify all marketing and communications information for factual accuracy, and

b. vendors shall provide timely notice of any marketing, communications or distribution plans to the Council and shall coordinate the scheduling of any group presentations with the Council, and

c. vendors shall file a brief summary with the Council following such marketing and communications activities, and

d. the Council shall report any unreasonable or inaccurate marketing or communications activity by any vendor to the Oklahoma Health Care Authority;

6. To receive from participating employers and ~~participants~~ participating employees such information as shall be necessary for the proper administration of the plan, and any of the benefits offered thereunder;

7. To furnish the participating employers and ~~participants~~ participating employees such annual reports with respect to the administration of the plan as are reasonable and appropriate;

8. To keep reports of benefit elections, claims and disbursements for claims under the plan;

9. To appoint an executive director who shall serve at the pleasure of the Council. The executive director shall employ or retain such persons in accordance with this act and the requirements of other applicable law, including but not limited to actuaries and certified public accountants, as he or she deems appropriate to perform such duties as may from time to time be required under this act and to render advice upon request with regard to any matters arising under the plan subject to the approval of the Council. The executive director shall have not less than seven (7) years of group insurance administration experience on a senior managerial level or not less than three (3) years of flexible benefits experience on a senior managerial level. Any actuary or certified public accountant employed or retained under contract by the Council shall have not less than three (3) years' experience in group insurance or employee benefits administration. The compensation of all persons employed or retained by the Council and all other expenses of the Council shall be paid at such rates and in such amounts as the Council shall approve, subject to the provisions of applicable law;

10. ~~For plan year beginning July 1, 1993, and all future plan years, to~~ To select and contract with federally qualified health maintenance organizations under the provisions of 42 U.S.C., Section 300e et seq. or with health maintenance organizations licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes for consideration by ~~participants~~ participating employers as an alternative to the health plans offered by the Board, and to transfer to the health maintenance organizations such funds as may be approved for a ~~participant~~ participating employee electing health maintenance organization alternative services. In selecting said health maintenance organizations, the Council shall

consider plan characteristics, provider network, geographic coverage/access and price. HMO contracts shall provide for a risk adjustment factor for adverse selection, that may occur as determined by the Council, based on generally accepted actuarial principles;

11. To require vendors offering coverage through the Council, including the Board, to provide such enrollment and claims data as is determined by the Council. Data provided shall include, but not be limited to the following:

a. from all vendors, basic demographic data,

b. from the state dental indemnity pan and other dental indemnity plans, basic claims data, and

c. from health maintenance organizations, Health Plan Employer Data and Information Set (HEDIS);

12. To purchase any insurance deemed necessary for providing benefits under the plan, provided that with the exception of those health plans meeting the criteria of paragraph 1 of subsection C of Section 1369.3, the only health indemnity plan selected by the Council shall be the indemnity plan offered by the Board~~, and to transfer to the~~. The Council shall transfer to the Board such funds as may be approved for a ~~participant~~ participating employee electing a benefit plan offered by the Board;

13. To communicate deferred compensation programs as provided in Section 1701 of this title;

14. ~~For the plan year beginning July 1, 1993, and all future plan years, to~~ To assess and collect reasonable fees from the Board, and from such contracted health maintenance organizations and third party insurance vendors to offset the costs of administration as determined by the Council. The Council shall have the authority to transfer income received pursuant to this subsection to the Board for services provided by the Board. For the fiscal year beginning July 1, 1995, to assess and collect a two-percent fee from all carriers and contracted vendors and for the fiscal year beginning July 1, 1996, including health plans meeting the criteria of paragraph 1 of subsection C of Section 35 of this act to offset the costs of administration. Said two-

percent fee shall not be collected from any state system of higher education which has not specifically elected to come under the provisions of this act pursuant to Section 36 of this act;

15. To accept, modify or reject elections under the plan in accordance with ~~this act~~ Section 1361 et seq. of this title and the Code;

16. To promulgate election and claim forms to be used by ~~participants~~ participating employees; ~~and~~

17. To take all steps deemed necessary to properly administer the plan in accordance with this act and the requirements of other applicable law;

18. To manage and administer the health and dental insurance plans for participating employees; and

19. To determine the amount of participating employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;

If the participating employer fails to collect or remit the proper amount of premium to the Council, the participating employer shall take financial responsibility for payment of the premium.

B. The Council members shall discharge their duties as fiduciaries with respect to the ~~participants~~ participating employees and their dependents of the plan, and all fiduciaries shall be subject to the following definitions and provisions:

1. A person or organization is a fiduciary with respect to the Council to the extent that the person or organization:

a. exercises any discretionary authority or discretionary control respecting administration or management of the Council,

b. exercises any authority or control respecting disposition of the assets of the Council,

c. renders advice for a fee or other compensation, direct or indirect, with respect to any participant or dependent benefits, monies or other property of the Council, or has any authority or responsibility to do so, or

d. has any discretionary authority or discretionary responsibility in the administration of the Council;

2. The Council may ~~purchase insurance for its fiduciaries or for itself to cover potential liability or losses occurring by reason of the act or omission of a fiduciary, but any such insurance purchased by the Council must permit recourse by the insurer against a fiduciary in the case of a breach of fiduciary obligation by such fiduciary. Nothing in this subsection shall be construed as requiring the purchase of any insurance~~ procure insurance indemnifying the members of the Council from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Council;

3. Except for a breach of fiduciary obligation, a Council member shall not be individually or personally responsible for any action of the Council;

4. Any person who is a fiduciary with respect to the Council shall be entitled to rely on representations made by ~~participants~~ participating employees, participating employers, third party administrators and beneficiaries with respect to age and other personal facts concerning ~~a participant~~ participating employees or beneficiaries, unless said fiduciary knows said representations to be false;

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the Council and the plan solely in the interest of ~~the participants~~ participating employees and beneficiaries of the plan according to the terms hereof, for the exclusive purpose of providing benefits to ~~participants~~ participating employees and their beneficiaries, with the care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and

6. The duties and responsibilities allocated to each fiduciary by ~~this act~~ Section 1361 et seq. of this title or by the Council shall be the several and not joint responsibility of each,

and no fiduciary shall be liable for the act or omission of any other fiduciary unless:

a. by his or her failure to properly administer his or her specific responsibility he or she enabled such other person or organization to commit a breach of fiduciary responsibility, or

b. he or she knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person or organization, knowing such act or omission to be a breach, or

c. having knowledge of the breach of another person or organization, he or she fails to make reasonable efforts under the circumstances to remedy said breach.

SECTION 30. AMENDATORY Section 6, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, Section 1366), is amended to read as follows:

Section 1366. A. The Council shall establish a flexible benefits plan in accordance with the provisions of ~~this act~~ Section 1361 et seq. of this title. All participating employers shall offer the plan to their eligible employees.

B. The Council shall interpret the plan and decide any matters arising thereunder and may adopt such rules and procedures as it deems necessary, desirable or appropriate in the administration of the plan subject to the Administrative Procedures Act. All rules and decisions of the Council shall be uniformly and consistently applied to all ~~participants~~ participating employees in similar circumstances and shall be conclusive and binding on all persons having an interest in the plan. When making any decision or determination, the Council shall be entitled to rely upon such information as may be furnished to it by a ~~participant~~ participating employee, a participating employer, legal counsel, third party administrator or the management of any individual benefit plan which is incorporated in the plan.

C. 1. The executive director, under the direction of the Council, may contract with one or more firms or organizations to administer or provide consulting services in regard to all or any portion of the plan.

2. The Council shall solicit proposals on a competitive bid basis ~~from such firms or organizations according to the standards set out in the Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes~~. Contracts for the flexible benefit plan shall not be subject to the provisions of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes. The Council shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded pursuant to this act. When requested by the Council, the Department of Central Services shall assist the Council in the process of selecting any contracts for the design, development, communication or implementation of the plan.

3. When awarding a contract for services pursuant to this subsection, the Council 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 proper independent judgment when performing its responsibilities under ~~this act~~ Section 1361 et seq. of this title and under the contract.

D. ~~The Council shall implement the plan created by this act for the fiscal year beginning July 1, 1993. The Council shall submit to the Director of the Legislative Service Bureau and the Director of the Office of State Finance a report detailing the procedures and operations performed or to be performed by the Council along with the associated costs for implementing and operating the plan prior to December 1, 1992. Said report, written in cooperation with the Board, shall make specific reference to the duties and responsibilities to be transferred from the Board to the Council by identifying and listing said duties and responsibilities, the actions of the Board that have facilitated or will facilitate the transfer of said duties and~~

~~responsibilities, and what actions, if any, the Council desires the Board to take in order to further the efficient and effective transfer of said duties and responsibilities.~~

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

1. Premiums for any health insurance, health maintenance organization, life insurance, long term disability insurance or dental insurance offered to participating employees and their dependents;

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~~ B of Section 7.10 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

4. Medical care, as defined by the Council; and

5. All other eligible benefit programs offered under Code Section 125.

~~F.~~ E. The amount by which ~~an~~ a participating employee's salary is adjusted pursuant to a salary adjustment agreement shall be excluded from income in computation of income tax withholding, federal insurance contributions act taxes, 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 Council is authorized to modify or abolish such inclusions and exclusions.

~~G. The Office of Personnel Management shall provide the Council with the necessary services and facilities required to administer the programs of the Council.~~

F. 1. Legal representation shall be provided by the Office of the Attorney General through the ~~Office of Personnel Management~~ Oklahoma Health Care Authority as provided for in Section 18 1 of

Title 74 of the Oklahoma Statutes. The ~~Office of Personnel Management~~ Oklahoma Health Care Authority shall be reimbursed by the Council for the cost of such services and facilities.

~~For budgetary purposes only, employees of the Council shall be considered employees of the Office of Personnel Management; however, such employees shall not for any other reason be considered employees of the Office of Personnel Management.~~ The executive director shall be the appointing authority and agency head. All other positions and employees shall be classified and subject to the provisions of the Merit System of Personnel Administration except actuaries and other personnel and positions in the unclassified service as provided in ~~Sections 840.8 and 840.10~~ Section 840-5.5 of this title.

SECTION 31. AMENDATORY Section 7, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, Section 1367), is amended to read as follows:

Section 1367. There is hereby created in the State Treasury a revolving fund for the ~~Office of Personnel Management~~ Oklahoma State Employees Benefit Council to be designated the "Employee Benefits Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all flexible benefit dollars. ~~Disbursements from this fund shall be limited solely to~~ All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Employees Benefit Council solely for the payment of ~~participant~~ participating employee benefits as provided under this act and as determined by the Council. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 32. AMENDATORY Section 8, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, Section 1368), is amended to read as follows:

Section 1368. There is hereby created in the State Treasury a revolving fund for the ~~Office of Personnel Management~~ Oklahoma State Employees Benefits Council to be designated the "Benefits

Council Administration Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies properly credited and paid to the Council other than flexible benefit dollars. ~~Disbursements from the fund shall be limited solely to~~ All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Employees Benefit Council solely for the direct administrative costs of and as authorized solely by the Council. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1369.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Any person eligible to begin coverage in a comprehensive benefits plan pursuant to the Oklahoma State Employees Benefits Act shall not be subject to a preexisting condition exclusion if the person was continuously covered under a previous comprehensive group benefits plan, was eligible to use military medical facilities, or was eligible to use Indian health services medical facilities.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1369.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Any eligible employee may elect to have his dependent or dependents covered by the health insurance plan and dental insurance plan or by any available health maintenance organization (HMO) offered by the Council. Such election shall be made at the time the employee initially becomes enrolled in the plan, under such procedures as the Council may establish. Subsequent elections of dependent coverage shall be made during the annual open enrollment period.

B. Any participating employee with dependent coverage, as provided in this section, who has a change in the number of his dependents may at the time of such change increase or decrease the number of dependents covered by the health insurance plan and dental insurance plan or approved HMO plans, under procedures established by the Council.

C. Any participating employee may elect dependent coverage at the time his dependency status changes under procedures established by the Council.

D. Dependents of a deceased participating employee who was on active work status or on a disability leave at the time of death may continue any benefit plans 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.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1369.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Any state employee eligible for membership in benefit plans upon its effective date shall be enrolled in the plan within thirty (30) days of such effective dates. The Council shall establish the procedure by which eligible education employees not electing to be enrolled initially in the health insurance plan, dental insurance plan, or life insurance plan may be subsequently enrolled.

B. Any eligible employee may become enrolled on the first day of the second month of employment.

C. An education employer shall extend the health and dental plans offered through the Oklahoma State Employees Benefits Council to education employees employed by said entity, and shall

be strictly prohibited from offering any benefit plan or contracting with any carrier or vendor not approved by the Council.

1. Benefit plans not offered under this act, but having education employees enrolled on the effective date of this act, shall be treated as if they are being offered under the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title, for purposes of offering to the school districts in which they currently have enrollees only. Benefit plans offered pursuant to this paragraph shall pay the fee required in paragraph 14 of subsection A of Section 1365 of this title.

2. With the exception of benefit plans meeting the criteria of paragraph 1 of this subsection and the school districts to which said benefit plans are currently offered, the benefits offered to a participating education employee shall be the same and shall include the same benefit plan options as would be made available to a participating state employee residing at the same location.

D. Except as otherwise provided in this section, a participating education employer shall advise all employees of health maintenance organizations and prepaid plans available pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title. Eligible part-time employees, at the option of the employee, may enroll in the plans either at the time of the initial offering to the employee or during the annual open enrollment period.

E. Any participating education employee who is employed after the participating education employer began said participation may be enrolled in the health and dental benefit plans approved by the Council on the first day of the second month of employment, or during the annual open enrollment period.

F. Upon initial enrollment of an institution of higher education to participate in the health and dental benefit plans offered through the Oklahoma State Employees Benefits Act pursuant to an election made under Section 1369.4 of this title, all individuals insured by said institution's present group health

insurance plan may become enrolled in a health benefit plan offered through the Council upon termination of said institution's contractual obligation under their present group health insurance plan.

G. Participating 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 Oklahoma State Employees Benefits Act upon the payment of the full cost of the coverage at the rate and under such terms and conditions established by the Council.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1369.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

Except as provided in Section 483 of Title 40 of the Oklahoma Statutes, the provisions of the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title, shall not apply to the employees and officers of The Oklahoma State System of Higher Education nor to the Commissioners of the State Department of Transportation nor to any member of an administrative board or commission of any agency, board, authority or commission of the State of Oklahoma unless such member is a full-time salaried employee; provided, however, that any state system or institution of higher education may elect to come under the provisions of said act.

SECTION 37. AMENDATORY Section 10, Chapter 400, O.S.L. 1992, as amended by Section 1, Chapter 221, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1370), is amended to read as follows:

Section 1370. A. Subject to the requirement that a ~~participant~~ <u>participating state employee</u> must elect at least the default benefits, or the basic plan, flexible benefit dollars may be used to purchase any of the benefits offered by the Council under the flexible benefits plan. A ~~participant's~~ <u>participating state employee's</u> flexible benefit dollars for a plan year shall consist of the sum of (1) flexible benefit allowance credited to a

~~participant~~ participating state employee by the participating state employer, and (2) pay conversion dollars elected by a ~~participant~~ participating state employee.

B. Each ~~participant~~ participating state employee will be credited annually with a specified amount as a flexible benefit allowance which will be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each ~~participant~~ participating state employee shall be communicated to him or her prior to the enrollment period for each plan year. The amount of a ~~participant's~~ participating state employee's benefit allowance, which shall be the total amount the participating state employer contributes for the payment of insurance premiums or other benefits, shall be One Hundred Eighty-seven Dollars and nineteen cents ($187.19) per month or the amount determined by the Council based on a formula for determining a ~~participant's~~ participating state employee's benefit credits consistent with the requirements of 26 U.S.C., Section 125(g)(2) and regulations thereunder. Provided, this section shall not prohibit payments for supplemental health insurance coverage made pursuant to Section ~~1314.4~~ 1369.8 of this ~~title~~ act or payments for the cost of providing health insurance coverage for dependents of participating state employees of the Grand River Dam Authority.

C. If a ~~participant~~ participating state employee desires to buy benefits whose sum total of benefit prices is in excess of his or her flexible benefit allowance, the ~~participant~~ participating state employee may elect to use pay conversion dollars to purchase such excess benefits. Pay conversion dollars may be elected through a salary reduction agreement made pursuant to the election procedures of Section 1371 of this title. The elected amount shall be deducted from the ~~participant's~~ participating state employee's compensation in equal amounts each pay period over the plan year. On termination of employment during a plan year, a ~~participant~~ participating state employee shall have no obligation to pay the participating state employer any pay conversion dollars allocated to the portion of the plan year after the ~~participant's~~ participating state employee's termination of employment.

D. If a ~~participant~~ participating state employee elects benefits whose sum total of benefit prices is less than his or her flexible benefit allowance, he or she shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation will be paid in substantially equal amounts each pay period over the plan year. On termination during a plan year, a ~~participant~~ participating state employee shall have no right to receive any such taxable cash compensation allocated to the portion of the plan year after the ~~participant's~~ participating state employee's termination. Nothing herein shall affect a ~~participant's~~ participating state employee's obligation to elect the minimum benefits or to accept the default benefits of the plan with corresponding reduction in the sum of his or her flexible benefit allowance equal to the sum total benefit price of such minimum benefits or default benefits.

SECTION 38. AMENDATORY Section 11, Chapter 400, O.S.L. 1992, as amended by Section 11, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1994, Section 1371), is amended to read as follows:

Section 1371. A. All ~~participants~~ participating state employees must use a portion or all of their flexible benefit allowance to purchase at least the basic plan. On or before ~~January~~ October 1 of each year, the Council shall design the basic plan for the next plan year to insure that the basic plan provides adequate coverage to all ~~participants~~ participating state employees. All benefit plans, whether offered by the Board~~, a health maintenance organization~~ or other vendors shall ~~at least meet~~ offer a standardized, basic plan which meets the minimum requirements set by the Council for the basic plan. The standardized basic plans offered by all vendors pursuant to this subsection shall be offered at identical benefit levels.

B. The Board shall offer health, ~~dental,~~ disability, life and dental coverage to all ~~participants~~ participating employees and their dependents. For health, dental, disability and life coverage, the Board shall offer plans at the basic benefit level established by the Council, and in addition, may offer benefit plans that provide an enhanced level of benefits. The Board shall

be responsible for determining the plan design and the benefit price for the plans that they offer. The benefits price for the basic plan during a plan year shall not exceed the flexible benefits allowance for the same plan year. The Council shall approve the plan designs to assure that they meet the minimum benefit levels.

Nothing in this subsection shall be construed as prohibiting the Board from offering additional medical plans, provided that any medical plan offered to ~~participants~~ participating employees shall meet or exceed the benefits provided in the medical portion of the basic plan.

C. In lieu of electing any of the preceding medical benefit plans, a ~~participant~~ participating employee may elect medical coverage by any health maintenance organization made available to ~~participants~~ participating employees by the Council. The benefit price of any health maintenance organization shall be determined ~~annually by a sealed bid process conducted through the Central Purchasing Division of the Department of Central Services~~ on a competitive bid basis. Contracts for said plans shall not be subject to the provisions of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes. Said benefit price shall be finally determined no later than two o'clock p.m. the second Wednesday in January of the previous fiscal year. The Council shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded pursuant to this act. All plans offered by health maintenance organizations meeting the bid requirements as determined by the Council shall be accepted. Provided, however, the Council shall have the authority to reject the bid or restrict enrollment in any health maintenance organization for which the benefit price is determined to be excessive by the Council. In making such determination the Council shall examine the most recent financial data of the health maintenance organization and shall consider the prices charged for comparable plans offered to other groups. All bidders shall submit along with their bid a notarized, sworn statement as provided by Section 85.22 of this

title. ~~The~~ Except as otherwise provided in paragraph 1 of subsection C of Section 35 of this act, the Council shall have the authority to reject any plan that does not meet the bid requirements.

D. Nothing in this section shall be construed as prohibiting the Council from offering additional qualified benefit plans or currently taxable benefit plans.

E. Each participating employee of a participating employer who meets the eligibility requirements for participation in the flexible benefits plan shall make an annual election of benefits under the plan during an annual open enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the Council, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year.

Each such employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the Council shall prescribe. Any such state employee who fails to make a proper election under the plan shall, nevertheless, be a participant in the plan and shall be deemed to have purchased the default benefits described in this section.

F. The Council shall prescribe the forms that ~~participants~~ participating employees will be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

G. Any ~~participant~~ participating state employee who, in the first year for which he or she is eligible to participate in the plan, fails to make a proper election under the plan in conformance with the procedures set forth in this section or as prescribed by the Council shall be deemed automatically to have purchased the default benefits. The default benefits shall be the same as the basic plan benefits. Any ~~participant~~ participating state employee who, after having participated in the plan during the previous plan year, fails to make a proper election under the plan in conformance with the procedures set forth in this section or prescribed by the Council, shall be deemed automatically to

have purchased the same benefits which the ~~participant~~ participating state employee purchased in the immediately preceding plan year, except that the ~~participant~~ participating state employee shall not be deemed to have elected coverage under the health care reimbursement account plan or the dependent care reimbursement account plan~~;~~.

H. Benefit plan contracts with the Board, health maintenance organizations, and other third party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Council, based on generally accepted actuarial principles.

I. The Council shall ensure that all contracts or other agreements with health plan providers, including the Board, shall include a requirement that the provider designate a person or persons to provide liaison to employee assistance officers of state agencies and the State Employee Assistance Program.

SECTION 39. AMENDATORY Section 12, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, Section 1372), is amended to read as follows:

Section 1372. The Council shall be responsible for making all determinations as to the rights of any ~~participant~~ participating employee or any beneficiary of a ~~participant~~ participating employee to receive amounts under the plan except to the extent a benefit plan provides to the contrary. The Council may prescribe forms and procedures for making claims for benefits under the plan to the extent such forms or procedures are not prescribed by the terms of a benefit plan. Each person making a claim for benefits under the plan shall also furnish the Council with such documents, evidence, data or information in support of such claim as the Council considers necessary or desirable. If any claim for benefits under the plan is wholly or partially denied, the claimant shall be given notice in writing of such denial within a reasonable period of time, but no later than forty-five (45) days after the claim is filed. Such notice shall set forth the following information:

1. The specific reason or reasons for the denial;

2. Specific reference to pertinent plan provisions on which the denial is based;

3. A description of any additional materials or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary;

4. An explanation that a full and fair review by the Council of the decision denying the claim may be requested by the claimant or his or her authorized representative by filing with the Council, within ninety (90) days after notice of denial has been received, a written request for such hearing; and

5. If such request is so filed, the claimant or his authorized representative may review pertinent documents and submit issues and comments in writing within the same ninety-day period specified in paragraph 4 of this section. The hearing before the Council reviewing the Council's claim denial shall be held no later than sixty (60) days after the Council's receipt of the request for hearing, unless special circumstances require an extension of time by the claimant, in which case a hearing shall be held not later than one hundred twenty (120) days after receipt of the request for hearing. The decision on the hearing shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and shall include specific references to the pertinent plan provisions on which the decision is based.

SECTION 40. REPEALER 74 O.S. 1991, Sections 1307.1, 1308.1, as amended by Section 4, Chapter 359, O.S.L. 1993, 1310, 1311, Section 1, Chapter 284, O.S.L. 1994, 1312.3, 1314.5, and Section 2, Chapter 163, O.S.L. 1992, as amended by Section 18, Chapter 400, O.S.L. 1992 (74 O.S. Supp. 1994, Sections 1308.1, 1311.2, and 1348), are hereby repealed.

SECTION 41. RECODIFICATION 74 O.S. 1991, Sections 840-2.10, as last amended by Section 1 of this act, 1310.1, as amended by Section 9 of this act, 1311.1, as amended by Section 10 of this act, 1314.1, 1314.2, as amended by Section 14 of this act, 1314.3, as amended by Section 15 of this act, 1314.4, 1315, as last amended by Section 16 of this act, 1316.2, as amended by Section

18 of this act and 1316.3, as last amended by Section 19 of this act, shall be recodified as Sections 1373, 1370.1, 1370.2, 1369.5, 1369.6, 1369.7, 1369.8, 1363.1, 1363.2 and 1363.3 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 42. This act shall become effective July 1, 1995.

SECTION 43. 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.

45-1-1500 SLM