

3 Senate Bill No. 311  
4 As Amended

5 SENATE BILL NO. 311 - By: LERBLANCE of the Senate and BILLY of the  
6 House.

7 [ health insurance - blending rates for active employees and  
8 retirees under sixty-five years of age - effective date -  
9 emergency ]

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

11 SECTION 1. AMENDATORY 74 O.S. 2001, Section 1306, as  
12 last amended by Section 1, Chapter 405, O.S.L. 2004 (74 O.S. Supp.  
13 2004, Section 1306), is amended to read as follows:

14 Section 1306. The State and Education Employees Group Insurance  
15 Board shall administer and manage the group insurance plans and the  
16 flexible benefits plan and, subject to the provisions of the State  
17 and Education Employees Group Insurance Act and the State Employees  
18 Flexible Benefits Act, shall have the following powers and duties:

19 1. The preparation of specifications for such insurance plans  
20 as the Board may determine to be appropriate;

21 2. The authority and duty to request bids through the  
22 Purchasing Division of the Department of Central Services for a  
23 contract to be the claims administrator for all or any part of such  
24 insurance and benefit plans as the Board may offer;

1           3. The determination of the methods of claims administration  
2 under such insurance and benefit plans as the Board may offer;

3           4. The determination of the eligibility of employees and their  
4 dependents to participate in each of the Group Insurance Plans and  
5 in such other insurance and benefit plans as the Board may offer and  
6 the eligibility of employees other than education employees to  
7 participate in the Life Insurance Plan provided that evidence of  
8 insurability shall not be a requirement in determining an employee's  
9 initial eligibility;

10          5. The determination of the amount of employee payroll  
11 deductions and the responsibility of establishing the procedure by  
12 which such deduction shall be made;

13          6. The establishment of a grievance procedure by which a three-  
14 member grievance panel shall act as an appeals body for complaints  
15 by insured employees regarding the allowance and payment of claims,  
16 eligibility, and other matters. Except for grievances settled to  
17 the satisfaction of both parties prior to a hearing, any person who  
18 requests in writing a hearing before the grievance panel shall  
19 receive a hearing before the panel. The grievance procedure  
20 provided by this paragraph shall be the exclusive remedy available  
21 to insured employees having complaints against the insurer. Such  
22 grievance procedure shall be subject to the Oklahoma Administrative  
23 Procedures Act, including provisions thereof for review of agency

1 decisions by the district court. The grievance panel shall schedule  
2 a hearing regarding the allowance and payment of claims, eligibility  
3 and other matters within sixty (60) days from the date the grievance  
4 panel receives a written request for a hearing unless the panel  
5 orders a continuance for good cause shown. Upon written request by  
6 the insured employee to the grievance panel and received not less  
7 than ten (10) days before the hearing date, the grievance panel  
8 shall cause a full stenographic record of the proceedings to be made  
9 by a competent court reporter at the insured employee's expense;

10 7. The continuing study of the operation of such insurance and  
11 benefit plans as the Board may offer including such matters as gross  
12 and net costs, administrative costs, benefits, utilization of  
13 benefits, and claims administration;

14 8. The administration of the Health, Dental and Life Insurance  
15 Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the  
16 Education Employees Group Insurance Reserve Fund;

17 9. The auditing of the claims paid pursuant to the provisions  
18 of the State and Education Employees Group Insurance Act, the State  
19 Employees Flexible Benefits Act and the State Employees Disability  
20 Program Act;

21 10. a. To select and contract with federally qualified Health  
22 Maintenance Organizations under the provisions of 42  
23 U.S.C., Section 300e et seq. or with Health

1 Maintenance Organizations licensed by the Department  
2 of Health pursuant to Sections 2501 through 2510 of  
3 Title 63 of the Oklahoma Statutes for consideration by  
4 employees as an alternative to the state self-insured  
5 health plan, and to transfer to the HMOs such funds as  
6 may be approved for an employee electing HMO  
7 alternative services. The Board may also select and  
8 contract with a vendor to offer a point-of-service  
9 plan. An HMO may offer coverage through a point-of-  
10 service plan, subject to the guidelines established by  
11 the Board. However, if the Board chooses to offer a  
12 point-of-service plan, then a vendor that offers both  
13 an HMO plan and a point-of-service plan may choose to  
14 offer only its point-of-service plan in lieu of  
15 offering its HMO plan.

16 b. Benefit plan contracts with the State and Education  
17 Employees Group Insurance Board, Health Maintenance  
18 Organizations, and other third-party insurance vendors  
19 shall provide for a risk adjustment factor for adverse  
20 selection that may occur, as determined by the Board,  
21 based on generally accepted actuarial principles. The  
22 risk adjustment factor shall include all members  
23 participating in the plans offered by the State and

1 Education Employees Group Insurance Board. The  
2 Oklahoma State Employees Benefits Council shall  
3 contract with an actuary to provide the above  
4 actuarial services, and shall be reimbursed for these  
5 contract expenses by the Board.

6 c. Effective for the plan year beginning ~~July 1, 1997~~  
7 January 1, 2006, and for each plan year thereafter, in  
8 setting health insurance premiums for active employees  
9 and for retirees under sixty-five (65) years of age,  
10 HMOs, self-insured organizations and prepaid plans  
11 shall set the monthly premium for active employees ~~at~~  
12 ~~a maximum of Ninety Dollars (\$90.00) less than the~~  
13 monthly to be equal to the premium for retirees under  
14 sixty-five (65) years of age;

15 11. To contract for reinsurance, catastrophic insurance, or any  
16 other type of insurance deemed necessary by the Board. Provided,  
17 however, that the Board shall not offer a health plan which is owned  
18 or operated by the state and which utilizes a capitated payment plan  
19 for providers which uses a primary care physician as a gatekeeper to  
20 any specialty care provided by physician-specialists, unless  
21 specifically authorized by the Legislature;

22 12. The Board, pursuant to the provisions of Section 250 et  
23 seq. of Title 75 of the Oklahoma Statutes, shall adopt such rules

1 consistent with the provisions of the State and Education Employees  
2 Group Insurance Act as it deems necessary to carry out its statutory  
3 duties and responsibilities. Emergency Rules adopted by the Board  
4 and approved by the Governor which are in effect on the first day of  
5 the Regular Session of the Oklahoma Legislature shall not become  
6 null and void until January 15 of the subsequent calendar year;

7 13. The Board shall contract for claims administration services  
8 with a private insurance carrier or a company experienced in claims  
9 administration of any insurance that the Board may be directed to  
10 offer. No contract for claims administration services shall be made  
11 unless such contract has been offered for bids through the  
12 Purchasing Division of the Department of Central Services. The  
13 Board shall contract with a private insurance carrier or other  
14 experienced claims administrator to process claims with software  
15 that is normally used for its customers;

16 14. The Board shall contract for utilization review services  
17 with a company experienced in utilization review, data base  
18 evaluation, market research, and planning and performance of the  
19 health insurance plan;

20 15. The Board shall approve the amount of employee premiums and  
21 dependent premiums for such insurance plans as the Board shall  
22 offer for each year no later than the bid submission date for health  
23 maintenance organizations set by the Oklahoma State Employees

1 Benefits Council, which for plan year beginning July 1, 2001, shall  
2 be set no later than the third Friday of December of the previous  
3 fiscal year. The next plan year shall begin January 1, 2002, and on  
4 January 1 each year thereafter. For plan year beginning January 1,  
5 2002, and for each year thereafter, the submission date shall be set  
6 no later than the third Friday of August of the previous year.  
7 Except as otherwise provided for in Section 1321 of this title, the  
8 Board shall not have the authority to adjust the premium rates after  
9 approval. The Board shall submit notice of the amount of employee  
10 premiums and dependent premiums along with an actuarial projection  
11 of the upcoming fiscal year's enrollment, employee contributions,  
12 employer contributions, investment earnings, paid claims, internal  
13 expenses, external expenses and changes in liabilities to the  
14 Director of the Office of State Finance and the Director of the  
15 Legislative Service Bureau no later than March 1 of the previous  
16 fiscal year.

17 ~~In~~ Effective for the plan year beginning January 1, 2006, and  
18 for each plan year thereafter, in setting health insurance premiums  
19 for active employees and retirees under sixty-five (65) years of  
20 age, the Board shall set the monthly premium for active employees ~~at~~  
21 ~~a maximum of Ninety Dollars (\$90.00) less than~~ to be equal to the  
22 monthly premium for retirees under sixty-five (65) years of age;

1        16. Before December 1 of each year the Board shall submit to  
2 the Director of the Office of State Finance a report outlining the  
3 financial condition for the previous fiscal year of all insurance  
4 plans offered by the Board. The report shall include a complete  
5 explanation of all reserve funds and the actuarial projections on  
6 the need for such reserves. The report shall include and disclose  
7 an estimate of the future trend of medical costs, the impact from  
8 HMO enrollment, antiselection, changes in law, and other  
9 contingencies that could impact the financial status of the plan.  
10 The Director of the Office of State Finance shall make written  
11 comment on the report and shall provide such comment, along with the  
12 report submitted by the Board, to the Governor, the President Pro  
13 Tempore of the Senate, the Speaker of the House of Representatives  
14 and the Chair of the Oklahoma State Employees Benefits Council by  
15 January 15;

16        17. The Board shall establish a prescription drug card network;

17        18. The Board shall have the authority to intercept monies  
18 owing to plan participants from other state agencies, when those  
19 participants in turn, owe money to the Board. The Board shall be  
20 required to adopt rules and regulations ensuring the participants  
21 due process of law;

22        19. The Board is authorized to make available to eligible  
23 employees supplemental health care benefit plans to include but not

1 be limited to long-term care, deductible reduction plans and  
2 employee co-payment reinsurance. Premiums for said plans shall be  
3 actuarially based and the cost for such supplemental plans shall be  
4 paid by the employee; and

5 20. There is hereby created as a joint committee of the State  
6 Legislature, the Joint Liaison Committee on State and Education  
7 Employees Group Insurance Benefits, which Joint Committee shall  
8 consist of three members of the Senate to be appointed by the  
9 President Pro Tempore thereof and three members of the House of  
10 Representatives to be appointed by the Speaker thereof. The Chair  
11 and Vice Chair of the Joint Committee shall be appointed from the  
12 membership thereof by the President Pro Tempore of the Senate and  
13 the Speaker of the House of Representatives, respectively, one of  
14 whom shall be a member of the Senate and the other shall be a member  
15 of the House of Representatives. At the beginning of the first  
16 regular session of each Legislature, starting in 1991, the Chair  
17 shall be from the Senate; thereafter the chairship shall alternate  
18 every two (2) years between the Senate and the House of  
19 Representatives.

20 The Joint Liaison Committee on State and Education Employees  
21 Group Insurance Benefits shall function as a committee of the State  
22 Legislature when the Legislature is in session and when the

1 Legislature is not in session. Each appointed member of said  
2 committee shall serve until his or her successor is appointed.

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

9 21. The State and Education Employees Group Insurance Board  
10 shall annually collect its own set of performance measures  
11 comparable to the Health Plan Employer Data and Information Set  
12 (HEDIS) for the purpose of assessing the quality of its HealthChoice  
13 plans and the other services it provides.

14 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1371, as  
15 last amended by Section 1, Chapter 414, O.S.L. 2004 (74 O.S. Supp.  
16 2004, Section 1371), is amended to read as follows:

17 Section 1371. A. All participants must purchase at least the  
18 basic plan unless the participant is a person who has retired from a  
19 branch of the United States military and has been provided with  
20 health coverage through a federal plan and that participant provides  
21 proof of that coverage. On or before January 1 of the plan year  
22 beginning July 1, 2001, and July 1 of any plan year beginning after  
23 January 1, 2002, the Oklahoma State Employees Benefits Council shall

1 design the basic plan for the next plan year to insure that the  
2 basic plan provides adequate coverage to all participants. All  
3 benefit plans, whether offered by the State and Education Employees  
4 Group Insurance Board, a health maintenance organization or other  
5 vendors shall meet the minimum requirements set by the Council for  
6 the basic plan.

7 B. The Board shall offer health, disability, life and dental  
8 coverage to all participants and their dependents. For health,  
9 dental, disability and life coverage, the Board shall offer plans at  
10 the basic benefit level established by the Council, and in addition,  
11 may offer benefit plans that provide an enhanced level of benefits.  
12 The Board shall be responsible for determining the plan design and  
13 the benefit price for the plans that they offer. ~~In~~ Effective for  
14 the plan year beginning January 1, 2006, and for each plan year  
15 thereafter, in setting health insurance premiums for active  
16 employees and for retirees under sixty-five (65) years of age, the  
17 Board shall set the monthly premium for active employees ~~at a~~  
18 ~~maximum of Ninety Dollars (\$90.00) less than~~ to be equal to the  
19 monthly premium for retirees under sixty-five (65) years of age.

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

1 C. In lieu of electing any of the preceding medical benefit  
2 plans, a participant may elect medical coverage by any health  
3 maintenance organization made available to participants by the  
4 Council. The benefit price of any health maintenance organization  
5 shall be determined on a competitive bid basis. Contracts for said  
6 plans shall not be subject to the provisions of the Oklahoma Central  
7 Purchasing Act, Section 85.1 et seq. of this title. The Council  
8 shall promulgate rules establishing appropriate competitive bidding  
9 criteria and procedures for contracts awarded for flexible benefits  
10 plans. All plans offered by health maintenance organizations  
11 meeting the bid requirements as determined by the Council shall be  
12 accepted. The Council shall have the authority to reject the bid or  
13 restrict enrollment in any health maintenance organization for which  
14 the Council determines the benefit price to be excessive. The  
15 Council shall have the authority to reject any plan that does not  
16 meet the bid requirements. All bidders shall submit along with  
17 their bid a notarized, sworn statement as provided by Section 85.22  
18 of this title. In Effective for the plan year beginning January 1,  
19 2006, and for each plan year thereafter, in setting health insurance  
20 premiums for active employees and for retirees under sixty-five (65)  
21 years of age, HMOs, self-insured organizations and prepaid plans  
22 shall set the monthly premium for active employees at a maximum of

1 ~~Ninety Dollars (\$90.00) less than~~ to be equal to the monthly premium  
2 for retirees under sixty-five (65) years of age.

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

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

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

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

1       G. Any participant who, in the first year for which he or she  
2 is eligible to participate in the plan, fails to make a proper  
3 election under the plan in conformance with the procedures set forth  
4 in this section or as prescribed by the Council shall be deemed  
5 automatically to have purchased the default benefits. The default  
6 benefits shall be the same as the basic plan benefits. Any  
7 participant who, after having participated in the plan during the  
8 previous plan year, fails to make a proper election under the plan  
9 in conformance with the procedures set forth in this section or  
10 prescribed by the Council, shall be deemed automatically to have  
11 purchased the same benefits which the participant purchased in the  
12 immediately preceding plan year, except that the participant shall  
13 not be deemed to have elected coverage under the health care  
14 reimbursement account plan or the dependent care reimbursement  
15 account plan.

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

21       I. 1. For the plan year ending December 31, 2004, employees  
22 covered or eligible to be covered under the State and Education  
23 Employees Group Insurance Act and the State Employees Flexible

1 Benefits Act who are enrolled in a health maintenance organization  
2 offering a network in Oklahoma City, shall have the option of  
3 continuing care with a primary care physician for the remainder of  
4 the plan year if:

5 a. that primary care physician was part of a provider  
6 group that was offered to the individual at enrollment  
7 and later removed from the network of the health  
8 maintenance organization, for reasons other than for  
9 cause, and

10 b. the individual submits a request in writing to the  
11 health maintenance organization to continue to have  
12 access to the primary care physician.

13 2. The primary care physician selected by the individual shall  
14 be required to accept reimbursement for such health care services on  
15 a fee-for-service basis only. The fee-for-service shall be computed  
16 by the health maintenance organization based on the average of the  
17 other fee-for-service contracts of the health maintenance  
18 organization in the local community. The individual shall only be  
19 required to pay the primary care physician those co-payments,  
20 coinsurance and any applicable deductibles in accordance with the  
21 terms of the agreement between the employer and the health  
22 maintenance organization and the provider shall not balance bill the  
23 patient.

1           3. Any network offered in Oklahoma City that is terminated  
2 prior to July 1, 2004, shall notify the health maintenance  
3 organization, Oklahoma State Employees Benefits Council and State  
4 and Education Employees Group Insurance Board by June 11, 2004, of  
5 the network's intentions to continue providing primary care services  
6 as described in paragraph 2 of this subsection offered by the health  
7 maintenance organization to state and public employees.

8           SECTION 3. This act shall become effective July 1, 2005.

9           SECTION 4. It being immediately necessary for the preservation  
10 of the public peace, health and safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND GROUP HEALTH, dated  
14 2-22-05 - DO PASS, As Amended and Coauthored.