

1 ENGROSSED HOUSE  
2 BILL NO. 2888

By: Moore of the House

and

Brown of the Senate

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4  
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6  
7 ( state government - Legislative Oversight Committee  
8 on State Employee Benefits - membership - amending  
9 74 O.S., Sections 1370 and 1371 - flexible benefit  
10 requirements - codification -  
11 effective date )

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

15 SECTION 1. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1304.1 of Title 74, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. There is hereby established the Legislative Oversight  
19 Committee on State Employee Benefits. The purpose of this committee  
20 shall be the oversight of the State and Education Employees Group  
21 Insurance Board and the State Employees Benefits Council.

22 B. The Committee shall be composed of three members appointed  
23 by the President Pro Tempore of the Senate, three members appointed  
24 by the Speaker of the House of Representatives, two members

1 appointed by the minority leader of the Senate and two members  
2 appointed by the minority leader of the House of Representatives.  
3 The Chair and Vice Chair of the Committee shall rotate every two (2)  
4 years between the Senate and the House of Representatives beginning  
5 with a Senate member serving as Chair in 2011. The Committee shall  
6 meet at least four times per year and at other times as called by  
7 the Chair. The Legislative Oversight Committee on State Employee  
8 Benefits shall function as a committee of the Legislature when the  
9 Legislature is in session and is not in session. Each member of the  
10 Committee shall serve until a successor is appointed.

11 C. The Committee shall be staffed jointly by the staff of the  
12 fiscal divisions of the Senate and the House of Representatives.

13 D. The Committee may make use of all available teleconferencing  
14 technology to facilitate meetings of the Committee when the  
15 Legislature is not in session. The Committee shall take any  
16 appropriate action to make such teleconferenced meetings comply with  
17 the provisions of the Oklahoma Open Meeting Act, Sections 301  
18 through 314 of Title 25 of the Oklahoma Statutes.

19 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1370, as  
20 last amended by Section 2, Chapter 28, O.S.L. 2009 (74 O.S. Supp.  
21 2009, Section 1370), is amended to read as follows:

22 Section 1370. A. Subject to the requirement that a participant  
23 must elect the default benefits, the basic plan, or is a person who  
24 has retired from a branch of the United States military and has been

1 provided with health care through a federal plan, to the extent that  
2 it is consistent with federal law, and provides proof of this  
3 coverage, flexible benefit dollars may be used to purchase any of  
4 the benefits offered by the Oklahoma State Employees Benefits  
5 Council under the flexible benefits plan. A participant who has  
6 provided proof of other coverage as described in this subsection  
7 shall not receive flexible benefit dollars if the person elects not  
8 to purchase any benefits. A participant's flexible benefit dollars  
9 for a plan year shall consist of the sum of (1) flexible benefit  
10 allowance credited to a participant by the participating employer,  
11 and (2) pay conversion dollars elected by a participant.

12 B. Each participant shall be credited annually with a specified  
13 amount as a flexible benefit allowance which shall be available for  
14 the purchase of benefits. The amount of the flexible benefit  
15 allowance credited to each participant shall be communicated to him  
16 or her prior to the enrollment period for each plan year.

17 C. For the plan year ~~ending December 31, 2001,~~ beginning  
18 January 1, 2011, the benefit allowance shall be equal to the Plan  
19 Year 2010 benefit allowance amounts and shall not be increased for  
20 three (3) plan years thereafter. For the plan year beginning  
21 January 1, 2015, and each plan year thereafter, the amount of a  
22 participant's benefit allowance, which shall be the total amount the  
23 employer contributes for the payment of insurance premiums or other  
24 benefits, shall be:

1           1. The greater of Two Hundred Sixty-two Dollars and nineteen  
2 cents (\$262.19) per month or an amount equal to the sum of the  
3 average monthly premiums of all high option health insurance plans,  
4 excluding the point-of-service plans, the average monthly premiums  
5 of the dental plans, the monthly premium of the disability plan, and  
6 the monthly premium of the basic life insurance plan offered to  
7 state employees or the amount determined by the Council based on a  
8 formula for determining a participant's benefit credits consistent  
9 with the requirements of 26 U.S.C., Section 125(g)(2) and  
10 regulations thereunder; or

11           2. The greater of Two Hundred Twenty-four Dollars and sixty-  
12 nine cents (\$224.69) per month or an amount equal to the sum of the  
13 average monthly premiums of all high option health insurance plans,  
14 excluding the point-of-service plans, the average monthly premiums  
15 of the dental plans, the monthly premium of the disability plan, and  
16 the monthly premium of the basic life insurance plan offered to  
17 state employees plus one of the additional amounts as follows for  
18 participants who elect to include one or more dependents:

- 19           a. for a spouse, seventy-five percent (75%) of the  
20           average price of all high option benefit plans,  
21           excluding the point-of-service plans, available for  
22           coverage of a spouse,  
23           b. for one child, seventy-five percent (75%) of the  
24           average price of all high option benefit plans

1 available, excluding the point-of-service plans, for  
2 coverage of one child,

3 c. for two or more children, seventy-five percent (75%)  
4 of the average price of all high option benefit plans  
5 available, excluding the point-of-service plans, for  
6 coverage of two or more children,

7 d. for a spouse and one child, seventy-five percent (75%)  
8 of the average price of all high option benefit plans  
9 available, excluding the point-of-service plans, for  
10 coverage of a spouse and one child, or

11 e. for a spouse and two or more children, seventy-five  
12 percent (75%) of the average price of all high option  
13 benefit plans available, excluding the point-of-  
14 service plans, for coverage of a spouse and two or  
15 more children.

16 D. This section shall not prohibit payments for supplemental  
17 health insurance coverage made pursuant to Section 1314.4 of this  
18 title or payments for the cost of providing health insurance  
19 coverage for dependents of employees of the Grand River Dam  
20 Authority.

21 E. If a participant desires to buy benefits whose sum total of  
22 benefit prices is in excess of his or her flexible benefit  
23 allowance, the participant may elect to use pay conversion dollars  
24 to purchase such excess benefits. Pay conversion dollars may be

1 | elected through a salary reduction agreement made pursuant to the  
2 | election procedures of Section 1371 of this title. The elected  
3 | amount shall be deducted from the participant's compensation in  
4 | equal amounts each pay period over the plan year. On termination of  
5 | employment during a plan year, a participant shall have no  
6 | obligation to pay the participating employer any pay conversion  
7 | dollars allocated to the portion of the plan year after the  
8 | participant's termination of employment.

9 | F. If a participant elects benefits whose sum total of benefit  
10 | prices is less than his or her flexible benefit allowance, he or she  
11 | shall receive any excess flexible benefit allowance as taxable  
12 | compensation. Such taxable compensation will be paid in  
13 | substantially equal amounts each pay period over the plan year. On  
14 | termination during a plan year, a participant shall have no right to  
15 | receive any such taxable cash compensation allocated to the portion  
16 | of the plan year after the participant's termination. Nothing  
17 | herein shall affect a participant's obligation to elect the minimum  
18 | benefits or to accept the default benefits of the plan with  
19 | corresponding reduction in the sum of his or her flexible benefit  
20 | allowance equal to the sum total benefit price of such minimum  
21 | benefits or default benefits.

22 | SECTION 3. AMENDATORY 74 O.S. 2001, Section 1371, as  
23 | last amended by Section 6, Chapter 269, O.S.L. 2007 (74 O.S. Supp.  
24 | 2009, Section 1371), is amended to read as follows:

1 Section 1371. A. All participants must purchase at least the  
2 basic plan unless, to the extent that it is consistent with federal  
3 law, the participant is a person who has retired from a branch of  
4 the United States military and has been provided with health  
5 coverage through a federal plan and that participant provides proof  
6 of that coverage. On or before January 1 of the plan year beginning  
7 July 1, 2001, and July 1 of any plan year beginning after January 1,  
8 2002, the Oklahoma State Employees Benefits Council shall design the  
9 basic plan for the next plan year to insure that the basic plan  
10 provides adequate coverage to all participants. All benefit plans,  
11 whether offered by the State and Education Employees Group Insurance  
12 Board, a health maintenance organization or other vendors shall meet  
13 the minimum requirements set by the Council for the basic plan.

14 B. The Board shall offer health, disability, life and dental  
15 coverage to all participants and their dependents. For health,  
16 dental, disability and life coverage, the Board shall offer plans at  
17 the basic benefit level established by the Council, and in addition,  
18 may offer benefit plans that provide an enhanced level of benefits.  
19 The Board shall be responsible for determining the plan design and  
20 the benefit price for the plans that they offer. Effective for the  
21 plan year beginning January 1, 2007, and for each plan year  
22 thereafter, in setting health insurance premiums for active  
23 employees and for retirees under sixty-five (65) years of age, the  
24 Board shall set the monthly premium for active employees to be equal

1 to the monthly premium for retirees under sixty-five (65) years of  
2 age. Effective for the plan year beginning January 1, 2011, the  
3 benefit allowance shall be equal to the Plan Year 2010 benefit  
4 allowance amounts and shall not be increased for three (3) years  
5 thereafter. For the plan year beginning January 1, 2015, the  
6 determination of the benefit allowance shall resume as provided in  
7 this subsection.

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

12 C. In lieu of electing any of the preceding medical benefit  
13 plans, a participant may elect medical coverage by any health  
14 maintenance organization made available to participants by the  
15 Council. The benefit price of any health maintenance organization  
16 shall be determined on a competitive bid basis. Contracts for said  
17 plans shall not be subject to the provisions of The Oklahoma Central  
18 Purchasing Act, Section 85.1 et seq. of this title. The Council  
19 shall promulgate rules establishing appropriate competitive bidding  
20 criteria and procedures for contracts awarded for flexible benefits  
21 plans. All plans offered by health maintenance organizations  
22 meeting the bid requirements as determined by the Council shall be  
23 accepted. ~~The Council shall have the authority to reject the bid or~~  
24 ~~restrict enrollment in any health maintenance organization for which~~

1 ~~the Council determines the benefit price to be excessive.~~ The  
2 Council shall have the authority to reject any plan that does not  
3 meet the bid requirements. All bidders shall submit along with  
4 their bid a notarized, sworn statement as provided by Section 85.22  
5 of this title. Effective for the plan year beginning January 1,  
6 2007, and for each plan year thereafter, in setting health insurance  
7 premiums for active employees and for retirees under sixty-five (65)  
8 years of age, HMOs, self-insured organizations and prepaid plans  
9 shall set the monthly premium for active employees to be equal to  
10 the monthly premium for retirees under sixty-five (65) years of age.

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

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

22 Each such employee shall make an irrevocable advance election  
23 for the plan year or the remainder thereof pursuant to such  
24 procedures as the Council shall prescribe. Any such employee who

1 fails to make a proper election under the plan shall, nevertheless,  
2 be a participant in the plan and shall be deemed to have purchased  
3 the default benefits described in this section.

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

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

22 H. Benefit plan contracts with the Board, health maintenance  
23 organizations, and other third party insurance vendors shall provide  
24 for a risk adjustment factor for adverse selection that may occur,

1 as determined by the Council, based on generally accepted actuarial  
2 principles.

3 I. 1. For the plan year ending December 31, 2004, employees  
4 covered or eligible to be covered under the State and Education  
5 Employees Group Insurance Act and the State Employees Flexible  
6 Benefits Act who are enrolled in a health maintenance organization  
7 offering a network in Oklahoma City, shall have the option of  
8 continuing care with a primary care physician for the remainder of  
9 the plan year if:

10 a. that primary care physician was part of a provider  
11 group that was offered to the individual at enrollment  
12 and later removed from the network of the health  
13 maintenance organization, for reasons other than for  
14 cause, and

15 b. the individual submits a request in writing to the  
16 health maintenance organization to continue to have  
17 access to the primary care physician.

18 2. The primary care physician selected by the individual shall  
19 be required to accept reimbursement for such health care services on  
20 a fee-for-service basis only. The fee-for-service shall be computed  
21 by the health maintenance organization based on the average of the  
22 other fee-for-service contracts of the health maintenance  
23 organization in the local community. The individual shall only be  
24 required to pay the primary care physician those co-payments,

1 coinsurance and any applicable deductibles in accordance with the  
2 terms of the agreement between the employer and the health  
3 maintenance organization and the provider shall not balance bill the  
4 patient.

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

12 SECTION 4. This act shall become effective November 1, 2010.

13 Passed the House of Representatives the 11th day of March, 2010.

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17 Presiding Officer of the House of  
Representatives

18 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

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22 Presiding Officer of the Senate

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