

ENROLLED SENATE
BILL NO. 2052

By: Coffee of the Senate

and

Benge, Jackson, Murphey and
Moore of the House

An Act relating to state government; amending 11 O.S. 2001, Section 23-108, as amended by Section 4, Chapter 515, O.S.L. 2004 (11 O.S. Supp. 2009, Section 23-108), which relates to insurance benefits for certain municipal employees; modifying agency designation; amending Section 4, Chapter 319, O.S.L. 2003, as amended by Section 2, Chapter 139, O.S.L. 2008 (19 O.S. Supp. 2009, Section 746.1), which relates to the Medical Expense Liability Revolving Fund; modifying agency designations; amending Section 5, Chapter 319, O.S.L. 2003, as last amended by Section 3, Chapter 139, O.S.L. 2008, and 20 O.S. 2001, Section 1652 (20 O.S. Supp. 2009, Section 1313.7), which relate to court fees; modifying agency designation; amending 36 O.S. 2001, Sections 1250.2, as last amended by Section 1, Chapter 323, O.S.L. 2009, 6058A, as last amended by Section 2, Chapter 393, O.S.L. 2004, 6060.4, as last amended by Section 33 of Enrolled Senate Bill No. 2054 of the 2nd Session of the 52nd Oklahoma Legislature, 6542, as last amended by Section 6, Chapter 404, O.S.L. 2008, and 6553 (36 O.S. Supp. 2009, Sections 1250.2, 6058A and 6542), which relate to the Oklahoma Insurance Code; modifying agency designations; amending 40 O.S. 2001, Section 483, which relates to benefits of certain state employees after agency transfer; modifying agency designation; amending Section 8, Chapter 366, O.S.L. 2008, and Section 21, Chapter 3, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-701a), as last amended by Section 1, Chapter 337, O.S.L. 2007,

and as renumbered by Section 2, Chapter 337, O.S.L. 2007 (57 O.S. Supp. 2009, Sections 38.3 and 627), which relate to medical care for inmates; modifying agency designation; amending 62 O.S. 2001, Sections 7.2, as last amended by Section 36, Chapter 441, O.S.L. 2009, and as renumbered by Section 64, Chapter 441, O.S.L. 2009, and 7.1, as amended by Section 1, Chapter 123, O.S.L. 2008, and as renumbered by Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2009, Sections 34.56 and 34.57), which relate to the Oklahoma State Finance Act; modifying agency designations; amending 62 O.S. 2001, Section 139.47, as last amended by Section 1, Chapter 309, O.S.L. 2004 (62 O.S. Supp. 2009, Section 139.47), which relates to State Emergency Fund expenditures; modifying agency designations; amending Section 1, Chapter 276, O.S.L. 2009 (63 O.S. Supp. 2009, Section 1-131), which relates to the creation of the Health Information Advisory Board; modifying agency designation; amending 63 O.S. 2001, Sections 2550.1 and 2622, which relate to definitions; modifying definitions; amending 68 O.S. 2001, Section 2357.33, as amended by Section 1, Chapter 144, O.S.L. 2004 (68 O.S. Supp. 2009, Section 2357.33), which relates to tax credits for certain immunizations; modifying agency designation; amending Section 4, Chapter 119, O.S.L. 2004, as amended by Section 3, Chapter 248, O.S.L. 2004 (70 O.S. Supp. 2009, Section 18-114.11), which relates to compensation for certain educational personnel; modifying agency designation; amending 70 O.S. 2001, Sections 26-104, as last amended by Section 1, Chapter 180, O.S.L. 2007, and 26-105, as last amended by Section 2, Chapter 180, O.S.L. 2007 (70 O.S. Supp. 2009, Sections 26-104 and 26-105), which relate to flexible benefit allowances for certain school district employees; modifying agency designation; requiring participation of new employees in health plan; specifying approved uses of excess benefit allowance; specifying excess benefit shall not be used as income of new employees; amending 74 O.S. 2001, Sections 85.7, as last amended by Section 7, Chapter 322, O.S.L. 2009, and 85.58A, as last

amended by Section 2, Chapter 352, O.S.L. 2008 (74 O.S. Supp. 2009, Sections 85.7 and 85.58A), which relate to the Oklahoma Central Purchasing Act; modifying agency designations; specifying Department of Central Services shall not administer risk management program for Oklahoma Health and Wellness Board insurance plans; amending 74 O.S. 2001, Section 212, which relates to the authority of the State Auditor; modifying agency designation; amending 74 O.S. 2001, Sections 840-2.21, as last amended by Section 8, Chapter 312, O.S.L. 2004, 840-2.27D, as last amended by Section 94, Chapter 5, O.S.L. 2004, 840-2.27I, 840-5.2B, 840-5.5, as last amended by Section 51 of Enrolled House Bill No. 3026 of the 2nd Session of the 52nd Oklahoma Legislature, and 840-5.20 (74 O.S. Supp. 2009, Sections 840-2.21 and 840-2.27D), which relate to the Oklahoma Personnel Act; modifying agency designations; amending 74 O.S. 2001, Section 908 and Section 1, Chapter 449, O.S.L. 2004, as amended by Section 2, Chapter 367, O.S.L. 2007 (74 O.S. Supp. 2009, Section 915.3), which relate to the Oklahoma Public Employees Retirement System; modifying agency designations; amending 74 O.S. 2001, Sections 1301, 1302, 1303, as last amended by Section 13, Chapter 415, O.S.L. 2008, 1305, 1305.1, as amended by Section 2, Chapter 196, O.S.L. 2002, 1305.2, 1306, as last amended by Section 3, Chapter 231, O.S.L. 2006, 1306.2, 1306.3, Section 1, Chapter 198, O.S.L. 2002, Section 6, Chapter 319, O.S.L. 2003, 1307, 1307.1, 1307.2, 1308, as amended by Section 3, Chapter 345, O.S.L. 2004, 1308.1, as amended by Section 1, Chapter 41, O.S.L. 2004, 1308.2, Section 4, Chapter 231, O.S.L. 2006, as amended by Section 14, Chapter 415, O.S.L. 2008, 1310, 1310.1, as last amended by Section 1, Chapter 373, O.S.L. 2004, Section 3, Chapter 418, O.S.L. 2002, 1311, 1311.1, 1312, 1312.1, 1312.2, 1312.3, 1314, 1314.2, 1314.3, as amended by Section 1, Chapter 278, O.S.L. 2004, 1314.5, as amended by Section 3, Chapter 278, O.S.L. 2004, 1315, as last amended by Section 4, Chapter 345, O.S.L. 2004, Section 1, Chapter 71, O.S.L. 2002, 1316.1, as

amended by Section 1, Chapter 127, O.S.L. 2002, 1316.2, as last amended by Section 2, Chapter 198, O.S.L. 2005, 1316.3, as last amended by Section 3, Chapter 198, O.S.L. 2005, 1317, 1318, 1320, as amended by Section 73, Chapter 264, O.S.L. 2006, 1321, as last amended by Section 5, Chapter 231, O.S.L. 2006, 1323, as amended by Section 7, Chapter 345, O.S.L. 2004, 1324, 1325, 1326, 1327 and 1328, as amended by Section 1, Chapter 155, O.S.L. 2002 (74 O.S. Supp. 2009, Sections 1303, 1305.1, 1306, 1306.5, 1306.6, 1308, 1308.1, 1309.1, 1310.1, 1310.2, 1314.3, 1314.5, 1315, 1315.1, 1316.1, 1316.2, 1316.3, 1320, 1321, 1323 and 1328), which relate to the State and Education Employees Group Insurance Act; designating act the Oklahoma Health and Wellness Act; providing for uniformity of benefits coverage; modifying definitions; creating Oklahoma Health and Wellness Board; providing for membership of Board; specifying duties of chair of Board; providing for succession of Board chairs; providing for appointment of Board members; specifying appointing authorities of Board; limiting appointment of members of certain existing board and council; providing duration of term of Board members; providing for travel reimbursement; providing for organizational meeting; specifying Insurance Commissioner shall call organizational meeting; prohibiting members of Board from being lobbyists; prohibiting members of Board from being employed by firm or provider contracting with the state; providing exception; providing for vacancies on Board; requiring compliance with Open Meeting Act; exempting Board from Sunset Law requirements; directing Board to adopt certain rules; requiring Board to contract with certain vendor; stating purpose of contract; specifying requirements of program; requiring that program offer certain financial incentives; specifying requirements for financial reward of program; specifying that program shall be voluntary; providing for Internet application of program; requiring collection and review of data in order to determine effectiveness of the program; requiring continuation of the contract

under certain conditions; requiring majority to call for special meetings; restricting Board members from accepting gifts or gratuities; eliminating certain duties of the Board; eliminating authority to invest in certain assets; modifying Board investment committee size; directing Board to identify and eliminate certain duplicative functions and positions; requiring Board to provide certain report; directing Board to request any necessary statutory modifications in report; directing that specified excess funds in certain reserve fund be used to fund health savings accounts; directing Board to fund certain accounts; requiring Board to provide certain report; directing Board to utilize certain surplus to fund specified accounts; requiring Board to establish Wellness program; requiring use of financial incentives; modifying agency designation; directing Board to develop wellness strategy; directing Board to promote and coordinate medical home providers; directing Board to develop certain infrastructure; specifying elements of infrastructure improvement; directing Board to create two divisions; specifying designation of new divisions; specifying duties of HealthChoice Health Insurance Division; requiring that investments be diversified; requiring compliance with certain acts; limiting investment discretion of Division; defining term; limiting authority of Board to select and contract certain health maintenance organization contracts; eliminating Board authority to adopt certain rules; renaming Joint Liaison Committee on State and Education Employees Group Insurance Benefits the Joint Liaison Committee on Oklahoma Health and Wellness; updating statutory references; authorizing Board to extend benefits of state health and wellness plan to certain persons not employed by the state; providing that excess benefit allowance for specified employees shall be transferred to certain account; amending Section 4, Chapter 323, O.S.L. 2009, which relates to the State Employee Health Insurance Review Working Group; re-creating the State Employee Health Insurance Review Working Group; modifying name of entity; adding

additional members; providing for appointment of additional members; providing for continuation of members and cochairs; modifying duties; authorizing the selection of certain consultant; specifying duties of consultant; exempting certain contract from the Oklahoma Central Purchasing Act; requiring report by certain date; specifying termination of Working Group on certain date; amending 74 O.S. 2001, Sections 1332, 1332.1, 1332.2, 1333 and 1335, which relate to the State Employees Disability Program Act; modifying agency designations; updating statutory references; amending 74 O.S. 2001, Sections 1342, 1344, as last amended by Section 6, Chapter 231, O.S.L. 2006, and 1346 (74 O.S. Supp. 2009, Section 1344), which relate to the State Employees Flexible Benefits Act; modifying agency designations; updating statutory references; amending 74 O.S. 2001, Sections 1365, as last amended by Section 1, Chapter 28, O.S.L. 2009, 1366, Section 10, Chapter 439, O.S.L. 2002, 1368, 1370, as last amended by Section 2, Chapter 28, O.S.L. 2009, 1371, as last amended by Section 6, Chapter 269, O.S.L. 2007, 1372, as amended by Section 1, Chapter 369, O.S.L. 2003, 1373, Section 1, Chapter 501, O.S.L. 2002, as last amended by Section 9, Chapter 231, O.S.L. 2006, and Section 7, Chapter 269, O.S.L. 2007 (74 O.S. Supp. 2009, Sections 1365, 1366.1, 1370, 1371, 1372, 1374 and 1375), which relate to the Oklahoma State Employees Benefits Act; modifying agency designations; specifying Employee Benefits Division shall construe and interpret certain health plan; specifying Employee Benefits Division shall negotiate and contract with single health maintenance organization; updating statutory references; providing certain employees shall not be held responsible for action of Division; requiring remittance of certain percentage of administrative costs by Board to General Revenue Fund; requiring Office to provide certain report; specifying Board shall select health maintenance organization offering statewide services; providing that benefit allowance shall not decrease after certain date; modifying method for determination of

allowance; specifying excess benefit allowance for specified employees shall be transferred to certain account; specifying excess benefit allowance accrued after certain date shall be transferred to certain account; combining certain duties of State Employees Benefits Council and State and Education Employees Group Insurance Board into duties of Oklahoma Health and Wellness Board; modifying plural references to health maintenance organizations to single organization; requiring actuarially sound premium rates; requiring review of rates by actuary; providing for the selection of the actuary; modifying reference to act; amending 74 O.S. 2001, Sections 1382, as amended by Section 1, Chapter 50, O.S.L. 2006, 1383 and 1384 (74 O.S. Supp. 2009, Section 1382), which relate to the Wellness Program Act; modifying agency designations; providing that state employees shall be enrolled in wellness program; directing Wellness Council to establish certain incentives for participation; specifying Wellness Council shall encourage participation by dependents of state employees; requiring coordination of efforts by Wellness Council with Oklahoma Health and Wellness Board; amending Section 1, Chapter 17, O.S.L. 2002, as last amended by Section 5, Chapter 300, O.S.L. 2008, and Section 2, Chapter 463, O.S.L. 2004, as last amended by Section 2, Chapter 208, O.S.L. 2007 (74 O.S. Supp. 2009, Sections 3601.1 and 3601.2), which relate to the State Employment Review Board; modifying agency designations; amending Section 5, Chapter 459, O.S.L. 2003, as last amended by Section 4, Chapter 234, O.S.L. 2005 (82 O.S. Supp. 2009, Section 864.1), which relates to retirement provisions for retirees of the Grand River Dam Authority; modifying agency designation; repealing 74 O.S. 2001, Section 1304, as last amended by Section 2, Chapter 231, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1304), which relates to the creation of the State and Education Employees Group Insurance Board; repealing 74 O.S. 2001, Sections 1361, 1362, 1364, and Section 3, Chapter 489, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1366.2), which relate to the

Oklahoma State Employees Benefits Act; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 23-108, as amended by Section 4, Chapter 515, O.S.L. 2004 (11 O.S. Supp. 2009, Section 23-108), is amended to read as follows:

Section 23-108. A. A municipality may provide hospital and medical benefits, accident, health, and life insurance, or any of the aforesaid, through any company authorized to do business in Oklahoma, for any or all of its officers or employees and their dependents, whether said officers or employees are engaged in a governmental or nongovernmental function of the municipality. A municipality may also provide such benefits when an officer or employee is ordered by proper authority to active duty in the National Guard or Reserve Corps of the Armed Forces of the United States. The municipality may pay a portion or all of said premiums from any municipal general funds, and may deduct from the wages or salary of any such officer or employee, upon written authority signed by the officer or employee, amounts for the payment of all or any portion of the monthly premium for same.

B. 1. For the purposes of and as used in this subsection:

- a. "affected municipality" means a municipality that provides hospital and medical benefits, accident and health insurance, or any of the aforesaid, for any or all of its officers or employees and their dependents pursuant to the provisions of subsection A of this section,
- b. "health insurance plan" means the hospital and medical benefits, accident and health insurance, or any of the aforesaid, provided by an affected municipality to its officers or employees pursuant to the provisions of subsection A of this section,

- c. "retired employee" means any officer or employee of an affected municipality who receives a continuing benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System, a municipal retirement system authorized pursuant to the provisions of ~~Section~~ Sections 48-101 ~~et seq.~~ through 48-106 of this title, the Oklahoma Firefighters Pension and Retirement System, or the Oklahoma Police Pension and Retirement System, and who began receiving said benefits immediately after termination of employment, taking into consideration any administrative delays in establishing said continuing benefits, with an affected municipality, provided that the phrase "retired employee" shall include elected officers that have served eight (8) or more years with an affected municipality and the survivor of said elected officer or officer or employee, and
- d. "survivor" means a survivor of a retired employee who would have been eligible to make the election authorized by this subsection and shall be determined in accordance with the applicable rules of the retirement system from which said retired employee qualified to receive benefits. Provided, "survivor" shall also mean the surviving spouse or the surviving minor child or children of a person who was an employee or elected official of an affected municipality on or after July 1, 1992, and who continuously participated in the hospital and medical benefits insurance plan of said affected municipality at the time of the death of said employee.

2. Notwithstanding any other state or federal law, a retired employee may continue in force the health insurance plan offered by the affected municipality that last employed said retired employee.

3. To participate in the health insurance plan offered by a retired employee's affected municipality, the retired employee shall elect to participate in the health insurance plan within thirty (30) days from the date of termination of employment with said affected municipality.

4. The retired employee who participates in the health insurance plan pursuant to this subsection shall pay up to the full cost of said health insurance plan at the rates and pursuant to the terms and conditions established by the affected municipality, provided the amount of the retired employee's premiums and dependent premiums for said health insurance plan paid by said retired employee who is under sixty-five (65) years of age shall be no greater than one hundred twenty-five percent (125%) of the amount of the officer or employee premiums and dependent premiums for the health insurance plan paid by or on behalf of an officer or employee who is currently employed by the affected municipality.

5. An affected municipality that offers a health insurance plan in accordance with this section to its officers or employees and dependents shall offer the same health insurance plan to those retired employees and their dependents who elect to continue in force or participate in said health insurance plan in accordance with this subsection unless the retired employee or dependent is over sixty-five (65) years of age and qualifies for Medicare.

6. An affected municipality that provides a health insurance plan to retired employees pursuant to this subsection shall also offer a Medicare supplement plan to those retired employees and their dependents who are over sixty-five (65) years of age.

7. An affected municipality which participates in the plan or plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall not be subject to the provisions of this subsection so long as said participation continues.

8. If a retired employee who retires from an affected municipality that participates in a municipal retirement system authorized pursuant to the provisions of ~~Section~~ Sections 48-101 et seq. through 48-106 of this title does not receive a continuing benefit from said municipal retirement system because of a lump sum distribution from said retirement system to said retired employee or because said municipal retirement system is discontinued, said retired employee shall be entitled to make the election authorized pursuant to this subsection if said retired employee was employed by the affected municipality for at least eight (8) years or was

disabled due to a line-of-duty injury while employed by and unable to continue similar employment with said affected municipality.

C. Public and private educational institutions of the state not supported by any state appropriated funds may purchase annuity contracts for any of their full-time officers and employees from any insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions, whether or not such company be authorized to do business in Oklahoma.

SECTION 2. AMENDATORY Section 4, Chapter 319, O.S.L. 2003, as amended by Section 2, Chapter 139, O.S.L. 2008 (19 O.S. Supp. 2009, Section 746.1), is amended to read as follows:

Section 746.1 There is hereby created in the State Treasury a revolving fund for the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board to be designated the "Medical Expense Liability Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from fees assessed pursuant to Section 1313.7 of Title 20 of the Oklahoma Statutes. All monies accruing to the credit of the fund shall be appropriated and may be budgeted and expended by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board for qualified medical expenses for inmates or persons in the custody of a county or city jail pursuant to the criteria set forth in Section 1313.7 of Title 20 of the Oklahoma Statutes. A portion of the Medical Expense Liability Revolving Fund shall be used for the costs the Board incurred in administering such monies.

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 the Office of State Finance for approval and payment.

SECTION 3. AMENDATORY Section 5, Chapter 319, O.S.L. 2003, as last amended by Section 3, Chapter 139, O.S.L. 2008 (20 O.S. Supp. 2009, Section 1313.7), is amended to read as follows:

Section 1313.7 A. In addition to the fees imposed by Sections 1313.2 and 1313.3 of this title, any person convicted of any

offense, excluding municipal ordinances, traffic offenses and parking and standing violations, but including violations of Section 11-902 of Title 47 of the Oklahoma Statutes, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such offense, shall be ordered by the court to pay a medical expense liability fee in the amount of Ten Dollars (\$10.00) for each offense to the Medical Expense Liability Revolving Fund provided for in Section 746.1 of Title 19 of the Oklahoma Statutes. The fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

B. The county court clerk shall cause to be deposited the amount of Ten Dollars (\$10.00) as collected, for every conviction as described in this subsection. The county court clerk shall remit the monies in the fund on a monthly basis to the Medical Expense Liability Revolving Fund.

The monies from the Medical Expense Liability Revolving Fund shall be used when all of the following criteria are met:

1. The county has not filed a claim against the fund in the previous twelve (12) months;

2. A county jail in this state is determined to be liable for the medical expense or expenses of a state inmate or person in custody on state charges as provided by law. The minimum expense amount that shall qualify for consideration is Eight Thousand Dollars (\$8,000.00) per ailment or injury;

3. The county clerk of the county makes a written claim to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board regarding a county medical expense. In addition to the written claim, all of the medical records and bills shall be submitted that relate to the medical expense under consideration; and

4. It is determined that the state inmate or person in custody on state charges lacks the ability and resources to cover the medical expense or expenses.

C. The Medical Expense Liability Revolving Fund shall not pay any expenses in excess of One Hundred Thousand Dollars (\$100,000.00) per state inmate or person in custody on state charges. The ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall pay valid requests for reimbursements quarterly based upon a pro rata share of available funds being distributed between all valid claims received within the preceding quarter. In the event there are insufficient funds available to pay any outstanding requests, the Board shall pay such requests only after sufficient funds have accumulated. Nothing in this subsection shall be construed to require payment in full of any or all valid claims or the holding of any or all valid claims until sufficient funds have accumulated to pay the claims in full.

D. If the state inmate or person in custody on state charges receives any type of compensation or award from a collateral source as a result of the ailment or injury which is paid by the Medical Expense Liability Revolving Fund, the state shall be subrogated to the rights of a claimant to receive or recover from a collateral source to the extent that medical expenses were awarded.

SECTION 4. AMENDATORY 20 O.S. 2001, Section 1652, is amended to read as follows:

Section 1652. A. The Council on Judicial Complaints is an agency in the Executive Department.

B. The Council shall not be subject to the provisions of the Oklahoma Sunset Law.

C. The Council shall not be subject to the provisions of the Oklahoma Open Meeting Act when conducting, discussing, or deliberating any matter relating to a complaint received or filed with the Council.

D. The Council shall be subject to the provisions of the Oklahoma Open Records Act to the extent provided in paragraph 2 of Section 24A.3 of Title 51 of the Oklahoma Statutes.

E. 1. Employees of the Council shall be in the unclassified service for the purposes of the Oklahoma Personnel Act.

2. Employees shall be members of the Oklahoma Public Employees Retirement System and shall be eligible to participate in employee benefit programs administered by the Oklahoma ~~State and Education Employees Group Insurance~~ Health and Wellness Board.

3. Any person who is employed by the Council who is a state employee at the time he or she is hired by the Council shall retain and continue to accrue all state employee benefits without a break in service.

F. The Council shall not be subject to the provisions of the Records Management Act nor to the rules of the Archives and Records Commission.

SECTION 5. AMENDATORY 36 O.S. 2001, Section 1250.2, as last amended by Section 1, Chapter 323, O.S.L. 2009 (36 O.S. Supp. 2009, Section 1250.2), is amended to read as follows:

Section 1250.2 As used in the Unfair Claims Settlement Practices Act:

1. "Agent" means any individual, corporation, association, partnership, or other legal entity authorized to represent an insurer with respect to a claim;

2. "Claimant" means either a first party claimant, a third party claimant, or both, and includes such claimant's designated legal representatives and includes a member of the claimant's immediate family designated by the claimant;

3. "Commissioner" means the Insurance Commissioner;

4. "First-party claimant" means an individual, corporation, association, partnership, or other legal entity, including a subscriber under any plan providing health services, asserting a right to payment pursuant to an insurance policy or insurance contract for an occurrence of contingency or loss covered by such policy or contract;

5. "Health benefit plan" means group hospital or medical insurance coverage, a not-for-profit hospital or medical service or indemnity plan, a prepaid health plan, a health maintenance

organization plan, a preferred provider organization plan, the State and Education Employees Group Health Insurance Plan, and coverage provided by a Multiple Employer Welfare Arrangement (MEWA) or employee self-insured plan except as exempt under federal ERISA provisions. The term shall not include short-term accident, fixed indemnity, or specified disease policies, disability income contracts, limited benefit or credit disability insurance, workers' compensation insurance coverage, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is required by law to be contained in any liability insurance policy or equivalent self-insurance;

6. "Insurance policy or insurance contract" means any contract of insurance, certificate, indemnity, medical or hospital service, suretyship, annuity, subscriber certificate or any evidence of coverage of a health maintenance organization issued, proposed for issuance, or intended for issuance by any entity subject to this Code;

7. "Insurer" means a person licensed by the Commissioner to issue or who issues any insurance policy or insurance contract in this state, including CompSource, and also includes health maintenance organizations. Provided that, for the purposes of paragraphs 15 and 16 of Section 1250.5 of this title, "insurer" shall include the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board;

8. "Investigation" means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract;

9. "Notification of claim" means any notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to an insurer or its agent, by a claimant, which reasonably appraises the insurer of the facts pertinent to a claim;

10. "Preauthorization/precertification" means a determination by a health benefit plan, based on the information presented at the time by the health care provider, that health care services proposed by the health care provider are medically necessary. The term shall include "authorization", "certification" and any other term that

would be a reliable determination by a health benefit plan. A preauthorization/precertification from a previous health plan shall not bind a succeeding health benefit plan;

11. "Third-party claimant" means any individual, corporation, association, partnership, or other legal entity asserting a claim against any individual, corporation, association, partnership, or other legal entity insured under an insurance policy or insurance contract; and

12. "Verification of eligibility" means a representation by a health benefit plan to a health care provider that a claimant is entitled to covered benefits under the policy. Such verification of eligibility shall be valid for four (4) business days from the date given by the health benefit plan.

SECTION 6. AMENDATORY 36 O.S. 2001, Section 6058A, as last amended by Section 2, Chapter 393, O.S.L. 2004 (36 O.S. Supp. 2009, Section 6058A), is amended to read as follows:

Section 6058A. A. Notwithstanding any other provision of law, an insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that:

1. The child was born out of wedlock;
2. The child is not claimed as a dependent on the parent's federal income tax return; or
3. The child does not reside with the parent or in the insurer's service area.

B. If a child has health coverage through an insurer of a noncustodial parent the insurer shall:

1. Upon request, provide complete information to the custodial person, the designated agency administering the State Medicaid Program, the state agency administering the provisions of 42 U.S.C., Sections 5 through 669, or the Child Support Enforcement Division of the Department of Human Services, regarding any insurance benefits to which the child is entitled, and any forms, publications, or

documents necessary to apply for or to utilize the benefits available through that coverage;

2. Permit the custodial person, the designated agency administering the State Medicaid Program, or the provider with approval, to submit claims for covered services without the approval of the noncustodial parent; and

3. Make payments on claims submitted in accordance with paragraph 2 of this subsection directly to the custodial person, the provider, or the designated agency administering the State Medicaid Program.

C. When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

1. To permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

2. To enroll the child under family coverage and deduct the employee's cost of the coverage from the employee's wages. The enrollment shall be made upon application to the employer by the custodial person, the designated agency administering the State Medicaid Program, or the state agency administering the provisions of 42 U.S.C., Sections 5 to 669, the Child Support Enforcement Division; and

3. Not to disenroll, or eliminate coverage for the child unless the insurer is provided satisfactory written evidence that:

a. the court or administrative order is no longer in effect, or

b. the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment;

provided, however, the provisions of this subsection shall not apply where the coverage is through a group plan and the group's coverage

through the insurer is discontinued or the noncustodial parent ceases to be eligible for participation in the group plan.

D. An insurer may not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual covered.

E. As used in this section, "insurer" includes a licensed insurance company, not-for-profit hospital service or medical indemnity corporation, a fraternal benefit society, a health maintenance organization, a prepaid plan, a preferred provider organization, a multiple employer welfare arrangement, a self-insured, the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, or any other entity providing a plan of health insurance or health benefits in this state.

F. If child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, the Child Support Enforcement Division shall notify the parent's employer to enroll the child in health care coverage available under the employer's plan by sending the employer a National Medical Support Notice issued pursuant to Section 466(a)(19) of the Social Security Act, and Section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974, as soon as the National Medical Support Notice is promulgated by the United States Department of Health and Human Services. The insurer, upon receipt from the employer of Part B of the National Medical Support Notice to Plan Administrator, shall comply with Part B of the National Medical Support Notice. The insurer may be fined up to Two Hundred Dollars (\$200.00) per month per child for each failure to comply with the requirements of the National Medical Support Notice. Fines collected shall be remitted to the Child Support Revenue Enhancement Fund created pursuant to Section 225 of Title 56 of the Oklahoma Statutes.

G. The Department of Human Services shall promulgate rules as necessary to implement the provisions of this section.

SECTION 7. AMENDATORY 36 O.S. 2001, Section 6060.4, as last amended by Section 33 of Enrolled Senate Bill No. 2054 of the

2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 6060.4 A. A health benefit plan delivered, issued for delivery or renewed in this state on or after January 1, 1998, that provides benefits for the dependents of an insured individual shall provide coverage for each child of the insured, from birth through the date the child is eighteen (18) years of age for:

1. Immunization against:

- a. diphtheria,
- b. hepatitis B,
- c. measles,
- d. mumps,
- e. pertussis,
- f. polio,
- g. rubella,
- h. tetanus,
- i. varicella,
- j. haemophilus influenzae type B, and
- k. hepatitis A; and

2. Any other immunization subsequently required for children by the State Board of Health.

B. Benefits required pursuant to subsection A of this section shall not be subject to a deductible, co-payment, or coinsurance requirement.

C. 1. For purposes of this section, "health benefit plan" means a plan that:

- a. provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, and
- b. is offered by any insurance company, group hospital service corporation, the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, or health maintenance organization that delivers or issues for delivery an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an evidence of coverage, or, to the extent permitted by the Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1001 et seq., by a multiple employer welfare arrangement as defined in Section 3 of the Employee Retirement Income Security Act of 1974, or any other analogous benefit arrangement, whether the payment is fixed or by indemnity.

2. The term "health benefit plan" shall not include:

- a. a plan that provides coverage:
 - (1) only for a specified disease or diseases or under an individual limited benefit policy,
 - (2) only for accidental death or dismemberment,
 - (3) for dental or vision care,
 - (4) a hospital confinement indemnity policy,
 - (5) disability income insurance or a combination of accident-only and disability income insurance, or
 - (6) as a supplement to liability insurance,
- b. a Medicare supplemental policy as defined by Section 1882(g)(1) of the Social Security Act (42 U.S.C., Section 1395ss),

- c. worker's compensation insurance coverage,
- d. medical payment insurance issued as part of a motor vehicle insurance policy,
- e. a long-term care policy, including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefit coverage so comprehensive that the policy meets the definition of a health benefit plan, or
- f. short-term health insurance issued on a nonrenewable basis with a duration of six (6) months or less.

SECTION 8. AMENDATORY 36 O.S. 2001, Section 6542, as last amended by Section 6, Chapter 404, O.S.L. 2008 (36 O.S. Supp. 2009, Section 6542), is amended to read as follows:

Section 6542. A. 1. The primary plan shall offer as the basic option an annually renewable policy with coverage as specified in this section for each eligible person, except, that if an eligible person is also eligible for Medicare coverage, the plan shall not pay or reimburse any person for expenses paid by Medicare.

2. Any person whose health insurance is involuntarily terminated for any reason other than nonpayment of premium or fraud may apply for coverage under any of the plans offered by the Board of Directors of the Health Insurance High Risk Pool. If such coverage is applied for within sixty-three (63) days after the involuntary termination and if premiums are paid for the entire period of coverage, the effective date of the coverage shall be the date of termination of the previous coverage.

3. The primary plan shall provide that, upon the death, annulment of marriage or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue coverage under a continuation or conversion policy.

4. No coverage provided to a person who is eligible for Medicare benefits shall be issued as a Medicare supplement policy.

B. The primary plan shall offer comprehensive coverage to every eligible person who is not eligible for Medicare. Comprehensive coverage offered under the primary plan shall pay an eligible person's covered expenses, subject to the limits on the deductible and coinsurance payments authorized under subsection E of this section up to a lifetime limit of One Million Dollars (\$1,000,000.00) per covered individual. The maximum limit under this paragraph shall not be altered by the Board of Directors of the Health Insurance High Risk Pool, and no actuarially equivalent benefit may be substituted by the Board.

C. Except for a health maintenance organization and prepaid health plan or preferred provider organization utilized by the Board or a covered person, the usual customary charges for the following services and articles, when prescribed by a physician, shall be covered expenses in the primary plan:

1. Hospital services;
2. Professional services for the diagnosis or treatment of injuries, illness, or conditions, other than dental, which are rendered by a physician or by others at the direction of a physician;
3. Drugs requiring a physician's prescription;
4. Services of a licensed skilled nursing facility for eligible individuals, ineligible for Medicare, for not more than one hundred eighty (180) calendar days during a policy year, if the services are the type which would qualify as reimbursable services under Medicare;
5. Services of a home health agency, if the services are of a type which would qualify as reimbursable services under Medicare;
6. Use of radium or other radioactive materials;
7. Oxygen;
8. Anesthetics;
9. Prosthesis, other than dental prosthesis;

10. Rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids;

11. Diagnostic x-rays and laboratory tests;

12. Oral surgery for partially or completely erupted, impacted teeth and oral surgery with respect to the tissues of the mouth when not performed in connection with the extraction or repair of teeth;

13. Services of a physical therapist;

14. Transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition;

15. Processing of blood including, but not limited to, collecting, testing, fractioning, and distributing blood; and

16. Services for the treatment of alcohol and drug abuse, but the plan shall be required to make a fifty-percent ~~(50%)~~ copayment and the payment of the plan shall not exceed Four Thousand Dollars (\$4,000.00).

Usual and customary charges shall not exceed the reimbursement rate for charges as set by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board.

D. 1. Covered expenses in the primary plan shall not include the following:

a. any charge for treatment for cosmetic purposes, other than for repair or treatment of an injury or congenital bodily defect to restore normal bodily functions,

b. any charge for care which is primarily for custodial or domiciliary purposes which do not qualify as eligible services under Medicaid,

c. any charge for confinement in a private room to the extent that such charge is in excess of the charge by the institution for its most common semiprivate room,

unless a private room is prescribed as medically necessary by a physician,

- d. that part of any charge for services or articles rendered or provided by a physician or other health care personnel which exceeds the prevailing charge in the locality where the service is provided, or any charge for services or articles not medically necessary,
- e. any charge for services or articles the provision of which is not within the authorized scope of practice of the institution or individual providing the service or articles,
- f. any expense incurred prior to the effective date of the coverage under the plan for the person on whose behalf the expense was incurred,
- g. any charge for routine physical examinations in excess of one every twenty-four (24) months,
- h. any charge for the services of blood donors and any fee for the failure to replace the first three (3) pints of blood provided to an eligible person annually, and
- i. any charge for personal services or supplies provided by a hospital or nursing home, or any other nonmedical or nonprescribed services or supplies.

2. The primary plan may provide an option for a person to have coverage for the expenses set out in paragraph 1 of this subsection or any benefits payable under any other health insurance policy or plan, commensurate with the deductible and coinsurance selected.

E. 1. The primary plan shall provide for a choice of annual deductibles per person covered for major medical expenses in the amounts of Five Hundred Dollars (\$500.00), One Thousand Dollars (\$1,000.00), One Thousand Five Hundred Dollars (\$1,500.00), Two Thousand Dollars (\$2,000.00), Five Thousand Dollars (\$5,000.00) and Seven Thousand Five Hundred Dollars (\$7,500.00), plus the additional

benefits payable at each level of deductible; provided, if two individual members of a family satisfy the applicable deductible, no other members of the family shall be required to meet deductibles for the remainder of that calendar year.

2. The schedule of premiums and deductibles shall be established by the Board.

3. Rates for coverage issued by the Pool may not be unreasonable in relation to the benefits provided, the risk experience and the reasonable expenses of providing coverage.

4. Separate schedules of premium rates based on age may apply for individual risks.

5. Rates are subject to approval by the Insurance Commissioner.

6. Standard risk rates for coverages issued by the Pool shall be established by the Board, subject to the approval of the Insurance Commissioner, using reasonable actuarial techniques, and shall reflect anticipated experiences and expenses of such coverage for standard risks.

7. a. The rating plan established by the Board shall initially provide for rates equal to one hundred twenty-five percent (125%) of the average standard risk rates of the five largest insurers doing business in the state.

b. Any change to the initial rates shall be based on experience of the plans and shall reflect reasonably anticipated losses and expenses. The rates shall not increase more than five percent (5%) annually with a maximum rate not to exceed one hundred fifty percent (150%) of the average standard risk rates.

8. a. A Pool policy may contain provisions under which coverage is excluded during a period of twelve (12) months following the effective date of coverage with respect to a given covered person's preexisting condition, as long as:

- (1) the condition manifested itself within a period of six (6) months before the effective date of coverage, or
 - (2) medical advice or treatment for the condition was recommended or received within a period of six (6) months before the effective date of coverage. The provisions of this paragraph shall not apply to a person who is a federally defined eligible individual.
 - b. The Board shall waive the twelve-month period if the person had continuous coverage under another policy with respect to the given condition within a period of six (6) months before the effective date of coverage under the Pool plan. The Board shall also waive any preexisting waiting periods for an applicant who is a federally defined eligible individual.
 - c. In the case of an individual who is eligible for the credit for health insurance costs under Section 35 of the Internal Revenue Code of 1986, the preexisting conditions limitation will not apply if the individual maintained creditable health insurance coverage for an aggregate period of three (3) months as of the date on which the individual seeks to enroll in coverage under the Pool plan, not counting any period prior to a sixty-three-day break in coverage.
9. a. No amounts paid or payable by Medicare or any other governmental program or any other insurance, or self-insurance maintained in lieu of otherwise statutorily required insurance, may be made or recognized as claims under such policy, or be recognized as or towards satisfaction of applicable deductibles or out-of-pocket maximums, or to reduce the limits of benefits available.
- b. The Board shall have a cause of action against a covered person for any benefits paid to a covered person which should not have been claimed or

recognized as claims because of the provisions of this paragraph, or because otherwise not covered.

SECTION 9. AMENDATORY 36 O.S. 2001, Section 6553, is amended to read as follows:

Section 6553. A. A private review agent who approves or denies payment or who recommends approval or denial of payment for hospital or medical services or whose review results in approval or denial of payment for hospital or medical services on a case-by-case basis shall not conduct utilization review in this state unless the Insurance Commissioner has granted the private review agent a certificate.

B. Except as provided in Section ~~9~~ 6559 of this ~~act~~ title, the Hospital and Medical Services Utilization Review Act shall not apply to any insurance company or not-for-profit hospital service and medical indemnity plan licensed by the Commissioner to transact insurance in this state. If the insurer contracts outside the company for any or all utilization review services, the entity with whom the insurance company contracts shall be subject to all of the provisions of the Hospital and Medical Services Utilization Review Act.

C. ~~The State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall be exempt from the provisions of the Hospital and Medical Services Utilization Review Act and regulated accordingly as provided for in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act. In addition, the Board shall comply with the provisions of Section ~~17~~ 1306.2 of ~~this act~~ Title 74 of the Oklahoma Statutes. If the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board contracts for utilization review services instead of having utilization review services be performed by employees of the Board, the entity with whom the Board contracts shall be subject to all of the provisions of the Hospital and Medical Services Utilization Review Act.

SECTION 10. AMENDATORY 40 O.S. 2001, Section 483, is amended to read as follows:

Section 483. A. The duties and responsibilities currently performed by the Oklahoma Department of Commerce with regards to administration of the Job Training Partnership Act of 1982, 29 U.S.C., Section 1501 et seq., and all related property, records and personnel, are hereby transferred to the Oklahoma Employment Security Commission. Employees transferred to the Oklahoma Employment Security Commission shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided for in the Oklahoma Personnel Act, ~~Section 840.1 et seq.~~ Sections 840-1.1 through 840-2.26 of Title 74 of the Oklahoma Statutes. Said employees shall retain membership in the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan created pursuant to ~~Section~~ Sections 1301 et seq. through 1328 of Title 74 of the Oklahoma Statutes, or Health Maintenance Organization (HMO) ~~Plans~~ plan approved by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board.

B. All administrative responsibility for the State Council on Vocational Education transferred to the Oklahoma Employment Security Commission on July 1, 1989, is hereby transferred back to the State Council on Vocational Education. Employees associated with the State Council on Vocational Education shall retain membership in the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan created pursuant to ~~Section~~ Sections 1301 et seq. through 1328 of Title 74 of the Oklahoma Statutes, or Health Maintenance Organization (HMO) ~~Plans~~ plan approved by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board.

SECTION 11. AMENDATORY Section 8, Chapter 366, O.S.L. 2008 (57 O.S. Supp. 2009, Section 38.3), is amended to read as follows:

Section 38.3 A. As used in this section:

1. "Emergency care" means the medical or surgical care necessary to treat the sudden onset of a potentially life- or limb-threatening condition or symptom;

2. "Dental emergency" means acute problems in the mouth exhibiting symptoms of pain, swelling, bleeding or elevation of temperature; and

3. "Mental health emergency" means a person exhibiting behavior due to mental illness that may be an immediate threat to others or himself or herself that renders the person incapable of caring for himself or herself.

B. The Department of Corrections shall reimburse health care providers for medical care and treatment for inmates retained in county jails after a certified copy of a judgment and sentence has been entered pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the provisions of Section 988.12 or 991a-2 of Title 22 of the Oklahoma Statutes. Health care providers that are in the network established by the Department of Corrections in conjunction with the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall be reimbursed according to the fee schedule established for that network; provided, that reimbursement will be no less than the fee structure that was in effect January 1, 2007, or the current fee schedule, whichever is greater. Health care providers that are out of network shall be reimbursed according to the Oklahoma Medicaid Fee Schedule; provided, that reimbursement shall be no less than the fee structure that was in effect January 1, 2007, or the current fee schedule, whichever is greater. Prior to obtaining nonemergency care outside the county jail facility, authorization must be received from the Department of Corrections. For any emergency care, dental emergency or mental health emergency care obtained outside the county jail facility, the Department of Corrections must be notified within twenty-four (24) hours. The Department of Corrections is hereby authorized to reject claims if proper notification has not been provided.

C. The sheriff shall be responsible for providing and paying for medical, dental and mental health care screening when an inmate is admitted, routine sick calls within the county jail and access to on-site physician services as is routinely provided for all inmates in the custody of the sheriff and as provided by Section 52 of ~~Title 57 of the Oklahoma Statutes~~ this title.

D. The Department of Corrections shall pay the pharmacy provider for medications provided to inmates retained in county jails after a certified copy of a judgment and sentence has been entered pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the provisions of Section 988.12 or

991a-2 of Title 22 of the Oklahoma Statutes. If the pharmacy provider is a Medicaid provider, the pharmacy provider must bill the Department at Medicaid rates. The county jail shall be responsible for paying for any medications that are not listed on the Department of Corrections formulary, unless the county jail receives a written exception from the Department.

E. Dental and mental health care shall be provided through the designated host facility of the Department of Corrections for inmates retained in county jails after a certified copy of a judgment and sentence has been entered pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the provisions of Section 988.12 or 991a-2 of Title 22 of the Oklahoma Statutes. Each county jail is encouraged to work with local community mental health centers to provide necessary medications and emergency services that would be reimbursed pursuant to the provisions of this subsection.

F. The sheriff shall be responsible for transportation and security of inmates to all outside health care appointments including host facilities of the Department of Corrections.

G. Neither the Department of Corrections nor the sheriff shall be responsible for the cost of health care while an inmate is on escape status or for any injury incurred while on escape status.

H. The Department of Corrections shall not be responsible for payment of health care of inmates housed in the county jail under the following circumstances:

1. Prior to entry of a certified judgment and sentence pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes;

2. When an inmate is detained in the county jail pursuant to a writ of habeas corpus;

3. When an inmate is detained in the county jail for additional cases pending after a certified copy of the judgment and sentence has been entered;

4. When an inmate is detained in the county jail and his or her status is on hold for another jurisdiction; or

5. When an inmate is detained in the county jail and the inmate is sentenced to county jail time only.

SECTION 12. AMENDATORY Section 21, Chapter 3, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-701a), as last amended by Section 1, Chapter 337, O.S.L. 2007, and as renumbered by Section 2, Chapter 337, O.S.L. 2007 (57 O.S. Supp. 2009, Section 627), is amended to read as follows:

Section 627. A. It shall be the responsibility of the Department of Corrections to provide such medical and surgical inpatient and outpatient care as may be required by inmates of the Department of Corrections. The Department may refer to the Oklahoma University Medical Center, and the Oklahoma University Medical Center shall accept, those inmates who need services, as determined by the Department of Corrections to be beyond the professional capabilities of the Department of Corrections.

B. The Department of Corrections may also contract with providers of general inpatient hospital services. Any such provider shall be a hospital as defined in Section 1-701 of Title 63 of the Oklahoma Statutes.

C. When the Department of Corrections determines the medical necessity for urgent hospitalization of an inmate, an inpatient hospital in close proximity to the correctional facility shall be used for emergency care and stabilization. The Department of Corrections is authorized to develop a network of inpatient hospitals that are capable of providing necessary care. Those hospitals that are in the network established by the Department of Corrections in conjunction with the Oklahoma ~~State and Education Employees Group Insurance~~ Health and Wellness Board shall be reimbursed according to the fee schedule established for that network; provided however, reimbursement shall be no less than the fee structure in effect on January 1, 2007, or the current fee schedule, whichever is greater. Hospitals that are out-of-network shall be reimbursed according to the Oklahoma Medicaid fee schedule; provided however, reimbursement shall be no less than the fee

structure in effect on January 1, 2007, or the current fee schedule, whichever is greater.

D. The Department of Corrections shall be responsible for transporting to, from, and between hospitals and for providing such physical security of inmate consumers as may be required beyond that security normal to hospital operation. The Department of Corrections shall immediately remove from the hospital those inmate consumers when discharged by the hospital.

E. The hospital services provided by the Oklahoma University Medical Center shall be without cost to the Department of Corrections.

SECTION 13. AMENDATORY 62 O.S. 2001, Section 7.2, as last amended by Section 36, Chapter 441, O.S.L. 2009, and as renumbered by Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2009, Section 34.56), is amended to read as follows:

Section 34.56 A. There is hereby re-created, to continue until July 1, 2008, in accordance with the provisions of the Oklahoma Sunset Law, a Special Agency Account Board, to consist of the Director of the Office of State Finance, the State Treasurer and the Director of the Legislative Service Bureau. The Board shall have the authority to approve the establishment of agency special accounts in the official depository of the State Treasury. In the case of institutions of higher education, the Special Agency Account Board, acting in conjunction with the Oklahoma State Regents for Higher Education, shall establish special agency accounts as appropriate which shall be consistent with provisions of the Oklahoma State Finance Act, as it relates to institutions in The Oklahoma State System of Higher Education.

B. The Board, created by this section, shall adopt procedures including application forms, justification and other pertinent information as to the basis for a state agency application for the establishment of agency special accounts.

C. The Board may approve agency special accounts for money received by state agencies for the following purposes:

1. Benefit programs for individuals, including, but not limited to, unemployment compensation, workers' compensation and state retirement programs;

2. Revenues produced by activities or facilities ancillary to the operation of a state agency which receive no money, directly or indirectly, from or through that state agency, including, but not limited to, revenues from the sales of food at retail level, sales at canteens, sales at student unions, sales at student bookstores, receipts from athletic programs and receipts from housing. Provided, however, that a state institution of higher learning may purchase necessary equipment and instructional supplies and office supplies from a student bookstore, or, subject to authorization by the Oklahoma State Regents for Higher Education, may rent building space for institutional use in a building operated by an organization or entity whose existence is ancillary to the operation of a state agency, and whose cost was financed in whole or in part with revenue-type bonds; provided, further, that the cost of such office supplies or space rental shall not exceed the cost of similar supplies or rentals available commercially;

3. Gifts, devises and bequests with an agency as beneficiary, unless otherwise provided by statute;

4. Evidence funds for law enforcement agencies;

5. Student loan funds and scholarship funds;

6. Funds held in escrow;

7. Land Commission funds;

8. Funds for which the state agency acts as custodian, including, but not limited to, fees from employee earnings approved by the governing board of the agency, funds of student organizations including student activity fees collected by an educational institution as a separate item in enrollment procedures, professional organizations, patients and inmates;

9. Funds used by the Oklahoma Tax Commission to pay for the filing of liens with the Federal Aviation Administration;

10. Temporary accounts for funds arising from new or amended legislation not otherwise provided for in statute or for other emergency situations. Such accounts are to be utilized only pending legislative action directing custody of such funds;

11. Payment of liability claims against the state;

12. Activities of the various Armory Boards of the Oklahoma Military Department to receive and dispense funds derived by the Armory Boards pursuant to Sections 232.6 and 232.7 of Title 44 of the Oklahoma Statutes; and

13. Payment of expenses incurred in connection with the acceptance of payments made with nationally recognized credit cards.

D. The State Treasurer is authorized to accept deposit of money made directly to agency special accounts approved by the Board. All money received by a state agency, as described in Section 34.57 of this title, shall be deposited in State Treasury funds or accounts and no money shall be deposited in banks or other depositories unless the bank accounts are maintained by the State Treasurer or are for the deposit of authorized petty cash funds.

E. Money deposited in agency special accounts shall be disbursed on vouchers issued by the state agency concerned to accomplish the purpose for which the money was intended.

F. Funds and revenues of the Grand River Dam Authority are exempt from the requirements of this section.

G. Funds and revenues of the Oklahoma Municipal Power Authority are exempt from the requirements of this section.

H. Monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the State Insurance Fund, the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, the Commissioners of the Land Office, and the Oklahoma State Regents for Higher Education for its Endowment Trust Fund are exempt

from the requirements of this section, and shall be placed with the respective custodian bank or trust company.

SECTION 14. AMENDATORY 62 O.S. 2001, Section 7.1, as amended by Section 1, Chapter 123, O.S.L. 2008 and as renumbered by Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2009, Section 34.57), is amended to read as follows:

Section 34.57 A. There is hereby created in the official depository in the State Treasury an agency clearing account for each state officer, department, board, commission, institution or agency of the state, hereinafter referred to collectively as state agencies. An agency special account established under Section ~~7.2~~ 34.56 of this title may be used for the purposes of an agency clearing account.

B. It shall be the duty of each state agency, officer or employee, to deposit in the agency clearing account, or agency special account, established under Section ~~7.2~~ 34.56 of this title, all monies of every kind, including, but not limited to:

1. Tax revenues;
2. Receipts from licenses, examinations, per diem and all other reimbursements, fees, permits, fines, forfeitures and penalties; and
3. Income from money and property, grants and contracts, refunds, receipts, reimbursements, judgments, sales of materials and services of employees, and nonrevenue receipts, received by a state agency, officer or employee by reason of the existence of and/or operation of a state agency.

C. All such monies collected pursuant to this section shall be deposited as follows in the agency clearing account or agency special account established therefor:

1. Receipts of One Hundred Dollars (\$100.00) or more shall be deposited on the same banking day as received; and
2. Receipts of less than One Hundred Dollars (\$100.00) may be held until accumulated receipts equal One Hundred Dollars (\$100.00)

or for five (5) business days, whichever occurs first, and shall then be deposited no later than the next business day.

- a. Each state agency that has custody of receipts of less than One Hundred Dollars (\$100.00) shall provide adequate safekeeping of such receipts.
- b. No disbursements shall be made from such receipts prior to this deposit.
- c. All checks received must be restrictively endorsed immediately upon receipt.

D. The State Treasurer is authorized to accept deposits directly to State Treasury funds, consisting of cash, bank drafts, bank cashier's checks, federal treasury checks and other forms of remittance which are uniformly honored for payment. The State Treasurer is further authorized to accept checks deposited directly into State Treasury funds if the depositing state agency maintains sufficient balances in their agency clearing account to cover return items. Notwithstanding the provisions of subsection E of this section, state agencies are authorized to maintain sufficient balances in their agency clearing account to cover returned checks, credit card adjustments, credit card returns, and other debit items. Amounts of said balances shall be subject to approval by the State Treasurer.

All checks, drafts, orders and vouchers so deposited shall be credited and cleared at par and should payment be refused on any such check, draft, order or voucher, or should the same prove otherwise worthless, the amount thereof shall be charged by the State Treasurer against the account or fund theretofore credited with the same; and the person issuing the check, draft, order or voucher shall be charged a fee of Twenty-five Dollars (\$25.00) to cover the costs of processing each returned check; provided, such charge shall not be made unless efforts have been made to present such check, draft, order or voucher for payment a second time. Unless otherwise provided by law, such fee shall be deposited to the revolving fund of the state agency to which the check, draft, order or voucher was issued. If no revolving fund exists for the state agency, then such fee shall be deposited to the General Revenue Fund. The State Treasurer shall not accept for deposit to any

agency clearing account, or any agency special account, created pursuant to the provisions of Section 7-2 34.56 of this title, any warrant, check, order or voucher drawn against any state fund or account in favor of any individual or other person except the state officer, department, institution or agency for which account or fund the deposit is made, or a bona fide student enrolled at any of the state institutions of higher learning when such warrant, check, order or voucher is endorsed to the institution as payment of any fees or other accounts due such institution.

E. 1. Except as provided in paragraph 2 of this subsection, at least once each month each state agency shall transfer monies deposited in agency clearing accounts to the various funds or accounts, subdivisions of the state, or functions as may be provided by statute and no money shall ever be disbursed from the agency clearing account for any other purpose, except in refund of erroneous or excessive collections and credits.

2. District offices under the control of the Corporation Commission shall be permitted to make deposit of receipts on a monthly basis, provided that such receipts must be deposited within the month received or when such receipts equal or exceed One Hundred Dollars (\$100.00), whichever first occurs. The Oklahoma Tourism and Recreation Department and entities under its control shall be required to make deposit of receipts on a weekly basis, provided that such receipts must be deposited within seven (7) calendar days from the date received or when such deposits equal or exceed Five Hundred Dollars (\$500.00), whichever first occurs.

F. Funds and revenues of the Oklahoma Municipal Power Authority, the Grand River Dam Authority, the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority are exempt from the requirements of this section.

G. Monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma State Regents for Higher Education, the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board and the Commissioners of the Land

Office are exempt from the requirements of this section, and shall be placed with the respective custodian bank or trust company.

SECTION 15. AMENDATORY 62 O.S. 2001, Section 139.47, as last amended by Section 1, Chapter 309, O.S.L. 2004 (62 O.S. Supp. 2009, Section 139.47), is amended to read as follows:

Section 139.47 A. Where the written findings of fact required by Section 139.46 of this title include one of the following emergencies, and the Governor finds that such emergency exists, and was not foreseen or reasonably foreseeable by the Legislature, the Governor may allocate and authorize the expenditure of monies from the State Emergency Fund to provide for such emergency without any action by the Contingency Review Board:

1. Destruction of or damage to public property caused by fire, hail, tornado, explosion, windstorm, flood, or other catastrophe;

2. Maintenance and operation of the National Guard when called to active state service in cases of emergency;

3. Allocation or expenditures necessary to provide matching funds for participation in any federal disaster relief program, emergency equipment purchase, or otherwise expedite receipt of disaster funds;

4. Allocations or expenditures deemed necessary to remove asbestos from public buildings or facilities;

5. Emergency response action necessary to protect the public health, safety or welfare or livestock, wild animals, birds, fish or other aquatic life from the discharge of any hazardous waste, deleterious substance or any such other waste or substance as will or is likely to be detrimental or cause injury to the public or such livestock, wild animals, birds, fish or other aquatic life;

6. Funding for funeral expenses not to exceed Seven Thousand Dollars (\$7,000.00) for state employees who are killed in the line of their duty and funding for premiums for six (6) months of insurance coverage already in force for spouse and dependents who are eligible for survivor coverage of those employees pursuant to rules of the Oklahoma ~~State and Education Employees Group Insurance~~

Health and Wellness Board, provided, that if funds in the State Emergency Fund are insufficient to cover these expenses, the employing agency of the employees shall pay the expenses;

7. Allocation or expenditures necessary to provide funds for disaster relief programs to political subdivisions for damage caused by fire, hail, tornado, explosion, windstorm, flood or other catastrophe for which federal disaster relief funds have been requested by the Governor and rejected by the Federal Emergency Management Agency (FEMA). Provided, that no political subdivision shall be deemed eligible for an allocation or expenditure of funds from the State Emergency Fund under this paragraph unless such area has first been deemed a disaster area by an executive declaration by the Governor of the State of Oklahoma; and

8. Allocation or expenditures necessary to provide funds for cooperative actions with the United States Army Corps of Engineers to respond to emergencies or to protect the public health, safety, or welfare.

B. Expenditures made to political subdivisions under this section shall be audited and processed by the Oklahoma Department of Emergency Management. No application for an allocation or expenditure of funds shall be made until it is certified by the political subdivision that no other monies are available to reimburse the requesting entity for expenditures made as a result of the catastrophe. No geographical area which has been declared a disaster area by the Governor may receive an allocation of funds under this section in excess of One Hundred Thousand Dollars (\$100,000.00) in a calendar year.

Provided further, that the Governor shall allocate, without any action by the Contingency Review Board, monies from the State Emergency Fund to pay expenses for the Court on the Judiciary approved pursuant to Section 16.6 of Title 20 of the Oklahoma Statutes and not otherwise funded by other legislative appropriations.

SECTION 16. AMENDATORY Section 1, Chapter 276, O.S.L. 2009 (63 O.S. Supp. 2009, Section 1-131), is amended to read as follows:

Section 1-131. A. As used in this section:

1. "Electronic medical record" or "EMR" means an electronic record of health-related information on an individual that can be created, gathered, managed, and consulted by authorized clinicians and staff within one health care organization;

2. "Health data exchange" means record-level health data exchanged for the purpose of statistical data analysis, including, but not limited to, quality, expenditure, and utilization data, for the purpose of developing a uniform and routinely compiled dataset that will make possible the ongoing analysis, comparison, and evaluation of trends in the quality and delivery of health care services for the purpose of effective health care planning by public and private entities, cost containment, health facility development, and improving access to, and quality of care;

3. "Health information exchange" or "HIE" means the electronic movement of health-related information among organizations according to nationally recognized standards for treatment purposes;

4. "Health information technology" or "HIT" means technology that allows comprehensive management of medical information and its secure exchange between health care consumers and providers for treatment purposes; and

5. "Hub" means a registry, a data repository, or a patient identity manager.

B. 1. There is hereby created the "Health Information Infrastructure Advisory Board".

2. The purpose of the advisory board shall be to advise and assist the Oklahoma Health Care Authority in:

- a. developing a strategy for the adoption and use of electronic medical records and health information technologies that is consistent with emerging national standards and promotes interoperability of health information systems. The strategy shall:

- (1) be researched and contain the best practices in electronic medical records systems and health information technologies,
 - (2) be designed to reduce medical errors and enable patients to make better decisions about their own health care by promoting secure access to medical records online, and
 - (3) assist in the design of the health information infrastructure roadmap, which shall contain the state plan for the exchange of health information,
- b. the determinations related to data elements to be collected, and
 - c. the governance structure and policies and procedures for the health information exchange, ensuring that the strategy and plan preserve the privacy and security of health information as required by state and federal law.

3. Duties of the advisory board shall not include the development of a health data exchange; however, key features of a health information exchange shall be designed to integrate with a state health data exchange.

4. The Authority shall operate as a hub for health information exchange between health related state agencies and other health information organizations. Information exchange shall be implemented through interagency agreements among all health related agencies. The agreement shall ensure, but shall not be limited to:

- a. confidentiality of information,
- b. funding and implementation of the plan, which may include phased-in implementation, and
- c. procedures for coordinating, monitoring, and improving data exchange that is compatible with current adopters

of electronic medical record systems and health information technologies.

5. The advisory board shall consist of ten (10) members who shall be appointed by the directors of the following agencies and shall include, but not be limited to, individuals from:

- a. the Oklahoma Health Care Authority,
- b. the State Department of Health,
- c. the Department of Mental Health and Substance Abuse Services,
- d. the Department of Human Services,
- e. ~~the State and Education Employees Group Insurance~~
Oklahoma Health and Wellness Board,
- f. the Insurance Department,
- g. the Department of Corrections,
- h. the State Department of Rehabilitative Services, and
- i. the City-County Health Departments.

6. Vacancies occurring in the advisory board shall be filled by appointment of the director of the represented agency.

7. The member from the Oklahoma Health Care Authority shall chair the advisory board, and the Authority shall staff the advisory board.

8. Each agency shall receive one vote and a majority of the members in attendance at a meeting shall be able to take action on behalf of the advisory board.

9. Members of the advisory board shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses in accordance with the State Travel Reimbursement Act.

SECTION 17. AMENDATORY 63 O.S. 2001, Section 2550.1, is amended to read as follows:

Section 2550.1 As used in Sections 2550.1 through 2550.4 of this title:

1. "Covered person" means an individual who receives medical care and treatment through a managed care plan. In the case of a minor child, the term includes the parent or legal guardian of the child and, in the case of an incapacitated or partially incapacitated person, the legal guardian of that person;

2. "Degenerative and disabling condition or disease" means a condition or disease caused by a congenital or acquired injury or illness that requires a specialized rehabilitation program or a high level of care, service, resources or continued coordination of care in the community;

3. "Designee of the covered person" means an individual designated by the covered person to represent the interests of the covered person, including the covered person's provider;

4. "Managed care plan" means a plan operated by a managed care entity, including the ~~Oklahoma State and Education Employees Group Insurance~~ Health and Wellness Board, that provides for the financing and delivery of health care services to persons enrolled in such plan through:

- a. arrangements with selected providers to furnish health care services,
- b. standards for the selection of participating providers,
- c. organizational arrangements for ongoing quality assurance, utilization review programs, and dispute resolution, and
- d. financial incentives for persons enrolled in the managed care plan to use the participating providers and procedures provided for by the managed care plan;

provided, however, the term "managed care plan" shall not include a preferred provider organization (PPO) as defined in Section 6054 of Title 36 of the Oklahoma Statutes, or a certified workplace medical plan as defined in Section 14.2 of Title 85 of the Oklahoma Statutes;

5. "Provider" shall have the same meaning as such term is defined by a health maintenance organization, an indemnity plan or a preferred provider organization; and

6. "Treatment plan" means a proposal developed for a covered person that is specifically tailored to the individual's treatment needs for a specific illness or condition, and that includes, but is not limited to:

- a. a statement of treatment goals or objectives, based upon and related to a medical evaluation,
- b. treatment methods and procedures to be used to obtain these goals, and
- c. identification of the types of professional personnel who will carry out the treatment procedures.

SECTION 18. AMENDATORY 63 O.S. 2001, Section 2622, is amended to read as follows:

Section 2622. As used in the Medical Savings Account Act:

1. "Account holder" means the individual including but not limited to an employee of an employer or dependents of the individual on whose behalf the medical savings account is established;

2. "Dependent child" means any person under the age of twenty-one (21) years or any person who is legally entitled or subject to a court order for the provision of proper and necessary subsistence, education, medical care, or any other care necessary for the health, or well-being of such person, and who is not otherwise emancipated, married or a member of the Armed Forces of the United States, or who

is mentally or physically incapacitated and cannot provide for themselves;

3. "Eligible medical expenses" means an expense paid by the taxpayer for medical care described in Section 213(d) of the Internal Revenue Code;

4. "Medical savings account" or "account" means an account established in this state pursuant to a medical savings account program to pay the eligible medical expenses of an account holder and the dependents of the account holder;

5. "Medical savings account program" or "program" means a program that includes all of the following:

- a. the purchase by an individual or employer of a qualified higher deductible health benefit plan which is approved by the State Department of Health and offered by an entity regulated by the State Department of Health or is approved by the Insurance Commissioner and offered by an entity regulated by the Insurance Commissioner or is offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board for the benefit of the individual or an employee of the employer and the dependents of that individual or the employee,
- b. the deposit by an individual into a medical savings account or the contribution on behalf of an employee into a medical care account by an employer of all or part of the premium differential realized by the employer based on the purchase of a qualified higher deductible health plan for the benefit of the employee. An employer that did not previously provide a health plan or provide a health coverage policy, certificate, or contract for employees may contribute all or part of the deductible of a qualified higher deductible health benefit plan; and

6. "Trustee" means a chartered state bank, savings and loan association, licensed securities dealer or trust company authorized to act as a fiduciary; a national banking association or savings and

loan association authorized to act as a fiduciary; or an insurance company.

SECTION 19. AMENDATORY 68 O.S. 2001, Section 2357.33, as amended by Section 1, Chapter 144, O.S.L. 2004 (68 O.S. Supp. 2009, Section 2357.33), is amended to read as follows:

Section 2357.33 A. For taxable years beginning after December 31, 1999, there shall be allowed a credit against the tax imposed by Section 2355 of this title for amounts paid by a taxpayer operating one or more food service establishments for immunizations against Hepatitis A for employees of the taxpayer who work in such establishments.

B. As used in this section, "food service establishment" means an establishment where food or drink is offered for sale or sold to the public and which is licensed pursuant to the provisions of Section 1-1118 of Title 63 of the Oklahoma Statutes.

C. The amount of the credit allowed pursuant to the provisions of this section for each employee of the taxpayer shall not exceed the usual and customary fee that would be allowed for an immunization against Hepatitis A as approved by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board.

D. The credit provided by this section shall be available to the taxpayer in the tax year in which an employee was immunized and shall not carry forward to subsequent tax years. Such credit shall not be refunded to the taxpayer.

SECTION 20. AMENDATORY Section 4, Chapter 119, O.S.L. 2004, as amended by Section 3, Chapter 248, O.S.L. 2004 (70 O.S. Supp. 2009, Section 18-114.11), is amended to read as follows:

Section 18-114.11 A. Except as provided in subsection B of this section, for school year 2004-05, the following provisions shall apply:

1. The total dollar amount a district was required to pay for all certified personnel, as defined in Section 26-103 of ~~Title 70 of the Oklahoma Statutes~~ this title, during school year 2003-04 over

and above the flexible benefit allowance for certified personnel pursuant to Section 26-105 of ~~Title 70 of the Oklahoma Statutes~~ this title, in order to meet the payment mandated in Section 1310.1 of Title 74 of the Oklahoma Statutes, but not to meet the requirements of subsection A of Section 18-114.7 of ~~Title 70 of the Oklahoma Statutes~~ this title, shall be used by the district for instruction costs as defined in the Oklahoma Cost Accounting System, or for certified counselors, librarians, psychologists, psychometrists, speech-language pathologists, and certified or registered nurses, including but not limited to new or existing personnel; and

2. The total dollar amount a district paid for all certified personnel, as defined in Section 26-103 of ~~Title 70 of the Oklahoma Statutes~~ this title, who participated in the health insurance plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board or the self-insured plan offered by the district, during school year 2003-04 as additional contributions toward employee health insurance, not including the flexible benefit allowance and not including the amount described in paragraph 1 of this section, shall be paid by the district as increased total compensation to certified personnel, as defined in Section 26-103 of ~~Title 70 of the Oklahoma Statutes~~ this title, in taxable compensation or fringe benefits as determined by the district board of education or paid pursuant to the terms of a collective bargaining agreement.

B. 1. Of the total dollar amount a district was required to pay as described in paragraph 1 of subsection A of this section, any amount that is used to meet the requirements of subsection A of Section 18-114.7 of ~~Title 70 of the Oklahoma Statutes~~ this title shall not be subject to the requirements of paragraph 1 of subsection A of this section.

2. Of the total dollar amount a district paid as described in paragraph 2 of subsection A of this section, any amount that is used to meet the requirements of subsection A of Section 18-114.7 of ~~Title 70 of the Oklahoma Statutes~~ this title shall not be subject to the requirements of paragraph 2 of subsection A of this section.

SECTION 21. AMENDATORY 70 O.S. 2001, Section 26-104, as last amended by Section 1, Chapter 180, O.S.L. 2007 (70 O.S. Supp. 2009, Section 26-104), is amended to read as follows:

Section 26-104. A. The Legislature shall annually appropriate adequate funding to the State Board of Education and the State Board of Career and Technology Education for the purpose of providing a flexible benefit allowance to school district employees pursuant to this act. The funding shall be based on the number of eligible school district employees employed by a school district which is participating in the health insurance plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board or is self-insured as counted on May 1st of each year. ~~Each~~ The State Board of Education and the State Board of Career and Technology Education shall disburse the flexible benefit allowance funds in appropriate amounts to school districts.

B. Every school district shall establish or make available to school district employees a cafeteria plan pursuant to 26 U.S.C. Section 125 of the United States Code. The plan shall offer, as a benefit, major medical health care plan coverage.

C. The flexible benefit allowance amount established pursuant to Section 26-105 of this title shall be credited to each eligible school district employee. ~~School~~ Except as otherwise specified in Section 26-105 of this title, school district employees shall elect whether to use the flexible benefit allowance to pay for coverage in the health insurance plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board or the self-insured plan offered by the school district and may receive the excess flexible benefit allowance as taxable compensation as provided in Section 26-105 of this title.

D. The administrator of the cafeteria plan shall maintain a separate account for each participating school district employee. School districts shall forward the school district employee flexible benefit allowance amounts to the administrator for elected purchases of cafeteria plan benefits.

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

1. Premiums for any health insurance, health maintenance organization, life insurance, long term disability insurance, dental

insurance or high deductible health benefit plan offered to employees and their dependents; and

2. All other eligible benefit programs offered under 26 U.S.C. Section 125 of the United States Code.

F. The flexible benefit allowance amount established in Section 26-105 of this title shall not be included as income in computation of state retirement contributions and benefits or as part of the Minimum Salary Schedule for teachers established in Section 18-114.12 of this title. School districts shall not consider the flexible benefit allowance amount as income for eligible support employees and thereby shall not reduce the salary of an eligible support employee.

SECTION 22. AMENDATORY 70 O.S. 2001, Section 26-105, as last amended by Section 2, Chapter 180, O.S.L. 2007 (70 O.S. Supp. 2009, Section 26-105), is amended to read as follows:

Section 26-105. A. The flexible benefit allowance shall be used by a school district employee who is participating in the cafeteria plan to purchase major medical health care plan coverage offered by the school district through a cafeteria plan. Any excess flexible benefit allowance over the cost of the major medical coverage purchased by the employee who is participating in the cafeteria plan may be used to purchase any of the additional benefits offered by the school district or may be taken as taxable compensation as provided in subsection C of this section. Effective November 1, 2010, all new eligible school district employees shall participate in the cafeteria plan for major medical coverage. The benefit allowance for new eligible employees shall be used for the purchase of health insurance. Any excess benefit allowance shall be transferred to a health savings account, a flexible spending account, an annuity account authorized pursuant to Section 6-101.1 of this title, or any Section 125 plan offered by a school district to new eligible school district employees. New eligible school district employees shall not receive any excess benefit as taxable income. Certified personnel hired before November 1, 2010, who choose not to participate in the school-district-sponsored cafeteria plan shall receive Sixty-nine Dollars and seventy-one cents (\$69.71) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection

B of this section. Support personnel hired before November 1, 2010, who choose not to participate in the school-district-sponsored cafeteria plan shall receive One Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection B of this section.

B. Each eligible school district employee shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each eligible school district employee shall be communicated to the employee prior to the enrollment period for each plan year.

1. For the fiscal year ending June 30, 2002, the flexible benefit allowance amount for certified personnel shall be no less than Sixty-nine Dollars and seventy-one cents (\$69.71) per month. For the fiscal year ending June 30, 2002, the flexible benefit allowance amount for support personnel shall be no less than One Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per month.

2. For the fiscal year ending June 30, 2004, the flexible benefit allowance amount for certified personnel shall be no less than fifty-eight percent (58%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board. For the fiscal year ending June 30, 2003, and each fiscal year thereafter, the flexible benefit allowance amount for support personnel shall be no less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the ~~State and Education Employees Group Insurance~~ Board.

3. For the fiscal year ending June 30, 2005, and each fiscal year thereafter, the flexible benefit allowance amount for certified personnel shall be no less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the ~~State and Education Employees Group Insurance~~ Board.

C. If a school district employee hired before November 1, 2010, who is participating in the cafeteria plan elects benefits whose sum total is less than the flexible benefit allowance, the employee shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation shall be paid in substantially equal amounts each pay period over the plan year. Except as otherwise provided for in subsection D of this section, on termination during a plan year, a participating school district employee shall have no right to receive any taxable cash compensation allocated to the portion of the plan year after the termination of the employee.

D. In cases where the employee of a school district fulfills the terms of their contract and terminates employment for the subsequent year, the employee shall be entitled to the flexible benefit allowance for the remainder of the current benefit term. For purposes of this subsection, "benefit term" shall mean the twelve-month period after the initiation of benefits for the position held by the employee.

E. Each school district employee shall make an annual election of benefits under the plan during an 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 school district, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year. Each school district employee shall make an irrevocable advance election for the plan year or the remainder of the plan year pursuant to procedures the school district shall prescribe.

F. The school district shall prescribe the forms that school district employees shall be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

G. School district employees hired after the closing of the enrollment period shall be allowed to make an election as provided in this act.

H. A district board of education shall have the option of providing a flexible benefit allowance to the superintendent of the school district in an amount not more than the amount of the

flexible benefit allowance established for certified personnel in subsection B of this section. Funding for the flexible benefit allowance for a superintendent shall be provided through local revenue.

SECTION 23. AMENDATORY 74 O.S. 2001, Section 85.7, as last amended by Section 7, Chapter 322, O.S.L. 2009 (74 O.S. Supp. 2009, Section 85.7), is amended to read as follows:

Section 85.7 A. 1. Except as otherwise provided by The Oklahoma Central Purchasing Act, no state agency shall make an acquisition for an amount exceeding Fifty Thousand Dollars (\$50,000.00) or the limit determined by the State Purchasing Director pursuant to rules authorized by Section 85.5 of this title, not to exceed One Hundred Thousand Dollars (\$100,000.00), without submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director.

2. Any acquisition a state agency makes shall be made pursuant to The Oklahoma Central Purchasing Act and rules promulgated pursuant thereto.

- a. Split purchasing for the purpose of evading the requirement of competitive bidding shall be a felony.
- b. The State Purchasing Director may waive or increase the limit authorized for a state agency acquisition by not more than ten percent (10%) to perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by the state agency or unforeseeable circumstances. The state agency shall request a waiver upon the discovery of the error or circumstance to the State Purchasing Director on a form the Director requires.
- c. The State Purchasing Director shall report all requests for waivers or increases, stating the amount and whether the request was granted or denied, monthly to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.

3. a. Contracts for master custodian banks or trust companies, investment managers, investment consultants, and actuaries for the state retirement systems, CompSource Oklahoma, ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, pension fund management consultants of the Oklahoma State Pension Commission and the Commissioners of the Land Office, and other professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures of this section and requisition requirements of Section 85.4 of this title.
- b. Contracts with financial institutions to act as depositories and managers of the Oklahoma College Savings Plan accounts shall be exempt from competitive bidding procedures.
- c. A state agency that makes an acquisition pursuant to this paragraph shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. The Department of Central Services shall compile a list of the exempt contracts and send the list to a member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate, if the member requests.

4. Requisitions pursuant to this section shall not be required prior to emergency acquisitions by a state agency not exceeding One Hundred Thousand Dollars (\$100,000.00). The state agency shall submit a requisition to the State Purchasing Director within five (5) days following the acquisition together with a statement of the emergency. The State Purchasing Director shall send the requisition and a written analysis to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives specifying the facts and circumstances giving rise to the emergency requisition.

5. Requisitions pursuant to this section for acquisitions to alleviate a serious environmental emergency shall not be required

if, upon receiving a request from the Chair of the Corporation Commission and after having examined the facts and circumstances of the case, the Governor certifies in writing the existence of a serious environmental emergency. For the purposes of this section, "serious environmental emergency" means a situation within the jurisdiction of the Commission:

- a. in which serious damage to the environment will quickly occur if immediate action is not taken and the damage will be so significant that the urgent need for action outweighs the need for competitive bids, or
- b. a situation in which human life or safety is in imminent danger or significant property interests are threatened with imminent destruction.

6. Acquisitions for repairs of equipment in emergencies, of livestock through a market agency, dealer, commission house, or livestock auction market bonded or licensed under federal or state law, the purchase or collection of semen or embryos, and the placement of embryos into recipient livestock shall not require requisitions pursuant to this section or any other provisions of The Oklahoma Central Purchasing Act.

7. The Board of Directors of the Oklahoma Historical Society shall select suppliers for the restoration of historical sites and museums and shall not be subject to the requisition requirements of this section or any other provision of The Oklahoma Central Purchasing Act. The Board may send a requisition to the State Purchasing Director and request supplier bid or proposal submission procedures, but supplier and bid selection will be the prerogative of the Board and will be based on contractors' documented qualifications and experience.

8. Purchases of postage by state agencies shall be made pursuant to Sections 90.1 through 90.4 of this title.

9. Sole source or sole brand acquisitions by a state agency or the State Purchasing Director shall comply with Section 85.45j of this title.

10. Acquisitions for the design, development, communication, or implementation of the state employees flexible benefits plan shall not be subject to the requirements of this section; provided, that the Flexible Benefits Advisory Council shall use procedures consistent with the competitive bid requirements of The Oklahoma Central Purchasing Act.

11. a. Any acquisition of a service which the Department of Central Services has approved as qualifying for a fixed and uniform rate shall be made pursuant to provisions of this paragraph.
- b. The Department of Central Services shall establish criteria and guidelines for those services which may qualify for a fixed and uniform rate.
- c. Fixed and uniform rate contracts authorized by this paragraph shall be limited to contracts for those services furnished to persons directly benefiting from such services and shall not be used by a state agency to employ consultants or to make other acquisitions.
- d. Any state agency desiring to have a service qualified for a fixed and uniform rate shall make a request for service qualification to the Department of Central Services and submit documentation to support the request. The Department of Central Services shall approve or deny the request. If the Department of Central Services approves the request, the state agency shall establish a fixed and uniform rate for the service. No contracts shall be entered into by the state agency until the rate has been approved by the state agency in a public hearing. The proposed rate shall be clearly and separately identified in the agenda of the state agency for the hearing and shall be openly and separately discussed during such hearing. The state agency shall notify the Director of the Department of Central Services of its pending consideration of the proposed rate at least thirty (30) days before the state agency is to meet on the proposed rate. The state agency shall deliver to the Director of the Department of Central Services a copy

of the agenda items concerning the proposed rate with supporting documentation. The Director of the Department of Central Services shall communicate any observation, reservation, criticism, or recommendation to the agency, either in person at the time of the hearing or in writing delivered to the state agency before or at the time of the hearing. The Director of the Department of Central Services shall specifically note in the written communications whether the Director of the Department of Central Services has determined the rate to be excessive. Any written communication presented in the absence of the Director of the Department of Central Services shall be presented orally during the public hearing. Whether made in person or in writing, any comment made by the Director of the Department of Central Services shall be made a part of the minutes of the hearing in full.

- e. Within two (2) weeks after the convening of the Legislature, the administrative officer of the state agency shall furnish to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to any member of the House or Senate, if requested by the member, a complete list of all of the types of services paid for by uniform fixed rates, the amount of the rate last approved by the agency for the service, and the number of contracts then in existence for each type of service. Any rate which has been determined to be excessive by the Director of the Department of Central Services shall be specifically identified in the list by the state agency.
- f. At any time, the Director of the Department of Central Services may review, suspend, or terminate a contract entered into pursuant to the provisions of this paragraph if the Director of the Department of Central Services determines the contract is not necessary, is excessive, or is not justified.

12. Specifically prescribed nonmedical adaptive technology-related acquisitions for individuals with disabilities who are clients of the State Department of Rehabilitation Services and which

are prescribed by a physician, rehabilitation engineer, qualified rehabilitation technician, speech therapist, speech pathologist, occupational therapist, physical therapist, or qualified sensory aids specialist, and other client acquisitions, shall not be subject to the requisition requirements of this section. The Commission for Rehabilitation Services shall develop standards for the purchase of such acquisitions and may elect to utilize the Purchasing Division for an acquisition. The standards shall foster economy, provide a short response time, include appropriate safeguards, require written records, ensure appropriate competition for economical and efficient purchasing, and shall be approved by the State Purchasing Director.

13. The Department of Human Services shall develop procedures for acquisitions of specifically prescribed nonmedical assistive technology-related items not exceeding the acquisition purchase amount requiring a requisition pursuant to this section for individuals under sixteen (16) years of age who are recipients of Supplemental Security Income which are prescribed by a physician, qualified sensory aids specialist or qualified special education instructor. The procedures shall reflect standards for the acquisition of such nonmedical assistive technology-related items, may provide for utilization of the Purchasing Division when appropriate, shall foster economy, provide a short response time, shall include appropriate safeguards and written records to ensure appropriate competition and economical and efficient purchasing, and shall be approved by the State Purchasing Director.

14. a. Structured settlement agreements entered into by the Attorney General's office in order to settle any lawsuit involving the state, the Legislature, any state agency or any employee or official of the state shall not be subject to the competitive bidding requirements of this section if:

- (1) prior to entering into any contract for the services of an entity to administer a structured settlement agreement, the Attorney General receives proposals from at least three entities engaged in providing such services, and
- (2) the selection of a particular entity is made on the basis of the response to the request which is

the most economical and provides the most competent service which furthers the best interests of the state.

- b. A list of any such structured settlement agreements entered into by the Attorney General with summary thereon for the previous calendar year shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on January 31 of each year.

15. Acquisitions a state agency makes pursuant to a contract the State Purchasing Director enters into or awards and designates for use by state agencies shall be exempt from competitive bidding procedures.

16. The Commission on Marginally Producing Oil and Gas Wells shall be exempt from the competitive bid requirements of this section for contracts with local vendors for the purpose of holding special events and exhibitions throughout the state.

17. Agreements entered into by any state agency with the United States Army Corps of Engineers in order to provide emergency response or to protect the public health, safety, or welfare shall not require requisitions and shall not be subject to competitive bidding requirements of this section.

B. Acquisitions shall be awarded to the lowest and best, or best value, bidder at a specified time and place, which shall be open to the public.

C. Bids for professional service contracts for an amount requiring submission of requisitions to the State Purchasing Director shall be evaluated by the State Purchasing Director and the state agency contracting for such service. Both cost and technical expertise shall be considered in determining the lowest and best, or best value, bid. Further, the state agency shall present its evaluation and recommendation to the State Purchasing Director. A documented evaluation report containing the evaluations of the State Purchasing Director and the state agency contracting for such service shall be completed prior to the awarding of a professional service contract and such report shall be a matter of public record.

D. When requested by CompSource Oklahoma, the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, or the governing board of a state retirement system authorized to hire investment managers, the Department of Central Services shall assist the requesting body in the process of selecting investment managers. When requested by the Flexible Benefits Advisory Council, the Department of Central Services shall assist the Council in the process of selecting contracts for the design, development, communication, or implementation of the state employees flexible benefits plan.

E. Except as otherwise specifically provided by law, the acquisition of food items or food products by a state agency from a public trust created pursuant to Sections 176 through 180.56 of Title 60 of the Oklahoma Statutes shall comply with competitive bidding procedures pursuant to the provisions of this section.

SECTION 24. AMENDATORY 74 O.S. 2001, Section 85.58A, as last amended by Section 2, Chapter 352, O.S.L. 2008 (74 O.S. Supp. 2009, Section 85.58A), is amended to read as follows:

Section 85.58A A. The Department of Central Services shall establish for all state agencies, whether or not subject to The Central Purchasing Act, and other entities as provided by law a comprehensive professional risk management program which shall:

1. Identify and evaluate risks of loss and exposures to loss to officers, employees and properties;

2. Minimize risks through loss-prevention and loss-control programs;

3. Transfer risks, if economically advantageous to the state, by acquiring commercial insurance, contractual pass through of liability, or by other means;

4. Consolidate and administer risk management plans and programs including self-insurance programs, except Workers' Compensation Insurance and ~~State Employees Group Insurance~~ insurance plans offered by the Oklahoma Health and Wellness Board;

5. Determine feasibility of and, if feasible, establish self-insurance programs, considering whether a program may be self-supporting to remain financially and actuarially sound;

6. Provide a system to allocate insurance and program costs to determine payment for insurance coverage and program expenses provided by the Department of Central Services;

7. When requested by a state retirement system, CompSource Oklahoma or the ~~State and Education Employees Group Insurance Board~~, assist in obtaining insurance authorized by law. If requested by the Oklahoma State Regents for Higher Education, assist trust funds for which the State Regents serve as trustees in obtaining insurance authorized by law;

8. Assist state agencies and officers, employees, and members thereof, charged with licensing authority, in obtaining insurance for liability for judgments, based on the licensing authority, rendered by any court pursuant to federal law;

9. When requested by a public trust established pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, obtain, provide or assist the public trust in obtaining insurance authorized by law or trust indenture covering any board member, trustee, official, officer, employee or volunteer for errors and omissions or liability risks arising from the performance of official duties pursuant to law or trust indenture; and

10. When requested by the Oklahoma State Regents for Higher Education, for the purpose of insuring real property required pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of which the Oklahoma State Regents for Higher Education is the beneficiary, obtain, provide or assist the Oklahoma State Regents for Higher Education in obtaining insurance for the real property pursuant to the provisions of this section.

B. The Director of Central Services may hire or contract for the services of a Risk Management Administrator to supervise the Comprehensive Professional Risk Management Program established pursuant to this section. If appointed by the Director as a state

employee, the Risk Management Administrator shall be in the unclassified service.

C. The Risk Management Administrator shall evaluate insurance coverage needs and in force for state agencies, whether or not subject to The Central Purchasing Act, and other entities as provided by law. All entities shall submit to the Risk Management Administrator all information which the Risk Management Administrator deems necessary to perform this duty.

D. The Risk Management Administrator in conjunction with the State Purchasing Director under the authority of the Director of Central Services may negotiate insurance coverage and insurance-related services, including, but not limited to, insurance brokerage and consulting services. The State Purchasing Director shall ensure open processes for solicitation and qualification of insurance coverage and services providers. The State Purchasing Director shall award contracts for insurance coverage and services to the provider or providers which offer the best and final terms and conditions. The State Purchasing Director may authorize the Risk Management Administrator to bind for insurance coverage with providers.

E. The school districts of this state may request the Risk Management Administrator to advise for the purchase of insurance coverage for the school districts.

F. A state agency, whether or not subject to The Central Purchasing Act, that contemplates purchase of property and casualty insurance, shall provide details of the proposed purchase to the Risk Management Administrator for approval or disapproval prior to the purchase.

G. The Director of Central Services shall promulgate rules to effect the provisions of the comprehensive professional risk management program.

H. 1. a. Any community action agency established pursuant to Sections 5035 through 5040 of this title may participate in the comprehensive professional risk management program established pursuant to this section for risks incurred as a result of operating a

Head Start program or providing transportation services to the public. The Risk Management Administrator shall obtain or provide for insurance coverage for such community action agencies or bonding for employees of such community action agencies. Any liability insurance coverage obtained or provided shall include expenses for administrative and legal services obtained or provided by the Risk Management Administrator.

- b. The Risk Management Administrator shall determine criteria for participation in the risk management program by such community action agencies. In addition, the Risk Management Administrator may require each such community action agency to:
 - (1) provide adequate qualified personnel and suitable facilities and equipment for operating a Head Start program or providing transportation services to the public, and
 - (2) comply with such standards as are necessary for the protection of the clients it serves.

2. To receive coverage pursuant to this section, a community action agency shall make payments for any insurance coverage and shall otherwise comply with the provisions of this section and rules promulgated by the Department pursuant to the provisions of this section.

3. Requests for the insurance coverage provided pursuant to the provisions of this subsection shall be submitted in writing to the Risk Management Administrator by the community action agencies.

I. The Risk Management Administrator may provide or obtain for any state agency, public trust with the state as a beneficiary and a director, officer, employee or member thereof, insurance for liability for loss, including judgments, awards, settlements, costs and legal expenses, resulting from violations of rights or privileges secured by the Constitution or laws of the United States of America which occur while a director, officer, employee or member is acting within the scope of service to the State of Oklahoma. The

insurance shall be for coverage in excess of the limits on liability established by The Governmental Tort Claims Act but shall not limit or waive any immunities now or hereafter available to the State of Oklahoma or any state agency, any public trust with the state as a beneficiary, or any director, officer, employee or member thereof, including, but not limited to, any immunities under the Eleventh Amendment to the Constitution of the United States, state sovereign immunity, and any absolute or qualified immunity held by any director, officer, employee or member.

SECTION 25. AMENDATORY 74 O.S. 2001, Section 212, is amended to read as follows:

Section 212. A. STATE TREASURER

The State Auditor and Inspector shall examine without notice all books and accounts of the State Treasurer twice each year.

B. STATE OFFICERS

The State Auditor and Inspector shall examine at least once each year the books and accounts of all state officers whose duty it is to collect, disburse or manage funds of the state.

C. GUBERNATORIAL REQUEST

Whenever called upon to do so by the Governor, it shall be the duty of the State Auditor and Inspector to examine the books and accounts of any officer of the state or any of the officer's predecessors. The cost of the audit shall be borne by the entity to be audited.

D. COUNTY TREASURER

The State Auditor and Inspector shall examine without notice all books and accounts of each county treasurer of the state twice each year.

E. DISTRICT ATTORNEYS

The State Auditor and Inspector shall make continuous examination and audit of the books and accounts of the several

offices of the district attorneys of this state and the District Attorneys Council. The audits shall be reported in separate reports for each entity. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, and compliance with state or federal statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the entity audited.

F. DEPARTMENT OF CORRECTIONS

The State Auditor and Inspector shall make continuous examination and audit of the books and accounts of the several divisions of the Department of Corrections. The scope of the audit shall be determined by the State Auditor and Inspector using a risk-based approach. The audits shall be reported in separate reports for each division. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, and compliance with any state or federal statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the entity audited.

G. ~~OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE~~
HEALTH AND WELLNESS BOARD

The State Auditor and Inspector shall cause to be audited the books and accounts of the office of the ~~Oklahoma State and Education Employees Group Insurance~~ Health and Wellness Board (OSEEGIB). The audit may include, but shall not be limited to, the audit of the financial records, performance measures, compliance with any state or federal statutes and rules, and compliance with any regulations of state programs. The audit shall be contracted out to private audit firms. The cost of the audit shall be borne by the ~~Oklahoma State and Education Employees Group Insurance Board~~.

H. DISTRICT ATTORNEY REQUEST

Whenever called upon to do so by any of the several district attorneys of the state, it shall be the duty of the State Auditor and Inspector to examine the books and accounts of any officer of any public entity. The cost of the audit shall be borne by the entity audited.

I. COUNTY OFFICERS BY REQUEST

Upon request of the county commissioners of any county or the Governor, the State Auditor and Inspector shall examine the books and accounts of all or any of the officers or custodians of the various funds of the county; and payment for such examination shall be made by the county so examined.

J. AUDITORS

The State Auditor and Inspector shall have power to employ auditors. No auditor shall examine the books or records of the county of the auditor's residence in counties of under two hundred thousand (200,000) population according to the most recent Federal Decennial Census. The State Auditor and Inspector may employ on an as-needed basis only, legal counsel to carry out the statutory duties of the Office of the State Auditor and Inspector.

K. EXAMINATION OF LEVIES

It shall be the duty of the State Auditor and Inspector to examine all levies to raise public revenue to see that they are made according to law and constitutional provisions. The State Auditor and Inspector shall have the power to order all excessive or erroneous lines (levies) to be corrected by the proper officers, and shall report any irregularities to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

L. PETITION AUDITS

1. The State Auditor and Inspector shall audit the books and records of any subdivision of the State of Oklahoma upon petition signed by the requisite number of voters registered in the subdivision and meeting the requirements set out in this subsection.

2. The petition must contain the number of signatures equivalent to ten percent (10%) of the registered voters of the subdivision as determined by the county election board or, if the county election board determines that the number of registered voters in the subdivision cannot be determined due to boundary lines not conforming to precinct lines, the required number of petitioners

shall be twenty-five percent (25%) of the total number of persons voting in the last subdivision-wide general election held in the subdivision. If the subdivision is a public trust, the required number of petitioners shall be the same as those required for an audit of its beneficiary. The appropriate county election board shall provide the number of signatures so required upon request.

3. The petition shall be in the form of an affidavit wherein the signatory shall declare upon oath or affirmation that the information given is true and correct and that he or she is a citizen of the entity to be audited. The petition shall clearly state that falsely signing shall constitute perjury. It shall include the signature of the individual, the name of the signatory in printed form, the individual's residential address, the date of signing, the public entity to be audited and the anticipated range of the cost of the audit provided by the State Auditor and Inspector.

4. Any person desiring to petition for an audit shall list the areas, items or concerns they want to be audited, and request from the State Auditor and Inspector the anticipated range of cost of the audit. Within thirty (30) days from the receipt of the request, the State Auditor and Inspector shall mail a petition form to the person requesting the information which shall state the anticipated range of the cost and the items or concerns to be audited. The circulators of the petition shall have thirty (30) days from the date the petition is mailed by the State Auditor and Inspector to obtain the requisite number of signatures and return it to the State Auditor and Inspector.

5. Upon collection of the required number of signatures, the person desiring the audit shall present the signed petitions to the State Auditor and Inspector. Within thirty (30) days of receipt of the petitions, the State Auditor and Inspector shall present the petitions to the county election board located in the county in which the subdivision is located.

6. The county election board shall determine whether the signers of the petition are registered voters of the county in which the subdivision to be audited is located and whether the petition has the requisite number of signatures of such registered voters. The county election board shall certify the petition as having the

required number of signatures or as failing to have the required number of signatures and return it to the State Auditor and Inspector.

7. The cost of the audit shall be borne by the public entity audited. Upon notification by the State Auditor and Inspector of receipt of the petition, certified by the county election board as having the required number of signatures, the public entity shall encumber funds in an amount specified by the State Auditor and Inspector, which shall be within the range of anticipated cost stated on the petition from any funds not otherwise specifically appropriated or allocated. Payment for the audit from such encumbered funds shall be made as work progresses, and final payment shall be made on or before its publication.

8. The names of the signers of any petition shall be confidential and neither the State Auditor and Inspector, the county election board nor the county treasurer may release them to any other person or entity except upon an order from a court of competent jurisdiction.

M. PENALTIES FOR NONPAYMENT

The cost of any services provided by the State Auditor and Inspector shall be due and payable upon the publication of the audit. Any such costs not paid within ninety (90) days of the date of publication shall incur a penalty of Ten Dollars (\$10.00) per day for each day from the date of publication.

SECTION 26. AMENDATORY 74 O.S. 2001, Section 840-2.21, as last amended by Section 8, Chapter 312, O.S.L. 2004 (74 O.S. Supp. 2009, Section 840-2.21), is amended to read as follows:

Section 840-2.21 A. If a state employee, whether in the classified or unclassified service, is absent because of an illness or injury arising out of and sustained in the course of his or her employment with the state, and for which workers' compensation benefits have been filed, the employing agency shall place the employee on leave without pay if the employee so requests; provided, leave without pay pursuant to this section shall not for any purpose be considered a break in service.

B. An employee who sustains an illness or injury arising out of and sustained in the course of employment with the State of Oklahoma shall not be required to use either accumulated sick or annual leave during such period prior to being placed on leave without pay pursuant to this section.

C. An employee placed on leave without pay pursuant to the provisions of this section shall continue receiving basic plan insurance coverage as defined in Section 1363 of this title and dependent insurance benefit allowance pursuant to paragraph 2 of subsection C of Section 1370 of this title paid by the agency during the leave without pay.

D. An employee on leave without pay pursuant to the provisions of this section shall have the right to be returned to his or her original position in accordance with rules promulgated by the Office of Personnel Management. If it is found necessary for the good of the state to fill the position during the period the employee is on leave without pay the employee filling the position shall vacate the position upon the return of the employee on leave without pay, subject to layoff, transfer or demotion rights earned under the Oklahoma Personnel Act and rules of the Office of Personnel Management. The right to return to the original position shall expire one (1) year from the date of the start of leave without pay. Notwithstanding the provisions of Section 1 et seq. of Title 85 of the Oklahoma Statutes, the employee may be separated in accordance with the Oklahoma Personnel Act and Merit Rules if the employee has not returned to the original position of the employee or some other position within the agency within one (1) year from the date of the start of leave without pay.

E. An employee on leave without pay pursuant to the provisions of this section shall provide a medical statement as to his or her ability to perform the duties of the position to the appointing authority at least every three (3) months.

F. If the employee becomes medically able with reasonable accommodation to perform the duties of his or her original position, the employee shall be returned to such position. If the employee is unable to perform the duties of the original position with reasonable accommodation, but is medically able with reasonable accommodation to perform the duties of any other position within the

agency for which the employee is qualified, and appointment to such other position does not constitute a promotion, the employee shall have first preference for any such position which becomes vacant within the agency, notwithstanding any other preference provisions of the Oklahoma Personnel Act or of other laws of the State of Oklahoma. An employee accepting another position pursuant to this subsection shall not forfeit his or her right to be returned to the original position within twelve (12) months after the start of leave without pay pursuant to the provisions of subsection D of this section.

G. An ill or injured employee shall be eligible to participate in the Disability Insurance Program established pursuant to the provisions of ~~Section~~ Sections 1331 et seq. through 1335 of this title in accordance with rules promulgated by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board.

H. All benefits, rights, and obligations contained in this section shall continue during the time the employee remains on leave without pay status, for a continuous period not to exceed twelve (12) months. However, if a workers' compensation claim based on such illness or injury is denied during the twelve-month period, all benefits, rights and obligations conferred upon an employee pursuant to this section shall cease and be discontinued immediately.

I. A classified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to employment with any state agency for twelve (12) months after the date of separation whether in the classified or unclassified service in accordance with rules adopted by the Administrator of the Office of Personnel Management provided the employee is qualified for the position to which reinstated. An unclassified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to unclassified employment with any state agency for twelve (12) months after the date of separation in accordance with rules promulgated by the Administrator of the Office of Personnel Management provided the employee is qualified for the position to which reinstated. Nothing in this subsection shall be construed to compel or require any agency of the state to reinstate a former employee who is separated pursuant to subsection D of this section. Further, nothing in this subsection shall be construed as

limiting or reducing a former employee's eligibility for reinstatement pursuant to other general reinstatement or reemployment provisions in rules promulgated by the Administrator.

SECTION 27. AMENDATORY 74 O.S. 2001, Section 840-2.27D, as last amended by Section 94, Chapter 5, O.S.L. 2004 (74 O.S. Supp. 2009, Section 840-2.27D), is amended to read as follows:

Section 840-2.27D A. Agencies shall provide severance benefits to affected employees who are separated from the state service as a result of a reduction-in-force due to a reorganization or any other action by an agency which results in affected positions being abolished and affected employees being severed from the state service. Severance benefits shall be given to the following categories of affected employees: permanent classified affected employees and affected employees on probationary status after reinstatement from permanent classified status without a break in service; provided, however, affected employees of the University Hospitals Authority must have been continuously employed in the state service since on or before January 1, 1995, to receive severance benefits. Pursuant to this section and Section 840-5.1A of this title, state agencies may provide severance benefits provided by this subsection to regular unclassified employees with one (1) year or more continuous state service who are separated from the state service for budgetary reasons; however, state agencies shall offer regular unclassified state employees with one (1) year or more continuous state service who are separated from the state service the same severance benefit as the affected employees in a reduction-in-force if the unclassified employees' separation is as a result of the conditions causing the agency to implement a reduction-in-force. Affected employees who qualify for severance benefits pursuant to this section, in addition to the payment of any compensable accrued leave or other benefits an affected employee is eligible to receive upon separation from the state service, shall receive severance benefits consisting of the following elements:

1. All agency severance benefits shall provide the following:
 - a. payment equal to the affected employee's current health insurance premium for the affected employee only for eighteen (18) months based on the cost of the premium at the time of the reduction-in-force. The

appointing authority of the agency can ask the Director of the Office of State Finance to waive the severance benefit provision in this subparagraph or to reduce the length of coverage or subsequent severance benefit payment upon demonstration of the agency's inability to fund the full benefit,

- b. a longevity payment, as prescribed by Section 840-2.18 of this title, in the amount which would otherwise be paid to the affected employee on the affected employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for affected employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of this title, and
- c. outplacement assistance and employment counseling prior to and after the reduction-in-force from the Oklahoma Employment Security Commission and other state or private entities that the entity may contract with to assist individuals who may be impacted by a reduction-in-force;

2. In addition to the severance benefits provided by paragraph 1 of this subsection, agencies may give affected employees, except as otherwise provided by paragraph 3 of this subsection, severance benefit packages based on any combination of the following options, provided that all affected employees who receive severance benefits in the reduction-in-force shall be accorded uniform treatment pursuant to the State Government Reduction-in-Force and Severance Benefits Act:

- a. up to one (1) week of pay, calculated by dividing the affected employee's current annual salary by the whole number fifty-two (52), for each year of service,
- b. a maximum lump-sum payment of Five Thousand Dollars (\$5,000.00), and

- c. payment for accumulated sick leave or extended illness benefits at up to one-half (1/2) of the affected employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit; and

3. An affected employee may direct payment of all or a portion of the affected employee's severance benefits to the options authorized by this paragraph by exercising an option to receive education vouchers for use in connection with the Reduction-in-Force Education Voucher Action Fund subject to the following requirements and rules of the Administrator of the Office of Personnel Management, provided that the agency offers to match employee severance funds pursuant to this paragraph. In such case:

- a. the affected employee may purchase One Dollar (\$1.00) in voucher credit for each One Dollar (\$1.00) contributed by the affected employee to the fund subject to a maximum affected employee contribution of Three Thousand Dollars (\$3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars (\$3,000.00); provided, that the agency contribution shall not exceed the contribution of the affected employee,
- b. the affected employee may pay the cost for the voucher program directly, subject to the requirements of subparagraph a of this paragraph, or the employing agency of the affected employee may pay the cost of the voucher from funds which would otherwise have been used to make payments to the displaced affected employee pursuant to an election by the affected employee to receive severance benefits,
- c. no voucher issued pursuant to the provisions of this paragraph shall:
 - (1) be redeemed by the affected employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or

- (2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the affected employee,
- d. the Administrator of the Office of Personnel Management shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees from the educational institution which shall be credited to the affected employee's account, and
- e. the Administrator of the Office of Personnel Management shall distribute to the affected employee and the agency any monies remaining in the affected employee's account after the voucher credit has expired. The distribution shall be based on the proportional share of contributions made by the affected employee and the agency.

B. Each affected employee who is separated from state service as a result of a reduction-in-force after July 1, 1998, besides being eligible for the eighteen (18) months of continuation coverages provided by the Public Health Service Act, 42 U.S.C., Section 30066-1 et seq., i.e., health, dental, vision and healthcare reimbursement account options, under this severance benefit, shall also be eligible to elect additional continuation coverage for any life insurance, in twenty-thousand-dollar units, on self or five-thousand-dollar units, on dependents, and to continue participation in the dependent care reimbursement account provided that these additional coverages were in effect immediately prior to the effective date of the reduction-in-force, the date of which shall serve as the qualifying event date. Provided, that no coverage elected for continuation through the Public Health Service Act for the full eighteen-month period is allowed to lapse, then that affected employee may elect to continue those same coverages for an additional eighteen (18) months at whatever rate is then in effect. This additional eighteen-month continuation period of coverage shall be administered by the Oklahoma State Employees Benefits Council Health and Wellness Board following the initial eighteen-month period of continuation which shall be administered by the COBRA office at the State and Education Employees Group Insurance Oklahoma Health and Wellness Board.

C. Part-time affected employees shall receive benefits pursuant to this section on a prorated basis. Part-time employees shall have been compensated for at least one thousand (1,000) hours during the twelve (12) months immediately preceding the effective date of the reduction-in-force to be eligible for severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

D. No appointing authority shall grant affected employees in a reduction-in-force severance benefits except as provided in this section.

SECTION 28. AMENDATORY 74 O.S. 2001, Section 840-2.27I, is amended to read as follows:

Section 840-2.27I A. An affected former state employee who:

1. Had a vested or retirement benefit pursuant to the provisions of any of the state public retirement systems;

2. Was separated from state service as a result of a reduction-in-force since July 1, 1997; and

3. Was offered severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act,

may reinstate health insurance coverage any time within two (2) years following the date of the reduction-in-force from the state, and be eligible for the purchase of all other benefits available to former employees with a vested benefit of the state public retirement system of which the employee is a member.

B. Former employees who elect to reinstate health insurance coverage pursuant to this section shall provide satisfactory evidence of insurability after a break in coverage of one hundred eighty (180) days or more.

C. The provisions of subsection A of this section shall apply to an affected former state employee who may have elected non-state-sponsored health insurance coverage or who initially may have elected one of the available state-sponsored health insurance plans but later cancels either of those elected coverages.

D. A former employee who reinstates health insurance coverage pursuant to this section shall pay the full cost of the insurance premium at the then available rate and pursuant to the rules and enrollment procedures established by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board. The former employee will be subject to the same rate changes as those made available to all other state vested or retired employees. The former employee may elect coverage for the employee's current dependents if the election is made within thirty (30) days of reinstatement of health insurance.

SECTION 29. AMENDATORY 74 O.S. 2001, Section 840-5.2B, is amended to read as follows:

Section 840-5.2B All persons employed by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board and the divisions of the Board prior to March 27, 1998, shall be in and shall have been in such status in the classified or unclassified service as shown on their individual records on file in the Office of Personnel Management. The employment records of such persons on file in the Office of Personnel Management shall be controlling as to the status of such persons and the positions they occupy or occupied.

SECTION 30. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 51 of Enrolled House Bill No. 3026 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and Oklahoma Department of Career and Technology Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period, and seasonal employees employed by the Oklahoma Tourism and Recreation Department pursuant to Section 2241 of this title who work less than one thousand six hundred (1,600) hours in any twelve-month period;

9. Department of Public Safety employees occupying the following offices or positions:

- a. administrative aides to the Commissioner,
- b. executive secretaries to the Commissioner,
- c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,
- d. Highway Patrol Colonel,

- e. Highway Patrol Lieutenant Colonel,
- f. Director of Finance,
- g. noncommissioned pilots,
- h. Information Systems Administrator,
- i. Law Enforcement Telecommunications System Specialist,
- j. Director of Driver Compliance,
- k. Director of Transportation Division,
- l. Director of the Oklahoma Highway Safety Office,
- m. Civil Rights Administrator,
- n. Budget Analyst,
- o. Comptroller,
- p. Chaplain,
- q. Helicopter Mechanic,
- r. Director of Safety Compliance,
- s. Human Resources Director,
- t. Administrator of Department Services, and
- u. a maximum of seven (7) positions for the purpose of administering programs in the Oklahoma Highway Safety Office, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued;

provided, any person appointed to a position prescribed in subparagraph d or e of this paragraph shall have a right of return to the classified commissioned position without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with The Oklahoma State System of Higher Education. For purposes of this section, a student shall be considered a regularly enrolled student if the student is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or
- c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees

for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's full-time-equivalent (FTE) employee limit;

14. Employees of the Oklahoma House of Representatives, the State Senate, or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,
- g. Public Utility Division Deputy Director,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,
- m. Public Utility Division Chief of Telecommunications,
- n. Director of Information Services,

- o. All Data Processing employees hired on or after September 1, 2005,
- p. All Public Utilities employees hired on or after September 1, 2007,
- q. All Regulatory Program Managers hired on or after September 1, 2007, and
- r. All Pipeline Safety Department employees hired on or after September 1, 2008;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Department of Mental Health and Substance Abuse Services personnel occupying the following offices and positions at each facility:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Administrative Officers,
- c. Alternator Claims Auditor,
- d. Employees hired to fulfill state compliance agency requirements under Model Tribal Gaming Compacts,

- e. Employees of the Budget Division,
- f. Employees of the Fiscal and Research Division,
- g. Employees hired to work on the CORE Systems Project;
and
- h. The following employees of the Information Services
Division:
 - (1) Information Services Division Manager,
 - (2) Network Manager,
 - (3) Network Technicians,
 - (4) Security Manager,
 - (5) Contracts/Purchasing Manager,
 - (6) Operating and Applications Manager,
 - (7) Project Manager,
 - (8) Help Desk Manager,
 - (9) Help Desk Technicians,
 - (10) Quality Assurance Manager,
 - (11) ISD Analysts,
 - (12) CORE Manager,
 - (13) Enterprise System/Database Software Manager,
 - (14) Data Center Operations and Production Manager,
 - (15) Voice Communications Manager,
 - (16) Applications Development Manager,

- (17) Projects Manager,
- (18) PC's Manager,
- (19) Servers Manager,
- (20) Portal Manager,
- (21) Procurement Specialists,
- (22) Security Technicians,
- (23) Enterprise Communications and Network Administrator,
- (24) Server Support Specialists,
- (25) Senior Server Support Specialists,
- (26) Systems Support Specialists, and
- (27) Senior Systems Support Specialists;

19. Employees of the Oklahoma Industrial Finance Authority;

20. Those positions so specified in the annual business plan of the Oklahoma Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,

- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

- a. the Carl Albert Internship Program Coordinator,
- b. one Administrative Assistant,
- c. one Workforce Planning Manager,
- d. Assistant Administrators,
- e. one Associate Administrator, and
- f. Division Directors;

24. Department of Labor personnel occupying the following offices and positions:

- a. two Deputy Commissioners,
- b. two Executive Secretaries to the Commissioner,
- c. Chief of Staff,
- d. two Administrative Assistants,
- e. Information Systems Administrator,
- f. three Safety and Health Directors,
- g. Research Director,
- h. Employment Standards Director,
- i. Asbestos Director,

- j. General Counsel,
- k. one Legal Secretary,
- l. one Docket Clerk, and
- m. two Information Systems Application Specialists;

25. The State Bond Advisor and his or her employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. Officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

- a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on June 4, 2003, may make an election to be in the classified service without a loss in salary by September 1, 2003, and

- b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;

31. The Oklahoma State Bureau of Investigation employees occupying the following positions:

- a. five assistant directors,
- b. six special investigators,
- c. one information representative,
- d. one federally funded physical evidence technician,
- e. four federally funded laboratory analysts,
- f. a maximum of fourteen positions employed for the purpose of managing the automated information systems of the agency,
- g. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,
- h. Child Abuse Response Team (CART) investigator, and
- i. Child Abuse Response Team (CART) forensic interviewer;

32. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics Commission,
- b. five Department of Transportation Assistant Director positions,
- c. eight field division engineer positions,
- d. one pilot position,
- e. five Project Manager Positions, and
- f. five Transportation Coordinators;

33. Commissioners of the Land Office employees occupying the following positions:

- a. Director of the Investments Division,
- b. Assistant Director of the Investments Division,
- c. one Administrative Assistant,
- d. one Audit Tech position,
- e. one Auditor I position,
- f. two Accounting Tech I positions,
- g. two Administrative Assistant I positions,
- h. two Imaging Specialist positions,
- i. one Information Systems Specialist position,
- j. Director of Communications,
- k. Director of Royalty Compliance,
- l. Director of Mineral Management,
- m. Director of Accounting,
- n. Chief of Staff,
- o. First Assistant Secretary,
- p. Director of Real Estate Management,
- q. one executive secretary,
- r. one legal secretary, and
- s. one legal assistant;

34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

- a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,
- c. one fiscal officer,
- d. one full-time Programmer, and
- e. one full-time Network Engineer;

35. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

36. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued,
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection, and

d. one Programs Manager;

37. The following positions and employees of the Department of Central Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing,
- c. one Alternate Fuels Administrator,
- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. four Contracts Managers,
- i. one Associate Director,
- j. one specialized HiTech/Food Contracting Officer,
- k. one State Use Contracting Officer,
- l. one Property Distribution Administrator,
- m. three licensed architects assigned to the Construction and Properties Division,
- n. three licensed engineers assigned to the Construction and Properties Division,
- o. eight construction consultants assigned to the Construction and Properties Division,
- p. one attorney assigned to the Construction and Properties Division,

- q. three positions assigned to the Information Services Division, which shall include one Information Technology Manager, one Applications Specialist and one Data Planning Specialist, and
- r. four positions assigned to Fleet Management, which shall include one Deputy Fleet Manager and three Management Analysts;

38. Oklahoma Water Resources Board personnel occupying the following offices and positions:

- a. four Water Quality Assistant Division Chiefs,
- b. four Water Resources Division Chiefs, and
- c. Director of Water Planning;

39. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

- a. Physical Therapists,
- b. Physical Therapist Assistants,
- c. Occupational Therapists,
- d. Certified Occupational Therapist Aides, and
- e. Speech Pathologists;

40. The Development Officer, the Director of the State Museum of History and the Cherokee Strip Regional Heritage Center Director within the Oklahoma Historical Society;

41. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,
- b. nineteen Agricultural Marketing Coordinator III positions,
- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,
- d. one Information Technology Specialist,
- e. one Director of Administrative Services,
- f. one Water Quality Consumer Complaint Coordinator,
- g. one hydrologist position,
- h. Public Information Office Director,
- i. one Information Technology Technician,
- j. Legal Services Director,
- k. Animal Industry Services Director,
- l. Agricultural Environmental Management Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director,
- o. one Grants Administrator position,
- p. Director of Laboratory Services,

- q. Chief of Communications,
- r. Public Information Manager,
- s. Inventory/Supply Officer,
- t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,
- u. Rural Fire Coordinator,
- v. one Agricultural Marketing Coordinator I,
- w. Food Safety Division Director,
- x. two Environmental Program Specialists,
- y. two Scale Technicians, and
- z. two Plant Protection Specialists;

42. The Contracts Administrator within the ~~Oklahoma State Employees Benefits Council~~ Division of the Oklahoma Health and Wellness Board;

43. The Development Officer within the Oklahoma Department of Libraries;

44. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

- a. Educational Program Director, and

b. Data Processing Manager;

45. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

46. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

47. All officers and employees of the Oklahoma Motor Vehicle Commission;

48. One Museum Archivist of The Will Rogers Memorial Commission;

49. One Fire Protection Engineer of the Office of the State Fire Marshal;

50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence;

51. The Oklahoma Homeland Security Director and all other positions assigned the responsibilities of working in the Oklahoma Office of Homeland Security;

52. The following eighteen (18) positions in the State Department of Health:

- a. one surveillance supervisor,
- b. one surveillance project monitor,
- c. two bilingual interviewers,
- d. eight senior interviewers, and
- e. six interviewers;

53. State Board of Registration for Professional Engineers and Land Surveyors personnel occupying the following offices and positions:

- a. one Director of Enforcement, and
- b. two Board Investigators;

54. One Information Systems Data Management Analyst of the Oklahoma ~~State and Education Employees Group Insurance~~ Health and Wellness Board; and

55. Two Management Information Systems positions of the Office of Juvenile Affairs.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and nurses;
2. Certified public accountants;

3. Licensed attorneys;
4. Licensed veterinarians; and
5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than December 31, 2007, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2007. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

SECTION 31. AMENDATORY 74 O.S. 2001, Section 840-5.20,
is amended to read as follows:

Section 840-5.20 A. ~~The State and Education Employees Group Insurance~~ HealthChoice Health Insurance Division of the Oklahoma Health and Wellness Board shall be under the Merit System. Except as provided in subsection B of this section, all positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. This section shall supersede and repeal any and all executive orders issued pursuant to the Oklahoma Personnel Act to place the agency under the Merit System.

B. In addition to positions and personnel that are unclassified pursuant to Section 840-5.5 of ~~Title 74 of the Oklahoma Statutes~~ this title, the following offices, positions, and personnel of the ~~State and Education Employees Group Insurance~~ HealthChoice Health Insurance Division of the Oklahoma Health and Wellness Board shall be in the unclassified service:

1. A director of internal audit;
2. Two deputy administrators;
3. Seven assistant administrators;
4. One executive secretarial position to the Board;
5. An administrative support officer; and
6. Three professional-level data processing positions.

SECTION 32. AMENDATORY 74 O.S. 2001, Section 908, is amended to read as follows:

Section 908. ~~(1)~~ A. The Board of Trustees of the Oklahoma Public Employees Retirement System shall appoint an Executive Director and shall establish ~~his~~ the compensation of the Executive Director. Subject to the policy direction of the Board, ~~he~~ the Executive Director shall be the managing and administrative officer of the System and as such shall have charge of the office, records, and supervision and direction of the employees of the System.

~~(2)~~ B. The Executive Director shall recommend to the Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this act, and the policy direction of the Board. Upon approval of the organizational plan by the Board, the Executive Director may employ such persons as are deemed necessary to administer this act.

~~(3)~~ C. The members of the Board of Trustees, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of Fifty Dollars (\$50.00) per year. The provisions of this section shall not be construed to prevent the members of the Board of Trustees, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

~~(4)~~ D. The Board of Trustees shall select and retain a qualified actuary who shall serve at its pleasure as its technical advisor or consultant on matters regarding the operation of the System. The actuary shall:

~~(a) make~~ 1. Make an annual valuation of the liabilities and reserves of the System, and a determination of the contributions required by the System to discharge its liabilities and administrative costs under this act, and recommend to the Board rates of employer contributions required to establish and maintain the System on an adequate reserve basis-;

~~(b) as~~ 2. As soon after the effective date as practicable and once every three (3) years thereafter, make a general investigation of the actuarial experience under the System, including mortality, retirement, employment turnover, and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation-; and

~~(c) perform~~ 3. Perform such other duties as may be assigned by the Board.

~~(5)~~ E. The Board may retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the Board for such compensation as specified by the Board. The attorney

shall advise the Board and perform legal services for the Board with respect to any matters properly before the Board. In addition, the attorney shall advise and perform legal services for the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board with respect to any matters properly before that Board as provided in ~~Section~~ Sections 1301 ~~et seq.~~ through 1328 of this title.

~~(6)~~ F. The Board shall decide in each instance the membership status of member employees whose membership in the System becomes a matter of conjecture on account of mergers or consolidations of state agencies.

~~(7)~~ G. The Board may retain an internal auditor to serve at the pleasure of the Board for such compensation as specified by the Board. In addition to the duties assigned by the Board, the internal auditor is authorized to audit all records of any participating employer in order to ensure compliance with the provisions of ~~Section~~ Sections 901 ~~et seq.~~ through 943 of this title.

SECTION 33. AMENDATORY Section 1, Chapter 449, O.S.L. 2004, as amended by Section 2, Chapter 367, O.S.L. 2007 (74 O.S. Supp. 2009, Section 915.3), is amended to read as follows:

Section 915.3 On or before January 1, 2005, the Oklahoma Public Employees Retirement System shall implement a retirement benefit option for members retiring prior to being Medicare-eligible. The purpose of this option is to allow a person who retires prior to being Medicare-eligible to elect to receive an increased benefit to help cover the cost of the member and dependent health insurance premiums, if any, until such member is eligible to receive Medicare. Beginning in the month following such month that the member becomes Medicare-eligible, his or her retirement benefit will be reduced by an actuarial amount. The alternative retirement benefit option shall be devised so that the increased pre-Medicare retirement benefit and the lower post-Medicare retirement benefit shall have a neutral actuarial cost to the System. The System may, but shall not be required to, make individual actuarial calculations; however, the actuarial reduction necessary to provide this alternative retirement benefit option shall be calculated after and in addition to any reduction necessary to provide a survivor benefit pursuant to

Section 918 of this title. The increased pre-Medicare retirement benefit may not equal an individual's actual premium, but the formula used shall be based upon the retiree pre-Medicare health insurance premiums of the plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board at the time the member retires. The System shall on or before January 1 of each year update the formula based upon new health insurance premium data of the plans offered by the ~~State and Education Employees Group Insurance~~ Board to retired members. A member retiring under the alternative retirement benefit option shall have the member's retirement benefit based upon the formula in use at the time of retirement and shall not be amended thereafter to reflect further changes in health insurance premiums. A member electing to participate in the alternative retirement benefit option shall make an irrevocable election at the time of retirement to participate in such option. Provided further, that any married member making this election shall comply with the provisions of Section 918 of this title. The Board of Trustees of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this section.

No member shall be eligible to make the election provided for in this section until the Board receives official written notice that this alternative retirement benefit option satisfies the tax qualification requirements for governmental plans applicable to such benefit options as specified in the Internal Revenue Code of 1986, as amended from time to time and as applicable to governmental plans and the relevant regulatory provisions and guidance related thereto.

SECTION 34. AMENDATORY 74 O.S. 2001, Section 1301, is amended to read as follows:

Section 1301. This act shall be known and may be cited as the "~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act".

SECTION 35. AMENDATORY 74 O.S. 2001, Section 1302, is amended to read as follows:

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

~~(a)~~ 1. To provide uniformity in ~~Accident and Health Insurance and/or Benefits Coverage and Life Insurance~~ benefits coverage on all employees of the State of Oklahoma;

~~(b)~~ 2. 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)~~ 3. To recognize and protect the state's investment in each permanent employee by promoting and preserving good health and longevity among state employees;

~~(d)~~ 4. 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)~~ 5. 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)~~ 6. To ensure state compliance with the Health Maintenance Organization Act of 1973 pursuant to 42 U.S.C., Section 300e et seq.

SECTION 36. AMENDATORY 74 O.S. 2001, Section 1303, as last amended by Section 13, Chapter 415, O.S.L. 2008 (74 O.S. Supp. 2009, Section 1303), is amended to read as follows:

Section 1303. For the purposes of and as used in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act:
Act:

1. "Board" means the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board ~~as created by the State and Education Employees Group Insurance Act~~;

2. "Employee" means those state employees, education employees and other eligible employees participating in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act;

3. "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~~ Oklahoma Health and Wellness Act and visiting faculty who are not eligible for membership in the Teachers' Retirement System of Oklahoma;

4. "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;

5. "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;

6. "Education Entity" means a school district, a technology center school district, or an institution comprising The Oklahoma State System of Higher Education;

7. "State Employee" means and includes each officer or employee in the service of the State of Oklahoma who, after January 1, 1966, received 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 the person's 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;

8. "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.;

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

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

11. "Dental Benefits Plan" means a plan by the State of Oklahoma for the purpose of paying the cost of dental care up to the maximum coverage provided by the plan; whenever the term "Dental Insurance Plan" or a term of like import appears in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, the term shall mean "Dental Benefits Plan";

12. "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;

13. "Dependent" means an employee's spouse or any unmarried child (1) under the age of twenty-five (25) years, regardless of residence, provided 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) regardless of age who is incapable of self-

support because of mental or physical incapacity that existed prior to reaching the age of twenty-five (25) years;

14. "Comprehensive benefits" means benefits which reimburse the expense of hospital room and board, other hospital services, certain outpatient 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

15. "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 to be provided by the State of Oklahoma, and the employee shall have the option to purchase additional life insurance or benefits on the employee's 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 who elects to insure the employee's eligible dependents. Premiums for the dependent life insurance shall be paid wholly by the employee.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1304.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Health and Wellness Board.

B. The chair and vice-chair shall be elected by the Board members at the first meeting of the Board and shall preside over meetings of the Board and perform other duties as may be required by the Board. Upon the resignation or expiration of the term of the chair or vice-chair, the members shall elect a chair or vice-chair. The Board shall elect one of its members to serve as secretary.

C. The Board shall consist of eleven (11) members to be appointed as follows:

1. Four members shall be appointed by the Governor, as follows:

- a. one shall be an actuary or have experience in the area of finance,
- b. one shall be an attorney licensed in this state, and
- c. two shall have experience in the administration of private sector health insurance plans;

2. The Insurance Commissioner, or designee;

3. Three members shall be appointed by the Speaker of the Oklahoma House of Representatives. One shall be a licensed physician in this state whose primary practice is rural, and one shall represent the largest statewide organization which advocates on behalf of public education employees who shall be a nonvoting member and whose presence at meetings shall not be counted in the determination of a quorum; and

4. Three members shall be appointed by the President Pro Tempore of the State Senate. One shall be a licensed physician whose primary practice is urban, and one shall represent the largest statewide organization which advocates on behalf of public employees who shall be a nonvoting member and whose presence at meetings shall not be counted in the determination of a quorum.

D. Each appointing entity shall appoint no more than one member to the Board who is a member of the State and Education Employees Group Insurance Board or the Oklahoma State Employees Benefits Council as of the effective date of this act.

E. Each member of the Board shall serve a term of four (4) years from the date of appointment.

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

G. The Board shall meet as often as necessary to conduct business but shall meet no less than four times a year, with an organizational meeting to be held prior to December 1, 2010. The organizational meeting shall be called by the Insurance Commissioner.

H. Except as otherwise provided in this subsection, no member of the Board 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 State and Education Employees Group Insurance Board, the Oklahoma State Employees Benefits Council, or the Oklahoma Health and Wellness Board, or any benefit program under its jurisdiction, for any goods or services whatsoever. The nonvoting member appointed pursuant to paragraphs 3 and 4 of subsection C of this section may be a lobbyist registered in this state if the member is employed full-time by the statewide organization the member is representing on the Board. Any physician member of the Board shall not be subject to the provisions of this subsection.

I. Any vacancy occurring on the eleven-member Board shall be filled in the same manner as provided for in subsection C of this section.

J. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.

K. The Board shall not be subject to the provisions of the Oklahoma Sunset Law, Sections 3901 through 3921 of Title 74 of the Oklahoma Statutes.

L. The Board, pursuant to the provisions of Sections 250 through 323 of Title 75 of the Oklahoma Statutes, shall adopt rules consistent with the provisions of the Oklahoma Health and Wellness Act as it deems necessary to carry out its statutory duties and responsibilities, including but not limited to rules ensuring the plan participants due process of law.

M. The Oklahoma Health and Wellness Board shall contract for Plan Year 2011 with a vendor that offers a HIPAA compliant web-based, doctor-patient mutual accountability incentive program. The purpose of the contract is to conduct a pilot project to test the value proposition of a program that offers financial incentives to both the health care provider and the patient for each care encounter in which the provider and patient incorporate evidence-based medicine treatment guidelines, patient education directives and other proven medical interventions made available and recorded through the program in the rendering and utilizing of health care. This program shall offer the health care provider the flexibility to use the health care provider's clinical judgment to adhere to or deviate from the program's treatment guidelines and still receive a financial incentive, as long as the health care provider directs patient education to the patient that includes an explanation of the provider's adherence or reason for non-adherence to the guidelines. The program shall offer a financial reward to the patient for responding to the patient education directive by demonstrating the patient's understanding of the patient's health condition, by declaring or demonstrating adherence to recommended care, by agreeing to allow the patient's physician to view patient's responses and acknowledge the patient's health accomplishments, and by judging the quality of care given to the patient against these guidelines and recommended care. Participation in the program shall be voluntary to both the provider and patient on an encounter-by-encounter basis. The program shall be offered and administered by the program vendor through an Internet application that is HIPAA compliant. This pilot project shall include enough beneficiaries of the Board to achieve statistical significance and collect and analyze data over a period of two (2) years in order to determine the program's effectiveness. If it is determined that the program is effective, the Board shall continue the contract with such vendor by making the program available to all Board beneficiaries.

SECTION 38. AMENDATORY 74 O.S. 2001, Section 1305, is amended to read as follows:

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

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

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

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

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

SECTION 39. AMENDATORY 74 O.S. 2001, Section 1305.1, as amended by Section 2, Chapter 196, O.S.L. 2002 (74 O.S. Supp. 2009, 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)~~ A. The Oklahoma Health and Wellness 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)~~ B. The Board may establish an investment committee. The investment committee shall be composed of not more than ~~five~~ ~~(5)~~ three 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)~~ C. 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)~~ D. 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)~~ E. By November 1, 1989, and prior to August 1 of each year thereafter, the Board shall develop a written investment plan for the monies received by the Board.

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

G. The Board shall consolidate the personnel and facilities of the Board and the Board's Divisions and identify inefficient or duplicative functions or services. The Board shall eliminate any duplicative positions or services and shall sell or otherwise dispose of any duplicative assets. The Board shall report all such actions to the Joint Liaison Committee on Oklahoma Health and Wellness no later than November 1, 2011. The report shall include any statutory modifications needed to achieve optimal efficiency.

H. At the end of each plan year, the Board shall utilize all amounts from the fund equity of the Health and Dental Fund as shown in the Board's audited financials which are in excess of one hundred seventy-five percent (175%) of the Experience Fluctuation Risk Component of the National Association of Insurance Commissioners (NAIC) Health Risk-Based Capital (RBC) calculation for the purpose

of funding health savings accounts, flexible spending accounts and the wellness program at the discretion of the Board. The Board shall report the use of these funds to the Joint Liaison Committee on Oklahoma Health and Wellness annually.

I. The Board shall utilize the Employee Benefits Council surplus as of the effective date of this act for the purpose of funding health savings accounts, flexible spending accounts and the wellness program, at the discretion of the Board.

J. The Board shall establish a wellness program for all participants in the plan. Components of the plan shall include, but not be limited to, financial incentives for participation in the wellness program and healthy living practices.

SECTION 40. AMENDATORY 74 O.S. 2001, Section 1305.2, is amended to read as follows:

Section 1305.2 ~~(1)~~ A. A fiduciary with respect to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall not cause the Board to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

~~(a) sale~~ 1. Sale or exchange, or leasing of any property from the Board to a party in interest for less than adequate consideration or from a party in interest to the Board for more than adequate consideration;

~~(b) lending~~ 2. Lending of money or other extension of credit from the Board to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the Board with provision of excessive security or an unreasonably high rate of interest;

~~(c) furnishing~~ 3. Furnishing of goods, services or facilities from the Board to a party in interest for less than adequate consideration, or from a party in interest to the Board for more than adequate consideration; or

~~(d) transfer~~ 4. Transfer to, or use by or for the benefit of, a party in interest of any assets of the Board for less than adequate consideration.

~~(2)~~ B. A fiduciary with respect to the Board shall not:

~~(a) deal~~ 1. Deal with the assets of the Board in the fiduciary's own interest or for the fiduciary's own account;

~~(b) in~~ 2. In the fiduciary's individual or any other capacity act in any transaction involving the Board on behalf of a party whose interests are adverse to the interests of the Board or the interests of its participants or beneficiaries; or

~~(e) receive~~ 3. Receive any consideration for the fiduciary's own personal account from any party dealing with the Board in connection with a transaction involving the assets of the Board.

~~(3)~~ C. A fiduciary with respect to the Board may:

~~(a) invest~~ 1. Invest all or part of the assets of the Board in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

~~(b) provide~~ 2. Provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

~~(4)~~ D. A person or a financial institution is a fiduciary with respect to the Board to the extent that the person or the financial institution:

~~(a) exercises~~ 1. Exercises any discretionary authority or discretionary control respecting management of the Board or exercises any authority or control respecting management or disposition of the assets of the Board;

~~(b) renders~~ 2. Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or

other property of the Board, or has any authority or responsibility to do so; or

~~(c) has~~ 3. Has any discretionary authority or discretionary responsibility in the administration of the Board.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1305.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health and Wellness Board shall develop a strategy and program to promote personal responsibility for overall good health and wellness among all state and education employees enrolled in any of the health benefit plans offered by the Oklahoma Health and Wellness Board.

B. The Oklahoma Health and Wellness Board shall promote and coordinate medical home providers by expanding the existing medical home infrastructure and providers into a statewide, multipayer delivery system.

1. The Board shall develop an infrastructure capable of covering both rural and urban areas of the state.

2. The infrastructure shall include, but not be limited to, an electronic medical records system with the capability to allow connectivity between medical home providers, a referral management process that emphasizes the full scope of practice by primary care doctors with appropriate input by specialists, and a robust clinical process and outcomes reporting package.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1305.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health and Wellness Board shall create and oversee two divisions for the purposes of procuring, administering and managing health benefit plans, including a health maintenance organization (HMO) offered to qualifying state and education employees in this state. The Board may appoint an Administrator or Executive Director for each Division if the position is deemed necessary by the Board. The two divisions shall be the:

1. HealthChoice Health Insurance Division; and
2. Employee Benefits Division.

B. The HealthChoice Health Insurance Division shall discharge its duties with respect to the Oklahoma Health and Wellness Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act solely in the interest of said acts and:

1. For the exclusive purpose of:
 - a. providing benefits to the participants and their dependents, and
 - b. defraying reasonable expenses of administering the HealthChoice health insurance benefit plan, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

2. 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;

3. 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

4. In accordance with the laws, documents and instruments governing the Oklahoma Health and Wellness Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act.

C. The monies received by the HealthChoice Health Insurance Division 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 HealthChoice Health Insurance Division.

SECTION 43. AMENDATORY 74 O.S. 2001, Section 1306, as last amended by Section 3, Chapter 231, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1306), is amended to read as follows:

Section 1306. ~~The State and Education Employees Group Insurance Board~~ HealthChoice Health Insurance Division 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~~ Oklahoma Health and Wellness Act and the State Employees Flexible Benefits Act, shall have the following powers and duties:

1. The preparation of specifications for such insurance plans as the ~~Board~~ HealthChoice Health Insurance Division may determine to be appropriate;

2. 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~~ HealthChoice Health Insurance Division may offer;

3. The determination of the methods of claims administration under such insurance and benefit plans as the ~~Board~~ HealthChoice Health Insurance Division may offer;

4. The determination of the eligibility of employees and their dependents to participate in each of the ~~Group Insurance Plans~~ group insurance plans and in such other insurance and benefit plans as the ~~Board~~ HealthChoice Health Insurance Division may offer and the eligibility of employees to participate in the ~~Life Insurance Plan~~ life insurance plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;

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

6. 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, 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;

7. The continuing study of the operation of such insurance and benefit plans as the ~~Board~~ HealthChoice Health Insurance Division may offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;

8. 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;

9. The auditing of the claims paid pursuant to the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

10. a. ~~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 granted a certificate of authority by the Insurance Commissioner pursuant to Sections 6901 through 6951 of Title 36 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. The Board may also select and contract with a vendor~~

~~to offer a point of service plan. An HMO may offer coverage through a point of service plan, subject to the guidelines established by the Board. However, if the Board chooses to offer a point of service plan, then a vendor that offers both an HMO plan and a point of service plan may choose to offer only its point of service plan in lieu of offering its HMO plan.~~

~~b.~~ Benefit plan contracts with the ~~State and Education Employees Group Insurance Board, Health Maintenance Organizations~~ HealthChoice Health Insurance Division and Employee Benefits Division, and other third-party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the ~~Board~~ HealthChoice Health Insurance Division, based on generally accepted actuarial principles. The risk adjustment factor shall include all members participating in the plans offered by the ~~State and Education Employees Group Insurance Board~~ HealthChoice Health Insurance Division and Employee Benefits Division. The ~~Oklahoma State Employees Benefits Council~~ Oklahoma Health and Wellness Board shall contract with an actuary to provide the above actuarial services, and shall be reimbursed for these contract expenses by the Board.

~~e.~~ b. Effective for the plan year beginning January 1, ~~2007~~ 2011, and for each year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, ~~HMOs~~ the HMO, self-insured organizations and prepaid plans shall set the monthly premium for active employees to be equal to the premium for retirees under sixty-five (65) years of age;

11. To contract for reinsurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board. Provided, however, that the ~~Board~~ HealthChoice Health Insurance Division shall not offer a health plan which is owned or operated by the state and which utilizes a capitated payment plan for providers which uses a primary care physician as a gatekeeper to any specialty care

provided by physician-specialists, unless specifically authorized by the Legislature;

~~12. The Board, pursuant to the provisions of Section 250 et seq. of Title 75 of the Oklahoma Statutes, shall adopt such rules 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. Emergency Rules adopted by the Board and approved by the Governor which are in effect on the first day of the Regular Session of the Oklahoma Legislature shall not become null and void until January 15 of the subsequent calendar year;~~

~~13. The Board HealthChoice Health Insurance Division shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board HealthChoice Health Insurance Division 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 Division shall contract with a private insurance carrier or other experienced claims administrator to process claims with software that is normally used for its customers;~~

~~14. 13. The Board Division 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;~~

~~15. 14. The Board HealthChoice Health Insurance Division shall have the authority to determine all rates and life, dental and health benefits. Except as otherwise provided for in Section 1321 of this title, the Board Division shall not have the authority to adjust the premium rates after approval. The Board Division 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 Oklahoma Health and Wellness Board, the Director of the Office of State Finance and the Director of the Legislative Service Bureau no later than March 1 of the previous fiscal year.~~

Effective for the plan year beginning January 1, ~~2007~~ 2011, and for each plan year thereafter, in setting health insurance premiums for active employees and retirees under sixty-five (65) years of age, the ~~Board~~ Division shall set the monthly premium for active employees to be equal to the monthly premium for retirees under sixty-five (65) years of age;

~~16.~~ 15. Before December 1 of each year the ~~Board~~ Division shall submit to the Oklahoma Health and Wellness Board and 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~~ Division. 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 Board and 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~~ Division, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives ~~and the Chair of the Oklahoma State Employees Benefits Council~~ by January 15;

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

~~18.~~ 17. The ~~Board~~ Division 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~~ Division;

~~19.~~ 18. The ~~Board~~ Division 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 copayment reinsurance. Premiums for said plans shall be actuarially based and the cost for such supplemental plans shall be paid by the employee;

~~20.~~ 19. Beginning with the plan year which begins on January 1, ~~2006~~ 2011, the ~~Board~~ Division shall select and contract with one or more providers to offer a group TRICARE Supplement product to eligible employees who are eligible TRICARE beneficiaries. Any membership dues required to participate in a group TRICARE Supplement product offered pursuant to this paragraph shall be paid by the employee. As used in this paragraph, "TRICARE" means the Department of Defense health care program for active duty and retired uniform service members and their families;

~~21.~~ 20. There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on ~~State and Education Employees Group Insurance Benefits~~ Oklahoma Health and Wellness, 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 Chair and Vice Chair 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 Chair shall be from the Senate; thereafter the chairship 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~~ Oklahoma Health and Wellness 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 Benefits~~ Oklahoma Health and Wellness shall serve as a liaison with the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness 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; and

~~22.~~ 21. ~~The State and Education Employees Group Insurance~~
Oklahoma Health and Wellness Board shall annually collect its own
set of performance measures comparable to the Health Plan Employer
Data and Information Set (HEDIS) for the purpose of assessing the
quality of its HealthChoice plans and the other services it
provides.

SECTION 44. AMENDATORY 74 O.S. 2001, Section 1306.2, is
amended to read as follows:

Section 1306.2 A. ~~The State and Education Employees Group~~
~~Insurance Board~~ HealthChoice Health Insurance Division shall submit
to the Oklahoma Health and Wellness Board and the Insurance
Commissioner the following information regarding utilization review
performed by employees of the ~~board~~ Division:

1. A utilization review plan that includes:

- a. an adequate summary description of review standards,
protocol and procedures to be used in evaluating
proposed or delivered hospital and medical care,
- b. assurances that the standards and criteria to be
applied in review determinations are established with
input from health care providers representing major
areas of specialty and certified by the boards of the
various American medical specialties, and
- c. the provisions by which patients or health care
providers may seek reconsideration or appeal of
adverse decisions concerning requests for medical
evaluation, treatment or procedures;

2. The type and qualifications of the personnel either employed
or under contract to perform the utilization review;

3. The procedures and policies to ensure that an employee of
the ~~board~~ Division is reasonably accessible to patients and health
care providers five (5) days a week during normal business hours,
such procedures and policies to include as a requirement a toll-free
telephone number to be available during said business hours;

4. The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;

5. The policies and procedures to verify the identity and authority of personnel performing utilization review by telephone;

6. A copy of the materials designed to inform applicable patients and health care providers of the requirements of the utilization review plan;

7. The procedures for receiving and handling complaints by patients, hospitals and health care providers concerning utilization review; and

8. Procedures to ensure that after a request for medical evaluation, treatment, or procedures has been rejected in whole or in part and in the event a copy of the report on said rejection is requested, a copy of the report of the personnel performing utilization review concerning the rejection shall be mailed by the insurer, postage prepaid, to the ill or injured person, the treating health care provider, hospital or to the person financially responsible for the patient's bill within fifteen (15) days after receipt of the request for the report.

B. The ~~Board~~ Division shall pay an annual fee to the Insurance Commissioner of Five Hundred Dollars (\$500.00).

SECTION 45. AMENDATORY 74 O.S. 2001, Section 1306.3, is amended to read as follows:

Section 1306.3 A. The Joint Liaison Committee on ~~State and Education Employees Group Insurance Benefits~~ Oklahoma Health and Wellness shall create the Payment Rate Review Task Force, which shall review all payments made to providers of medical care by the Oklahoma ~~State and Education Employees Group Insurance~~ Health and Wellness Board. The Task Force shall be composed of independent experts appointed by the Joint Liaison Committee on ~~State and Education Employees Group Insurance Benefits~~ Oklahoma Health and Wellness. The Task Force shall annually review applicable changes in payment rates which will affect hospital inpatient and outpatient payment methodologies.

B. The Task Force shall study and make recommendations, as part of its annual report, regarding new institutional reimbursement policy and changes in each existing reimbursement policy by the ~~Oklahoma State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board under which payments to an institution are made.

C. No later than January 1 of each year, the Task Force shall submit a report to the Joint Liaison Committee on ~~State and Education Employees Group Insurance Benefits~~ Oklahoma Health and Wellness containing an examination of issues affecting health care delivery to state and education employees in Oklahoma, including issues related to:

1. Trends in health care costs;
2. The financial condition of hospitals and the effect of the payments made to hospitals under this act on such condition;
3. Trends in the use of health care services under the Oklahoma ~~State and Education Employees Group Insurance~~ Health and Wellness Board health plans; and
4. New methods used by employers, insurers, and others to address the use of health care services.

The Task Force shall make, as part of its annual report, recommendations to the Joint Liaison Committee on ~~State and Education Employees Group Insurance Benefits~~ Oklahoma Health and Wellness concerning appropriate changes in reimbursement rates which should be used for inpatient and outpatient hospital services.

D. The Task Force shall consist of nine (9) members. The membership of the Task Force shall include individuals with recognized expertise in health economics, health facility management, reimbursement of health facilities or other providers of services which reflect the scope of the Task Force's responsibilities, a balance of urban and rural representatives, including hospital administrators, physicians, and registered nurses, employers, third-party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and individuals having expertise in the

research and development of technological and scientific advances in health care.

E. In order to identify medically appropriate patterns of health resources, the Task Force shall collect and assess information on medical and surgical procedures and services, including information on variations of medical practice and lengths of hospitalization and on other patient care data, giving special attention to treatment patterns for conditions which appear to involve excessively costly or inappropriate services not adding to the quality of care provided. The Task Force shall give special attention to the needs of updating existing diagnosis-related groups and establishing new diagnosis-related groups, to reflect appropriate differences in resource consumption in delivering safe, efficacious and cost-effective care.

F. In order to conduct its duties, the Task Force shall have unrestricted access to all payment rate information of the ~~Oklahoma State and Education Employees Group Insurance~~ divisions of the Oklahoma Health and Wellness Board immediately upon request.

SECTION 46. AMENDATORY Section 1, Chapter 198, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1306.5), is amended to read as follows:

Section 1306.5 A network provider facility or physician contract, or any part or section of it, may be amended at any time during the term of the contract only by mutual written consent of duly authorized representatives of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board and the facility or physician.

SECTION 47. AMENDATORY Section 6, Chapter 319, O.S.L. 2003 (74 O.S. Supp. 2009, Section 1306.6), is amended to read as follows:

Section 1306.6 The ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, in accordance with administering the Medical Expense Liability Revolving Fund pursuant to Section 4 746.1 of this act Title 19 of the Oklahoma Statutes, shall employ, appoint, or otherwise designate the necessary personnel to carry out the duties of the fund.

SECTION 48. AMENDATORY 74 O.S. 2001, Section 1307, is amended to read as follows:

Section 1307. A. The specifications drawn by the ~~Board~~ HealthChoice Health Insurance Division for the ~~Health Insurance Plan~~ health insurance plan shall provide for comprehensive hospital medical and surgical benefits. The ~~Health Insurance Plan~~ health insurance plan may limit coverage for a particular illness, disease, injury or condition; but, except for such limits, shall not exclude or limit particular services or procedures that can be provided for the diagnosis and treatment of an illness, disease, injury or condition, so long as the services and procedures provided are of sound efficacy, are medically necessary, and fall within the licensed scope of practice of the practitioner providing same. The ~~Health Insurance Plan~~ health insurance plan may provide for the application of deductibles and copayment or coinsurance provisions, when equally applied to all covered charges for services and procedures that can be provided by any practitioner for the diagnosis and treatment of a particular illness, disease, injury or condition.

B. The ~~Life Insurance Plan~~ life insurance plan shall include Accidental Death and Dismemberment Benefits and additional optional life insurance coverage.

SECTION 49. AMENDATORY 74 O.S. 2001, Section 1307.1, is amended to read as follows:

Section 1307.1 No employee or dependent who participates in a an HMO through the State Employees Group Insurance Act Employee Benefits Division of the Oklahoma Health and Wellness Board shall be denied the right of changing ~~his~~ the primary care physician of the employee or dependent to any other primary care physician within the HMO. The employee or dependent shall notify the HMO in writing of any change in ~~his~~ the choice of primary care physician forty-five (45) days in advance of such change by certified mail with return receipt requested. Any such change in a primary care physician shall not be subject to the approval of the HMO, the ~~State Employees Group Insurance~~ Employee Benefits Division or the Board or state agency.

SECTION 50. AMENDATORY 74 O.S. 2001, Section 1307.2, is amended to read as follows:

Section 1307.2 On and after November 1, 1996, the ~~State and Education Employees Group Insurance~~ health benefit plans, including any HMO, offered by the Oklahoma Health and Wellness Board shall include coverage for equipment, supplies and related services for the treatment of Type I, Type II, and gestational diabetes as provided by and pursuant to the provisions of Section ~~±~~ 6060.2 of this act Title 36 of the Oklahoma Statutes.

SECTION 51. AMENDATORY 74 O.S. 2001, Section 1308, as amended by Section 3, Chapter 345, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1308), is amended to read as follows:

Section 1308. ~~(1)~~ A. Any 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 or she 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)~~ B. Any eligible 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.

C. For eligible state employees hired on or after November 1, 2010, any benefit allowance amount in excess of the combined cost of all benefits shall be deposited into a health savings account, a flexible spending account, or an account authorized pursuant to Section 1705 or 1707 of this title, and may be used for purposes authorized by federal and state law.

SECTION 52. AMENDATORY 74 O.S. 2001, Section 1308.1, as amended by Section 1, Chapter 41, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1308.1), is amended to read as follows:

Section 1308.1 ~~(1)~~ A. An educational entity may extend the benefits of the health insurance plan, the dental insurance plan, and the life insurance plan to education employees employed by said entity. The benefits of said plans for an education employee 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. Notwithstanding the provisions of Section 1308.2 of this title, a period shall exist for enrolling education entities from April 1, 1989 through October 1, 1991, whereby education employees of a participating education entity may be enrolled, pursuant to this act, during the entities' initial enrollment period, regardless of preexisting conditions. The Oklahoma Health and Wellness Board shall adopt rules and regulations for enrollment by which education entities may apply to participate in said insurance plans. Once an education entity becomes a participant in the health and dental insurance plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, the education entity may withdraw from said participation, in a manner prescribed by the Board. If a school district is participating in the health and dental insurance plans pursuant to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, ~~Section Sections~~ Sections 1301 et seq. through 1328 of this title, the employees of the school district who are eligible to participate in the health and dental plans, at such time as the school district may withdraw from such participation, may require the board of education of the school district to call an election to allow said employees to vote as to whether the school district shall continue participation in the health and dental insurance plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the school district, the board of education shall call an election for the purpose of determining whether the school district shall continue participation in the health and dental insurance plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to continue participation in the health and dental insurance plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, the board of

education shall be prohibited from withdrawing the school district from such participation. If a majority of those eligible employees voting at the election vote against continued participation in the health and dental insurance plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, the board of education of the school district shall apply to discontinue such participation within thirty (30) days of the election and within the times the school district is authorized to withdraw from participation in accordance with rules established for withdrawal by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board.

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

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

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

(5) E. Education employees who shall be absent from the teaching service because of election or appointment as a local, state, or national education association officer shall be allowed to

retain coverage pursuant to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act upon the payment of the full cost of the coverage at the rate and under such terms and conditions established by the Board.

~~(6)~~ F. Except as otherwise provided by law, an educational entity may cease to participate in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act but provide health insurance coverage through another insurance carrier. The subsequent carrier shall provide coverage to the employees of the educational entity who terminated employment with a retirement benefit, with a vested benefit, or who have ten (10) or more years of service with a participating educational entity but did not have a vested benefit through the retirement system of the educational entity, if the election to retain health insurance coverage was made within thirty (30) days of termination of employment. Coverage shall also be provided to the eligible dependents of the employees if an election to retain coverage is made within thirty (30) days of termination of employment.

SECTION 53. AMENDATORY 74 O.S. 2001, Section 1308.2, is amended to read as follows:

Section 1308.2 Any person eligible to begin coverage in the health insurance plan pursuant to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act shall not be subject to a preexisting condition exclusion if the person was continuously covered under a previous group health insurance plan, was eligible to use military medical facilities, or was eligible to use Indian health services medical facilities.

SECTION 54. AMENDATORY Section 4, Chapter 231, O.S.L. 2006, as amended by Section 14, Chapter 415, O.S.L. 2008 (74 O.S. Supp. 2009, Section 1309.1), is amended to read as follows:

Section 1309.1 Any dependent shall be allowed to remain covered as a dependent under the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act up to the age of twenty-five (25) years.

SECTION 55. AMENDATORY 74 O.S. 2001, Section 1310, is amended to read as follows:

Section 1310. A. Except as provided in subsection B of this section, each state agency participating in the ~~Group Insurance Plans~~ group insurance plans shall appropriate and pay to the appropriate reserve fund an amount to be set by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board for each employee other than education employees per month enrolled in said ~~Plans~~ plans, from funds appropriated to said agency or from other funds available to such agency for operational purposes.

B. During the fiscal year ending June 30, 1997, each state agency participating in the ~~Group Insurance Plans~~ group insurance plans shall appropriate and pay to the State Employees Group Insurance Clearing Fund an amount to be set by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board for each employee other than education employees per month enrolled in said ~~Plans~~ plans, from funds appropriated to said agency or from other funds available to such agency for operational purposes.

SECTION 56. AMENDATORY 74 O.S. 2001, Section 1310.1, as last amended by Section 1, Chapter 373, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1310.1), is amended to read as follows:

Section 1310.1 A. If a certified employee elects health care coverage under a plan offered by a school district, including a plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board or a self-insured plan offered by the school district, then a school district shall pay for the fiscal year ending June 30, 2005, and each fiscal year thereafter, no less than one hundred percent (100%) of the premium amount for the HealthChoice (HI) option plan for an individual offered by the ~~State and Education Employees Group Insurance Board~~ HealthChoice Health Insurance Division.

The amount a school district is required to pay pursuant to this subsection shall be reduced by the flexible benefit allowance provided for in Section 26-105 of Title 70 of the Oklahoma Statutes.

B. The premium for education entities that participate in the health and dental insurance plans offered through the ~~State and~~

~~Education Employees Group Insurance~~ Oklahoma Health and Wellness Act shall be the same as paid by state agencies for said plans.

C. All education entities that participate in the insurance plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act shall forward the appropriate premiums for each employee to the Oklahoma Health and Wellness Board no later than the tenth day of each month following the month for which payment is due.

SECTION 57. AMENDATORY Section 3, Chapter 418, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1310.2), is amended to read as follows:

Section 1310.2 A school district shall pay fifty percent (50%) of the cost of the individual health care premium amount for school district employees who are not otherwise covered pursuant to Section 1310.1 of ~~Title 74 of the Oklahoma Statutes~~ this title or Section 26-105 of Title 70 of the Oklahoma Statutes, if such employee elects health care coverage under a plan offered by a school district, including a plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board or a self-insured plan offered by the school district.

SECTION 58. AMENDATORY 74 O.S. 2001, Section 1311, is amended to read as follows:

Section 1311. The amount of monthly contribution to be made by employees enrolled in the ~~Group Insurance Plans~~ group insurance plans shall be deducted from the monthly salaries of such employees and remitted to the Oklahoma Health and Wellness Board. The procedure for such deductions and remittances shall be established by the Board.

SECTION 59. AMENDATORY 74 O.S. 2001, 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 Sections~~ Sections 1331 et seq. through 1335 of ~~Title 74 of the Oklahoma Statutes~~ this title and who are enrolled in the ~~Group Insurance Plans~~ group insurance plans shall be deducted from the monthly disability

benefits of such persons and remitted to the Oklahoma Health and Wellness Board. The procedures for such deductions and remittances shall be established by the Board.

SECTION 60. AMENDATORY 74 O.S. 2001, Section 1312, is amended to read as follows:

Section 1312. ~~(1)~~ A. 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 HealthChoice Health Insurance Division~~ 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 Oklahoma Health and Wellness 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)~~ B. 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 HealthChoice Health Insurance Division~~ shall be transferred to the Life Insurance Reserve Fund on July 1, 1989.

SECTION 61. AMENDATORY 74 O.S. 2001, 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~~ Oklahoma Health and Wellness Insurance Plans. 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~~ Oklahoma Health and Wellness Board.

SECTION 62. AMENDATORY 74 O.S. 2001, Section 1312.2, is amended to read as follows:

Section 1312.2 ~~(1)~~ A. 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~~ HealthChoice Health Insurance Division shall be deposited in the reserve fund.

The monies in said reserve fund shall be invested by the Oklahoma Health and Wellness 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)~~ B. 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~~ HealthChoice Health Insurance Division shall be transferred to the Health and Dental Insurance Reserve Fund on July 1, 1989.

SECTION 63. AMENDATORY 74 O.S. 2001, Section 1312.3, is amended to read as follows:

Section 1312.3 There is hereby created in the State Treasury, the State Employees Group Insurance Clearing Fund. The monies paid to the State Employees Group Insurance Clearing Fund pursuant to Section 1310 of this title shall be distributed as follows:

1. The first Thirty-one Million Five Hundred Thousand Dollars (\$31,500,000.00) received after ~~the effective date of this act~~ September 1, 1996, during the fiscal year beginning July 1, 1996, shall be distributed to the Oklahoma State Regents for Higher Education; and

2. The balance thereof shall be distributed to and deposited in the appropriate reserve fund as directed by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board.

SECTION 64. AMENDATORY 74 O.S. 2001, Section 1314, is amended to read as follows:

Section 1314. Except as provided in Section 483 of Title 40 of the Oklahoma Statutes, the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, ~~Section Sections 1301 et seq. through 1328~~ 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 65. AMENDATORY 74 O.S. 2001, Section 1314.2, is amended to read as follows:

Section 1314.2 As used in this section and Sections ± 1314.3 through 5 1314.5 of this ~~act~~ title:

~~(a)~~ 1. "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~~ May 30, 1990. The Agency Plan presently conforms to the Federal Plan;

~~(b)~~ 2. "State Plan" means the health insurance program provided for state employees pursuant to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act;

~~(c)~~ 3. "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)~~ 4. "Commission" means the Oklahoma Employment Security Commission.

SECTION 66. AMENDATORY 74 O.S. 2001, Section 1314.3, as amended by Section 1, Chapter 278, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1314.3), is amended to read as follows:

Section 1314.3 ~~(1)~~ A. 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)~~ B. All otherwise eligible Commission employees not participating in the Agency Plan as of ~~the effective date of this act~~ May 30, 1990, 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)~~ C. All Commission employees, retirees and dependents participating in the Agency Plan as of ~~the effective date of this act~~ May 30, 1990, shall be permitted to transfer to the State Plan and receive the supplemental insurance benefits for which provision is made in Section 1314.4 of this title 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)~~ D. 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) E. For active employees of the Commission, the Commission shall pay the same monthly premium toward employee-only coverage as that set by the ~~State and Education Employees Group Insurance Board~~ Oklahoma Health and Wellness Board or by the HealthChoice Health Insurance Division or Employee Benefits Division, if applicable, and paid by the other state agencies participating in the state health insurance program. 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) F. 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 ~~State and Education Employees Group Insurance Board~~ HealthChoice Health Insurance Division 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 ~~State and Education Employees Group Insurance Board~~ Oklahoma Health and Wellness Act. Any Commission retiree who elects to participate in the life insurance program provided pursuant to the ~~State and Education Employees Group Insurance Board~~ Oklahoma Health and Wellness Act shall pay the premium for such coverage.

(7) G. 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~~ HealthChoice Health Insurance Division for replacement coverage equal to that lost by said cancellation. ~~Said Board~~ The HealthChoice Health Insurance Division 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~~ HealthChoice Health Insurance Division shall maintain separate reserves for said coverage. On January 1, 2005, the Commission shall convert the agency offered life insurance to the life insurance plans provided by the ~~State and Education Employees Group Insurance Board~~ HealthChoice Health Insurance Division pursuant to the same provisions and premiums as apply to the employees and retirees of other state agencies. The Commission may offer eligible employees an opportunity to voluntarily relinquish their agency life insurance upon a payment to the eligible employee, provided funds exist to do so.

SECTION 67. AMENDATORY 74 O.S. 2001, Section 1314.5, as amended by Section 3, Chapter 278, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1314.5), is amended to read as follows:

Section 1314.5 A. The Oklahoma Employment Security Commission shall attempt to obtain the supplemental health insurance described in Section 1314.4 of this title through competitive procurement under the Central Purchasing Act. If the Commission does not obtain such supplemental health insurance in this manner, it shall contract with the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board for such coverage or the Commission may provide the supplemental health insurance through a self-insurance program.

B. If the Commission decides to contract with the ~~State and Education Employees Group Insurance~~ Board for the supplemental health insurance coverage, the Board is expressly authorized and directed to enter into such a contract and administer the supplemental benefit in such manner to cause the least disruption to its systems and daily operations. The supplemental benefit does not have to be offered as a supplemental plan but can be combined with the state plan to be administered and actuarially rated as a single plan. If this option is chosen, all dependents of employees or former employees currently eligible for the supplemental health insurance shall be included in the plan, regardless of whether or

not the dependents were previously included in the plan, and this subsection will prevail over the provisions of Section 1314.3 of this title. The Commission shall pay the full actuarial cost to be determined by the ~~State and Education Employees Group Insurance~~ Board and all reasonable administrative costs for such coverage, if provided by or through the Board. The Board may consider the utilization experience of the group participating in the benefit when calculating the rate for providing the benefit. The Board shall maintain separate reserves for said coverage.

C. If the Commission decides to provide supplemental health insurance through a self-insurance program, the Commission shall be authorized to contract with a private company to provide claims adjusting services for the supplemental health insurance claims adjusting and processing.

SECTION 68. AMENDATORY 74 O.S. 2001, Section 1315, as last amended by Section 4, Chapter 345, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1315), is amended to read as follows:

Section 1315. A. Upon application in writing and subject to any underwriting criteria that may be established by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, the Board may extend the benefits of the ~~State and Education Employees Group~~ Oklahoma Health and Wellness benefit plans and ~~Life Insurance Plans~~ life 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:

1. Any of the following groups which participate in the Oklahoma Public Employees Retirement System:

- a. county,
- b. city,
- c. town,
- d. public trust for which the state is the primary beneficiary, or

- e. conservation districts; and
2. Any of the following groups:
- a. county hospital,
 - b. rural water district, including employees and board members,
 - c. sewer district,
 - d. gas district,
 - e. solid waste management district,
 - f. nonprofit water corporation employees and board members,
 - g. conservancy district or master conservancy district authorized by the provisions of Section 541 of Title 82 of the Oklahoma Statutes,
 - h. voluntary organization of Oklahoma local government jurisdictions listed in Section 2003 of Title 62 of the Oklahoma Statutes including any council created by the voluntary organizations,
 - i. voluntary association designated to administer the County Government Council as authorized in Section 7 of Title 19 of the Oklahoma Statutes,
 - j. statewide nonprofit entities representing employees of the state or employees of local political subdivisions who are eligible for insurance benefits authorized by the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, or
 - k. statewide nonprofit entities receiving state funds to provide no cost legal services to low income and senior citizens.

B. Applications to participate in the ~~State and Education Employees Group~~ Oklahoma Health and Wellness benefit plans and ~~Life Insurance Plans~~ life insurance plans shall be approved by majority action of the governing body of the groups listed in subsection A of this section.

C. Groups listed in subsection A of this section participating in the Oklahoma ~~State and Education Employees Group~~ Health and Wellness health benefit plans and ~~Life Insurance Plans~~ life insurance plans shall pay all costs attributable to their participation. 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 groups listed in subsection A of this section shall be the same as paid by state and education employees.

D. Participating groups listed in subsection A of this section shall not be required to offer dental insurance as defined in paragraph (11) of Section 1303 of this title, or other insurance as defined in paragraph (12) 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~~ Oklahoma Health and Wellness Act within thirty (30) days from the date of termination of employment. The employee shall pay the full cost of the dental insurance.

E. 1. Any employee of a group listed in subsection A of this section who retires or who has a vested benefit pursuant to the Oklahoma Public Employees Retirement System may begin the health insurance coverage if the employer of the employee is not a participant of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act and does not offer health insurance to its employees. Such election by the employee to begin coverage

shall be made within thirty (30) days from the date of termination of service.

2. Any employee of a group listed in subsection A of this section who retires or who has a vested benefit pursuant to the Oklahoma Public Employees Retirement System may begin or continue the health insurance coverage if the employer of the employee is a participant of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act and the election to begin or continue coverage is made within thirty (30) days from the date of termination of service.

F. Any county, city, town, county hospital, public trust, conservation district, or rural water, sewer, gas or solid waste management district, or nonprofit water corporation, any of which of the aforementioned groups is not a participating employer in the Oklahoma Public Employees Retirement System, but which has employees who are participating in the health, dental or life insurance plans offered by or through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act on July 1, 1997, may continue to allow its current and future employees to participate in such health, dental or life insurance plans. Participation of such employees may also continue following termination of employment if the employee has completed at least eight (8) years of service with a participating employer and such an election to continue in force is made within thirty (30) days following termination of employment. Any retiree or terminated employee electing coverage pursuant to this section shall pay the full cost of the insurance.

G. An employee of a group listed in paragraph 2 of subsection A of this section may continue in force health, dental and life insurance coverage following termination of employment if the employee has a minimum of eight (8) years of service with a participating employer and the election to continue in force is made within thirty (30) calendar days following termination of employment.

H. Notwithstanding other provisions in this section, an employer listed in subsection A of this section may cease to participate in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act but provide health insurance coverage for its current and former employees through another

insurance carrier. The subsequent carrier shall be responsible for providing coverage to the entity's employees who terminated employment with a retirement benefit, with a vested benefit, or who have eight (8) or more years of service with a participating employer but did not have a vested benefit through the Oklahoma Public Employees Retirement System, if the election to retain health insurance coverage was made within thirty (30) days of termination of employment. Coverage shall also be provided to the eligible dependents of the employees if an election to retain coverage is made within thirty (30) days of termination of employment. Employees who terminate employment from an employer covered by this paragraph before December 31, 2001, and elect coverage under the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, shall not be required to change insurance carriers in the event that the employer changes its insurance carrier to a subsequent carrier. The provisions of this subsection shall become effective January 1, 2002.

I. Employers pursuant to subsection A of this section who participate in the Oklahoma Public Employees Retirement System and who offer health insurance coverage to their active employees, shall offer health insurance coverage to those employees who retire from the employer and also to those employees who terminate employment and are eligible to elect a vested benefit in the System. Such employers shall begin offering coverage to such employees on or before January 1, 2004. Such employees who wish to continue coverage shall make an election to retain health insurance coverage within thirty (30) days of termination of employment. However, former employees of such employers who have already retired or who have terminated and are eligible to elect a vested benefit under the Oklahoma Public Employees Retirement System, during the period beginning January 1, 2002, and ending December 31, 2003, may make an election to begin participation in the plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board on or before December 31, 2003, in the same manner as other participating retired or vested members. The employer, assisted by the Oklahoma Public Employees Retirement System shall notify by October 1, 2003, all members who have either retired from the System or who are eligible to elect a vested benefit in the System between January 1, 2002, through December 31, 2003, and who were employed by an employer listed in subsection A of this section of the member's potential eligibility to participate in such plans. Each employer

shall notify the Oklahoma Public Employees Retirement System when an employee is retiring and makes the election pursuant to this subsection to continue coverage under a plan offered by such employer and when an employee terminates employment and is eligible to elect a vested benefit in the System and such employee elects to continue coverage under a plan offered by such employer. Such employer shall also notify the Oklahoma Public Employees Retirement System if a retired employee or an employee who is eligible to elect a vested benefit in the System terminates such continued coverage.

J. Any group that begins participation in the ~~State and Education Employees Group~~ Oklahoma Health and Wellness benefit plans and ~~Life Insurance Plans~~ life insurance plans after the effective date of this act and that is not composed of state or education employees must have one hundred percent (100%) participation in the health plan offered pursuant to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act.

SECTION 69. AMENDATORY Section 1, Chapter 71, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1315.1), is amended to read as follows:

Section 1315.1 Upon election and application by the secretary of a county election board and subject to any underwriting criteria that may be established by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, the Board shall extend the benefits of the ~~State and Education Employees Group~~ Oklahoma Health and Wellness health benefit plans and ~~Life Insurance Plans~~ life insurance plans to the secretary of each county election board, if the county in which the secretary serves is not participating in such plans.

SECTION 70. AMENDATORY 74 O.S. 2001, Section 1316.1, as amended by Section 1, Chapter 127, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1316.1), is amended to read as follows:

Section 1316.1 A. Any person who retires or who has elected to receive a vested benefit under the provisions of the State of Oklahoma retirement systems or persons who are currently drawing disability benefits under ~~Section~~ Sections 1331 et seq. through 1335 of this title or who meet each and every requirement of the State Employees Disability Program or the spouse or dependent 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) of the basic life insurance amount, if such election to continue in force is made within thirty (30) days from the time of severance. Persons electing to continue in force life insurance benefits shall pay the full cost of the life insurance and under such terms and conditions as established by the ~~Board~~ HealthChoice Health Insurance Division. Further, any such retiree may continue in force any additional life insurance that was purchased prior to retirement at an actuarially adjusted rate and under such terms and conditions as established by the ~~Board~~ Division.

Effective January 1, 2002, nonvested employees may also continue their life insurance benefits as provided in this section following termination of employment, if the employee has completed at least eight (8) years of service with an employer participating in the Oklahoma Public Employees Retirement System or at least ten (10) years of service with an employer participating in the Teachers' Retirement System of Oklahoma. The election to continue the employee's life insurance in force must be made within thirty (30) days after the date of termination.

B. Any retired employee who is receiving a benefit or terminates employment with a vested benefit from the Teachers' Retirement System of Oklahoma and who becomes enrolled in the health insurance plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, pursuant to subsection E of Section 5-117.5 of Title 70 of the Oklahoma Statutes, may elect to purchase life insurance benefits in amounts and at a cost as provided for in this section.

C. In lieu of subsection A of this section, any person who retires or who has elected to receive a vested benefit under the provisions of the State of Oklahoma retirement systems and who is participating in a health insurance plan, the dental insurance plan, or the life insurance plan offered by the ~~State and Education Employees Group Insurance~~ divisions of the Oklahoma Health and Wellness Board, including such persons who are currently drawing disability benefits under ~~Section~~ Sections 1331 et seq. through 1335 of this title or who meet each and every requirement of the State Employees Disability Program on or before July 1, 1999, or the spouse of any such person may elect to purchase life insurance

benefits authorized by this subsection in a face amount not to exceed Fifty Thousand Dollars (\$50,000.00). Eligible persons pursuant to this subsection shall make an election by January 1, 2000, to purchase the life insurance coverage provided in this subsection. Life insurance coverage pursuant to this subsection shall depend upon providing satisfactory evidence of insurability for the person who is to be covered. Life insurance coverage, pursuant to this subsection, shall be purchased in blocks of Five Thousand Dollars (\$5,000.00). The premium for such life insurance coverage shall be at a blended rate and shall be set by the Board. The Board shall promulgate rules necessary for the implementation of the provisions of this subsection.

SECTION 71. AMENDATORY 74 O.S. 2001, Section 1316.2, as last amended by Section 2, Chapter 198, O.S.L. 2005 (74 O.S. Supp. 2009, Section 1316.2), is amended to read as follows:

Section 1316.2 A. Any employee other than an education employee who retires pursuant to the provisions of the Oklahoma Public Employees Retirement System or who has a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System may continue in force the health and dental insurance benefits authorized by the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, or other employer insurance benefits if the employer does not participate in the plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, if such election to continue in force is made within thirty (30) days from the date of termination of service. Except as otherwise provided for in Section 840-2.27I of this title and subsection H of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force is declined. Vested employees other than education employees who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than eight (8) years of participating service with a participating employer, who within thirty (30) days from the date of termination of service elect to continue such coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Board. Provided also, any employee other than an education employee who commences employment with a participating employer on or after September 1, 1991, who terminates

service with such employer on or after July 1, 1996, but who otherwise has insufficient years of service to retire or terminate service with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System or to elect to continue coverage as a nonvested employee as provided in this section, but who, immediately prior to employment with the participating employer was covered as a dependent on the health and dental insurance policy of a spouse who was an active employee other than an education employee, may count as part of his or her credited service for the purpose of determining eligibility to elect to continue coverage under this section, the time during which said terminating employee was covered as such a dependent.

B. 1. Health insurance benefit plans offered pursuant to this section shall include:

- a. indemnity plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board,
- b. managed care plans offered as alternatives to the indemnity plans offered through the ~~State and Education Employees Group Insurance~~ Board,
- c. Medicare supplements offered pursuant to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act,
- d. Medicare risk-sharing contracts offered as alternatives to the Medicare supplements offered through the ~~State and Education Employees Group Insurance~~ Board. All Medicare risk-sharing contracts shall be subject to a risk adjustment factor, based on generally accepted actuarial principles for adverse selection which may occur, and
- e. for the Oklahoma Public Employee Retirement System, other employer-provided health insurance benefit plans if the employer does not participate in the plans offered pursuant to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act.

2. Health insurance benefit plans offered pursuant to this section shall provide prescription drug benefits, except for plans designed pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, for which provision of prescription drug benefits is optional, and except for plans offered pursuant to subparagraph e of paragraph 1 of this subsection.

C. 1. Designated public retirement systems shall contribute a monthly amount towards the health insurance premium of certain individuals receiving benefits from the public retirement system as follows:

- a. a retired employee other than an education employee who is receiving benefits from the Oklahoma Public Employees Retirement System after September 30, 1988, shall have One Hundred Five Dollars (\$105.00), or the premium rate of the health insurance benefit plan, whichever is less, paid by the Oklahoma Public Employees Retirement System to the Board or other insurance carrier of the employer if the employer does not participate in the plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board in the manner specified in subsection G of this section,
- b. a retired employee or surviving spouse 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 is not otherwise eligible for Medicare shall have the premium rate for the health insurance benefit plan or One Hundred Five Dollars (\$105.00), whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection G of this section,
- c. 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 or who is under sixty-five (65) years of age and is eligible for Medicare shall have One Hundred Five Dollars

(\$105.00), or the premium rate of the health insurance benefit plan, whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection G of this section, and

- d. 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, shall have One Hundred Five Dollars (\$105.00), or the premium rate of the health insurance plan, whichever is less, paid by the Uniform Retirement System for Justices and Judges to the Board in the manner specified in subsection G of this section.

2. Premium payments made pursuant to this section shall be made subject to the following conditions:

- a. the health plan shall be authorized by the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, except that if an employer from which an employee retired or with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System does not participate in the plans authorized by the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, the health plan will be the health insurance benefits of the employer from which the individual retired or vested,
- b. for plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, the amount to be paid shall be determined pursuant to the provisions of this subsection and shall first be applied in whole or in part to the prescription drug coverage premium. Any remaining amount shall be applied toward the medical coverage premium,
- c. for all plans, if the amount paid by the public retirement system does not cover the full cost of the elected coverage, the individual shall pay the remaining premium amount, and

- d. payment shall be made by the retirement systems in the manner specified under subsection G of this section.

D. For any member of the Oklahoma Law Enforcement Retirement System killed in the line of duty, whether the member was killed in the line of duty prior to ~~the effective date of this act~~ May 18, 2005, or on or after ~~the effective date of this act~~ May 18, 2005, or if the member was on a disability leave status at the time of death, the surviving spouse or dependents of such deceased member of the Oklahoma Law Enforcement Retirement System may elect to continue or commence health and dental insurance benefits provided said dependents pay the full cost of such insurance and for deaths occurring on or after July 1, 2002, such election is made within thirty (30) days of the date of death. The eligibility for said benefits shall terminate for the surviving children when said children cease to qualify as dependents.

E. Effective July 1, 2004, a retired member of the Oklahoma Law Enforcement Retirement System who retired from the System by means of a personal and traumatic injury of a catastrophic nature and in the line of duty and any surviving spouse of such retired member and any surviving spouse of a member who was killed in the line of duty shall have one hundred percent (100%) of the retired member's or surviving spouse's health care premium cost, whether the member or surviving spouse elects coverage under the Medicare supplement or Medicare risk-sharing contract, paid by the Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection H of this section. For plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, such contributions will first be applied in whole or in part to the prescription drug coverage premium, if any.

F. Dependents of a deceased employee who was on active work status or on a disability leave at the time of death or of a participating retardant 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 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 children when said children cease to qualify as dependents.

G. 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 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 to the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board for deposit in the Health, Dental and Life Insurance Reserve Fund or to another insurance carrier as provided for in subsection H of Section 1315 of this title.

H. Upon retirement from employment of the Board of Regents of the University of Oklahoma, any person who was or is employed at the George Nigh Rehabilitation Institute and who transferred employment pursuant to Section 3427 of Title 70 of the Oklahoma Statutes, any person who was employed at the Medical Technology and Research Authority and who transferred employment pursuant to Section 7068 of this title, and any person who is a member of the Oklahoma Law Enforcement Retirement System pursuant to the authority of Section 2-314 of Title 47 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of termination of service. Life insurance benefits for any such person who transferred employment shall not exceed the coverage the person had at the time of such transfer. Retirees who transferred employment and who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by a state retirement system pursuant to this section.

SECTION 72. AMENDATORY 74 O.S. 2001, Section 1316.3, as last amended by Section 3, Chapter 198, O.S.L. 2005 (74 O.S. Supp. 2009, Section 1316.3), is amended to read as follows:

Section 1316.3 A. Any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma with at least ten (10) years of creditable service or who has a vested

benefit with at least ten (10) years of creditable service, 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~~ Oklahoma Health and Wellness Act if such election to continue in force or begin is made within thirty (30) days from the date of termination of service. Except as provided in subsection E of Sections 5-117.5 and 14-108.1 of Title 70 of the Oklahoma Statutes and Section 840-2.27I of this title and subsection K of this section, 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. Vested persons who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than ten (10) years of participating service with a qualifying employer, who within thirty (30) days from the date of termination of service, elect to continue such coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Board.

B. 1. Health insurance benefit plans offered pursuant to this section shall include:

- a. indemnity plans offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board,
- b. managed care plans offered as alternatives to the indemnity plans,
- c. Medicare supplements offered through the ~~State and Education Employees Group Insurance~~ Board,
- d. Medicare risk-sharing contracts offered as alternatives to the Medicare supplements offered through the ~~State and Education Employees Group Insurance~~ Board, and
- e. any other employer-provided health insurance benefit plans if the employer does not participate in the plans offered pursuant to the ~~State and Education~~

~~Employees Group Insurance~~ Oklahoma Health and Wellness Act.

2. Health insurance benefit plans offered pursuant to this section shall provide prescription drug benefits, except for plans designed pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, which may or may not contain prescription drug benefits, for which provision of prescription drug benefits is optional, and except for plans offered pursuant to subparagraph e of paragraph 1 of this subsection.

C. A retired person who:

1. Is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and pursuant to subsection A of this section elects to begin or to continue the health insurance plan;

2. Is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, is under sixty-five (65) years of age and is not otherwise eligible for Medicare 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~~ Oklahoma Health and Wellness Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act;

3. 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, or who is under sixty-five (65) years of age and is eligible for Medicare and is a participant in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act and elects coverage under the Medicare supplement offered by the ~~State and Education Employees Group Insurance~~ Board; or

4. 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, or who is under sixty-five (65) years of age and is eligible for Medicare 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~~ Oklahoma Health and Wellness Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act and elects coverage under the Medicare supplement offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, shall have the amount determined pursuant to subsection E of this section, or the premium rate of the health insurance benefit plan, whichever is less, paid by the Teachers' Retirement System of Oklahoma. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the health insurance premium, the retired person shall pay the remaining amount if the retired person wants to continue the coverage.

D. The Teachers' Retirement System shall pay the amount due pursuant to the provisions of subsection C of this section as follows:

1. For those individuals participating in plans provided through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, payment shall be made to the Board pursuant to the provisions of subsection I of this section; or

2. For those individuals participating in plans provided through 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~~ Oklahoma Health and Wellness Act, payment shall be made to the education employer.

E. Beginning July 1, 2000, 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:

	LESS THAN	
	25 YEARS BUT	GREATER
LESS THAN	GREATER THAN	THAN 24.99

AVERAGE SALARY USED FOR DETERMINING RETIREMENT ALLOWANCE	15 YEARS OF CREDITABLE SERVICE	14.99 YEARS OF CREDITABLE SERVICE	YEARS OF CREDITABLE SERVICE
Less than \$20,000.00	\$103.00	\$104.00	\$105.00
Less than \$30,000.00 but greater than \$19,999.99	\$102.00	\$103.00	\$104.00
Less than \$40,000.00 but greater than \$29,999.99	\$101.00	\$102.00	\$103.00
\$40,000.00 or greater	\$100.00	\$101.00	\$102.00

For plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board, the amount paid pursuant to this subsection shall first be applied to the prescription drug coverage premium, if any. Any remaining amounts shall be applied towards the medical coverage premium.

F. 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 A of this section, to participate in the dental insurance plan offered through the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act. The person shall pay the full cost of the dental insurance.

G. 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 A 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.

H. 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 children when said children cease to qualify as dependents.

I. 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~~ Oklahoma Health and Wellness Board for deposit in the Education Employees Group Insurance Reserve Fund.

J. The Teachers' Retirement System of Oklahoma shall provide the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board information concerning the employers of retired and vested members necessary to allow the ~~State and Education Employees Group Insurance~~ Board to track eligibility for continued coverage.

K. Upon retirement from employment with the Board of Regents of the University of Oklahoma, any person who is or was employed at the George Nigh Rehabilitation Institute and who transferred employment pursuant to Section 3427 of Title 70 of the Oklahoma Statutes, any person who was employed at the Medical Technology and Research Authority and who transferred employment pursuant to Section 7068 of this title, and any person who is a member of the Oklahoma Law Enforcement Retirement System pursuant to the authority of Section 2-314 of Title 47 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of termination of employment. Life insurance benefits for any such person who transferred employment shall not

exceed the coverage the person had at the time of such transfer. Retirees who are persons transferred employment and who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by the retirement system pursuant to this section.

SECTION 73. AMENDATORY 74 O.S. 2001, Section 1317, is amended to read as follows:

Section 1317. Any legally blind person who is licensed by the Department of Rehabilitation Services as a vending stand operator or managing operator shall be eligible for membership in the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan health benefit plans, dental insurance plan and life insurance plan referred to in the State and Education Employees Group Insurance Oklahoma Health and Wellness Act. Enrollment in the Plan plans shall be optional with each operator pursuant to the rules prescribed by the State and Education Employees Group Insurance Oklahoma Health and Wellness Board. Any payments required to be made for enrollees in the Plan plans shall be payable by the operator in such manner as may be determined by the Department of Rehabilitation Services; provided, that the Department may, in its discretion, make all or a part of such payments.

SECTION 74. AMENDATORY 74 O.S. 2001, Section 1318, is amended to read as follows:

Section 1318. No former employee who is reemployed by a participating entity within twenty-four (24) months after the date of termination of previous employment shall be enrolled in the State and Education Employees Group Insurance Plan plans offered by the Oklahoma Health and Wellness Act authorized by Section Sections 1301 et seq. through 1328 of this title, for a greater amount of life insurance or life benefit than the amount for which the life of the ex-employee was insured under said plan at the date of termination of his employment, except upon his furnishing evidence of his insurability, satisfactory to the Board, and any greater amount of benefit or insurance provided him shall be at the ex-employee's cost.

SECTION 75. AMENDATORY 74 O.S. 2001, Section 1320, as amended by Section 73, Chapter 264, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1320), is amended to read as follows:

Section 1320. A. ~~The State and Education Employees Group Insurance~~ Oklahoma Health and Wellness 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. 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~~ Oklahoma Health and Wellness Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act. The administrator may employ a maximum of two (2) attorneys. 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 Insurance Commissioner and may also seek the advice and counsel of

the Commissioner of the State of Oklahoma or any employee of the Office of the Commissioner.

SECTION 76. AMENDATORY 74 O.S. 2001, Section 1321, as last amended by Section 5, Chapter 231, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1321), is amended to read as follows:

Section 1321. A. The Board shall have the authority to determine all rates and life, dental and health benefits. All rates shall be compiled in a comprehensive Schedule of Benefits. The Schedule of Benefits shall be available for inspection during regular business hours at the office of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board. The Board shall have the authority to annually adjust the rates and benefits based on claim experience.

B. The premiums for such insurance plans offered for the next plan year shall be established as follows:

1. For active employees and their dependents, the Board's premium determination shall be made no later than the bid submission date for the health maintenance organization set by the ~~Oklahoma State Employees Benefits Council~~ Employee Benefits Division, which shall be set in August no later than the third Friday of that month; and

2. For all other covered members and dependents, the Board's and the health maintenance ~~organizations'~~ organization's premium determinations shall be no later than the fourth Friday of September.

C. The Board may approve a mid-year adjustment provided the need for an adjustment is substantiated by an actuarial determination or more current experience rating. The only publication or notice requirements that shall apply to the Schedule of Benefits shall be those requirements provided in the Oklahoma Open Meeting Act. It is the intent of the Legislature that the benefits provided not include cosmetic dental procedures except for certain orthodontic procedures as adopted by the Board.

SECTION 77. AMENDATORY 74 O.S. 2001, Section 1323, as amended by Section 7, Chapter 345, O.S.L. 2004 (74 O.S. Supp. 2009, Section 1323), is amended to read as follows:

Section 1323. Any person who shall knowingly make any false statement, or who shall falsify or permit to be falsified any record necessary for carrying out the intent of the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, Section Sections 1301 et seq. through 1328 of this title, for the purpose of committing fraud, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by imprisonment for not exceeding one (1) year or by both the fine and imprisonment. The ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall have the right to audit participating employer groups to verify eligibility for any member and/or dependent and may require proof of eligibility upon demand.

SECTION 78. AMENDATORY 74 O.S. 2001, Section 1324, is amended to read as follows:

Section 1324. A. All health benefit plans that are offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall provide coverage for side effects that are commonly associated with radical retropubic prostatectomy surgery, including, but not limited to impotence and incontinence, and for other prostate related conditions.

B. The Board shall provide notice to each insured or enrollee under such plan regarding the coverage required by this section in the plan's evidence of coverage, and shall provide additional written notice of the coverage to the insured or enrollee as follows:

1. In the next mailing made by the plan to the employee; or
2. As part of the enrollment information packet sent to the enrollee.

C. The Board shall promulgate any rules or actions necessary to implement the provisions of this section.

SECTION 79. AMENDATORY 74 O.S. 2001, Section 1325, is amended to read as follows:

Section 1325. ~~The State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall schedule a hearing thirty (30) days prior to adopting any major change in the reimbursement rates or methodology. The Board shall notify health care providers who provide services pursuant to a contract with the Board at least fifteen (15) days prior to the hearing. The notice shall include proposed changes to the reimbursement rates or methodology. The Board shall also inform such health care providers at the hearing of any proposed changes to the reimbursement rates or methodology. At the hearing the Board shall provide an open forum for such health care providers to comment on the proposed changes.

SECTION 80. AMENDATORY 74 O.S. 2001, Section 1326, is amended to read as follows:

Section 1326. ~~The State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall make available, upon request, copies of relevant fee schedules to participating health care providers.

SECTION 81. AMENDATORY 74 O.S. 2001, Section 1327, is amended to read as follows:

Section 1327. A. All health benefit plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board which provide for services for vision care or medical diagnosis and treatment for the eye shall allow optometrists to be providers of those services. All such health benefit plans shall also require equal payment for the same services provided by an optometrist if the services are within the scope of practice of optometry.

B. With respect to optometric services, any health benefit plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board which uses a gatekeeper or equivalent for referrals for services for vision care or for medical diagnosis and treatment of the eye, shall require such covered services be provided on a referral basis within the medical group or

network at the request of an enrollee who has a condition requiring vision care or medical diagnosis and treatment of the eye if:

1. A referral is necessitated in the judgment of the primary care physician; and

2. Treatment for the condition falls within the licensed scope of practice of an optometrist.

C. All health benefit plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall have a defined set of standards and procedures for selecting providers, including specialists, to serve enrollees. The standards and procedures shall be drafted in such a manner that they are applicable to all categories of providers and shall be utilized by the health maintenance organization in a manner that is without bias for or discrimination against a particular category or categories of providers.

D. No health benefit plan specified by this section shall require a provider to have hospital privileges if hospital privileges are not usual and customary for the services the provider provides.

E. Nothing in this section shall be construed to:

1. Prohibit a health benefit plan offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board which provides for services for vision care or medical diagnosis and treatment for the eye from determining the adequacy of the size of its network;

2. Prohibit an optometrist from agreeing to a fee schedule;

3. Limit, expand, or otherwise affect the scope of practice of optometry; or

4. Alter, repeal, modify or affect the laws of this state except where such laws are in conflict or are inconsistent with the express provisions of this section.

F. Existing health benefit plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall comply with the requirements of this section upon issuance or renewal on or after ~~the effective date of this act~~ November 1, 2000.

SECTION 82. AMENDATORY 74 O.S. 2001, Section 1328, as amended by Section 1, Chapter 155, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1328), is amended to read as follows:

Section 1328. A. The contracted claims administrator for the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall reimburse all clean claims of an enrollee, an assignee of the enrollee, or a health care provider within forty-five (45) calendar days after receipt of the claim by the entity.

B. As used in this section, "clean claim" means a claim that has no defect or impropriety, including a lack of any required substantiating documentation, or particular circumstance requiring special treatment that impedes prompt payment.

C. 1. If a claim or any portion of a claim is determined to have defects or improprieties, including a lack of any required substantiating documentation, or a particular circumstance requiring special treatment, the enrollee, assignee of the enrollee, or health care provider shall be notified in writing within thirty (30) calendar days after receipt of the claim by the contracted claims administrator for the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board. The written notice shall specify the portion of the claim that is causing a delay in processing and explain any additional information or corrections needed. Failure of the Board's claims administrator to provide the enrollee, assignee of the enrollee, or health care provider with such notice shall constitute prima facie evidence that the claim will be paid in accordance with the terms of the health benefit claims administration contract.

2. The portion of the claim that is accurate shall be paid within forty-five (45) calendar days after receipt of the claim by the claims administrator for the ~~State and Education Employees Group Insurance~~ Board.

D. Upon receipt of the additional information or corrections which led to the claim's being delayed and a determination that the information is accurate, the claims administrator for the ~~State and Education Employees Group Insurance~~ Board shall either pay or deny the claim or a portion of the claim within forty-five (45) calendar days.

E. Payment shall be considered made on:

1. The date a draft or other valid instrument which is equivalent to the amount of the payment is placed in the United States mail in a properly addressed, postpaid envelope; or

2. If not so posted, the date of delivery.

F. An overdue payment shall bear simple interest at the rate of ten percent (10%) per year.

G. In the event litigation should ensue based upon such a claim, the prevailing party shall be entitled to recover a reasonable attorney's fee to be set by the court and taxed as costs against the party or parties who do not prevail.

SECTION 83. AMENDATORY Section 4, Chapter 323, O.S.L. 2009, is amended to read as follows:

Section 4. A. There is hereby ~~created~~ re-created the State Employee Health Insurance and Compensation Review Working Group.

B. The Working Group shall consist of ~~five (5)~~ seven (7) members to be appointed or selected as follows:

1. ~~Two~~ Three members, who shall be members of the Oklahoma House of Representatives, to be appointed by the Speaker of the Oklahoma House of Representatives;

2. ~~Two~~ Three members, who shall be members of the Oklahoma State Senate, to be appointed by the President Pro Tempore of the State Senate; and

3. The Insurance Commissioner or designee.

The members serving on the effective date of this act shall continue to serve with new members appointed as necessary by the original appointing authority pursuant to this section.

C. The Working Group shall hold its first meeting not later than July 1, 2009. The first meeting shall be called by the co-chairs of the Working Group. A majority of the members present at the initial meeting or any subsequent meeting shall constitute a quorum for the purpose of any action taken including the preparation and approval of the final report required by subsection ~~¶~~ L of this section.

D. The Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate shall designate which of their respective appointments shall serve as co-chairs of the Working Group. The members appointed as co-chairs pursuant to this subsection shall continue to serve as co-chairs.

E. Members of the Working Group shall serve at the pleasure of the appointing authority.

F. The Working Group shall be authorized to meet as necessary in order to perform the duties imposed upon it. Legislative members of the Working Group shall be reimbursed for travel expenses pursuant to the provisions of Section 456 of Title 74 of the Oklahoma Statutes. Other members of the Working Group shall be reimbursed as provided by the appointing authority.

~~G. Due to the increase in the cost of state employees' health care coverage, the~~ The Working Group shall continue to study and examine the most efficient and cost-effective way to leverage state dollars to ensure the highest level of health care for state employees at a competitive price.

~~H. The study shall include, but shall not be limited to:~~

~~1. Ways to reduce costs of state employee health care coverage to the taxpayers, state employees and their dependents;~~

~~2. Health care coverage plan design that will promote patient care that is safe, effective, patient-centered, efficient, and equitable;~~

~~3. Offering consumer choice of health care plan designs that allow state employees the opportunity to determine what coverage and costs of such coverage best meet their needs; and~~

~~4. Ways to maximize the state's leverage in purchasing medical services and supplies and plans' support services.~~

~~I. The Working Group shall also provide oversight and monitor any efforts relating to implementation of the recommendations made by the consultant pursuant to the provisions of this section. The Working Group shall have the authority to request the Legislative Service Bureau to review select an authoritative consultants consultant with expertise in state plan design and health care purchasing and assess the ability of the consultants consultant to examine the objectives listed in subsection H of this section assist in the implementation of the recommendations in addition to other objectives, as necessary.~~

~~J. After the review required by subsection I of this section, the Legislative Service Bureau.~~

~~H. The Working Group shall recommend ~~one or more~~ a qualified consultants consultant to the Oklahoma State Employees Benefits Council and the State and Education Employees Group Insurance Health and Wellness Board. The Oklahoma State Employees Benefits Council and the State and Education Employees Group Insurance Health and Wellness Board jointly shall contract with ~~one of~~ the recommended consultants consultant for the study required by subsection G of this section. Any contract entered into pursuant to this subsection shall not be subject to the provisions of The Oklahoma Central Purchasing Act.~~

~~K. I. The consultant shall advise the Working Group on recommendations to fulfill the objectives outlined in subsections the progress of its work pursuant to subsection G and H of this section.~~

~~L. J. The Working Group shall have the authority to request of related agencies any information, records or reports necessary to ensure the study of objectives outlined in subsection H of this section provide proper oversight and monitoring of the~~

recommendations of the consultant. Agencies shall respond to the Working Group in a timely manner to meet necessary reporting deadlines imposed upon the Working Group.

~~M. K.~~ Staff assistance for the Working Group shall be provided by the staff of the Oklahoma House of Representatives and the State Senate. Funding for the study, other than costs otherwise provided for in this section, shall be provided equally by the Oklahoma ~~State Employees Benefits Council and the State and Education Employees Group Insurance~~ Health and Wellness Board.

~~N. L.~~ The Working Group shall produce a final written report of its findings and any recommendations regarding ~~effective and cost-efficient purchasing and delivery of Oklahoma state employees' health care~~ the oversight and implementation of the recommendations of the consultant. The report shall be submitted to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate not later than December 31, ~~2009~~ 2010.

~~O. M.~~ The provisions of this section shall cease to have the force and effect of law and the Working Group shall terminate effective January 1, ~~2010~~ 2011.

SECTION 84. AMENDATORY 74 O.S. 2001, Section 1332, is amended to read as follows:

Section 1332. A. ~~The State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall establish a Disability Insurance Program for state employees. The program shall consist of a long-term disability plan and a short-term disability plan. Participation in the program shall be limited to state employees who have been state employees for a period of not less than one (1) month and who are eligible for enrollment in the ~~Health Insurance Plan~~ health insurance plans administered by the Board. No state employee shall be eligible to receive any benefits from the long-term disability program unless the state employee has used all of the sick leave of the employee. The Board shall promulgate such rules as are necessary for adoption and administration of the Disability Insurance Program, including but not limited to benefit eligibility requirements, methods for computing benefit amounts,

benefits amounts, and verification of medical and health status of employees applying for or receiving benefits.

B. The Disability Insurance Program shall be funded from appropriations made by the Legislature. Employees shall not be required to make contributions to participate in the program.

C. Employee disability insurance coverage shall begin on March 1, 1986.

D. The Board shall establish a grievance procedure by which a three-member grievance panel established in the same manner as specified in paragraph 6 of Section 1306 of this title shall act as an appeals body for complaints regarding the allowance and payment of claims, eligibility, and other matters. The grievance procedure provided by this subsection shall be the exclusive remedy available to persons having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, including provisions for the 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. Upon written request to the grievance panel 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 licensed or certified court reporter at the insured employee's expense.

E. The Board may establish a claim processing division for claims administration or may contract for claims administration services with a private insurance carrier or a company that specializes in claims administration of any insurance that the Board may be directed to offer.

SECTION 85. AMENDATORY 74 O.S. 2001, Section 1332.1, is amended to read as follows:

Section 1332.1 A. ~~The State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall collect from state agencies each month, the premium amount, as determined by the Board, for each employee of a state agency that participates in the Disability Insurance Program. Said sum shall be deposited in the

State Employees Disability Insurance Reserve Fund for use in accordance with law.

B. ~~The State and Education Employees Group Insurance~~ Board shall submit a monthly statement of the revenues and disbursements of the Disability Insurance Program to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Legislative Service Bureau. The Legislative Service Bureau shall distribute copies of such monthly statements to the fiscal staff of the House of Representatives and the State Senate.

C. On or before March 1 of each year, the ~~State and Education Employees Group Insurance~~ Board shall submit a report of the actuarially-determined future needs of the Disability Insurance Program. Said report shall be submitted and distributed as provided for in subsection B of this section.

D. The Board shall provide for the continuation of dependent health coverage to disability recipients for that period of time when the employee is qualified as disabled but not yet received disability benefit income.

E. The Board shall deduct all dependent health coverage premiums due and owing from the first retroactive disability payment and each payment thereafter.

SECTION 86. AMENDATORY 74 O.S. 2001, Section 1332.2, is amended to read as follows:

Section 1332.2 A. Beginning July 1, 1990, persons who are active employees of the Oklahoma Employment Security Commission may elect to participate in the Disability Insurance Program. Any election to participate shall be received by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board prior to January 1, 1991. Employees who do not elect to participate in the disability program shall not thereafter be eligible to participate in the State Disability Insurance Program unless their present disability insurance coverage is canceled by the insurer offering said coverage. In the event of such cancellation, all participants in the agency offered disability plan shall be immediately transferred to the state disability insurance plan. Any person who does not qualify for the Commission disability plan prior

to their transfer to the State Plan shall participate in the state disability insurance program.

B. Oklahoma Employment Security Commission employees who are or become disabled pursuant to the provisions of the agency disability plan shall retain their status as an employee so long as their disability continues.

SECTION 87. AMENDATORY 74 O.S. 2001, Section 1333, is amended to read as follows:

Section 1333. A. There is hereby created in the State Treasury the State Employees Disability Insurance Reserve Fund. All appropriations, dividend payments, and investment income received pursuant to the provisions of the State Employees Disability Insurance Act, ~~Section~~ Sections 1331 et seq. through 1335 of this title, shall be deposited in the reserve fund.

B. The monies in said reserve fund shall be invested by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board in the manner specified in Section ~~6~~ 1305.1 of this ~~act~~ title. The Board shall have responsibility for management of the fund.

C. Money payable to the claims administrator and all expenses in connection with the Disability Insurance Program shall be paid from the reserve fund.

SECTION 88. AMENDATORY 74 O.S. 2001, Section 1335, is amended to read as follows:

Section 1335. A county, upon adoption of a resolution by the board of county commissioners, may participate in the Disability Insurance Program administered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board. Upon the filing of a certified copy of the resolution with the Board, the county shall become a participant on the first day of the second full month following the filing of the resolution. All employees of any county electing to participate in the Program shall have disability insurance coverage. The county shall forward to the Board, at such times as determined by the Board, the contributions necessary to pay for the disability insurance coverage of the employees of the

county. The Board shall determine the amount of contribution required for the disability insurance coverage.

SECTION 89. AMENDATORY 74 O.S. 2001, Section 1342, is amended to read as follows:

Section 1342. As used in the State Employees Flexible Benefits Act, ~~Section Sections~~ Sections 1341 et seq. through 1348 of this title:

1. "Board" means the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board;

2. "Flexible benefits plan" means a written plan providing benefits to eligible employees which meets the requirements of Title 26, Section 125 et seq. of the Internal Revenue Code of the United States and regulations promulgated thereunder;

3. "Employee" means any person eligible to participate in the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Act, ~~Section Sections~~ Sections 1301 et seq. through 1328 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 90. AMENDATORY 74 O.S. 2001, Section 1344, as last amended by Section 6, Chapter 231, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1344), is amended to read as follows:

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

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

1. Dependent health insurance pursuant to the provisions of Section 1309 of 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, 3 or 4 of subsection B of Section ~~7.10~~ 34.70 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

4. Medical care as defined by the Board; or

5. All other eligible programs offered under Title 26, Section 125 et seq. of the Internal Revenue Code of the United States.

C. The amount by which an employee's salary is adjusted pursuant to a salary adjustment agreement shall be excluded from income in computation of income tax withholding, unemployment payments and workers' compensation coverage. Such amount shall be included as income in computation of state retirement contributions and benefits. Provided, if the inclusions and exclusions provided

in this subsection conflict with the provisions of federal law or regulations pertaining to flexible benefits plans, the Board is authorized to modify or abolish such inclusions and exclusions.

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

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

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

G. No less than thirty (30) working days prior to the annual deadline for making changes to state employees' benefit packages, all state agencies shall provide a one-day employee benefit informational meeting. Representatives of vendors that have an authorized payroll deduction for state employees pursuant to Section ~~7.10~~ 34.70 of Title 62 of the Oklahoma Statutes or Section 1701 of this title shall be invited and encouraged to attend these meetings to provide benefit information and answer questions of state employees related to health, financial planning and other benefits. Agencies shall provide vendors with adequate space within which to meet with employees. Agencies shall provide adequate notice of the meetings to active and retired employees, and shall allow each active employee to spend at least sixty (60) minutes during the workday to attend the meetings. For those state government facilities that operate twenty-four (24) hours a day, vendors shall be allowed access to each shift.

SECTION 91. AMENDATORY 74 O.S. 2001, Section 1346, is amended to read as follows:

Section 1346. There is hereby created in the State Treasury a revolving fund for the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board to be designated the "Flexible

Benefit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of employee payroll deductions and contributions for flexible spending accounts. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~State and Education Employees Group Insurance~~ Board for expenses of the state employees flexible benefits plan and for expenses authorized by law. The ~~State and Education Employees Group Insurance~~ Board is authorized to pay employee claim costs associated with the state employees flexible benefits plan from monies accrued for said purpose. Expenditures from said funds shall be pursuant to the laws of the state and statutes relating to the state employees flexible benefits plan.

SECTION 92. AMENDATORY 74 O.S. 2001, Section 1365, as last amended by Section 1, Chapter 28, O.S.L. 2009 (74 O.S. Supp. 2009, Section 1365), is amended to read as follows:

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

1. To construe and interpret the health maintenance organization plan, and decide all questions of eligibility in accordance with the Oklahoma ~~State Employees Benefits~~ Health and Wellness Act and 26 U.S.C.A., Section 1 et seq.;

2. To select those benefits which shall be made available to participants under the plan, according to the Oklahoma ~~State Employees Benefits~~ Health and Wellness Act, and other applicable laws and rules;

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. The ~~State and Education Employees Group Insurance~~ Oklahoma Health

and Wellness Board, the Health Maintenance Organizations Organization, or other third-party insurance vendors may be directly or indirectly involved in the distribution of communicated information to participating state agency employers and state employee participants subject to the following conditions:

- a. the ~~Council~~ Employee Benefits Division shall verify all marketing and communications information for factual accuracy prior to distribution,
- b. the ~~Board~~ HealthChoice Health Insurance Division or vendors shall provide timely notice of any marketing, communications, or distribution plans to the ~~Council~~ Employee Benefits Division and shall coordinate the scheduling of any group presentations with the ~~Council~~ Employee Benefits Division, and
- c. the ~~Board~~ HealthChoice Health Insurance Division or vendors shall file a brief summary with the ~~Council~~ Employee Benefits Division outlining the results following any marketing and communications activities;

6. To receive from participating employers and participants 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 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~~ Employee Benefits Division if the Board deems that the executive director position is necessary. The executive director shall employ or retain such persons in accordance with the Oklahoma ~~State Employees Benefits~~ Health and Wellness 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 the Oklahoma ~~State Employees Benefits~~ Health and

Wellness Act and to render advice upon request with regard to any matters arising under the plan subject to the approval of the ~~Council~~ Employee Benefits Division. 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~~ Employee Benefits Division 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~~ Employee Benefits Division and all other expenses of the ~~Council~~ Division shall be paid at such rates and in such amounts as the ~~Council~~ Division shall approve, subject to the provisions of applicable law;

10. To negotiate for best and final offer through competitive negotiation and contract with a federally qualified health maintenance ~~organizations~~ organization under the provisions of 42 U.S.C., Section 300e et seq., or with a Health Maintenance ~~Organizations~~ Organization granted a certificate of authority by the Insurance Commissioner pursuant to Sections 6901 through 6951 of Title 36 of the Oklahoma Statutes for consideration by participants as an alternative to the health plans offered by the ~~Board~~ HealthChoice Health Insurance Division, and to transfer to the health maintenance ~~organizations~~ organization such funds as may be approved for a participant electing health maintenance organization alternative services. The ~~Council~~ Employee Benefits Division may also select and contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the ~~Council~~ Employee Benefits Division. However, if the ~~Council~~ Employee Benefits Division chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan.

The ~~Oklahoma State Employees~~ Employee Benefits Council ~~Division~~ may, however, renegotiate rates with successful ~~bidders~~ bidder after contracts have been awarded if there is an extraordinary circumstance. An extraordinary circumstance shall be limited to insolvency of a the participating health maintenance organization or point-of-service plan, dissolution of a participating health

maintenance organization or point-of-service plan or withdrawal of another participating health maintenance organization or point-of-service plan at any time during the calendar year. Nothing in this section of law shall be construed to permit either party to unilaterally alter the terms of the contract;

11. To retain as confidential information the initial Request For Proposal offers as well as any subsequent bid offers made by the health plans prior to final contract awards as a part of the best and final offer negotiations process for the benefit plan;

12. To promulgate administrative rules for the competitive negotiation process;

13. To require vendors offering coverage through the ~~Council~~ Employee Benefits Division, including the ~~Board~~ HealthChoice Health Insurance Division, to provide such enrollment and claims data as is determined by the ~~Council~~ Employee Benefits Division. The ~~Oklahoma State Employees Benefits Council~~ Employee Benefits Division with the cooperation of the Department of Central Services acting pursuant to ~~Section~~ Sections 85.1 et seq. through 85.44C of this title, shall be authorized to retain as confidential, any proprietary information submitted in response to the ~~Council's~~ Employee Benefits Division's Request For Proposal. Provided, however, that any such information requested by the ~~Council~~ Employee Benefits Division from the vendors shall only be subject to the confidentiality provision of this paragraph if it is clearly designated in the Request For Proposal as being protected under this provision. All requested information lacking such a designation in the Request For Proposal shall be subject to ~~Section~~ Sections 24A.1 et seq. through 24A.29 of Title 51 of the Oklahoma Statutes. From health maintenance organizations, data provided shall include the current Health Plan Employer Data and Information Set (HEDIS);

14. To purchase any insurance deemed necessary for providing benefits under the plan including indemnity dental plans, provided that the only indemnity health plan selected by the ~~Council~~ Employee Benefits Division shall be the indemnity plan offered by the ~~Board~~ HealthChoice Health Insurance Division, and to transfer to the ~~Board~~ HealthChoice Health Insurance Division such funds as may be approved for a participant electing a benefit plan offered by the ~~Board~~ HealthChoice Health Insurance Division. All indemnity dental plans,

including the one offered by the ~~Oklahoma State and Education Group Insurance Board~~ HealthChoice Health Insurance Division, must meet or exceed the following requirements:

- a. they shall have a statewide provider network,
- b. they shall provide benefits which shall reimburse the expense for the following types of dental procedures:
 - (1) diagnostic,
 - (2) preventative,
 - (3) restorative,
 - (4) endodontic,
 - (5) periodontic,
 - (6) prosthodontics,
 - (7) oral surgery,
 - (8) dental implants,
 - (9) dental prosthetics, and
 - (10) orthodontics, and
- c. they shall provide an annual benefit of not less than One Thousand Five Hundred Dollars (\$1,500.00) for all services other than orthodontic services, and a lifetime benefit of not less than One Thousand Five Hundred Dollars (\$1,500.00) for orthodontic services;

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

16. To assess and collect reasonable fees from the ~~Board~~ HealthChoice Health Insurance Division, and from such contracted health maintenance ~~organizations~~ organization and third-party insurance vendors to offset the costs of administration as

determined by the ~~Council~~ Employee Benefits Division. The ~~Council~~ Employee Benefits Division shall have the authority to transfer income received pursuant to this subsection to the ~~Board~~ HealthChoice Health Insurance Division for services provided by the ~~Board~~ HealthChoice Health Insurance Division;

17. To accept, modify or reject elections under the plan in accordance with the Oklahoma ~~State Employees Benefits~~ Health and Wellness Act and 26 U.S.C.A., Section 1 et seq.;

18. To promulgate election and claim forms to be used by participants;

19. To take all steps deemed necessary to properly administer the plan in accordance with the Oklahoma ~~State Employees Benefits~~ Health and Wellness Act and the requirements of other applicable law; and

20. To manage, license or sell software developed for and acquired by the ~~Council~~ Employee Benefits Division, whether or not such software is patented or copyrighted. The ~~Council~~ Employee Benefits Division shall have the authority to license and sell such software or any rights to such software without declaring such property to be surplus. All proceeds from any such sale shall be deposited in the Benefits Council Administration Revolving Fund and used to defray the costs of administration.

B. The ~~Council~~ Employee Benefits Division members shall discharge their duties as fiduciaries with respect to the participants 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~~ Employee Benefits Division to the extent that the person or organization:

- a. exercises any discretionary authority or discretionary control respecting administration or management of the ~~Council~~ Employee Benefits Division,

- b. exercises any authority or control respecting disposition of the assets of the ~~Council~~ Employee Benefits Division,
- 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~~ Employee Benefits Division, or has any authority or responsibility to do so, or
- d. has any discretionary authority or discretionary responsibility in the administration of the ~~Council~~ Employee Benefits Division;

2. The ~~Council~~ Employee Benefits Division may procure insurance indemnifying the members of the ~~Council~~ Employee Benefits Division from personal loss or accountability from liability resulting from a member's action or inaction as a member of the ~~Council~~ Employee Benefits Division;

3. Except for a breach of fiduciary obligation, a ~~Council member~~ an Employee Benefits Division employee shall not be individually or personally responsible for any action of the ~~Council~~ Employee Benefits Division;

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

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the ~~Council~~ Employee Benefits Division and the plan solely in the interest of the participants and beneficiaries of the plan according to the terms hereof, for the exclusive purpose of providing benefits to participants and their beneficiaries, with the care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent person 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 the Oklahoma ~~State Employees Benefits~~ Health and Wellness Act or by the ~~Council Employee Benefits Division~~ 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 93. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1365.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Prior to the commencement of fiscal year 2012, and each fiscal year thereafter, the Oklahoma Health and Wellness Board shall remit to the State Treasurer for deposit in the state General Revenue Fund an amount which reflects fifteen percent (15%) of the combined administrative costs of the Oklahoma Health and Wellness Board as of the fiscal year ending June 30, 2010. The Board shall report all administrative savings to the Joint Liaison Committee on Oklahoma Health and Wellness annually.

SECTION 94. AMENDATORY 74 O.S. 2001, Section 1366, is amended to read as follows:

Section 1366. A. The Oklahoma ~~State Employees~~ Employee Benefits Council ~~Division~~ shall establish a flexible benefits plan in accordance with the provisions of ~~Section~~ Sections 1361 et seq. through 1375 of this title. All participating employers shall offer the plan to their eligible employees.

B. The ~~Council~~ Division 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~~ Division shall be uniformly and consistently applied to all participants 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~~ Division shall be entitled to rely upon such information as may be furnished to it by a participant, a participating employer, legal counsel, third party administrator or the management of any individual benefit plan which is incorporated in the plan.

C. The executive director, under the direction of the ~~Council~~ Division, 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.

The ~~Council~~ Division shall solicit proposals on a competitive bid basis. Contracts for the flexible benefits plan shall not be subject to the provisions of the Oklahoma Central Purchasing Act, ~~Section Sections~~ 85.1 et seq. through 85.44C of this title. The ~~Council~~ Division shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded for flexible benefits plans. When requested by the ~~Council~~ Division, the Department of Central Services shall assist the ~~Council~~ Division in the process of selecting any contracts for the design, development, communication or implementation of the plan.

When awarding a contract for services pursuant to this subsection, the ~~Council~~ Division 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 ~~Section Sections~~ 1361 et seq. through 1375 of this title and under the contract.

D. Expenses included in an 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, dental insurance or high deductible health benefit plan offered to employees and their dependents;

2. Insurance premiums or retirement plan premiums or payments which are supplemental to insurance or retirement programs offered by this state or which are paid for under salary adjustment agreements pursuant to the provisions of Section ~~7.10~~ 34.70 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

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

5. All other eligible benefit programs offered under 26 United States Code Section 125.

E. 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, 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~~ Division is authorized to modify or abolish such inclusions and exclusions.

F. 1. Legal representation shall be provided by the Office of the Attorney General.

2. ~~The executive director shall be the appointing authority and agency head. All~~ Except for the executive director, 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 Section 840-5.5 of this title.

SECTION 95. AMENDATORY Section 10, Chapter 439, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1366.1), is amended to read as follows:

Section 1366.1 Notwithstanding any other provision of law to the contrary, for contracts relating to the plan year beginning January 1, 2003, and for each plan year thereafter, the ~~Oklahoma State Employees Benefits Council and the State and Education Employees Group Insurance~~ Health and Wellness Board shall:

~~a. develop~~ 1. Develop geographic service areas and list the zip codes contained in such service areas. ~~Each~~ The participating health maintenance organization shall ~~not~~ be required to offer enrollment in every service area as a condition to participation in the State Account_{7i};

~~b. not~~ 2. Not require the participating health maintenance ~~organizations~~ organization to offer a Medicare supplement plan. However, if the participating health maintenance organization offers a Medicare supplement plan to other entities within this state then it shall be required to offer a Medicare supplement plan_{7i};

~~e. require~~ 3. Require the participating health maintenance ~~organizations~~ organization to meet the standardized benefit plan as required by the ~~Oklahoma State Employees~~ Employee Benefits Council ~~Division~~. However, the participating health maintenance ~~organizations~~ organization may offer enhancements in an effort to make their ~~plans~~ plan more attractive and competitive_{7i}; and

~~d. ensure~~ 4. Ensure that all premiums are paid to participating health maintenance ~~organizations~~ organization within sixty (60) calendar days from receipt of the bill.

SECTION 96. AMENDATORY 74 O.S. 2001, Section 1368, is amended to read as follows:

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

~~Employees Benefits Council~~ Division other than flexible benefit dollars. Disbursements from the fund shall be limited to the direct operation of the ~~Oklahoma State Employees Benefits Council~~ Division and the Wellness Program as authorized by the ~~Council~~ Division.

SECTION 97. AMENDATORY 74 O.S. 2001, Section 1370, as last amended by Section 2, Chapter 28, O.S.L. 2009 (74 O.S. Supp. 2009, Section 1370), is amended to read as follows:

Section 1370. A. Subject to the requirement that a participant must elect the default benefits, the basic plan, or is a person who has retired from a branch of the United States military and has been provided with health care through a federal plan, to the extent that it is consistent with federal law, and provides proof of this coverage, flexible benefit dollars may be used to purchase any of the benefits offered by the ~~Oklahoma State Employees~~ Employee Benefits Council Division under the flexible benefits plan. A participant who has provided proof of other coverage as described in this subsection shall not receive flexible benefit dollars if the person elects not to purchase any benefits. A participant's flexible benefit dollars for a plan year shall consist of the sum of (1) flexible benefit allowance credited to a participant by the participating employer, and (2) pay conversion dollars elected by a participant.

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

C. For the plan year ~~ending December 31, 2001~~ beginning January 1, 2011, the benefit allowance shall not be less than the Plan Year 2010 benefit allowance amounts, and each plan year thereafter, the amount of a participant's benefit allowance, which shall be the total amount the employer contributes for the payment of insurance premiums or other benefits for a basic preferred provider organization plan, shall be:

1. ~~The greater of Two Hundred Sixty-two Dollars and nineteen cents (\$262.19) per month~~ the amount of benefit which the participant would have qualified for as of plan year 2010 or an

amount equal to the ~~sum of the average~~ monthly premiums of ~~all high option health insurance plans~~ the basic preferred provider organization plan offered to the participant, excluding the point-of-service plans, the ~~average monthly premiums~~ premium of the dental plans plan offered to participants, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to ~~state employees~~ participants or the amount determined by the ~~Council~~ Oklahoma Health and Wellness Board based on a formula for determining a participant's benefit credits consistent with the requirements of 26 U.S.C., Section 125(g) (2) and regulations thereunder; or

2. The greater of ~~Two Hundred Twenty-four Dollars and sixty-nine cents (\$224.69)~~ per month the amount of benefit which the participant would have qualified for as of plan year 2010 or an amount equal to the ~~sum of the average~~ monthly premiums of ~~all high option health insurance plans~~ the basic preferred provider organization plan offered to participants, excluding the point-of-service plans, the ~~average monthly premiums~~ premium of the dental plans plan offered to participants, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to ~~state employees~~ participants plus one of the additional amounts as follows for participants who elect to include one or more dependents:

- a. for a spouse, seventy-five percent (75%) of the ~~average price of all high option~~ the basic preferred provider organization health benefit plans plan, excluding the point-of-service plans, available for coverage of a spouse,
- b. for one child, seventy-five percent (75%) of the ~~average price of all high option~~ the basic preferred provider organization health plan benefit plans plan available, excluding the point-of-service plans, for coverage of one child,
- c. for two or more children, seventy-five percent (75%) of the ~~average price of all high option~~ the basic preferred provider organization health benefit plans plan available, excluding the point-of-service plans, for coverage of two or more children,

- d. for a spouse and one child, seventy-five percent (75%) of the ~~average~~ price of ~~all high option~~ the basic preferred provider organization health benefit plans plan available, excluding the point-of-service plans, for coverage of a spouse and one child, or
- e. for a spouse and two or more children, seventy-five percent (75%) of the ~~average~~ price of ~~all high option~~ the basic preferred provider organization health benefit plans plan available, excluding the point-of-service plans, for coverage of a spouse and two or more children.

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

E. If a participant desires to buy benefits whose sum total of benefit prices is in excess of his or her flexible benefit allowance, the participant 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 compensation in equal amounts each pay period over the plan year. On termination of employment during a plan year, a participant shall have no obligation to pay the participating employer any pay conversion dollars allocated to the portion of the plan year after the participant's termination of employment.

F. If a participant hired before November 1, 2010, 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. For employees hired on or after November 1, 2010, any benefit allowance amount in excess of the combined cost of all benefits shall be deposited into a health savings account, a flexible spending account, or an account authorized pursuant to Section 1705 or 1707 of this title, and may be used for purposes authorized by federal and state law. 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 shall have no right to receive any such taxable cash compensation allocated to the portion of the plan year after the participant's termination. Nothing herein shall affect a participant'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.

G. Any benefit allowance amount in excess of the combined cost of all benefits which is a result of any increase in the benefit allowance after November 1, 2010, shall be deposited into a health savings account, a flexible spending account, or an account authorized pursuant to Section 1705 or 1707 of this title, and may be used for purposes authorized by federal and state law.

SECTION 98. AMENDATORY 74 O.S. 2001, Section 1371, as last amended by Section 6, Chapter 269, O.S.L. 2007 (74 O.S. Supp. 2009, Section 1371), is amended to read as follows:

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

B. The ~~Board~~ HealthChoice Health Insurance Division shall offer health, disability, life and dental coverage to all participants and their dependents. For health, dental, disability and life coverage, the ~~Board~~ HealthChoice Health Insurance Division shall offer plans at the basic benefit level established by the ~~Council~~ Oklahoma

Health and Wellness Board, and in addition, may offer benefit plans that provide an enhanced level of benefits. The ~~Board~~ HealthChoice Health Insurance Division shall be responsible for determining the plan design and the benefit price for the plans that they offer. Effective for the plan year beginning January 1, 2007, and for each plan year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, the ~~Board~~ HealthChoice Health Insurance Division shall set the monthly premium for active employees to be equal to the monthly premium for retirees under sixty-five (65) years of age.

Nothing in this subsection shall be construed as prohibiting the ~~Board~~ HealthChoice Health Insurance Division from offering additional medical plans, provided that any medical plan offered to participants 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 may elect medical coverage by ~~any~~ the health maintenance organization made available to participants by the ~~Council~~ Employee Benefits Division. The benefit price of ~~any~~ the health maintenance organization shall be determined on a competitive bid basis. ~~Contracts~~ The contract for ~~said plans~~ the plan shall not be subject to the provisions of the Oklahoma Central Purchasing Act, ~~Section~~ Sections 85.1 ~~et seq.~~ through 85.44C of this title. The ~~Council~~ Board shall promulgate rules establishing appropriate competitive bidding criteria and procedures for ~~contracts~~ the contract awarded for the flexible benefits plan. ~~All plans~~ The plan offered by the health maintenance ~~organizations~~ organization meeting the bid requirements as determined by the ~~Council~~ Employee Benefits Division shall be accepted. The ~~Council~~ Board shall have the authority to reject the bid or restrict enrollment in ~~any~~ the health maintenance organization for which the ~~Council~~ Board determines the benefit price to be excessive. The ~~Council~~ Board shall have the authority to reject any plan that does not meet the bid requirements. All bidders shall submit along with their bid a notarized, sworn statement as provided by Section 85.22 of this title. Effective for the plan year beginning January 1, 2007, and for each plan year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, ~~HMOs~~ the health maintenance organization, self-insured organizations and prepaid plans shall set the monthly premium for

active employees to be equal to the monthly premium for retirees under sixty-five (65) years of age. Premium rates shall be actuarially sound and shall be reviewed by an actuary chosen by the Oklahoma Health and Wellness Board.

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

E. Each 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 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~~ Oklahoma Health and Wellness Board, 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~~ Oklahoma Health and Wellness Board shall prescribe. Any such 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~~ Oklahoma Health and Wellness Board shall prescribe the forms that participants will be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

G. Any participant 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~~ Oklahoma Health and Wellness Board shall be deemed automatically to have purchased the default benefits. The default benefits shall be the same as the basic plan benefits. Any participant 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~~ Oklahoma Health and Wellness Board, shall be deemed automatically to have purchased the

same benefits which the participant purchased in the immediately preceding plan year, except that the participant 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~~ HealthChoice Health Insurance Division, Employee Benefits Division, and other third-party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the ~~Council~~ Oklahoma Health and Wellness Board, based on generally accepted actuarial principles.

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

- a. that primary care physician was part of a provider group that was offered to the individual at enrollment and later removed from the network of the health maintenance organization, for reasons other than for cause, and
- b. the individual submits a request in writing to the health maintenance organization to continue to have access to the primary care physician.

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

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

SECTION 99. AMENDATORY 74 O.S. 2001, Section 1372, as amended by Section 1, Chapter 369, O.S.L. 2003 (74 O.S. Supp. 2009, Section 1372), is amended to read as follows:

Section 1372. A. ~~The Oklahoma State Employees~~ Employee Benefits Council Division shall be responsible for making all determinations as to the rights of any participant or any beneficiary of a participant to receive amounts under the flexible spending account benefits plan. ~~The Council~~ Division shall prescribe forms and procedures for making claims for flexible spending account benefits under the plan. Each person making a claim for benefits under the flexible spending account benefits plan shall also furnish the ~~Council~~ Division with such documents, evidence, data or information in support of such claim as the ~~Council~~ Division considers necessary or desirable. If any claim for the flexible spending account benefits 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.

B. A claimant whose claim is denied shall have the right to a hearing before the ~~Council's~~ Division's executive director or hearing officer designated by the executive director. Written notification by a claimant for a hearing must be received by the executive director within ten (10) business days of notification of claim denial. The hearing shall be conducted within thirty (30) days in accordance with the provisions of the Administrative Procedures Act. ~~The Council~~ Division shall promulgate administrative rules establishing policies and procedures specific to the notice of denial, request for explanation, and hearing for flexible spending account benefit claims denial.

SECTION 100. AMENDATORY 74 O.S. 2001, Section 1373, is amended to read as follows:

Section 1373. A. All health benefit plans that are offered by the Oklahoma ~~State Employees~~ Employee Benefits Council Division shall provide coverage for side effects that are commonly associated with radical retropubic prostatectomy surgery, including, but not limited to impotence and incontinence, and for other prostate related conditions.

B. The ~~Council~~ Division shall provide notice to each insured or enrollee under such plan regarding the coverage required by this section in the plan's evidence of coverage, and shall provide additional written notice of the coverage to the insured or enrollee as follows:

1. In the next mailing made by the plan to the employee; or
2. As part of the enrollment information packet sent to the enrollee.

C. The ~~Council~~ Oklahoma Health and Wellness Board shall promulgate any rules or actions necessary to implement the provisions of this section.

SECTION 101. AMENDATORY Section 1, Chapter 501, O.S.L. 2002, as last amended by Section 9, Chapter 231, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1374), is amended to read as follows:

Section 1374. For the plan year beginning January 1, 2005, and for each year thereafter, it shall be the fiduciary responsibility of the Oklahoma ~~State Employees Benefits Council and the State and Education Employees Group Insurance~~ Health and Wellness Board to ensure that participants have the option to choose which vision plan best meets their individual needs by offering every vision plan that notifies the ~~Employees Benefits Council and the State and Education Employees Group Insurance~~ Board of their desire to participate no later than July 1 of each year and meets or exceeds the following criteria:

1. Has in place a statewide network of at least one hundred fifty providers. "Providers", for purposes of this section, means

Optometrists (OD), Ophthalmologists (MD), and Ophthalmologists (DO) which shall be counted once regardless of the number of locations where they may practice. Optical shops and retail optical locations shall not be listed as providers. The company offering the vision plan must have a direct relationship with each provider on its panel, and may not lease, borrow, or otherwise obtain use of a provider panel from another company. This would not prevent a company from offering their plan through one corporate entity and administering the plan or provider panel through another legal entity of the same organization. Providers must be actively engaged in providing the services offered under the vision plan they represent;

2. Has operated in Oklahoma for at least five (5) years;

3. Is licensed by the Insurance Department, certified by the State Department of Health, or licensed as a third-party administrator by the Insurance Department. Vision plans must be offered by the company administering the plan, not by an agent or third party. A company shall offer only one vision plan and rate schedule for each plan year;

4. Presents accurate product information in a reproducible format not to exceed two pages; and

5. Vision plans must provide an examination, frames and lenses, and/or contact lenses and some form of indemnified payment to the contracted providers for each component of the benefits, i.e., the exam, frames and lenses and/or contact lenses. This does not eliminate discounted supplementary benefits under a qualified plan.

Any administrative fees imposed by the ~~Oklahoma State Employees Benefits Council or the State and Education Employees Group~~ Insurance Board shall be applied equally to all qualified vision plans. There shall be no additional requirements imposed on a vision plan other than the proper licensing or certification by the appropriate state agency.

SECTION 102. AMENDATORY Section 7, Chapter 269, O.S.L. 2007 (74 O.S. Supp. 2009, Section 1375), is amended to read as follows:

Section 1375. ~~The State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board shall make the health savings account authorized by the provisions of the Health Savings Account Act established in Section 6060.14 of Title 36 of the Oklahoma Statutes available by offering a high deductible health plan to all persons who are eligible employees for purposes of any health care insurance offered through or under the supervision of the Board. The high deductible health plan shall be offered no later than January 1, 2009. Any employee who elects to participate in a high deductible health plan offered through the ~~State and Education Employees Group Insurance~~ Board shall establish a health savings account (HSA) as defined in Section 223 of the Internal Revenue Code. The employee shall provide confirmation of such account to the ~~State and Education Employees Group Insurance~~ Board prior to the effective date of coverage.

SECTION 103. AMENDATORY 74 O.S. 2001, Section 1382, as amended by Section 1, Chapter 50, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1382), is amended to read as follows:

Section 1382. A. There is hereby created within the Oklahoma ~~State Employee Benefits Council~~ Health and Wellness Board, the Wellness Council, to continue until July 1, 2012, in accordance with the provisions of the Oklahoma Sunset Law.

B. The Wellness Council shall be composed of one representative from every state agency which has designated a person to serve on the Council as the wellness coordinator for their respective state agency and one representative of the Oklahoma Governor's Council on Physical Fitness and Sports.

C. Each state agency with two hundred (200) or more full-time-equivalent employees shall appoint a wellness coordinator. All wellness coordinators shall be appointed by October 1, 1994. Each wellness coordinator shall be appointed for a term of two (2) years. If a wellness coordinator can no longer serve for any reason the appointing agency shall fill the vacancy for the unexpired term.

D. The first meeting of the Council shall be called by the ~~Executive Director of the Employee Benefits Council~~ Board. The ~~Employee Benefits Council~~ Board shall designate a person to serve as the State Government Wellness Coordinator. The State Government

Wellness Coordinator shall serve as the chairman of the Wellness Council. 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 chairman or upon the inability or refusal of the chairman to act.

E. The Council shall meet at least once quarterly, and may meet more often as necessary.

F. The members of the Council shall serve without compensation.

G. A majority of the members of the Council shall constitute a quorum for the transaction of business.

SECTION 104. AMENDATORY 74 O.S. 2001, Section 1383, is amended to read as follows:

Section 1383. A. The Wellness Council shall coordinate and develop wellness programs in state government. Effective November 1, 2010, all state employees shall be enrolled in a wellness program. The Council shall establish financial incentives for successful participation in the program. The Council shall work to encourage participation in wellness programs by state employees and dependents of state employees. The Wellness Council may provide programs to state agencies for quarterly health and safety training as required by the Department of Labor according to the provisions of Section 403 of Title 40 of the Oklahoma Statutes. In addition the Council shall establish methods and a plan of action for receiving money through grants from federal and private funds to implement wellness programs in this state.

B. The chair of the Wellness Council shall appoint a Wellness Coordinating Committee. The members of the Committee shall be selected from among the members of the Council. The Committee shall be responsible for meeting and coordinating wellness efforts with the ~~State and Education Employees Group Insurance Board, the Oklahoma State Employees Benefits Council~~ Health and Wellness Board, the State Employee Assistance Program and the Oklahoma Health Care Authority. In addition the Committee shall be responsible for developing a plan of action to solicit public and private funds for wellness programs.

SECTION 105. AMENDATORY 74 O.S. 2001, Section 1384, is amended to read as follows:

Section 1384. There is hereby created in the State Treasury a revolving fund for the ~~Oklahoma State Employees Benefits Council~~ Health and Wellness Board to be designated the "Wellness Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Wellness Council division of the ~~Oklahoma State Employees Benefits Council~~ Health and Wellness Board from money received through grants, donations, contributions and gifts from any public or private source and transfer of funds from the ~~Benefits Council~~ Division Administration Revolving Fund as approved by the ~~Oklahoma State Employees Employee Benefits Council Division~~. The Wellness Council may expend funds as provided for 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 106. AMENDATORY Section 1, Chapter 17, O.S.L. 2002, as last amended by Section 5, Chapter 300, O.S.L. 2008 (74 O.S. Supp. 2009, Section 3601.1), is amended to read as follows:

Section 3601.1 A. For purposes of Sections 3601.1 through 3603 of this title, the term "employee" means a full-time employee or any number of part-time employees whose combined weekly hours of employment equal those of a full-time employee, but shall not include temporary employees working on a seasonal basis between May 1 and October 31.

B. Beginning July 1, 2008, the maximum number of full-time-equivalent employees for each of the following agencies, boards, commissions, departments, or programs shall not exceed the numbers specified in this section, except as may be authorized pursuant to the provisions of Section 3603 of this title.

MAXIMUM NUMBER OF
FULL-TIME-EQUIVALENT
EMPLOYEES

Board of Managers of the State Insurance Fund <u>CompSource Oklahoma</u>	591
Oklahoma Employment Security Commission	1150
Oklahoma Accountancy Board	11
Board of Governors of the Licensed Architects, Landscape Architects and Interior Designers of Oklahoma	4
Board of Chiropractic Examiners	3
State Board of Cosmetology	16
Board of Dentistry	5
Oklahoma State Board of Embalmers and Funeral Directors	5
State Board of Registration for Professional Engineers and Land Surveyors	10
State Board of Medical Licensure and Supervision/ Board of Podiatric Medical Examiners/State Board of Examiners of Perfusionists	29
Commission on Marginally Producing Oil and Gas Wells	5
Oklahoma Motor Vehicle Commission	6
Oklahoma Board of Nursing	26
Oklahoma State Board of Examiners for Nursing Home Administrators	4
Board of Examiners in Optometry	3
State Board of Osteopathic Examiners	7

Oklahoma Peanut Commission	2
Oklahoma State Board of Pharmacy	10
State Board of Examiners of Psychologists	2
Oklahoma Real Estate Commission	26
Board of Examiners for Speech-Language Pathology and Audiology	2
Oklahoma Used Motor Vehicle and Parts Commission	12
State Board of Veterinary Medical Examiners	6
Oklahoma Wheat Utilization, Research and Market Development Commission	7
Oklahoma Firefighters Pension and Retirement System	13
Oklahoma Police Pension and Retirement System	12
Teachers' Retirement System of Oklahoma	52
Oklahoma Public Employees Retirement System	63
Oklahoma Student Loan Authority	85
Oklahoma Industrial Finance Authority/Oklahoma Development Finance Authority	10
<u>State and Education Employees Group HealthChoice Health Insurance Division of the Oklahoma Health and Wellness Board</u>	178
Oklahoma Capital Investment Board	4
State Board of Licensed Social Workers	1

Oklahoma State Employees <u>Employee Benefits</u> <u>Council</u> <u>Division of the Oklahoma Health and</u> <u>Wellness Board</u>	38
Oklahoma State Banking Department	46
Liquefied Petroleum Gas Administration	10

C. The duties and compensation of employees, not otherwise prescribed by law, necessary to perform the duties imposed upon the Oklahoma Public Employees Retirement System Board of Trustees by law shall be set by the Board of Trustees.

D. Temporary employees of the Oklahoma Used Motor Vehicle and Parts Commission between the dates of November 1 and January 31 annually shall not be counted toward the maximum number of full-time-equivalent employees provided for in this section.

SECTION 107. AMENDATORY Section 2, Chapter 463, O.S.L. 2004, as last amended by Section 2, Chapter 208, O.S.L. 2007 (74 O.S. Supp. 2009, Section 3601.2), is amended to read as follows:

Section 3601.2 A. Beginning January 1, 2007, the agency, board, commission, department or program shall establish the salary of each of the chief executive officers for which they have appointing authority. Such salary shall be set between the minimum and maximum of the range specified below, for full-time employees only, per annum, payable monthly, pursuant to the limitations outlined below:

1. If the chief executive officer's salary is below the minimum annual salary then it can not be raised to more than the minimum annual salary in one (1) fiscal year. If the chief executive officer's salary is at or above the minimum annual salary then the salary may not be increased above the midpoint in one (1) fiscal year.

2. Such increases shall not occur more than once in a fiscal year; and

3. The salary of the incumbent chief executive officer shall not be increased if the officer's salary exceeds the maximum of the range.

	MINIMUM	MIDPOINT	MAXIMUM
	ANNUAL	ANNUAL	ANNUAL
	SALARY	SALARY	SALARY
CompSource Oklahoma	\$86,136.00	\$101,337.00	\$116,536.00
Oklahoma Employment Security Commission	\$93,190.00	\$109,635.00	\$126,080.00
Oklahoma Accountancy Board	\$55,748.00	\$65,585.00	\$75,424.00
Board of Governors of the Licensed Architects, Landscape Architects and Interior Designers of Oklahoma	\$45,513.00	\$62,757.00	\$80,000.00
Board of Chiropractic Examiners	\$46,788.00	\$55,044.00	\$63,301.00
State Board of Cosmetology	\$46,788.00	\$55,044.00	\$63,301.00
Board of Dentistry	\$54,956.00	\$64,334.00	\$75,687.00
Oklahoma Funeral Board	\$46,788.00	\$55,044.00	\$63,301.00
State Board of Registration for Professional Engineers and Land Surveyors	\$55,748.00	\$65,585.00	\$75,424.00
State Board of Medical Licensure and Supervision, Board of Podiatric Medical Examiners/State Board of			

Examiners of Perfusionists	\$67,551.00	\$79,471.00	\$91,392.00
Commission on Marginally Producing Oil and Gas Wells	\$55,748.00	\$65,585.00	\$75,424.00
Oklahoma Motor Vehicle Commission	\$55,748.00	\$65,585.00	\$75,424.00
Oklahoma Board of Nursing	\$67,551.00	\$79,471.00	\$91,392.00
Oklahoma State Board of Examiners for Nursing Home Administrators	\$46,788.00	\$55,044.00	\$63,301.00
State Board of Osteopathic Examiners	\$54,956.00	\$64,334.00	\$75,687.00
Oklahoma Peanut Commission	\$45,513.00	\$55,044.00	\$63,300.00
State Board of Examiners of Psychologists	\$46,788.00	\$55,044.00	\$63,301.00
Oklahoma Real Estate Commission	\$67,551.00	\$79,471.00	\$91,392.00
Board of Examiners for Speech-Language Pathology and Audiology	\$38,001.00	\$44,706.00	\$51,412.00
Oklahoma Used Motor Vehicle and Parts Commission	\$55,748.00	\$65,585.00	\$75,424.00
State Board of Veterinary Medical Examiners	\$46,788.00	\$55,044.00	\$63,301.00
Oklahoma Wheat Utilization, Research and Market Development Commission	\$55,748.00	\$65,585.00	\$75,424.00

Oklahoma Firefighters Pension and Retirement System	\$80,732.00	\$94,980.00	\$109,226.00
Oklahoma Police Pension and Retirement System	\$80,733.00	\$94,981.00	\$109,227.00
Teachers' Retirement System of Oklahoma	\$86,136.00	\$101,337.00	\$116,536.00
Oklahoma Public Employees Retirement System	\$86,136.00	\$101,337.00	\$116,536.00
Oklahoma Student Loan Authority	\$83,790.00	\$101,377.00	\$116,536.00
Oklahoma Industrial Finance Authority	\$80,731.00	\$94,979.00	\$109,225.00
State and Education Employees Group Insurance <u>HealthChoice Health</u> <u>Insurance Division of the</u> <u>Oklahoma Health and</u> <u>Wellness Board</u>	\$86,136.00	\$101,337.00	\$116,536.00
Oklahoma Capital Investment Board	\$80,731.00	\$94,979.00	\$109,225.00
State Board of Licensed Social Workers	\$46,788.00	\$55,044.00	\$63,301.00
Oklahoma State Employees <u>Employee Benefits Council</u> <u>Division of the Oklahoma</u> <u>Health and Wellness Board</u>	\$80,731.00	\$94,979.00	\$109,225.00
Grand River Dam Authority	\$101,437.00	\$119,339.00	\$137,239.00
Oklahoma State Banking Department	\$101,437.00	\$119,339.00	\$137,239.00

Liquefied Petroleum Gas Administration	\$55,748.00	\$65,585.00	\$75,424.00
Oklahoma Securities Commission	\$101,437.00	\$119,339.00	\$137,239.00

B. All increases require certification of the appointing authority that said action can be implemented for the current fiscal year and subsequent fiscal year without the need for additional funding. The agency, board, commission, department or program shall report increases granted under this section to the Office of Personnel Management on an annual basis by August 1 of each year. The Office of Personnel management shall forward a report of such increases to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives no later than September 1 of each year.

C. Every two (2) years starting FY-05, the Office of Personnel Management shall review these salary ranges and report on and make recommendations on proposed salary ranges in their annual compensation reports mandated by paragraph 5 of Section 840-1.6A of this title by no later than December 1.

D. Every three (3) years the Legislature shall review the salary ranges specified in subsection A of this section.

SECTION 108. AMENDATORY Section 5, Chapter 459, O.S.L. 2003, as last amended by Section 4, Chapter 234, O.S.L. 2005 (82 O.S. Supp. 2009, Section 864.1), is amended to read as follows:

Section 864.1 Except as otherwise provided for in this section, for the life of a retired employee, the Grand River Dam Authority shall pay not less than Sixty Dollars (\$60.00) of its retired member's, employee only, health insurance premiums as long as the retiree elects to continue participation in one of the plans offered by the ~~State and Education Employees Group Insurance~~ Oklahoma Health and Wellness Board. Such payment made by the Grand River Dam Authority shall be in addition to any amount contributed by the Oklahoma Public Employees Retirement System pursuant to Section 1316.2 of Title 74 of the Oklahoma Statutes. At its discretion, the Board of Directors of the Grand River Dam Authority may elect to pay

more than Sixty Dollars (\$60.00) toward the health insurance premium of a retired employee.

If the sum of the amount paid by the Grand River Dam Authority plus the medical supplement paid by the Oklahoma Public Employees Retirement System pursuant to Section 1316.2 of Title 74 of the Oklahoma Statutes exceeds the amount of the retired member's, employee only, health insurance premium, the Authority may reduce the amount it contributes.

SECTION 109. REPEALER 74 O.S. 2001, Section 1304, as last amended by Section 2, Chapter 231, O.S.L. 2006 (74 O.S. Supp. 2009, Section 1304), is hereby repealed.

SECTION 110. REPEALER 74 O.S. 2001, Sections 1361, 1362, 1364, and Section 3, Chapter 489, O.S.L. 2002 (74 O.S. Supp. 2009, Section 1366.2), are hereby repealed.

SECTION 111. 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.

Passed the Senate the 27th day of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2010.

Presiding Officer of the House
of Representatives