

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1737

By: Moore of the House

and

Brown of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to state government; amending 74 O.S.  
12                   2001, Sections 1302, 1308.1, as amended by Section 1,  
13                   Chapter 41, O.S.L. 2004, 1310.1, as last amended by  
14                   Section 1, Chapter 373, O.S.L. 2004 and 1315, as last  
15                   amended by Section 4, Chapter 345, O.S.L. 2004 (74  
16                   O.S. Supp. 2010, Sections 1308.1, 1310.1 and 1315),  
17                   which relate to the State and Education Employees  
18                   Group Insurance Act; removing certain benefit  
19                   uniformity requirements; removing certain premium  
20                   uniformity requirements; requiring the State and  
21                   Education Employees Group Insurance Board to contract  
22                   with certain provider; stating purpose of program;  
23                   specifying certain plan requirements; authorizing the  
24                   use of clinical judgment to deviate from program  
                  guidelines; providing financial reward for  
                  responsiveness; 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; amending 74 O.S. 2001, Sections 1362 and  
                  1365, as last amended by Section 1, Chapter 28,  
                  O.S.L. 2009 (74 O.S. Supp. 2010, Section 1365), which  
                  relate to the Oklahoma State Employees Benefits Act;  
                  removing certain benefit uniformity requirements;  
                  removing certain indemnity health plan uniformity  
                  requirements; modifying duties, responsibilities and

1 authority of the Oklahoma State Employees Benefits  
2 Council; providing for codification; and providing an  
3 effective date.

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

6 SECTION 1. AMENDATORY 74 O.S. 2001, Section 1302, is  
7 amended to read as follows:

8 Section 1302. It is hereby declared that the purpose of ~~this~~  
9 ~~act~~ the State and Education Employees Group Insurance Act is:

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

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

16 ~~(e)~~ (b) To recognize and protect the state's investment in each  
17 permanent employee by promoting and preserving good health and  
18 longevity among state employees;

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

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

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

5 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1308.1, as  
6 amended by Section 1, Chapter 41, O.S.L. 2004 (74 O.S. Supp. 2010,  
7 Section 1308.1), is amended to read as follows:

8 Section 1308.1 (1) An educational entity may extend the  
9 benefits of the health insurance plan, the dental insurance plan,  
10 and the life insurance plan to education employees employed by said  
11 entity. ~~The benefits of said plans for an education employee shall  
12 be the same and shall include the same plan options as would be made  
13 available to a state employee participating in the plan that resided  
14 at the same location.~~ Notwithstanding the provisions of Section  
15 1308.2 of this title, a period shall exist for enrolling education  
16 entities from April 1, 1989 through October 1, 1991, whereby  
17 education employees of a participating education entity may be  
18 enrolled, pursuant to this act, during the entities' initial  
19 enrollment period, regardless of preexisting conditions. The Board  
20 shall adopt rules and regulations for enrollment by which education  
21 entities may apply to participate in said insurance plans. Once an  
22 education entity becomes a participant in the health and dental  
23 insurance plans offered through the State and Education Employees

1 Group Insurance Act, the education entity may withdraw from said  
2 participation, in a manner prescribed by the Board. If a school  
3 district is participating in the health and dental insurance plans  
4 pursuant to the State and Education Employees Group Insurance Act,  
5 Section 1301 et seq. of this title, the employees of the school  
6 district who are eligible to participate in the health and dental  
7 plans, at such time as the school district may withdraw from such  
8 participation, may require the board of education of the school  
9 district to call an election to allow said employees to vote as to  
10 whether the school district shall continue participation in the  
11 health and dental insurance plans offered through the State and  
12 Education Employees Group Insurance Act. Upon the filing with the  
13 board of education of a petition calling for such an election which  
14 is signed by no less than thirty percent (30%) of the eligible  
15 employees of the school district, the board of education shall call  
16 an election for the purpose of determining whether the school  
17 district shall continue participation in the health and dental  
18 insurance plans offered through the State and Education Employees  
19 Group Insurance Act. The election shall be held within thirty (30)  
20 days of the filing of the petition. If a majority of those eligible  
21 employees voting at the election vote to continue participation in  
22 the health and dental insurance plans offered through the State and  
23 Education Employees Group Insurance Act, the board of education

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

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

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

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

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

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

8 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1310.1, as  
9 last amended by Section 1, Chapter 373, O.S.L. 2004 (74 O.S. Supp.  
10 2010, Section 1310.1), is amended to read as follows:

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

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

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UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1        ~~B. The premium for education entities that participate in the~~  
2 ~~health and dental insurance plans offered through the State and~~  
3 ~~Education Employees Group Insurance Act shall be the same as paid by~~  
4 ~~state agencies for said plans.~~

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

10        SECTION 4.        AMENDATORY        74 O.S. 2001, Section 1315, as  
11 last amended by Section 4, Chapter 345, O.S.L. 2004 (74 O.S. Supp.  
12 2010, Section 1315), is amended to read as follows:

13        Section 1315. A. Upon application in writing and subject to  
14 any underwriting criteria that may be established by the State and  
15 Education Employees Group Insurance Board, the Board may extend the  
16 benefits of the State and Education Employees Group Health and Life  
17 Insurance Plans to employees who are employed in positions requiring  
18 actual performance of duty during not less than one thousand (1,000)  
19 hours per year and to all full-time employees of:

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

- 22            a. county,
- 23            b. city,

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~~Strike thru~~ language denotes deletion from present Statutes.

- 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,

1 j. statewide nonprofit entities representing employees of  
2 the state or employees of local political subdivisions  
3 who are eligible for insurance benefits authorized by  
4 the provisions of the State and Education Employees  
5 Group Insurance Act, or

6 k. statewide nonprofit entities receiving state funds to  
7 provide no cost legal services to low income and  
8 senior citizens.

9 B. Applications to participate in the State and Education  
10 Employees Group Health and Life Insurance Plans shall be approved by  
11 majority action of the governing body of the groups listed in  
12 subsection A of this section.

13 C. Groups listed in subsection A of this section participating  
14 in the Oklahoma State and Education Employees Group Health and Life  
15 Insurance Plans shall pay all costs attributable to their  
16 participation. ~~The benefits of said plans for a participant  
17 provided coverage pursuant to this section shall be the same and  
18 shall include the same plan options as would be made available to a  
19 state employee participating in the plan that resided at the same  
20 location. The premium for participating groups listed in subsection  
21 A of this section shall be the same as paid by state and education  
22 employees.~~

1 D. Participating groups listed in subsection A of this section  
2 shall not be required to offer dental insurance as defined in  
3 paragraph ~~(11)~~ of Section 1303 of this title, or other insurance as  
4 defined in paragraph ~~(12)~~ of Section 1303 of this title. However,  
5 if dental insurance or any other insurance is offered, it must be  
6 provided to all eligible employees. If an employee retires and  
7 begins to receive benefits from the Oklahoma Public Employees  
8 Retirement System or terminates service and has a vested benefit  
9 with the Oklahoma Public Employees Retirement System, the employee  
10 may elect, in the manner provided in Section 1316.2 of this title,  
11 to participate in the dental insurance plan offered through the  
12 State and Education Employees Group Insurance Act within thirty (30)  
13 days from the date of termination of employment. The employee shall  
14 pay the full cost of the dental insurance.

15 E. 1. Any employee of a group listed in subsection A of this  
16 section who retires or who has a vested benefit pursuant to the  
17 Oklahoma Public Employees Retirement System may begin the health  
18 insurance coverage if the employer of the employee is not a  
19 participant of the State and Education Employees Group Insurance Act  
20 and does not offer health insurance to its employees. Such election  
21 by the employee to begin coverage shall be made within thirty (30)  
22 days from the date of termination of service.

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

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

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

8 H. Notwithstanding other provisions in this section, an  
9 employer listed in subsection A of this section may cease to  
10 participate in the State and Education Employees Group Insurance Act  
11 but provide health insurance coverage for its current and former  
12 employees through another insurance carrier. The subsequent carrier  
13 shall be responsible for providing coverage to the entity's  
14 employees who terminated employment with a retirement benefit, with  
15 a vested benefit, or who have eight (8) or more years of service  
16 with a participating employer but did not have a vested benefit  
17 through the Oklahoma Public Employees Retirement System, if the  
18 election to retain health insurance coverage was made within thirty  
19 (30) days of termination of employment. Coverage shall also be  
20 provided to the eligible dependents of the employees if an election  
21 to retain coverage is made within thirty (30) days of termination of  
22 employment. Employees who terminate employment from an employer  
23 covered by this paragraph before December 31, 2001, and elect

1 coverage under the State and Education Employees Group Insurance  
2 Act, shall not be required to change insurance carriers in the event  
3 that the employer changes its insurance carrier to a subsequent  
4 carrier. The provisions of this subsection shall become effective  
5 January 1, 2002.

6 I. Employers pursuant to subsection A of this section who  
7 participate in the Oklahoma Public Employees Retirement System and  
8 who offer health insurance coverage to their active employees, shall  
9 offer health insurance coverage to those employees who retire from  
10 the employer and also to those employees who terminate employment  
11 and are eligible to elect a vested benefit in the System. Such  
12 employers shall begin offering coverage to such employees on or  
13 before January 1, 2004. Such employees who wish to continue  
14 coverage shall make an election to retain health insurance coverage  
15 within thirty (30) days of termination of employment. However,  
16 former employees of such employers who have already retired or who  
17 have terminated and are eligible to elect a vested benefit under the  
18 Oklahoma Public Employees Retirement System, during the period  
19 beginning January 1, 2002, and ending December 31, 2003, may make an  
20 election to begin participation in the plans offered by the State  
21 and Education Employees Group Insurance Board on or before December  
22 31, 2003, in the same manner as other participating retired or  
23 vested members. The employer, assisted by the Oklahoma Public

1 Employees Retirement System shall notify by October 1, 2003, all  
2 members who have either retired from the System or who are eligible  
3 to elect a vested benefit in the System between January 1, 2002,  
4 through December 31, 2003, and who were employed by an employer  
5 listed in subsection A of this section of the member's potential  
6 eligibility to participate in such plans. Each employer shall  
7 notify the Oklahoma Public Employees Retirement System when an  
8 employee is retiring and makes the election pursuant to this  
9 subsection to continue coverage under a plan offered by such  
10 employer and when an employee terminates employment and is eligible  
11 to elect a vested benefit in the System and such employee elects to  
12 continue coverage under a plan offered by such employer. Such  
13 employer shall also notify the Oklahoma Public Employees Retirement  
14 System if a retired employee or an employee who is eligible to elect  
15 a vested benefit in the System terminates such continued coverage.

16 J. Any group that begins participation in the State and  
17 Education Employees Group Health and Life Insurance Plans after the  
18 effective date of this act and that is not composed of state or  
19 education employees must have one hundred percent (100%)  
20 participation in the health plan offered pursuant to the State and  
21 Education Employees Group Insurance Act.

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1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1329 of Title 74, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The State and Education Employees Group Insurance Board  
5 ("Board"), or its successor, shall contract for plan year 2012 with  
6 a vendor that offers a web-based healthcare cost containment program  
7 that incorporates doctor-patient mutual accountability incentives.  
8 The purpose of the contract is to conduct a pilot project to test a  
9 program's value proposition that offers financial incentives to both  
10 the health care provider and the patient for demonstrating to one  
11 another the adoption of best practices, continuum of care and  
12 population health management regimens to include wellness and  
13 prevention, health risk management, and disease management. At a  
14 minimum, the program shall incorporate evidence-based medicine  
15 treatment guidelines and doctor-initiated patient health literacy  
16 through information therapy prescriptions. The program shall offer  
17 the health care provider the flexibility to use the healthcare  
18 providers clinical judgment to adhere to or deviate from the  
19 program's treatment guidelines and still earn a financial incentive  
20 as long as the health care provider prescribes information therapy  
21 to the patient that includes an explanation of the provider's  
22 adherence or reason for nonadherence to the guideline. The program  
23 shall offer a financial reward to the patient for responding to the

1 information therapy prescription by demonstrating the patient's  
2 understanding of the patient's health condition, by declaring or  
3 demonstrating adherence to recommended care, by agreeing to allow  
4 the patient's physician to view the patient's responses and  
5 acknowledge the patient's health accomplishments, and by judging the  
6 quality of care given to the patient against these guidelines and  
7 recommended care. The program shall also allow the health care  
8 provider and the patient to earn additional financial incentives  
9 when providers prescribe and patients successfully participate in  
10 wellness, prevention and care management regimens such as health  
11 risk assessments and screenings, smoking cessation, weight loss and  
12 fitness programs, disease management, etc., provided the health care  
13 provider acknowledges the program's authentication of the patient's  
14 participation in these regimens. Participation in the program shall  
15 be voluntary to both the provider and patient on an encounter-by-  
16 encounter basis. The program shall be offered and administered by  
17 the program vendor through an Internet application. The pilot  
18 project shall include at least 20,000 lives covered by the Board to  
19 achieve statistical significance and collect and analyze data over a  
20 period of three (3) years in order to determine the program's  
21 effectiveness in terms of controlling health care costs. If it is  
22 determined that the program is effective, the Board shall continue

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1 the contract with such vendor by making the program available to all  
2 Board beneficiaries.

3 B. An analysis shall be performed periodically, but no less  
4 frequent than annually, by a qualified and independent evaluator,  
5 who is acceptable to both the Board and the vendor, to determine the  
6 program's effectiveness at controlling healthcare costs and  
7 achieving other pertinent objectives. The evaluator shall prepare  
8 and submit annual and final written reports from the analysis, to  
9 include reviews and comments by the Board and the vendor, to the  
10 Governor, the Speaker of the Oklahoma House Representatives, the  
11 President Pro Tempore of the State Senate, the Board, and the  
12 vendor.

13 C. The Board shall use its operating funds to underwrite the  
14 cost of this pilot and shall not pass these costs along to the  
15 participating state agencies or school boards or providers.

16 SECTION 6. AMENDATORY 74 O.S. 2001, Section 1362, is  
17 amended to read as follows:

18 Section 1362. It is hereby declared that the purpose of Section  
19 1361 et seq. of this title is:

20 1. To recognize that the employee benefit needs of individual  
21 state employees differ, depending on the age, salary and family  
22 status of the employee, and that it is needful to permit  
23 participating employees to select and tailor the benefits they

1 receive in a manner calculated to best meet the particular needs of  
2 themselves and their families;

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

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

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

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

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

21 ~~7. To provide uniform benefit options for all state employees~~  
22 ~~regardless of their place of residence within this state;~~

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

3       ~~9.~~ 8. To provide for the coordination and design, in accordance  
4 with applicable law, of all employee benefits offered to state  
5 employees so as to increase the efficient delivery and effectiveness  
6 of those benefits;

7       ~~10.~~ 9. To enable the state to attract and retain qualified  
8 employees by providing employee benefits which are competitive with  
9 those provided private industry;

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

14       ~~12.~~ 10. To recognize and protect the state's investment in each  
15 employee by promoting and preserving good health and longevity among  
16 state employees;

17       ~~13.~~ 11. To recognize the service to the state by elected and  
18 appointed officials by extending to them the same benefits as are  
19 provided under the flexible benefits program to state employees; and

20       ~~14.~~ 12. To recognize long and faithful service, and to  
21 encourage employees to remain in state service until eligible for  
22 retirement by providing employee benefits.

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1 SECTION 7. AMENDATORY 74 O.S. 2001, Section 1365, as  
2 last amended by Section 1, Chapter 28, O.S.L. 2009 (74 O.S. Supp.  
3 2010, Section 1365), is amended to read as follows:

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

7 1. To construe and interpret the plan, and decide all questions  
8 of eligibility in accordance with the Oklahoma State Employees  
9 Benefits Act and 26 U.S.C.A., Section 1 et seq.;

10 2. To select those benefits which shall be made available to  
11 participants under the plan, according to the Oklahoma State  
12 Employees Benefits Act, and other applicable laws and rules;

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

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

17 5. To prepare and distribute information communicating and  
18 explaining the plan to participating employers and participants.

19 The State and Education Employees Group Insurance Board, Health  
20 Maintenance Organizations, or other third-party insurance vendors  
21 may be directly or indirectly involved in the distribution of  
22 communicated information to participating state agency employers and  
23 state employee participants subject to the following conditions:

- 1 a. the Council shall verify all marketing and  
2 communications information for factual accuracy prior  
3 to distribution,  
4 b. the Board or vendors shall provide timely notice of  
5 any marketing, communications, or distribution plans  
6 to the Council and shall coordinate the scheduling of  
7 any group presentations with the Council, and  
8 c. the Board or vendors shall file a brief summary with  
9 the Council outlining the results following any  
10 marketing and communications activities;

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

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

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

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

15 10. To negotiate for best and final offer through competitive  
16 negotiation and contract with federally qualified health maintenance  
17 organizations under the provisions of 42 U.S.C., Section 300e et  
18 seq., ~~or~~ with Health Maintenance Organizations granted a certificate  
19 of authority by the Insurance Commissioner pursuant to Sections 6901  
20 through 6951 of Title 36 of the Oklahoma Statutes or with a  
21 preferred provider organization for consideration by participants as  
22 an alternative to the health plans offered by the Board, and to  
23 transfer to the health maintenance organizations or preferred

1 provider organizations such funds as may be approved for a  
2 participant electing ~~health maintenance organization~~ alternative  
3 services. The Council may also select and contract with a vendor to  
4 offer a point-of-service plan. An HMO may offer coverage through a  
5 point-of-service plan, subject to the guidelines established by the  
6 Council. However, if the Council chooses to offer a point-of-  
7 service plan, then a vendor that offers both an HMO plan and a  
8 point-of-service plan may choose to offer only its point-of-service  
9 plan in lieu of offering its HMO plan.

10 The Oklahoma State Employees Benefits Council may, however,  
11 renegotiate rates with successful bidders after contracts have been  
12 awarded if there is an extraordinary circumstance. An extraordinary  
13 circumstance shall be limited to insolvency of a participating  
14 health maintenance organization, preferred provider organization or  
15 point-of-service plan, dissolution of a participating health  
16 maintenance organization, preferred provider organization or point-  
17 of-service plan or withdrawal of another participating health  
18 maintenance organization, preferred provider organization or point-  
19 of-service plan at any time during the calendar year. Nothing in  
20 this section of law shall be construed to permit either party to  
21 unilaterally alter the terms of the contract;

22 11. To retain as confidential information the initial Request  
23 For Proposal offers as well as any subsequent bid offers made by the  
24

1 health plans prior to final contract awards as a part of the best  
2 and final offer negotiations process for the benefit plan;

3 12. To promulgate administrative rules for the competitive  
4 negotiation process;

5 13. To require vendors offering coverage through the Council,  
6 including the Board, to provide such enrollment and claims data as  
7 is determined by the Council. The Oklahoma State Employees Benefits  
8 Council with the cooperation of the Department of Central Services  
9 acting pursuant to Section 85.1 et seq. of this title, shall be  
10 authorized to retain as confidential, any proprietary information  
11 submitted in response to the Council's Request For Proposal.  
12 Provided, however, that any such information requested by the  
13 Council from the vendors shall only be subject to the  
14 confidentiality provision of this paragraph if it is clearly  
15 designated in the Request For Proposal as being protected under this  
16 provision. All requested information lacking such a designation in  
17 the Request For Proposal shall be subject to Section 24A.1 et seq.  
18 of Title 51 of the Oklahoma Statutes. From health maintenance  
19 organizations, data provided shall include the current Health Plan  
20 Employer Data and Information Set (HEDIS);

21 14. To purchase any insurance deemed necessary for providing  
22 benefits under the plan including indemnity dental plans, ~~provided~~  
23 ~~that the only indemnity health plan selected by the Council shall be~~

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1 ~~the indemnity plan offered by the Board,~~ and to transfer to the  
2 Board such funds as may be approved for a participant electing a  
3 benefit plan offered by the Board. All indemnity dental plans,  
4 including the one offered by the Oklahoma State and Education Group  
5 Insurance Board, must meet or exceed the following requirements:

- 6 a. they shall have a statewide provider network,
- 7 b. they shall provide benefits which shall reimburse the  
8 expense for the following types of dental procedures:
  - 9 (1) diagnostic,
  - 10 (2) preventative,
  - 11 (3) restorative,
  - 12 (4) endodontic,
  - 13 (5) periodontic,
  - 14 (6) prosthodontics,
  - 15 (7) oral surgery,
  - 16 (8) dental implants,
  - 17 (9) dental prosthetics, and
  - 18 (10) orthodontics, and
- 19 c. they shall provide an annual benefit of not less than  
20 One Thousand Five Hundred Dollars (\$1,500.00) for all  
21 services other than orthodontic services, and a  
22 lifetime benefit of not less than One Thousand Five  
23 Hundred Dollars (\$1,500.00) for orthodontic services;

1        15. To communicate deferred compensation programs as provided  
2 in Section 1701 of this title;

3        16. To assess and collect reasonable fees from the Board, and  
4 from such contracted health maintenance organizations, preferred  
5 provider organizations and third-party insurance vendors to offset  
6 the costs of administration as determined by the Council. The  
7 Council shall have the authority to transfer income received  
8 pursuant to this subsection to the Board for services provided by  
9 the Board;

10       17. To accept, modify or reject elections under the plan in  
11 accordance with the Oklahoma State Employees Benefits Act and 26  
12 U.S.C.A., Section 1 et seq.;

13       18. To promulgate election and claim forms to be used by  
14 participants;

15       19. To take all steps deemed necessary to properly administer  
16 the plan in accordance with the Oklahoma State Employees Benefits  
17 Act and the requirements of other applicable law; and

18       20. To manage, license or sell software developed for and  
19 acquired by the Council, whether or not such software is patented or  
20 copyrighted. The Council shall have the authority to license and  
21 sell such software or any rights to such software without declaring  
22 such property to be surplus. All proceeds from any such sale shall  
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1 be deposited in the Benefits Council Administration Revolving Fund  
2 and used to defray the costs of administration.

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

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

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

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

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

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

21 2. The Council may procure insurance indemnifying the members  
22 of the Council from personal loss or accountability from liability  
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1 resulting from a member's action or inaction as a member of the  
2 Council;

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

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

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

21 6. The duties and responsibilities allocated to each fiduciary  
22 by the Oklahoma State Employees Benefits Act or by the Council shall  
23 be the several and not joint responsibility of each, and no

1 fiduciary shall be liable for the act or omission of any other  
2 fiduciary unless:

- 3 a. by his or her failure to properly administer his or  
4 her specific responsibility he or she enabled such  
5 other person or organization to commit a breach of  
6 fiduciary responsibility, or
- 7 b. he or she knowingly participates in, or knowingly  
8 undertakes to conceal, an act or omission of another  
9 person or organization, knowing such act or omission  
10 to be a breach, or
- 11 c. having knowledge of the breach of another person or  
12 organization, he or she fails to make reasonable  
13 efforts under the circumstances to remedy said breach.

14 SECTION 8. This act shall become effective November 1, 2011.

15  
16 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated  
17 03-03-2011 - DO PASS, As Amended and Coauthored.

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