

1 **SENATE FLOOR VERSION**

2 April 9, 2012

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 3053

By: Steele and Murphey of the  
House

6 and

7 David of the Senate

8  
9 [ State Government Administrative Process  
10 Consolidation and Reorganization Reform Act of 2012 -  
11 Office of Management and Enterprise Services -  
12 consolidating certain agencies - codification -  
13 noncodification - effective date -  
14 emergency ]

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

16 SECTION 1. NEW LAW A new section of law not to be  
17 codified in the Oklahoma Statutes reads as follows:

18 This act shall be known and may be cited as the "State  
19 Government Administrative Process Consolidation and Reorganization  
20 Reform Act of 2012".

21 SECTION 2. AMENDATORY 62 O.S. 2011, Section 34.3, is  
22 amended to read as follows:

23 Section 34.3 A. There is hereby created in the Executive  
24 Department, ~~the Office of State Finance which shall consist of a~~  
~~Division of the Budget, Division of Central Accounting and~~

1 ~~Reporting, Department of Central Services, Office of Personnel~~  
2 ~~Management, Department of State and Education Employees Group~~  
3 ~~Insurance and Department of Employee Benefits, all under the~~  
4 ~~administrative control of the Director of the Office of State~~  
5 ~~Finance and directly responsible to the Director and an Information~~  
6 ~~Services Division under the administrative control of the Chief~~  
7 ~~Information Officer and directly responsible to the Officer the~~  
8 ~~Office of Management and Enterprise Services.~~

9 B. The term "state agency" or "agency", when used in the  
10 Oklahoma State Finance Act, shall mean any agency, board, bureau,  
11 commission, or other entity organized within the executive  
12 department of state government.

13 C. The term "authorization", when used in the Oklahoma State  
14 Finance Act, shall mean the legislative authorization for an agency  
15 to expend a certain amount of money from a specified fund or funds  
16 during a specified period of time.

17 SECTION 3. AMENDATORY 62 O.S. 2011, Section 34.3.1, is  
18 amended to read as follows:

19 Section 34.3.1 A. The Department of Central Services, Office  
20 of Personnel Management, Oklahoma State Employees Benefits Council  
21 and the State and Education Employees Group Insurance Board are  
22 consolidated into the ~~Office of State Finance~~ Office of Management  
23 and Enterprise Services. The Director of the ~~Office of State~~  
24 ~~Finance~~ Office of Management and Enterprise Services shall assume

1 all executive-level responsibilities for each agency and shall  
2 function as and possess the powers of the agency director for each  
3 consolidated agency as enumerated by existing statute. For the  
4 purposes of this section the term "consolidated agencies" shall mean  
5 the Department of Central Services, Office of Personnel Management,  
6 Oklahoma State Employees Benefits Council and the State and  
7 Education Employees Group Insurance Board.

8 ~~B. Not later than December 31, 2011, the Director of the Office~~  
9 ~~of State Finance shall cause the administrative functions of each~~  
10 ~~consolidated agency to be consolidated. The Director of the Office~~  
11 ~~of State Finance shall demonstrate cost reduction as a result of the~~  
12 ~~consolidation that is equal to fifteen percent (15%) of the~~  
13 ~~legislative appropriations received by the consolidated agencies~~  
14 ~~during fiscal year 2012. The Director shall produce a report which~~  
15 ~~details the source and estimated amounts of savings resulting from~~  
16 ~~this consolidation, which shall be included in the Governor's~~  
17 ~~Executive Budget for fiscal year 2013.~~

18 ~~C. Not later than December 31, 2011, the Director of the Office~~  
19 ~~of State Finance shall provide recommendations to the Legislature~~  
20 ~~for the streamlining, reduction or elimination of the governance~~  
21 ~~structures and statutorily established positions of each of the~~  
22 ~~consolidated agencies. Until otherwise provided for by law, the~~  
23 ~~governance structures and statutorily established positions of each~~  
24 ~~of the consolidated agencies shall be maintained. Any funds~~

1 ~~appropriated to, in the possession of or allocated to any of the~~  
2 ~~consolidated agencies shall be deemed to be funds of the Office of~~  
3 ~~State Finance.~~

4 ~~D.~~ Upon request of the Director of the ~~Office of State Finance~~  
5 Office of Management and Enterprise Services, the personnel of the  
6 consolidated agencies shall deliver to the ~~Office of State Finance~~  
7 Office of Management and Enterprise Services all books, papers,  
8 records and property of the consolidated agencies.

9 ~~E.~~ C. All functions, powers, duties and obligations previously  
10 assigned to each of the consolidated agencies are hereby transferred  
11 to the ~~Office of State Finance~~ Office of Management and Enterprise  
12 Services.

13 ~~F.~~ D. All rules, regulations, acts, orders, determinations and  
14 decisions of the consolidated agencies pertaining to the functions  
15 and powers herein transferred and assigned to the ~~Office of State~~  
16 ~~Finance~~ Office of Management and Enterprise Services, in force at  
17 the time of such transfer, assignment, assumption or devolution  
18 shall continue in force and effect as rules, regulations, acts,  
19 orders, determinations and decisions of the consolidated agencies  
20 until duly modified or abrogated by the appropriate body or until  
21 otherwise provided by law.

22 SECTION 4. AMENDATORY 74 O.S. 2011, Section 61.2, is  
23 amended to read as follows:

24

1 Section 61.2 ~~There is hereby created within the Office of State~~  
2 ~~Finance, a Department of Central Services, under the administrative~~  
3 ~~control of the Director of the Office of State Finance.~~ Whenever  
4 the terms "Board of Affairs", "State Board of Public Affairs",  
5 "Board" when used in reference to the Board Of Public Affairs ~~or,~~  
6 "Office of Public Affairs", or "Department of Central Services"  
7 appear in the Oklahoma Statutes they shall mean the ~~Department of~~  
8 ~~Central Services of the Office of State Finance~~ Office of Management  
9 and Enterprise Services. Whenever the term "Director of Public  
10 Affairs" appears in the Oklahoma Statutes it shall mean the Director  
11 of the ~~Office of State Finance~~ Office of Management and Enterprise  
12 Services. Whenever the term "Director of Central Services" appears  
13 in the Oklahoma Statutes it shall mean the Director of the ~~Office of~~  
14 ~~State Finance~~ Office of Management and Enterprise Services or  
15 designee.

16 SECTION 5. AMENDATORY 74 O.S. 2011, Section 840-1.6, is  
17 amended to read as follows:

18 Section 840-1.6 A. The internal administrative organization of  
19 the ~~Office of Personnel Management~~ Office of Management and  
20 Enterprise Services shall be determined by the ~~Administrator~~  
21 Director of the Office of Management and Enterprise Services in such  
22 a manner as to promote the efficient and effective enforcement of  
23 the Oklahoma Personnel Act.

24

1 B. The ~~Administrator~~ Director of the Office of Management and  
2 Enterprise Services may employ attorneys, accountants and other  
3 personnel as ~~he~~ the Director deems necessary to carry out the duties  
4 imposed upon the Office.

5 C. Employees of the Office shall be subject to the Merit System  
6 of Personnel Administration, unless otherwise exempted by Section  
7 840-5.5 of this title.

8 SECTION 6. AMENDATORY 74 O.S. 2011, Section 840-1.6A, is  
9 amended to read as follows:

10 Section 840-1.6A. ~~There is hereby created the~~ The Office of  
11 Personnel Management Division of the Office of State Finance is  
12 hereby consolidated into and renamed the Office of Management and  
13 Enterprise Services. ~~The chief administrative officer of said~~  
14 ~~Office of Personnel Management shall be the designee of the Director~~  
15 ~~of the Office of State Finance who shall be experienced in the~~  
16 ~~field, theory, and application of personnel administration~~ Where the  
17 term "Office of Personnel Management" is used within the Oklahoma  
18 Statutes, it shall mean the Office of Management and Enterprise  
19 Services. The chief administrative officer shall be the Director of  
20 the Office of Management and Enterprise Services. In addition to  
21 the other duties imposed by law, the ~~Administrator~~ Director shall:

- 22 1. Be responsible for the development of an efficient and  
23 effective system of personnel administration that meets the  
24 management needs of the various agencies;

1           2. ~~Effective July 1, 1995, organize~~ Organize the Office to  
2 provide both service and regulatory functions that are effective and  
3 efficient in meeting the management needs of various state agencies.  
4 The ~~Administrator~~ Director is directed to establish an agency  
5 service function to assist agencies with human resource needs based  
6 upon the administrative capacity and resources of the various  
7 agencies;

8           3. Prepare, maintain, and revise a classified system of  
9 employment designed to assure the impartial consideration of  
10 applicants for employment and to protect state employees from  
11 arbitrary dismissal or unfair treatment;

12           4. Develop and maintain a classification and compensation  
13 system for all classified positions in the executive branch of state  
14 government including those established by the Oklahoma Constitution;

15           5. Conduct an analysis of the rates of pay prevailing in the  
16 state in the public and private sectors for comparable jobs and  
17 report the findings to the Governor, the President Pro Tempore of  
18 the Senate, and the Speaker of the House of Representatives no later  
19 than December 1 of each year. Such analysis shall include all forms  
20 of compensation including fringe benefits. Information solicited by  
21 the Office of ~~Personnel Management~~ Management and Enterprise  
22 Services from public and private sector employers for such analysis,  
23 including but not limited to salaries, benefits, and compensation  
24

1 policies and procedures, shall be confidential and shall not be  
2 subject to disclosure under the Oklahoma Open Records Act;

3 6. Develop a program for the recruitment of qualified persons,  
4 including the administration of valid job-related nondiscriminatory  
5 selection procedures providing for competitive examinations when  
6 practical and for reasonable selection criteria when competitive  
7 examinations are not practical. As part of the recruitment program  
8 established by this section, the ~~Administrator~~ Director may identify  
9 positions or job family levels for expedited recruitment. Such  
10 expedited recruitment jobs may include only those jobs where  
11 education, experience or certification requirements substantially  
12 limit the pool of available applicants. Applicants who have been  
13 certified by the Office of ~~Personnel~~ Management and Enterprise  
14 Services as meeting the minimum qualifications for such jobs may be  
15 referred to agencies with vacancies in such jobs without examination  
16 or ranking, and may be eligible for appointment upon referral.  
17 However, a referral may not occur until the register for the job has  
18 been publicly announced for at least fourteen (14) calendar days.  
19 The ~~Administrator~~ Director may remove positions or job family levels  
20 from expedited recruitment at any time. The ~~Administrator~~ Director  
21 shall ~~adopt~~ promulgate rules to implement expedited recruitment;  
22 7. ~~Implement state affirmative action policies, and assure~~  
23 ~~equal employment opportunity;~~

24

1       ~~8.~~ Develop and implement a reasonable and expeditious method  
2 for referral of capable candidates for vacancies, probationary  
3 periods of employment, and the employment of individuals on other  
4 types of appointments as necessary;

5       ~~9.~~ 8. Assist state agencies in implementing their duties and  
6 obligations pursuant to the Oklahoma Personnel Act, ~~Section 840-1.1~~  
7 ~~et seq. of this title,~~ and provide standard forms to the agencies if  
8 necessary;

9       ~~10.~~ 9. Develop, in cooperation with appointing authorities,  
10 employee training programs, management training programs, a  
11 certified public manager program, a recruiting program, and a system  
12 of performance appraisals, and assist appointing authorities in the  
13 setting of productivity goals. The ~~Administrator~~ Director may  
14 establish and collect fees for participation in training programs.  
15 The ~~Administrator~~ Director is authorized to purchase awards for  
16 presentation to state employees as part of employee recognition  
17 activities sponsored by the Office of ~~Personnel~~ Management and  
18 Enterprise Services;

19       ~~11.~~ 10. Establish rules for leave and pay including, but not  
20 limited to, rules for leave, furloughs, performance pay increases,  
21 rates for pay differentials, on-call pay, and other types of pay  
22 incentives and salary adjustments consistent with the Oklahoma  
23 Personnel Act;

24

1 ~~12. Prepare and submit an annual budget covering the costs of~~  
2 ~~administering the personnel program;~~

3 ~~13. Make an annual report regarding the work of the Office of~~  
4 ~~Personnel Management;~~

5 ~~14. Adopt and implement rules necessary to perform the duties~~  
6 ~~imposed by law on the Office of Personnel Management in accordance~~  
7 ~~with the provisions of the Administrative Procedures Act. All rules~~  
8 ~~adopted by the Oklahoma Merit Protection Commission shall remain in~~  
9 ~~full force and effect until modified by the appropriate authority;~~

10 ~~15.~~ 11. Assist the Oklahoma Merit Protection Commission and the  
11 Executive Director in effectuating their duties, enforcement of the  
12 rules of the Merit System of Personnel Administration, and  
13 implementation of corrective action issued by the Commission;

14 ~~16.~~ 12. Be responsible for the development and maintenance of a  
15 uniform occupation code system, grouped by job titles or duties, for  
16 all classified and unclassified state positions. ~~Said~~ The  
17 responsibility shall include the establishment of rules governing  
18 the identification, tracking, and reporting of all state positions  
19 as provided in Section 840-2.13 of this title;

20 ~~17.~~ 13. Be responsible for advising state agencies on personnel  
21 policy and administration;

22 ~~18.~~ 14. Establish standards for continuing training, including  
23 affirmative action, and certification of personnel professionals in  
24 the executive branch of state government, excluding institutions

1 within The Oklahoma State System of Higher Education. Employees  
2 appointed to professional personnel positions shall complete an  
3 initial training program within ~~six (6) months~~ one (1) year after  
4 assuming the professional personnel position. Thereafter, they  
5 shall complete annual training requirements. Each appointing  
6 authority shall ensure that all professional personnel employees are  
7 notified of, and scheduled to attend, required training programs and  
8 shall make time available for employees to complete the programs.  
9 The ~~Administrator~~ Director shall be authorized to bill agencies for  
10 the training of personnel professionals pursuant to this paragraph  
11 to recover reasonable costs associated with the training. Monies  
12 received for such training shall be deposited in the ~~Office of~~  
13 ~~Personnel~~ Human Capital Management Revolving Fund. Expenditure of  
14 such funds collected for the training shall be exempt from any  
15 expenditure limit on the Office of ~~Personnel~~ Management and  
16 Enterprise Services established by law;

17 ~~19. Conduct~~ 15. Not less than once during each two-year  
18 period, conduct a study identifying the following, by job family  
19 ~~descriptor(s)~~ descriptors:

- 20 a. selected job family levels with a turnover rate in  
21 excess of ten percent (10%),
- 22 b. selected job family levels identified by the  
23 ~~Administrator of the Office of Personnel Management~~  
24 Director of the Office of Management and Enterprise

1            Services with salaries and benefits that are ten  
2            percent (10%) or more below the market for such  
3            ~~position(s)~~ positions, and

- 4            c.    selected job family levels identified by the  
5            ~~Administrator of the Office of Personnel Management~~  
6            Director in which recruitment efforts have yielded a  
7            low number of qualified applicants.

8    ~~The initial study shall be conducted by December 1, 2001, and every~~  
9    ~~two (2) years thereafter;~~

10        ~~20.~~ 16. Issue orders directing agencies to:

- 11            a.    conform and comply with the provisions of the Oklahoma  
12            Personnel Act, the Merit Rules of Personnel  
13            Administration, and all memoranda or other written  
14            communications issued to agencies explaining the  
15            Oklahoma Personnel Act, the Rules, and any other  
16            matter relating to the Merit System of Personnel  
17            Administration or under the jurisdiction of the  
18            ~~Administrator of the Office of Personnel Management~~  
19            Director, and

- 20            b.    take action pursuant to Section 840-6.9 of this title  
21            for failure to implement those orders;

22        ~~21.~~ 17. Establish a workforce planning function within the  
23    Office of ~~Personnel~~ Management and Enterprise Services to assist  
24    state agencies in analyzing the current workforce, determining

1 future workforce needs, and implementing solutions so that agencies  
2 may accomplish their missions; and

3 ~~22.~~ 18. Establish a quality management function within the  
4 Office of ~~Personnel Management~~ to Management and Enterprise Services  
5 and assist state agencies in fully integrating quality management  
6 concepts and models into their business practices for the purpose of  
7 improving the overall efficiency and effectiveness of state  
8 government.

9 SECTION 7. AMENDATORY 74 O.S. 2011, Section 840-1.9, is  
10 amended to read as follows:

11 Section 840-1.9 In addition to any other duties expressly set  
12 forth by law, the Oklahoma Merit Protection Commission shall:

13 1. Receive and act on complaints, counsel persons and groups on  
14 their rights and duties and take action designed to obtain voluntary  
15 compliance with the provisions of the Oklahoma Personnel Act;

16 2. Investigate allegations of violations of the provisions of  
17 the Oklahoma Personnel Act within its jurisdiction;

18 3. Investigate allegations of abuses in the employment  
19 practices of the ~~Administrator of the Office of Personnel Management~~  
20 Director of the Office of Management and Enterprise Services or of  
21 any state agency;

22 4. Investigate allegations of violations of the rules of the  
23 Merit System of Personnel Administration and prohibited activities  
24 in the classified service;

1           5. Establish and maintain a statewide Alternative Dispute  
2 Resolution Program to provide dispute resolution services for state  
3 agencies and employees. Actions agreed to through the Alternative  
4 Dispute Resolution Program provided by the Commission shall be  
5 consistent with applicable laws and rules and shall not alter,  
6 reduce, or modify any existing right or authority as provided by  
7 statute or rule;

8           6. Establish rules, pursuant to the Administrative Procedures  
9 Act as may be necessary to perform the duties and functions of the  
10 Commission including, but not limited to, rules to monitor state  
11 agency grievance processes to ensure full compliance with the law.  
12 The Commission may also recommend any changes it deems necessary to  
13 improve such grievance processes to the appropriate state agency;

14           7. Establish guidelines for the qualifications, duties,  
15 responsibilities, authority, power, and continued employment of the  
16 Executive Director, Administrative Hearing Officers, mediators, and  
17 other resolution arbitrators or facilitators;

18           8. Prepare and preserve an audio tape of all proceedings of all  
19 hearings conducted by the Commission and furnish transcripts of such  
20 tapes upon payment of the costs of such transcripts by the party  
21 requesting the transcripts;

22           9. Submit quarterly, fiscal year reports on workload statistics  
23 to the Governor, the Speaker of the House of Representatives, and  
24

1 the President Pro Tempore of the Senate containing the following  
2 information:

- 3 a. the number of cases, complaints, and requests for  
4 hearing filed, disposed of and pending with the  
5 Commission for each month of the quarter,
- 6 b. a numerical breakdown of the methods of disposition of  
7 such cases, complaints, and requests for hearing,
- 8 c. a numerical breakdown of mediations, prehearing  
9 conferences, and appellate hearings, conducted, and
- 10 d. the date of the oldest pending case, complaint, and  
11 request for hearing.

12 Quarterly reports shall be submitted within thirty (30) days  
13 following the last day of the month of the appropriate quarter; and

14 10. Make all records of the Commission, except those made  
15 confidential by law, available for public inspection, copying and  
16 mechanical reproduction, or either of them, in accordance with the  
17 Oklahoma Open Records Act and charge a fee not to exceed twenty-five  
18 cents (\$0.25) per page as the direct costs of document copying or  
19 mechanical reproduction. All fees collected pursuant to the  
20 provisions of this paragraph shall be deposited in the Oklahoma  
21 Merit Protection Commission Revolving Fund.

22 SECTION 8. AMENDATORY 74 O.S. 2011, Section 840-1.15, is  
23 amended to read as follows:

24

1 Section 840-1.15 A. The ~~Administrator~~ Director of the Office  
2 of Management and Enterprise Services shall establish standards and  
3 procedures for delegating to appointing authorities the authority to  
4 administer human resources functions normally conducted by the  
5 ~~Office of Personnel Management~~ Office of Management and Enterprise  
6 Services. The ~~Administrator~~ Director shall have the authority to  
7 approve delegation applications which shall constitute authority for  
8 the agency to implement approved delegations of personnel authority.

9 B. The ~~Administrator~~ Director shall create a program to allow  
10 agencies to design model human resource projects to test and  
11 evaluate the effect of innovative policies, standards, and  
12 procedures.

13 The number and scope of model projects shall be limited only by  
14 the capacity of the agency to implement the model projects, the  
15 quality of model project applications, and the ability of the ~~Office~~  
16 ~~of Personnel Management~~ Office of Management and Enterprise Services  
17 to monitor the projects. The ~~Administrator~~ Director shall have the  
18 authority to approve model project applications which shall  
19 constitute authority for the agency to implement approved model  
20 projects.

21 C. The ~~Administrator~~ Director shall create a Human Resource  
22 Management Plan and Self-Evaluation Report system for agencies  
23 including but not ~~be~~ limited to provisions related to affirmative  
24 action; staffing, recruitment, and promotion; classification and

1 compensation; training and staff development expenditures; the  
2 reporting of internal agency grievances and discrimination  
3 complaints filed, discharges, suspensions without pay and demotions,  
4 and number of investigations directed by the Oklahoma Merit  
5 Protection Commission and the outcome of all such actions; and  
6 strategies for assuring employee participation in the development of  
7 agency personnel activities. The self-evaluation should include  
8 comparisons with the previous year or years' personnel actions.

9 SECTION 9. AMENDATORY 74 O.S. 2011, Section 840-1.19, is  
10 amended to read as follows:

11 Section 840-1.19. It shall be the responsibility of each  
12 appointing authority to distribute copies of the Merit System of  
13 Personnel Administration Rules promulgated and published by the  
14 ~~Administrator of the Office of Personnel Management~~ Office of  
15 Management and Enterprise Services or the Merit Protection  
16 Commission, respectively, to all classified employees at the request  
17 of the ~~Administrator or the~~ Executive Director of the Commission or  
18 the Director of the Office.

19 SECTION 10. AMENDATORY 74 O.S. 2011, Section 840-1.20,  
20 is amended to read as follows:

21 Section 840-1.20. A. There is hereby created in the State  
22 Treasury a revolving fund for the ~~Office of Personnel Management~~  
23 Office of Management and Enterprise Services to be designated the  
24 "~~Office of Personnel~~ Human Capital Management Revolving Fund". The

1 fund shall be a continuing fund, not subject to fiscal year  
2 limitations, and shall consist of fees received by the ~~Office of~~  
3 ~~Personnel Management~~ Office of Management and Enterprise Services  
4 for providing training for a certified public managers program and  
5 all other monies received by the ~~Office of Personnel Management~~  
6 Office of Management and Enterprise Services, except for  
7 appropriated monies, and monies received as payment for  
8 administrative expenses under Section 840-1.18 of this title, ~~monies~~  
9 ~~placed in the Employee Benefits Revolving Fund, monies placed in the~~  
10 ~~Benefits Council Administration Revolving Fund, and any monies in~~  
11 ~~revolving funds established by the Office of State Finance to~~  
12 ~~support the operation of the Oklahoma Employees Benefits Council or~~  
13 ~~to reimburse the Office of Personnel Management for services the~~  
14 ~~Office provides to the Council.~~ All monies accruing to the credit  
15 of ~~said~~ the fund are hereby appropriated and may be budgeted and  
16 expended by the ~~Office of Personnel Management~~ Office of Management  
17 and Enterprise Services for defraying the costs incurred in  
18 performing the duties and functions of the Office. Expenditures  
19 from ~~said~~ the fund shall be made upon warrants issued by the State  
20 Treasurer against claims filed as prescribed by law with the  
21 Director of ~~State Finance~~ the Office of Management and Enterprise  
22 Services for approval and payment.

23 B. There is hereby created a petty cash fund not to exceed Two  
24 Hundred Fifty Dollars (\$250.00) for the ~~Office of Personnel~~

1 ~~Management~~ Office of Management and Enterprise Services. The  
2 Director of ~~State Finance~~ the Office of Management and Enterprise  
3 Services shall prescribe the rules and procedures for the  
4 administration of the petty cash fund.

5 C. Any monies in or obligations against the ~~Certified Public~~  
6 ~~Managers Revolving Fund upon the effective date of this act shall be~~  
7 ~~transferred to the Office of Personnel Management Revolving Fund~~  
8 Employee Benefits Revolving Fund and the Benefits Council  
9 Administration Revolving Fund shall be transferred to the Human  
10 Capital Management Revolving Fund. Funds previously designated for  
11 deposit into the Employee Benefits Revolving Fund and the Benefits  
12 Council Administration Revolving Fund shall be deposited into the  
13 Human Capital Management Revolving Fund.

14 D. The Office of Management and Enterprise Services is hereby  
15 directed to pay from the fund the costs of transcribing the record  
16 of any proceeding before the Office of Management and Enterprise  
17 Services, which record may be designated by an indigent respondent,  
18 if such respondent first establishes indigent condition through  
19 execution of an in forma pauperis affidavit upon a form approved by  
20 the Office of Management and Enterprise Services; provided, that if  
21 the indigent respondent has a financial recovery the fund shall be  
22 reimbursed from the proceeds.

23 SECTION 11. AMENDATORY 74 O.S. 2011, Section 840-2.1, is  
24 amended to read as follows:

1 Section 840-2.1 A. All agencies, boards, commissions,  
2 departments, and offices of each branch of state government, except  
3 institutions within The Oklahoma State System of Higher Education,  
4 shall submit an affirmative action plan to the ~~Office of Personnel~~  
5 ~~Management~~ Office of Management and Enterprise Services annually by  
6 September 1 following the end of the fiscal year ending June 30.  
7 Institutions within The Oklahoma State System of Higher Education  
8 shall submit an affirmative action plan to the Oklahoma State  
9 Regents for Higher Education in accordance with standards  
10 established by the Oklahoma State Regents for Higher Education.

11 B. ~~Said~~ The plan for agencies of the executive branch, except  
12 institutions within The Oklahoma State System of Higher Education,  
13 is subject to the approval of the ~~Administrator~~ Director of the  
14 ~~Office of Personnel Management~~ Office of Management and Enterprise  
15 Services.

16 C. The ~~Administrator~~ Director of the ~~Office of Personnel~~  
17 ~~Management~~ Office of Management and Enterprise Services shall  
18 analyze the affirmative action plans of executive branch agencies  
19 and Equal Employment Opportunity Commission reports prepared by such  
20 agencies, except institutions within The Oklahoma State System of  
21 Higher Education, and, on or before March 1 of each year, shall  
22 submit a report to the Speaker of the House of Representatives, the  
23 President Pro Tempore of the Senate, and the Governor. ~~Said~~ The  
24 report shall state the efforts and progress made by governmental

1 entities in the area of affirmative action, including the status of  
2 recruitment, hiring, and promotion of women, men and minorities  
3 within job categories.

4 D. The provisions of this section shall not require an agency,  
5 board, commission, department, or office of state government to  
6 grant preferential treatment to an individual or group because of  
7 race, color, religion, sex, national origin, age, or handicap  
8 because of an imbalance which may exist in comparison with the  
9 employment statistics of the area involved.

10 E. It is not a discriminatory practice for the appointing  
11 authority of an entity subject to the provisions of this title to  
12 adopt and implement an affirmative action plan to eliminate or  
13 reduce imbalances with respect to women and minorities if the plan  
14 has been approved by the ~~Office of Personnel Management~~ Office of  
15 Management and Enterprise Services in accordance with rules and  
16 guidelines adopted by the ~~Office of Personnel Management~~ Office of  
17 Management and Enterprise Services. For affirmative action  
18 purposes, any person who lists American Indian as ~~his~~ the person's  
19 race or national origin shall, within thirty (30) days of ~~his~~  
20 appointment, verify ~~his~~ the tribal affiliation by providing a  
21 certificate of Degree of Indian Blood from the U.S. Department of  
22 Interior, Bureau of Indian Affairs, or by providing the name and  
23 address of tribal officials who can verify ~~his~~ the tribal  
24 affiliation.

1 F. 1. The ~~Administrator~~ Director of the ~~Office of Personnel~~  
2 ~~Management~~ Office of Management and Enterprise Services shall  
3 establish qualification requirements for personnel serving as agency  
4 civil rights or affirmative action administrators, officers,  
5 coordinators and other personnel responsible for civil rights  
6 compliance or affirmative action for executive branch agencies.  
7 Such qualification requirements shall include, but not be limited  
8 to, knowledge of federal and state civil rights, affirmative action,  
9 and equal employment laws and regulations. Such personnel shall be  
10 subject to the training requirements specified by the ~~Office of~~  
11 ~~Personnel Management~~ Office of Management and Enterprise Services.  
12 The ~~Administrator~~ Director shall be authorized to bill agencies for  
13 the training of personnel professionals pursuant to this paragraph  
14 to recover reasonable costs associated with the training. Monies  
15 received for such training shall be deposited in the ~~Office of~~  
16 ~~Personnel~~ Human Capital Management Revolving Fund. Expenditure of  
17 such funds collected for the training shall be exempt from any  
18 expenditure limit for the ~~Office of Personnel Management~~ Office of  
19 Management and Enterprise Services established by law. ~~Effective~~  
20 ~~December 1, 1995, complaints~~ Complaints of alleged illegal  
21 discrimination shall be investigated only by personnel trained  
22 pursuant to the requirements of the ~~Administrator~~ Director, unless  
23 otherwise provided by federal or state law. This paragraph shall  
24

1 not apply to such personnel of the Oklahoma Merit Protection  
2 Commission or the Oklahoma Human Rights Commission.

3 2. If, after notice, administrative hearing and determination,  
4 pursuant to Article II of the Administrative Procedures Act, Section  
5 308a et seq. of Title 75 of the Oklahoma Statutes, the ~~Administrator~~  
6 Director finds that an appointing authority of any executive branch  
7 agency has failed to make significant progress toward affirmative  
8 action goals, or has failed to appoint a civil rights administrator  
9 without justifiable reasons, the ~~Administrator~~ Director may begin  
10 requiring remedies as allowed by subsection G of this section and  
11 rules promulgated thereto and appropriate to making progress toward  
12 affirmative action goals. Such action shall remain in effect until  
13 the ~~Administrator~~ Director determines that significant progress  
14 toward affirmative action goals is being made. The provisions of  
15 law pertaining to the duties and powers of any agency shall not be  
16 construed to deny the ~~Administrator~~ Director the authority provided  
17 for in this paragraph, unless the agency is specifically excluded by  
18 law from the provisions of this paragraph.

19 G. 1. The ~~Administrator~~ Director of the ~~Office of Personnel~~  
20 ~~Management~~ Office of Management and Enterprise Services shall  
21 develop rules for the imposition of appropriate remedies for  
22 agencies in the executive branch of state government, excluding The  
23 Oklahoma State System of Higher Education, when an agency has failed  
24 to make significant progress toward affirmative action goals or has

1 been found to have a pattern of noncompliance with affirmative  
2 action goals. If, pursuant to Article II of the Administrative  
3 Procedures Act, the ~~Administrator~~ Director finds that an agency has  
4 failed to make significant progress toward affirmative action goals  
5 or is found to have a pattern of noncompliance with affirmative  
6 action goals, remedies that the ~~Administrator~~ Director may impose  
7 shall include:

- 8 a. requiring noncomplying appointing authorities to  
9 participate in programs for special recruiting  
10 efforts,
- 11 b. development of training programs to enhance  
12 promotability of minorities within agencies and  
13 supervisory training in equal opportunity employment,  
14 affirmative action, managing workplace diversity, and
- 15 c. mandatory review and approval of all hiring and  
16 promotion decisions by an appointing authority by the  
17 ~~Administrator~~ Director if the ~~Administrator~~ Director  
18 can document a pattern of noncompliance in previous  
19 remedial actions pursuant to this subsection or  
20 appointment of a full-time affirmative action officer  
21 to any agency in noncompliance with affirmative action  
22 remedies.

23 2. ~~Effective July 1, 1995, if~~ If the ~~Administrator~~ Director  
24 determines that a pattern of noncompliance with affirmative action

1 goals exists at an agency and that none of the remedies provided by  
2 paragraph 1 of this subsection are appropriate and the ~~Administrator~~  
3 Director determines the ~~Office of Personnel Management~~ Office of  
4 Management and Enterprise Services has sufficient resources, the  
5 ~~Administrator~~ Director shall be empowered to remove personnel  
6 function(s) relating to recruitment, hiring or promotion from the  
7 appointing authority and to place that function with the  
8 ~~Administrator~~ Director of the ~~Office of Personnel Management~~ Office  
9 of Management and Enterprise Services as provided by this paragraph.  
10 Removal of personnel function(s) shall occur only when a pattern of  
11 noncompliance with the affirmative action plan can be documented and  
12 a vote by two-thirds (2/3) of the Affirmative Action Review Council  
13 recommends to the ~~Administrator~~ Director to remove personnel  
14 function(s). Removal of personnel function(s) shall terminate one  
15 (1) calendar year after the ~~Administrator~~ Director removes such  
16 function(s) unless the ~~Administrator~~ Director is able to demonstrate  
17 that the restoration of personnel function(s) to the appointing  
18 authority will result in further noncompliance with this section. A  
19 vote of two-thirds (2/3) of the Affirmative Action Review Council  
20 shall be necessary to continue the removal of personnel function(s)  
21 by the ~~Administrator~~ Director for each additional year. The  
22 ~~Administrator must receive approval from the Director of the Office~~  
23 ~~of State Finance to develop recruitment, hiring and promotion~~  
24 ~~actions within budgetary constraints for the affected agencies.~~ The

1 ~~Administrator~~ Director shall consult with the appointing authority  
2 about personnel plans and actions, but the ~~Administrator~~ Director  
3 shall retain final authority for personnel decisions within the  
4 scope of the ~~Administrator's~~ Director's authority for the period an  
5 agency is operating under removal of the personnel function(s).  
6 Nothing in this section shall prohibit the removal of a personnel  
7 function(s) remedy at any time if the ~~Administrator~~ Director  
8 determines the appointing authority and agency have the capability  
9 of reassuming the authority that was removed. The provisions of law  
10 pertaining to the duties and powers of any agency shall not be  
11 construed to deny the ~~Administrator~~ Director the authority provided  
12 for in this paragraph, unless the agency is specifically excluded by  
13 law from the provisions of this paragraph. Upon removal of an  
14 agency's personnel function(s), the ~~Administrator~~ Director may  
15 employ employees at the ~~Office of Personnel Management~~ Office of  
16 Management and Enterprise Services to assume the personnel  
17 function(s) of the agency as provided by this section.

18 H. 1. There is hereby created the Affirmative Action Review  
19 Council to assist in the implementation of the state's equal  
20 employment opportunity and affirmative action efforts mandated by  
21 this section. The ~~Administrator~~ Director of the ~~Office of Personnel~~  
22 ~~Management~~ Office of Management and Enterprise Services shall  
23 consult with and request the assistance of the Council in developing  
24 standards that executive branch agencies shall follow in adopting

1 their affirmative action plans. The Council shall review agency  
2 affirmative action plans and assist the ~~Administrator~~ Director in  
3 preparing the annual status report for agencies on equal employment  
4 opportunity and affirmative action required by this section. Staff  
5 for the Council shall be provided by the ~~Office of Personnel~~  
6 ~~Management~~ Office of Management and Enterprise Services.

7 2. The Affirmative Action Review Council shall consist of six  
8 (6) members. The individuals making the appointment shall consider  
9 experience in the field, theory, and application of human resources  
10 management and affirmative action in making their appointments.  
11 Members of the Council shall serve at the pleasure of the respective  
12 individuals making the appointments. Two members of the Council  
13 shall be appointed by the Governor, two members shall be appointed  
14 by the Speaker of the House of Representatives, and two members  
15 shall be appointed by the President Pro Tempore of the Senate.  
16 ~~Nothing shall preclude the appointment of members of the~~  
17 ~~Legislature.~~ Each individual making appointments shall give  
18 consideration to the diversity of the Council's membership when  
19 making the appointments and shall not appoint more than one  
20 individual who is an employee of the executive branch, excluding The  
21 Oklahoma State System of Higher Education. The Governor shall  
22 appoint the initial chair from among the Council's membership to  
23 serve a two-year term. Thereafter, the chair shall be selected by  
24 the Council from among its membership. The Council shall select a

1 vice-chair from among its membership. All members shall serve two-  
2 year terms, unless removed prior to the expiration of a term by the  
3 respective individual making the appointment. Any vacancy on the  
4 Council shall be filled by the individual who made the original  
5 appointment.

6 Except as provided in subparagraph b of paragraph 4 of this  
7 subsection, a majority of the members of the Council shall  
8 constitute a quorum to transact business, but no vacancy shall  
9 impair the right of the remaining members to exercise all of the  
10 powers of the Council and every act of a majority of the members  
11 present shall be deemed the act of the Council.

12 3. Members of the Council shall receive no compensation for  
13 serving on the Council, but shall be reimbursed for their necessary  
14 travel expenses incurred in the performance of their duties in  
15 accordance with the State Travel Reimbursement Act. Any member who  
16 is employed in state government shall receive the reimbursement from  
17 ~~their~~ the employing entity. Any member who is not an employee of  
18 state government shall receive the reimbursement from the Office of  
19 ~~Personnel~~ Management and Enterprise Services.

20 4. a. The Council shall make any recommendations to the  
21 ~~Administrator~~ Director, the Governor, the Speaker of  
22 the House of Representatives or the President Pro  
23 Tempore of the Senate the Council deems will assist in  
24

1 the attaining of affirmative action goals for state  
2 government.

3 b. The Council shall review agency affirmative action  
4 plans for compliance with the standards adopted by the  
5 ~~Administrator~~ Director. The Council shall recommend  
6 that the ~~Administrator~~ Director reject any agency  
7 plans which it finds in noncompliance.

8 c. The Council shall request the ~~Administrator~~ Director  
9 to investigate any agency that the Council believes  
10 has violated equal employment opportunity or  
11 affirmative action provisions of this section and to  
12 conduct hearings to determine if such violations have  
13 occurred. If the ~~Administrator~~ Director finds that an  
14 agency is not in compliance with such law and the  
15 Council believes that the noncompliance indicates a  
16 pattern of noncompliance, the Council, upon a two-  
17 thirds vote of its members, may recommend to the  
18 ~~Administrator~~ Director to act in accordance with this  
19 section to compel the agency to comply with equal  
20 employment opportunity and affirmative action laws.  
21 If the ~~Administrator~~ Director decides not to act on  
22 the Council's recommendation, the ~~Administrator~~  
23 Director shall respond in writing within thirty (30)  
24 days of the Council's recommendation setting forth the

1 reasons why the ~~Administrator~~ Director has decided not  
2 to act in accordance with said recommendation.

3 d. Any member who is an employee of an agency that is  
4 subject to investigation pursuant to subparagraph b of  
5 this paragraph shall disqualify himself or herself  
6 from voting on the matter.

7 e. This paragraph applies to review of issues related to  
8 affirmative action. This paragraph does not apply to  
9 prohibited discrimination that is within the  
10 jurisdiction of the Oklahoma Merit Protection  
11 Commission or the Oklahoma Human Rights Commission.

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

14 I. Affirmative action plans for the judicial branch of  
15 government, except the Court of Criminal Appeals and the Workers'  
16 Compensation Court, shall be prepared by the Administrative Director  
17 of the Courts. The Court of Criminal Appeals shall prepare  
18 affirmative action plans for the Court of Criminal Appeals. The  
19 Administrator of the Workers' Compensation Court shall prepare  
20 affirmative action plans for the Workers' Compensation Court.

21 J. The ~~Administrator~~ Director of the ~~Office of Personnel~~  
22 ~~Management~~ Office of Management and Enterprise Services is hereby  
23 directed to adopt rules necessary to implement the provisions of  
24 this section. Such rules regarding affirmative action plans shall

1 include, but not be limited to, a set of specific and result-  
2 oriented programs to which an appointing authority commits himself  
3 or herself to apply every good faith effort to achieve prompt and  
4 full utilization of women and minorities at all levels and in all  
5 segments of the work force where deficiencies exist. Such rules  
6 shall also include separate provisions for affirmative plans for  
7 agencies with fewer than fifteen full-time-equivalent employees.

8 SECTION 12. AMENDATORY 74 O.S. 2011, Section 1301, is  
9 amended to read as follows:

10 Section 1301. This act shall be known and may be cited as the  
11 "~~State and Education~~ Oklahoma Employees Group Insurance and Benefits  
12 Act".

13 SECTION 13. AMENDATORY 74 O.S. 2011, Section 1303, is  
14 amended to read as follows:

15 Section 1303. For the purposes of and as used in the ~~State and~~  
16 ~~Education Employees Group Insurance Act~~ Oklahoma Employees Insurance  
17 and Benefits Act:

18 1. "Board" means the ~~State and Education Employees Group~~  
19 ~~Insurance Board~~ Oklahoma Employees Insurance and Benefits Board as  
20 created by the ~~State and Education Employees Group Insurance Act~~  
21 Oklahoma Employees Insurance and Benefits Act;

22 2. "Plan" means the Oklahoma Employees Insurance Plan;

23 3. "Employee" means those state employees, education employees  
24 and other eligible employees participating in the ~~State and~~

1 ~~Education Employees Group Insurance Act~~ Oklahoma Employees Insurance  
2 and Benefits Act;

3 ~~3.~~ 4. "Education employee" means those employees other than  
4 adjunct professors employed by a state institution of higher  
5 education, in the service of an education entity who are members or  
6 are or will be eligible to become members of the Teachers'  
7 Retirement System of Oklahoma and who receive compensation for such  
8 service after the education entity begins to participate in the  
9 ~~State and Education Employees Group Insurance Act~~ Oklahoma Employees  
10 Insurance and Benefits Act and visiting faculty who are not eligible  
11 for membership in the Teachers' Retirement System of Oklahoma;

12 ~~4.~~ 5. "Adjunct professor" means a person employed by an  
13 institution of higher education who is attached in a subordinate or  
14 temporary capacity to the faculty or staff, and who is contracted to  
15 instruct in a given specific discipline;

16 ~~5.~~ 6. "Visiting faculty" means a person employed by an  
17 institution of higher education who is not eligible for academic  
18 rank or tenure, other than an adjunct professor, and who is  
19 contracted to instruct in a given specific discipline generally not  
20 to exceed one (1) academic year;

21 ~~6.~~ 7. "Education entity" means a school district, a technology  
22 center school district, or an institution comprising The Oklahoma  
23 State System of Higher Education;

24

1        ~~7.~~ 8. "State employee" means and includes each officer or  
2 employee in the service of the State of Oklahoma who, after January  
3 1, 1966, received compensation for service rendered to the State of  
4 Oklahoma on a warrant issued pursuant to a payroll certified by a  
5 department or by an elected or duly appointed officer of the state  
6 or who receives payment for the performance of personal services on  
7 a warrant issued pursuant to a payroll certified by a department and  
8 drawn by the State Treasurer against appropriations made by the  
9 Legislature from any state fund or against trust funds held by the  
10 State Treasurer, who is employed in a position normally requiring  
11 actual performance of duty during not less than one thousand (1,000)  
12 hours per year, and whose employment is not seasonal or temporary,  
13 except that a person elected by popular vote will be considered an  
14 employee during the person's tenure in office; provided, however,  
15 that employees who are otherwise eligible who are on approved leave  
16 without pay shall be eligible to continue coverage during such leave  
17 not to exceed twenty-four (24) months, as provided and published in  
18 the ~~Merit~~ Office of Management and Enterprise Services Rules for  
19 Employment ~~published by the Office of Personnel Management~~, from the  
20 date the employee goes on such leave provided the employee pays the  
21 full premiums due or persons who are drawing disability benefits  
22 under ~~Section 1331 et seq. of this title~~ the State Employees  
23 Disability Program Act or meet each and every requirement of the  
24

1 State Employees Disability Program shall be eligible to continue  
2 coverage provided the person pays the full premiums due;

3 ~~8.~~ 9. "Carrier" means the State of Oklahoma or a state  
4 designated Health Maintenance Organization (HMO). Such HMO shall be  
5 a federally qualified Health Maintenance Organization under 42  
6 U.S.C., Section 300e et seq.;

7 ~~9.~~ 10. "Health insurance plan" means a self-insured plan by the  
8 State of Oklahoma for the purpose of paying the cost of hospital and  
9 medical care up to the maximum coverage provided by said plan or  
10 prepaid medical plan(s) offered to employees as an alternative to  
11 the state-administered plan by federally qualified HMOs which have  
12 contracted with the state;

13 ~~10.~~ 11. "Life insurance plan" means a self-insured plan for the  
14 purpose of paying death and dismemberment benefits up to the maximum  
15 coverage provided by the plan;

16 ~~11.~~ 12. "Dental benefits plan" means a plan by the State of  
17 Oklahoma for the purpose of paying the cost of dental care up to the  
18 maximum coverage provided by the plan; whenever the term "dental  
19 insurance plan" or a term of like import appears in the ~~State and~~  
20 ~~Education Employees Group Insurance Act~~ Oklahoma Employees Insurance  
21 and Benefits Act, the term shall mean "dental benefits plan";

22 ~~12.~~ 13. "Other insurance" means any type of coverage other than  
23 basic hospital and medical benefits, major medical benefits,  
24

1 comprehensive benefits, life insurance benefits or dental insurance  
2 benefits, which the ~~Board~~ Plan may be directed to offer;

3 ~~13.~~ 14. "Dependent" means an employee's spouse or any unmarried  
4 child ~~(1)~~:

5 a. under the age of twenty-five (25) years, regardless of  
6 residence, provided that the employee is primarily  
7 responsible for their support, including ~~(a)~~:

8 (1) an adopted child, and ~~(b)~~

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

11 b. regardless of age who is incapable of self-support  
12 because of mental or physical incapacity that existed  
13 prior to reaching the age of twenty-five (25) years;

14 ~~14.~~ 15. "Comprehensive benefits" means benefits which reimburse  
15 the expense of hospital room and board, other hospital services,  
16 certain outpatient expenses, maternity benefits, surgical expense,  
17 including obstetrical care, in-hospital medical care expense,  
18 diagnostic radiological and laboratory benefits, physicians'  
19 services provided by house and office calls, treatments administered  
20 in physicians' office, prescription drugs, psychiatric services,  
21 Christian Science practitioners' services, Christian Science nurses'  
22 services, optometric medical services for injury or illness of the  
23 eye, home health care, home nursing service, hospice care, and such  
24 other benefits as may be determined by the Board. Such benefits

1 shall be provided on a copayment or coinsurance basis, the insured  
2 to pay a proportion of the cost of such benefits, and may be subject  
3 to a deductible that applies to all or part of the benefits as  
4 determined by the Board; and

5 ~~15.~~ 16. "Life insurance coverage" shall include a maximum  
6 amount of basic life insurance or benefit with or without a double  
7 indemnity provision and an amount of accidental death and  
8 dismemberment insurance or benefit per employee to be provided by  
9 the State of Oklahoma, and the employee shall have the option to  
10 purchase additional life insurance or benefits on the employee's  
11 life up to the amount provided by the plan. Such basic life  
12 insurance benefits, with or without double indemnity, and accidental  
13 death and dismemberment benefits shall not exclude coverage for  
14 death or dismemberment resulting from war, insurrection or riot.  
15 The Board may also extend dependent life insurance in an amount to  
16 be determined by the Board to each insured employee who elects to  
17 insure the employee's eligible dependents. Premiums for the  
18 dependent life insurance shall be paid wholly by the employee.

19 SECTION 14. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1304.1 of Title 74, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. The State and Education Employees Group Insurance Board and  
23 the Oklahoma State Employees Benefits Council are hereby abolished.  
24 Wherever the State and Education Employees Group Insurance Board and

1 the Oklahoma State Employees Benefits Council are referenced in law,  
2 that reference shall be construed to mean the Oklahoma Employees  
3 Insurance and Benefits Board.

4 B. There is hereby created the Oklahoma Employees Insurance and  
5 Benefits Board.

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

12 D. The Board shall consist of seven (7) members to be appointed  
13 as follows:

14 1. The State Insurance Commissioner, or designee;

15 2. Four members shall be appointed by the Governor;

16 3. One member shall be appointed by the Speaker of the Oklahoma  
17 House of Representatives; and

18 4. One member shall be appointed by the President Pro Tempore  
19 of the State Senate.

20 E. The appointed members shall:

21 1. Have demonstrated professional experience in investment or  
22 funds management, public funds management, public or private group  
23 health or pension fund management, or group health insurance  
24 management;

1           2. Be licensed to practice law in this state and have  
2 demonstrated professional experience in commercial matters; or

3           3. Be licensed by the Oklahoma Accountancy Board to practice in  
4 this state as a public accountant or a certified public accountant.

5           In making appointments that conform to the requirements of this  
6 subsection, at least one but not more than three members shall be  
7 appointed each from paragraphs 2 and 3 of this subsection by the  
8 combined appointing authorities.

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

11          G. Members of the Board shall be subject to the following:

12           1. The appointed members shall each receive compensation of  
13 Five Hundred Dollars (\$500.00) per month. Appointed members who  
14 fail to attend a regularly scheduled meeting of the Board shall not  
15 receive the related compensation;

16           2. The appointed members shall be reimbursed for their  
17 expenses, according to the State Travel Reimbursement Act, as are  
18 incurred in the performance of their duties, which shall be paid  
19 from the Health Insurance Reserve Fund;

20           3. In the event an appointed member does not attend at least  
21 seventy-five percent (75%) of the regularly scheduled meetings of  
22 the Board during a calendar year, the appointing authority may  
23 remove the member;

24

1 4. A member may also be removed for any other cause as provided  
2 by law;

3 5. No Board member shall be individually or personally liable  
4 for any action of the Board; and

5 6. Participation on the Board is contingent upon maintaining  
6 all necessary annual training as may be required through the Health  
7 Insurance Portability and Accountability Act of 1996, Medicare  
8 contracting requirements or other statutory or regulatory  
9 guidelines.

10 H. The Board shall meet as often as necessary to conduct  
11 business but shall meet no less than four times a year, with an  
12 organizational meeting to be held prior to December 1, 2012. The  
13 organizational meeting shall be called by the Insurance  
14 Commissioner. A majority of the members of the Board shall  
15 constitute a quorum for the transaction of business, and any  
16 official action of the Board must have a favorable vote by a  
17 majority of the members of the Board present.

18 I. Except as otherwise provided in this subsection, no member  
19 of the Board shall be a lobbyist registered in this state as  
20 provided by law, or be employed directly or indirectly by any firm  
21 or health care provider under contract to the State and Education  
22 Employees Group Insurance Board, the Oklahoma State Employees  
23 Benefits Council, or the Oklahoma Employees Insurance and Benefits  
24 Board, or any benefit program under its jurisdiction, for any goods

1 or services whatsoever. Any physician member of the Board shall not  
2 be subject to the provisions of this subsection.

3 J. Any vacancy occurring on the Board shall be filled for the  
4 unexpired term of office in the same manner as provided for in  
5 subsection D of this section.

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

9 L. The ~~Court Administrator~~ Administrative Director of the  
10 Courts shall designate grievance panel members as shall be  
11 necessary. The members of the grievance panel shall consist of two  
12 attorneys licensed to practice law in this state and one state  
13 licensed health care professional or health care administrator who  
14 has at least three (3) years practical experience, has had or has  
15 admitting privileges to a ~~State of Oklahoma~~ hospital in this state,  
16 has a working knowledge of prescription medication, or has worked in  
17 an administrative capacity at some point in their career. The state  
18 health care professional shall be appointed by the Governor. At the  
19 Governor's discretion, one or more qualified individuals may also be  
20 appointed as an alternate to serve on the grievance panel in the  
21 event the Governor's primary appointee becomes unable to serve.

22 M. The Office of Management and Enterprise Services shall have  
23 the following duties, responsibilities and authority with respect to  
24

1 the administration of the flexible benefits plan authorized pursuant  
2 to the State Employees Flexible Benefits Act:

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

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

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

11 4. Beginning with the plan year which begins on January 1,  
12 2013, to select and contract with one or more providers to offer a  
13 group TRICARE Supplement product to eligible employees who are  
14 eligible TRICARE beneficiaries. Any membership dues required to  
15 participate in a group TRICARE Supplement product offered pursuant  
16 to this paragraph shall be paid by the employee. As used in this  
17 paragraph, "TRICARE" means the Department of Defense health care  
18 program for active duty and retired service members and their  
19 families;

20 5. To prepare and distribute information communicating and  
21 explaining the plan to participating employers and participants.  
22 Health Maintenance Organizations or other third-party insurance  
23 vendors may be directly or indirectly involved in the distribution  
24 of communicated information to participating state agency employers

1 and state employee participants subject to the following condition:  
2 the Board shall verify all marketing and communications information  
3 for factual accuracy prior to distribution;

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

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

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

12 9. To negotiate for best and final offer through competitive  
13 negotiation with the assistance and through the purchasing  
14 procedures adopted by the Office of Management and Enterprise  
15 Services and contract with federally qualified health maintenance  
16 organizations under the provisions of 42 U.S.C., Section 300e et  
17 seq., or with Health Maintenance Organizations granted a certificate  
18 of authority by the Insurance Commissioner pursuant to the Health  
19 Maintenance Reform Act of 2003 for consideration by participants as  
20 an alternative to the health plans offered by the Oklahoma Employees  
21 Insurance and Benefits Board, and to transfer to the health  
22 maintenance organizations such funds as may be approved for a  
23 participant electing health maintenance organization alternative  
24 services. The Board may also select and contract with a vendor to

1 offer a point-of-service plan. An HMO may offer coverage through a  
2 point-of-service plan, subject to the guidelines established by the  
3 Board. However, if the Board chooses to offer a point-of-service  
4 plan, then a vendor that offers both an HMO plan and a point-of-  
5 service plan may choose to offer only its point-of-service plan in  
6 lieu of offering its HMO plan. The Board may, however, renegotiate  
7 rates with successful bidders after contracts have been awarded if  
8 there is an extraordinary circumstance. An extraordinary  
9 circumstance shall be limited to insolvency of a participating  
10 health maintenance organization or point-of-service plan,  
11 dissolution of a participating health maintenance organization or  
12 point-of-service plan or withdrawal of another participating health  
13 maintenance organization or point-of-service plan at any time during  
14 the calendar year. Nothing in this section of law shall be  
15 construed to permit either party to unilaterally alter the terms of  
16 the contract;

17 10. To retain as confidential information the initial Request  
18 For Proposal offers as well as any subsequent bid offers made by the  
19 health plans prior to final contract awards as a part of the best  
20 and final offer negotiations process for the benefit plan;

21 11. To promulgate administrative rules for the competitive  
22 negotiation process;

23 12. To require vendors offering coverage to provide such  
24 enrollment and claims data as is determined by the Board. The Board

1 shall be authorized to retain as confidential any proprietary  
2 information submitted in response to the Board's Request For  
3 Proposal. Provided, however, that any such information requested by  
4 the Board from the vendors shall only be subject to the  
5 confidentiality provision of this paragraph if it is clearly  
6 designated in the Request For Proposal as being protected under this  
7 provision. All requested information lacking such a designation in  
8 the Request For Proposal shall be subject to Section 24A.1 et seq.  
9 of Title 51 of the Oklahoma Statutes. From health maintenance  
10 organizations, data provided shall include the current Health Plan  
11 Employer Data and Information Set (HEDIS);

12 13. To authorize the purchase of any insurance deemed necessary  
13 for providing benefits under the plan including indemnity dental  
14 plans, provided that the only indemnity health plan selected by the  
15 Board shall be the indemnity plan offered by the Board, and to  
16 transfer to the Board such funds as may be approved for a  
17 participant electing a benefit plan offered by the Board. All  
18 indemnity dental plans shall meet or exceed the following  
19 requirements:

- 20 a. they shall have a statewide provider network,  
21 b. they shall provide benefits which shall reimburse the  
22 expense for the following types of dental procedures:  
23 (1) diagnostic,  
24 (2) preventative,

- 1 (3) restorative,
- 2 (4) endodontic,
- 3 (5) periodontic,
- 4 (6) prosthodontics,
- 5 (7) oral surgery,
- 6 (8) dental implants,
- 7 (9) dental prosthetics, and
- 8 (10) orthodontics, and

9 c. they shall provide an annual benefit of not less than  
10 One Thousand Five Hundred Dollars (\$1,500.00) for all  
11 services other than orthodontic services, and a  
12 lifetime benefit of not less than One Thousand Five  
13 Hundred Dollars (\$1,500.00) for orthodontic services;

14 14. To communicate deferred compensation programs as provided  
15 in Section 1701 of Title 74 of the Oklahoma Statutes;

16 15. To assess and collect reasonable fees from contracted  
17 health maintenance organizations and third-party insurance vendors  
18 to offset the costs of administration;

19 16. To accept, modify or reject elections under the plan in  
20 accordance with the Oklahoma State Employees Benefits Act and 26  
21 U.S.C.A., Section 1 et seq.;

22 17. To promulgate election and claim forms to be used by  
23 participants;

24

1 18. To adopt rules requiring payment for medical and dental  
2 services and treatment rendered by duly licensed hospitals,  
3 physicians and dentists. Unless the Board has otherwise contracted  
4 with the out-of-state health care provider, the Board shall  
5 reimburse for medical services and treatment rendered and charged by  
6 an out-of-state health care provider at least at the same percentage  
7 level as the network percentage level of the fee schedule  
8 established by the Oklahoma Employees Insurance and Benefits Board  
9 if the insured employee was referred to the out-of-state health care  
10 provider by a physician or it was an emergency situation and the  
11 out-of-state provider was the closest in proximity to the place of  
12 residence of the employee which offers the type of health care  
13 services needed. For purposes of this paragraph, health care  
14 providers shall include, but not be limited to, physicians,  
15 dentists, hospitals and special care facilities;

16 19. To enter into a contract with out-of-state providers in  
17 connection with any PPO or hospital or medical network plan which  
18 shall include, but not be limited to, special care facilities and  
19 hospitals outside the borders of the State of Oklahoma. The  
20 contract for out-of-state providers shall be identical to the in-  
21 state provider contracts. The Board may negotiate for discounts  
22 from billed charges when the out-of-state provider is not a network  
23 provider and the member sought services in an emergency situation,  
24 when the services were not otherwise available in the State of

1 Oklahoma or when the Administrator appointed by the Board approved  
2 the service as an exceptional circumstance; and

3 20. To create the establishment of a grievance procedure by  
4 which a three-member grievance panel shall act as an appeals body  
5 for complaints by insured employees regarding the allowance and  
6 payment of claims, eligibility, and other matters. Except for  
7 grievances settled to the satisfaction of both parties prior to a  
8 hearing, any person who requests in writing a hearing before the  
9 grievance panel shall receive a hearing before the panel. The  
10 grievance procedure provided by this paragraph shall be the  
11 exclusive remedy available to insured employees having complaints  
12 against the insurer. Such grievance procedure shall be subject to  
13 the Oklahoma Administrative Procedures Act, including provisions  
14 thereof for review of agency decisions by the district court. The  
15 grievance panel shall schedule a hearing regarding the allowance and  
16 payment of claims, eligibility and other matters within sixty (60)  
17 days from the date the grievance panel receives a written request  
18 for a hearing unless the panel orders a continuance for good cause  
19 shown. Upon written request by the insured employee to the  
20 grievance panel and received not less than ten (10) days before the  
21 hearing date, the grievance panel shall cause a full stenographic  
22 record of the proceedings to be made by a competent court reporter  
23 at the insured employee's expense

24

1 N. Except for a breach of fiduciary obligation, a Board member  
2 shall not be individually or personally responsible for any action  
3 of the Board.

4 O. The Board shall operate in an advisory capacity to the  
5 Office of Management and Enterprise Services.

6 P. The members of the Board shall not accept gifts or  
7 gratuities from an individual organization with a value in excess of  
8 Ten Dollars (\$10.00) per year. The provisions of this section shall  
9 not be construed to prevent the members of the Board from attending  
10 educational seminars, conferences, meetings or similar functions.

11 SECTION 15. AMENDATORY 74 O.S. 2011, Section 1320, is  
12 amended to read as follows:

13 Section 1320. A. ~~The State and Education Employees Group~~  
14 ~~Insurance Board~~ For purposes of administering the Oklahoma Employees  
15 Insurance and Benefits Act, the Director of the Office of Management  
16 and Enterprise Services is authorized to hire and appoint an  
17 ~~administrator~~ Administrator who shall be in the unclassified service  
18 and shall serve at the pleasure of the Director of the Office of  
19 Management and Enterprise Services.

20 B. The ~~Board~~ Director of the Office of Management and  
21 Enterprise Services may hire a director of internal audit and one  
22 attorney licensed to practice law in this state. The attorney hired  
23 by the Board shall have not less than five (5) years of experience  
24 in matters related to the insurance industry. The ~~Board~~ Director

1 shall directly supervise the duties of the director of internal  
2 audit, and shall not delegate ~~said~~ the supervision to the  
3 Administrator or any other employee ~~of the Board~~. In addition to  
4 duties assigned by the ~~Board~~ Director, the director of internal  
5 audit is authorized to audit all records of health providers and  
6 pharmacists who enter into any contract with the Board in order to  
7 ensure compliance with said contract provisions.

8 ~~B.~~ The ~~administrator~~ Director shall employ such persons as are  
9 necessary to administer the provisions of the ~~State and Education~~  
10 ~~Employees Group Insurance Act~~ Oklahoma Employees Insurance and  
11 Benefits Act, the State Employees Flexible Benefits Act and the  
12 State Employees Disability Program Act. The ~~administrator~~ Director  
13 may employ a maximum of two ~~(2)~~ attorneys for purposes of  
14 administering the Oklahoma Employees Insurance and Benefits Act.  
15 The ~~administrator~~ Administrator or one of the deputy administrators  
16 shall have not less than seven (7) years of group health insurance  
17 administration experience on a senior managerial level.

18 C. The ~~Board~~ Director shall not contract for private legal  
19 counsel except for extraordinary situations other than normal day to  
20 day situations, and when approved by the Attorney General. The  
21 ~~Board~~ Director may contract with a nonemployee consulting actuary, a  
22 nonemployee medical consultant and a nonemployee dental consultant  
23 subject to competitive bid at least every three (3) years. The  
24 ~~Board~~ Director may contract with health care providers for a level

1 of reimbursement for the payment of claims incurred by the plan  
2 participants. The ~~Board~~ Director may at its request use the  
3 services of the office of the Attorney General and the actuarial  
4 services of any actuary employed by the Insurance Commissioner and  
5 may also seek the advice and counsel of the Insurance Commissioner  
6 of the State of Oklahoma or any employee of the Office of the  
7 Insurance Commissioner.

8 SECTION 16. AMENDATORY 74 O.S. 2011, Section 1363, is  
9 amended to read as follows:

10 Section 1363. The following words and phrases as used in ~~this~~  
11 ~~act~~ Section 1361 et seq. of this title, unless a different meaning  
12 is clearly required by the context, shall have the following  
13 meanings:

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

15 2. "Basic plan" means the plan that provides the least amount  
16 of benefits each participant is required to purchase pursuant to the  
17 provisions of the plan. The basic plan shall include only health,  
18 dental, disability and life benefits;

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

21 4. "Benefit plan" means the specific terms and conditions  
22 regarding a benefit which may be purchased under the plan, including  
23 the terms and conditions of any separate plan document, group  
24

1 insurance policy or administrative services contract entered into by  
2 the ~~Council~~ Oklahoma Employees Insurance and Benefits Board;

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

5 6. "Board" means the ~~State and Education Employees Group~~  
6 ~~Insurance Board, as created by the State and Education Employees~~  
7 ~~Group Insurance Act~~ Oklahoma Employees Insurance and Benefits Board;

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

10 8. "Compensation" means the remuneration directly paid to a  
11 participating employee by a participating employer exclusive of  
12 overtime pay, and longevity pay, calculated prior to and without  
13 regard to adjustments arising out of an employee's participation in  
14 the plan authorized pursuant to this act, or amounts deferred under  
15 the tax sheltered income deferment plans as authorized by Section  
16 1701 et seq. of this title;

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

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

22 ~~11.~~ 10. "Dependent" means a participant's spouse or any of his  
23 or her dependents as defined in Code Section 152 and regulations  
24 promulgated thereunder;

1       ~~12.~~ 11. "Flexible benefit allowance" means the annual amounts  
2 credited by the participating employer for each participant for the  
3 purchase of benefits under the plan;

4       ~~13.~~ 12. "Flexible benefit dollars" means the sum of the  
5 flexible benefit allowance and pay conversion dollars allocated by a  
6 participant pursuant to provisions of the plan;

7       ~~14.~~ 13. "Participant" means any officer or employee of a  
8 participating employer who is a member of the Oklahoma Law  
9 Enforcement Retirement System, the Oklahoma Public Employees  
10 Retirement System or the Uniform Retirement System for Justices and  
11 Judges, any officer or employee of a participating employer, whose  
12 employment is not seasonal or temporary and whose employment  
13 requires at least one thousand (1,000) hours of work per year and  
14 whose salary and wage is equal to or greater than the hourly wage  
15 for state employees ~~as provided in Section 284 of this title~~, and  
16 any employee of a participating employer who is a member of the  
17 Teachers' Retirement System of Oklahoma;

18       ~~15.~~ 14. "Participating employer" means any state agency, board,  
19 commission, department, institution, authority, officer, bureau,  
20 council, office or other entity created by the Oklahoma Constitution  
21 or statute that is a participating employer of the Oklahoma Law  
22 Enforcement Retirement System, the Oklahoma Public Employees  
23 Retirement System or the Uniform Retirement System for Justices and  
24 Judges, but shall not include any county, county hospital, city or

1 town, conservation district, any private or public trust in which a  
2 county, city or town participates and is the primary beneficiary,  
3 any school district or technology center school district, or  
4 political subdivision of the state, but shall include the State  
5 Department of Education, the Oklahoma Department of Wildlife  
6 Conservation, the Oklahoma Employment Security Commission, the  
7 Teachers' Retirement System of Oklahoma and the Oklahoma Department  
8 of Career and Technology Education. Provided the term  
9 "participating employer" shall also mean the State Regents for  
10 Higher Education or any institution under the authority of the State  
11 Regents for Higher Education upon agreement between the State  
12 Regents for Higher Education or the appropriate governing board of  
13 an institution under the authority of the State Regents for Higher  
14 Education and the ~~Council~~ Board;

15 ~~16.~~ 15. "Pay conversion dollars" means amounts by which a  
16 participant elects to reduce ~~his~~ the participant's compensation to  
17 purchase benefits under the plan;

18 ~~17.~~ 16. "Plan" means the flexible benefits plan authorized  
19 pursuant to the State Employees Flexible Benefits Act as modified by  
20 the provisions of this act;

21 ~~18.~~ 17. "Plan year" means for the plan year beginning July 1,  
22 2001, the six-month period commencing on July 1 and ending on the  
23 following December 31. The next plan year shall begin January 1,  
24

1 2002. It shall mean the twelve-month period commencing on January 1  
2 and ending on the following December 31;

3 ~~19.~~ 18. "Salary adjustment agreement" means a written agreement  
4 between a participant and participating employer whereby the  
5 employer agrees to adjust the salary of the participant by a stated  
6 amount or an amount equal to the cost of benefits selected under the  
7 plan and the participating employer agrees to contribute such amount  
8 to cover certain costs of the benefits selected by the participant  
9 to the ~~Council~~ Board; and

10 ~~20.~~ 19. "Termination" means the termination of a participant's  
11 employment as an employee of a participating employer, whether by  
12 reasons of discharge, voluntary termination, retirement, death or  
13 reduction-in-force.

14 SECTION 17. AMENDATORY 74 O.S. 2011, Section 1368, is  
15 amended to read as follows:

16 Section 1368. ~~There is hereby created in the State Treasury a~~  
17 ~~revolving fund for the Oklahoma State Employees Benefits Council to~~  
18 ~~be designated the "~~ The Benefits Council Administration Revolving  
19 Fund". ~~The fund shall be a continuing fund, not subject to fiscal~~  
20 ~~year limitations, and shall consist of all monies properly credited~~  
21 ~~and paid to the Oklahoma State Employees Benefits Council other than~~  
22 ~~flexible benefit dollars. Disbursements from the fund shall be~~  
23 ~~limited to the direct operation of the Oklahoma State Employees~~  
24 ~~Benefits Council and the Wellness Program as authorized by the~~

1 Council is hereby dissolved. Any reference in the Oklahoma Statutes  
2 to the Benefits Council Administration Revolving Fund shall be  
3 construed to mean the Human Capital Management Revolving Fund.  
4 Assets of the Benefits Council Administration Revolving Fund are  
5 hereby transferred to the Human Capital Management Revolving Fund.

6 SECTION 18. AMENDATORY 74 O.S. 2011, Section 1370, is  
7 amended to read as follows:

8 Section 1370. A. Subject to the requirement that a participant  
9 must elect the default benefits, the basic plan, or is a person who  
10 has retired from a branch of the United States military and has been  
11 provided with health care through a federal plan, to the extent that  
12 it is consistent with federal law, or is an active employee who is  
13 eligible to participate and who is a participant who has opted out  
14 of the state's basic plan according to the provisions of Section ~~2~~  
15 1308.3 of this ~~act~~ title, and provides proof of this coverage,  
16 flexible benefit dollars may be used to purchase any of the benefits  
17 offered by the Oklahoma State Employees Benefits Council under the  
18 flexible benefits plan. A participant who has opted out of the  
19 state's basic plan and provided proof of other coverage as described  
20 in this subsection shall receive One Hundred Fifty Dollars (\$150.00)  
21 in lieu of the flexible benefit monthly. A participant's flexible  
22 benefit dollars for a plan year shall consist of the sum of (1)  
23 flexible benefit allowance credited to a participant by the  
24

1 participating employer, and (2) pay conversion dollars elected by a  
2 participant.

3 B. Each participant shall be credited annually with a specified  
4 amount as a flexible benefit allowance which shall be available for  
5 the purchase of benefits. The amount of the flexible benefit  
6 allowance credited to each participant shall be communicated to him  
7 or her prior to the enrollment period for each plan year.

8 C. Except as provided in subsection D of this section, for the  
9 plan year ~~ending December 31, 2012~~ beginning January 1, 2013, the  
10 benefit allowance shall not be less than the Plan Year 2012 benefit  
11 allowance amounts, and each plan year thereafter, the amount of a  
12 participant's benefit allowance, which shall be the total amount the  
13 employer contributes for the payment of insurance premiums or other  
14 benefits, shall be:

15 1. The greater of ~~Two Hundred Sixty-two Dollars and nineteen~~  
16 ~~cents (\$262.19) per month~~ the amount of benefit which the  
17 participant would have qualified for as of plan year 2012, or an  
18 amount equal to the ~~sum of the average monthly premiums~~ premium of  
19 ~~all high option health insurance plans, excluding the point-of-~~  
20 ~~service plans~~ the HealthChoice High Option plan, the average monthly  
21 premiums of the dental plans, the monthly premium of the disability  
22 plan, and the monthly premium of the basic life insurance plan  
23 offered to state employees or the amount determined by the Council  
24 based on a formula for determining a participant's benefit credits

1 consistent with the requirements of 26 U.S.C., Section 125(g) (2) and  
2 regulations thereunder; or

3 2. The greater of ~~Two Hundred Twenty-four Dollars and sixty-~~  
4 ~~nine cents (\$224.69) per month~~ the amount of benefit which the  
5 participant would have qualified for as of plan year 2012 or an  
6 amount equal to the ~~sum of the average monthly premiums~~ premium of  
7 ~~all high option health insurance plans, excluding the point-of-~~  
8 ~~service plans~~ the HealthChoice High Option plan, the average monthly  
9 premiums of the dental plans, the monthly premium of the disability  
10 plan, and the monthly premium of the basic life insurance plan  
11 offered to state employees plus one of the additional amounts as  
12 follows for participants who elect to include one or more  
13 dependents:

- 14 a. for a spouse, seventy-five percent (75%) of the  
15 ~~average price of all high option benefit plans,~~  
16 ~~excluding the point-of-service plans~~ HealthChoice High  
17 Option plan, available for coverage of a spouse,  
18 b. for one child, seventy-five percent (75%) of the  
19 ~~average price of all high option benefit plans~~  
20 ~~available, excluding the point-of-service plans~~  
21 HealthChoice High Option plan, for coverage of one  
22 child,  
23 c. for two or more children, seventy-five percent (75%)  
24 of the ~~average price of all high option benefit plans~~

1 ~~available, excluding the point-of-service plans~~  
2 HealthChoice High Option plan, for coverage of two or  
3 more children,

4 d. for a spouse and one child, seventy-five percent (75%)  
5 of the ~~average price of all high option benefit plans~~  
6 ~~available, excluding the point-of-service plans~~  
7 HealthChoice High Option plan, for coverage of a  
8 spouse and one child, or

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

14 D. To the extent that it is consistent with federal laws and  
15 regulations, and in particular the regulations set forth by the  
16 Secretary of Defense in 32 C.F.R. Section 199.8(d)(6), a benefit may  
17 be provided to an employee who is an eligible TRICARE beneficiary  
18 whereby he or she may purchase a group TRICARE Supplemental product  
19 under a qualifying cafeteria plan consistent with the requirements  
20 of 26 U.S.C., Section 125, provided that ~~(i) the~~ :

21 1. The State, as employer may not provide any payment for nor  
22 receive any consideration or compensation for offering the benefit,  
23 ~~(ii) the~~ ;

1        2. The employer's only involvement is in providing the  
2 administrative support for the benefit under the cafeteria plan; and  
3 ~~(iii) the~~

4        3. The employee's participation in the plan is completely  
5 voluntary.

6        The benefit allowance under paragraph 2 of subsection C of this  
7 section of an employee whose plan participation includes a group  
8 TRICARE Supplemental benefit shall not include any allowance or  
9 portion thereof for such TRICARE Supplemental benefit.

10       E. This section shall not prohibit payments for supplemental  
11 health insurance coverage made pursuant to Section 1314.4 of this  
12 title or payments for the cost of providing health insurance  
13 coverage for dependents of employees of the Grand River Dam  
14 Authority.

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

1 dollars allocated to the portion of the plan year after the  
2 participant's termination of employment.

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

16 SECTION 19. AMENDATORY 74 O.S. 2011, Section 1375, is  
17 amended to read as follows:

18 Section 1375. ~~The State and Education Employees Group Insurance~~  
19 ~~Board~~ Oklahoma Employees Insurance and Benefits Board of the Office  
20 of Management and Enterprise Services shall make the pretax health  
21 savings account authorized by the provisions of the Health Savings  
22 Account Act established in Section 6060.14 of Title 36 of the  
23 Oklahoma Statutes available by offering a high deductible health  
24 plan to all persons who are eligible employees for purposes of any

1 health care insurance offered through or under the supervision of  
2 the ~~Board~~ Office. The high deductible health plan shall be offered  
3 no later than January 1, 2009. Any employee who elects to  
4 participate in a high deductible health plan offered through the  
5 ~~State and Education Employees Group Insurance Board~~ Office of  
6 Management and Enterprise Services may establish a health savings  
7 account (HSA) as defined in Section 223 of the Internal Revenue  
8 Code. The Director of the Office of Management and Enterprise  
9 Services shall form a working group to study the Oklahoma Employees  
10 Insurance and Benefits Plan structure, including, but not limited  
11 to, future recommendations for the state employee flexible benefits  
12 allowance and the potential of funding on employee health savings  
13 accounts. The Director shall provide a report of the working group  
14 study and recommendations to the Legislature and Governor no later  
15 than December 31, 2012.

16 SECTION 20. REPEALER 74 O.S. 2011, Sections 840-1.5,  
17 840-1.21, 1304, 1305, 1306, 1306.3, 1306.4, 1364 and 1365, are  
18 hereby repealed.

19 SECTION 21. This act shall become effective July 1, 2012.

20 SECTION 22. It being immediately necessary for the preservation  
21 of the public peace, health and safety, an emergency is hereby  
22 declared to exist, by reason whereof this act shall take effect and  
23 be in full force from and after its passage and approval.

24

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-4-12 - DO  
2 PASS, As Amended.

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