

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 784

By: Brecheen

4
5
6 AS INTRODUCED

7 An Act relating to health insurance plans for
8 governmental employees; stating legislative intent;
9 amending 74 O.S. 2001, Sections 1302, 1308.1, as
10 amended by Section 1, Chapter 41, O.S.L. 2004,
11 1310.1, as last amended by Section 1, Chapter 373,
12 O.S.L. 2004 and 1315, as last amended by Section 4,
13 Chapter 345, O.S.L. 2004 (74 O.S. Supp. 2010,
14 Sections 1308.1, 1310.1, and 1315), which relate to
15 the State and Employees Group Insurance Act;
16 modifying purpose of the State and Education
17 Employees Group Insurance Act; removing uniformity
18 requirement for benefits related to certain health
19 insurance plans; amending 74 O.S. 2001, Sections 1362
20 and 1365, as last amended by Section 1, Chapter 28,
21 O.S.L. 2009 (74 O.S. Supp. 2010, Section 1365), which
22 relate to the Oklahoma State Employees Benefits Act;
23 modifying purposes of the Oklahoma State Employees
24 Benefits Act; eliminating requirement to select
certain indemnity health plan; providing for
noncodification; and providing an effective date

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

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

For the past several years state employees in Indiana have had
the option to participate in a consumer driven health insurance plan

1 consisting of a high deductible health insurance plan in conjunction
2 with a Health Savings Account. The state of Indiana has realized a
3 savings of at least Forty-Two Million Dollars (\$42,000,000.00) since
4 2005 because of this program. For Plan Year 2011, the participation
5 rate for Indiana state employees in this program is eighty-five
6 percent (85%). It is the intent of the Legislature that the State
7 of Oklahoma implement a similar consumer driven health insurance
8 plan for its state employees. Advantages to adopting such a plan
9 would be the cost savings to the state and the ability to give state
10 employees more choice and flexibility when it comes to their health
11 insurance.

12 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1302, is
13 amended to read as follows

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

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

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

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

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

4 ~~(e)~~ (d) To recognize long and faithful service, and to
5 encourage employees to remain in state service until eligible for
6 retirement by providing health, dental and life insurance benefits
7 for employees; and

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

10 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1308.1, as
11 amended by Section 1, Chapter 41, O.S.L. 2004 (74 O.S. Supp. 2010,
12 Section 1308.1), is amended to read as follows:

13 Section 1308.1. (1) An educational entity may extend the
14 benefits of the health insurance plan, the dental insurance plan,
15 and the life insurance plan to education employees employed by ~~said~~
16 an educational entity. ~~The benefits of said plans for an education~~
17 ~~employee shall be the same and shall include the same plan options~~
18 ~~as would be made available to a state employee participating in the~~
19 ~~plan that resided at the same location.~~ Notwithstanding the
20 provisions of Section 1308.2 of this title, a period shall exist for
21 enrolling education entities from April 1, 1989 through October 1,
22 1991, whereby education employees of a participating education
23 entity may be enrolled, pursuant to ~~this act~~ the State and Education
24 Employees Group Insurance Act, during the entities' initial

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

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

16 (2) Except as otherwise provided in this subsection, when an
17 education entity participates in the health and dental insurance
18 plans offered through the State and Education Employees Group
19 Insurance Act, all employees shall be advised of Health Maintenance
20 Organizations prepaid plans available as an alternative to the state
21 self-insured health insurance plan. Eligible part-time education
22 employees, at the option of the employee, may enroll in the plans
23 either at the time the education entity begins participation in the
24

1 plans or, if later, upon a showing of insurability to the
2 satisfaction of the Board.

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

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

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

23 (6) Except as otherwise provided by law, an educational entity
24 may cease to participate in the State and Education Employees Group

1 Insurance Act but provide health insurance coverage through another
2 insurance carrier. The subsequent carrier shall provide coverage to
3 the employees of the educational entity who terminated employment
4 with a retirement benefit, with a vested benefit, or who have ten
5 (10) or more years of service with a participating educational
6 entity but did not have a vested benefit through the retirement
7 system of the educational entity, if the election to retain health
8 insurance coverage was made within thirty (30) days of termination
9 of employment. Coverage shall also be provided to the eligible
10 dependents of the employees if an election to retain coverage is
11 made within thirty (30) days of termination of employment.

12 SECTION 4. AMENDATORY 74 O.S. 2001, Section 1310.1, as
13 last amended by Section 1, Chapter 373, O.S.L. 2004 (74 O.S. Supp.
14 2010, Section 1310.1), is amended to read as follows:

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

24

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

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

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

13 SECTION 5. AMENDATORY 74 O.S. 2001, Section 1315, as
14 last amended by Section 4, Chapter 345, O.S.L. 2004 (74 O.S. Supp.
15 2010, Section 1315), is amended to read as follows:

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

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

- 1 a. county,
- 2 b. city,
- 3 c. town,
- 4 d. public trust for which the state is the primary
- 5 beneficiary, or
- 6 e. conservation districts; and

7 2. Any of the following groups:

- 8 a. county hospital,
- 9 b. rural water district, including employees and board
- 10 members,
- 11 c. sewer district,
- 12 d. gas district,
- 13 e. solid waste management district,
- 14 f. nonprofit water corporation employees and board
- 15 members,
- 16 g. conservancy district or master conservancy district
- 17 authorized by the provisions of Section 541 of Title
- 18 82 of the Oklahoma Statutes,
- 19 h. voluntary organization of Oklahoma local government
- 20 jurisdictions listed in Section 2003 of Title 62 of
- 21 the Oklahoma Statutes including any council created by
- 22 the voluntary organizations,
- 23
- 24

1 i. voluntary association designated to administer the
2 County Government Council as authorized in Section 7
3 of Title 19 of the Oklahoma Statutes,

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

9 k. statewide nonprofit entities receiving state funds to
10 provide no cost legal services to low income and
11 senior citizens.

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

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

1 ~~A of this section shall be the same as paid by state and education~~
2 ~~employees.~~

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

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

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

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

24

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

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

1 Act, shall not be required to change insurance carriers in the event
2 that the employer changes its insurance carrier to a subsequent
3 carrier. The provisions of this subsection shall become effective
4 January 1, 2002.

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

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

14 J. Any group that begins participation in the State and
15 Education Employees Group Health and Life Insurance Plans after ~~the~~
16 ~~effective date of this act~~ July 1, 2003, and that is not composed of
17 state or education employees must have one hundred percent (100%)
18 participation in the health plan offered pursuant to the State and
19 Education Employees Group Insurance Act.

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

22 Section 1362. It is hereby declared that the purpose of ~~Section~~
23 ~~1361 et seq. of this title~~ the Oklahoma State Employees Benefits Act
24 is:

1 1. To recognize that the employee benefit needs of individual
2 state employees differ, depending on the age, salary and family
3 status of the employee, and that it is needful to permit
4 participating employees to select and tailor the benefits they
5 receive in a manner calculated to best meet the particular needs of
6 themselves and their families;

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

9 3. To provide state employees and their dependents with basic
10 group health insurance, basic group term life insurance, and basic
11 long-term disability insurance;

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

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

23 6. To provide state employees with tax sheltered income
24 deferment plans;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

19 9. To appoint an executive director who shall serve at the
20 pleasure of the Council. The executive director shall employ or
21 retain such persons in accordance with the Oklahoma State Employees
22 Benefits Act and the requirements of other applicable law, including
23 but not limited to actuaries and certified public accountants, as he
24 or she deems appropriate to perform such duties as may from time to

1 time be required under the Oklahoma State Employees Benefits Act and
2 to render advice upon request with regard to any matters arising
3 under the plan subject to the approval of the Council. The
4 executive director shall have not less than seven (7) years of group
5 insurance administration experience on a senior managerial level or
6 not less than three (3) years of flexible benefits experience on a
7 senior managerial level. Any actuary or certified public accountant
8 employed or retained under contract by the Council shall have not
9 less than three (3) years' experience in group insurance or employee
10 benefits administration. The compensation of all persons employed
11 or retained by the Council and all other expenses of the Council
12 shall be paid at such rates and in such amounts as the Council shall
13 approve, subject to the provisions of applicable law;

14 10. To negotiate for best and final offer through competitive
15 negotiation 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 Sections 6901
19 through 6951 of Title 36 of the Oklahoma Statutes for consideration
20 by participants as an alternative to the health plans offered by the
21 Board, and to transfer to the health maintenance organizations such
22 funds as may be approved for a participant electing health
23 maintenance organization alternative services. The Council may also
24 select and contract with a vendor to offer a point-of-service plan.

1 An HMO may offer coverage through a point-of-service plan, subject
2 to the guidelines established by the Council. However, if the
3 Council chooses to offer a point-of-service plan, then a vendor that
4 offers both an HMO plan and a point-of-service plan may choose to
5 offer only its point-of-service plan in lieu of offering its HMO
6 plan.

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

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

22 12. To promulgate administrative rules for the competitive
23 negotiation process;

24

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

18 14. To purchase any insurance deemed necessary for providing
19 benefits under the plan including indemnity dental plans, ~~provided~~
20 ~~that the only indemnity health plan selected by the Council shall be~~
21 ~~the indemnity plan offered by the Board,~~ and to transfer to the
22 Board such funds as may be approved for a participant electing a
23 benefit plan offered by the Board. All indemnity dental plans,
24

1 including the one offered by the Oklahoma State and Education Group
2 Insurance Board, must meet or exceed the following requirements:

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

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

23 16. To assess and collect reasonable fees from the Board, and
24 from such contracted health maintenance organizations and third

1 party insurance vendors to offset the costs of administration as
2 determined by the Council. The Council shall have the authority to
3 transfer income received pursuant to this subsection to the Board
4 for services provided by the Board;

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

8 18. To promulgate election and claim forms to be used by
9 participants;

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

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

20 B. The Council members shall discharge their duties as
21 fiduciaries with respect to the participants and their dependents of
22 the plan, and all fiduciaries shall be subject to the following
23 definitions and provisions:

24

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

3 a. exercises any discretionary authority or discretionary
4 control respecting administration or management of the
5 Council,

6 b. exercises any authority or control respecting
7 disposition of the assets of the Council,

8 c. renders advice for a fee or other compensation, direct
9 or indirect, with respect to any participant or
10 dependent benefits, monies or other property of the
11 Council, or has any authority or responsibility to do
12 so, or

13 d. has any discretionary authority or discretionary
14 responsibility in the administration of the Council;

15 2. The Council may procure insurance indemnifying the members
16 of the Council from personal loss or accountability from liability
17 resulting from a member's action or inaction as a member of the
18 Council;

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

22 4. Any person who is a fiduciary with respect to the Council
23 shall be entitled to rely on representations made by participants,
24 participating employers, third party administrators and

1 beneficiaries with respect to age and other personal facts
2 concerning a participant or beneficiaries, unless the fiduciary
3 knows the representations to be false;

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

13 6. The duties and responsibilities allocated to each fiduciary
14 by the Oklahoma State Employees Benefits Act or by the Council shall
15 be the several and not joint responsibility of each, and no
16 fiduciary shall be liable for the act or omission of any other
17 fiduciary unless:

18 a. by his or her failure to properly administer his or
19 her specific responsibility he or she enabled such
20 other person or organization to commit a breach of
21 fiduciary responsibility, or

22 b. he or she knowingly participates in, or knowingly
23 undertakes to conceal, an act or omission of another
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1 person or organization, knowing such act or omission
2 to be a breach, or

3 c. having knowledge of the breach of another person or
4 organization, he or she fails to make reasonable
5 efforts under the circumstances to remedy said breach.

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

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