SENATE FLOOR VERSION
April 10, 2013

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1107 By: Mulready and Murphey of the House

and

Brecheen of the Senate

[state employee benefits - Oklahoma Employees Insurance and Benefits Act - Oklahoma State Employees Benefits Act - effective date]

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, as last amended by Section 80 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 205.2. A. A state agency, a municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes seeking to collect a debt, unpaid fines and cost or final judgment of at least Fifty Dollars ($50.00) from an individual who has filed a state income tax return may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the agency, a municipal court, a district

court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security number of the debtor.

1. Upon receiving a claim from a state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, the Tax Commission shall deduct the claim amount, plus collection expenses as provided in this section, from the tax refund due to the debtor and transfer the amount to the municipal court, the district court, the agency or the public housing authority. Provided, the Tax Commission need not report available funds of less than Fifty Dollars ($50.00).

2. The state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall send notice to the debtor by regular mail at the last-known address of the debtor as shown by the records of the Tax Commission when seeking to collect a debt not reduced to final judgment. The state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall send notice to the judgment debtor or municipal court defendant by first class

mail at the last-known address of the judgment debtor or municipal court defendant as shown by the records of the Tax Commission when seeking to collect a final judgment or unpaid municipal fines and cost. The Tax Commission shall provide in an agreed electronic format to the Department of Human Services the amount withheld by the Tax Commission, the home address and the Social Security number of the taxpayer. The notice shall state:

a. that a claim has been filed with the Tax Commission for any portion of the tax refund due to the debtor or municipal court defendant which would satisfy the debt, unpaid municipal fines and cost, or final judgment in full or in part,

b. the basis for the claim,

c. that the Tax Commission has deducted an amount from the refund and remitted it to such state agency, municipal court, district court or public housing authority,

d. that the debtor or municipal court defendant has the right to contest the claim by sending a written request to the state agency, the municipal court, the district court or the public housing authority for a hearing to protest the claim, and if the debtor or municipal court defendant fails to apply for a hearing within sixty (60) days after the date of the mailing

of the notice, the debtor or municipal court defendant shall be deemed to have waived his or her opportunity to contest the claim. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of the mailing of the notice, and

e. that a collection expense of five percent (5%) of the gross proceeds owed to the state agency, municipal court or district court has been charged to the debtor or municipal court defendant and withheld from the refund.

3. If the state agency, municipal court, district court or public housing authority determines that a refund is due to the taxpayer, the state agency, municipal court, district court or public housing authority shall reimburse the amount claimed plus the five-percent collection expense to the taxpayer. The state agency, municipal court, district court or public housing authority may request reimbursement of the two-percent collection expense retained by the Tax Commission. Such request must be made within ninety (90) days of reimbursement to the taxpayer. If timely requested, the Tax Commission shall make such reimbursement to the state agency,

municipal court, district court or public housing authority within ninety (90) days of the request.

4. In the case of a joint return, the notice shall state:

a. the name of any taxpayer named in the return against whom no debt, no unpaid fines and cost, or final judgment is claimed,

b. the fact that a debt, unpaid municipal fines and cost, or final judgment is not claimed against the taxpayer,

c. the fact that the taxpayer is entitled to receive a refund if it is due regardless of the debt, municipal fines and cost, or final judgment asserted against the debtor or municipal court defendant,

d. that in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the municipal court, district court, the agency or the public housing authority named in the notice within sixty (60) days after the date of the mailing of the notice. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, and

e. if the taxpayer against whom no debt, no unpaid municipal fines and cost, or final judgment is claimed

fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. Provided, if the claim was filed by the Department of Human Services, the notice shall state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund.

B. If the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes asserting the claim receives a written request for a hearing from the debtor or taxpayer against whom no debt, no municipal fines and cost, or final judgment is claimed, the agency, the municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall grant a hearing according to the provisions of the Administrative Procedures Act. It shall be determined at the hearing whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt, unpaid fines and cost, or final judgment asserted by the municipal court, the district court, agency or public housing authority operating pursuant to Section 1062 of

Title 63 of the Oklahoma Statutes, no action shall be taken in furtherance of the collection of the debt, unpaid fines and cost, or final judgment. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act.

C. Upon final determination at a hearing, as provided for in subsection B of this section, of the amount of the debt, unpaid fines and cost, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid fines and cost, or final judgment is claimed to request such a hearing, the municipal court, the district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall apply the amount of the claim to the debt owed. Any amounts held by the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes in excess of the final determination of the debt and collection expense shall be refunded by the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes to the taxpayer. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid fines and cost, or final judgment, the balance due the state agency, the municipal court, the district court or public housing authority operating pursuant to

Section 1062 of Title 63 of the Oklahoma Statutes shall be a continuing debt or final judgment until paid in full.

D. Upon receipt of a claim as provided in subsection A of this section, the Tax Commission shall:

1. Deduct from the refund five percent (5%) of the gross proceeds owed to the state agency, the municipal court, district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, and distribute it by retaining two percent (2%) and transferring three percent (3%) to the municipal court, the district court, the state agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Oklahoma Tax Commission Fund;

2. Transfer the amount of the claimed debt, unpaid fines and cost, or final judgment or so much thereof as is available to the state agency, municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes;

3. Notify the debtor in writing as to how the refund was applied; and

4. Refund to the debtor any balance remaining after deducting the collection expense and debt, unpaid fines and cost, or final judgment.

E. The Tax Commission shall deduct from any state tax refund due to a taxpayer the amount of delinquent state tax and penalty and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of such refund.

F. The Tax Commission shall have first priority over all other agencies, municipal courts, district courts or public housing authorities operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, when the Tax Commission is collecting a debt, municipal court fines and cost, or final judgment pursuant to the provisions of this section. Subsequent to the Tax Commission priority, a claim filed by the Department of Human Services for the collection of child support and spousal support shall have priority over all other claims filed pursuant to this section. Priority in multiple claims by other agencies, authorities, municipal courts or district courts pursuant to the provisions of this section shall be in the order in time, in which the Tax Commission receives the claim from the agencies, authorities, municipal courts and district courts required by the provisions of subsection A of this section.

G. The Tax Commission shall prescribe or approve forms and promulgate rules and regulations for implementing the provisions of this section.

H. The information obtained by an agency, authority, municipal court or by the district court from the Tax Commission pursuant to the provisions of this section shall be used only to aid in

collection of the debt, unpaid fines and cost, or final judgment owed to the agency, authority, municipal court or a district court. Disclosure of the information for any other purpose shall constitute a misdemeanor. Any agency, authority or court employee or person convicted of violating this provision shall be subject to a fine not exceeding One Thousand Dollars ($1,000.00) or imprisonment in the county jail for a term not exceeding one (1) year, or both fine and imprisonment and, if still employed by the agency, authority or the courts, shall be dismissed from employment.

I. The Tax Commission may employ the procedures provided by this section in order to collect a debt owed to the Internal Revenue Service if the Internal Revenue Service requires such procedure as a condition to providing information to the Commission concerning federal income tax.

J. The provisions of this section shall not apply to claims filed under the provisions of Section 2906 or Section 5011 of this title or to any debt owed to a state agency for health care or medical services <u>unless said health care or medical services were rendered, induced or otherwise obtained as a result of fraud, breach of contract, error, ineligibility or any illegal or unauthorized mean</u>.

SECTION 2. AMENDATORY 74 O.S. 2011, Section 1304.1, as amended by Section 14, Chapter 303, O.S.L. 2012 (74 O.S. Supp. 2012, Section 1304.1), is amended to read as follows:

Section 1304.1 A. The State and Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council are hereby abolished. Wherever the State and Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council are referenced in law, that reference shall be construed to mean the Oklahoma Employees Insurance and Benefits Board.

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

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

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

1. The State Insurance Commissioner, or designee;

2. Four members shall be appointed by the Governor;

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

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

E. The appointed members shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

I. Except as otherwise provided in this subsection, no member of the Board shall be a lobbyist registered in this state as provided by law, or be employed directly or indirectly by any firm

or health care provider under contract to the State and Education Employees Group Insurance Board, the Oklahoma State Employees Benefits Council, or the Oklahoma Employees Insurance and Benefits Board, or any benefit program under its jurisdiction, for any goods or services whatsoever. Any physician member of the Board shall not be subject to the provisions of this subsection.

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

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

L. The Administrative Director of the Courts shall designate grievance panel members as shall be necessary. The members of the grievance panel shall consist of two attorneys licensed to practice law in this state and one state licensed health care professional or health care administrator who has at least three (3) years practical experience, has had or has admitting privileges to a hospital in this state, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in their career. The state health care professional shall be appointed by the Governor. At the Governor's discretion, one or more qualified individuals may also be appointed as an alternate to serve on the

grievance panel in the event the Governor's primary appointee becomes unable to serve.

M. The Office of Management and Enterprise Services shall have the following duties, responsibilities and authority with respect to the administration of the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act:

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

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

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

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

5. To prepare and distribute information communicating and explaining the plan to participating employers and participants. Health Maintenance Organizations or other third-party insurance vendors may be directly or indirectly involved in the distribution of communicated information to participating state agency employers and state employee participants subject to the following condition: the Board shall verify all marketing and communications information for factual accuracy prior to distribution;

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

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

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

9. To negotiate for best and final offer through competitive negotiation with the assistance and through the purchasing procedures adopted by the Office of Management and Enterprise Services and contract with federally qualified health maintenance organizations under the provisions of 42 U.S.C., Section 300e et seq., or with Health Maintenance Organizations granted a certificate of authority by the Insurance Commissioner pursuant to the Health Maintenance Reform Act of 2003 for consideration by participants as

an alternative to the health plans offered by the Oklahoma Employees Insurance and Benefits Board, and to transfer to the health maintenance organizations such funds as may be approved for a participant electing health maintenance organization alternative services. The Board may also select and contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the Board. However, if the Board chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan. The Board may, however, renegotiate rates with successful bidders after contracts have been awarded if there is an extraordinary circumstance. An extraordinary circumstance shall be limited to insolvency of a participating health maintenance organization or point-of-service plan, dissolution of a participating health maintenance organization or point-of-service plan or withdrawal of another participating health maintenance organization or point-of-service plan at any time during the calendar year. Nothing in this section of law shall be construed to permit either party to unilaterally alter the terms of the contract;

10. To retain as confidential information the initial Request For Proposal offers as well as any subsequent bid offers made by the

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

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

12. To require vendors offering coverage to provide such enrollment and claims data as is determined by the Board. The Board shall be authorized to retain as confidential any proprietary information submitted in response to the Board's Request For Proposal. Provided, however, that any such information requested by the Board from the vendors shall only be subject to the confidentiality provision of this paragraph if it is clearly designated in the Request For Proposal as being protected under this provision. All requested information lacking such a designation in the Request For Proposal shall be subject to Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. From health maintenance organizations, data provided shall include the current Health Plan Employer Data and Information Set (HEDIS);

13. To authorize the purchase of any insurance deemed necessary for providing benefits under the plan including indemnity dental plans, provided that the only indemnity health plan selected by the Board shall be the indemnity plan offered by the Board, and to transfer to the Board such funds as may be approved for a participant electing a benefit plan offered by the Board. All

indemnity dental plans shall meet or exceed the following requirements:

a. they shall have a statewide provider network,

b. they shall provide benefits which shall reimburse the expense for the following types of dental procedures:

(1) diagnostic,

(2) preventative,

(3) restorative,

(4) endodontic,

(5) periodontic,

(6) prosthodontics,

(7) oral surgery,

(8) dental implants,

(9) dental prosthetics, and

(10) orthodontics, and

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

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

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

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

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

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

19. To enter into a contract with out-of-state providers in connection with any PPO or hospital or medical network plan which shall include, but not be limited to, special care facilities and hospitals outside the borders of the State of Oklahoma. The contract for out-of-state providers shall be identical to the in-state provider contracts. The Board may negotiate for discounts from billed charges when the out-of-state provider is not a network provider and the member sought services in an emergency situation, when the services were not otherwise available in the State of Oklahoma or when the Administrator appointed by the Board approved the service as an exceptional circumstance; ~~and~~

20. To create the establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and

payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense; and

21. To intercept monies owing to plan participants from other state agencies, when those participants in turn owe money to the Office of Management and Enterprise Services, and to ensure that the participants are afforded due process of law.

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

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

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

SECTION 3. AMENDATORY 74 O.S. 2011, Section 1308.3, as amended by Section 1, Chapter 352, O.S.L. 2012 (74 O.S. Supp. 2012, Section 1308.3), is amended to read as follows:

Section 1308.3 Any active employee eligible to participate or who is a participant may opt out of the state's basic plan as outlined in Sections 1370 and 1371 of this title, <u>or may opt out of the health and dental basic plan options only and retain the life and disability plan benefits,</u> provided that the participant is currently covered by a separate group health insurance plan or will be covered by a separate group health insurance plan at or before the beginning of the next plan year. Any active employee eligible to participate or who is a participant opting out of coverage pursuant to this section shall provide proof of the separate health insurance plan participation and sign an affidavit attesting that the participant is currently covered and does not require state-provided health insurance each plan year. Any active employee opting out of ~~coverage~~ <u>the state's basic plan or the health and dental basic plan options</u> pursuant to this section shall receive One Hundred Fifty Dollars ($150.00) in lieu of the flexible benefit amount the employee would be otherwise eligible to receive. Any savings realized by the state as a result of a participant opting out of health insurance plan coverage shall be retained by the state.

SECTION 4. AMENDATORY 74 O.S. 2011, Section 1370, as amended by Section 18, Chapter 303, O.S.L. 2012 (74 O.S. Supp. 2012, Section 1370), is amended to read as follows:

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

B. Each participant shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. <u>For participants on a biweekly payroll system the disbursement of the flexible benefit allowance shall be</u>

credited over twenty-four pay periods resulting in two pay periods that do not reflect a credit. The amount of the flexible benefit allowance credited to each participant shall be communicated to him or her prior to the enrollment period for each plan year.

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

1. The greater of the amount of benefit which the participant would have qualified for as of plan year 2012, or an amount equal to the monthly premium of the HealthChoice High Option plan, the average monthly premiums of the dental plans, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to state employees or the amount determined by the Council based on a formula for determining a participant's benefit credits consistent with the requirements of 26 U.S.C., Section 125(g)(2) and regulations thereunder; or

2. The greater of the amount of benefit which the participant would have qualified for as of plan year 2012 or an amount equal to the monthly premium of the HealthChoice High Option plan, the average monthly premiums of the dental plans, the monthly premium of the disability plan, and the monthly premium of the basic life

insurance plan offered to state employees plus one of the additional amounts as follows for participants who elect to include one or more dependents:

a. for a spouse, seventy-five percent (75%) of the HealthChoice High Option plan, available for coverage of a spouse,

b. for one child, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of one child,

c. for two or more children, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of two or more children,

d. for a spouse and one child, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of a spouse and one child, or

e. for a spouse and two or more children, seventy-five percent (75%) of the HealthChoice High Option plan, for coverage of a spouse and two or more children.

D. To the extent that it is consistent with federal laws and regulations, and in particular the regulations set forth by the Secretary of Defense in 32 C.F.R. Section 199.8(d)(6), a benefit may be provided to an employee who is an eligible TRICARE beneficiary whereby he or she may purchase a group TRICARE Supplemental product

under a qualifying cafeteria plan consistent with the requirements of 26 U.S.C., Section 125, provided that:

1. The state, as employer may not provide any payment for nor receive any consideration or compensation for offering the benefit;

2. The employer's only involvement is in providing the administrative support for the benefit under the cafeteria plan; and

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

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

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

F. If a participant desires to buy benefits whose sum total of benefit prices is in excess of his or her flexible benefit allowance, the participant may elect to use pay conversion dollars to purchase such excess benefits. Pay conversion dollars may be elected through a salary reduction agreement made pursuant to the election procedures of Section 1371 of this title. The elected amount shall be deducted from the participant's compensation in

equal amounts each pay period, with the exception of participants on a biweekly payroll system, where such deduction shall occur over twenty-four pay periods over the plan year. On termination of employment during a plan year, a participant shall have no obligation to pay the participating employer any pay conversion dollars allocated to the portion of the plan year after the participant's termination of employment.

G. If a participant elects benefits whose sum total of benefit prices is less than his or her flexible benefit allowance, he or she shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation will be paid in substantially equal amounts each pay period, with the exception of participants on a biweekly payroll system, where such deduction shall occur over twenty-four pay periods over the plan year. On termination during a plan year, a participant shall have no right to receive any such taxable cash compensation allocated to the portion of the plan year after the participant's termination. Nothing herein shall affect a participant's obligation to elect the minimum benefits or to accept the default benefits of the plan with corresponding reduction in the sum of his or her flexible benefit allowance equal to the sum total benefit price of such minimum benefits or default benefits.

SECTION 5. This act shall become effective November 1, 2013.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
April 10, 2013 - DO PASS AS AMENDED