An Act

ENROLLED HOUSE
BILL NO. 3053

By: Steele and Murphey of the House

and

David of the Senate

An Act relating to state government; creating the State Government Administrative Process Consolidation and Reorganization Reform Act of 2012; amending 62 O.S. 2011, Sections 34.3 and 34.3.1, which relate to the Oklahoma State Finance Act; creating the Office of Management and Enterprise Services; consolidating certain agencies into the Office of Management and Enterprise Services; modifying definition; requiring Director of the Office of Management and Enterprise Services to implement consolidation; modifying delivery of books, papers, records and property; transferring powers and duties; amending 74 O.S. 2011, Section 61.2, which relates to the Department of Central Services; modifying references; amending 74 O.S. 2011, Sections 840-1.6, 840-1.6A, 840-1.9, 840-1.15, 840-1.19, 840-1.20 and 840-2.1, which relate to the Oklahoma Personnel Act; modifying references; providing for powers and duties of Director; providing for transfer of funds; directing payment of certain costs; amending 74 O.S. 2011, Sections 1301, 1303 and 1320, which relate to the State and Education Employees Group Insurance Act; modifying definitions; creating the Oklahoma Employees Insurance and Benefits Board; providing for membership and terms; abolishing certain entities; providing for powers and duties of the Board; modifying references; amending 74 O.S. 2011, Sections 1363, 1368, 1370 and 1375, which relate to the Oklahoma State Employees Benefits Act; modifying definitions; providing for transfer of funds; modifying references; modifying benefits allowance plan; requiring Director of the Office of State

Finance to publish certain performance metrics and standards; requiring state agencies to provide information; providing for information accessibility; requiring annual review and approval; defining term; repealing 74 O.S. 2011, Section 840-1.5, which relates to the Oklahoma Personnel Act; repealing 74 O.S. 2011, Sections 1304, 1305, 1306, 1306.3 and 1306.4, which relate to the State and Education Employees Group Insurance Act; repealing 74 O.S. 2011, Sections 1364 and 1365, which relate to the Oklahoma State Employees Benefits Act; providing for codification; providing for noncodification; and providing an effective date.

SUBJECT: State Government Administrative Process Consolidation and Reorganization Reform Act of 2012

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:

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

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

Section 34.3 A. There is hereby created in the Executive Department, ~~the Office of State Finance which shall consist of a Division of the Budget, Division of Central Accounting and Reporting, Department of Central Services, Office of Personnel Management, Department of State and Education Employees Group Insurance and Department of Employee Benefits, all under the administrative control of the Director of the Office of State Finance and directly responsible to the Director and an Information Services Division under the administrative control of the Chief Information Officer and directly responsible to the Officer~~ the Office of Management and Enterprise Services.

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

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

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

Section 34.3.1 A. The Department of Central Services, Office of Personnel Management, Oklahoma State Employees Benefits Council and the State and Education Employees Group Insurance Board are consolidated into the ~~Office of State Finance~~ Office of Management and Enterprise Services. The Director of the ~~Office of State Finance~~ Office of Management and Enterprise Services shall assume all executive-level responsibilities for each agency and shall function as and possess the powers of the agency director for each consolidated agency as enumerated by existing statute. For the purposes of this section the term "consolidated agencies" shall mean the Department of Central Services, Office of Personnel Management, Oklahoma State Employees Benefits Council and the State and Education Employees Group Insurance Board.

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

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

appropriated to, in the possession of or allocated to any of the consolidated agencies shall be deemed to be funds of the Office of ~~State Finance~~ Management and Enterprise Services.

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

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

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

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

Section 61.2 ~~There is hereby created within the Office of State Finance, a Department of Central Services, under the administrative control of the Director of the Office of State Finance.~~ Whenever the terms "Board of Affairs", "State Board of Public Affairs", "Board" when used in reference to the Board Of Public Affairs ~~or~~, "Office of Public Affairs", or "Department of Central Services" appear in the Oklahoma Statutes they shall mean the ~~Department of Central Services of the Office of State Finance~~ Office of Management and Enterprise Services. Whenever the term "Director of Public Affairs" appears in the Oklahoma Statutes it shall mean the Director of the ~~Office of State Finance~~ Office of Management and Enterprise Services. Whenever the term "Director of Central Services" appears in the Oklahoma Statutes it shall mean the Director of the ~~Office of State Finance~~ Office of Management and Enterprise Services or designee.

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

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

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

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

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

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

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

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

upon the administrative capacity and resources of the various agencies;

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

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

5. Conduct an analysis of the rates of pay prevailing in the state in the public and private sectors for comparable jobs and report the findings to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives no later than December 1 of each year. Such analysis shall include all forms of compensation including fringe benefits. Information solicited by the Office of ~~Personnel Management~~ Management and Enterprise Services from public and private sector employers for such analysis, including but not limited to salaries, benefits, and compensation policies and procedures, shall be confidential and shall not be subject to disclosure under the Oklahoma Open Records Act;

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

~~7. Implement state affirmative action policies, and assure equal employment opportunity;~~

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

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

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

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

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

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

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

~~15.~~ 11. Assist the Oklahoma Merit Protection Commission and the Executive Director in effectuating their duties, enforcement of the

rules of the Merit System of Personnel Administration, and implementation of corrective action issued by the Commission;

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

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

~~18.~~ 14. Establish standards for continuing training, including affirmative action, and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education. Employees appointed to professional personnel positions shall complete an initial training program within ~~six (6) months~~ one (1) year after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of, and scheduled to attend, required training programs and shall make time available for employees to complete the programs. The ~~Administrator~~ Director shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the ~~Office of Personnel~~ Human Capital Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of ~~Personnel~~ Management and Enterprise Services established by law;

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

a. selected job family levels with a turnover rate in excess of ten percent (10%),

b. selected job family levels identified by the ~~Administrator of the Office of Personnel Management~~ Director of the Office of Management and Enterprise Services with salaries and benefits that are ten

percent (10%) or more below the market for such ~~position(s)~~ positions, and

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

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

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

a. conform and comply with the provisions of the Oklahoma Personnel Act, the Merit Rules of Personnel Administration, and all memoranda or other written communications issued to agencies explaining the Oklahoma Personnel Act, the Rules, and any other matter relating to the Merit System of Personnel Administration or under the jurisdiction of the ~~Administrator of the Office of Personnel Management~~ Director, and

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

~~21.~~ 17. Establish a workforce planning function within the Office of ~~Personnel~~ Management and Enterprise Services to assist state agencies in analyzing the current workforce, determining future workforce needs, and implementing solutions so that agencies may accomplish their missions; and

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

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

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

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

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

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

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

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

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

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

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

9. Submit quarterly, fiscal year reports on workload statistics to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate containing the following information:

a. the number of cases, complaints, and requests for hearing filed, disposed of and pending with the Commission for each month of the quarter,

b. a numerical breakdown of the methods of disposition of such cases, complaints, and requests for hearing,

c. a numerical breakdown of mediations, prehearing conferences, and appellate hearings, conducted, and

d. the date of the oldest pending case, complaint, and request for hearing.

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

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

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

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

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

The number and scope of model projects shall be limited only by the capacity of the agency to implement the model projects, the

quality of model project applications, and the ability of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services to monitor the projects. The ~~Administrator~~ Director shall have the authority to approve model project applications which shall constitute authority for the agency to implement approved model projects.

C. The ~~Administrator~~ Director shall create a Human Resource Management Plan and Self-Evaluation Report system for agencies including but not ~~be~~ limited to provisions related to affirmative action; staffing, recruitment, and promotion; classification and compensation; training and staff development expenditures; the reporting of internal agency grievances and discrimination complaints filed, discharges, suspensions without pay and demotions, and number of investigations directed by the Oklahoma Merit Protection Commission and the outcome of all such actions; and strategies for assuring employee participation in the development of agency personnel activities. The self-evaluation should include comparisons with the previous year or years' personnel actions.

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

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

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

Section 840-1.20 A. There is hereby created in the State Treasury a revolving fund for the ~~Office of Personnel Management~~ Office of Management and Enterprise Services to be designated the "~~Office of Personnel~~ Human Capital Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees received by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services for providing training for a certified public managers program and all other monies received by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services, except for

appropriated monies~~,~~ and monies received as payment for administrative expenses under Section 840-1.18 of this title~~, monies placed in the Employee Benefits Revolving Fund, monies placed in the Benefits Council Administration Revolving Fund, and any monies in revolving funds established by the Office of State Finance to support the operation of the Oklahoma Employees Benefits Council or to reimburse the Office of Personnel Management for services the Office provides to the Council~~. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and may be budgeted and expended by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services for defraying the costs incurred in performing the duties and functions of the Office. Expenditures from ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of ~~State Finance~~ the Office of Management and Enterprise Services for approval and payment.

B. There is hereby created a petty cash fund not to exceed Two Hundred Fifty Dollars ($250.00) for the ~~Office of Personnel Management~~ Office of Management and Enterprise Services. The Director of ~~State Finance~~ the Office of Management and Enterprise Services shall prescribe the rules and procedures for the administration of the petty cash fund.

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

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

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

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

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

C. The ~~Administrator~~ Director of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall analyze the affirmative action plans of executive branch agencies and Equal Employment Opportunity Commission reports prepared by such agencies, except institutions within The Oklahoma State System of Higher Education, and, on or before March 1 of each year, shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. ~~Said~~ The report shall state the efforts and progress made by governmental entities in the area of affirmative action, including the status of recruitment, hiring, and promotion of women, men and minorities within job categories.

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

E. It is not a discriminatory practice for the appointing authority of an entity subject to the provisions of this title to adopt and implement an affirmative action plan to eliminate or reduce imbalances with respect to women and minorities if the plan has been approved by the ~~Office of Personnel Management~~ Office of

Management and Enterprise Services in accordance with rules and guidelines adopted by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services. For affirmative action purposes, any person who lists American Indian as ~~his~~ the person's race or national origin shall, within thirty (30) days of ~~his~~ appointment, verify ~~his~~ the tribal affiliation by providing a certificate of Degree of Indian Blood from the U.S. Department of Interior, Bureau of Indian Affairs, or by providing the name and address of tribal officials who can verify ~~his~~ the tribal affiliation.

F. 1. The ~~Administrator~~ Director of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall establish qualification requirements for personnel serving as agency civil rights or affirmative action administrators, officers, coordinators and other personnel responsible for civil rights compliance or affirmative action for executive branch agencies. Such qualification requirements shall include, but not be limited to, knowledge of federal and state civil rights, affirmative action, and equal employment laws and regulations. Such personnel shall be subject to the training requirements specified by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services. The ~~Administrator~~ Director shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the ~~Office of Personnel~~ Human Capital Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit for the ~~Office of Personnel Management~~ Office of Management and Enterprise Services established by law. ~~Effective December 1, 1995, complaints~~ Complaints of alleged illegal discrimination shall be investigated only by personnel trained pursuant to the requirements of the ~~Administrator~~ Director, unless otherwise provided by federal or state law. This paragraph shall not apply to such personnel of the Oklahoma Merit Protection Commission or the Oklahoma Human Rights Commission.

2. If, after notice, administrative hearing and determination, pursuant to Article II of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes, the ~~Administrator~~ Director finds that an appointing authority of any executive branch agency has failed to make significant progress toward affirmative action goals, or has failed to appoint a civil rights administrator without justifiable reasons, the ~~Administrator~~ Director may begin requiring remedies as allowed by subsection G of this section and

rules promulgated thereto and appropriate to making progress toward affirmative action goals. Such action shall remain in effect until the ~~Administrator~~ Director determines that significant progress toward affirmative action goals is being made. The provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the ~~Administrator~~ Director the authority provided for in this paragraph, unless the agency is specifically excluded by law from the provisions of this paragraph.

G. 1. The ~~Administrator~~ Director of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall develop rules for the imposition of appropriate remedies for agencies in the executive branch of state government, excluding The Oklahoma State System of Higher Education, when an agency has failed to make significant progress toward affirmative action goals or has been found to have a pattern of noncompliance with affirmative action goals. If, pursuant to Article II of the Administrative Procedures Act, the ~~Administrator~~ Director finds that an agency has failed to make significant progress toward affirmative action goals or is found to have a pattern of noncompliance with affirmative action goals, remedies that the ~~Administrator~~ Director may impose shall include:

a. requiring noncomplying appointing authorities to participate in programs for special recruiting efforts,

b. development of training programs to enhance promotability of minorities within agencies and supervisory training in equal opportunity employment, affirmative action, managing workplace diversity, and

c. mandatory review and approval of all hiring and promotion decisions by an appointing authority by the ~~Administrator~~ Director if the ~~Administrator~~ Director can document a pattern of noncompliance in previous remedial actions pursuant to this subsection or appointment of a full-time affirmative action officer to any agency in noncompliance with affirmative action remedies.

2. ~~Effective July 1, 1995, if~~ If the ~~Administrator~~ Director determines that a pattern of noncompliance with affirmative action goals exists at an agency and that none of the remedies provided by paragraph 1 of this subsection are appropriate and the ~~Administrator~~

Director determines the ~~Office of Personnel Management~~ Office of Management and Enterprise Services has sufficient resources, the ~~Administrator~~ Director shall be empowered to remove personnel function(s) relating to recruitment, hiring or promotion from the appointing authority and to place that function with the ~~Administrator~~ Director of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services as provided by this paragraph. Removal of personnel function(s) shall occur only when a pattern of noncompliance with the affirmative action plan can be documented and a vote by two-thirds (2/3) of the Affirmative Action Review Council recommends to the ~~Administrator~~ Director to remove personnel function(s). Removal of personnel function(s) shall terminate one (1) calendar year after the ~~Administrator~~ Director removes such function(s) unless the ~~Administrator~~ Director is able to demonstrate that the restoration of personnel function(s) to the appointing authority will result in further noncompliance with this section. A vote of two-thirds (2/3) of the Affirmative Action Review Council shall be necessary to continue the removal of personnel function(s) by the ~~Administrator~~ Director for each additional year. ~~The Administrator must receive approval from the Director of the Office of State Finance to develop recruitment, hiring and promotion actions within budgetary constraints for the affected agencies.~~ The ~~Administrator~~ Director shall consult with the appointing authority about personnel plans and actions, but the ~~Administrator~~ Director shall retain final authority for personnel decisions within the scope of the ~~Administrator's~~ Director's authority for the period an agency is operating under removal of the personnel function(s). Nothing in this section shall prohibit the removal of a personnel function(s) remedy at any time if the ~~Administrator~~ Director determines the appointing authority and agency have the capability of reassuming the authority that was removed. The provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the ~~Administrator~~ Director the authority provided for in this paragraph, unless the agency is specifically excluded by law from the provisions of this paragraph. Upon removal of an agency's personnel function(s), the ~~Administrator~~ Director may employ employees at the ~~Office of Personnel Management~~ Office of Management and Enterprise Services to assume the personnel function(s) of the agency as provided by this section.

H. 1. There is hereby created the Affirmative Action Review Council to assist in the implementation of the state's equal employment opportunity and affirmative action efforts mandated by this section. The ~~Administrator~~ Director of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall

consult with and request the assistance of the Council in developing standards that executive branch agencies shall follow in adopting their affirmative action plans. The Council shall review agency affirmative action plans and assist the ~~Administrator~~ Director in preparing the annual status report for agencies on equal employment opportunity and affirmative action required by this section. Staff for the Council shall be provided by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services.

2. The Affirmative Action Review Council shall consist of six (6) members. The individuals making the appointment shall consider experience in the field, theory, and application of human resources management and affirmative action in making their appointments. Members of the Council shall serve at the pleasure of the respective individuals making the appointments. Two members of the Council shall be appointed by the Governor, two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President Pro Tempore of the Senate. ~~Nothing shall preclude the appointment of members of the Legislature.~~ Each individual making appointments shall give consideration to the diversity of the Council's membership when making the appointments and shall not appoint more than one individual who is an employee of the executive branch, excluding The Oklahoma State System of Higher Education. The Governor shall appoint the initial chair from among the Council's membership to serve a two-year term. Thereafter, the chair shall be selected by the Council from among its membership. The Council shall select a vice-chair from among its membership. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy on the Council shall be filled by the individual who made the original appointment.

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

3. Members of the Council shall receive no compensation for serving on the Council, but shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act. Any member who is employed in state government shall receive the reimbursement from

~~their~~ the employing entity. Any member who is not an employee of state government shall receive the reimbursement from the Office of ~~Personnel~~ Management and Enterprise Services.

4. a. The Council shall make any recommendations to the ~~Administrator~~ Director, the Governor, the Speaker of the House of Representatives or the President Pro Tempore of the Senate the Council deems will assist in the attaining of affirmative action goals for state government.

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

c. The Council shall request the ~~Administrator~~ Director to investigate any agency that the Council believes has violated equal employment opportunity or affirmative action provisions of this section and to conduct hearings to determine if such violations have occurred. If the ~~Administrator~~ Director finds that an agency is not in compliance with such law and the Council believes that the noncompliance indicates a pattern of noncompliance, the Council, upon a two-thirds vote of its members, may recommend to the ~~Administrator~~ Director to act in accordance with this section to compel the agency to comply with equal employment opportunity and affirmative action laws. If the ~~Administrator~~ Director decides not to act on the Council's recommendation, the ~~Administrator~~ Director shall respond in writing within thirty (30) days of the Council's recommendation setting forth the reasons why the ~~Administrator~~ Director has decided not to act in accordance with said recommendation.

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

e. This paragraph applies to review of issues related to affirmative action. This paragraph does not apply to prohibited discrimination that is within the

jurisdiction of the Oklahoma Merit Protection Commission or the Oklahoma Human Rights Commission.

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

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

J. The ~~Administrator~~ Director of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services is hereby directed to adopt rules necessary to implement the provisions of this section. Such rules regarding affirmative action plans shall include, but not be limited to, a set of specific and result-oriented programs to which an appointing authority commits himself or herself to apply every good faith effort to achieve prompt and full utilization of women and minorities at all levels and in all segments of the work force where deficiencies exist. Such rules shall also include separate provisions for affirmative plans for agencies with fewer than fifteen full-time-equivalent employees.

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

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

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

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

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

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

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

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

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

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

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

~~7.~~ 8. "State employee" means and includes each officer or employee in the service of the State of Oklahoma who, after January 1, 1966, received compensation for service rendered to the State of Oklahoma on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of the state or who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Treasurer against appropriations made by the Legislature from any state fund or against trust funds held by the State Treasurer, who is employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours per year, and whose employment is not seasonal or temporary, except that a person elected by popular vote will be considered an

employee during the person's tenure in office; provided, however, that employees who are otherwise eligible who are on approved leave without pay shall be eligible to continue coverage during such leave not to exceed twenty-four (24) months, as provided and published in the ~~Merit~~ Office of Management and Enterprise Services Rules for Employment ~~published by the Office of Personnel Management~~, from the date the employee goes on such leave provided the employee pays the full premiums due or persons who are drawing disability benefits under ~~Section 1331 et seq. of this title~~ the State Employees Disability Program Act or meet each and every requirement of the State Employees Disability Program shall be eligible to continue coverage provided the person pays the full premiums due;

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

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

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

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

~~12.~~ 13. "Other insurance" means any type of coverage other than basic hospital and medical benefits, major medical benefits, comprehensive benefits, life insurance benefits or dental insurance benefits, which the ~~Board~~ Plan may be directed to offer;

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

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

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

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

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

~~14.~~ 15. "Comprehensive benefits" means benefits which reimburse the expense of hospital room and board, other hospital services, certain outpatient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, physicians' services provided by house and office calls, treatments administered in physicians' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care, and such other benefits as may be determined by the Board. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by the Board; and

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

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

A. 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.

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

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

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

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

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

C. The ~~Board~~ Director shall not contract for private legal counsel except for extraordinary situations other than normal day to day situations, and when approved by the Attorney General. The ~~Board~~ Director may contract with a nonemployee consulting actuary, a nonemployee medical consultant and a nonemployee dental consultant subject to competitive bid at least every three (3) years. The ~~Board~~ Director may contract with health care providers for a level of reimbursement for the payment of claims incurred by the plan participants. The ~~Board~~ Director may at its request use the services of the office of the Attorney General and the actuarial services of any actuary employed by the Insurance Commissioner and may also seek the advice and counsel of the Insurance Commissioner of the State of Oklahoma or any employee of the Office of the Insurance Commissioner.

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

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

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

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

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

4. "Benefit plan" means the specific terms and conditions regarding a benefit which may be purchased under the plan, including the terms and conditions of any separate plan document, group insurance policy or administrative services contract entered into by the ~~Council~~ Oklahoma Employees Insurance and Benefits Board;

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

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

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

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

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

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

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

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

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

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

~~15.~~ 14. "Participating employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution or statute that is a participating employer of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, but shall not include any county, county hospital, city or town, conservation district, any private or public trust in which a county, city or town participates and is the primary beneficiary, any school district or technology center school district, or political subdivision of the state, but shall include the State Department of Education, the Oklahoma Department of Wildlife Conservation, the Oklahoma Employment Security Commission, the Teachers' Retirement System of Oklahoma and the Oklahoma Department of Career and Technology Education. Provided the term "participating employer" shall also mean the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education upon agreement between the State Regents for Higher Education or the appropriate governing board of an institution under the authority of the State Regents for Higher Education and the ~~Council~~ Board;

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

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

~~18.~~ 17. "Plan year" means for the plan year beginning July 1, 2001, the six-month period commencing on July 1 and ending on the following December 31. The next plan year shall begin January 1, 2002. It shall mean the twelve-month period commencing on January 1 and ending on the following December 31;

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

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

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

Section 1368. ~~There is hereby created in the State Treasury a revolving fund for the Oklahoma State Employees Benefits Council to be designated the "~~ The Benefits Council Administration Revolving Fund~~". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies properly credited and paid to the Oklahoma State Employees Benefits Council other than flexible benefit dollars. Disbursements from the fund shall be limited to the direct operation of the Oklahoma State Employees Benefits Council and the Wellness Program as authorized by the Council~~ is hereby dissolved. Any reference in the Oklahoma Statutes to the Benefits Council Administration Revolving Fund shall be construed to mean the Human Capital Management Revolving Fund. Assets of the Benefits Council Administration Revolving Fund are hereby transferred to the Human Capital Management Revolving Fund.

SECTION 18. AMENDATORY 74 O.S. 2011, 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 ~~2~~ 1308.3 of this ~~act~~ 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. 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 ~~ending December 31, 2012~~ 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 ~~Two Hundred Sixty-two Dollars and nineteen cents ($262.19) per month~~ the amount of benefit which the participant would have qualified for as of plan year 2012, or an amount equal to the ~~sum of the average~~ monthly ~~premiums~~ premium of ~~all high option health insurance plans, excluding the point-of-service plans~~ 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 ~~Two Hundred Twenty four Dollars and sixty nine cents ($224.69) per month~~ the amount of benefit which the participant would have qualified for as of plan year 2012 or an amount equal to the ~~sum of the average~~ monthly ~~premiums~~ premium of ~~all high option health insurance plans, excluding the point of service plans~~ 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 ~~average price of all high option benefit plans, excluding the point of service plans~~ HealthChoice High Option plan, available for coverage of a spouse,

b. for one child, seventy-five percent (75%) of the ~~average price of all high option benefit plans available, excluding the point of service plans~~ HealthChoice High Option plan, for coverage of one child,

c. for two or more children, seventy-five percent (75%) of the ~~average price of all high option benefit plans available, excluding the point of service plans~~ HealthChoice High Option plan, for coverage of two or more children,

d. for a spouse and one child, seventy-five percent (75%) of the ~~average price of all high option benefit plans available, excluding the point of service plans~~ 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 ~~average price of all high option benefit plans available, excluding the point of service plans~~ 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 ~~(i) the~~:

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

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

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

Section 1375. The ~~State and Education Employees Group Insurance Board~~ Oklahoma Employees Insurance and Benefits Board of the Office of Management and Enterprise Services shall make the pretax health savings account authorized by the provisions of the Health Savings Account Act established in Section 6060.14 of Title 36 of the Oklahoma Statutes available by offering a high deductible health plan to all persons who are eligible employees for purposes of any health care insurance offered through or under the supervision of the ~~Board~~ Office. The high deductible health plan shall be offered no later than January 1, 2009. Any employee who elects to participate in a high deductible health plan offered through the ~~State and Education Employees Group Insurance Board~~ Office of Management and Enterprise Services may establish a health savings account (HSA) as defined in Section 223 of the Internal Revenue Code. The Director of the Office of Management and Enterprise Services shall form a working group to study the Oklahoma Employees Insurance and Benefits Plan structure, including, but not limited to, future recommendations for the state employee flexible benefits allowance and the potential of funding on employee health savings accounts. The Director shall provide a report of the working group study and recommendations to the Legislature and Governor no later than December 31, 2012.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 45.10 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to this act, the Director of the Office of State Finance shall develop processes and procedures to guide state agencies in preparation of performance reporting metrics to be published for each cabinet, state agency and statewide and agency-specific initiatives. These metrics shall account for input, output and outcome measures and provide benchmarks to which the performance

measures can be compared for evaluation of performance. Metrics shall include not less than three consistent scales demonstrating that a performance expectation or benchmark has been achieved, partially achieved or not achieved. At least one metric shall demonstrate the cost per person served by the agency.

B. State agencies shall provide information as required by the Director to assist in the development of performance reporting metrics and benchmarks.

C. Cabinet secretaries and agencies shall provide appropriate benchmarks against which performance should be compared to determine the agencies' success or failure to meet established performance reporting benchmarks.

D. Performance metrics showing agency and agency program-level performance shall be published and prominently featured on the state Internet portal and through the direct domain *performance.ok.gov*. This data shall be updated on a regular basis.

E. Performance metrics and standards shall be reviewed and approved annually.

F. For the purposes of this section, "performance reporting metrics" shall mean a set of criteria which demonstrates the quantity and quality of work.

SECTION 21. REPEALER 74 O.S. 2011, Sections 840-1.5, 1304, 1305, 1306, 1306.3, 1306.4, 1364 and 1365, are hereby repealed.

SECTION 22. This act shall become effective November 1, 2012.

Passed the House of Representatives the 23rd day of May, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 24th day of May, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 25th day of May, 2012, at 12:00 o'clock PM.

By: Jessie R Rogers

Approved by the Governor of the State of Oklahoma the 29th day of May, 2012, at 10:04 o'clock A M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 29th day of May, 2012, at 3:51 o'clock P M.

By: Michelle R Day