

LEGISLATIVE SUMMARY

SECOND SESSION
OF THE
FIFTY-THIRD
LEGISLATURE 2012



STATE OF

OKLAHOMA

OFFICE OF STATE FINANCE

OFFICE OF STATE FINANCE
LEGISLATIVE SUMMARY – 2012

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To view digital copies of the enrolled versions of the legislation listed above, please go to <http://go.usa.gov/vM5>.

For additional revenue and fiscal impact legislation, please refer to the Equalization Board Packet on the Office of State Finance website.

HB 2197

State Purchasing, State Travel, and Information Technology Purchasing

Authors: Jason Murphey of the House and Josh Brecheen of the Senate

Effective Date: 08/23/2012

Section 1

A new section of law not to be codified in the Oklahoma Statutes as follows:

This act shall be known and may be cited as the "Cost Reduction and Saving Act".

Section 2

Current law provides that the procurement policies and procedures established by the Chief Information Officer shall be consistent with The Oklahoma Central Purchasing Act. This section adds that the above shall also be consistent with Section 6 below.

Section 3

The State Purchasing Director may form an advisory committee consisting of representatives from entities exempted from the provisions of The Oklahoma Central Purchasing Act. The purpose of the committee shall be to allow committee members to provide input into the development of shared state purchasing contracts, collaboratively participate in the integration of their purchasing platforms or electronic purchasing catalogs, analyze solutions that may be used by state government to meet the purchasing needs of the entities, explore joint purchases of general use items that result in mutual procurement of quality goods and services at the lowest reasonable cost, and explore flexibility, administrative relief, and transformation changes through utilization of procurement technology.

At the invitation of the State Purchasing Director, entities exempted from the provisions of The Oklahoma Central Purchasing Act shall participate in the advisory committee referenced in subsection B of this section.

The State Purchasing Director may invite representatives of local government and local common education entities to participate as members of the advisory committee.

Section 4

Deletes language which designates the state into High and Low travel areas and also removes restrictions on state agencies' ability to contract with private travel agencies. Currently, the State Travel Office is divided into six regions in the state. The regions are drawn into high and low travel areas. Modern technology now allows the use of multiple vendors without the restriction of geographic location. The provisions in this bill will allow the state to use the open market to determine the best value.

Section 5

Whenever possible it shall be the policy of each state agency to prepay airline fares and lodging expenses using a purchase card issued to the agency. This policy shall apply to instances where employees of the agency are traveling on behalf of state government.

Section 6

New Law

For the purposes of this section, “open source software” means software that guarantees the user of the software use of the software for any purpose, allows unrestricted access to the respective source code, enables the use of the internal mechanisms and arbitrary portions of the software with the ability to adapt them to the needs of the user, provides the freedom to make and distribute copies of the software, and guarantees the right to modify the software with the freedom to distribute modifications of the new resulting software under the same license as the original software. “Open standards” means specifications for the encoding and transfer of computer data that is free for all to implement and use in perpetuity, with no royalty or fee, has restrictions on the use of data stored in the format, has no restrictions on the creation of software that stores, transmits, receives, or accesses data codified in such way, has a specification available for all to read, in a human-readable format, written in commonly accepted technical language, is documented, so that anyone can write software that can read and interpret the complete semantics of any data file stored in the data format, allows any file written in that format to be identified as adhering or not adhering to the format, and provides that any encryption or obfuscation algorithms are usable in a royalty-free, nondiscriminatory manner in perpetuity, and are documented so that anyone in possession of the appropriate encryption key or keys or other data necessary to recover the original data is able to write software to access the data. “Proprietary software” means software that does not fulfill all of the guarantees provided by open source software.

Prior to approving software acquisition requests, the Chief Information Officer shall require that the purchasing entity has considered whether proprietary or open source software offers the most cost-effective software solution for the agency, based on consideration of all associated acquisition, support, maintenance, and training costs.

Whenever possible the Chief Information Officer shall avoid approving requests for the acquisition of products that do not comply with open standards for interoperability or data storage.

HB 2646

State Use Committee

Authors: David Brumbaugh of the House and David Holt of the Senate

Effective Date: 08/23/2012

Section 1

Changes the number of members on the State Use Committee from five to seven.

This change allows for two more members to the committee in order to better represent State Agencies as a whole. Prior to this legislation, majority representation was given to State Use Vendors which leaves our agencies – customers in this situation – not represented. Initial membership was set to give voice to the disabled workers of Oklahoma. While this is achieved currently and will continue to be with the provisions of this legislation, there is not a clear representation of state agency customers on the committee.

- New members to the committee will be: the Director of Human Services, or designee; and, a Certified Procurement Officer as appointed by the State Purchasing Director.

Section 2

Adds the following definitions:

1. “Manufactured” means goods made by manual labor;
2. “Produced” means to have brought into existence or created from raw materials;
3. “Processed” means the action of taking something through an established and mostly routine set of procedures or steps to substantially convert a potential product from one form to another. This action involves a sequence of multiple steps each requiring a distinct decision-making process to evolve a potential product to the next step; and
4. “Assemble” means to put or fit together or put together the parts of a potential product.

Section 3

Adds the following language:

“When the fair market price for a product or service approved by the Committee exceeds a current market price for the same product or service, and such lower market price has been verified by the agency through compliance with the fair market analysis process approved by the Department of Central Services, the state use contracting officer may grant a temporary exception to a requesting agency so that the agency may purchase the product or service from the vendor offering the lower market price. The temporary exception shall automatically expire when a new fair market price is established by the State Use Committee.”

HB 2647

State Vehicles and Travel Reimbursement

Authors: David Brumbaugh of the House and Clark Jolley of the Senate

Effective Date: 11/01/2012

Section 1 and 2

Adds vehicles leased by state agencies to the requirement that all state vehicles affix the words "State of Oklahoma" and the name of the department or institution in conspicuous letters.

Adds to the exemption of marking vehicles for certain state entities the following:
"Vehicles utilized by CLEET-certified officers or state employees primarily employed in investigative activities may be exempt from the provisions of this section subject to the approval of the State Fleet Manager"

Section 3

Adds state leased vehicles to the requirements of driving state vehicles except in the performance of the official duty of the employee

Section 4

Exempts state government entities from being subject to vehicle excise tax.

Section 5

Exempts state government entities from being subject to vehicle rental tax.

Section 6

State employees may be exempt from the reimbursement requirements of the Trip Optimizer system, provided the state employees utilize a personally owned vehicle and seek reimbursement according to the schedule referenced below.

The Office of State Finance may publish a schedule of reimbursement rates for state employee travel. The schedule may apply to exemptions claimed by employees utilizing a personally owned vehicle. The schedule may categorize reimbursement rates by type of vehicle and shall not exceed standard mileage reimbursement rates as established by the Internal Revenue Service.

In providing a calculation of rates, the Trip Optimizer system shall account for the distance that an employee must travel to pick up a rental or state fleet vehicle.

In providing a calculation of rates, the Trip Optimizer system shall account for the long-term rate discounts offered through the state's purchasing contract for vehicle rentals.

Section 7

Each state agency regardless of the exceptions granted, shall provide motor vehicle inventory records to the Department of Central Services at such times as may be requested by the Fleet Management Division.

HB 2939

Technology

Authors: David Derby of the House and Rick Brinkley of the Senate

Effective Date: 8/23/2012

Section 1

The State Chief Information Officer (CIO) or any employee or agent of the CIO acting within the scope of delegated authority, shall have the same power and authority regarding the procurement of all information and telecommunication technology, equipment, software, products, and related peripherals and services for all state agencies as the State Purchasing Director has of all acquisitions used or consumed by state agencies as established in the Oklahoma Central Purchasing Act. Allows financial and proprietary information to be designated confidential and reject all requests to disclose the information so designated, if the CIO requires the bidder to submit the proprietary or confidential information.

Section 2 and 3

Provides that no agency shall purchase IT equipment or machines, or enter into an agreement for the acquisition, development, or enhancement of a communication or telecommunication system including voice, data, radio, video, Internet, eGovernment, printers, scanners, copiers, facsimile systems and associated supplies, service costs, maintenance costs, or any other costs or fees associated with the acquisition of the system or equipment, without authorization from the CIO, or a designee, regardless of cost associated. If written authorization is not obtained prior to the purchase, the Office of State Finance may not process the claim.

Section 4

Allows the Information Services Division (ISD) to bill agencies for services provided at an estimated cost to provide the services. The estimated cost shall include the full cost of the services, including materials; depreciation related to capital costs, labor, and administrative expenses of the ISD in connection with the operation of the data center and Division operations; and shall include expenses associated with acquiring, installing, and operating information technology infrastructure, hardware, and software for use by state agencies. ISD shall publish a schedule of costs for each information technology service provided and shall enter into an agreement with each state agency for the services that will be provided prior to providing the services. The total amount charged to a state agency for the information technology services shall not exceed the amount appropriated to that agency for such services. State agencies shall process payments as provided for under the agreement entered into with ISD in a timely manner and when payments are deemed to be delinquent, ISD may request the Division of Central Accounting and Reporting of the Office of State Finance to create vouchers and process payments to ISD against the funds of the delinquent agency. If the state agency for which services were provided disputes the

provision of services in accordance with its agreement with ISD, no voucher shall be processed until the dispute has been resolved, at which point a voucher may be processed in accordance with the terms of the dispute resolution.

Section 5

Reiterates that each state agency shall continue to be responsible for its own records, even if the records have been transmitted to or stored by the Information Services Division of the Office of State Finance or to the CIO. Even though the records may be kept electronically by the Information Services Division, they are still the property of the agency.

Provides that state employees, who are participating in the Teacher's Retirement System and transferred pursuant to the Information Technology Consolidation Act, may make an irrevocable election to continue in the Teacher's Retirement System or participate in the Oklahoma Public Employees Retirement System. There is no fiscal impact to either system.

HB 3053

State Government Administrative Process Consolidation and Reorganization Reform

Authors: Kris Steele and Jason Murphey of the House and Kim David of the Senate

Effective Date: 11/01/2012

Section 1

A new section of law not to be codified in the Oklahoma Statutes 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

Creates within the Executive Department, the Office of Management and Enterprise Services, by renaming and deleting the Office of State Finance and all divisions and departments within the consolidated Office of State Finance.

Section 3

Changes statutory references to the Office of Management and Enterprise Services and deletes language directing the 2011 consolidation of administrative functions of each of the consolidated agencies no later than December 31, 2011.

Section 4

Officially changes the name of "Department of Central Services" to the "Office of Management and Enterprise Services".

Sections 5, 6, 7, 8, and 9

Officially changes the name of the "Office of Personnel Management" to the "Office of Management and Enterprise Services" and consolidates the department of the Office of Personnel Management into the Office of Management and Enterprise Services. Changes all references to the Office of Personnel Management to the Office of Management and Enterprise Services.

Deletes statutory references and duties for the Office of Personnel Management.

Changes the requirement of employees appointed to professional personnel positions initial training program. Changes the requirement from six months to one year after assuming the professional personnel position.

Renames the “Office of Personnel Management Revolving Fund” the “Human Capital Management Revolving Fund”.

Changes the study identifying job family descriptors to not less than once during each two-year period.

Sections 10 and 11

Changes references to the Office of Management and Enterprise Services.

Changes reference of the Office of Personnel Management Revolving Fund to the Human Capital Management Revolving Fund.

Deletes all reference to the Employee Benefits Revolving Fund, the Benefits Council Administration Revolving Fund, and the Oklahoma Employees Benefits Council.

Transfers the Employee Benefits Revolving Fund and the Benefits Council Administration Revolving Fund to the Human Capital Management Revolving Fund.

Directs the Office of Management and Enterprise Services to pay from the Human Capital Management Revolving 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 12

Removes the “State and Education Employees Group Insurance Act” and creates the “Oklahoma Employees Insurance and Benefits Act”.

Section 13

Removes the “State and Education Employees Group Insurance Board” and creates the “Oklahoma Employees Insurance and Benefits Board”.

Defines “Plan” as the Oklahoma Employees Insurance Plan.

Changes further references to the Oklahoma Employees Insurance and Benefits Act.

Changes further references to the Office of Management and Enterprise Services

Section 14

New law abolishing the “State and Education Employees Group Insurance Board” and the “Oklahoma State Employees Benefits Council” and creating the “Oklahoma Employees Insurance and Benefits Board”.

Sets the following parameters for the Board:

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.

The Board shall consist of seven 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.

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, 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.

Each member of the Board shall serve a term of four years from the date of appointment.

Members of the Board shall be subject to the following:

1. The appointed members shall each receive compensation of \$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 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.

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.

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.

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.

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.

Creates a grievance panel as follows:

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 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.

Establishes duties, responsibilities, and authority of the Office of Management and Enterprise services with respect to the administration of the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act, and for the Oklahoma Employees Insurance and Benefits Board as follows:

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:
 - i. diagnostic,
 - ii. preventative,
 - iii. restorative,
 - iv. endodontic,
 - v. periodontic,
 - vi. prosthodontics,
 - vii. oral surgery,
 - viii. dental implants,
 - ix. dental prosthetics, and orthodontics, and
 - c. they shall provide an annual benefit of not less than \$1,500.00 for all services other than orthodontic services, and a lifetime benefit of not less than \$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 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.

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

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

The members of the Board shall not accept gifts or gratuities from an individual organization with a value in excess of \$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

Changes references relating to the administration of the Oklahoma Employees Insurance and Benefits Act and the hiring of an "Administrator" from the "Oklahoma State and Education Employees Group Insurance Board", to the "Director of the Office of Management and Enterprise Services".

Changes references from the "Board" to the "Director of the Office of Management and Enterprise Services" as it relates to the hire of a director of internal audit and licensed attorney and other employees necessary to administer the provisions of the Oklahoma Employees Insurance and Benefits Act.

Section 16

Removes reference to the “Oklahoma Employees Benefits Council” and the “Oklahoma State and Education Employees Group Insurance Board”, and replaces those references with the “Oklahoma Employees Insurance and Benefits Board”

Section 17

Dissolves the Benefits Council Administration Revolving Fund and transfers all assets to the Human Capital Management Revolving Fund.

Section 18

Beginning for Plan Year 2013, the state employee and dependent benefit allowance shall be the greater of the 2012 benefit allowance or an amount equal to the HealthChoice High Option plan.

Section 19

Changes references from the “Oklahoma State and Education Employees Group Insurance Board” to the “Office of Management and Enterprise Services”.

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 establishing guidelines for preparation of performance reporting metrics 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

Repeals the following sections of Title 74:

840-1.5

The Office of Personnel Management may purchase or provide, from funds available for the operation of the Office, liability insurance in an amount not to exceed One Million Dollars (\$1,000,000.00) to indemnify the Administrator and such other employees of the Office as may be designated by the Administrator in the performance of their official duties.

1304

1) There is hereby created the State and Education Employees Group Insurance Board which shall consist of eight (8) members as follows: The State Insurance Commissioner, or the Commissioner's designee who shall be an employee of the Insurance Department, the Director of the Office of State Finance, two members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President Pro Tempore of the Senate. The appointed members shall each receive compensation of Five Hundred Dollars (\$500.00) per month. Appointed members who fail to attend a regularly scheduled monthly meeting of the Board shall not receive the related monthly compensation. In the event an appointed member does not attend at least seventy-five percent (75%) of the regularly scheduled monthly meetings of the Board during a calendar year, the appointing authority may remove the member. A member may also be removed for any other cause as provided by law. A vacancy in the office of the appointed member shall be filled for the unexpired term of office in the same manner as the original appointment.

(2) The initial term of office of the members appointed by the Governor shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(3) The initial term of office of one of the members appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1992. The initial term of office of the other member

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.

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

Repeals the following sections of Title 74:

840-1.5

The Office of Personnel Management may purchase or provide, from funds available for the operation of the Office, liability insurance in an amount not to exceed One Million Dollars (\$1,000,000.00) to indemnify the Administrator and such other employees of the Office as may be designated by the Administrator in the performance of their official duties.

1304

1) There is hereby created the State and Education Employees Group Insurance Board which shall consist of eight (8) members as follows: The State Insurance Commissioner, or the Commissioner's designee who shall be an employee of the Insurance Department, the Director of the Office of State Finance, two members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President Pro Tempore of the Senate. The appointed members shall each receive compensation of Five Hundred Dollars (\$500.00) per month. Appointed members who fail to attend a regularly scheduled monthly meeting of the Board shall not receive the related monthly compensation. In the event an appointed member does not attend at least seventy-five percent (75%) of the regularly scheduled monthly meetings of the Board during a calendar year, the appointing authority may remove the member. A member may also be removed for any other cause as provided by law. A vacancy in the office of the appointed member shall be filled for the unexpired term of office in the same manner as the original appointment.

(2) The initial term of office of the members appointed by the Governor shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(3) The initial term of office of one of the members appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1992. The initial term of office of the other member

appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1994. Thereafter, the term of office of the members appointed by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be four (4) years.

(4) The appointed members shall:

(a) 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; or

(b) be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

(c) 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 (1) but not more than three (3) members shall be appointed each from paragraphs (b) and (c) of this subsection by the combined appointing authorities.

(5) No appointed member of the State and Education Employees Group Insurance Board shall be a lobbyist registered in this state as provided by law, a health care provider, a plan participant, be employed, directly or indirectly, by any insurance company or carrier, or health care provider, or be employed directly or indirectly, by any firm under contract to the Board for any goods or services whatsoever. Provided, however, if an appointed member of the Board was a plan participant of any insurance plans offered by the Board at the time the member was appointed to serve as a member of the Board, and the appointed member of the Board forfeited participation in the insurance plans in order to serve on the Board, the member of the Board may resume participation in said insurance plans upon leaving the Board.

(6) The State and Education Employees Group Insurance Board shall not be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title.

(7) The Attorney General shall furnish the Board with legal representation.

(8) The Court Administrator 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 State of Oklahoma hospital, 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.

(9) The Board shall at its first meeting elect one of its members as chair. The chair shall preside over meetings of the Board and perform such other duties as may be required by the Board.

(10) The Board shall elect another member to serve as vice- chair who shall perform the duties of the chair in the absence of the latter or upon the inability or refusal to act.

(11) The Board shall also elect a secretary who shall keep minutes of all meetings and who shall certify to actions of the Board.

(12) The Board shall 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 State and Education Employees Group Insurance 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.

(13) The Board may contract with a pay-for-performance program provider. The contract shall be with a group practice of a medical school with at least three hundred fifty providers in its panel for a statistically significant demonstration project among employee enrollees that select to participate in the program. The purpose of the program is to test a program's value proposition that offers financial incentives to both the health care provider and the patient for incorporating evidence-based medicine guidelines and information therapy prescriptions in the rendering and utilizing of health care. This program must offer the health care provider the flexibility to use the health care provider's clinical judgment to adhere to or deviate from the program's guidelines and still receive a financial incentive as long as the health care provider prescribes information therapy to the patient. The program shall offer a financial reward to the patient for responding to the information therapy prescription by demonstrating the patient's understanding of the patient's health condition, by demonstrating adherence to recommended care, and by judging the quality of care given to the patient against these guidelines. The program shall be offered and administered through an Internet application. This demonstration project shall collect and analyze data over a period of two (2) years in order to determine its effectiveness.

(14) The State and Education Employees Group Insurance Board may 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 State and Education Employees Group Insurance 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 approved the service as an exceptional circumstance.

(15) The Administrator shall appoint an advisory committee to the State and Education Employees Group Insurance Board. The advisory committee shall consist of seven (7) members. Of the members appointed to the advisory committee, at least one member must be an active state employee, at least one member must be a retired state employee, at least one member must be an active education employee, at least one member must be a retired education employee, and at least one member must be either an active county employee or a retired county employee.

1305

1) The Board shall hold regular meetings at least once each quarter in Oklahoma City, the date, time, and place thereof to be fixed by the Board. The Board shall in July of each year hold a regular meeting which shall be the annual meeting, at which meeting it shall elect its officers.

(2) Special meetings may be called upon written notice of the chairman or by agreement of any five members of the Board. Notice of a special meeting shall be delivered to all members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

(3) 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.

(4) The 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. No Board member shall be individually or personally liable for any action of the Board.

(5) The members of the Board, the Administrator and the employees of the Board shall not accept gifts or gratuities from an individual organization with a value in excess of Fifty Dollars (\$50.00) per year. The provisions of this section shall not be construed to prevent the members of the Board, the Administrator or the employees of the Board from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

1306

The State and Education Employees Group Insurance Board shall administer and manage the group insurance plans and the flexible benefits plan and, subject to the provisions of the State and Education Employees Group Insurance Act and the State Employees Flexible Benefits Act, shall have the following powers and duties:

1. The preparation of specifications for such insurance plans as the Board may determine to be appropriate;
2. The authority and duty to request bids through the Purchasing Division of the Department of Central Services for a contract to be the claims administrator for all or any part of such insurance and benefit plans as the Board may offer;
3. The determination of the methods of claims administration under such insurance and benefit plans as the Board may offer;
4. The determination of the eligibility of employees and their dependents to participate in each of the Group Insurance Plans and in such other insurance and benefit plans as the Board may offer and the eligibility of employees to participate in the Life Insurance Plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;
5. The determination of the amount of employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;
6. 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;
7. The continuing study of the operation of such insurance and benefit plans as the Board may offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;
8. The administration of the Health, Dental and Life Insurance Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the Education Employees Group Insurance Reserve Fund;
9. The auditing of the claims paid pursuant to the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

10. a. To select 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 Sections 6901 through 6951 of Title 36 of the Oklahoma Statutes for consideration by employees as an alternative to the state self-insured health plan, and to transfer to the HMOs such funds as may be approved for an employee electing HMO 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.

b. Benefit plan contracts with the State and Education Employees Group Insurance Board, Health Maintenance Organizations, and other third-party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Board, based on generally accepted actuarial principles. The risk adjustment factor shall include all members participating in the plans offered by the State and Education Employees Group Insurance Board. The Oklahoma State Employees Benefits Council shall contract with an actuary to provide the above actuarial services, and shall be reimbursed for these contract expenses by the Board.

c. Effective for the plan year beginning January 1, 2007, and for each year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees to be equal to the premium for retirees under sixty-five (65) years of age;

11. To contract for reinsurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board. Provided, however, that the Board shall not offer a health plan which is owned or operated by the state and which utilizes a capitated payment plan for providers which uses a primary care physician as a gatekeeper to any specialty care provided by physician-specialists, unless specifically authorized by the Legislature;

12. The Board, pursuant to the provisions of Section 250 et seq. of Title 75 of the Oklahoma Statutes, shall adopt such rules consistent with the provisions of the State and Education Employees Group Insurance Act as it deems necessary to carry out its statutory duties and responsibilities. Emergency Rules adopted by the Board and approved by the Governor which are in effect on the first day of the Regular Session of the Oklahoma Legislature shall not become null and void until January 15 of the subsequent calendar year;

13. The Board shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board may be directed to offer. No contract for claims administration services shall be made unless such contract has been offered for bids through the Purchasing Division of the Department of Central Services. The Board shall contract with a private insurance

carrier or other experienced claims administrator to process claims with software that is normally used for its customers;

14. The Board shall contract for utilization review services with a company experienced in utilization review, data base evaluation, market research, and planning and performance of the health insurance plan;

15. The Board shall have the authority to determine all rates and life, dental and health benefits. Except as otherwise provided for in Section 1321 of this title, the Board shall not have the authority to adjust the premium rates after approval. The Board shall submit notice of the amount of employee premiums and dependent premiums along with an actuarial projection of the upcoming fiscal year's enrollment, employee contributions, employer contributions, investment earnings, paid claims, internal expenses, external expenses and changes in liabilities to the Director of the Office of State Finance and the Director of the Legislative Service Bureau no later than March 1 of the previous fiscal year.

Effective for the plan year beginning January 1, 2007, and for each plan year thereafter, in setting health insurance premiums for active employees and retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees to be equal to the monthly premium for retirees under sixty-five (65) years of age;

16. Before December 1 of each year the Board shall submit to the Director of the Office of State Finance a report outlining the financial condition for the previous fiscal year of all insurance plans offered by the Board. The report shall include a complete explanation of all reserve funds and the actuarial projections on the need for such reserves. The report shall include and disclose an estimate of the future trend of medical costs, the impact from HMO enrollment, antiselection, changes in law, and other contingencies that could impact the financial status of the plan. The Director of the Office of State Finance shall make written comment on the report and shall provide such comment, along with the report submitted by the Board, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chair of the Oklahoma State Employees Benefits Council by January 15;

17. The Board shall establish a prescription drug card network;

18. The Board shall have the authority to intercept monies owing to plan participants from other state agencies, when those participants in turn, owe money to the Board. The Board shall be required to adopt rules and regulations ensuring the participants due process of law;

19. The Board is authorized to make available to eligible employees supplemental health care benefit plans to include but not be limited to long-term care, deductible reduction plans and employee co-payment reinsurance. Premiums for said plans shall be actuarially based and the cost for such supplemental plans shall be paid by the employee;

20. Beginning with the plan year which begins on January 1, 2006, the Board shall 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 uniform service members and their families;

21. There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on State and Education Employees Group Insurance Benefits, which Joint Committee shall consist of three members of the Senate to be appointed by the President Pro Tempore thereof and three members of the House of Representatives to be appointed by the Speaker thereof. The Chair and Vice Chair of the Joint Committee shall be appointed from the membership thereof by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, one of whom shall be a member of the Senate and the other shall be a member of the House of Representatives. At the beginning of the first regular session of each Legislature, starting in 1991, the Chair shall be from the Senate; thereafter the chairship shall alternate every two (2) years between the Senate and the House of Representatives.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall function as a committee of the State Legislature when the Legislature is in session and when the Legislature is not in session. Each appointed member of said committee shall serve until his or her successor is appointed.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall serve as a liaison with the State and Education Employees Group Insurance Board regarding advice, guidance, policy, management, operations, plans, programs and fiscal needs of said Board. Said Board shall not be bound by any action of the Joint Committee; and

22. The State and Education Employees Group Insurance Board shall annually collect its own set of performance measures comparable to the Health Plan Employer Data and Information Set (HEDIS) for the purpose of assessing the quality of its HealthChoice plans and the other services it provides.

1306.3

A. The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall create the Payment Rate Review Task Force, which shall review all payments made to providers of medical care by the Oklahoma State and Education Employees Group Insurance Board. The Task Force shall be composed of independent experts appointed by the Joint Liaison Committee on State and Education Employees Group Insurance Benefits. The Task Force shall annually review applicable changes in payment rates which will affect hospital inpatient and outpatient payment methodologies.

B. The Task Force shall study and make recommendations, as part of its annual report, regarding new institutional reimbursement policy and changes in each existing

reimbursement policy by the Oklahoma State and Education Employees Group Insurance Board under which payments to an institution are made.

C. No later than January 1 of each year, the Task Force shall submit a report to the Joint Liaison Committee on State and Education Employees Group Insurance Benefits containing an examination of issues affecting health care delivery to state and education employees in Oklahoma, including issues related to:

1. Trends in health care costs;
2. The financial condition of hospitals and the effect of the payments made to hospitals under this act on such condition;
3. Trends in the use of health care services under the Oklahoma State and Education Employees Group Insurance Board health plans; and
4. New methods used by employers, insurers, and others to address the use of health care services.

The Task Force shall make, as part of its annual report, recommendations to the Joint Liaison Committee on State and Education Employees Group Insurance Benefits concerning appropriate changes in reimbursement rates which should be used for inpatient and outpatient hospital services.

D. The Task Force shall consist of nine (9) members. The membership of the Task Force shall include individuals with recognized expertise in health economics, health facility management, reimbursement of health facilities or other providers of services which reflect the scope of the Task Force's responsibilities, a balance of urban and rural representatives, including hospital administrators, physicians, and registered nurses, employers, third-party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care.

E. In order to identify medically appropriate patterns of health resources, the Task Force shall collect and assess information on medical and surgical procedures and services, including information on variations of medical practice and lengths of hospitalization and on other patient care data, giving special attention to treatment patterns for conditions which appear to involve excessively costly or inappropriate services not adding to the quality of care provided. The Task Force shall give special attention to the needs of updating existing diagnosis-related groups and establishing new diagnosis-related groups, to reflect appropriate differences in resource consumption in delivering safe, efficacious and cost-effective care.

F. In order to conduct its duties, the Task Force shall have unrestricted access to all payment rate information of the Oklahoma State and Education Employees Group Insurance Board immediately upon request.

1306.4

A. By October 1, 2000, the Board shall implement a pilot disease management program. The purpose of the program shall be to reduce cost in the three most costly disease categories. Such program is to continue until July 1, 2003.

B. Beginning January 1, 2002, and each year of the life of the program, the Board shall give the legislature an annual report concerning cost reduction measures implemented in the disease management program.

C. The Board shall promulgate such rules as necessary to implement the provisions of this section.

Repealers Continued:**1364**

A. There is hereby created the Oklahoma State Employees Benefits Council.

B. The Oklahoma State Employees Benefits Council shall be composed of the five (5) following individuals:

1. The Administrator of the Office of Personnel Management;
2. Two members appointed by the Governor;
3. One member appointed by the President Pro Tempore of the Senate; and
4. One member appointed by the Speaker of the House of Representatives.

C.. The members appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority. The members thereafter appointed by the Speaker of the House of Representatives and the President Pro Tempore of the State Senate shall serve a term of office of four (4) years.

D. No member of the Council 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 Council or Board, or any benefit program under its jurisdiction, for any goods or services whatsoever.

E. Any vacancy that occurs on the Council shall be filled for the unexpired term in the same manner as the office was previously filled.

F. The general administration and responsibility for the proper design, selection or operation of the benefits offered under the plan and for making effective the provisions of Section 1361 et seq. this title are hereby vested in the Council.

G. The Council shall elect one of its members as chair. The chair shall preside over meetings of the Council and perform such other duties as may be required by the Council. The Council shall elect one of its members to serve as vice-chair who shall perform the duties of the chair in the absence of the latter or upon the inability or refusal of the chair to act. The Council shall elect one of its members to serve as secretary.

H. The Council and staff shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act. The Council shall, in July of each year, hold a regular meeting, at which meeting it shall elect officers. Each year, the Council shall conduct an annual planning meeting.

I. Special meetings may be called upon written notice by the chair or by agreement of any three members of the Council. Notice of a special meeting shall be delivered to all members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

J. The majority of the members of the Council shall constitute a quorum for the transaction of business. Each Council member shall be entitled to one vote on the Council. Any official action of the Council must have three (3) votes of the members of the Council present.

K. All resolutions, proceedings, acts and determinations of the Council shall be recorded and all such records, together with such documents and instruments as may be necessary for the administration of the plan, shall be preserved in the custody of the executive director.

L. Each member of the Council shall serve without compensation except that each of the Council members shall receive travel expenses in accordance with the State Travel Reimbursement Act.

M. The Council shall not be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title.

1365

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

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 retain or employ qualified agencies, persons or entities to design, develop, communicate, implement or administer the plan;
4. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;

5. To prepare and distribute information communicating and explaining the plan to participating employers and participants. The State and Education Employees Group Insurance Board, 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 conditions:

a. the Council shall verify all marketing and communications information for factual accuracy prior to distribution,

b. the Board or vendors shall provide timely notice of any marketing, communications, or distribution plans to the Council and shall coordinate the scheduling of any group presentations with the Council, and

c. the Board or vendors shall file a brief summary with the Council outlining the results following any marketing and communications activities;

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

10. To negotiate for best and final offer through competitive negotiation 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 Sections 6901 through 6951 of Title 36 of the Oklahoma Statutes for consideration by participants as an alternative to the health plans offered by the 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 Council 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 Council. However, if the Council 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 Oklahoma State Employees Benefits Council 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;

11. 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;

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

13. To require vendors offering coverage through the Council, including the Board, to provide such enrollment and claims data as is determined by the Council. The Oklahoma State Employees Benefits Council with the cooperation of the Department of Central Services acting pursuant to Section 85.1 et seq. of this title, shall be authorized to retain as confidential, any proprietary information submitted in response to the Council's Request For Proposal. Provided, however, that any such information requested by the Council 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);

14. To purchase any insurance deemed necessary for providing benefits under the plan including indemnity dental plans, provided that the only indemnity health plan selected by the Council 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, including the one offered by the State and Education Employees Group Insurance Board, must 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;

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

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

17. 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.;

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

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

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

21. Beginning with the plan year which begins on January 1, 2012, 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 uniform service members and their families.

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

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

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

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

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

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

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

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

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

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the Council and the plan solely in the interest of the participants and beneficiaries of the

HB 3079

State Agency Consolidation

Authors: Jason Murphey of the House and Kim David of the Senate

HB 3079 replaces every statutory reference of the Office of State Finance and the consolidated divisions, with the newly named agency – The Office of Management and Enterprise Services.

Through the consolidation of HB 2140, the Office of State Finance vision became a simple one: “We will develop a unified agency through a deliberative and collaborative process that creates maximum value for our stakeholders.” Adapting a comprehensive concept from *The Future of Government around the World* the goal is to be FAST, a Flatter, Agile, Streamlined, and Technology-enabled agency.

The Director of the Office of State Finance delivered a report to the Legislature and the Governor in December 2011, outlining the consolidation progress including governance, division restructuring, resource pooling, and the financial savings to date and anticipated savings in the future.

The report suggests renaming the agency to reflect the larger scope of the consolidated agency. The recommendation is to change the “Office of State Finance” to the “Office of Management and Enterprise Services”. The name reflects a two-fold change. It indicates the course of continuing to reduce their appropriated footprint while at the same time, continuing to administer and provide services required of the respective divisions. It projects the consolidated agency’s broader focus of administering the organization as entrepreneurially as possible where appropriate while retaining the determination to comply with the laws and regulations that govern the missions. A new name will unify the five agencies internally as well as announce the purpose externally.

The goal was to find a balance between streamlining administration and management through personnel changes while, at the same time, avoiding any compromise to the objectives and duties of each agency. Management of the human capital resources led to significant savings that will continue to escalate in future years. The goal is also to flatten the operational structure by sharing services between the consolidated agencies. Developing teams for legal, communications, policy, and legislative services will provide each division with access to these resources, some that may not have been available to them in the past. This enables all divisions to share information, collaborate, and effectively complete their own missions more efficiently.

plan according to the terms hereof, for the exclusive purpose of providing benefits to participants and their beneficiaries, with the care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and

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

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

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

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

SB 1052

Public Building Construction and Planning Act

Authors: Harry Coates of the Senate and Guy Liebmann of the House

Effective Date: 08/23/2012

Section 1

Adds and amends the following to the list of definitions under the Public Building Construction and Planning Act and changes references from the Department of Central Services to the Office of State Finance.

"Annual capital plan" means the collective state facility capital improvements and real property transactions approved by the Legislature relative to state construction, maintenance, and real estate services;

"Capital planning and asset management" means the processes delegated to the Construction and Properties Department for real property data acquisition, data analysis and determination of capital construction projects, disposition of real property and leasing of facility space;

"Construction" means the process of planning, acquiring, designing, building, equipping, altering, repairing, improving, maintaining, leasing, disposing or demolishing any structure or appurtenance thereto including facilities, utilities, or other improvements to any real property but not including highways, bridges, airports, railroads, tunnels, sewers not related to a structure or appurtenance thereto, or dams;

"Consultant" means an individual or legal entity possessing the qualifications to provide licensed architectural, registered engineering, or registered land surveying, certified appraisal, land title, or abstract services or possessing specialized credentials and qualifications as may be needed to evaluate, plan or design for any construction or public work improvement project, or to lease, acquire or dispose of state-owned real property;

Section 2

Amends generic requirement for Master Planning to include specific processes, analysis and work product as follows:

Maintain a comprehensive master plan for utilization and construction of buildings for state agencies, capital improvements, and utilization of land owned by this state
Requirements of the master planning process shall include:

- a. reporting by each state agency concerning facility needs,

- b. data acquisition of condition and performance benchmarking of state agency facilities,
- c. analyses and audits of state agency facilities, properties and leaseholds to determine critical and long-range needs
- d. development of state agency long-range strategic facility plans,
- e. short-range project programming to identify budget requests for facility capital improvements and asset management decisions, and
- f. an annual capital plan for all state agencies submitted to the Legislature for line-item appropriation requests;

Directs the Office of State Finance to provide a report containing recommendations to the Legislature as follows:

Not later than December 31, 2012, with the advice of the State Construction Administrator, the Director of the Office of State Finance shall provide a report containing recommendations to the Legislature for the streamlining, integration, and consolidation of state construction, maintenance, and real property management processes to maximize capital assets and achieve cost savings to the state. The report shall identify the necessary planning processes for transitioning from a decentralized capital budgeting process to a centralized annual capital plan appropriation process, to be implemented no later than January 1, 2014.

Section 3

Amends Fee Authority of Construction and Properties by allowing fees to be calculated as a percentage of the Annual Capital Plan

Section 4

Amends the appropriation language for the Annual Capital Plan so that those funds are to be deposited into the revolving fund and used by Construction and Properties to pay expenses for approved projects.

HB 1985

Oklahoma Personnel Act – Veterans Preferences

Authors: Chuck Hoskin of the House and Sean Burrage of the Senate

Effective: 11/01/2012

Section 1

This bill modifies the Oklahoma Personnel Act as it relates to preferences given to eligible veterans in establishing employment lists for competitive and noncompetitive appointment. It provides that veterans who are honorably discharged be interviewed in person in order to demonstrate any transferable skills acquired in military service.

The bill further directs that the in-person meeting is to be given in addition to the points added to the final grade of any eligible veteran who meets the basic qualifications for the position sought. This bill also reclassifies references to the Veterans Administration as the Department of Veterans Affairs.

HB 2288

State Employees Health Insurance – Opt Out

Authors: Emily Virgin of the House and John Sparks of the Senate

Effective Date: 11/01/2012

Section 1

Previously, employees of the state could opt out of the state's basic plan if the employee was covered by a separate group health insurance plan at the time of the request to opt out. HB 2288 merely adds another exception and allows an employee of the state to opt out of the state's basic plan if the employee will be covered by a separate group health insurance plan at or before the beginning of the next plan year.

HB 2330

Government Contracts/Employment Screenings

Authors: Lewis Moore of the House and Bill Brown of the Senate

Effective Date: 11/01/2012

Section 1

This bill will allow any agency, board, commission, higher education institution, career technology, or common education institution of the state to contract with a third-party vendor to perform any and all employment screenings, background checks, and credit checks.

It dictates the third-party vendor must be a member in good standing with the National Association of Professional Background Screeners.

HB 2684

School Support Personnel Benefits

Authors: Gary Banz of the House and John Ford of the Senate

Effective Date: 07/01/2012

Section 1

Extends the definition of school support personnel who are eligible for benefits under the Larry Dickerson Education Flexible Benefits Allowance Act to include those who work a minimum six hours per day for a minimum 1,032 hours per year. The previous definition allowed for only a person who worked a minimum six hours per day for a minimum 172 days of the year.

HB 2724

Furlough Notices

Authors: Scott Inman of the House and Greg Childers of the Senate

Effective Date: 8/23/2012

Section 1

HB 2724 requires state agencies to provide a written notice to employees who will be furloughed at least 30 days prior to the first date that the furlough period is scheduled to begin. The bill directs that the notice shall provide information about the anticipated first date of the furlough period and an estimate of the duration of the furlough or for how long and for which days the furlough will be in effect.

HB 3056

Health Benefits for Education Employees

Authors: Kris Steele of the House and Brian Bingman of the Senate

Effective Date: 07/01/2012

Section 1

Directs the Legislature to appropriate adequate funding to the State Board of Education and the State Board of Career and Technology Education on a fiscal year basis. The legislation further provides that unless the Legislature appropriates adequate funding specifically for the purpose of providing a flexible benefit allowance, the State Board of Education is to fully fund the flexible benefit allowance from the funds appropriated to the Board for the support of public school activities.

Section 2

States that nothing shall prohibit a school district from forwarding appropriate premiums to the Oklahoma Employees Insurance Board prior to the month for which payment is due.

SB 1083

Counseling Services for State Employees

Authors: Don Barrington of the Senate and Jason Nelson of the House

Effective Date: 11/01/2012

Section 1

Requires the state agencies listed below to provide or contract to provide debriefing and counseling services for state employees who are affected by violent or traumatic events that occur in the workplace:

- The Department of Human Services;
- The Department of Mental Health and Substance Abuse Services;
- The Department of Corrections;
- The Department of Transportation; and
- The Office of Juvenile Affairs

The legislation also provides state employees who are affected by violent or traumatic events in the workplace the option to refuse services. The Director of the Office of State Finance is directed to promulgate rules to implement the provisions of the act which shall specify the types of events which shall qualify an employee for debriefing and counseling services.

SB 1592

Physical Therapy Practice Act

Authors: Clark Jolley of the Senate and Gary Banz of the House

Effective Date: 11/01/2012

Section 1

The bill begins by defining “Physical Therapy” as the care and services provided by or under the direction and supervision of a physical therapist that is licensed pursuant to the Physical Therapy Practice Act.

Section 2

States that nothing in the Physical Therapy Practice Act shall prevent a physical therapist from performing services that are provided for the purpose of fitness, wellness, or prevention that is not related to the treatment of an injury or ailment.

SB 1905

Insurance Coverage of Military Retirees

Authors: Steve Russell of the Senate and Paul Wesselhoft of the House

Effective Date: 11/01/2012

Section 1

This legislation very simply prohibits any employer from requiring any employee who is retired from the United States Military and has health coverage through a federal plan to participate in employer-sponsored health insurance if it requires a contribution from the employee.

The bill provides that it is the responsibility of the employee to provide proof of that coverage to the employer before the beginning of each plan year.

SCR 24

Committee for Incentive Awards for State Employees

Authors: Josh Brecheen of the Senate and Jason Murphey of the House

Effective Date: 05/15/2012

Section 1

This resolution directs the Committee for Incentive Awards for State Employees to meet and study proposals to increase awareness and promote the Incentive Awards for State Employees Act.

The legislation affirms the legislature's belief that increasing the efficiency of state agencies and lowering the costs of services to the taxpaying citizens of our state is of vital importance. It finds that, like the 1984 Incentive Awards for State Employees Act, there may be additional methods that could be used to reward employees for their efforts in implementing ideas for decreasing agency costs and increasing productivity. Some of these methods may include authorizing bonus annual leave hours and utilizing state agency websites to publicize winning ideas for further adoption by other agencies.

The legislation provides that the best avenue to study additional methods and encourage the utilization of this act by state employees would be through the Committee for Incentive Awards for State Employees as created in Section 4112 of Title 74.

Therefore:

The legislation directs the Committee for Incentive Awards for State Employees to meet and study the proposals as listed above and the incentive programs enacted by other state for additional incentives that might be adopted for use in our state program and suggestions to further promote and increase awareness of the program throughout the agencies of this state.

The resolution further directs the Committee to report its findings with any recommendation no later than December 1, 2012, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

HB 1577

Public Employees Relations Board

Authors: Scott Martin of the House and David Holt of the Senate

Effective Date: 11/01/2012

Section 1

Changes from three to five the number of members on the Public Employees Relations Board.

The members to serve on the Board shall be:

1. One appointed by the Governor shall be an impartial appointment and serve as Chairman;
2. Two members appointed by the President Pro Tempore of the State Senate. One appointee shall be an impartial member and the other a representative from the labor industry chosen from a list of four nominees to be submitted jointly. Two of the nominees shall be recommended by an Oklahoma organization the primary purpose of which is to provide services to members who are municipal police officers. The remaining two nominees shall be recommended by an Oklahoma organization the primary purpose of which is to provide services to members who are municipal firefighters; and
3. Two appointed by the Speaker of the Oklahoma House of Representatives. One of the appointees shall be impartial and one shall be a representative of a municipality to be selected from a list of four nominees submitted by a statewide organization the membership of which consists primarily of incorporated cities and towns within Oklahoma.

The legislation changes a board members term from five years to three. It further provides that no member shall serve more than two terms.

No impartial member appointment by the Speaker or President Pro Tempore shall:

Within two years of being appointed to the Board or while serving on the Board, have served or worked in a capacity as an advocate, be a member or receive compensation from a labor union group association or its subordinate affiliates or have served or worked in a capacity as an advocate, appointed or elected official of or received compensation from a municipality.

HB 2223

Sunset Law

Authors: George Faught of the House and Cliff Aldridge of the Senate

Effective Date: 07/16/2012

Section 1

HB 2223 re-creates, until July 1, 2015, the State Capitol Preservation Commission. The Commission is charged with the planning and supervising of the preservation and restoration of the interior and exterior of the State Capitol Building and the Governor's Mansion. The Commission is also responsible for the display of art objects in public areas of the Capitol and the Governor's Mansion.

HB 2258

Public Construction Bids

Authors: Ben Sherrer of the House and Sean Burrage of the Senate

Effective Date: 11/01/2012

Section 1

HB 2258 sets out requirements for resident and non-resident contractors of the state who submit a written bid on a public construction project offered for bid in the state. The first requirement directs that contractors, upon written request, show proof of current employer identification numbers issued to them by the Oklahoma Tax Commission (OTC) and payroll reports and records including those from the OTC, Oklahoma Employment Security Commission (OESC), Internal Revenue Service (IRS), and the Social Security Administration (SSA).

The legislation provides that any contractor that fails to provide proof as required or performs work without proper registration in the state shall be fined an amount not to exceed 10% of the contractor's total bid and is in addition to any other penalties allowed by law.

The bill also allows a fine issued by the OTC not to exceed 10% of the total contractor's bid if the contractor intentionally misclassifies employees as independent contractors for the purpose of affecting procedures and payments relating to withholding and social security, unemployment tax, or workers' compensation premiums.

Section 2

This section of the bill directs the Oklahoma Tax Commission, Oklahoma Workers' Compensation Court, Department of Labor, CompSource Oklahoma, and Oklahoma Employment Security Commission to share information and coordinate investigative and enforcement efforts for the purpose of detecting contractors who intentionally misclassify individuals as independent contractors.

HB 2262

State Government Assets

Authors: T.W. Shannon of the House and Clark Jolley of the Senate

Effective Date: 07/01/2012

Section 1

Directs the Long-Range Capital Planning Commission to include in its capital plan the findings of the Oklahoma State Government Asset Reduction and Cost Savings Program. The bill states the Commission is also to index the most necessary capital improvements to the expenditure of funds from the Maintenance of State Buildings Revolving Fund.

Section 2

Creates the Maintenance of State Buildings Revolving Fund. The bill states that the Fund shall not be subject to fiscal year limitations and that it shall serve as the depository for proceeds from the sale of state-owned properties pursuant to the Oklahoma State Government Asset Reduction and Cost Savings Program. Expenditures from the fund are limited exclusively to maintaining and repairing state-owned properties and buildings.

HB 2319

Oklahoma Police Pension and Retirement System

Authors: Randy McDaniel of the House and Patrick Anderson of the Senate

Effective Date: 07/01/2012

Section 1

Gives the Oklahoma Police Pension and Retirement System Board of Trustees the authorization to own and occupy necessary office space in suitable quarters as the State Board deems appropriate.

Previously, the Board was required to contract for office space.

HB 2320

Oklahoma Teachers' Retirement System

Authors: Randy McDaniel of the House and Patrick Anderson of the Senate

Effective Date: 07/01/2012

Section 1

Allows the Board of Trustees of the Teachers' Retirement System to invest the assets of the System in real property owned or to be acquired by the State. The bill further allows the Board to acquire, exchange, and grant any real property under its jurisdiction as is necessary to carry out its investments in real property.

In relation to investing assets of the system to acquire real property, the legislation sets limitations and authorizes the Board to invest not more than 10% of the total value of assets of the system.

HB 2320 also removes the requirement of the Board of Trustees to adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report.

HB 2392

Long-Range Capital Planning Commission

Authors: Guy Liebmann of the House and Mike Mazzei of the Senate

Effective Date: 11/01/2012

Section 1

HB 2392 decreases the membership of the Long-Range Capital Planning Commission from 12 to nine and directs the Office of State Finance, with the advice and assistance of the Oklahoma State Bond Advisor, to provide staffing for the Commission.

The legislation removes the Commission's requirement to also include regional and local public capital facility needs in its state capital plan, and also each state agency's requirement to submit a copy of its complete inventory and need list. It instead directs the commission to submit a plan on or about December 1 each year to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate.

In addition to removing regional and local public facility needs, the commission no longer is required to include the cost of construction, financing, repair, and maintenance as part of life cycle costs for new and substantially expanded or renovated facilities. It further removes from the Commission's Annual Plan, a review of capital projects which have recently been implemented or completed or are in process of implementation or completion.

In relation to removing the regional and local public requirements of the Commission, the legislation goes on to remove the Department of Commerce's requirement to assist the Commission in addressing regional and local public capital facility needs. The Department of Commerce's assistance included: an inventory of capital facilities held by units of local government; a projection of economic and demographic trends; an estimate of repair, replacement and expansions; and, estimates of life cycle costs.

In clarifying duties and roles of the Commission, the legislation removes the Office of State Finance's requirement to assist the Commission. It gives the Office of State Finance the same powers as the Commission and Oklahoma State Bond Advisor to call to their assistance such personnel or any state agency in order to perform their duties.

Finally, the legislation abolishes the Policy Advisory Committee to the Commission and dissolves its membership.

HB 2619

County Purchasing Agents

Authors: Dennis Johnson of the House and Greg Treat of the Senate

Effective Date: 11/01/2012

Section 1

Modifies a County Purchasing Agent's responsibilities to also allow a county to participate in any competitively bid nationwide purchasing program.

HB 2714

State Government / Department of Commerce Contracts

Authors: Mike Jackson of the House and Harry Coates of the Senate

Effective Date: 11/01/2012

Section 1

This legislation requires the Department of Commerce to review and approve submitted budget work programs for the expenditure of funds from Community Action Agencies prior to executing a contract. It provides that each contract shall require audits of expenditures, as provided in rules promulgated by the Department of Commerce.

HB 3043

Fair and Open Competition in Governmental Construction Act

Authors: Leslie Osborn of the House and Bill Brown of the Senate

Effective Date: 11/01/2012

Sections 1 and 2

The bill states that the purposes of the Act are to provide for the efficient procurement of goods and services by governmental units. Efficient procurement goes on to include efficient administration and completion of state and state-funded or state-assisted construction projects and provide fair and open competition for those contracts. Section 2 provides definitions inherent to the Act.

Section 3

Prohibits a public agency, or construction manager acting on behalf of the public agency, from including in its bid specifications:

- a term that relates in any way to a collective bargaining organization relating to the construction project or other related construction projects; or,
- a term that discriminates against bidders, contractors, or subcontractors based on the status as a party or nonparty to an agreement with a collective bargaining organization related to the construction project or other related construction projects.

Section 4

Prohibits an agency from awarding a grant, tax abatement, or tax credit that is conditioned upon a requirement that the awardee include a term described in Section 3 in a contract document for any construction or renovation to real property of fixtures that are the subject of the grant, tax abatement, or tax credit.

Section 5

This section is similar to Section 4 in that it sets out rules a public agency must abide by. It provides that a public agency shall not use any of the terms described in Section 3 in bid specifications and other controlling documents related to the construction or renovation of a public improvement. It further provides that any such included term is void and of no effect.

Section 6

Directs that the requirements of the Fair and Open Competition in Governmental Construction Act do not apply to public construction contracts executed prior to November 1, 2012. This section further states that nothing in the Act may prohibit employers from

- entering into agreements or engaging in any other activity protected by the National Labor Relations Act; or,
- interfering with labor relations of parties that are protected under the National Labor Relations Act.

Finally, the Act does not prohibit an agency from awarding a public contract with a contractor who is party to an agreement with a collective bargaining organization so long as becoming a party or adhering to an agreement with a collective bargaining organization is not a condition for the award and, conversely, that it does not discriminate against a private owner based upon the status of the private owner and a collective bargaining organization.

SB 1000

County Purchasing Procedures

Authors: Gary Stanislawski of the Senate and Dennis Johnson of the House

Effective Date: 07/01/2012

Section 1

This bill removes restrictions that require a group of counties placing a competitive bid as a group to be contiguous. It further allows counties and other local jurisdictions to enter into a local procurement agreement and participate in nationwide purchasing programs sponsored by the national association representing counties.

SB 1041

Public Bid Notices

Authors: Ron Justice of the Senate and Leslie Osborn of the House

Effective Date: 04/13/2012

Section 1

SB 1041 directs that proposals to award public construction contracts shall be sent to one in-state trade or construction publication whenever the contract exceeds \$50,000.

SB 1051

County Purchasing Programs

Authors: Greg Treat of the Senate and Dennis Johnson of the House

Effective Date: 07/01/2012

Section 1

This bill simply allows counties to participate in any other competitively bid nationwide purchasing program. Previously, the law allowed only to participate in a competitively bid nationwide program sponsored by the national association representing counties.

SB 1053

Public Buildings Projects

Authors: Harry Coates of the Senate and Tom Newell of the House

Effective Date: 07/01/2012

Section 1

Extends the requirements to be finished prior to being awarded a contract in excess of \$50,000 on public property to contracts exceeding \$50,000 for construction or repair of a public or private building, structure, or improvement on public real property.

Section 2

Requires that bonds be filed in cases of construction on public or private improvements or buildings on a public-private partnership project in the same manner as they would for contracts for the construction of public improvements.

SB 1075

Municipal Contracting Procedures

Authors: Don Barrington of the Senate and Joe Dorman of the House

Effective Date: 11/01/2012

Section 1

SB 1075 raises the amount that a municipal officer may contract with his or her municipality from \$500 to \$2,500 for any single activity and from \$10,000 to \$15,000 for all activities in a calendar year. This section exempts municipal officers from these provisions if the officer works for a municipality with a population under 5,000.

The bill also dictates that such activity may exceed \$15,000 per year if the items purchased are regularly sold to the general public in the normal course of business.

However, the provisions of the bill do not apply where competitive bids are obtained consistent with municipal ordinance or state law and two or more bids were submitted for the services to be procured by the municipality, regardless of population limits.

Lastly, the legislation directs that all bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file and maintained in the main office of the awarding municipality for a period of five years from the date of opening of bids or for a period of three years from the date of completion of the contract, whichever is longer, and is subject to open records.

SB 1096

Energy Conservation

Authors: Brian Bingman of the Senate and Scott Martin of the House

Effective Date: 08/23/2012

Section 1

SB 1096 creates the Oklahoma State Facilities Energy Conservation Program that aims to lower the state facilities' energy usage with the implementation of an organizational behavior-based or performance-based energy conservation program. The Program will use the International Performance Measurement and Verification Protocol (IPMVP) to help keep accurate accounting of the savings realized.

The 12 tenets of the plan are to:

1. Promote a centralized effort to gather information pertaining to energy use in state facilities and designate knowledgeable personnel to prioritize projects and make conservation recommendations;
2. Benchmark state facilities energy usage prior to implementation of the Program and measure energy conservation savings utilizing commercially available energy accounting software that adheres to IPMVP;
3. Target a cumulative energy savings of not less than 20% by the year 2020 when compared to the 2012 fiscal year utility expenditures. The express purpose of the targeted energy savings shall be to capitalize on opportunities for organizational behavior-based or performance-based energy conservation efforts and existing equipment and building optimization while maintaining or improving the operational environment during times when facilities are occupied;
4. When reasonably feasible, consider working with local utilities in implementing energy reduction efforts and to utilize demand side management and energy efficiency programs to further capture energy efficiency potential;
5. Provide an annual reconciliation of the costs versus the savings resulting from the Program as determined by the Director utilizing the selected energy accounting software;
6. Fully fund the Program within existing state agency budgets through savings generated by reducing energy costs;
7. Endeavor to utilize, when reasonably possible, existing personnel to implement the Program at state facilities, provided that compensation costs for additional personnel or additional compensation costs for existing personnel dedicated

exclusively to implementation of the Program shall be funded from the savings generated by the Program;

8. Include implementation of a formalized organizational behavior-based or performance-based energy conservation program;
9. Evaluate existing facility energy accounting systems and determine if the existing systems or a commercially available energy accounting software program will be utilized to measure savings from the Program in a way that adheres to the IPMVP;
10. Seek to obtain ENERGY STAR recognition for facilities that comply with the necessary requirements as established by the United States Environmental Protection Agency;
11. Provide for an initial fee-free period of not less than 12 months during which foundational elements of the Program are established and energy savings are generated before any fee payments are due to a selected vendor; and
12. Provide for free ongoing support from the vendor beyond the initial term of the Program, if the state substantially continues implementation of the Program.

Upon implementation, all agencies shall input historical utility cost data into an IPMVP adherent energy accounting software database on a monthly basis and shall deliver an annual report on the progress and cost savings of the Program to the Director of the Office of State Finance within 90 days of the end of the fiscal year.

Discretion is given to the Director of the Office of State Finance to determine whether any organizational behavior-based or performance-based energy conservation program under contract with a state agency prior to the effective date of this act complies with the provisions of this act.

Lastly, the bill states that compliance with the Program shall not prohibit any state agency from entering into a performance-based efficiency contract for capital improvements. It then authorizes the Director of the Office of State Finance to develop a separate state-wide plan for capital improvements for performance-based efficiency contracts pursuant to 62 O.S. 318.

Section 2

Repeals 27A O.S. 3-4-106 that charges each state agency to develop and implement an energy efficiency and conservation plan to be aided by the Department of Central Services.

SB 1215

County Entity Purchasing Procedures

Authors: Roger Ballenger of the Senate and Josh Cockroft of the House

Effective Date: 07/01/2012

Section 1

The legislation requires that purchases by any board of trustees of any emergency medical service district shall be made in accordance with the bidding requirements as provided in Sections 1501 and 1505 of Title 19 in the Oklahoma Statutes.

Previously, the statutes listed dollar amount limitations under which the board of trustees would not have to abide by the bidding process. In circumstance of being greater than the dollar amount limitations, it simply required it to be done by "competitive bid".

SB 1316

Governmental Tort Claims Act Exemption

Authors: Ron Justice of the Senate and Fred Jordan of the House

Effective Date: 11/01/2012

Section 1

This bill simply adds the following provision to the list of items for which the state or a political subdivision shall not be liable:

“Use of a public facility opened to the general public during an emergency.”

The legislation completely removes any state governmental entity from being liable for any loss or claim which results from the use of a public facility during an emergency situation.

SB 1882

Governmental Tort Claims Act Exemption

Authors: Greg Treat of the Senate and Fred Jordan of the House

Effective Date: 11/01/2012

Section 1

Provides that the State or political subdivision will not be liable for a loss or claim that results from the use of indoor or outdoor school property and facilities made available for public recreation before or after normal school hours or on weekends or school vacations, except those claims resulting from willful and wanton acts of negligence.

HB 2834

Cabinet System of the Governor

Authors: Scott Martin of the House and Rick Brinkley of the Senate

Effective Date: 11/01/2012

Section 1

Removes from statute the cabinet position for the Information Services Division of the Office of State Finance and all the functions of all executive agencies, boards, commissions, and institutions related to information technology and telecommunications.

The legislation also dictates that the Governor's cabinet shall be in effect until the Legislature supersedes each "specific" cabinet area. It also gives the Governor the discretion to modify her or his cabinet at any time during her or his term of office. It gives sole discretion of cabinet modifications to the Governor and is subject to Senate confirmation.

HB 2320

Oklahoma Teachers' Retirement System

Authors: Randy McDaniel of the House and Patrick Anderson of the Senate

Effective Date: 07/01/2012

Section 1

Allows the Board of Trustees of the Teachers' Retirement System to invest the assets of the System in real property owned or to be acquired by the State. The bill further allows the Board to acquire, exchange, and grant any real property under its jurisdiction as is necessary to carry out its investments in real property.

In relation to investing assets of the system to acquire real property, the legislation sets limitations and authorizes the Board to invest not more than 10% of the total value of assets of the system.

HB 2320 also removes the requirement of the Board of Trustees to adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report.

HB 2321

Oklahoma Public Employees Retirement System

Authors: Randy McDaniel of the House and Patrick Anderson of the Senate

Effective Date: 11/01/2012

Section 1

Dictates that unused sick leave for members who join the Oklahoma Public Employees Retirement System on or after November 1, 2012, is to be credited at the same rate but not used to round up.

Example: Prior to this bill, 20 days of unused leave was equal to one month of participating service credit. On and after the effective date of this legislation, for the members joining the System on or after November 1, 2012, 20 days of service will be credited for the full 20 days, but not used to round up to one full month.

It directs that additional months of unused sick leave shall be added to other service credits without rounding.

Similarly, in determining the number of years of credited service, for members who join the System on or after November 1, 2012, the number of years of credited service will be based on the actual years and months of credited service without rounding up or down.

Example: Prior to this bill and for employees who joined the System prior to November 1, 2012, a fractional year of six months or more is considered as one year, and less than six months is disregarded. On and after the effective date of this legislation, members who join the System on or after November 1, 2012, will receive credit based on the actual number of years and months served.

HB 2322

Oklahoma Public Employees Retirement System

Authors: Randy McDaniel of the House and Bill Brown of the Senate

Effective Date: 07/01/2012

Section 1

This section of the legislation removes the Oklahoma Public Employees Retirement System (OPERS) Board of Trustees' requirement to adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report.

Section 2

This section of the bill allows elected officials who are first elected or appointed on or after November 1, 2011, to make the election of an alternate multiplier and contribution rate. This section also modifies retirement benefits for elected officials. It states that for officials first elected or appointed to an elected office on or after November 1, 2011, who have a minimum of ten years of participating services are eligible to receive 100% of normal retirement benefits at age 62 instead of 65.

Section 3

Repeals section of law relating to OPERS Reserves (74 O.S. 922). It repeals the Members Accumulated Contribution Reserve, the Retirement Benefit Accumulation Reserve, and Retirement Benefit Payment Reserve.

SB 1001

Law Enforcement Retirement System Employer Contribution Rate
Authors: Gary Stanislawski of the Senate and Randy McDaniel of the House

Effective Date: 11/01/2012

Section 1

Increases from ten percent to 11 percent the amount of the actual paid base salary of members the employer is to contribute to the fund.

Section 2

Establishes language regarding calculation or retirement benefits for members whose salary is set by statute and who retire after the mandatory 20 years of service, making such calculation applicable to any member whose first participating service with the system occurs on or after November 1, 2012.

SB 1213

Internal Revenue Service Compliance

Authors: Bill Brown of the Senate and Lewis Moore of the House

Effective Date: 04/16/2012

Section 1

In reference to the Oklahoma Law Enforcement Retirement Board, the bill states that any related custodial agreement or trust agreement is incorporated herein by reference. This section further provides that any assets of the System may be invested in a collective investment fund or in a group trust provided the investment in such collective investment fund is in compliance with the IRS.

Each such collective investment fund or group trust is adopted with respect to any monies invested therein, as part of the System, its trust and custodial agreement, and the provisions of such trust agreement or such declaration of trust are incorporated by reference into the System, upon approval by the Board.

The legislation also allows the Board to permit the use of electronic media to provide applicable notices and make such elections and consents as described in Income Tax Regulations.

Section 2

Changes a Distributee's ability to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan or Roth IRA. It instead directs that any such Rollover Distribution can be paid directly to an "Eligible Retirement Plan specified by the Distributee in a Direct Rollover."

Allows after-tax portions of distribution, made after December 31, 2007, to be directly transferred to a Roth individual retirement account or annuity. The bill clarifies that for distributions made after December 31, 2007, a Roth IRA is an eligible retirement plan. Removes the ability of a nonspouse designated beneficiary to directly roll over a distribution into a Roth IRA.

Section 3

Allows a beneficiary of a deceased member who is not a surviving spouse to have the distribution made only to a traditional individual retirement account for distributions made after December 31, 2006.

For distributions made after December 31, 2007, the member as described above may elect to have the distributions made to a Roth IRA for the purpose of receiving the distribution.

Removes a nonspouse designated beneficiary's ability to have a direct trustee to trustee transfer of any portion of distribution from the Oklahoma Law Enforcement Retirement System to a Roth IRA.

Section 4

Changes the limitation year beginning date from July 1, 2007, to January 1, 2008, and keeps the original provisions regarding actuarially equivalent straight life annuity. States that for Limitation Years Beginning on or After July 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

1. the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and
2. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5% interest rate assumption and the applicable mortality table for that annuity starting date.

This section modifies the dates for Limitation Years Beginning for plans in the System, in the determination of straight life annuity that is actuarially equivalent to the member's form of benefit.

The Year Beginning date December 31, 2007, is changed to January 1, 2009, and allows that if the annuity starting date is in the period from January 1, 2009, to June 30, 2009, or in a plan year beginning after June 30, 2009, the actuarially equivalent straight life annuity is equal to the greatest of the following 1., 2., and 3.. The same formula is to be used in determining benefits for the period beginning on July 1, 2008, through December 31, 2008.

1. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table or other tabular factor, each as set forth in subsection H of Section 2-303.1 of this title for adjusting benefits in the same form,
2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance), and
3. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

- a. the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and
- b. the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance), divided by one and five one-hundredths.

For members whose benefit starting date is after 62 years of age and occurs in a limitation year after January 1, 2009, the legislation states that:

“If the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member’s annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member’s annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member’s age based on completed calendar months as the annuity starting date).“

For members whose benefit starting date is after 65 years of age and occurs in a limitation year after January 1, 2009, the legislation states that:

“If the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation for the member’s annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member’s annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member’s age based on completed calendar months as of the annuity starting date).”

SB 1214

Oklahoma Police Pension and Retirement Board Authors: Bill Brown of the Senate and Lewis Moore of the House

Effective Date: 04/16/2012

Section 1

In reference to the Oklahoma Police Pension and Retirement Board, the bill states that any related custodial agreement or trust agreement is incorporated herein by reference.

This section further provides that any assets of the System may be invested in a collective investment fund or in a group trust provided the investment in such collective investment fund is in compliance with the IRS.

Each such collective investment fund or group trust is adopted with respect to any monies invested therein, as part of the System, its trust and custodial agreement, and the provisions of such trust agreement or such declaration of trust are incorporated by reference into the System, upon approval by the Board.

Section 2

Gives discretion to the Board to permit the use of electronic media to provide applicable notices and make such elections and consents as described in Income Tax Regulations.

Section 3

Provides that for limitation years beginning on or after July 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

1. The annual amount of the straight life annuity (if any) payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and
2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5% interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) for that annuity starting date.

In determining the straight life annuity that is actuarially equivalent to the member's form of benefit, the following shall be applied.

For the annuity starting date January 1, 2009, if the annuity starting date of the member's form of benefit is in the period beginning on January 1, 2009, through June 30, 2009, or in a plan year beginning after June 30, 2009, the actuarially equivalent straight life annuity is equal to the greater of 1., 2., and 3., below.

1. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table or other tabular factor, each as set forth in subsection H of Section 2-303.1 of this title for adjusting benefits in the same form,
2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance), and
3. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:
 - a. The adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and
 - b. The applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance), divided by one and five one-hundredths.

For the annuity starting date of July 1, 2008; If the annuity starting date of the member's form of benefit is in the period beginning on July 1, 2008, through December 31, 2008, the actuarially equivalent straight life annuity is equal to the greater of 1., 2., and 3., below.

1. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular

factor) each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form,

2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), and
3. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:
 - a. The adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and
 - b. The applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), divided by one and five one-hundredths.

If the System does not have immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement. The following is to be used in order to determine the dollar limitation for the member's annuity starting date.

"If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date)."

Similarly in determining the benefits for a member at age 65 and occurring in a limitation year beginning January 1, 2009, if the System does not have immediately commencing straight life annuity payable the following will be used.

“If the annuity starting date for the member’s benefit is after age sixty-five (65) and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the dollar limitation at the member’s annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member’s annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member’s age based on completed calendar months as of the annuity starting date).”

Section 4

Modifies how a Distributee, which may be a nonspouse designated beneficiary, may have any portion of an Eligible Rollover Distribution paid. Removes all current single options and instead simply states that a Distributee could have any portion paid directly to “an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.”

For distributions made after December 31, 2007, a Roth IRA is added as an “Eligible Retirement Plan”.

Removes a nonspouse designated beneficiary to directly roll over a distribution to a Roth IRA.

Section 5

States that the beneficiary of a deceased member who is not the surviving spouse of the member may make a direct trustee-to-trustee transfer to a traditional retirement account. It further provides that distributions made after December 31, 2007, are eligible to be made to a Roth IRA or annuity for the purpose of receiving the distribution.

The legislation again removes reference to a nonspouse designated beneficiary ability to directly roll over a distribution to a Roth IRA.

SB 1588

Oklahoma Firefighters Pension and Retirement System **Authors: Don Barrington of the Senate and Don Armes of the House**

Effective Date: 08/23/2012

Section 1

Directs all municipalities participating in the System to appoint a fire chief who shall supervise and administer the fire department.

Section 2

Allows the State Board the ability to permit the use of electronic media to provide notices for the system and make such elections and consents as described in Section 1.401(a) -21 of the Income Tax Regulations.

Section 3

Permits the use of any assets of the System to be invested in a collective investment fund or group trust that satisfies the requirements of Revenue Ruling 81-100. It provides that each such collective investment fund or group trust is adopted as part of the System and that its trust and custodial account and each such declaration of trust or trust agreement and related adoption are incorporated by reference into the System, upon approval by the State Board.

Section 4

States that no fire department of a participating municipality shall employ a volunteer firefighter from another fire department to perform services relating to firefighting for any compensation of any kind.

Section 5

In determining the straight life annuity that is actuarially equivalent to the member's form of benefit, not subject to Section 417 (e) (3) of the Internal Revenue Code of 1986, modifications were made for plans whose limitation years beginning was on or after July 1, 2008. It states that the actuarially equivalent straight life annuity is equal to the greater of:

1. the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and
2. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of

benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) for that annuity starting date.

For a member whose form of benefit is in the period of January 1, 2009, to June 30, 2009, the actuarially equivalent straight life annuity is equal to the greatest of 1., 2., and 3., below:

1. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table or other tabular factor as set forth in the most recent valuation referenced in subsection H of Section 49-100.9 of this title prior to September 1, 2011, and effective September 1, 2011, in subsection L of this section for adjusting benefits in the same form,
2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance), and
3. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computing using:
 - a. the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and
 - b. the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance), divided by one and five one-hundredths.

For members whose annuity starting date is between July 1, 2008, and December 31, 2008, the actuarially equivalent straight life annuity is equal to the greatest of 1., 2., and 3., below.

1. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table or other tabular factor each as set forth in subsection H of Section 49-100.9 of this title for adjusting benefits in the same form,
2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable), and
3. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:
 - a. the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and
 - b. the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable), divided by one and five one-hundredths.

The legislation also provides for situation in which the System does not have immediately commencing straight life annuity payable at a certain age. It states that, if the annuity starting date for the member's benefit is prior to 62 years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both 62 years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten, if required) with actuarial equivalence computed using a five percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

Similarly, if the annuity starting date for the member's benefit is after 65 years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both 65 years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten, if required) with actuarial equivalence computed using a five percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

The bill also provides that the interest rate and mortality assumptions for the System used to determine the actuarial equivalence of a member's form of benefit shall be set by the State Board in a manner that precludes employer discretion, shall be based up on recommendation from independent professional advisors, and shall be published annually in the actuarial valuation.

Section 6

Allows a Distributee to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. Dictates that after December 31, 2006, a Distributee may only elect any portion of a payment to be made in a Direct Rollover only to a traditional individual retirement account or annuity. It provides, however, that after December 31, 2007, a Distributee may elect to have a Direct Rollover into a Roth IRA for the purpose of receiving the distribution.

Section 7 and 8

Dictates that the beneficiary of a deceased member who is not the surviving spouse may elect to have a direct trustee-to-trustee transfer of any portion made only to a traditional retirement account or individual retirement annuity for distribution made after December 31, 2006, and prior to December 31, 2007. After December 31, 2007, the beneficiary may elect to have the distribution made to a Roth IRA.

Removes the ability of a nonspouse designated beneficiary to have a direct trustee-to-trustee transfer of any portion of distribution to a Roth IRA. Refers to the Workers' Compensation Provisions of title 85 for cases in which a member is eligible for temporary disability benefit and the members salary is greater than any temporary benefit paid.

Section 9 and 10

Provides that upon termination or partial termination of the System, or a permanent discontinuance of contributions, the benefits accrued up to the date of termination or discontinuance, to the extent then funded, by the affected members and their

beneficiaries, respectively, or the amounts credited to the affected members' accounts, shall be nonforfeitable.

Section 11

This section, like Section 6 of the bill, also provides that the interest rate and mortality assumptions for the System used to determine the actuarial equivalence of a member's form of benefit shall be set by the State Board in a manner that precludes employer discretion, shall be based up on recommendation from independent professional advisors and shall be published annually in the actuarial valuation.

SB 1108

Oklahoma Bond Oversight and Reform Act

Authors: Patrick Anderson of the Senate and Randy McDaniel of the House

Effective Date: 11/01/2012

Section 1

Cites the act as the "Oklahoma Bond Oversight and Reform Act".

Section 2

Declares the Legislature's opinion of a need to establish procedures for the efficient sale and issuance of bonds. The Legislature finds that there are adopted procedures, requirements, and methods allowing for significant systematic oversight of State Governmental Entity issuers of bonds or other obligations and that such oversight is essential to protect the public welfare of the State of Oklahoma.

Section 3

Removes reference of "Legislative Commission" and "Commissions" and changes the "Executive Commission" from the "Executive Bond Oversight Commission" to the "Council" which shall mean the "Council of Bond Oversight".

Creates the definition for "State Governmental Entity Financing" which shall include local governmental transactions where the project is leased by a State Governmental Entity or debt service is paid directly or indirectly by a State Governmental Entity or where the project or improvement is in direct support of or administered by a State Governmental Entity.

Section 4

New law directing membership to the newly formed Council of Bond Oversight.

The Council shall consist of five members as follows:

1. One member appointed by the President Pro Tempore of the Senate.
2. One member appointed by the Speaker of the House of Representatives.
3. Two members appointed by the Governor, with advice and consent of the Senate.
4. The Director of State Finance.

Three members shall constitute a quorum and the affirmative vote by three members is necessary for any action to be taken by the Council.

Members appointed to the Council shall serve a term of four years and may be reappointed for additional terms. The members may also be removed for cause by the appointed authority.

Vacancies on the Council shall be filled in the same manner as the original appointment, to hold office during the unexpired term for which the member was appointed.

The legislation gives the Council authority to elect one of its members chair and may elect such other officers as it deems necessary. The bill further provides that no vacancy in the membership of the Council shall impair the right of the Council to exercise all duties of the Council.

The Oklahoma State Bond Advisor is tasked with providing support staff as necessary to implement the purposes and functions of the Council and the Attorney General is to provide legal counsel. Lastly, no member of the Oklahoma State Legislature shall be eligible to serve on the Council.

Section 5

Provides that any State Governmental Entity or Local Governmental Entity proposing to make a significant modification to the terms of any state Governmental Entity Financing, including modification of collateral, shall first obtain written approval from the Oklahoma State Bond Advisor.

It further provides that upon the State Bond Advisor's denial of modification, the State Governmental or Local Governmental Entity may request the Council to review and approve the modifications.

Section 6

Removes statutes which initially set the Office of the State Bond Advisor as its own agency and directed the Director of State Finance to coordinate the transfer of funds.

Section 7

Removes requirement of the Council to review proposed issuances of obligations to fund capital additions or expenditures by Local Governmental Entities. It instead states that the Council shall review such other matters as the Council deems relevant to the Application, including, without limitation, sources of repayment and security for the obligation.

It further directs the Council to not review the merits of the projects and only determine if the project has a legal and beneficial purpose that can be legitimately funded by bond or similar indebtedness.

Section 8

States that no State Governmental Entity Financing obligation shall be issued by a State Governmental Entity or Local Governmental Entity unless the obligations have been approved by the Council.

Changes other references to the now removed “Commission” to the “Council”. This section further cleans the language relating to the duties of Local Governmental Entities as referenced in earlier sections of the bill.

Section 9

Repeals statutory reference to the Legislative Bond Oversight Commission, the Executive Bond Oversight Commission, rules for the meetings of both the commissions, and the finding of unconstitutionality in Executive or Legislative Bond Oversight Commission.

SB 1159

Oklahoma Capital Formation Act

Authors: Tom Adelson of the Senate and Earl Sears of the House

Effective Date: 06/08/2012

Section 1

Extends the period of time a tax credit may be exercised from July 1, 2015, to July 1, 2020. The section goes on to clarify that tax credits may be exercised after July 1, 2020, if the credits were purchased or were agreed to be purchased based up on a contractual commitment to the Board made by a person or entity pursuant to an agreement originally entered into no later than December 31, 1995.

Section 2

Directs that neither the Board nor any entity that is a subsidiary or affiliate of the Board, nor any entity which is controlled either directly or indirectly by the Board, or which acts under the authority of or pursuant to the direction of the Board, shall:

1. Enter into any contract authorizing or requiring the investment of any funds obtained by the Board, in any corporation general partnership or other lawfully recognized business entity.
2. Modify any agreement executed prior the effective date of this act by the Board that would have the effect of increasing the amount of any contractual commitment to make an investment of funds in a general or limited partnership or any other lawfully recognized entity.

The legislation further directs that, except for the use of funds required by provisions in a contract executed prior to the effective date of this act, neither the board nor any entity controlled by the direction of the Board shall:

1. Enter into any contract for the purpose of guaranteeing the repayment of obligations owed by a business in connection with a loan of money from a bank, financial institution, or any other entity; or
2. Modify any contract described above in a manner that would increase any existing obligation of the Board or extend the term of any such contract.

Section 3

Provides that within 30 days after the Oklahoma Capital Investment Board, or any subsidiary of the Board, has made payment of any remaining expense or obligation created by the Board, pursuant to the terms of any promissory note, any remaining

monies paid to either the Board or any subsidiary shall be paid by the Board to the General Revenue Fund of the State Treasury.

Section 4

Provides that nothing in the act shall be construed to alter, amend, modify, affect, diminish, or impair the enforceability of: any obligation or liability of the Oklahoma Capital Investment Board under any contract, agreement, guarantee, or instrument entered into or delivered by such party with any business entity or bank.

This shall include, without limitation, any guarantee extended by the Oklahoma Capital Investment Board and any assignment of any third-party commitments to purchase, and proceeds released from the sale of, tax credits, all of which shall remain in full force and effect.

SB 1627

Energy Development

Authors: Brian Bingman of the Senate and Ron Peters of the House

Effective Date: 11/01/2012

Section 1 and 2

Creates the Oklahoma Energy Initiative Act and defines it as a strategic program designed to create, advance, and promote new and existing energy research and development efforts related to Oklahoma's core energy competencies.

The Initiative plans to achieve that goal by:

1. Promoting research and development in a myriad of energy solutions which include conventional and unconventional oil and natural gas development and production, CO₂ enhanced oil recovery, wind forecasting, advanced biofuels, energy storage, water management, energy policy and economic analysis, energy system optimization, renewable energy integration into the electrical grid, and similar energy technologies.
2. Fostering communication and collaboration between state and federal government agencies, higher education, nonprofit research institutions, and private entities.
3. Advancing research and development programs that provide benefits to all industries and regions of the state.
4. Streamlining research and development efforts between private and public industry to coordinate, not duplicate efforts.
5. Establishing Oklahoma as a regional resource and clearinghouse for transformative energy technologies in the areas of traditional energy and renewable resource research and development.
6. Attracting best-in-class researchers to Oklahoma in competency areas aligned with Oklahoma's natural resource base.
7. Coordinating with the Oklahoma Department of Commerce to enhance venture capital investment in energy-related research and business opportunities.
8. Promoting seed funding that can be leveraged against state, federal, and private-source funding to establish sufficient startup resources.

This section also allows the Initiative to receive assistance from any state agency or public entity to help implement the provisions of the Oklahoma Energy Initiative Act.

Assistance may come in the form of administrative assistance, staffing or legal counsel, and provision of office space or equipment as necessary.

Section 3

Establishes the Oklahoma Energy Initiative Board which is made up of representatives from the contributing institutions of the Initiative which initially shall be the University of Oklahoma (OU), Oklahoma State University (OSU), Oklahoma City University (OCU), the University of Tulsa (TU), and the Noble Foundation.

The Board is given the power to allow additional contributing institutions given the institution shall contribute to the purpose, objectives and research coordinated by the Initiative.

The Board's membership shall consist of eight members as follows:

1. One member, who shall serve as the Chair of the Board, shall be the Secretary of Energy or a member otherwise appointed by the Governor;
2. One member of the Senate shall be appointed by the President Pro Tempore of the Senate;
3. One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives;
4. One member shall be the Vice President of Research from the University of Oklahoma or a member otherwise appointed by the President of the University of Oklahoma;
5. One member shall be the Vice President of Research from Oklahoma State University or a member otherwise appointed by the President of Oklahoma State University;
6. Vice President of Research from the University of Tulsa or a member otherwise appointed by the Governor;
7. Vice President of Research from the Oklahoma City University or a member otherwise appointed by the Speaker of the House of Representatives; and
8. One member who shall represent the Samuel Roberts Noble Foundation appointed by the President Pro Tempore of the Senate.

The following shall apply to the appointed Board:

1. Board members shall serve for a term of four years to begin on January 1 of the first year and end on December 31 of the fourth year.
2. The Board is not term-limited and may serve for any number of consecutive terms.

3. If a vacancy should occur, the appointing authority for that position shall appoint a new member to fill the remainder of the unexpired term.
4. Board members may be eligible to travel reimbursement but shall not be compensated for their service. Legislators shall be eligible to receive reimbursement pursuant to Section 456.3 of Title 74.

The following applies to the Board and its actions:

1. Establish procedures for the Initiative and operations of the Board. The rules created may provide for protection from public disclosures of trade secrets and proprietary information of any kind as the Board determines necessary.
2. Undertake activities and commissions through the participating and contributing institutions, to achieve the purpose and satisfy the objectives of the Initiative. The Board is given the authority to distribute funding for such activities and programs and may also employ staff as it deems necessary.
3. Prepare an annual, written report to summarize the annual progress of the Initiative, including summaries of its programs and their progress and outcomes. The report is to be made available to the public and shall be distributed to the Governor, the President Pro Tempore, and the Speaker of the House of Representatives.
4. The provisions of The Oklahoma Central Purchasing Act shall not apply to any project, activity or contract of the Initiative or the Board.
5. Removes any and all liability for any Board member acting on behalf of the Board or Initiative.

Section 4

Creates the Oklahoma Energy Initiative Revolving Fund. The fund is to be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Secretary of Energy or any other source authorized to accept funds on behalf of the Initiative.

Allows for state appropriations to the fund as directed by the Secretary of Energy, or to an agency directed by the Governor, which shall directly allocate the appropriations to the Initiative. The Initiative is also authorized to accept donations, grants, or endowments from any person, corporation, or entity.

SB 1628

Oklahoma Energy Initiative Act funding

Authors: Brian Bingman of the Senate and Ron Peters of the House

Effective Date: 11/01/2012

Section 1

A companion bill to SB 1627, this legislation places the maintenance of the Oklahoma Energy Initiative as part of the accomplishment of the objects of The Interstate Compact to Conserve Oil and Gas.

The legislation also gives the Governor the authorization to contract with appropriate entities for such purposes and to pay the obligations thereof from the Interstate Oil Compact Fund of Oklahoma.

Section 2

Simply provides that this act shall not become effective unless SB 1627 becomes effective.