ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 896 By: Monson of the Senate

and

Roberts of the House

(health care - Oklahoma State Employees Benefits Council - transferring authorities - effective date - emergency)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(health care - amending 63 O.S., Sections 5006 and 5011 - Oklahoma Health Care Authority - amending 74 O.S., Sections 1362, 1363, 1364 and 1365 - State Employees Benefits Council - codification - effective date - emergency)

SECTION 1. AMENDATORY Section 4, Chapter 332, O.S.L. 1993, as amended by Section 6, Chapter 204, O.S.L. 1995 (63 O.S. Supp. 1995, Section 5006), is amended to read as follows:

Section 5006. A. There is hereby created the Oklahoma Health Care Authority. The Authority shall have the power and duty to:

1. Purchase health care benefits for ~~state and education employees and~~ Medicaid recipients~~,~~ and others who are dependent on the state for necessary medical care, as specifically authorized by law;

2. ~~Develop state and education employee health care plans as authorized by Section 5011 of this title;~~

~~3.~~ Enter into contracts for the delivery of ~~state-purchased~~ state-subsidized health care, except for health care benefits for state and education employees, and establish standards and criteria which must be met by entities to be eligible to contract with the Authority for the delivery of ~~state-purchased~~ said state-subsidized health care;

~~4.~~ 3. Develop a proposed standard basic health care benefits package or packages to be offered by health services providers, for ~~state and education employees and~~ Medicaid recipients;

~~5.~~ 4. Study all matters connected with the provision of ~~state-purchased and~~ state-subsidized health care coverage;

~~6.~~ 5. Develop and submit plans, reports and proposals, provide information and analyze areas of public and private health care interaction pursuant to the provisions of the Oklahoma Health Care Authority Act;

~~7.~~ 6. Serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues;

~~8.~~ 7. Administer programs and enforce laws placed under the jurisdiction of the Authority pursuant to the Oklahoma Health Care Authority Act, and such other duties prescribed by law;

~~9.~~ 8. Collaborate with and assist the Insurance Commissioner in the development of a Uniform Claim Processing System for use by third-party payors and health care providers;

~~10.~~ 9. Collaborate with and assist the State Department of Health with the development of licensure standards and criteria for pre-paid health plans; and

~~11.~~ 10. Exercise all incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Health Care Authority Act.

B. All positions within the Authority shall be unclassified until approval of the annual business and personnel plan submitted by January 1, 1995, by the Governor and the Legislature. In the annual business plan submitted January 1, 1995, the Board shall include a personnel plan which shall list, describe and justify all unclassified positions within the Authority and their compensation. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act.

SECTION 2. AMENDATORY Section 9, Chapter 332, O.S.L. 1993, as amended by Section 5, Chapter 282, O.S.L. 1994 (63 O.S. Supp. 1995, Section 5011), is amended to read as follows:

Section 5011. A. ~~Effective July 1, 1994, the duties, powers and responsibilities of the Oklahoma State Employees Benefits Council that relate to the purchase of health care benefits shall be made under the direction and with the approval of the Oklahoma Health Care Authority.~~

~~B. The Authority shall develop state and education employee health care benefit plans as provided by this section. In developing these plans, the Authority shall consider the following elements:~~

~~1. Methods of maximizing cost containment while ensuring access to quality health care;~~

~~2. Development of provider arrangements that encourage cost containment and ensure access to quality care, including, but not limited to, prepaid delivery systems and prospective payment methods;~~

~~3. Utilization review procedures including, but not limited to:~~

~~a. prior authorization of services,~~

~~b. hospital inpatient length of stay reviews,~~

~~c. requirements for use of outpatient surgeries,~~

~~d. requirements for second opinions for surgeries,~~

~~e. review of invoices or claims submitted by health services providers, and~~

~~f. performance audits of providers; and~~

~~4. Effective coordination of health care benefits.~~

~~C. Effective January, 1996, and each January thereafter, the administrator of the Oklahoma Health Care Authority shall publish and distribute to each school district in this state that so requests a description of health care benefit plans available through the Oklahoma Health Care Authority and the estimated cost of such plans if school district employees were enrolled.~~

~~D.~~ The Oklahoma Health Care Authority shall:

1. Require utilization review and financial data review from participating entities which contract with the Authority for ~~state-purchased and~~ state-subsidized health care on a quarterly basis;

2. Centralize enrollment files for all persons covered by ~~state-purchased and~~ state-subsidized health care benefit plans;

3. Develop enrollment demographics on a plan-specific basis; and

4. Establish methods for collecting, analyzing, and disseminating information on the cost and quality of services rendered by health care providers to all persons covered by such plans.

~~E.~~ B. The administrator may require that any entity that contracts for the delivery of services pursuant to a ~~state-purchased or~~ state-subsidized health care benefit plan administered by the Authority shall provide to said administrator all information deemed necessary to fulfill the administrator's duties as set forth in the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title. All data related to claims and produced pursuant to the Oklahoma Health Care Authority Act shall be the property of this state.

~~F.~~ C. Any savings realized pursuant to this section and Section 5009 of this title shall not be used to increase benefits unless such use is authorized by law.

~~G.~~ D. On and after July 1, 1995, the Oklahoma Basic Health Benefits Board shall receive any funds appropriated for operations or duties imposed by law upon the Oklahoma Basic Health Benefits Board from the Oklahoma Health Care Authority.

SECTION 3. AMENDATORY Section 2, Chapter 400, O.S.L. 1992, as amended by Section 8, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1995, Section 1362), is amended to read as follows:

Section 1362. It is hereby declared that the purpose of ~~this act~~ the Oklahoma State Employees Benefits Act is:

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

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

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

4. To provide state employees and their dependents with optional employee benefits, to include, but not be limited to, enhanced health insurance coverage, health maintenance organization services, life insurance, dental insurance and enhanced long-term disability insurance. Examples of other optional employee benefits which may be offered by the Oklahoma State Employees Benefits Council, pursuant to this paragraph, could include catastrophic care coverage, supplemental life insurance in addition to the supplemental life coverage offered by the Oklahoma State and

Education Employees Group Insurance Board, long-term care coverage, and/or any other employee benefit which the Council, at its discretion, determines is in the best interest of state employees to offer;

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

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

7. To provide uniform benefit options for all state employees regardless of their place of residence within the State of Oklahoma;

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

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

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

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

12. To ensure compliance with the Health Maintenance Organization Act of 1973, 42 U.S.C., Section 300e et seq.;

13. To recognize and protect the state's investment in each employee by promoting and preserving good health and longevity among state employees;

14. To recognize the service to the state by elected and appointed officials by extending to them the same benefits as are provided under the flexible benefits program to state employees; and

15. To recognize long and faithful service, and to encourage employees to remain in state service until eligible for retirement by providing employee benefits.

SECTION 4. AMENDATORY Section 3, Chapter 400, O.S.L. 1992, as last amended by Section 32, Chapter 2, O.S.L. 1994 (74 O.S. Supp. 1995, Section 1363), is amended to read as follows:

Section 1363. The following words and phrases as used in ~~this act~~ the Oklahoma State Employees Benefits Act, unless a different meaning is clearly required by the context, shall have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. "Plan year" means the twelve-month period commencing on July 1 and ending on the following June 30;

19. "Salary Adjustment Agreement" means a written agreement between a participant and participating employer whereby the employer agrees to adjust the salary of the participant by a stated

amount or an amount equal to the cost of benefits selected under the plan and the participating employer agrees to contribute such amount to cover certain costs of the benefits selected by the participant to the Council; and

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

SECTION 5. AMENDATORY Section 4, Chapter 400, O.S.L. 1992, as amended by Section 23, Chapter 332, O.S.L. 1993 (74 O.S. Supp. 1995, Section 1364), is amended to read as follows:

Section 1364. A. There is hereby created within the Office of Personnel Management, until July 1, 1994, the Oklahoma State Employees Benefits Council. On and after July 1, 1994, the Employees Benefits Council shall be transferred to the Oklahoma Health Care Authority. ~~The powers, duties and responsibilities of the Council that relate to the purchase of health care benefits shall be made under the direction and with the approval of the Oklahoma Health Care Authority in accordance with the plan adopted pursuant to Section 4 of the Oklahoma Health Care Authority Act.~~ Effective July 1, 1996, the Council shall have the power to formulate, adopt, and promulgate rules as may be necessary and proper to carry out the Oklahoma State Employees Benefits Act. The Council shall have the power and duty to:

1. Purchase health care benefits for state and education employees;

2. Develop state and education employee health care plans as authorized by Section 6 of this act;

3. Enter into contracts for the delivery of state-purchased health care and establish standards and criteria which must be met by entities to be eligible to contract with the Council for the delivery of state-purchased health care;

4. Develop a proposed standard basic health care benefits package or packages to be offered by health services providers, for state and education employees;

5. Study all matters connected with the purchase of health care benefits for state and education employees;

6. Develop and submit plans, reports and proposals, provide information and analyze areas of public and private health care interaction pursuant to the provisions of the Oklahoma State Employees Benefits Act;

7. Serve as a resource for information on state-purchased health care access, cost containment and related health issues;

8. Administer programs and enforce laws placed under the jurisdiction of the Council pursuant to the Oklahoma State Employees Benefits Act, and such other duties prescribed by law;

9. Collaborate with and assist the Insurance Commissioner in the development of a Uniform Claim Processing System for use by third party payors and health care providers;

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 initial term of office of the members appointed by the Governor shall expire on January 9, 1995.~~ 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. ~~The initial term of office of the member appointed by the Speaker of the House of Representatives shall expire on January 11, 1994. The initial term of office of the~~

~~member appointed by the President Pro Tempore of the State Senate shall expire on January 9, 1996.~~ 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 this act are hereby vested in the Council, which shall be organized immediately after a majority of the Council members provided for in this section shall have been qualified and taken the oath of office.

G. The Council shall at its first meeting elect one of its members as chairman. The chairman 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-chairman who shall perform the duties of the chairman in the absence of the latter or upon his inability or refusal to act. The Council shall elect one of its members to serve as secretary.

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

I. Special meetings may be called upon written notice by the chairman or by agreement of any three (3) 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~~.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1364.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Employees Benefits Council shall develop state and education employee health care benefit plans as provided

by this section. In developing these plans, the Council shall consider the following elements:

1. Methods of maximizing cost containment while ensuring access to quality health care;

2. Development of provider arrangements that encourage cost containment and ensure access to quality care, including, but not limited to, prepaid delivery systems and prospective payment methods;

3. Utilization review procedures including, but not limited to:

a. prior authorization of services,

b. hospital inpatient length of stay reviews,

c. requirements for use of outpatient surgeries,

d. requirements for second opinions for surgeries,

e. review of invoices or claims submitted by health services providers, and

f. performance audits of providers; and

4. Effective coordination of health care benefits.

B. Effective January, 1997, and each January thereafter, the executive director of the Oklahoma State Employees Benefits Council shall publish and distribute to each school district in this state that so requests a description of health care benefit plans available through the Oklahoma State Employees Benefits Council and the estimated cost of such plans if school district employees were enrolled.

C. The Council shall:

1. Require utilization review and financial data review from participating entities which contract with the Council for state-purchased health care on a quarterly basis;

2. Centralize enrollment files for all persons covered by state-purchased health care benefit plans;

3. Develop enrollment demographics on a plan-specific basis; and

4. Establish methods for collecting, analyzing, and disseminating information on the cost and quality of services rendered by health care providers to all persons covered by such plans.

D. The executive director may require that any entity that contracts for the delivery of services pursuant to a state-purchased health care benefit plan administered by the Council shall provide to said executive director all information deemed necessary to fulfill the executive director's duties as set forth in the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title. All data related to claims and produced pursuant to the Oklahoma State Employees Benefits Act shall be the property of this state.

E. Any savings realized pursuant to this section shall not be used to increase benefits unless such use is authorized by law.

SECTION 7. AMENDATORY Section 5, Chapter 400, O.S.L. 1992, as amended by Section 10, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1995, Section 1365), is amended to read as follows:

Section 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 this act and the Code;

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

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;

provided that neither the Board, health maintenance organizations, nor other third-party insurance vendors ~~shall~~ may be directly or indirectly involved in the distribution of said communicated information to participating employers and participants subject to the following conditions:

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

b. 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. vendors shall file a brief summary with the Council following such 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 who shall serve at the pleasure of the Council. The executive director shall employ or retain such persons in accordance with this 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 this 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. ~~For plan year beginning July 1, 1993, and all future plan years, to~~ 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 licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 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;

11. To require vendors offering coverage through the Council, including the Board, to provide such enrollment and claims data as is determined by the Council;

12. To purchase any insurance deemed necessary for providing benefits under the plan, provided that the only indemnity 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;

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

14. ~~For the plan year beginning July 1, 1993, and all future plan years, to~~ 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;

15. To accept, modify or reject elections under the plan in accordance with this act and the Code;

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

17. To take all steps deemed necessary to properly administer the plan in accordance with this act and the requirements of other applicable law.

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 purchase insurance for its fiduciaries or for itself to cover potential liability or losses occurring by reason of the act or omission of a fiduciary, but any such insurance purchased by the Council must permit recourse by the insurer against

a fiduciary in the case of a breach of fiduciary obligation by such fiduciary. Nothing in this subsection shall be construed as requiring the purchase of any insurance;

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 said fiduciary knows said 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 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 an 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 this 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.

SECTION 8. This act shall become effective July 1, 1996.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 8th day of April, 1996.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate