

05/17/2011 10:05:33 AM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2140

By: Steele of the House and Bingman of the Senate

Title: State government; State Government Administrative Process Consolidation and Reorganization Reform Act of 2011; repealer; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Amendment No. 1 and that the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE CONFEREES

Banz _____

Brumbaugh David Brumbaugh

Cockroft _____

Dorman _____

Faught George Faught

Hamilton _____

Hilliard _____

Moore J. H. Moore

Murphey Joan W. Murphey

Quinn Marty Quinn

Stiles Cean Stiles

Walker _____

Watson John Watson

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2140

By: Steele and Murphey of the
House

and

Bingman of the Senate

7
8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to state government; enacting the
12 State Government Administrative Process Consolidation
13 and Reorganization Reform Act of 2011; consolidating
14 Department of Central Services, Office of Personnel
15 Management, Oklahoma State Employees Benefits Council
16 and State and Education Employees Group Insurance
17 Board into Office of State Finance; providing for
18 assumption of responsibilities; defining term;
19 requiring Director of the Office of State Finance to
20 implement consolidation; requiring certain cost
21 savings; requiring report; requiring recommendations
22 to the Legislature; providing for delivery of books,
23 papers, records and property; transferring powers,
24 duties and responsibilities; providing for effect of
administrative rules; amending 62 O.S. 2001, Sections
41.3, as renumbered by Section 64, Chapter 441,
O.S.L. 2009, and as last amended by Section 32,
Chapter 2, O.S.L. 2010, and 41.4, as amended by
Section 7, Chapter 441, O.S.L. 2009, and as
renumbered by Section 64, Chapter 441, O.S.L. 2009
(62 O.S. Supp. 2010, Sections 34.3 and 34.6), which
relate to the Oklahoma State Finance Act; modifying
references to certain divisions within the Office of
State Finance; providing for assumption of
responsibilities by the Director of the Office of
State Finance; amending 74 O.S. 2001, Section 61.2,
which relates to the Department of Central Services;

1 modifying references; amending 74 O.S. 2001, Sections
2 85.3, as amended by Section 2, Chapter 96, O.S.L.
3 2008 and 85.5, as last amended by Section 1, Chapter
4 170, O.S.L. 2010 (74 O.S. Supp. 2010, Sections 85.3
5 and 85.5), which relate to The Oklahoma Central
6 Purchasing Act; modifying references; amending 74
7 O.S. 2001, Section 840-1.6A, as last amended by
8 Section 1, Chapter 312, O.S.L. 2004 (74 O.S. Supp.
9 2010, Section 840-1.6A), which relates to the
10 Oklahoma Personnel Act; modifying references;
11 amending 74 O.S. 2001, Section 1365, as last amended
12 by Section 1, Chapter 28, O.S.L. 2009 (74 O.S. Supp.
13 2010, Section 1365), which relates to the Oklahoma
14 State Employees Benefits Council; modifying
15 provisions related to appointment of executive
16 director; amending 74 O.S. 2001, Section 840-5.5, as
17 last amended by Section 1, Chapter 392, O.S.L. 2010
18 (74 O.S. Supp. 2010, Section 840-5.5), which relates
19 to the Oklahoma Personnel Act; modifying provisions
20 related to the unclassified service; repealing 74
21 O.S. 2001, Section 61.1, which relates to the
22 Director of Public Affairs; repealing 74 O.S. 2001,
23 Section 840-1.4, which relates to the Merit System
24 Office and State Personnel Board; providing for
codification; and providing for noncodification.

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

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

This act shall be known and may be cited as the "State
Government Administrative Process Consolidation and Reorganization
Reform Act of 2011".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 34.3.1 of Title 62, unless there
is created a duplication in numbering, reads as follows:

1 A. The Department of Central Services, Office of Personnel
2 Management, Oklahoma State Employees Benefits Council and the State
3 and Education Employees Group Insurance Board are consolidated into
4 the Office of State Finance. The Director of the Office of State
5 Finance shall assume all executive-level responsibilities for each
6 agency and shall function as and possess the powers of the agency
7 director for each consolidated agency as enumerated by existing
8 statute. For the purposes of this section the term "consolidated
9 agencies" shall mean the Department of Central Services, Office of
10 Personnel Management, Oklahoma State Employees Benefits Council and
11 the State and Education Employees Group Insurance Board.

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

22 C. Not later than December 31, 2011, the Director of the Office
23 of State Finance shall provide recommendations to the Legislature
24 for the streamlining, reduction or elimination of the governance

1 structures and statutorily established positions of each of the
2 consolidated agencies. Until otherwise provided for by law, the
3 governance structures and statutorily established positions of each
4 of the consolidated agencies shall be maintained. Any funds
5 appropriated to, in the possession of or allocated to any of the
6 consolidated agencies shall be deemed to be funds of the Office of
7 State Finance.

8 D. Upon request of the Director of the Office of State Finance,
9 the personnel of the consolidated agencies shall deliver to the
10 Office of State Finance all books, papers, records and property of
11 the consolidated agencies.

12 E. All functions, powers, duties and obligations previously
13 assigned to each of the consolidated agencies are hereby transferred
14 to the Office of State Finance.

15 F. All rules, regulations, acts, orders, determinations and
16 decisions of the consolidated agencies pertaining to the functions
17 and powers herein transferred and assigned to the Office of State
18 Finance, in force at the time of such transfer, assignment,
19 assumption or devolution shall continue in force and effect as
20 rules, regulations, acts, orders, determinations and decisions of
21 the consolidated agencies until duly modified or abrogated by the
22 appropriate body or until otherwise provided by law.

23 SECTION 3. AMENDATORY 62 O.S. 2001, Section 41.3, as
24 renumbered by Section 64, Chapter 441, O.S.L. 2009, and as last

1 amended by Section 32, Chapter 2, O.S.L. 2010 (62 O.S. Supp. 2010,
2 Section 34.3), is amended to read as follows:

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

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

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

21 SECTION 4. AMENDATORY 62 O.S. 2001, Section 41.4, as
22 amended by Section 7, Chapter 441, O.S.L. 2009, and as renumbered by
23 Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2010, Section
24 34.6), and is amended to read as follows:

1 Section 34.6 A. The Director of the Office of State Finance
2 shall have the power and duty under the direction of the Governor
3 to:

4 1. Prepare the budget document and assist in the drafting of
5 legislation to make it effective;

6 2. Make field surveys and studies of governmental agencies,
7 looking toward economy and greater efficiency;

8 3. Make allotments to control expenditures;

9 4. Authorize transfers of appropriation authorized by law;

10 5. Study accounting and other reports rendered by the Central
11 Accounting and Reporting Division;

12 6. Enter into agreements with the United States Secretary of
13 the Treasury for the purpose of implementing federal law; ~~and~~

14 7. Aid the Governor in the economical management of state
15 affairs; and

16 8. Assume the responsibilities of the Director of the
17 Department of Central Services, Office of Personnel Management,
18 Oklahoma State Employees Benefits Council and the State and
19 Education Employees Group Insurance Board.

20 B. In addition to other duties, the Director of the Office of
21 State Finance shall, upon request, advise and consult with members
22 of the Legislature and legislative committees concerning revenue and
23 expenditures of state agencies.

1 SECTION 5. AMENDATORY 74 O.S. 2001, Section 61.2, is
2 amended to read as follows:

3 Section 61.2 There is hereby created ~~in~~ within the ~~Executive~~
4 ~~Department~~ Office of State Finance, a Department of Central
5 Services, under the administrative control of the Director of
6 ~~Central Services~~ the Office of State Finance. Whenever the terms
7 "Board of Affairs", "State Board of Public Affairs", "Board" when
8 used in reference to the Board Of Public Affairs or "Office of
9 Public Affairs", appear in the Oklahoma Statutes they shall mean the
10 Department of Central Services of the Office of State Finance.
11 Whenever the term "Director of Public Affairs" appears in the
12 Oklahoma Statutes it shall mean the Director of the Office of State
13 Finance. Whenever the term "Director of Central Services" appears
14 in the Oklahoma Statutes it shall mean the Director of the Office of
15 State Finance or designee.

16 SECTION 6. AMENDATORY 74 O.S. 2001, Section 85.3, as
17 amended by Section 2, Chapter 96, O.S.L. 2008 (74 O.S. Supp. 2010,
18 Section 85.3), is amended to read as follows:

19 Section 85.3 A. There is hereby created and established in the
20 Department of Central Services a Purchasing Division, the
21 administrative head of which shall be the State Purchasing Director.

22 B. The Director of the ~~Department of Central Services~~ Office of
23 State Finance shall hire the State Purchasing Director. The State
24 Purchasing Director shall:

- 1 1. Be at least twenty-eight (28) years of age;
- 2 2. Have a thorough knowledge of office practices and buying
3 procedures in volume purchasing; and
- 4 3. Be a graduate of an accredited college or university with at
5 least five (5) years' experience in commercial or governmental
6 purchasing, or, in lieu of such education, have at least ten (10)
7 years' experience in commercial or governmental purchasing.

8 C. The Purchasing Division may include the following employees,
9 and employment of such employees is hereby authorized:

- 10 1. One assistant director;
- 11 2. One qualified specifications engineer;
- 12 3. Buyers who have at least three (3) years' procurement
13 experience for:
 - 14 a. food,
 - 15 b. hardware,
 - 16 c. textiles,
 - 17 d. petroleum,
 - 18 e. office supplies,
 - 19 f. building materials,
 - 20 g. pharmaceutical supplies,
 - 21 h. automotive equipment, parts, and accessories, and
 - 22 i. any other commodity group found by the Director of the
23 Department of Central Services to justify special
24 purchasing attention;

1 4. One buyer for products and services of the severely disabled
2 as provided in Section 3001 et seq. of this title;

3 5. One dietitian, who shall have the qualifications required by
4 the State Department of Health; and

5 6. Such other technical and clerical personnel as shall be
6 assigned to the Purchasing Division by the Director of the
7 Department of Central Services.

8 D. All activities of any state agency, department, or
9 institution relating to purchasing shall be under the direction of
10 the Purchasing Division unless otherwise provided by The Oklahoma
11 Central Purchasing Act.

12 E. The Purchasing Division shall provide qualified personnel to
13 assist the purchasing activities of state agencies, departments, and
14 institutions.

15 F. Each state agency, department, and institution shall
16 designate personnel to coordinate its purchasing functions with the
17 Purchasing Division.

18 G. The Purchasing Division may, if the needs of a state agency,
19 department, or institution are such as to so require, employ, and
20 establish a buyer within a state agency, department, or institution.

21 H. No state agency, department, or institution subject to The
22 Oklahoma Central Purchasing Act shall have or maintain a purchasing
23 section without the prior approval in writing of the Purchasing
24

1 Division unless otherwise provided in The Oklahoma Central
2 Purchasing Act.

3 I. The Purchasing Division shall make acquisitions from
4 industries operated by the Department of Corrections pursuant to the
5 provisions of Section 549.1 of Title 57 of the Oklahoma Statutes.

6 J. None of the personnel authorized by this section shall:

7 1. Sell to or otherwise provide acquisitions to any state
8 agency subject to The Oklahoma Central Purchasing Act;

9 2. Be employees, partners, associates, officers, or
10 stockholders in or with any business entity that sells to or
11 otherwise provides acquisitions to any agency subject to The
12 Oklahoma Central Purchasing Act;

13 3. Be employed in any of the positions authorized by this
14 section if a spouse or child owns any stock in any business entity
15 which sells to or otherwise provides acquisitions to any agency
16 subject to The Oklahoma Central Purchasing Act; or

17 4. Be employed in any of the positions authorized by this
18 section if a relative within the third degree of consanguinity or
19 affinity sells to or otherwise provides acquisitions to any agency
20 subject to The Oklahoma Central Purchasing Act or is interested in
21 any business entity which does so, except that such relative,
22 excluding a spouse or child, may own Five Thousand Dollars
23 (\$5,000.00) worth or less, or one percent (1%) or less, whichever
24 amount is the lesser amount, of the stock of a corporation or any

1 business entity which sells to or otherwise provides acquisitions to
2 any state agency subject to The Oklahoma Central Purchasing Act.

3 SECTION 7. AMENDATORY 74 O.S. 2001, Section 85.5, as
4 last amended by Section 1, Chapter 170, O.S.L. 2010 (74 O.S. Supp.
5 2010, Section 85.5), is amended to read as follows:

6 Section 85.5 A. Except as otherwise provided in this section,
7 pursuant to the provisions of Section 85.4 of this title, the State
8 Purchasing Director, under the supervision of the Director of the
9 Department of Central Services, shall have sole and exclusive
10 authority and responsibility for all acquisitions used or consumed
11 by state agencies. In order to carry out the powers and duties
12 established in Section 34.11.1 of Title 62 of the Oklahoma Statutes,
13 the Chief Information Officer shall have sole and exclusive
14 authority and responsibility for all acquisitions of information and
15 telecommunications technology, equipment, software, products and
16 related peripherals and services used or consumed by state agencies.

17 B. The State Purchasing Director, after consultation with the
18 requisitioning state agency, shall have authority to determine the
19 particular brand, model, or other specific classification of each
20 acquisition and to draft or invoke pursuant to The Oklahoma Central
21 Purchasing Act specifications establishing the requirements for all
22 necessary contracts or purchase orders.

23 C. The Director of the ~~Department of Central Services~~ Office of
24 State Finance shall have authority and responsibility to promulgate

1 rules pursuant to provisions of The Oklahoma Central Purchasing Act
2 governing, providing for, prescribing, or authorizing any act,
3 practice, or requirement for which regulatory power is delegated
4 for:

5 1. The time, manner, authentication, and form of making
6 requisitions for acquisitions;

7 2. Inspection, analysis, and testing of acquisitions or samples
8 suppliers submit prior to contract award;

9 3. The form and manner of submission for bids or proposals a
10 supplier submits and the manner of accepting and opening bids or
11 proposals;

12 4. The conditions under which the Department of Central
13 Services shall require written contracts for acquisitions, the
14 conditions under which acquisitions may be made on an open account
15 basis, and the conditions and manner of negotiating such contracts;

16 5. Obtaining acquisitions produced by state institutions;

17 6. Conditions under which any of the rules herein authorized
18 may be waived;

19 7. The amounts of and deposits on any bond or other surety
20 required to be submitted with a bid or contract for the furnishing
21 of acquisitions and the conditions under which such bond or other
22 surety shall be required;

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1 8. Storage and storage facilities necessary to accomplish
2 responsibilities of the Director of the Department of Central
3 Services;

4 9. The manner and conditions of delivery, which shall include
5 the designation of the common carrier of property to be used to
6 transport acquisitions whenever a common carrier is used, and the
7 acceptance, or rejection, including check of quantities, of any
8 acquisitions;

9 10. The form of any estimate, order, or other document the
10 Director of the Department of Central Services requires;

11 11. State agency acquisitions not exceeding the acquisition
12 purchase amount requiring competitive bid pursuant to Section 85.7
13 of this title to ensure competitiveness, fairness, compliance with
14 provisions of all sections of The Oklahoma Central Purchasing Act,
15 and compliance with provisions of Section 3001 et seq. of this
16 title, which relate to the State Use Committee. The rules shall
17 include separate provisions based on acquisition purchase price as
18 follows:

19 a. state agencies shall make acquisitions not exceeding
20 Five Thousand Dollars (\$5,000.00), provided the
21 acquisition process is fair and reasonable and is
22 conducted pursuant to rules authorized pursuant to
23 this section, and
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1 b. state agencies with certified procurement officers and
2 internal purchasing procedures found compliant by the
3 Director of the Department of Central Services
4 pursuant to this section may make acquisitions in
5 excess of Five Thousand Dollars (\$5,000.00) and not
6 exceeding One Hundred Thousand Dollars (\$100,000.00),
7 pursuant to rules authorized by this section;

8 12. Training by the State Purchasing Director of state agency
9 procurement officers;

10 13. Review and audit by the State Purchasing Director of state
11 agency acquisitions;

12 14. The conditions for increasing acquisition limits for state
13 agencies which have had a prior reduction in acquisition limit by
14 the Director of the Department of Central Services;

15 15. Use of a state purchase card to make acquisitions;

16 16. Any other matter or practice which relates to the
17 responsibilities of the Director of the Department of Central
18 Services;

19 17. Conditions for determination and authorization of
20 acquisition limits of state agencies pursuant to Section 85.7 of
21 this title; and

22 18. The form and manner of verification by suppliers that the
23 supplier is eligible to do business in the State of Oklahoma and has
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1 obtained all necessary permits and licenses, pursuant to applicable
2 provisions of law.

3 D. The State Purchasing Director shall provide training for
4 state agency purchasing officials and other purchasing staff. The
5 training shall include principles of state procurement practices,
6 basic contracting, provisions of The Oklahoma Central Purchasing
7 Act, rules promulgated pursuant to The Oklahoma Central Purchasing
8 Act, provisions of Section 3001 et seq. of this title, which relate
9 to the State Use Committee, and any other matters related to state
10 procurement practices. State agency purchasing officials that
11 demonstrate proficiency shall be certified as "certified procurement
12 officers" or "certified procurement analysts" by the State
13 Purchasing Director and shall be authorized to make acquisitions
14 pursuant to provisions of The Oklahoma Central Purchasing Act and
15 rules authorized by this section. The State Purchasing Director
16 shall assess a fee to state agencies for the training that does not
17 exceed each state agency's pro rata share of the costs the State
18 Purchasing Director incurs to provide the training.

19 E. The State Purchasing Director shall review state agency
20 acquisitions for the purposes of:

21 1. Ensuring state agency compliance with provisions of The
22 Oklahoma Central Purchasing Act;

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1 2. Ensuring state agency compliance with rules promulgated by
2 the Department of Central Services pursuant to The Oklahoma Central
3 Purchasing Act;

4 3. Ensuring state agency compliance with provisions of Section
5 3001 et seq. of this title pertaining to the State Use Committee;

6 4. Reporting any acquisition by any state agency found not to
7 be in compliance with those sections or rules to the Director of the
8 Department of Central Services; and

9 5. Recommending that the Director of the Department of Central
10 Services reduce the acquisition competitive bid limit amount for any
11 state agency found not to be in compliance with The Oklahoma Central
12 Purchasing Act or rules promulgated pursuant thereto.

13 F. When recommended by the State Purchasing Director, based on
14 written findings by the State Purchasing Director, the Director of
15 the Department of Central Services may:

16 1. Require retraining of state agency procurement officials and
17 other purchasing staff found not to be in compliance with provisions
18 of The Oklahoma Central Purchasing Act, or rules promulgated
19 pursuant to The Oklahoma Central Purchasing Act;

20 2. Reduce the acquisition competitive bid limit for any state
21 agency found not to be in compliance with provisions of The Oklahoma
22 Central Purchasing Act or rules promulgated pursuant to The Oklahoma
23 Central Purchasing Act;

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1 3. Transmit written findings by the State Purchasing Director
2 to the State Auditor and Inspector for further investigation,
3 indicating purchasing procedures that do not conform to provisions
4 pursuant to The Oklahoma Central Purchasing Act or rules promulgated
5 pursuant to The Oklahoma Central Purchasing Act;

6 4. Transmit to the Attorney General or the State Auditor and
7 Inspector for further investigation a report made by the State
8 Purchasing Director that the Director of the Department of Central
9 Services reasonably believes indicates that an action that
10 constitutes a criminal violation pursuant to The Oklahoma Central
11 Purchasing Act or other laws has been taken by any state agency,
12 state agency official, bidder, or supplier; or

13 5. Increase the state agency acquisition purchase amount
14 requiring competitive bid, not to exceed the acquisition purchase
15 amount requiring competitive bid, pursuant to Section 85.7 of this
16 title.

17 G. 1. Pursuant to the requirements of The Oklahoma Central
18 Purchasing Act, the State Purchasing Director shall have authority
19 to enter into any statewide, multistate or multigovernmental
20 contract. The state entity designated by law, as specified in
21 Section 1010.3 of Title 56 of the Oklahoma Statutes, shall
22 participate in the purchase of pharmaceuticals available through
23 such multistate or multigovernmental contracts entered into by the
24 State Purchasing Director.

1 2. The State Purchasing Director may utilize contracts awarded
2 by other governmental agencies, including agencies of the United
3 States of America.

4 3. The State Purchasing Director may designate contracts
5 described in this subsection for use by state agencies.

6 4. Prior to exercising the authority to cancel a contract, the
7 State Purchasing Director may authorize renegotiation of an existing
8 contract with an incumbent supplier for the purposes of obtaining
9 more favorable terms for the state provided the State Purchasing
10 Director shall not renegotiate the term of the contract.

11 5. In order to carry out the powers and duties established in
12 Section 34.11.1 of Title 62 of the Oklahoma Statutes, the Chief
13 Information Officer shall have the authority to designate certain
14 information technology and telecommunication contracts for state
15 agencies as statewide contracts and mandatory statewide contracts.

16 H. The State Purchasing Director may develop and test new
17 contracting policies and procedures that hold potential for making
18 the Purchasing Division more effective and efficient.

19 I. The State Purchasing Director shall endeavor to satisfy
20 state agencies in terms of cost, quality, and timeliness of the
21 delivery of acquisitions by using bidders who have a record of
22 successful past performance, promoting competition, minimizing
23 administrative operating costs, and conducting business with
24 integrity, fairness, and openness.

1 J. The State Purchasing Director shall undertake the following:

2 1. The use of electronic commerce pursuant to the Oklahoma
3 Online Bidding Act for solicitation, notification, and other
4 purchasing processes;

5 2. Monitoring rules promulgated pursuant to The Oklahoma
6 Central Purchasing Act to ensure that the rules, satisfy the
7 interests of the state, are clear and succinct, and encourage
8 efficiency in purchasing processes;

9 3. A program to identify vendors with poor delivery and
10 performance records;

11 4. Development of criteria for the use of sealed bid
12 contracting procedures, negotiated contracting procedures, selection
13 of types of contracts, postaward administration of purchase orders
14 and contracts, contract modifications, termination of contracts, and
15 contract pricing;

16 5. Continual improvement in the quality of the performance of
17 the Purchasing Division through training programs, management
18 seminars, development of benchmarks and key management indicators,
19 and development of standard provisions, clauses and forms;

20 6. Development of electronic means of making state agencies
21 aware of office furniture, equipment, machinery, tools, and hardware
22 available for purchase from the surplus property programs;

1 7. Development of programs to improve customer relations
2 through training, improved communications, and appointment of
3 technical representatives;

4 8. In cooperation with the Office of State Finance and the
5 State Treasurer, develop an electronic payment mechanism for use in
6 the settlement of accounts payable invoices, with no limit, to make
7 payment for products or services acquired in accordance with The
8 Oklahoma Central Purchasing Act and any rules promulgated pursuant
9 thereto; and

10 9. Implement a policy to approve the ability of the department,
11 agencies, boards, commissions and trusts to accept the terms of
12 service for usage of social media services and contract for
13 technology products and services provided the terms of service or
14 contract contains standard language including a liability agreement
15 which is considered customary or largely similar to terms of service
16 agreed to or contracts entered into by other government entities and
17 private sector enterprises.

18 K. The State Purchasing Director shall, in cooperation with the
19 Oklahoma Department of Agriculture, Food, and Forestry, identify the
20 needs of state agencies and institutions for agricultural products
21 grown and produced in Oklahoma.

22 L. The State Purchasing Director may authorize the use of a
23 state purchase card for acquisitions within the following
24 parameters:

1 1. No limit on the amount of the transaction for the following:

2 a. purchases from statewide contracts issued by the State
3 Purchasing Director, and

4 b. regulated utilities; and

5 2. For any other transaction with a state purchase card, the
6 transaction shall not exceed Five Thousand Dollars (\$5,000.00).

7 M. The State Purchasing Director may utilize and authorize
8 state agencies to utilize reverse auctions to obtain acquisitions.

9 N. Prior to the award of a contract to a supplier, the State
10 Purchasing Director shall verify, pursuant to applicable provisions
11 of law, that the supplier is eligible to do business in the State of
12 Oklahoma by confirming registration with the Secretary of State and
13 franchise tax payment status pursuant to Sections 1203 and 1204 of
14 Title 68 of the Oklahoma Statutes. The provisions of this
15 subsection shall be applicable only if the contract amount is
16 Twenty-five Thousand Dollars (\$25,000.00) or greater.

17 O. As a condition of awarding a contract in excess of the
18 dollar amount prescribed by subparagraph 11 of subsection C of this
19 section pursuant to The Oklahoma Central Purchasing Act, the State
20 Purchasing Director shall verify with the Oklahoma Tax Commission
21 that the business entity to which the state contract is to be
22 awarded, whether subject to the procedures required by Section 85.7
23 of this title or not, has obtained a sales tax permit pursuant to
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1 the provisions of Section 1364 of Title 68 of the Oklahoma Statutes
2 if such entity is required to do so.

3 P. The State Purchasing Director is hereby authorized to
4 explore and investigate cost savings in energy, resource usage, and
5 maintenance contracts and to identify and negotiate contract
6 solutions including, but not limited to, pilot projects to achieve
7 cost savings for the State of Oklahoma.

8 Q. The Office of State Finance, with input from the State
9 Purchasing Director, shall promulgate payment procedure rules for
10 state agencies to adhere to regarding statewide contracts issued by
11 the State Purchasing Director.

12 R. The Office of State Finance along with the Department of
13 Central Services, Central Purchasing Division, shall promulgate
14 payment procedure rules for agencies to adhere to regarding
15 statewide contracts issued by the Division.

16 S. On an annual basis, the State Purchasing Director shall
17 transmit to the Governor, Speaker of the House of Representatives
18 and President Pro Tempore of the State Senate a report documenting
19 the savings realized by each agency through the application of best
20 spend practices including the collection and tracking of spend data,
21 strategic sourcing programs, and implementation of managed and
22 mandatory statewide contracts. The report shall document the
23 reasons for the failure to issue a mandatory statewide contract for
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1 any items comprising total statewide spend in the amount of Five
2 Million Dollars (\$5,000,000.00) or greater.

3 T. The acquisition limitations provided for in subparagraph b
4 of paragraph 11 of subsection C of this section and paragraph 1 of
5 subsection A of Section 85.7 of this title shall not apply to agency
6 purchases provided the agency has subject matter experts on staff
7 having the specialized expertise to purchase said goods or services,
8 the agency possesses the necessary legal and procurement staff to
9 procure and monitor the contracts and provided the Director of
10 Central Services shall certify that the proposed purchase does not
11 conflict with consolidated statewide spend initiatives.

12 1. Nothing in this subsection shall give an agency authority to
13 issue statewide, multistate, or multigovernmental contracts.

14 2. Agencies making purchases pursuant to this subsection shall:
15 a. be responsible for contracts awarded pursuant to this
16 subsection, which includes, but may not be limited to,
17 contract management, all costs connected with or
18 incurred as a result of the contract, including legal
19 representation,
20 b. comply with rules and policies of the Department of
21 Central Services, and
22 c. report contracts issued pursuant to this subsection to
23 the Department of Central Services, Central Purchasing
24 Division, on a quarterly basis.

1 3. Purchases made in accordance with this subsection shall be
2 made pursuant to rules authorized by this section.

3 SECTION 8. AMENDATORY 74 O.S. 2001, Section 840-1.6A, as
4 last amended by Section 1, Chapter 312, O.S.L. 2004 (74 O.S. Supp.
5 2010, Section 840-1.6A), is amended to read as follows:

6 Section 840-1.6A There is hereby created the Office of
7 Personnel Management Division of the Office of State Finance. The
8 chief administrative officer of said Office of Personnel Management
9 shall be the ~~Administrator~~ designee of the Director of the Office of
10 State Finance who shall be experienced in the field, theory, and
11 application of personnel administration. ~~The Administrator shall be~~
12 ~~appointed by the Governor with the confirmation of the Senate, and~~
13 ~~serve at the Governor's pleasure.~~ In addition to the other duties
14 imposed by law, the Administrator shall:

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

18 2. Effective July 1, 1995, organize the Office to provide both
19 service and regulatory functions that are effective and efficient in
20 meeting the management needs of various state agencies. The
21 Administrator is directed to establish an agency service function to
22 assist agencies with human resource needs based upon the
23 administrative capacity and resources of the various agencies;

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

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

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

19 6. Develop a program for the recruitment of qualified persons,
20 including the administration of valid job-related nondiscriminatory
21 selection procedures providing for competitive examinations when
22 practical and for reasonable selection criteria when competitive
23 examinations are not practical. As part of the recruitment program
24 established by this section, the Administrator may identify

1 positions or job family levels for expedited recruitment. Such
2 expedited recruitment jobs may include only those jobs where
3 education, experience or certification requirements substantially
4 limit the pool of available applicants. Applicants who have been
5 certified by the Office of Personnel Management as meeting the
6 minimum qualifications for such jobs may be referred to agencies
7 with vacancies in such jobs without examination or ranking, and may
8 be eligible for appointment upon referral. However, a referral may
9 not occur until the register for the job has been publicly announced
10 for at least fourteen (14) calendar days. The Administrator may
11 remove positions or job family levels from expedited recruitment at
12 any time. The Administrator shall adopt rules to implement
13 expedited recruitment;

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

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

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

24

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

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

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

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

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

24

1 15. Assist the Oklahoma Merit Protection Commission and the
2 Executive Director in effectuating their duties, enforcement of the
3 rules of the Merit System of Personnel Administration, and
4 implementation of corrective action issued by the Commission;

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

11 17. Be responsible for advising state agencies on personnel
12 policy and administration;

13 18. Establish standards for continuing training, including
14 affirmative action, and certification of personnel professionals in
15 the executive branch of state government, excluding institutions
16 within The Oklahoma State System of Higher Education. Employees
17 appointed to professional personnel positions shall complete an
18 initial training program within six (6) months after assuming the
19 professional personnel position. Thereafter, they shall complete
20 annual training requirements. Each appointing authority shall
21 ensure that all professional personnel employees are notified of,
22 and scheduled to attend, required training programs and shall make
23 time available for employees to complete the programs. The
24 Administrator shall be authorized to bill agencies for the training

1 of personnel professionals pursuant to this paragraph to recover
2 reasonable costs associated with the training. Monies received for
3 such training shall be deposited in the Office of Personnel
4 Management Revolving Fund. Expenditure of such funds collected for
5 the training shall be exempt from any expenditure limit on the
6 Office of Personnel Management established by law;

7 19. Conduct a study identifying the following, by job family
8 descriptor(s):

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

11 b. selected job family levels identified by the
12 Administrator of the Office of Personnel Management
13 with salaries and benefits that are ten percent (10%)
14 or more below the market for such position(s), and

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

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

21 20. Issue orders directing agencies to:

22 a. conform and comply with the provisions of the Oklahoma
23 Personnel Act, the Merit Rules of Personnel
24 Administration, and all memoranda or other written

1 communications issued to agencies explaining the
2 Oklahoma Personnel Act, the Rules, and any other
3 matter relating to the Merit System of Personnel
4 Administration or under the jurisdiction of the
5 Administrator of the Office of Personnel Management,
6 and

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

9 21. Establish a workforce planning function within the Office
10 of Personnel Management to assist state agencies in analyzing the
11 current workforce, determining future workforce needs, and
12 implementing solutions so that agencies may accomplish their
13 missions; and

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

19 SECTION 9. AMENDATORY 74 O.S. 2001, Section 1365, as
20 last amended by Section 1, Chapter 28, O.S.L. 2009 (74 O.S. Supp.
21 2010, Section 1365), is amended to read as follows:

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

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

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

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

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

11 5. To prepare and distribute information communicating and
12 explaining the plan to participating employers and participants.
13 The State and Education Employees Group Insurance Board, Health
14 Maintenance Organizations, or other third-party insurance vendors
15 may be directly or indirectly involved in the distribution of
16 communicated information to participating state agency employers and
17 state employee participants subject to the following conditions:

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

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

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

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

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

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

12 9. To appoint an executive director, subject to the
13 confirmation of the Director of the Office of State Finance, who
14 shall serve at the pleasure of the ~~Council~~ Director of the Office of
15 State Finance. The executive director shall employ or retain such
16 persons in accordance with the Oklahoma State Employees Benefits Act
17 and the requirements of other applicable law, including but not
18 limited to actuaries and certified public accountants, as he or she
19 deems appropriate to perform such duties as may from time to time be
20 required under the Oklahoma State Employees Benefits Act and to
21 render advice upon request with regard to any matters arising under
22 the plan subject to the approval of the Council. The executive
23 director shall have not less than seven (7) years of group insurance
24 administration experience on a senior managerial level or not less

1 than three (3) years of flexible benefits experience on a senior
2 managerial level. Any actuary or certified public accountant
3 employed or retained under contract by the Council shall have not
4 less than three (3) years' experience in group insurance or employee
5 benefits administration. The compensation of all persons employed
6 or retained by the Council and all other expenses of the Council
7 shall be paid at such rates and in such amounts as the Council shall
8 approve, subject to the provisions of applicable law;

9 10. To negotiate for best and final offer through competitive
10 negotiation and contract with federally qualified health maintenance
11 organizations under the provisions of 42 U.S.C., Section 300e et
12 seq., or with Health Maintenance Organizations granted a certificate
13 of authority by the Insurance Commissioner pursuant to Sections 6901
14 through 6951 of Title 36 of the Oklahoma Statutes for consideration
15 by participants as an alternative to the health plans offered by the
16 Board, and to transfer to the health maintenance organizations such
17 funds as may be approved for a participant electing health
18 maintenance organization alternative services. The Council may also
19 select and contract with a vendor to offer a point-of-service plan.
20 An HMO may offer coverage through a point-of-service plan, subject
21 to the guidelines established by the Council. However, if the
22 Council chooses to offer a point-of-service plan, then a vendor that
23 offers both an HMO plan and a point-of-service plan may choose to

24

1 offer only its point-of-service plan in lieu of offering its HMO
2 plan.

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

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

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

20 13. To require vendors offering coverage through the Council,
21 including the Board, to provide such enrollment and claims data as
22 is determined by the Council. The Oklahoma State Employees Benefits
23 Council with the cooperation of the Department of Central Services
24 acting pursuant to Section 85.1 et seq. of this title, shall be

1 authorized to retain as confidential, any proprietary information
2 submitted in response to the Council's Request For Proposal.
3 Provided, however, that any such information requested by the
4 Council from the vendors shall only be subject to the
5 confidentiality provision of this paragraph if it is clearly
6 designated in the Request For Proposal as being protected under this
7 provision. All requested information lacking such a designation in
8 the Request For Proposal shall be subject to Section 24A.1 et seq.
9 of Title 51 of the Oklahoma Statutes. From health maintenance
10 organizations, data provided shall include the current Health Plan
11 Employer Data and Information Set (HEDIS);

12 14. To purchase any insurance deemed necessary for providing
13 benefits under the plan including indemnity dental plans, provided
14 that the only indemnity health plan selected by the Council shall be
15 the indemnity plan offered by the Board, and to transfer to the
16 Board such funds as may be approved for a participant electing a
17 benefit plan offered by the Board. All indemnity dental plans,
18 including the one offered by the ~~Oklahoma~~ State and Education
19 Employees Group Insurance Board, must meet or exceed the following
20 requirements:

- 21 a. they shall have a statewide provider network,
- 22 b. they shall provide benefits which shall reimburse the
23 expense for the following types of dental procedures:
24 (1) diagnostic,

- 1 (2) preventative,
- 2 (3) restorative,
- 3 (4) endodontic,
- 4 (5) periodontic,
- 5 (6) prosthodontics,
- 6 (7) oral surgery,
- 7 (8) dental implants,
- 8 (9) dental prosthetics, and
- 9 (10) orthodontics, and

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

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

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

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

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

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

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

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

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

- 22 a. exercises any discretionary authority or discretionary
23 control respecting administration or management of the
24 Council,

- 1 b. exercises any authority or control respecting
2 disposition of the assets of the Council,
3 c. renders advice for a fee or other compensation, direct
4 or indirect, with respect to any participant or
5 dependent benefits, monies or other property of the
6 Council, or has any authority or responsibility to do
7 so, or
8 d. has any discretionary authority or discretionary
9 responsibility in the administration of the Council;

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

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

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

23 5. Each fiduciary shall discharge his or her duties and
24 responsibilities with respect to the Council and the plan solely in

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

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

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

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

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

24

1 SECTION 10. AMENDATORY 74 O.S. 2001, Section 840-5.5, as
2 last amended by Section 1, Chapter 392, O.S.L. 2010 (74 O.S. Supp.
3 2010, Section 840-5.5), is amended to read as follows:

4 Section 840-5.5 A. The following offices, positions, and
5 personnel shall be in the unclassified service and shall not be
6 placed under the classified service:

7 1. Persons chosen by popular vote or appointment to fill an
8 elective office, and their employees, except the employees of the
9 Corporation Commission, the State Department of Education and the
10 Department of Labor;

11 2. Members of boards and commissions, and heads of agencies;
12 also one principal assistant or deputy and one executive secretary
13 for each state agency;

14 3. All judges, elected or appointed, and their employees;

15 4. Persons employed with one-time, limited duration, federal or
16 other grant funding that is not continuing or indefinitely
17 renewable. The length of the unclassified employment shall not
18 exceed the period of time for which that specific federal funding is
19 provided;

20 5. All officers and employees of The Oklahoma State System of
21 Higher Education, State Board of Education and Oklahoma Department
22 of Career and Technology Education;

23 6. Persons employed in a professional or scientific capacity to
24 make or conduct a temporary and special inquiry, investigation, or

1 examination on behalf of the Legislature or a committee thereof or
2 by authority of the Governor. These appointments and authorizations
3 shall terminate on the first day of the regular legislative session
4 immediately following the appointment, if not terminated earlier.
5 However, nothing in this paragraph shall prevent the reauthorization
6 and reappointment of any such person. Any such appointment shall be
7 funded from the budget of the appointing authority;

8 7. Election officials and employees;

9 8. Temporary employees employed to work less than one thousand
10 (1,000) hours in any twelve-month period, and seasonal employees
11 employed by the Oklahoma Tourism and Recreation Department pursuant
12 to Section 2241 of this title who work less than one thousand six
13 hundred (1,600) hours in any twelve-month period;

14 9. Department of Public Safety employees occupying the
15 following offices or positions:

- 16 a. administrative aides to the Commissioner,
- 17 b. executive secretaries to the Commissioner,
- 18 c. the Governor's representative of the Oklahoma Highway
19 Safety Office who shall be appointed by the Governor,
- 20 d. Highway Patrol Colonel,
- 21 e. Highway Patrol Lieutenant Colonel,
- 22 f. Director of Finance,
- 23 g. noncommissioned pilots,
- 24 h. Information Systems Administrator,

- 1 i. Law Enforcement Telecommunications System Specialist,
- 2 j. Director of Driver Compliance,
- 3 k. Director of Transportation Division,
- 4 l. Director of the Oklahoma Highway Safety Office,
- 5 m. Civil Rights Administrator,
- 6 n. Budget Analyst,
- 7 o. Comptroller,
- 8 p. Chaplain,
- 9 q. Helicopter Mechanic,
- 10 r. Director of Safety Compliance,
- 11 s. Human Resources Director,
- 12 t. Administrator of Department Services, and

13 u. a maximum of seven (7) positions for the purpose of
14 administering programs in the Oklahoma Highway Safety
15 Office, within full-time employee limitations of the
16 Department, employed with federal funding that is
17 continuing or indefinitely renewable. The
18 authorization for such positions shall be terminated
19 if the federal funding for positions is discontinued;

20 provided, any person appointed to a position prescribed in
21 subparagraph d or e of this paragraph shall have a right of return
22 to the classified commissioned position without any loss of rights,
23 privileges or benefits immediately upon completion of the duties in
24 the unclassified commissioned position;

1 10. Professional trainees only during the prescribed length of
2 their course of training or extension study;

3 11. Students who are employed on a part-time basis, which shall
4 be seventy-five percent (75%) of a normal forty-hour work week or
5 thirty (30) hours per week, or less, or on a full-time basis if the
6 employment is pursuant to a cooperative education program such as
7 that provided for under Title I IV-D of the Higher Education Act of
8 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly
9 enrolled in:

10 a. an institution of higher learning within The Oklahoma
11 State System of Higher Education,

12 b. an institution of higher learning qualified to become
13 coordinated with The Oklahoma State System of Higher
14 Education. For purposes of this section, a student
15 shall be considered a regularly enrolled student if
16 the student is enrolled in a minimum of five (5) hours
17 of accredited graduate courses or a minimum of ten
18 (10) hours of accredited undergraduate courses,
19 provided, however, the student shall only be required
20 to be enrolled in a minimum of six (6) hours of
21 accredited undergraduate courses during the summer, or

22 c. high school students regularly enrolled in a high
23 school in Oklahoma and regularly attending classes
24 during such time of enrollment;

1 12. The spouses of personnel who are employed on a part-time
2 basis to assist or work as a relief for their spouses in the
3 Oklahoma Tourism and Recreation Department;

4 13. Service substitute attendants who are needed to replace
5 museum and site attendants who are unavoidably absent. Service
6 substitutes may work as part-time or full-time relief for absentees
7 for a period of not more than four (4) weeks per year in the
8 Oklahoma Historical Society sites and museums; such substitutes will
9 not count towards the agency's full-time-equivalent (FTE) employee
10 limit;

11 14. Employees of the Oklahoma House of Representatives, the
12 State Senate, or the Legislative Service Bureau;

13 15. Corporation Commission personnel occupying the following
14 offices and positions:

- 15 a. Administrative aides, and executive secretaries to the
16 Commissioners,
- 17 b. Directors of all the divisions, personnel managers and
18 comptrollers,
- 19 c. General Counsel,
- 20 d. Public Utility Division Chief Engineer,
- 21 e. Public Utility Division Chief Accountant,
- 22 f. Public Utility Division Chief Economist,
- 23 g. Public Utility Division Deputy Director,
- 24 h. Secretary of the Commission,

- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,
- m. Public Utility Division Chief of Telecommunications,
- n. Director of Information Services,
- o. All Data Processing employees hired on or after September 1, 2005,
- p. All Public Utilities employees hired on or after September 1, 2007,
- q. All Regulatory Program Managers hired on or after September 1, 2007, and
- r. All Pipeline Safety Department employees hired on or after September 1, 2008;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Department of Mental Health and Substance Abuse Services personnel occupying the following offices and positions at each facility:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,

1 d. Executive Secretary to Director, and

2 e. Directors or Heads of Departments or Services;

3 18. Office of State Finance personnel occupying the following
4 offices and positions:

5 a. State Comptroller,

6 b. Administrative Officers,

7 c. Alternator Claims Auditor,

8 d. Employees hired to fulfill state compliance agency
9 requirements under Model Tribal Gaming Compacts,

10 e. Employees of the Budget Division,

11 f. Employees of the Fiscal and Research Division,

12 g. Employees hired to work on the CORE Systems Project;
13 and

14 h. The following employees of the Information Services
15 Division:

16 (1) Information Services Division Manager,

17 (2) Network Manager,

18 (3) Network Technicians,

19 (4) Security Manager,

20 (5) Contracts/Purchasing Manager,

21 (6) Operating and Applications Manager,

22 (7) Project Manager,

23 (8) Help Desk Manager,

24 (9) Help Desk Technicians,

- 1 (10) Quality Assurance Manager,
- 2 (11) ISD Analysts,
- 3 (12) CORE Manager,
- 4 (13) Enterprise System/Database Software Manager,
- 5 (14) Data Center Operations and Production Manager,
- 6 (15) Voice Communications Manager,
- 7 (16) Applications Development Manager,
- 8 (17) Projects Manager,
- 9 (18) PC's Manager,
- 10 (19) Servers Manager,
- 11 (20) Portal Manager,
- 12 (21) Procurement Specialists,
- 13 (22) Security Technicians,
- 14 (23) Enterprise Communications and Network
15 Administrator,
- 16 (24) Server Support Specialists,
- 17 (25) Senior Server Support Specialists,
- 18 (26) Systems Support Specialists,
- 19 (27) Senior Systems Support Specialists,
- 20 (28) Chief Technology Officer,
- 21 (29) Facility Manager,
- 22 (30) Application Development Specialists,
- 23 (31) Senior Application Development Specialists,
- 24 (32) Workstation Specialists,

- 1 (33) Senior Workstation Specialists,
- 2 (34) Cabling Infrastructure Administration,
- 3 (35) Planning Specialists,
- 4 (36) Senior Planning Specialists,
- 5 (37) Network Specialists,
- 6 (38) Senior Network Specialists,
- 7 (39) Voice Communication Specialists, and
- 8 (40) Senior Voice Communication Specialists;

9 19. Employees of the Oklahoma Industrial Finance Authority;

10 20. Those positions so specified in the annual business plan of
11 the Oklahoma Department of Commerce;

12 21. Those positions so specified in the annual business plan of
13 the Oklahoma Center for the Advancement of Science and Technology;

14 22. The following positions and employees of the Oklahoma
15 School of Science and Mathematics:

- 16 a. positions for which the annual salary is Twenty-four
17 Thousand One Hundred Ninety-three Dollars (\$24,193.00)
18 or more, as determined by the Office of Personnel
19 Management, provided no position shall become
20 unclassified because of any change in salary or grade
21 while it is occupied by a classified employee,
 - 22 b. positions requiring certification by the State
23 Department of Education, and
- 24

1 c. positions and employees authorized to be in the
2 unclassified service of the state elsewhere in this
3 section or in subsection B of this section;

4 23. Office of Personnel Management employees occupying the
5 following positions:

- 6 a. the Carl Albert Internship Program Coordinator,
- 7 b. one Administrative Assistant,
- 8 c. one Workforce Planning Manager,
- 9 d. Assistant Administrators,
- 10 e. one Associate Administrator, and
- 11 f. Division Directors;

12 24. Department of Labor personnel occupying the following
13 offices and positions:

- 14 a. two Deputy Commissioners,
- 15 b. two Executive Secretaries to the Commissioner,
- 16 c. Chief of Staff,
- 17 d. two Administrative Assistants,
- 18 e. Information Systems Administrator,
- 19 f. three Safety and Health Directors,
- 20 g. Research Director,
- 21 h. Employment Standards Director,
- 22 i. Asbestos Director,
- 23 j. General Counsel,
- 24 k. one Legal Secretary,

- 1 1. one Docket Clerk, and
- 2 m. two Information Systems Application Specialists;
- 3 25. The State Bond Advisor and his or her employees;
- 4 26. The Oklahoma Employment Security Commission employees
- 5 occupying the following positions:
- 6 a. Associate Director,
- 7 b. Secretary to the Associate Director, and
- 8 c. Assistant to the Executive Director;
- 9 27. Oklahoma Human Rights Commission personnel occupying the
- 10 position of Administrative Assistant;
- 11 28. Officers and employees of the State Banking Department;
- 12 29. Officers and employees of the University Hospitals
- 13 Authority except personnel in the state classified service pursuant
- 14 to Section 3211 of Title 63 of the Oklahoma Statutes and members of
- 15 the University Hospitals Authority Model Personnel System created
- 16 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma
- 17 Statutes or as otherwise provided for in Section 3213.2 of Title 63
- 18 of the Oklahoma Statutes;
- 19 30. Alcoholic Beverage Laws Enforcement Commission employees
- 20 occupying the following positions:
- 21 a. three Administrative Service Assistant positions,
- 22 however, employees in such positions who are in the
- 23 unclassified service on June 4, 2003, may make an
- 24

1 election to be in the classified service without a
2 loss in salary by September 1, 2003, and

- 3 b. the Deputy Director position in addition to the one
4 authorized by paragraph 2 of this subsection;

5 31. The Oklahoma State Bureau of Investigation employees
6 occupying the following positions:

- 7 a. five assistant directors,
8 b. six special investigators,
9 c. one information representative,
10 d. one federally funded physical evidence technician,
11 e. four federally funded laboratory analysts,
12 f. a maximum of fourteen positions employed for the
13 purpose of managing the automated information systems
14 of the agency,
15 g. one executive secretary in addition to the one
16 authorized pursuant to paragraph 2 of this subsection,
17 h. Child Abuse Response Team (CART) investigator, and
18 i. Child Abuse Response Team (CART) forensic interviewer;

19 32. The Department of Transportation, the following positions:

- 20 a. Director of the Oklahoma Aeronautics Commission,
21 b. five Department of Transportation Assistant Director
22 positions,
23 c. eight field division engineer positions,
24 d. one pilot position,

1 e. five Project Manager Positions, and

2 f. five Transportation Coordinators;

3 33. Commissioners of the Land Office employees occupying the
4 following positions:

5 a. Director of the Investments Division,

6 b. Assistant Director of the Investments Division,

7 c. one Administrative Assistant,

8 d. one Audit Tech position,

9 e. one Auditor I position,

10 f. two Accounting Tech I positions,

11 g. two Administrative Assistant I positions,

12 h. two Imaging Specialist positions,

13 i. one Information Systems Specialist position,

14 j. Director of Communications,

15 k. Director of Royalty Compliance,

16 l. Director of Mineral Management,

17 m. Director of Accounting,

18 n. Chief of Staff,

19 o. First Assistant Secretary,

20 p. Director of Real Estate Management,

21 q. one executive secretary,

22 r. one legal secretary, and

23 s. one legal assistant;

24

1 34. Within the Oklahoma State Bureau of Narcotics and Dangerous
2 Drugs Control Commission, the following positions:

3 a. six Narcotics Agent positions and three Typist
4 Clerk/Spanish transcriptionists, including a Typist
5 Clerk Supervisor/Spanish transcriptionist, provided,
6 authorization for such positions shall be terminated
7 if the federal funding for the positions is
8 discontinued,

9 b. one executive secretary in addition to the one
10 authorized pursuant to paragraph 2 of this subsection,

11 c. one fiscal officer,

12 d. one full-time Programmer, and

13 e. one full-time Network Engineer;

14 35. The Military Department of the State of Oklahoma is
15 authorized such unclassified employees within full-time employee
16 limitations to work in any of the Department of Defense directed
17 youth programs, the State of Oklahoma Juvenile Justice youth
18 programs, those persons reimbursed from Armory Board or Billeting
19 Fund accounts, and skilled trade positions;

20 36. Within the Oklahoma Commission on Children and Youth the
21 following unclassified positions:

22 a. one Oversight Specialist and one Community Development
23 Planner,

1 b. one State Plan Grant Coordinator, provided
2 authorization for the position shall be terminated
3 when federal support for the position by the United
4 States Department of Education Early Intervention
5 Program is discontinued,

6 c. one executive secretary in addition to the one
7 authorized pursuant to paragraph 2 of this subsection,
8 and

9 d. one Programs Manager;

10 37. The following positions and employees of the Department of
11 Central Services:

12 a. one Executive Secretary in addition to the Executive
13 Secretary authorized by paragraph 2 of this
14 subsection,

15 b. the Director of Central Purchasing,

16 c. one Alternate Fuels Administrator,

17 d. one Director of Special Projects,

18 e. three postauditors,

19 f. four high-technology contracting officers,

20 g. one Executive Assistant to the Purchasing Director,

21 h. four Contracts Managers,

22 i. one Associate Director,

23 j. one specialized HiTech/Food Contracting Officer,

24 k. one State Use Contracting Officer,

- 1 l. one Property Distribution Administrator,
2 m. three licensed architects assigned to the Construction
3 and Properties Division,
4 n. three licensed engineers assigned to the Construction
5 and Properties Division,
6 o. eight construction consultants assigned to the
7 Construction and Properties Division,
8 p. one attorney assigned to the Construction and
9 Properties Division,
10 q. three positions assigned to the Information Services
11 Division, which shall include one Information
12 Technology Manager, one Applications Specialist and
13 one Data Planning Specialist,
14 r. four positions assigned to Fleet Management, which
15 shall include one Deputy Fleet Manager and three
16 Management Analysts,
17 s. one Chief Auditor,
18 t. one Assistant Director of Central Purchasing Division,
19 u. one Professional Errors and Omissions Liability
20 Adjuster,
21 v. three Strategic Sourcing Managers,
22 w. three Strategic Sourcing Assistant Managers, and
23 x. two Printing Services Brokers;

24

1 38. Oklahoma Water Resources Board personnel occupying the
2 following offices and positions:

- 3 a. four Water Quality Assistant Division Chiefs,
- 4 b. four Water Resources Division Chiefs, and
- 5 c. Director of Water Planning;

6 39. J.D. McCarty Center for Children with Developmental
7 Disabilities personnel occupying the following offices and
8 positions:

- 9 a. Physical Therapists,
- 10 b. Physical Therapist Assistants,
- 11 c. Occupational Therapists,
- 12 d. Certified Occupational Therapist Aides, and
- 13 e. Speech Pathologists;

14 40. The Development Officer, the Director of the State Museum
15 of History and the Cherokee Strip Regional Heritage Center Director
16 within the Oklahoma Historical Society;

17 41. Oklahoma Department of Agriculture, Food, and Forestry
18 personnel occupying the following positions:

- 19 a. one Executive Secretary in addition to the Executive
20 Secretary authorized by paragraph 2 of this subsection
21 and one Executive Assistant,
- 22 b. nineteen Agricultural Marketing Coordinator III
23 positions,

1 c. temporary fire suppression personnel, regardless of
2 the number of hours worked, who are employed by the
3 Oklahoma Department of Agriculture, Food, and
4 Forestry; provided, however, notwithstanding the
5 provisions of any other section of law, the hours
6 worked by such employees shall not entitle such
7 employees to any benefits received by full-time
8 employees,

9 d. one Information Technology Specialist,

10 e. one Director of Administrative Services,

11 f. one Water Quality Consumer Complaint Coordinator,

12 g. one hydrologist position,

13 h. Public Information Office Director,

14 i. one Information Technology Technician,

15 j. Legal Services Director,

16 k. Animal Industry Services Director,

17 l. Agricultural Environmental Management Services
18 Director,

19 m. Forestry Services Director,

20 n. Plant Industry and Consumer Services Director,

21 o. one Grants Administrator position,

22 p. Director of Laboratory Services,

23 q. Chief of Communications,

24 r. Public Information Manager,

- s. Inventory/Supply Officer,
- t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,
- u. Rural Fire Coordinator,
- v. one Agricultural Marketing Coordinator I,
- w. Food Safety Division Director,
- x. two Environmental Program Specialists,
- y. two Scale Technicians,
- z. two Plant Protection Specialists, and
- aa. Chief Agent;

42. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

43. The Development Officer within the Oklahoma Department of Libraries;

1 44. Oklahoma Real Estate Commission personnel occupying the
2 following offices and positions:

3 a. Educational Program Director, and

4 b. Data Processing Manager;

5 45. A Chief Consumer Credit Examiner for the Department of
6 Consumer Credit;

7 46. All officers and employees of the Oklahoma Capitol Complex
8 and Centennial Commemoration Commission;

9 47. All officers and employees of the Oklahoma Motor Vehicle
10 Commission;

11 48. One Museum Archivist of The Will Rogers Memorial
12 Commission;

13 49. One Fire Protection Engineer of the Office of the State
14 Fire Marshal;

15 50. Acting incumbents employed pursuant to Section 209 of Title
16 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not
17 be included in any limitation on full-time equivalency imposed by
18 law on an agency. Permanent classified employees may request a
19 leave of absence from classified status and accept an unclassified
20 appointment and compensation as an acting incumbent with the same
21 agency; provided, the leave shall expire no later than two (2) years
22 from the date of the acting incumbent appointment. An appointing
23 authority may establish unclassified positions and appoint
24 unclassified employees to perform the duties of a permanent

1 classified employee who is on leave of absence from a classified
2 position to serve as an acting incumbent. All unclassified
3 appointments created pursuant to this paragraph shall expire no
4 later than two (2) years from the date of appointment. Classified
5 employees accepting unclassified appointments and compensation
6 pursuant to this paragraph shall be entitled to participate without
7 interruption in any benefit programs available to classified
8 employees, including retirement and insurance programs. Immediately
9 upon termination of an unclassified appointment pursuant to this
10 paragraph, an employee on assignment from the classified service
11 shall have a right to be restored to the classified service and
12 reinstated to the former job family level and compensation plus any
13 adjustments and increases in salary or benefits which the employee
14 would have received but for the leave of absence;

15 51. The Oklahoma Homeland Security Director and all other
16 positions assigned the responsibilities of working in the Oklahoma
17 Office of Homeland Security;

18 52. The following eighteen (18) positions in the State
19 Department of Health:

- 20 a. one surveillance supervisor,
- 21 b. one surveillance project monitor,
- 22 c. two bilingual interviewers,
- 23 d. eight senior interviewers, and
- 24 e. six interviewers;

1 53. State Board of Registration for Professional Engineers and
2 Land Surveyors personnel occupying the following offices and
3 positions:

- 4 a. one Director of Enforcement, and
- 5 b. two Board Investigators;

6 54. One Information Systems Data Management Analyst of the
7 Oklahoma State and Education Employees Group Insurance Board; ~~and~~

8 55. Two Management Information Systems positions of the Office
9 of Juvenile Affairs; and

10 56. Heads of agencies, principal assistants or deputies and
11 executive secretaries of an agency that is consolidated into another
12 agency.

13 B. If an agency has the authority to employ personnel in the
14 following offices and positions, the appointing authority shall have
15 the discretion to appoint personnel to the unclassified service:

- 16 1. Licensed medical doctors, osteopathic physicians, dentists,
17 psychologists, and nurses;
- 18 2. Certified public accountants;
- 19 3. Licensed attorneys;
- 20 4. Licensed veterinarians; and
- 21 5. Licensed pharmacists.

22 C. Effective July 1, 1996, authorization for unclassified
23 offices, positions, or personnel contained in a bill or joint
24 resolution shall terminate June 30 of the ensuing fiscal year after

1 the authorization unless the authorization is codified in the
2 Oklahoma Statutes or the termination is otherwise provided in the
3 legislation.

4 D. The appointing authority of agencies participating in the
5 statewide information systems project may establish unclassified
6 positions and appoint unclassified employees to the project as
7 needed. Additional unclassified positions may be established, if
8 required, to appoint an unclassified employee to perform the duties
9 of a permanent classified employee who is temporarily absent from a
10 classified position as a result of assignment to this project. All
11 unclassified appointments under this authority shall expire no later
12 than December 31, 2007, and all unclassified positions established
13 to support the project shall be abolished. Both the positions and
14 appointments resulting from this authority shall be exempt from any
15 agency FTE limitations and any limits imposed on the number of
16 unclassified positions authorized. Permanent classified employees
17 may request a leave of absence from classified status and accept an
18 unclassified appointment and compensation with the same agency under
19 the provisions of this subsection; provided, the leave shall expire
20 no later than December 31, 2007. Employees accepting the
21 appointment and compensation shall be entitled to participate
22 without interruption in any benefit programs available to classified
23 employees, including retirement and insurance programs. Immediately
24 upon termination of an unclassified appointment pursuant to this

1 subsection, an employee on assignment from the classified service
2 shall have a right to be restored to the classified service and
3 reinstated to the former job family level and compensation plus any
4 adjustments and increases in salary or benefits which the employee
5 would have received but for the leave of absence.

6 SECTION 11. REPEALER 74 O.S. 2001, Section 61.1, is
7 hereby repealed.

8 SECTION 12. REPEALER 74 O.S. 2001, Section 840-1.4, is
9 hereby repealed.

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