

1 ENGROSSED HOUSE
2 BILL NO. 2140

By: Steele and Murphey of the
House

3 and

4 Bingman of the Senate
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8 An Act relating to state government; enacting the
9 State Government Administrative Process Consolidation
10 and Reorganization Reform Act of 2011; consolidating
11 Department of Central Services, Office of Personnel
12 Management, Oklahoma Merit Protection Commission,
13 Archives Division of the Oklahoma State Library,
14 Oklahoma State Employees Benefits Council and
15 Oklahoma State and Education Employees Group
16 Insurance Board into Office of State Finance;
17 providing for assumption of responsibilities;
18 defining term; requiring Director of Office of State
19 Finance to implement consolidation; requiring certain
20 cost savings; requiring report; requiring
21 recommendations to the Legislature; providing for
22 delivery of books, papers, records and property;
23 transferring powers, duties and responsibilities;
24 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
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;
modifying references; amending 74 O.S. 2001, Sections
85.3, as amended by Section 2, Chapter 96, O.S.L.
2008 and 85.5, as last amended by Section 1, Chapter
170, O.S.L. 2010 (74 O.S. Supp. 2010, Sections 85.3

1 and 85.5), which relate to the Oklahoma Central
2 Purchasing Act; modifying references; amending 74
3 O.S. 2001, Section 840-1.6A, as last amended by
4 Section 1, Chapter 312, O.S.L. 2004 (74 O.S. Supp.
5 2010, Section 840-1.6A), which relates to the
6 Oklahoma Personnel Act; modifying references;
7 amending 74 O.S. 2001, Section 840-1.8, which relates
8 to the Oklahoma Personnel Act; modifying references;
9 67 O.S. 2001, Section 305, as amended by Section 1,
10 Chapter 24, O.S.L. 2007, 306 and 311 (67 O.S. Supp.
11 2010, Section 305), which relate to the Archives and
12 Records Commission and archived records; modifying
13 composition of the Commission; changing state
14 official in charge of determination of archive
15 issues; modifying agency in charge of archived
16 records; modifying on whose behalf the Attorney
17 General may replevin certain records or archives;
18 modifying references; amending 74 O.S. 2001, Section
19 1365, as last amended by Section 1, Chapter 28,
20 O.S.L. 2009 (74 O.S. Supp. 2010, Section 1365), which
21 relates to the Oklahoma State Employees Benefits
22 Council; modifying provisions related to appointment
23 of executive director; repealing 67 O.S. 2001,
24 Section 312, which relates to microfilm equipment and
supplies; repealing 74 O.S. 2001, Section 61.1, which
relates to the Director of Public Affairs; repealing
74 O.S. 2001, Section 840-1.4, which relates to the
Merit System 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".

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

4 A. The Department of Central Services, Office of Personnel
5 Management, Oklahoma Merit Protection Commission, the Archives
6 Division of the Oklahoma State Library, Oklahoma State Employees
7 Benefits Council and the Oklahoma State and Education Employees
8 Group Insurance Board are consolidated into the Office of State
9 Finance. The Director of the Office of State Finance shall assume
10 all executive-level responsibilities for each agency and shall
11 function as and possess the powers of the agency director for each
12 consolidated agency as enumerated by existing statute. For the
13 purposes of this section the term consolidated agencies shall mean
14 the Department of Central Services, Office of Personnel Management,
15 Oklahoma Merit Protection Commission, the Archives Division of the
16 Oklahoma State Library, Oklahoma State Employees Benefits Council
17 and the Oklahoma State and Education Employees Group Insurance
18 Board.

19 B. Not later than December 31, 2011, the Director of the Office
20 of State Finance shall cause the administrative functions of each
21 consolidated agency to be consolidated. The Director of the Office
22 of State Finance shall demonstrate a fifteen-percent overall cost
23 reduction as a result of the consolidation. The Director shall
24

1 produce a report which details the source and estimated amounts of
2 savings resulting from this consolidation.

3 C. Not later than December 31, 2011, the Director of the Office
4 of State Finance shall provide recommendations to the Legislature
5 for the streamlining, reduction or elimination of the governance
6 structures and statutorily established positions of each of the
7 consolidated agencies.

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, determination and decisions of the
21 consolidated agencies until duly modified or abrogated by the
22 appropriate body.

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 Merit Protection, the archives division of
8 the Office of State Finance, Department of State and Education
9 Employees Group Insurance and Department of Employee Benefits, all
10 under the administrative control of the Director of the Office of
11 State Finance and directly responsible to the Director and an
12 Information Services Division under the administrative control of
13 the Chief Information Officer and directly responsible to the
14 Officer.

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

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

23 SECTION 4. AMENDATORY 62 O.S. 2001, Section 41.4, as
24 amended by Section 7, Chapter 441, O.S.L. 2009, and as renumbered by

1 Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2010, Section
2 34.6), and is amended to read as follows:

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

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

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

10 3. Make allotments to control expenditures;

11 4. Authorize transfers of appropriation authorized by law;

12 5. Study accounting and other reports rendered by the Central
13 Accounting and Reporting Division;

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

16 7. Aid the Governor in the economical management of state
17 affairs; and

18 8. Assume the responsibilities of the Director of the
19 Department of Central Services, Office of Personnel Management,
20 Oklahoma Merit Protection Commission, the Archives Division of the
21 Oklahoma State Library, Oklahoma State Employees Benefits Council
22 and the Oklahoma State and Education Employees Group Insurance
23 Board.
24

1 B. In addition to other duties, the Director of the Office of
2 State Finance shall, upon request, advise and consult with members
3 of the Legislature and legislative committees concerning revenue and
4 expenditures of state agencies.

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

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

20 SECTION 6. AMENDATORY 74 O.S. 2001, Section 85.3, as
21 amended by Section 2, Chapter 96, O.S.L. 2008 (74 O.S. Supp. 2010,
22 Section 85.3), is amended to read as follows:
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1 Section 85.3 A. There is hereby created and established in the
2 Department of Central Services a Purchasing Division, the
3 administrative head of which shall be the State Purchasing Director.

4 B. The Director of the ~~Department of Central Services~~ Office of
5 State Finance shall hire the State Purchasing Director. The State
6 Purchasing Director shall:

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

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

- 16 1. One assistant director;
- 17 2. One qualified specifications engineer;
- 18 3. Buyers who have at least three (3) years' procurement
19 experience for:
 - 20 a. food,
 - 21 b. hardware,
 - 22 c. textiles,
 - 23 d. petroleum,
 - 24 e. office supplies,

- 1 f. building materials,
- 2 g. pharmaceutical supplies,
- 3 h. automotive equipment, parts, and accessories, and
- 4 i. any other commodity group found by the Director of the
- 5 Department of Central Services to justify special
- 6 purchasing attention;

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

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

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

14 D. All activities of any state agency, department, or
15 institution relating to purchasing shall be under the direction of
16 the Purchasing Division unless otherwise provided by The Oklahoma
17 Central Purchasing Act.

18 E. The Purchasing Division shall provide qualified personnel to
19 assist the purchasing activities of state agencies, departments, and
20 institutions.

21 F. Each state agency, department, and institution shall
22 designate personnel to coordinate its purchasing functions with the
23 Purchasing Division.

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

4 H. No state agency, department, or institution subject to The
5 Oklahoma Central Purchasing Act shall have or maintain a purchasing
6 section without the prior approval in writing of the Purchasing
7 Division unless otherwise provided in The Oklahoma Central
8 Purchasing Act.

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

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

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

15 2. Be employees, partners, associates, officers, or
16 stockholders in or with any business entity that sells to or
17 otherwise provides acquisitions to any agency subject to The
18 Oklahoma Central Purchasing Act;

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

23 4. Be employed in any of the positions authorized by this
24 section if a relative within the third degree of consanguinity or

1 affinity sells to or otherwise provides acquisitions to any agency
2 subject to The Oklahoma Central Purchasing Act or is interested in
3 any business entity which does so, except that such relative,
4 excluding a spouse or child, may own Five Thousand Dollars
5 (\$5,000.00) worth or less, or one percent (1%) or less, whichever
6 amount is the lesser amount, of the stock of a corporation or any
7 business entity which sells to or otherwise provides acquisitions to
8 any state agency subject to The Oklahoma Central Purchasing Act.

9 SECTION 7. AMENDATORY 74 O.S. 2001, Section 85.5, as
10 last amended by Section 1, Chapter 170, O.S.L. 2010 (74 O.S. Supp.
11 2010, Section 85.5), is amended to read as follows:

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

23 B. The State Purchasing Director, after consultation with the
24 requisitioning state agency, shall have authority to determine the

1 particular brand, model, or other specific classification of each
2 acquisition and to draft or invoke pursuant to The Oklahoma Central
3 Purchasing Act specifications establishing the requirements for all
4 necessary contracts or purchase orders.

5 C. The Director of the ~~Department of Central Services~~ Office of
6 State Finance shall have authority and responsibility to promulgate
7 rules pursuant to provisions of The Oklahoma Central Purchasing Act
8 governing, providing for, prescribing, or authorizing any act,
9 practice, or requirement for which regulatory power is delegated
10 for:

11 1. The time, manner, authentication, and form of making
12 requisitions for acquisitions;

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

15 3. The form and manner of submission for bids or proposals a
16 supplier submits and the manner of accepting and opening bids or
17 proposals;

18 4. The conditions under which the Department of Central
19 Services shall require written contracts for acquisitions, the
20 conditions under which acquisitions may be made on an open account
21 basis, and the conditions and manner of negotiating such contracts;

22 5. Obtaining acquisitions produced by state institutions;

23 6. Conditions under which any of the rules herein authorized
24 may be waived;

1 7. The amounts of and deposits on any bond or other surety
2 required to be submitted with a bid or contract for the furnishing
3 of acquisitions and the conditions under which such bond or other
4 surety shall be required;

5 8. Storage and storage facilities necessary to accomplish
6 responsibilities of the Director of the Department of Central
7 Services;

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

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

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

- 23 a. state agencies shall make acquisitions not exceeding
24 Five Thousand Dollars (\$5,000.00), provided the

1 acquisition process is fair and reasonable and is
2 conducted pursuant to rules authorized pursuant to
3 this section, and

4 b. state agencies with certified procurement officers and
5 internal purchasing procedures found compliant by the
6 Director of the Department of Central Services
7 pursuant to this section may make acquisitions in
8 excess of Five Thousand Dollars (\$5,000.00) and not
9 exceeding One Hundred Thousand Dollars (\$100,000.00),
10 pursuant to rules authorized by this section;

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

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

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

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

19 16. Any other matter or practice which relates to the
20 responsibilities of the Director of the Department of Central
21 Services;

22 17. Conditions for determination and authorization of
23 acquisition limits of state agencies pursuant to Section 85.7 of
24 this title; and

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

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

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

23 1. Ensuring state agency compliance with provisions of The
24 Oklahoma Central Purchasing Act;

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;

24

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 840-1.8, is
20 amended to read as follows:

21 Section 840-1.8 The appointing authority of the Oklahoma Merit
22 Protection Commission shall be the Executive Director. The
23 Executive Director shall be appointed by the ~~Commission to serve at~~
24 its pleasure Director of the Office of State Finance. The Executive

1 Director, with the approval of the Commission, may employ and
2 compensate an attorney and shall select, compensate and employ such
3 administrative hearing officers and other personnel as deemed
4 necessary for the proper administration of the duties and functions
5 of the Commission. Effective September 1, 1994, employees of the
6 Commission shall become classified employees, except those employees
7 with less than six (6) months of service from their enter-on-duty
8 date will remain in probationary status until obtaining permanent
9 status in accordance with applicable rules of the Administrator of
10 the Office of Personnel Management or as provided in Section ~~8~~ 840-
11 5.5 of this ~~act~~ title.

12 SECTION 10. AMENDATORY 67 O.S. 2001, Section 305, as
13 amended by Section 1, Chapter 24, O.S.L. 2007 (67 O.S. Supp. 2010,
14 Section 305), is amended to read as follows:

15 Section 305. There is hereby re-created until July 1, 2013, in
16 accordance with the Oklahoma Sunset Law, the Archives and Records
17 Commission, hereinafter referred to as the Commission, to be
18 composed of ~~one (1) member to be appointed by the Governor~~ the State
19 Librarian who shall serve as Chairman, the ~~State Librarian~~ Director
20 of the Office of State Finance or designee as ~~Vice Chairman~~ Vice-
21 chair and Secretary, the Lieutenant Governor, the State Auditor and
22 Inspector and the State Treasurer as members. Any member may
23 appoint and designate a subofficer or employee as his proxy for
24 purposes of carrying on the duties of the Commission. The

1 Commission shall have sole, entire and exclusive authority of the
2 disposition for all public records and archives of state officers,
3 departments, boards, commissions, agencies and institutions of this
4 state. The authority herein granted shall not apply to records and
5 archives of political subdivisions of the state; provided, however,
6 this act shall not apply to the confidential records and files of
7 the Oklahoma Tax Commission which are exempt from all provisions of
8 this act.

9 SECTION 11. AMENDATORY 67 O.S. 2001, Section 306, is
10 amended to read as follows:

11 Section 306. Every state officer and the heads of all
12 departments, boards, commissions, agencies and institutions of the
13 State of Oklahoma who have in their custody public records and
14 archives deemed by them to be unnecessary for the transaction of the
15 business of their offices shall consult with the ~~State Librarian~~
16 Director of the Office of State Finance for the purpose of
17 determining if such records and archives are desired for deposit in
18 the archives division of the ~~Oklahoma State Library~~ Office of State
19 Finance. Upon certification by the ~~State Librarian~~ Director of the
20 Office of State Finance that such records and archives are or are
21 not desired for such purpose, then such custodian shall, in
22 conformity with such determination, apply to the Commission for
23 authorization to destroy or transfer such records and archives to
24 the ~~Oklahoma State Library~~ archives division of the Office of State

1 Finance as hereinafter provided. Upon the filing of such
2 application the Commission shall have authority to authorize or
3 direct the disposition of such records and archives by any one or
4 more of the following methods:

5 1. By destruction; provided that, the Commission shall not
6 authorize destruction of records and archives less than five (5)
7 years old except upon a showing of good cause by the agency or the
8 Archives and Records Division of the ~~Oklahoma Department of~~
9 ~~Libraries~~ Office of State Finance and a unanimous vote of the
10 members of the Commission, or their designees, present-;

11 2. By transfer to the custody and control of the ~~Oklahoma State~~
12 ~~Library~~ archives division of the Office of State Finance and there
13 retained. The State Librarian may, in his discretion, microfilm
14 such records and archives, especially if so doing would aid in the
15 preservation of their contents-; or

16 3. By transfer to the ~~Oklahoma State Library~~ archives division
17 of the Office of State Finance with authorization to the ~~State~~
18 ~~Librarian~~ Director of the Office of State Finance to microfilm said
19 records and archives and upon the completion of this process to
20 destroy said records and archives in accordance with the order of
21 the Commission.

22 Records and archives transferred to the ~~Oklahoma State Library~~
23 archives division of the Office of State Finance shall never be
24 returned to their former custody except by order of the Commission

1 and written consent of the ~~State Librarian~~ Director of the Office of
2 State Finance.

3 SECTION 12. AMENDATORY 67 O.S. 2001, Section 311, is
4 amended to read as follows:

5 Section 311. The Secretary of the Archives and Records
6 Commission in person, or through a deputy authorized by him, shall
7 have the right of access to all public records and archives of this
8 state, except those records and archives classified as confidential
9 by Act of the Legislature, with a view of securing their safety and
10 preservation and determining their administrative or legal value.
11 On behalf of the State of Oklahoma, the Office of State Finance and
12 the Oklahoma State Library, the Attorney General may replevin any
13 public records or archives illegally removed which were formerly
14 part of the records or files of any public office of the Territory
15 or of the State of Oklahoma.

16 SECTION 13. AMENDATORY 74 O.S. 2001, Section 1365, as
17 last amended by Section 1, Chapter 28, O.S.L. 2009 (74 O.S. Supp.
18 2010, Section 1365), is amended to read as follows:

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

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

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

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

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

8 5. To prepare and distribute information communicating and
9 explaining the plan to participating employers and participants.

10 The State and Education Employees Group Insurance Board, Health
11 Maintenance Organizations, or other third-party insurance vendors
12 may be directly or indirectly involved in the distribution of
13 communicated information to participating state agency employers and
14 state employee participants subject to the following conditions:

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

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

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

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

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

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

9 9. To appoint an executive director, subject to the
10 confirmation of the Director of the Office of State Finance, who
11 shall serve at the pleasure of the ~~Council~~ Director of the Office of
12 State Finance. The executive director shall employ or retain such
13 persons in accordance with the Oklahoma State Employees Benefits Act
14 and the requirements of other applicable law, including but not
15 limited to actuaries and certified public accountants, as he or she
16 deems appropriate to perform such duties as may from time to time be
17 required under the Oklahoma State Employees Benefits Act and to
18 render advice upon request with regard to any matters arising under
19 the plan subject to the approval of the Council. The executive
20 director shall have not less than seven (7) years of group insurance
21 administration experience on a senior managerial level or not less
22 than three (3) years of flexible benefits experience on a senior
23 managerial level. Any actuary or certified public accountant
24 employed or retained under contract by the Council shall have not

1 less than three (3) years' experience in group insurance or employee
2 benefits administration. The compensation of all persons employed
3 or retained by the Council and all other expenses of the Council
4 shall be paid at such rates and in such amounts as the Council shall
5 approve, subject to the provisions of applicable law;

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

23 The Oklahoma State Employees Benefits Council may, however,
24 renegotiate rates with successful bidders after contracts have been

1 awarded if there is an extraordinary circumstance. An extraordinary
2 circumstance shall be limited to insolvency of a participating
3 health maintenance organization or point-of-service plan,
4 dissolution of a participating health maintenance organization or
5 point-of-service plan or withdrawal of another participating health
6 maintenance organization or point-of-service plan at any time during
7 the calendar year. Nothing in this section of law shall be
8 construed to permit either party to unilaterally alter the terms of
9 the contract;

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

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

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

1 confidentiality provision of this paragraph if it is clearly
2 designated in the Request For Proposal as being protected under this
3 provision. All requested information lacking such a designation in
4 the Request For Proposal shall be subject to Section 24A.1 et seq.
5 of Title 51 of the Oklahoma Statutes. From health maintenance
6 organizations, data provided shall include the current Health Plan
7 Employer Data and Information Set (HEDIS);

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

- 17 a. they shall have a statewide provider network,
- 18 b. they shall provide benefits which shall reimburse the
19 expense for the following types of dental procedures:
 - 20 (1) diagnostic,
 - 21 (2) preventative,
 - 22 (3) restorative,
 - 23 (4) endodontic,
 - 24 (5) periodontic,

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

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

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

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

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

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

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

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

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

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

- 17 a. exercises any discretionary authority or discretionary
18 control respecting administration or management of the
19 Council,
- 20 b. exercises any authority or control respecting
21 disposition of the assets of the Council,
- 22 c. renders advice for a fee or other compensation, direct
23 or indirect, with respect to any participant or
24 dependent benefits, monies or other property of the

1 Council, or has any authority or responsibility to do
2 so, or

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

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

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

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

18 5. Each fiduciary shall discharge his or her duties and
19 responsibilities with respect to the Council and the plan solely in
20 the interest of the participants and beneficiaries of the plan
21 according to the terms hereof, for the exclusive purpose of
22 providing benefits to participants and their beneficiaries, with the
23 care, skill, prudence and diligence under the circumstances
24 prevailing from time to time that a prudent person acting in a like

1 capacity and familiar with such matters would use in the conduct of
2 an enterprise of like character and with like aims; and

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

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

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

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

19 SECTION 14. REPEALER 67 O.S. 2001, Section 312, is
20 hereby repealed.

21 SECTION 15. REPEALER 74 O.S. 2001, Section 61.1, is
22 hereby repealed.

23 SECTION 16. REPEALER 74 O.S. 2001, Section 840-1.4, is
24 hereby repealed.

