

1 Director of the Office of State Finance; amending 74
2 O.S. 2001, Section 61.2, which relates to the
3 Department of Central Services; modifying references;
4 amending 74 O.S. 2001, Sections 85.3, as amended by
5 Section 2, Chapter 96, O.S.L. 2008 and 85.5, as last
6 amended by Section 1, Chapter 170, O.S.L. 2010 (74
7 O.S. Supp. 2010, Sections 85.3 and 85.5), which
8 relate to the Oklahoma Central Purchasing Act;
9 modifying references; amending 74 O.S. 2001, Section
10 840-1.6A, as last amended by Section 1, Chapter 312,
11 O.S.L. 2004 (74 O.S. Supp. 2010, Section 840-1.6A),
12 which relates to the Oklahoma Personnel Act;
13 modifying references; amending 74 O.S. 2001, Section
14 840-1.8, which relates to the Oklahoma Personnel Act;
15 modifying references; amending 65 O.S. 2001, Section
16 3-103, which relates to the Oklahoma Department of
17 Libraries; modifying references; amending 74 O.S.
18 2001, Section 1365, as last amended by Section 1,
19 Chapter 28, O.S.L. 2009 (74 O.S. Supp. 2010, Section
20 1365), which relates to the Oklahoma State Employees
21 Benefits Council; modifying provisions related to
22 appointment of executive director; repealing 74 O.S.
23 2001, Section 61.1, which relates to the Director of
24 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;
providing for noncodification; providing an effective
date; and declaring an emergency.

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".

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

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

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1 SECTION 3. AMENDATORY 62 O.S. 2001, Section 41.3, as
2 renumbered by Section 64, Chapter 441, O.S.L. 2009, and as last
3 amended by Section 32, Chapter 2, O.S.L. 2010 (62 O.S. Supp. 2010,
4 Section 34.3), is amended to read as follows:

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

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

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

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

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

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

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

12 3. Make allotments to control expenditures;

13 4. Authorize transfers of appropriation authorized by law;

14 5. Study accounting and other reports rendered by the Central
15 Accounting and Reporting Division;

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

18 7. Aid the Governor in the economical management of state
19 affairs; and

20 8. Assume the responsibilities of the Director of the
21 Department of Central Services, Office of Personnel Management,
22 Oklahoma Merit Protection Commission, Oklahoma Department of

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1 Libraries, Oklahoma State Employees Benefits Council and the
2 Oklahoma State and Education Employees Group Insurance Board.

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

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

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

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

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

7 B. The Director of the ~~Department of Central Services~~ Office of
8 State Finance shall hire the State Purchasing Director. The State
9 Purchasing Director shall:

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

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

- 19 1. One assistant director;
- 20 2. One qualified specifications engineer;
- 21 3. Buyers who have at least three (3) years' procurement
22 experience for:

23 a. food,

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- b. hardware,
- c. textiles,
- d. petroleum,
- e. office supplies,
- f. building materials,
- g. pharmaceutical supplies,
- h. automotive equipment, parts, and accessories, and
- i. any other commodity group found by the Director of the Department of Central Services to justify special purchasing attention;

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

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

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

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

1 E. The Purchasing Division shall provide qualified personnel to
2 assist the purchasing activities of state agencies, departments, and
3 institutions.

4 F. Each state agency, department, and institution shall
5 designate personnel to coordinate its purchasing functions with the
6 Purchasing Division.

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

10 H. No state agency, department, or institution subject to The
11 Oklahoma Central Purchasing Act shall have or maintain a purchasing
12 section without the prior approval in writing of the Purchasing
13 Division unless otherwise provided in The Oklahoma Central
14 Purchasing Act.

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

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

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

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

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

7 4. Be employed in any of the positions authorized by this
8 section if a relative within the third degree of consanguinity or
9 affinity sells to or otherwise provides acquisitions to any agency
10 subject to The Oklahoma Central Purchasing Act or is interested in
11 any business entity which does so, except that such relative,
12 excluding a spouse or child, may own Five Thousand Dollars
13 (\$5,000.00) worth or less, or one percent (1%) or less, whichever
14 amount is the lesser amount, of the stock of a corporation or any
15 business entity which sells to or otherwise provides acquisitions to
16 any state agency subject to The Oklahoma Central Purchasing Act.

17 SECTION 7. AMENDATORY 74 O.S. 2001, Section 85.5, as
18 last amended by Section 1, Chapter 170, O.S.L. 2010 (74 O.S. Supp.
19 2010, Section 85.5), is amended to read as follows:

20 Section 85.5 A. Except as otherwise provided in this section,
21 pursuant to the provisions of Section 85.4 of this title, the State
22 Purchasing Director, under the supervision of the Director of the
23 Department of Central Services, shall have sole and exclusive

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1 authority and responsibility for all acquisitions used or consumed
2 by state agencies. In order to carry out the powers and duties
3 established in Section 34.11.1 of Title 62 of the Oklahoma Statutes,
4 the Chief Information Officer shall have sole and exclusive
5 authority and responsibility for all acquisitions of information and
6 telecommunications technology, equipment, software, products and
7 related peripherals and services used or consumed by state agencies.

8 B. The State Purchasing Director, after consultation with the
9 requisitioning state agency, shall have authority to determine the
10 particular brand, model, or other specific classification of each
11 acquisition and to draft or invoke pursuant to The Oklahoma Central
12 Purchasing Act specifications establishing the requirements for all
13 necessary contracts or purchase orders.

14 C. The Director of the ~~Department of Central Services~~ Office of
15 State Finance shall have authority and responsibility to promulgate
16 rules pursuant to provisions of The Oklahoma Central Purchasing Act
17 governing, providing for, prescribing, or authorizing any act,
18 practice, or requirement for which regulatory power is delegated
19 for:

20 1. The time, manner, authentication, and form of making
21 requisitions for acquisitions;

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

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1 3. The form and manner of submission for bids or proposals a
2 supplier submits and the manner of accepting and opening bids or
3 proposals;

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

8 5. Obtaining acquisitions produced by state institutions;

9 6. Conditions under which any of the rules herein authorized
10 may be waived;

11 7. The amounts of and deposits on any bond or other surety
12 required to be submitted with a bid or contract for the furnishing
13 of acquisitions and the conditions under which such bond or other
14 surety shall be required;

15 8. Storage and storage facilities necessary to accomplish
16 responsibilities of the Director of the Department of Central
17 Services;

18 9. The manner and conditions of delivery, which shall include
19 the designation of the common carrier of property to be used to
20 transport acquisitions whenever a common carrier is used, and the
21 acceptance, or rejection, including check of quantities, of any
22 acquisitions;

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

3 11. State agency acquisitions not exceeding the acquisition
4 purchase amount requiring competitive bid pursuant to Section 85.7
5 of this title to ensure competitiveness, fairness, compliance with
6 provisions of all sections of The Oklahoma Central Purchasing Act,
7 and compliance with provisions of Section 3001 et seq. of this
8 title, which relate to the State Use Committee. The rules shall
9 include separate provisions based on acquisition purchase price as
10 follows:

11 a. state agencies shall make acquisitions not exceeding
12 Five Thousand Dollars (\$5,000.00), provided the
13 acquisition process is fair and reasonable and is
14 conducted pursuant to rules authorized pursuant to
15 this section, and

16 b. state agencies with certified procurement officers and
17 internal purchasing procedures found compliant by the
18 Director of the Department of Central Services
19 pursuant to this section may make acquisitions in
20 excess of Five Thousand Dollars (\$5,000.00) and not
21 exceeding One Hundred Thousand Dollars (\$100,000.00),
22 pursuant to rules authorized by this section;

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

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

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

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

9 16. Any other matter or practice which relates to the
10 responsibilities of the Director of the Department of Central
11 Services;

12 17. Conditions for determination and authorization of
13 acquisition limits of state agencies pursuant to Section 85.7 of
14 this title; and

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

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

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

14 1. Ensuring state agency compliance with provisions of The
15 Oklahoma Central Purchasing Act;

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

19 3. Ensuring state agency compliance with provisions of Section
20 3001 et seq. of this title pertaining to the State Use Committee;

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

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

5 F. When recommended by the State Purchasing Director, based on
6 written findings by the State Purchasing Director, the Director of
7 the Department of Central Services may:

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

12 2. Reduce the acquisition competitive bid limit for any state
13 agency found not to be in compliance with provisions of The Oklahoma
14 Central Purchasing Act or rules promulgated pursuant to The Oklahoma
15 Central Purchasing Act;

16 3. Transmit written findings by the State Purchasing Director
17 to the State Auditor and Inspector for further investigation,
18 indicating purchasing procedures that do not conform to provisions
19 pursuant to The Oklahoma Central Purchasing Act or rules promulgated
20 pursuant to The Oklahoma Central Purchasing Act;

21 4. Transmit to the Attorney General or the State Auditor and
22 Inspector for further investigation a report made by the State
23 Purchasing Director that the Director of the Department of Central
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1 Services reasonably believes indicates that an action that
2 constitutes a criminal violation pursuant to The Oklahoma Central
3 Purchasing Act or other laws has been taken by any state agency,
4 state agency official, bidder, or supplier; or

5 5. Increase the state agency acquisition purchase amount
6 requiring competitive bid, not to exceed the acquisition purchase
7 amount requiring competitive bid, pursuant to Section 85.7 of this
8 title.

9 G. 1. Pursuant to the requirements of The Oklahoma Central
10 Purchasing Act, the State Purchasing Director shall have authority
11 to enter into any statewide, multistate or multigovernmental
12 contract. The state entity designated by law, as specified in
13 Section 1010.3 of Title 56 of the Oklahoma Statutes, shall
14 participate in the purchase of pharmaceuticals available through
15 such multistate or multigovernmental contracts entered into by the
16 State Purchasing Director.

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

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

22 4. Prior to exercising the authority to cancel a contract, the
23 State Purchasing Director may authorize renegotiation of an existing
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1 contract with an incumbent supplier for the purposes of obtaining
2 more favorable terms for the state provided the State Purchasing
3 Director shall not renegotiate the term of the contract.

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

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

12 I. The State Purchasing Director shall endeavor to satisfy
13 state agencies in terms of cost, quality, and timeliness of the
14 delivery of acquisitions by using bidders who have a record of
15 successful past performance, promoting competition, minimizing
16 administrative operating costs, and conducting business with
17 integrity, fairness, and openness.

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

19 1. The use of electronic commerce pursuant to the Oklahoma
20 Online Bidding Act for solicitation, notification, and other
21 purchasing processes;

22 2. Monitoring rules promulgated pursuant to The Oklahoma
23 Central Purchasing Act to ensure that the rules, satisfy the

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1 interests of the state, are clear and succinct, and encourage
2 efficiency in purchasing processes;

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

5 4. Development of criteria for the use of sealed bid
6 contracting procedures, negotiated contracting procedures, selection
7 of types of contracts, postaward administration of purchase orders
8 and contracts, contract modifications, termination of contracts, and
9 contract pricing;

10 5. Continual improvement in the quality of the performance of
11 the Purchasing Division through training programs, management
12 seminars, development of benchmarks and key management indicators,
13 and development of standard provisions, clauses and forms;

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

17 7. Development of programs to improve customer relations
18 through training, improved communications, and appointment of
19 technical representatives;

20 8. In cooperation with the Office of State Finance and the
21 State Treasurer, develop an electronic payment mechanism for use in
22 the settlement of accounts payable invoices, with no limit, to make
23 payment for products or services acquired in accordance with The

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1 Oklahoma Central Purchasing Act and any rules promulgated pursuant
2 thereto; and

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

11 K. The State Purchasing Director shall, in cooperation with the
12 Oklahoma Department of Agriculture, Food, and Forestry, identify the
13 needs of state agencies and institutions for agricultural products
14 grown and produced in Oklahoma.

15 L. The State Purchasing Director may authorize the use of a
16 state purchase card for acquisitions within the following
17 parameters:

- 18 1. No limit on the amount of the transaction for the following:
19 a. purchases from statewide contracts issued by the State
20 Purchasing Director, and
21 b. regulated utilities; and
22 2. For any other transaction with a state purchase card, the
23 transaction shall not exceed Five Thousand Dollars (\$5,000.00).

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

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

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

20 P. The State Purchasing Director is hereby authorized to
21 explore and investigate cost savings in energy, resource usage, and
22 maintenance contracts and to identify and negotiate contract
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1 solutions including, but not limited to, pilot projects to achieve
2 cost savings for the State of Oklahoma.

3 Q. The Office of State Finance, with input from the State
4 Purchasing Director, shall promulgate payment procedure rules for
5 state agencies to adhere to regarding statewide contracts issued by
6 the State Purchasing Director.

7 R. The Office of State Finance along with the Department of
8 Central Services, Central Purchasing Division, shall promulgate
9 payment procedure rules for agencies to adhere to regarding
10 statewide contracts issued by the Division.

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

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

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

9 2. Agencies making purchases pursuant to this subsection shall:

10 a. be responsible for contracts awarded pursuant to this
11 subsection, which includes, but may not be limited to,
12 contract management, all costs connected with or
13 incurred as a result of the contract, including legal
14 representation,

15 b. comply with rules and policies of the Department of
16 Central Services, and

17 c. report contracts issued pursuant to this subsection to
18 the Department of Central Services, Central Purchasing
19 Division, on a quarterly basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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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;

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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

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

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

- 10 a. selected job family levels with a turnover rate in
11 excess of ten percent (10%),
- 12 b. selected job family levels identified by the
13 Administrator of the Office of Personnel Management
14 with salaries and benefits that are ten percent (10%)
15 or more below the market for such position(s), and
- 16 c. selected job family levels identified by the
17 Administrator of the Office of Personnel Management in
18 which recruitment efforts have yielded a low number of
19 qualified applicants.

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

22 20. Issue orders directing agencies to:

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- 1 a. conform and comply with the provisions of the Oklahoma
2 Personnel Act, the Merit Rules of Personnel
3 Administration, and all memoranda or other written
4 communications issued to agencies explaining the
5 Oklahoma Personnel Act, the Rules, and any other
6 matter relating to the Merit System of Personnel
7 Administration or under the jurisdiction of the
8 Administrator of the Office of Personnel Management,
9 and
10 b. take action pursuant to Section 840-6.9 of this title
11 for failure to implement those orders;

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

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

22 SECTION 9. AMENDATORY 74 O.S. 2001, Section 840-1.8, is
23 amended to read as follows:

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1 Section 840-1.8 The appointing authority of the Oklahoma Merit
2 Protection Commission shall be the Executive Director. The
3 Executive Director shall be appointed by the ~~Commission to serve at~~
4 ~~its pleasure~~ Director of the Office of State Finance. The Executive
5 Director, with the approval of the Commission, may employ and
6 compensate an attorney and shall select, compensate and employ such
7 administrative hearing officers and other personnel as deemed
8 necessary for the proper administration of the duties and functions
9 of the Commission. Effective September 1, 1994, employees of the
10 Commission shall become classified employees, except those employees
11 with less than six (6) months of service from their enter-on-duty
12 date will remain in probationary status until obtaining permanent
13 status in accordance with applicable rules of the Administrator of
14 the Office of Personnel Management or as provided in Section & 840-
15 5.5 of this ~~act~~ title.

16 SECTION 10. AMENDATORY 65 O.S. 2001, Section 3-103, is
17 amended to read as follows:

18 Section 3-103. The offices of Director and Assistant Director
19 are hereby created. The Subject to the confirmation of the Director
20 of the Office of State Finance, the Director shall be appointed by
21 the Board on the basis of merit and appropriate experience, shall
22 possess a library degree from a library school accredited by the
23 American Library Association and shall serve at the pleasure of the

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1 ~~Board~~ Director of the Office of State Finance. The Assistant
2 Director shall be appointed by the Director, with the approval of
3 the Board, and shall be subject to the same qualifications as herein
4 specified for the Director. The Director shall be the State
5 Librarian and the State Archivist, which offices are hereby created.

6 SECTION 11. AMENDATORY 74 O.S. 2001, Section 1365, as
7 last amended by Section 1, Chapter 28, O.S.L. 2009 (74 O.S. Supp.
8 2010, Section 1365), is amended to read as follows:

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

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

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

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

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

22 5. To prepare and distribute information communicating and
23 explaining the plan to participating employers and participants.

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

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

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

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

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

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

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

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

22 10. To negotiate for best and final offer through competitive
23 negotiation and contract with federally qualified health maintenance
24

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

16 The Oklahoma State Employees Benefits Council may, however,
17 renegotiate rates with successful bidders after contracts have been
18 awarded if there is an extraordinary circumstance. An extraordinary
19 circumstance shall be limited to insolvency of a participating
20 health maintenance organization or point-of-service plan,
21 dissolution of a participating health maintenance organization or
22 point-of-service plan or withdrawal of another participating health
23 maintenance organization or point-of-service plan at any time during

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1 the calendar year. Nothing in this section of law shall be
2 construed to permit either party to unilaterally alter the terms of
3 the contract;

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

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

10 13. To require vendors offering coverage through the Council,
11 including the Board, to provide such enrollment and claims data as
12 is determined by the Council. The Oklahoma State Employees Benefits
13 Council with the cooperation of the Department of Central Services
14 acting pursuant to Section 85.1 et seq. of this title, shall be
15 authorized to retain as confidential, any proprietary information
16 submitted in response to the Council's Request For Proposal.
17 Provided, however, that any such information requested by the
18 Council from the vendors shall only be subject to the
19 confidentiality provision of this paragraph if it is clearly
20 designated in the Request For Proposal as being protected under this
21 provision. All requested information lacking such a designation in
22 the Request For Proposal shall be subject to Section 24A.1 et seq.
23 of Title 51 of the Oklahoma Statutes. From health maintenance

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1 organizations, data provided shall include the current Health Plan
2 Employer Data and Information Set (HEDIS);

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

- 12 a. they shall have a statewide provider network,
- 13 b. they shall provide benefits which shall reimburse the
14 expense for the following types of dental procedures:
 - 15 (1) diagnostic,
 - 16 (2) preventative,
 - 17 (3) restorative,
 - 18 (4) endodontic,
 - 19 (5) periodontic,
 - 20 (6) prosthodontics,
 - 21 (7) oral surgery,
 - 22 (8) dental implants,
 - 23 (9) dental prosthetics, and

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1 (10) orthodontics, and

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

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

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

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

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

20 19. To take all steps deemed necessary to properly administer
21 the plan in accordance with the Oklahoma State Employees Benefits
22 Act and the requirements of other applicable law; and
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1 20. To manage, license or sell software developed for and
2 acquired by the Council, whether or not such software is patented or
3 copyrighted. The Council shall have the authority to license and
4 sell such software or any rights to such software without declaring
5 such property to be surplus. All proceeds from any such sale shall
6 be deposited in the Benefits Council Administration Revolving Fund
7 and used to defray the costs of administration.

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

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

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

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

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

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

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

16 5. Each fiduciary shall discharge his or her duties and
17 responsibilities with respect to the Council and the plan solely in
18 the interest of the participants and beneficiaries of the plan
19 according to the terms hereof, for the exclusive purpose of
20 providing benefits to participants and their beneficiaries, with the
21 care, skill, prudence and diligence under the circumstances
22 prevailing from time to time that a prudent person acting in a like
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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 12. REPEALER 74 O.S. 2001, Section 61.1, is
20 hereby repealed.

21 SECTION 13. REPEALER 74 O.S. 2001, Section 840-1.4, is
22 hereby repealed.

23 SECTION 14. This act shall become effective July 1, 2011.

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1 SECTION 15. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5
6 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated
7 02-21-2011 - DO PASS, As Amended and Coauthored.
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