An Act

ENROLLED HOUSE
BILL NO. 2140

By: Steele and Murphey of the House

and

Bingman of the Senate

An Act relating to state government; enacting the State Government Administrative Process Consolidation and Reorganization Reform Act of 2011; consolidating Department of Central Services, Office of Personnel Management, Oklahoma State Employees Benefits Council and State and Education Employees Group Insurance Board into Office of State Finance; providing for assumption of responsibilities; defining term; requiring Director of the Office of State Finance to implement consolidation; requiring certain cost savings; requiring report; requiring recommendations to the Legislature; providing for delivery of books, papers, records and property; transferring powers, duties and responsibilities; providing for effect of administrative rules; amending 62 O.S. 2001, Sections 41.3, as renumbered by Section 64, Chapter 441, O.S.L. 2009, and as last amended by Section 32, Chapter 2, O.S.L. 2010, and 41.4, as amended by Section 7, Chapter 441, O.S.L. 2009, and as renumbered by Section 64, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2010, Sections 34.3 and 34.6), which relate to the Oklahoma State Finance Act; modifying references to certain divisions within the Office of State Finance; providing for assumption of responsibilities by the Director of the Office of State Finance; amending 74 O.S. 2001, Section 61.2, which relates to the Department of Central Services; 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 of Enrolled House Bill No. 1034 of the 1st Session of the 53rd Oklahoma Legislature (74 O.S. Supp. 2010,

Section 85.3), which relate to The Oklahoma Central Purchasing Act; modifying references; amending 74 O.S. 2001, Section 840-1.6A, as last amended by Section 1, Chapter 312, O.S.L. 2004 (74 O.S. Supp. 2010, Section 840-1.6A), which relates to the Oklahoma Personnel Act; modifying references; amending 74 O.S. 2001, Section 1365, as last amended by Section 1 of Enrolled Senate Bill No. 623 of the 1st Session of the 53rd Oklahoma Legislature, which relates to the Oklahoma State Employees Benefits Council; modifying provisions related to appointment of executive director; amending 74 O.S. 2001, Section 840-5.5, as last amended by Section 2 of Enrolled House Bill No. 1649 of the 1st Session of the 53rd Oklahoma Legislature, which relates to the Oklahoma Personnel Act; modifying provisions related to the unclassified service; 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.

SUBJECT: State Government Administrative Process Consolidation and Reorganization Reform Act of 2011

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

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

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

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

A. The Department of Central Services, Office of Personnel Management, Oklahoma State Employees Benefits Council and the State and Education Employees Group Insurance Board are consolidated into

the Office of State Finance. The Director of the Office of State Finance shall assume all executive-level responsibilities for each agency and shall function as and possess the powers of the agency director for each consolidated agency as enumerated by existing statute. For the purposes of this section the term "consolidated agencies" shall mean the Department of Central Services, Office of Personnel Management, Oklahoma State Employees Benefits Council and the State and Education Employees Group Insurance Board.

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

C. Not later than December 31, 2011, the Director of the Office of State Finance shall provide recommendations to the Legislature for the streamlining, reduction or elimination of the governance structures and statutorily established positions of each of the consolidated agencies. Until otherwise provided for by law, the governance structures and statutorily established positions of each of the consolidated agencies shall be maintained. Any funds appropriated to, in the possession of or allocated to any of the consolidated agencies shall be deemed to be funds of the Office of State Finance.

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

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

F. All rules, regulations, acts, orders, determinations and decisions of the consolidated agencies pertaining to the functions and powers herein transferred and assigned to the Office of State Finance, in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as

rules, regulations, acts, orders, determinations and decisions of the consolidated agencies until duly modified or abrogated by the appropriate body or until otherwise provided by law.

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

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

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

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

SECTION 4. AMENDATORY 62 O.S. 2001, Section 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, Section 34.6), and is amended to read as follows:

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

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

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

3. Make allotments to control expenditures;

4. Authorize transfers of appropriation authorized by law;

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

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

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

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

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

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

Section 61.2 There is hereby created ~~in~~ within the ~~Executive Department~~ Office of State Finance, a Department of Central Services, under the administrative control of the Director of ~~Central Services~~ the Office of State Finance. Whenever the terms "Board of Affairs", "State Board of Public Affairs", "Board" when used in reference to the Board Of Public Affairs or "Office of Public Affairs", appear in the Oklahoma Statutes they shall mean the Department of Central Services of the Office of State Finance. Whenever the term "Director of Public Affairs" appears in the Oklahoma Statutes it shall mean the Director of the Office of State Finance. Whenever the term "Director of Central Services" appears in the Oklahoma Statutes it shall mean the Director of the Office of State Finance or designee.

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

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

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

1. Be at least twenty-eight (28) years of age;

2. Have a thorough knowledge of office practices and buying procedures in volume purchasing; and

3. Be a graduate of an accredited college or university with at least five (5) years' experience in commercial or governmental purchasing, or, in lieu of such education, have at least ten (10) years' experience in commercial or governmental purchasing.

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

1. One assistant director;

2. One qualified specifications engineer;

3. Buyers who have at least three (3) years' procurement experience for:

a. food,

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.

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

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

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

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

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

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

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

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

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

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

SECTION 7. AMENDATORY 74 O.S. 2001, Section 85.5, as last amended by Section 1 of Enrolled House Bill No. 1034 of the 1st Session of the 53rd Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

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

5. Obtaining acquisitions produced by state institutions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. The State Purchasing Director shall undertake the following:

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

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

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

4. Development of criteria for the use of sealed bid contracting procedures, negotiated contracting procedures, selection of types of contracts, postaward administration of purchase orders

and contracts, contract modifications, termination of contracts, and contract pricing;

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

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

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

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

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

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

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

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

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

b. regulated utilities,

c. interagency payments, and

d. professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes; and

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

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

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

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

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

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

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

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

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

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

2. Agencies making purchases pursuant to this subsection shall:

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

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

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

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

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

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

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

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

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

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

5. Conduct an analysis of the rates of pay prevailing in the state in the public and private sectors for comparable jobs and report the findings to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives no later than December 1 of each year. Such analysis shall include all forms of compensation including fringe benefits. Information solicited by the Office of Personnel Management from public and private sector

employers for such analysis, including but not limited to salaries, benefits, and compensation policies and procedures, shall be confidential and shall not be subject to disclosure under the Oklahoma Open Records Act;

6. Develop a program for the recruitment of qualified persons, including the administration of valid job-related nondiscriminatory selection procedures providing for competitive examinations when practical and for reasonable selection criteria when competitive examinations are not practical. As part of the recruitment program established by this section, the Administrator may identify positions or job family levels for expedited recruitment. Such expedited recruitment jobs may include only those jobs where education, experience or certification requirements substantially limit the pool of available applicants. Applicants who have been certified by the Office of Personnel Management as meeting the minimum qualifications for such jobs may be referred to agencies with vacancies in such jobs without examination or ranking, and may be eligible for appointment upon referral. However, a referral may not occur until the register for the job has been publicly announced for at least fourteen (14) calendar days. The Administrator may remove positions or job family levels from expedited recruitment at any time. The Administrator shall adopt rules to implement expedited recruitment;

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

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

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

10. Develop, in cooperation with appointing authorities, employee training programs, management training programs, a certified public manager program, a recruiting program, and a system of performance appraisals, and assist appointing authorities in the setting of productivity goals. The Administrator may establish and collect fees for participation in training programs. The Administrator is authorized to purchase awards for presentation to

state employees as part of employee recognition activities sponsored by the Office of Personnel Management;

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

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

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

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

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

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

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

18. Establish standards for continuing training, including affirmative action, and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education. Employees appointed to professional personnel positions shall complete an initial training program within six (6) months after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of,

and scheduled to attend, required training programs and shall make time available for employees to complete the programs. The Administrator shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Office of Personnel Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of Personnel Management established by law;

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

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

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

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

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

20. Issue orders directing agencies to:

a. conform and comply with the provisions of the Oklahoma Personnel Act, the Merit Rules of Personnel Administration, and all memoranda or other written communications issued to agencies explaining the Oklahoma Personnel Act, the Rules, and any other matter relating to the Merit System of Personnel Administration or under the jurisdiction of the Administrator of the Office of Personnel Management, and

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

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

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

SECTION 9. AMENDATORY 74 O.S. 2001, Section 1365, as last amended by Section 1 of Enrolled Senate Bill No. 623 of the 1st Session of the 53rd Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. they shall have a statewide provider network,

b. they shall provide benefits which shall reimburse the expense for the following types of dental procedures:

(1) diagnostic,

(2) preventative,

(3) restorative,

(4) endodontic,

(5) periodontic,

(6) prosthodontics,

(7) oral surgery,

(8) dental implants,

(9) dental prosthetics, and

(10) orthodontics, and

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

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

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

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

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

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

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

21. Beginning with the plan year which begins on January 1, 2012, to select and contract with one or more providers to offer a group TRICARE Supplement product to eligible employees who are eligible TRICARE beneficiaries. Any membership dues required to participate in a group TRICARE Supplement product offered pursuant to this paragraph shall be paid by the employee. As used in this paragraph, "TRICARE" means the Department of Defense health care program for active duty and retired uniform service members and their families.

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

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

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

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

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

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

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

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

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

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the Council and the plan solely in the interest of the participants and beneficiaries of the plan according to the terms hereof, for the exclusive purpose of providing benefits to participants and their beneficiaries, with the

care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and

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

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

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

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

SECTION 10. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 2 of Enrolled House Bill No. 1649 of the 1st Session of the 53rd Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

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

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

a. administrative aides to the Commissioner,

b. executive secretaries to the Commissioner,

c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,

d. Highway Patrol Colonel,

e. Highway Patrol Lieutenant Colonel,

f. Director of Finance,

g. noncommissioned pilots,

h. Information Systems Administrator,

i. Law Enforcement Telecommunications System Specialist,

j. Director of Driver Compliance,

k. Director of Transportation Division,

l. Director of the Oklahoma Highway Safety Office,

m. Civil Rights Administrator,

n. Budget Analyst,

o. Comptroller,

p. Chaplain,

q. Helicopter Mechanic,

r. Director of Safety Compliance,

s. Human Resources Director,

t. Administrator of Department Services, and

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

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

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

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or

thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

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

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

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

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

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

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

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

a. Administrative aides, and executive secretaries to the Commissioners,

b. Directors of all the divisions, personnel managers and comptrollers,

c. General Counsel,

d. Public Utility Division Chief Engineer,

e. Public Utility Division Chief Accountant,

f. Public Utility Division Chief Economist,

g. Public Utility Division Deputy Director,

h. Secretary of the Commission,

i. Deputy Conservation Director,

j. Manager of Pollution Abatement,

k. Manager of Field Operations,

l. Manager of Technical Services,

m. Public Utility Division Chief of Telecommunications,

n. Director of Information Services,

o. All Data Processing employees hired on or after September 1, 2005,

p. All Public Utilities employees hired on or after September 1, 2007,

q. All Regulatory Program Managers hired on or after September 1, 2007, and

r. All Pipeline Safety Department employees hired on or after September 1, 2008;

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

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

a. Director of Facility,

b. Deputy Director for Administration,

c. Clinical Services Director,

d. Executive Secretary to Director, and

e. Directors or Heads of Departments or Services;

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

a. State Comptroller,

b. Administrative Officers,

c. Alternator Claims Auditor,

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

e. Employees of the Budget Division,

f. Employees of the Fiscal and Research Division,

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

h. The following employees of the Information Services Division:

(1) Information Services Division Manager,

(2) Network Manager,

(3) Network Technicians,

(4) Security Manager,

(5) Contracts/Purchasing Manager,

(6) Operating and Applications Manager,

(7) Project Manager,

(8) Help Desk Manager,

(9) Help Desk Technicians,

(10) Quality Assurance Manager,

(11) ISD Analysts,

(12) CORE Manager,

(13) Enterprise System/Database Software Manager,

(14) Data Center Operations and Production Manager,

(15) Voice Communications Manager,

(16) Applications Development Manager,

(17) Projects Manager,

(18) PC's Manager,

(19) Servers Manager,

(20) Portal Manager,

(21) Procurement Specialists,

(22) Security Technicians,

(23) Enterprise Communications and Network Administrator,

(24) Server Support Specialists,

(25) Senior Server Support Specialists,

(26) Systems Support Specialists,

(27) Senior Systems Support Specialists,

(28) Chief Technology Officer,

(29) Facility Manager,

(30) Application Development Specialists,

(31) Senior Application Development Specialists,

(32) Workstation Specialists,

(33) Senior Workstation Specialists,

(34) Cabling Infrastructure Administration,

(35) Planning Specialists,

(36) Senior Planning Specialists,

(37) Network Specialists,

(38) Senior Network Specialists,

(39) Voice Communication Specialists, and

(40) Senior Voice Communication Specialists;

19. Employees of the Oklahoma Industrial Finance Authority;

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

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

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

a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars ($24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,

b. positions requiring certification by the State Department of Education, and

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

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

a. the Carl Albert Internship Program Coordinator,

b. one Administrative Assistant,

c. one Workforce Planning Manager,

d. Assistant Administrators,

e. one Associate Administrator, and

f. Division Directors;

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

a. two Deputy Commissioners,

b. two Executive Secretaries to the Commissioner,

c. Chief of Staff,

d. two Administrative Assistants,

e. Information Systems Administrator,

f. three Safety and Health Directors,

g. Research Director,

h. Employment Standards Director,

i. Asbestos Director,

j. General Counsel,

k. one Legal Secretary,

l. one Docket Clerk, and

m. two Information Systems Application Specialists;

25. The State Bond Advisor and his or her employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

a. Associate Director,

b. Secretary to the Associate Director, and

c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. Officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on June 4, 2003, may make an election to be in the classified service without a loss in salary by September 1, 2003, and

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

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

a. five assistant directors,

b. six special investigators,

c. one information representative,

d. one federally funded physical evidence technician,

e. four federally funded laboratory analysts,

f. a maximum of fourteen positions employed for the purpose of managing the automated information systems of the agency,

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

h. Child Abuse Response Team (CART) investigator,

i. Child Abuse Response Team (CART) forensic interviewer, and

j. nine administration and research positions and five data processing and information technology positions transferred from the Criminal Justice Resource Center pursuant to Section 150.17a of this title;

32. The Department of Transportation, the following positions:

a. Director of the Oklahoma Aeronautics Commission,

b. five Department of Transportation Assistant Director positions,

c. eight field division engineer positions,

d. one pilot position,

e. five Project Manager Positions, and

f. five Transportation Coordinators;

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

a. Director of the Investments Division,

b. Assistant Director of the Investments Division,

c. one Administrative Assistant,

d. one Audit Tech position,

e. one Auditor I position,

f. two Accounting Tech I positions,

g. two Administrative Assistant I positions,

h. two Imaging Specialist positions,

i. one Information Systems Specialist position,

j. Director of Communications,

k. Director of Royalty Compliance,

l. Director of Mineral Management,

m. Director of Accounting,

n. Chief of Staff,

o. First Assistant Secretary,

p. Director of Real Estate Management,

q. one executive secretary,

r. one legal secretary, and

s. one legal assistant;

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

a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided,

authorization for such positions shall be terminated if the federal funding for the positions is discontinued,

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

c. one fiscal officer,

d. one full-time Programmer, and

e. one full-time Network Engineer;

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

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

a. one Oversight Specialist and one Community Development Planner,

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

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

d. one Programs Manager;

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

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

b. the Director of Central Purchasing,

c. one Alternate Fuels Administrator,

d. one Director of Special Projects,

e. three postauditors,

f. four high-technology contracting officers,

g. one Executive Assistant to the Purchasing Director,

h. four Contracts Managers,

i. one Associate Director,

j. one specialized HiTech/Food Contracting Officer,

k. one State Use Contracting Officer,

l. one Property Distribution Administrator,

m. three licensed architects assigned to the Construction and Properties Division,

n. three licensed engineers assigned to the Construction and Properties Division,

o. eight construction consultants assigned to the Construction and Properties Division,

p. one attorney assigned to the Construction and Properties Division,

q. three positions assigned to the Information Services Division, which shall include one Information Technology Manager, one Applications Specialist and one Data Planning Specialist,

r. four positions assigned to Fleet Management, which shall include one Deputy Fleet Manager and three Management Analysts,

s. one Chief Auditor,

t. one Assistant Director of Central Purchasing Division,

u. one Professional Errors and Omissions Liability Adjuster,

v. three Strategic Sourcing Managers,

w. three Strategic Sourcing Assistant Managers, and

x. two Printing Services Brokers;

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

a. four Water Quality Assistant Division Chiefs,

b. four Water Resources Division Chiefs, and

c. Director of Water Planning;

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

a. Physical Therapists,

b. Physical Therapist Assistants,

c. Occupational Therapists,

d. Certified Occupational Therapist Aides, and

e. Speech Pathologists;

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

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

a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,

b. nineteen Agricultural Marketing Coordinator III positions,

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

d. one Information Technology Specialist,

e. one Director of Administrative Services,

f. one Water Quality Consumer Complaint Coordinator,

g. one hydrologist position,

h. Public Information Office Director,

i. one Information Technology Technician,

j. Legal Services Director,

k. Animal Industry Services Director,

l. Agricultural Environmental Management Services Director,

m. Forestry Services Director,

n. Plant Industry and Consumer Services Director,

o. one Grants Administrator position,

p. Director of Laboratory Services,

q. Chief of Communications,

r. Public Information Manager,

s. Inventory/Supply Officer,

t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,

u. Rural Fire Coordinator,

v. one Agricultural Marketing Coordinator I,

w. Food Safety Division Director,

x. two Environmental Program Specialists,

y. two Scale Technicians,

z. two Plant Protection Specialists, and

aa. Chief Agent;

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

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

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

a. Educational Program Director, and

b. Data Processing Manager;

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

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

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

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

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

50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence;

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

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

a. one surveillance supervisor,

b. one surveillance project monitor,

c. two bilingual interviewers,

d. eight senior interviewers, and

e. six interviewers;

53. State Board of Licensure for Professional Engineers and Land Surveyors personnel occupying the following offices and positions:

a. one Director of Enforcement, and

b. two Board Investigators;

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

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

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

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

1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and nurses;

2. Certified public accountants;

3. Licensed attorneys;

4. Licensed veterinarians; and

5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than December 31, 2007, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2007. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

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

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

Passed the House of Representatives the 18th day of May, 2011.

Presiding Officer of the House of Representatives

Passed the Senate the 20th day of May, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 20th

day of May, **20** 11,

at 6:33 **o'clock** PM.

By: Jessica R. Ryan

Approved by the Governor of the State of Oklahoma the 24th **day of**

May, **20** 11, **at** 11:15 **o'clock** AM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

24th **day of** May, **20** 11,

at 4:05 **o'clock** PM.

By: Michelle R. Day