

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

2ND CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2331

By: McCorkell and Steidley of
the House

and

Mickle, Monson and
Williams (Penny) of the
Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state government personnel; amending 74 O.S. 1991, Sections 840.3 and 840.5, Section 1, Chapter 367, O.S.L. 1992, 74 O.S. 1991, Sections 840.7a, as amended by Section 3, Chapter 367, O.S.L. 1992, 840.7c, as amended by Section 1, Chapter 221, O.S.L. 1992, 840.8, as last amended by Section 30 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, 840.13, 840.16, 840.20, as amended by Section 2, Chapter 83, O.S.L. 1993, 840.22, 840.25, 840.5b, 841.2, 841.3, as amended by Section 5, Chapter 367, O.S.L. 1992, 841.9, as amended by Section 17, Chapter 367, O.S.L. 1992, 841.12, Section 7, Chapter 367, O.S.L. 1992, 74 O.S. 1991, Sections 841.18, 841.20 and 841.23 (74 O.S. Supp. 1993, Sections 840.5c, 840.7a, 840.7c, 840.20, 841.3, 841.9 and 841.13C), which relate to the Oklahoma Personnel Act; modifying definitions; providing for placement of agencies and positions under the Merit System of Personnel Administration; modifying the duties of the Administrator of the Office of Personnel Management; authorizing billing for certain costs; providing for deposit of monies received; exempting certain funds from expenditure limits; providing scope of the Personnel Management Information System; authorizing participation by appointing authorities of other branches of state government; creating the Human Resources Management Advisory Committee; providing composition, transaction of business, filling of vacancies and staffing; exempting the Advisory Committee from the Administrative Procedures Act and prohibiting promulgation of rules by the Committee; providing for travel reimbursement; requiring certain studies and recommendations by certain dates; providing for the design of model human resource projects; providing for calculation of years of service for leave benefits; modifying maximum sick leave that can be accrued per year; prohibiting retroactive accumulation of leave; modifying duties of the Administrator of the Office of Personnel Management relating to leave rules; requiring leave rules to permit selection of leave to be used for certain authorized absences; modifying offices, positions and personnel that comprise the unclassified service; providing that certain appointments and

authorizations terminate at certain time; placing certain entities under the Merit System; placing certain employees, positions and personnel in the classified service; providing exceptions; providing for determination of status of unclassified employee transferred to the classified service; providing for pay structure; requiring the Administrator of the Office of Personnel Management to develop a salary schedule and pay lines and to design a compensation system; authorizing the promulgation of rules for local registers; requiring audits to ensure proper allocation of classified positions; granting appointing authorities control of positions within their agencies; providing for audit procedure; exempting audit procedure from Article II of the Administrative Procedures Act; stating responsibilities of appointing authorities for proper classification; providing for classification and class specifications; providing for affirmative action plans; removing certain exemption; requiring submittal of plans annually by a certain date; requiring the Administrator of the Office of Personnel Management to establish qualification requirements for certain personnel; providing for training requirements; authorizing billing for certain costs; providing for deposit of monies received; exempting certain funds from expenditure limits; providing for investigation of complaints; providing exceptions; providing procedure if appointing authority fails to perform certain duties; requiring development of certain rules; requiring certain action if the Administrator of the Office of Personnel Management finds pattern of noncompliance with affirmative action goals; providing for payment of certain costs; creating the Affirmative Action Review Council; stating purpose, duties and powers; providing for composition, vacancies, term of office, selection of chair, quorum, travel reimbursement and disqualification; providing procedure if Administrator does not act in accordance with Council recommendation; prohibiting Council from adopting certain rules; providing for affirmative action plans for the judiciary; requiring promulgation of certain rules and standards relating to the work force for state government; requiring the Administrator of the Office of Personnel Management to design a mentor program; stating purpose; creating the Mentor Selection Advisory Committee; providing for composition, terms of office and travel reimbursement; providing procedure for nomination and selection of candidates for the mentor program; providing for management rotation assignment for mentor executives; requiring participating entities to assign executive level managers to serve as mentors; providing duties of mentors; exempting participating employees from full-time-equivalent limitations; providing for compensation of mentor executives; changing name of certain revolving fund for the Office of Personnel Management; expanding sources for Fund; modifying use for Fund; providing for transfer of certain monies and obligations; authorizing the Oklahoma Merit Protection Commission to employ and compensate an attorney and administrative law judges; placing employees of the Commission in the classified service, with exceptions; modifying duties and powers of the Commission; directing the Commission to publish summaries of Commission appeal hearings; authorizing the Commission to charge for cost of summaries and recordings; providing for deposit of

proceeds; directing the Commission to establish a training and certification program; authorizing billing for certain costs; providing for deposit of monies received; exempting certain funds from expenditure limits; modifying grievance procedures; requiring Commission to establish standard internal agency grievance resolution procedures; authorizing agencies to adopt other procedures; providing requirements relating to internal grievance procedures; prohibiting certain disciplinary or prejudicial action; requiring the Commission to promulgate rules; requiring appointing authorities of classified agencies to designate employees to receive and process internal grievances; requiring certain training; requiring appointing authorities to maintain certain records and summary information; providing right of access to grievance records; requiring appointing authorities to establish written policies and procedures related to progressive discipline; defining term; stating supervisor responsibility; requiring the Commission to promulgate rules for discipline; providing that alternative dispute resolution programs are not subject to Article II of the Administrative Procedures Act; providing for appeals of such cases; modifying scope of subpoena power; allowing designees to administer oaths; removing definition; providing for development of flextime policies and alternative work schedules; authorizing certain administrative fines; amending 63 O.S. 1991, Section 1-2418, as last amended by Section 143, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1993, Section 2-10-202), which relates to the Oklahoma Solid Waste Management Act; removing certain position from the unclassified service; amending 56 O.S. 1991, Section 26.17, which relates to the Human Services Commission and the Department of Human Services; making Department of Human Services a Merit System agency and placing offices, positions and personnel in the classified service; specifying offices, positions and personnel to be in unclassified service; placing certain positions and personnel of the Department of Human Services in the classified service on certain date; providing exceptions; providing for assignment of certain personnel of the Department of Human Services to the Office of Personnel Management for certain period; stating purpose; providing for retention of status; providing for compensation and travel reimbursement; amending 61 O.S. 1991, Section 3, which relates to statutory work day; modifying scope of law; providing for work in excess of eight hours per day in certain circumstances; providing for overtime compensation in accordance with the Fair Labor Standards Act and regulations relating thereto; amending 62 O.S. 1991, Section 7.11, which relates to the Merit System of Personnel Administration Salary Schedule; modifying schedule; eliminating requirement that each grade have thirteen steps; authorizing wage above maximum salary for grade in certain circumstance; amending 62 O.S. 1991, Section 7.12, as amended by Section 11, Chapter 367, O.S.L. 1992 (62 O.S. Supp. 1993, Section 7.12), which relates to minimum annual salaries for state employees; modifying scope of law; clarifying reference; amending 74 O.S. 1991, Section 18c, which relates to the Office of the Attorney General; modifying list of agencies authorized to hire attorneys; amending 74 O.S. 1991,

Section 915, as amended by Section 24, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1993, Section 915), which relates to retirement benefits for state employees; authorizing voluntary benefit deductions for certain products; providing that the Oklahoma Public Employees Retirement System is not responsible for marketing, enrolling or administering products; authorizing the System to retain processing fee; providing for retirement benefit deductions for certain membership dues; amending 74 O.S. 1991, Section 4190, as amended by Section 12, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 4190), which relates to the state employee daycare program; modifying amount of licensed spaces daycare center must reserve for minor dependents of state employees; amending Section 1, Chapter 171, O.S.L. 1992 (74 O.S. Supp. 1993, Section 7101), which relates to the State Employee Assistance Program; providing for determination of deliberate harm in relation to exception from confidentiality requirements; creating the Employees Assistance Program Advisory Council; stating purpose; stating duties; providing for composition, terms of office, vacancies, selection of chair and vice-chair and travel reimbursement; prohibiting Council from adopting rules; providing that certain employees receive certain pay increases; providing for certain lump-sum payments; repealing 74 O.S. 1991, Sections 284, which relates to minimum salaries for full-time state officers and employees, 841.10, which relates to discretionary positions in the unclassified service and 841.6, which relates to the Oklahoma State Employee Bill of Rights; providing for noncodification; providing for codification; and providing for recodification.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 840.3, is amended to read as follows:

Section 840.3 As used in this act:

1. "Agency" means any office, department, board, commission or institution of the executive branch of state government. ~~The Governor of the State of Oklahoma, upon determining that the Merit System of Personnel Administration with the rules and regulations adopted thereunder should be required, is hereby empowered and authorized, at his discretion, by an Executive Order, to place any agency or department of the state government, and the employees thereof, with exempt positions as stipulated by said Order, under the Merit System of Personnel Administration prescribed by this act and the rules and regulations promulgated hereunder by the~~

~~Office of Personnel Management and the Oklahoma Merit Protection Commission. This section shall not authorize by Executive Order the removal of any agency or department of state government placed under the Merit System of Personnel Administration prescribed by this act.~~

~~Notwithstanding any provisions to the contrary, this act shall not be extended to any department or agency or employee, except in the manner and as provided in this section. Pending the issuance of any such Executive Order by the Governor and pending the effective date of the Merit System as specified in any of said Orders by the Governor, the agency or departmental merit system for personnel administration heretofore established in any of the state departments shall be in full force and effect.~~

~~Any Executive Order of the Governor may provide that the agencies or departments affected thereby shall transfer to the Office of Personnel Management hereafter created, all books, records, registers, equipment and other property heretofore made available for the operation of its agency or departmental merit system;~~

2. "State Employee" or "state employee" means an elected or appointed officer or employee of an agency ~~the executive, judicial or legislative branch of government except members of the House of Representatives and the Senate~~ unless otherwise indicated;

3. "Appointing authority" means the chief administrative officer of ~~a state~~ an agency;

4. "Class" or "class of positions" means positions that are sufficiently similar in duties, levels of responsibility, and requirements of the work to warrant similar treatment as to title, pay grade, and minimum qualifications;

5. "Class specification" means a written document that describes a class;

6. "Classification plan" means the orderly arrangement of positions within an agency into separate and distinct classes so that each class will contain those positions which involve similar or comparable skills, duties and responsibilities;

7. "Classified service" means state employees and positions under the jurisdiction of the Oklahoma Merit System of Personnel Administration;

8. "Examination" means any technique or procedure designed to determine the qualification, fitness, and ability of the persons examined to perform the duties and responsibilities of the class or position;

9. "Interagency transfer" means an action in which an employee leaves employment with one agency and enters employment with another agency while continuously employed with the state;

10. "Intra-agency transfer" means moving an employee from one position to another position with the same agency either with or without reclassification;

11. "Job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees, including any association for which payroll deductions for membership dues are authorized pursuant to paragraph 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes;

12. "Lateral transfer" means reclassification of an employee to another class with the same salary grade;

13. "Merit Rules" or "Merit Rules for Employment" or "Merit System of Personnel Administration Rules" means rules adopted by the Administrator of the Office of Personnel Management or the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act;

14. "Noncompetitive appointment" means the appointment of a person to a noncompetitive class;

15. "Noncompetitive class" means a class of positions of unskilled or semiskilled labor or a similar class designated by the Office of Personnel Management as noncompetitive;

16. "Permanent classified employee" means a classified service employee who has acquired permanent status in accordance with the Oklahoma Personnel Act, and rules adopted pursuant thereto, and who has the right to appeal involuntary demotion, suspension without pay, and discharge to the Commission;

17. "Presiding official" means a person serving the Oklahoma Merit Protection Commission in the capacity of administrative hearing officer, mediator, or other alternative dispute resolution arbitrator or facilitator;

18. "Progressive discipline" means a system designed to ensure the consistency, impartiality and predictability of discipline and the flexibility to vary penalties if justified by aggravating or mitigating conditions;

19. "Regular unclassified service employee" means an unclassified service employee who is not on a temporary or other time-limited appointment;

20. "Unclassified service" or "exempt service" means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration;

21. "Merit System" means the Oklahoma Merit System of Personnel Administration;

~~5.~~ 22. "Administrator" means the chief administrative officer appointing authority of the Office of Personnel Management;

~~6.~~ 23. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;

~~7.~~ 24. "Office" means the Office of Personnel Management;

~~8.~~ 25. "Commission" means the Oklahoma Merit Protection Commission;

~~9. "Substantial financial interest" means an interest that could result in directly or indirectly receiving a substantial pecuniary gain or sustaining a substantial pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity or other compensation or remuneration from any individual, partnership, organization or association; and~~

~~10.~~ 26. "Veteran" means a person who has been honorably discharged from the Armed Forces of the United States and has been a resident of Oklahoma for at least one (1) year prior to the date of the examination.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-4-1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Governor of the State of Oklahoma is hereby empowered and authorized by an Executive Order to place any agency, and the employees thereof, except positions exempted from the classified service as stipulated by said Order, under the Merit System of Personnel Administration prescribed by the Oklahoma Personnel Act and the rules promulgated thereunder. Further, the Governor may issue an Executive Order to place any position exempted from the Merit System by Executive Order and its incumbent under the Merit System. This section shall not authorize the removal of any agency, position, or employee placed under the Merit System of Personnel Administration.

B. The provisions of the Merit System of Personnel Administration shall not be extended to any agency except by Executive Order as provided in this section or by legislation.

C. The placement of an agency under the Merit System of Personnel Administration covers functions, positions, and employees in an agency at the time of the Executive Order and functions, positions, and employees subsequently added to the agency, unless otherwise provided by law.

D. Upon placement of an agency under the Merit System of Personnel Administration by Executive Order or law, or subsequent changes in the name of the agency, its organization or structure shall not alone be construed to remove the agency from the Merit System.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 840.5, is amended to read as follows:

Section 840.5 There is hereby created the Office of Personnel Management. The chief administrative officer of said Office of Personnel Management shall be the Administrator 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 his pleasure. In addition to the other duties imposed upon him 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 ~~state agencies, departments,~~
~~commissions, and boards;~~

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;

~~3.~~ 4. Develop and maintain a classification and compensation system for all classified, ~~unclassified, and exempt~~ positions in the executive branch of state government including those established by the Oklahoma Constitution. ~~The Administrator shall conduct a study of the feasibility of uniform classification and compensation procedures for judicial, legislative and higher educational positions and submit same to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives no later than November 1, 1986;~~

~~4.~~ 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 November 1 of each year. Such analysis shall include all forms of compensation including fringe benefits;

~~5.~~ 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;

~~6.~~ 7. Implement state affirmative action policies, and assure equal employment opportunity;

~~7.~~ 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;

~~8.~~ 9. Assist state agencies in implementing their duties and obligations pursuant to the Oklahoma Personnel Act, Section 840.1 et seq. of this title, and provide standard forms to the agencies if necessary;

~~9.~~ 10. Develop, in cooperation with appointing authorities, a management training program, a certified public manager program, a recruiting program, and a system of performance appraisals and assist appointing authorities in the setting of productivity goals;

~~10.~~ 11. Establish leave and pay regulations, regulations for performance pay increases, rates for pay differentials, an-call pay, and other types of pay incentives and salary adjustments;

~~11.~~ 12. Prepare and submit an annual budget covering the costs of administering the personnel program;

~~12.~~ 13. Make an annual report regarding the work of the Office of Personnel Management;

~~13.~~ 14. Adopt and implement rules and regulations necessary to perform the duties imposed by law on the Office of Personnel Management in accordance with the provisions of the Administrative Procedures Act, ~~Sections 301 through 326 of Title 75 of the Oklahoma Statutes~~. All rules adopted by the Oklahoma Merit Protection Commission shall remain in full force and effect until modified by the appropriate authority;

~~14.~~ 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;

~~15.~~ 16. Be responsible for the development and maintenance of a uniform occupation code system, grouped by job titles or duties, for all classified, unclassified, and exempt state positions. Said responsibility shall include the establishment of rules governing the identification, tracking, and reporting of all state

~~positions. In addition to adopting titles for job classes, said responsibility shall also include development and maintenance of a standard system of nomenclature for establishing job titles for all administrative, executive and managerial positions in the classified, unclassified and exempt service as provided in Section 4 of this act;~~

~~16.~~ 17. Be responsible for advising state agencies on personnel policy and administration; and

~~17. Review and certify the qualifications of Personnel Staff selections of state agencies~~ 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.

SECTION 4. AMENDATORY Section 1, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.5c), is amended to read as follows:

Section 840.5c A. The Administrator of the Office of Personnel Management shall establish a Personnel Management Information System to provide various management reports to facilitate decision making within agencies, and to promote the efficient utilization of personnel resources by providing a method

for tracking, monitoring and reporting positions and employee transactions. The System shall include information on both the classified and unclassified services within the executive branch of government, but shall not require institutions within The Oklahoma State System of Higher Education to participate.

B. The Administrator of the Office of Personnel Management shall promulgate rules regarding the Personnel Management Information System as necessary to implement the provisions of this section. Such rules shall establish a schedule to ensure the orderly implementation of such Personnel Management Information System.

C. The Personnel Management Information System shall be implemented for all state agencies under the Merit System by July 1, 1993, and for all other executive branch state agencies by July 1, 1994.

D. State agencies shall assist the Office of Personnel Management as necessary to ensure the orderly completion of implementation as provided for in this section.

E. Appointing authorities in the legislative or judicial branches of state government may participate in the Personnel Management Information System at their option.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-1-15 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Effective September 1, 1994, there is hereby created a nine-member Human Resources Management Advisory Committee. The membership of the advisory body shall be as follows:

1. The Administrator of the Office of Personnel Management or a designee; and

2. The Executive Director of the Oklahoma Merit Protection Commission or a designee; and

3. The Executive Director of the Oklahoma Public Employees Association or a designee; and

4. Two members shall be appointed by the Governor, one of whom shall be an employee of an agency employing less than two hundred full-time-equivalent employees and the other shall be an

employee of an agency employing more than two hundred full-time-equivalent employees; and

5. Two members appointed by the Speaker of the House of Representatives, one of whom shall be a member of the House of Representatives, the other shall have human resource management experience in the public sector; and

6. Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Senate, the other shall have human resource management experience in the public sector.

B. The Administrator or designee shall chair the Advisory Committee. The Chairman of the Advisory Committee shall call the first meeting of the Advisory Committee by September 15, 1994. A majority of the members of the Advisory Committee shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Advisory Committee, and every act of a majority of a quorum of the members present shall be deemed an act of the Advisory Committee. Any vacancy in office shall be filled in the same manner as the original appointment. Staff for the Advisory Committee shall be provided by the Office of Personnel Management and the Oklahoma Merit Protection Commission.

The Advisory Committee shall be exempt from the Administrative Procedures Act and shall not have authority to promulgate administrative rules pursuant to Article I of the Administrative Procedures Act.

C. Members of the Advisory Committee shall receive no compensation for serving on the Advisory Committee but shall receive travel reimbursement for their necessary travel expenses incurred in the performance of their duties on the Advisory Committee as follows:

- a. legislative members of the Advisory Committee shall be reimbursed in accordance with Section 456 of Title 74 of the Oklahoma Statutes from the legislative body in which they serve,

- b. nonlegislative members of the Advisory Committee who are officers or employees of the state shall be reimbursed by their employing agency in accordance with the State Travel Reimbursement Act, and
- c. members of the Advisory Committee who are not otherwise officers or employees of the state shall be reimbursed by the Office of Personnel Management in accordance with the State Travel Reimbursement Act.

D. The Advisory Committee shall conduct the following studies and shall make recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives according to the following schedule:

1. Study of the State Government Positions.

The Advisory Committee shall study the nature, status, functions, and composition of the classified and unclassified services of the state. In making recommendations based on this study, the Advisory Committee shall include recommendations regarding:

- a. appropriate conditions and provisions for employment in the classified and unclassified services,
- b. the types of offices, positions, and personnel that should comprise the classified service and the unclassified service, including recommendations for the transfer of positions from the classified service to the unclassified service and vice versa, and
- c. the establishment of a career or senior executive service.

These recommendations shall be submitted by December 1, 1994;

2. Study of Recruitment and Selection.

The Advisory Committee shall study the laws, standards, policies, and procedures for recruiting, screening, and certifying persons for appointment and promotion within the Merit System.

The study may include but shall not be limited to:

- a. use of a wide array of testing methods ranging from improved tests, rankings of individual achievement records, oral interviews and simulations,
- b. creation of a method for combining and ranking written tests with individual achievement records and other valid assessment criteria,
- c. creation of alternative assessment criteria based on superior academic record or other professional achievement,
- d. creation of tests for a broad series of similar occupations, and
- e. exempting classifications requiring state or nationally recognized professional licensure from this testing and rating procedures.

The Advisory Committee's recommendations shall be submitted by February 1, 1995;

3. Study of Single Leave.

The Advisory Committee is to study the feasibility and the advantages or disadvantages of creating a system for state government to accrue leave on an undifferentiated basis in lieu of the current practice that divides leave accrual into annual and sick leave. The Advisory Committee shall consider the fiscal impact and potential benefits that state employees may derive from such reform in the leave system for the state service. The Advisory Committee shall submit its recommendations regarding this study by July 1, 1995;

4. Study of Performance Appraisals.

The Advisory Committee shall study the purposes for, and uses of, employee performance appraisals within Merit System agencies. It shall consider:

- a. an annual evaluation of the employee's performance of assigned duties and responsibilities,
- b. factors that affect individual, work group, or agency performance,
- c. consideration of acquisition of additional skills and competencies relevant to agency performance,

- d. information solicited from the state employee's peers, if appropriate, and
- e. an annual evaluation of supervisors in agencies that shall include performance evaluation information from employees of their supervisors.

The recommendations of the Advisory Committee shall include guidelines for a new performance appraisal system for the classified service. The recommendations shall be submitted by July 1, 1995;

5. Study of Delegation of Personnel Functions of the Office of Personnel Management, Model Projects and Annual Agency Human Resource Management Plans and Self-Evaluations.

The Advisory Committee shall recommend systems and establish standards and procedures for delegating to appointing authorities the authority to administer human resources functions normally conducted by the Office of Personnel Management to appointing authorities. The delegation projects shall not include discipline or compensation. Recommendations for legislation to implement the Delegation Program shall be submitted by March 1, 1995.

Additional recommendations for implementation shall be submitted by August 1, 1995. Delegation would be restricted to two initial delegation approvals involving position classification or certification of candidates. One delegation effort would be to an agency with more than two hundred full-time-equivalent employees and the other to an agency under two hundred full-time-equivalent employees. The Administrator shall have the authority to approve delegation applications which shall constitute authority for the agency to implement approved delegations of personnel authority. No delegation could start before January 1, 1996.

The Advisory Committee is to develop recommendations to create a program to allow agencies to design model human resource projects to test and evaluate the effect of innovative policies, standards, and procedures.

The number and scope of model projects would be limited only by capacity of the agency to implement the model projects, the quality of model project applications, and the ability of the

Office of Personnel Management to monitor the projects. The Advisory Committee would have to approve the projects and would receive recommendations from the Office of Personnel Management Administrator. Upon approval by the Advisory Committee, the Administrator shall have the authority to approve model project applications which shall constitute authority for the agency to implement approved model projects. No model projects would be able to start before January 1, 1996.

Such procedures for delegations of personnel authority and model projects may include, but not be limited to, an evaluation component, employee participation in the development of the plan and notification of approved delegation of personnel authority or model project, audits, and conditions for termination of a delegation of personnel authority or a model project by the Administrator.

A Human Resource Management Plan and Self-Evaluation Report system for agencies should include but not be limited to provisions related to affirmative action; staffing, recruitment, and promotion; classification and compensation; training and staff development expenditures; the reporting of internal agency grievances and discrimination complaints filed, discharges, suspensions without pay and demotions, and number of investigations directed by the Oklahoma Merit Protection Commission and the outcome of all such actions; and strategies for assuring employee participation in the development of agency personnel activities. The self-evaluation should include comparisons with the previous year or years' personnel actions. The Advisory Committee shall submit its recommendations regarding this study by January 1, 1996.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 840.7a, as amended by Section 3, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.7a), is amended to read as follows:

Section 840.7a The Administrator of the Office of Personnel Management shall promulgate such emergency and permanent rules regarding annual leave and sick leave as are necessary to assist the state and its agencies in the equitable implementation of the

Req. No. L9858Page 17

State Disability Insurance Program. Such rules shall be so designed as to provide for coordination between leave accrual, leave accumulation, leave use, and eligibility for disability insurance coverage, such disability insurance coverage to be determined by the State Employees Group Health, Dental and Life Insurance Board.

The Administrator of the Office of Personnel Management, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave will be accrued on a monthly basis and prorated, as appropriate, for less than full-time service. Years of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 805.2 of this title.

2.	ACCRUAL RATES	ACCUMULATION LIMITS
	<u>Cumulative</u>	
	Years of	Annual
	Persons employed	Sick
	0-5 yrs =	Annual
	5-20 yrs =	15 days/yr 30 days
	18 day/yr per year	
		<u>15 days/yr</u> 60 days
	over 20 yrs =	15 days/yr 60 days

All accrued annual leave and all leave eligibility under O.A.C. 530:10-15-11(b) (5) which is in excess of annual leave limits shall not be reduced or eliminated as a result of these rule changes.

3. Employees entering on duty in eligible status and eligible employees reinstated or reemployed following a break in service on or after July 1, 1985, shall accrue annual and sick leave in accordance with the provisions of paragraph 2 of this section on and after the effective date of this act, Section 840.1 et seq. of this title, but shall not be entitled to any additional leave for

the period between July 1, 1985, and the effective date of this act as a result of the provisions of this act.

4. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority.

5. ~~This act is not intended to mandate the amendment of any rule of the Office of Personnel Management except as provided herein~~ Employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section. Effective September 1, 1994, employees shall be eligible to accrue leave pursuant to paragraph 1 of this section.

6. The Administrator of the Office of Personnel Management and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Administrator of the Office of Personnel Management is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 840.7c, as amended by Section 1, Chapter 221, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.7c), is amended to read as follows:

Section 840.7c ~~A.~~ The Administrator of the Office of Personnel Management shall promulgate emergency and permanent leave rules ~~which entitle state employees to family leave and entitle state employees to donate annual leave pursuant to Section 840.7d of this title to other employees for family leave as necessary to implement the federal Family and Medical Leave Act of 1993 and rules thereto. The Office of Personnel Management, in promulgating rules concerning family leave, shall ensure that the following provisions are incorporated:~~

~~1. Family leave rules shall be applicable to all permanent classified and regular unclassified and exempt state employees with over six (6) months of continuous service;~~

~~2. Family Such leave rules shall include use of permit an employee to select any one or a combination of the following types of leave to account for authorized absences covered by the Family and Medical Leave Act of 1993: annual and sick leave, enforced leave, leave without pay, and sick leave due to pregnancy as provided in the rules promulgated by the Office of Personnel Management, accumulated by the employee and annual leave donated by other state employees, pursuant to Section 840.7d of this title, or any one or a combination of these or other types of leave taken in family situations. Family leave shall not be accrued or accumulated;~~

~~3. Family leave rules must specify that:~~

- ~~a. family leave must be taken within one (1) year of the birth or placement of a child or as required to provide care to a dependent adult,~~
- ~~b. employees must be required to provide reasonable notice if possible, and~~
- ~~c. whenever possible, employees must schedule their leave to accommodate the needs of the employer, if the need for leave is foreseeable and it is medically feasible to do so;~~

~~4. Upon returning to work from family leave, the employee shall have the right to be restored to the original position of the employee; and~~

~~5. While on leave without pay, the employee shall be eligible to continue the state employee group health and life insurance coverage of the employee upon proper application and payment of premiums.~~

~~B. Promulgation of rules on family leave by the Administrator of the Office of Personnel Management pursuant to the provisions of this section shall not prohibit employers from choosing to also approve requests for leave which are otherwise permitted by law.~~

~~C. The Administrator of the Office of Personnel Management shall assist any agency, pursuant to the State Personnel Interchange Program, in securing any needed services for such agency brought about as a result of an employee on family leave.~~

~~D. As used in this section "family leave" means leave of absence from state service resulting from:~~

- ~~1. childbirth;~~
- ~~2. receiving custody of a child through adoption; or~~
- ~~3. the care of terminally or critically ill child or dependent adult.~~

SECTION 8. AMENDATORY 74 O.S. 1991, Section 840.8, as last amended by Section 30 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 840.8 A. The following offices, positions, and personnel ~~comprise~~ shall be in the exempt 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. ~~Federally funded time-limited employees hired for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and~~ 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. Provided any person unclassified pursuant to this paragraph on the effective date of this act in a capacity that does not meet the criteria listed in this paragraph may continue to be employed in such status until July 1, 1995;

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

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees ~~shall~~ may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

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 said State System of Higher

Education. For purposes of this act a student shall be considered a regularly enrolled student if he or she 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, and such student is regularly attending classes during that semester of employment, 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 Employee Limit;

~~14. Employees of State Capitol cafeterias;~~

~~15. Employees of either the House of Representatives or the State Senate or the Legislative Service Bureau;~~

~~16. Grand River Dam Authority personnel occupying the following offices and positions:~~

- ~~a. the general manager, assistant general managers, secretaries to the general manager, and assistant general managers,~~
- ~~b. the chief engineer and the engineers, superintendents, and assistant superintendents,~~
- ~~c. the general counsel and the attorneys on the general counsel's staff,~~
- ~~d. the secretary,~~

- ~~e. the treasurer,~~
- ~~f. rate analysts, and~~
- ~~g. unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service;~~

~~17. Oklahoma Tax Commission personnel occupying the following offices and positions:~~

- ~~a. all revenue administrators, the budget officer and the comptroller of the Tax Commission,~~
- ~~b. all administrators and unit managers in the Management Information Services Division,~~
- ~~c. all Computer Programming Systems Specialist positions,~~
- ~~d. all Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions,~~
- ~~e. all Public Affairs Officer and Assistant Public Affairs Officer positions,~~
- ~~f. Public Information Officer, and~~
- ~~g. all Tax Economist positions;~~

~~18.~~ 15. Corporation Commission personnel occupying the following offices and positions:

- a. administrative assistant, administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, and
- c. General Counsel;

~~19. State Department of Education personnel occupying the following offices and positions:~~

- ~~a. Administrative Assistants,~~
- ~~b. Informational Representatives III,~~
- ~~c. Driver Educational Electronics Technician,~~
- ~~d. Media Technical Assistants,~~

- ~~e. Executive Secretaries,~~
- ~~f. Accounting Supervisor,~~
- ~~g. Supervisor of Records,~~
- ~~h. Supervisor of Printing Services,~~
- ~~i. Migrant Records Transfer System Representative,~~
- ~~j. Financial Managers, and~~
- ~~k. in addition to the State Department of Education offices and positions listed in this paragraph, any and all offices and positions within the State Department of Education for which the annual salary is Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall also be in the unclassified service of this state.~~

~~Nothing in this paragraph is intended to change the status, whether classified or unclassified, of any person employed by the Department of Education prior to May 1, 1989. No position shall become unclassified while it is occupied by a classified employee because of any change in salary or grade. Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be in the unclassified service upon being vacated;~~

~~20.~~ 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;

~~21.~~ 17. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director, and
- d. Executive Secretary to Director;

~~22.~~ 18. The State Comptroller, Office of the Director of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Division Manager,

c. Network Manager, and

d. Network Technician;

~~23.~~ 19. Employees of the Oklahoma Development Finance Authority;

~~24.~~ 20. Those positions so specified in the annual business plan of the Department of Commerce;

~~25.~~ 21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

~~26.~~ 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 ~~Section 840.10 of this title~~ subsection B of this section;

~~27.~~ ~~State Insurance Fund personnel occupying the following offices and positions:~~

- ~~a. Commissioner,~~
- ~~b. Deputy Commissioner,~~
- ~~c. Administrative Assistants to the Commissioner,~~
- ~~d. Executive Secretaries to the Commissioner and Deputy Commissioner,~~
- ~~e. Law Clerks and Legal Assistants,~~
- ~~f. Special Counsel,~~
- ~~g. General Counsel,~~
- ~~h. Medical Analysts Supervisor,~~
- ~~i. Medical Analysts,~~

- ~~j. Field Adjusters,~~
- ~~k. Investment Officer, and~~
- ~~l. Collections Attorneys;~~

~~28.~~ 23. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

~~29.~~ Department of Corrections personnel occupying the following offices and positions:

- ~~a. Associate Director,~~
- ~~b. Executive Secretary,~~
- ~~c. General Counsel,~~
- ~~d. Assistant General Counsel,~~
- ~~e. Deputy Director,~~
- ~~f. Public Information Officer,~~
- ~~g. Personnel Manager,~~
- ~~h. Administrator of Planning and Research,~~
- ~~i. Administrator of Finance and Accounting,~~
- ~~j. Executive Assistant,~~
- ~~k. Administrator of Information Services,~~
- ~~l. Affirmative Action Officer,~~
- ~~m. System Development Manager,~~
- ~~n. Computer Operations Manager,~~
- ~~o. Training Director,~~
- ~~p. Assistant Training Director,~~
- ~~q. Administrator of Construction and Maintenance,~~
- ~~r. Administrative Assistant,~~
- ~~s. Secretary,~~
- ~~t. Administrator of Classification and Programs,~~
- ~~u. Coordinator of Facility Classification,~~
- ~~v. Mediation Coordinator,~~
- ~~w. Inspector General,~~
- ~~x. Medical Director,~~
- ~~y. Psychiatrist,~~
- ~~z. Physician,~~
- ~~aa. Optometrist,~~
- ~~ab. Dental Services Supervisor,~~
- ~~ac. Dentist,~~

~~ad. — Psychologist,~~
~~ae. — Administrator of Dietary Services,~~
~~af. — Warden I,~~
~~ag. — Warden II,~~
~~ah. — Warden III,~~
~~ai. — Deputy Warden I,~~
~~aj. — Deputy Warden II,~~
~~ak. — Deputy Warden III,~~
~~al. — Community Treatment Center Superintendent,~~
~~am. — Community Treatment Center Assistant Superintendent,~~
~~an. — Probation and Parole District Supervisor,~~
~~ao. — Probation and Parole Assistant District Supervisor,~~
~~ap. — Administrator of Human Resources,~~
~~aq. — Facility Staffing Pattern Analyst,~~
~~ar. — Correctional School Superintendent,~~
~~as. — Regional Director,~~
~~at. — Assistant Regional Director,~~
~~au. — Chief of Operations, and~~
~~av. — Chief Psychologist;~~

~~30. — Department of Corrections personnel occupying the following offices and positions as representatives of the Oklahoma State Industries:~~

~~a. — Administrator of Industrial Production,~~
~~b. — Administrator of Agriculture Production,~~
~~c. — OSI Sales Representative,~~
~~d. — OSI Sales Manager, and~~
~~e. — Marketing Manager.~~

~~The positions listed in this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified sales representative of the Oklahoma State Industries of the Department of Corrections who is responsible for obtaining a contract for products manufactured or services provided by prison industries may, at the discretion of the Director of the Department of Corrections, be awarded additional compensation of not more than five percent (5%) of the total amount of said contracts but not~~

~~more than Five Thousand Dollars (\$5,000.00) per year. This compensation may be in addition to the salary of the employee and may be paid in one lump sum from any funds available to the Department of Corrections. No such compensation shall be made unless funds are available. Funds for payment of any compensation awards shall be encumbered to the extent of the awards.~~

~~Incumbents in positions listed in paragraph 29 of this section and in this paragraph that are classified under the Merit System of Personnel Administration on the effective date of this act shall have the option of remaining in their classified status under the Merit System of Personnel Administration. Incumbents that choose to accept unclassified appointments shall so signify in writing. All future appointees to these positions shall be unclassified. Incumbents that choose to remain in the classified service under the Merit System of Personnel Administration shall be subject to all rules and procedures of the Merit System of Personnel Administration. By the end of the first full work week of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position;~~

~~31.~~ 24. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal;

~~32.~~ 25. The State Bond Advisor and his employees;

~~33.~~ 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;

~~34.~~ 27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

~~35.~~ 28. The officers and employees of the State Banking Department; ~~and~~

~~36.~~ 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;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the three Administrative Service Assistant positions;

31. The Oklahoma State Bureau of Investigation employee occupying the Special Investigator position; and

32. The Governor's Representative of the Oklahoma Highway Safety Office of the Oklahoma Department of Public Safety who shall be appointed by the Governor.

B. The unclassified service of the state may include, at the discretion of the appointing authority, the following regular offices, positions and personnel:

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

2. Certified public accountants;

3. Licensed attorneys; and

4. Licensed veterinarians.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5-7 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Grand River Dam Authority shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following

offices, positions and personnel shall be in the unclassified service:

1. The general manager, assistant general managers, secretaries to the general manager, and assistant general managers;
2. The chief engineer and the engineers, superintendents, and assistant superintendents;
3. The general counsel and the attorneys on the general counsel's staff;
4. The secretary;
5. The treasurer;
6. Rate analysts; and
7. Unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5-8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following offices, positions and personnel shall be in the unclassified service:

1. One private secretary for each Tax Commissioner; all revenue administrators, the budget officer and the comptroller of the Tax Commission;

2. All administrators and unit managers in the Management Information Services Division;

3. All Computer Programming Systems Specialist positions;

4. All Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions;

5. All Public Affairs Officer and Assistant Public Affairs Officer positions;

6. The Public Information Officer; and

7. All Tax Economist positions.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5-9 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Education shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following offices, positions and personnel shall be in the unclassified service:

1. Administrative Assistants;
2. Informational Representatives III;
3. Driver Educational Electronics Technician;
4. Media Technical Assistants;
5. Executive Secretaries;
6. Accounting Supervisor;
7. Supervisor of Records;
8. Supervisor of Printing Services;

9. Migrant Records Transfer System Representative;

10. Financial Managers; and

11. In addition to the State Department of Education offices and positions listed in this paragraph, any and all offices and positions within the State Department of Education for which the annual salary is Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall also be in the unclassified service of this state.

Nothing in this paragraph is intended to change the status, whether classified or unclassified service, of any person employed by the Department of Education prior to May 1, 1989. No position shall be made part of the selective service while it is occupied by an unclassified service employee because of any change in salary or grade. Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be made part of the unclassified service upon being vacated.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5-10 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The State Insurance Fund shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following offices, positions and personnel shall be in the unclassified service:

1. Commissioner;

2. Deputy Commissioner;

3. Administrative Assistants to the Commissioner;

4. Executive Secretaries to the Commissioner and Deputy Commissioner;

5. Law Clerks and Legal Assistants;

6. Special Counsel;

7. General Counsel;

8. Medical Analysts Supervisor;

9. Medical Analysts;

10. Field Adjusters;

11. Investment Officer;

12. Workers' Compensation Insurance Consultants;

13. Workers' Compensation Insurance Technicians;

14. Fraud Investigation Specialists; and

15. Collections Attorneys.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5-11 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following offices, positions and personnel shall be in the unclassified service:

1. a. Associate Director,
- b. Executive Secretary,
- c. General Counsel,
- d. Assistant General Counsel,
- e. Deputy Director,
- f. Public Information Officer,
- g. Personnel Manager,

- h. Administrator of Planning and Research,
- i. Administrator of Finance and Accounting,
- j. Executive Assistant,
- k. Administrator of Information Services,
- l. Affirmative Action Officer,
- m. System Development Manager,
- n. Computer Operations Manager,
- o. Training Director,
- p. Assistant Training Director,
- q. Administrator of Construction and Maintenance,
- r. Administrative Assistant,
- s. Secretary,
- t. Administrator of Classification and Programs,
- u. Coordinator of Facility Classification,
- v. Mediation Coordinator,
- w. Inspector General,
- x. Medical Director,
- y. Psychiatrist,
- z. Physician,
- aa. Optometrist,
- ab. Dental Services Supervisor,
- ac. Dentist,
- ad. Psychologist,
- ae. Administrator of Dietary Services,
- af. Warden I,
- ag. Warden II,
- ah. Warden III,
- ai. Deputy Warden I,
- aj. Deputy Warden II,
- ak. Deputy Warden III,
- al. Community Treatment Center Superintendent,
- am. Community Treatment Center Assistant Superintendent,
- an. Probation and Parole District Supervisor,
- ao. Probation and Parole Assistant District Supervisor,
- ap. Administrator of Human Resources,
- aq. Facility Staffing Pattern Analyst,

- ar. Correctional School Superintendent,
- as. Regional Director,
- at. Assistant Regional Director,
- au. Chief of Operations,
- av. Chief Psychologist,
- aw. Physician Assistant, and
- ax. Pharmacist; and

2. Department of Corrections personnel occupying the following offices and positions as representatives of the Oklahoma State Industries:

- a. Administrator of Industrial Production,
- b. Administrator of Agriculture Production,
- c. Oklahoma State Industries Sales Representative,
- d. Oklahoma State Industries Sales Manager, and
- e. Marketing Manager.

The positions listed in subparagraphs a through e of this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified service sales representative of the Oklahoma State Industries of the Department of Corrections who is responsible for obtaining a contract for products manufactured or services provided by prison industries may, at the discretion of the Director of the Department of Corrections, be awarded additional compensation of not more than five percent (5%) of the total amount of said contracts but not more than Five Thousand Dollars (\$5,000.00) per year. This compensation may be in addition to the salary of the employee and may be paid in one lump sum from any funds available to the Department of Corrections. No such compensation shall be made unless funds are available. Funds for payment of any compensation awards shall be encumbered to the extent of the awards.

Incumbents in positions listed in paragraph 1 of this section and in subparagraphs a through e of this paragraph who were classified under the Merit System of Personnel Administration on the effective date the position they occupy became part of the unclassified service shall have the option of remaining in their

Req. No. L9858Page 36

classified service status. Incumbents who choose to accept unclassified service appointments shall so signify in writing. All future appointees to these positions shall be in the unclassified service. Incumbents who choose to remain in the classified service shall be subject to all rules and procedures of the Merit System. By the end of the first full workweek of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5-12 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Rehabilitation Services shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following offices, positions and personnel shall be in the unclassified service:

1. Division Administrators;
2. Departmental Services Manager;
3. Chief Fiscal Officer;
4. Human Resources Manager;
5. External Relations Coordinator;
6. Field Service Coordinators;
7. Commission Administrative Assistant;
8. Data Processing Manager;
9. Public Information Officer;

10. Affirmative Action Officer;
11. Program Development and Evaluation Supervisor;
12. School Superintendents, Principals and Deans of Students;
13. Supervisor, Transitional Living Center;
14. Teacher/Trainer, Transitional Living Center;
15. Director, Student Assessment and Program Development;
16. Teachers, Vocational Teachers, Career Vocational Coordinator and Head School Librarian;
17. School Psychologists and Mental Health Counselor;
18. Occupational Therapist, Physical Therapist, Orientation and Mobility Specialists/OSB and Independent Living Skills Supervisor;
19. Licensed Practical Nurses, Nursing Services Supervisor and LPN Supervisor;
20. Speech Services Supervisor and Speech Language Pathologists;
21. Transportation Officers and Bus Drivers; and
22. Disability Medical Consultant II and Disability Medical Consultant III.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5-13 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Department of Environmental Quality shall be under the Merit System. Except as otherwise provided in subsection B of this section, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated hereunder. This section shall supersede and repeal any and all executive orders issued pursuant to this act to place the agency or its predecessors under the Merit System.

B. In addition to offices, positions and personnel that are unclassified pursuant to Section 8 of this act, the following offices, positions and personnel shall be in the unclassified service:

1. Division Directors;

2. General Counsel;
3. Attorneys;
4. Director of Public Information and Education;
5. Customer Service Specialists;
6. Coordinator of Rural Solid Waste Systems Development; and
7. Director of Support Services.

SECTION 16. All positions and employees of the State Department of Rehabilitation Services, unless otherwise unclassified pursuant to Section 8 or Section 14 of this act, shall become classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. All incumbent employees subject to this section shall be granted permanent status in the classified position occupied by the employee allocated by the Office of Personnel Management, except those employees with less than six (6) months of service from their enter-on-duty date who will remain in probationary status until obtaining permanent status in accordance with applicable rules of the Administrator of the Office of Personnel Management.

SECTION 17. Effective September 1, 1994, all employees of the Oklahoma Aeronautics Commission within the Oklahoma Department of Transportation who are exempt from the provisions of the Merit System of Personnel Administration pursuant to Executive Order, and employees who are unclassified pursuant to paragraphs 2, 4 and 6 of Section 8 of this act shall become classified and subject to the provisions of the Merit System of Personnel Administration, except those employees with less than six (6) months of service from their enter-on-duty date will remain in probationary status until obtaining permanent status in accordance with applicable rules of the Administrator of the Office of Personnel Management. Such persons shall be given permanent status in the classifications to which their positions are allocated by the Office of Personnel Management without reduction in base pay. All future appointments to such positions shall be in the classified service pursuant to the provisions of the Merit System of

Personnel Administration as provided in the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 18. Effective September 1, 1994, all positions and personnel of the Oklahoma Highway Safety Office, formerly the Highway Safety Coordinating Committee, within the Department of Public Safety, which were placed in the classified service by Executive Order or which are unclassified pursuant to paragraph 6 of Section 8 of this act, except the Governor's Representative, shall be in the classified service of the Merit System of Personnel Administration, except those employees with less than six (6) months of service from their enter-on-duty date will remain in probationary status until obtaining permanent status in accordance with applicable rules of the Administrator of the Office of Personnel Management. Effective September 1, 1994, all such incumbent employees shall be classified without being required to possess the minimum qualifications or take any examinations for the positions they hold and their salaries shall not be reduced. Such employees shall be granted permanent status in the class of positions to which the position occupied by the employee is allocated by the Office of Personnel Management. The Governor's Representative shall be appointed by and serve at the pleasure of the Governor and shall be in the unclassified service and not subject to the provisions of the Merit System of Personnel Administration.

SECTION 19. Effective September 1, 1994, all employees of the Oklahoma Turnpike Authority not subject to the Merit System of Personnel Administration shall be placed in the classified service of the Merit System of Personnel Administration, except the Managing Director and those employees with less than six (6) months of service from their enter-on-duty date who will remain in probationary status until obtaining permanent status in accordance with Merit System of Personnel Administration Rules. Effective September 1, 1994, all such incumbent employees to be made subject to the Merit System of Personnel Administration shall be classified without being required to possess the minimum qualifications or take any examinations for the positions they

hold and their salaries shall not be reduced. Such employees shall be granted permanent status in the class of positions to which the position occupied by the employee is allocated by the Office of Personnel Management.

SECTION 20. Effective September 1, 1994, all positions and employees of the Department of Environmental Quality, unless otherwise unclassified pursuant to Section 8 or 15 of this act, shall become classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. All incumbent employees subject to this section shall be granted permanent status in the classified position occupied by the employee allocated by the Office of Personnel Management, except those employees with less than six (6) months of service from their enter-on-duty date who will remain in probationary status until obtaining permanent status in accordance with applicable rules of the Administrator of the Office of Personnel Management.

SECTION 21. AMENDATORY 74 O.S. 1991, Section 840.13, is amended to read as follows:

Section 840.13 ~~An employee of a department or agency of this state who has been brought under this act~~ A. Except as otherwise provided by law, effective on the date an unclassified employee is made subject to the Merit System of Personnel Administration by virtue of an Executive Order issued pursuant to Section 2 of this act or legislation and who has acquired a valid permanent status in conformity with the rules and regulations of a presently existing agency or departmental merit system, shall be entitled to the same status under the provisions of this act and shall not be required to take a new examination in order to retain his position or status. Employees of a department or agency not previously covered by a merit system who are made subject to the provisions of this act shall be given status as follows:

~~1. An employee who shall have been employed immediately preceding the date on which the position in which he is employed is made subject to the provisions of this act shall be given status in the classified service without examination, in the~~

~~position to which his duties have been allocated. Any person whose position has been affected by the Merit System of Personnel Administration may be restored to his original position or to a similar position without penalty by the employing agency, if such person was in the employment of such agency on October 1, 1968; and~~

~~2. Persons appointed to fill vacancies in the classified service of any agency or department under the Merit System established by this act shall achieve permanent status only in accordance with the rules and regulations adopted pursuant to this act, the employee shall be given status in the class to which the position occupied by the employee is initially allocated by the Office of Personnel Management. The employee shall not be required to take any examination or qualify for the class, and the salary of the employee shall not be reduced as a result of such initial allocation. The status of the employee shall be determined as follows:~~

~~1. An employee who has been continuously employed by the agency for a minimum of six (6) months immediately preceding the date on which the employee is made subject to the provisions of the Merit System shall be given permanent status in the classified service.~~

~~2. An employee who has been continuously employed by the agency for less than six (6) months on the date the employee is made subject to the provisions of the Merit System shall be given probationary status in the classified service. Such employee may obtain permanent status in the classified service six (6) months after the employee's entry-on-duty date with the agency pursuant to the provisions of the Merit System.~~

~~B. Persons appointed to the classified service of any agency under the Merit System shall achieve classified status only in accordance with the Merit System of Personnel Administration Rules promulgated pursuant to this act.~~

~~C. Any classified employee who is serving in a position on the effective date of the removal of the position from the classified service and placement into the unclassified service~~

shall have the option of retaining his or her classified status.
Any such employee who elects to change from classified to
unclassified status shall so indicate in writing. All future
appointees to such positions shall be in the unclassified service.

SECTION 22. AMENDATORY 74 O.S. 1991, Section 840.16,
is amended to read as follows:

Section 840.16 A. The State of Oklahoma, to recruit, retain
and motivate a quality workforce for the purpose of providing
quality services to the citizens of Oklahoma, shall provide a pay
structure based on internal equity and external competitiveness
balanced by the state's fiscal conditions. The state's goal shall
be to provide a flexible and adaptable state employee pay system
based on the market data found in relevant public and private
sector markets.

B. The Administrator of the Office of Personnel Management ~~is~~
~~directed to shall~~ develop and ~~publish~~ a Merit System of Personnel
Administration Salary Schedule which reflects the base salary or
wage of the first step in each grade. The salary schedule will be
effective on the first day of each fiscal year for all agencies
which pay on the calendar month basis, but for those agencies
whose pay period is not on a calendar month basis this section
shall become effective on the last day of the pay period which is
included in the new fiscal year salary schedule and pay lines as
appropriate to meet the needs of agencies. The schedule shall
reflect the minimum and maximum salaries for each grade listed.

~~B.~~ C. The Administrator shall design a compensation system
for all classified state employees. The system may include, but
shall not be limited to:

1. Entrance rates above the minimum;
2. Competitive area pay and pay differentials, including on-
call pay, shift pay, and hazardous duty pay; and
3. Salaries on reclassifications, promotions, demotions, and
detail to special duty.

D. All executive branch state agencies who employ personnel
in the ~~exempt~~ or unclassified service of the state, whose salaries

are not prescribed by law, shall establish salary schedules for such employees ~~that are in consonance with those outlined above.~~

SECTION 23. AMENDATORY 74 O.S. 1991, Section 840.20, as amended by Section 2, Chapter 83, O.S.L. 1993 (74 O.S. Supp. 1993, Section 840.20), is amended to read as follows:

Section 840.20 A. Based upon the results of competitive entrance examinations and registers, as provided by this act, the Administrator of the Office of Personnel Management shall certify to the appointing authority the names of the ten persons receiving the highest grade or score in said examinations plus all eligible applicants whose grade or score is tied with the lowest ranking of those so eligible.

B. In addition to establishing statewide registers pursuant to subsection A of this section, the Administrator is hereby authorized to promulgate rules creating a local register to fill a vacancy in a local office of an agency by providing a certificate of available names of eligible persons who are residents of the county where the local office is located or said county and adjacent counties or a group of contiguous counties comprising a service area of an agency. Available eligible residents shall be certified ahead of other available eligible persons who reside outside the area of the local register. In filling vacant positions, the appointing authority shall select any one of the persons whose names have been so certified and may give preference in all cases to persons who have resided in this state for at least one (1) year prior to the date of the examination. Provided, however, that any appointing authority authorized to employ persons who are not citizens of the United States, pursuant to Section 255 of this title, may request the Office to certify only the names of persons who are citizens of the United States in carrying out the provisions of this section; and such appointing authority may select any person so certified to the Administrator to fill such vacant positions even though a noncitizen may have received a higher grade on the examination. Provided, further, that any appointing authority may select special disabled veterans

considered for employment pursuant to Sections 401 through 404 of Title 72 of the Oklahoma Statutes.

~~B.~~ C. Every person, except for agents employed by the Alcoholic Beverage Laws Enforcement Commission who shall be appointed for probationary periods of one (1) year, upon initial appointment under the classified service, shall be appointed for a probationary period of six (6) months, except that the appointing authority may extend a probationary period, not to exceed a total of nine (9) months for an individual, provided, however, that the employee and the Administrator of the Office of Personnel Management shall be notified in writing as to such action and the reason therefor. The probationary appointment of any person may be terminated at any time during the probationary period without the right of appeal. At the close of the probationary period, as herein provided, said person shall acquire a permanent status under the conditions prescribed in this act.

SECTION 24. AMENDATORY 74 O.S. 1991, Section 840.22, is amended to read as follows:

Section 840.22 A. The Office of Personnel Management shall conduct ~~classification~~ audits of positions in the classified service to ensure that employees are properly classified and that work performed conforms to the job descriptions positions are properly allocated. Appointing authorities have control of positions within their agency and have the authority to organize their agencies, to create positions, to abolish positions and to prescribe or change the duties and responsibilities assigned to any position or employee at any time. The Office of Personnel Management ~~is hereby directed to review the implementation of the Hay System and the appeals sustained on behalf of individual employees, and take steps to ensure that internal inequities created as a result of said appeals are corrected. The appointing authority shall ensure their employees are properly classified. Employees shall be classified in accordance with the work they actually perform on a regular and consistent basis as an integral part of their normal work assignment and job description. The Office of Personnel Management shall be responsible for~~

establishing a procedure for conducting and resolving ~~classification audits to ensure compliance with the provisions of the Oklahoma Personnel Act~~ position audits to ensure compliance with the provisions of the Oklahoma Personnel Act and the rules, ~~regulations,~~ and orders promulgated thereunder. Such procedure shall assure prompt and impartial review of a final allocation of a position which is in dispute and guarantee each party an opportunity to present evidence and to otherwise be heard. ~~Additionally, individual audits shall be conducted on the request of the appointing authority or an employee who has filed a classification grievance as provided by law~~ The audit procedure, including the impartial review process, shall be exempt from Article II of the Oklahoma Administrative Procedures Act. Individual audits of positions shall be conducted at the request of the appointing authority based on information provided by the agency. An incumbent employee will be given an opportunity to respond; however, the Office of Personnel Management will rely on the appointing authority for an official listing of the duties and responsibilities of the position.

B. ~~Job descriptions shall be used for the purpose of distinguishing one job classification from another as clearly and definitively as possible in order that employees may be properly classified in accordance with this section. Job descriptions shall be applied in accordance with the following:~~

1. ~~The job description shall be interpreted and applied in its entirety as a composite picture of the job requirements. An employee shall not be required to perform all of the work operations described in a job description in order to be eligible for classification thereunder. An employee shall not be eligible for classification under a job description by reason of performing isolated or singular duties incidental to his job but which are described in another job description.~~

2. ~~To be entitled to a classification, an employee must regularly and consistently perform work operations which are an integral part of and representative of his normal assignments and the requirements of the classifications.~~

~~3. An employee normally performs some of the work of higher rated jobs and some of the work of lower rated jobs when required. The normal duties of an employee may include some of the work of related jobs in the same salary grade when required. The normal duties of an employee may include assistance to others.~~

~~4. An employee is required to perform the work operations and duties described or appraised as being covered by a job description pursuant to that degree or amount of guidance or instruction which is considered usual and normal in order to qualify for the classification.~~

The appointing authority has the responsibility to ensure that employees are properly classified and that the work performed conforms to the appropriate class specification describing the position. Employees shall be classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal work assignment and class specification. An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the class specification. An employee is entitled to the compensation assigned to the class specification for which duties were performed on a regular and consistent basis as determined by the Office of Personnel Management. This provision does not entitle the employee to a higher classification.

C. Class specifications shall be used for the purpose of distinguishing one job classification from another as clearly and definitively as possible in order that positions may be properly allocated and employees may be properly classified in accordance with this section. Class specifications shall be applied in accordance with the following:

1. The position description questionnaire and class specification shall be interpreted and applied as a composite picture of the job requirements. An employee is not required to perform all of the work operations described in a class specification in order to be eligible for classification thereunder. An employee is not eligible or entitled to

classification by reason of performing isolated or singular duties incidental to the job but which are described in another class specification. Employees are entitled to the classification they are currently assigned.

2. An employee normally performs some of the work of higher-rated jobs and some of the work of lower-rated jobs when required. The normal duties of an employee may include some of the work of related jobs in the same salary grade when required. The normal duties of an employee may include assistance to others.

3. An employee is required to perform the work operations and duties described or appraised as being covered by a class specification pursuant to that degree or amount of guidance or instruction which is considered usual and normal in order to qualify for the classification.

SECTION 25. AMENDATORY 74 O.S. 1991, Section 840.25, is amended to read as follows:

Section 840.25 A. All agencies, boards, commissions, departments, and offices of each branch of state government ~~having fifteen (15) or more full-time employees~~ shall submit an affirmative action plan to the Office of Personnel Management annually by September 1 following the end of the fiscal year ending June 30.

B. Said plan for agencies of the executive branch is subject to the approval of the Administrator of the Office of Personnel Management.

~~B.~~ C. The Administrator of the Office of Personnel Management shall analyze the affirmative action plans of executive branch agencies and Equal Employment Opportunity Commission reports prepared by such agencies, and, on or before January 1 of each year, shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. Said report shall state the efforts and progress made by governmental entities in the area of affirmative action, including the status of recruitment, hiring, and promotion of women, men and minorities within job categories.

~~C.~~ D. The provisions of this section shall not require an agency, board, commission, department, or office of state government to grant preferential treatment to an individual or group because of race, color, religion, sex, national origin, age, or handicap because of an imbalance which may exist in comparison with the employment statistics of the area involved.

~~D.~~ E. It is not a discriminatory practice for the appointing authority of an entity subject to the provisions of this title to adopt and implement an affirmative action plan to eliminate or reduce imbalances with respect to ~~race, color, religion, sex, national origin, age, or handicap~~ women and minorities if the plan has been approved by the Office of Personnel Management in accordance with rules and guidelines adopted by the Office of Personnel Management. For affirmative action purposes, any person who lists American Indian as his race or national origin shall, within thirty (30) days of his appointment, verify his tribal affiliation by providing a certificate of Degree of Indian Blood from the U.S. Department of Interior, Bureau of Indian Affairs, or by providing the name and address of tribal officials who can verify his tribal affiliation.

~~E.~~ F. 1. The Administrator of the Office of Personnel Management shall establish qualification requirements for personnel serving as agency civil rights or affirmative action administrators, officers, coordinators and other personnel responsible for civil rights compliance or affirmative action for executive branch agencies. Such qualification requirements shall include, but not be limited to, knowledge of federal and state civil rights, affirmative action, and equal employment laws and regulations. Such personnel shall be subject to the training requirements specified by the Office of Personnel Management. 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 for the Office of Personnel Management established by law. Effective December 1, 1995, complaints of alleged illegal discrimination shall be investigated only by personnel trained pursuant to the requirements of the Administrator, unless otherwise provided by federal or state law. This paragraph shall not apply to such personnel of the Oklahoma Merit Protection Commission or the Oklahoma Human Rights Commission.

2. If, after notice, administrative hearing and determination, pursuant to Article II of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes, the Administrator finds that an appointing authority of any executive branch agency has failed to make significant progress toward affirmative action goals, or has failed to appoint a civil rights administrator without justifiable reasons, the Administrator may begin requiring remedies as allowed by subsection G of this section and rules promulgated thereto and appropriate to making progress toward affirmative action goals. Such action shall remain in effect until the Administrator determines that significant progress toward affirmative action goals is being made. The provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the Administrator the authority provided for in this paragraph, unless the agency is specifically excluded by law from the provisions of this paragraph.

G. 1. The Administrator of the Office of Personnel Management shall develop rules for the imposition of appropriate remedies for agencies in the executive branch of state government, excluding The Oklahoma State System of Higher Education, when an agency has failed to make significant progress toward affirmative action goals or has been found to have a pattern of noncompliance with affirmative action goals. If, pursuant to Article II of the Administrative Procedures Act, the Administrator finds than an agency has failed to make significant progress toward affirmative action goals or is found to have a pattern of noncompliance with affirmative action goals, remedies that the Administrator may impose shall include:

- a. requiring noncomplying appointing authorities to participate in programs for special recruiting efforts,
- b. development of training programs to enhance promotability of minorities within agencies and supervisory training in equal opportunity employment, affirmative action, managing workplace diversity, and
- c. mandatory review and approval of all hiring and promotion decisions by an appointing authority by the Administrator if the Administrator can document a pattern of noncompliance in previous remedial actions pursuant to this subsection or appointment of a full-time affirmative action officer to any agency in noncompliance with affirmative action remedies.

2. Effective July 1, 1995, if the Administrator determines that a pattern of noncompliance with affirmative action goals exists at an agency and that none of the remedies provided by paragraph 1 of this subsection are appropriate and the Administrator determines the Office of Personnel Management has sufficient resources, the Administrator shall be empowered to remove personnel function(s) relating to recruitment, hiring or promotion from the appointing authority and to place that function with the Administrator of the Office of Personnel Management as provided by this paragraph. Removal of personnel function(s) shall occur only when a pattern of noncompliance with the affirmative action plan can be documented and a vote by two-thirds (2/3) of the Affirmative Action Council recommends to the Administrator to remove personnel function(s). Removal of personnel function(s) shall terminate one (1) calendar year after the Administrator removes such function(s) unless the Administrator is able to demonstrate that the restoration of personnel function(s) to the appointing authority will result in further noncompliance with this section. A vote of two-thirds (2/3) of the Council shall be necessary to continue the removal of

personnel function(s) by the Administrator for each additional year. The Administrator must receive approval from the Director of the Office of State Finance to develop recruitment, hiring and promotion actions within budgetary constraints for the affected agencies. The Administrator shall consult with the appointing authority about personnel plans and actions, but the Administrator shall retain final authority for personnel decisions within the scope of the Administrator's authority for the period an agency is operating under removal of the personnel function(s). Nothing in this section shall prohibit the removal of a personnel function(s) remedy at any time if the Administrator determines the appointing authority and agency have the capability of reassuming the authority that was removed. The provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the Administrator the authority provided for in this paragraph, unless the agency is specifically excluded by law from the provisions of this paragraph. Upon removal of an agency's personnel function(s), the Administrator may employ employees at the Office of Personnel Management to assume the personnel function(s) of the agency as provided by this section.

H. 1. There is hereby created the Affirmative Action Review Council to assist in the implementation of the state's equal employment opportunity and affirmative action efforts mandated by this section. The Administrator of the Office of Personnel Management shall consult with and request the assistance of the Council in developing standards that executive branch agencies shall follow in adopting their affirmative action plans. The Council shall review agency affirmative action plans and assist the Administrator in preparing the annual status report for agencies on equal employment opportunity and affirmative action required by this section. Staff for the Council shall be provided by the Office of Personnel Management.

2. The Affirmative Action Review Council shall consist of six (6) members. The individuals making the appointment shall consider experience in the field, theory, and application of human resources management and affirmative action in making their

appointments. Members of the Council shall serve at the pleasure of the respective individuals making the appointments. Two members of the Council shall be appointed by the Governor, two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President Pro Tempore of the Senate. Nothing shall preclude the appointment of members of the Legislature. Each individual making appointments shall give consideration to the diversity of the Council's membership when making the appointments and shall not appoint more than one individual who is an employee of the executive branch, excluding The Oklahoma State System of Higher Education. The Governor shall appoint the initial chair from among the Council's membership to serve a two-year term. Thereafter, the chair shall be selected by the Council from among its membership. The Council shall select a vice-chair from among its membership. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy on the Council shall be filled by the individual who made the original appointment.

Except as provided in subparagraph b of paragraph 4 of this subsection, a majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.

3. Members of the Council shall receive no compensation for serving on the Council, but shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act. Any member who is employed in state government shall receive the reimbursement from their employing entity. Any member who is not an employee of state government shall receive the reimbursement from the Office of Personnel Management.

4. a. The Council shall make any recommendations to the Administrator, the Governor, the Speaker of the

House of Representatives or the President Pro Tempore of the Senate the Council deems will assist in the attaining of affirmative action goals for state government.

- b. The Council shall review agency affirmative action plans for compliance with the standards adopted by the Administrator. The Council shall recommend that the Administrator reject any agency plans which it finds in noncompliance.
- c. The Council shall request the Administrator to investigate any agency that the Council believes has violated equal employment opportunity or affirmative action provisions of this section and to conduct hearings to determine if such violations have occurred. If the Administrator finds that an agency is not in compliance with such law and the Council believes that the noncompliance indicates a pattern of noncompliance, the Council, upon a two-thirds vote of its members, may recommend to the Administrator to act in accordance with this section to compel the agency to comply with equal employment opportunity and affirmative action laws. If the Administrator decides not to act on the Council's recommendation, the Administrator shall respond in writing within thirty (30) days of the Council's recommendation setting forth the reasons why the Administrator has decided not to act in accordance with said recommendation.
- d. Any member who is an employee of an agency that is subject to investigation pursuant to subparagraph b of this paragraph shall disqualify himself or herself from voting on the matter.
- e. This paragraph applies to review of issues related to affirmative action. This paragraph does not apply to prohibited discrimination that is within

the jurisdiction of the Oklahoma Merit Protection Commission or the Oklahoma Human Rights Commission.

5. The Council shall not have authority to adopt rules pursuant to the Administrative Procedures Act.

I. Affirmative action plans for the judicial branch of government, except the Court of Criminal Appeals and the Workers' Compensation Court, shall be prepared by the Administrative Director of the Courts. The Court of Criminal Appeals shall prepare affirmative action plans for the Court of Criminal Appeals. The Administrator of the Workers' Compensation Court shall prepare affirmative action plans for the Workers' Compensation Court.

J. The Administrator of the Office of Personnel Management is hereby directed to adopt rules necessary to implement the provisions of this section. Such rules regarding affirmative action plans shall include, but not be limited to, a set of specific and result-oriented programs to which an appointing authority commits himself or herself to apply every good faith effort to achieve prompt and full utilization of women and minorities at all levels and in all segments of the work force where deficiencies exist. Such rules shall also include separate provisions for affirmative plans for agencies with fewer than fifteen (15) full-time-equivalent employees.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-2-4 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Administrator of the Office of Personnel Management shall promulgate rules and standards for defining progress toward a balanced and representative work force for state government.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-3-8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1995, the Administrator of the Office of Personnel Management shall design a mentor program for state

personnel with executive potential of all branches of state government. The mentor program shall be open to all state employees but shall place a special emphasis on development of women, racial minorities and persons with disabilities as executives.

B. Effective July 1, 1995, there is hereby created a seven-member Mentor Selection Advisory Committee which shall be composed of the following permanent members: The Administrator, the Director of the Office of State Finance, a designee of the Governor, a designee of the President Pro Tempore of the Senate and a designee of the Speaker of the House of Representatives. Two other agency appointing authorities shall be selected every two (2) years by the nominating committee's permanent members. Appointed members not serving a specific term will serve at the pleasure of their appointing authority. Members shall be reimbursed for necessary travel expenses incurred in the performance of their duties by the Office of Personnel Management.

The Mentor Selection Advisory Committee may recommend to the Administrator up to five (5) candidates during a two-year period for participation in the mentor program. The Advisory Committee shall make recommendations. Nomination criteria shall include, but not be limited to:

1. Demonstrated leadership qualities;
2. Outstanding achievement record;
3. Outstanding recommendations by supervisors or peers;
4. Special knowledge of state systems; and
5. Completion of the Certified Public Manager Program or similar achievement.

Any state employee may recommend to the Advisory Committee another state employee for the mentor program. Individuals selected through the nominating process shall be referred to as mentor executives. Mentor executives shall complete a two-year management rotation assignment in which they are assigned to policy level management duties for six (6) months within their originating agency, six (6) months with one or both houses of the Legislature, six (6) months in any or all of the following

agencies: the Office of State Finance, the Governor's Office and the Office of Personnel Management, and six (6) months in any other agency accepting the mentor executive.

Each of the entities participating in the mentor program shall assign an executive-level manager to serve as the mentor for the period a mentor executive is within that agency's staff.

The mentor's duties are to instill in the mentor executive knowledge of the agency's purpose and functions, and a sense of professionalism and public service. Mentors will further serve as a source of career guidance and reference after the management rotation is finished. The employees participating in the mentor program shall be exempt from any full-time-equivalent limitations established by law.

Compensation for mentor executives shall be paid from the budget of the agency in which the mentor executive is officed during each phase of his or her management rotation.

SECTION 28. AMENDATORY 74 O.S. 1991, Section 840.5b, is amended to read as follows:

Section 840.5b A. There is hereby created in the State Treasury a revolving fund for the Office of Personnel Management to be designated the "~~Certified Public Managers~~ Office of Personnel Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees received by the Office of Personnel Management for providing training for a certified public managers program and all other monies received by the Office of Personnel Management, except for appropriated monies, monies received as payment for administrative expenses under Section 840.14 of Title 74 of the Oklahoma Statutes, monies placed in the Employee Benefits Revolving Fund, monies placed in the Benefits Council Administration Revolving Fund, and any monies in revolving funds established by the Office of State Finance to support the operation of the Oklahoma Employees Benefits Council or to reimburse the Office of Personnel Management for services the Office provides to the Council. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and

expended by the Office of Personnel Management for ~~a certified public managers program~~ defraying the costs incurred in performing the duties and functions of the Office. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Any monies in or obligations against the Certified Public Managers Revolving Fund upon the effective date of this act shall be transferred to the Office of Personnel Management Revolving Fund.

SECTION 29. AMENDATORY 74 O.S. 1991, Section 841.2, is amended to read as follows:

Section 841.2 The appointing authority of the Oklahoma Merit Protection Commission shall be the Executive Director. The Executive Director shall be appointed by the Commission to serve at its pleasure. The Executive Director, with the approval of the Commission, may employ and compensate an attorney and shall select, compensate and employ such hearing examiners administrative hearing officers and other personnel as deemed necessary for the proper administration of the duties and functions of the Commission ~~and may fix their compensation.~~ Effective September 1, 1994, employees of the Commission shall become classified employees, except those employees with less than six (6) months of service from their enter-on-duty date will remain in probationary status until obtaining permanent status in accordance with applicable rules of the Administrator of the Office of Personnel Management or as provided in Section 8 of this act.

SECTION 30. AMENDATORY 74 O.S. 1991, Section 841.3, as amended by Section 5, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.3), is amended to read as follows:

Section 841.3 In addition to any other duties expressly set forth by law, the Oklahoma Merit Protection Commission shall:

1. Receive and act on complaints, counsel persons and groups on their rights and duties and take action designed to obtain

voluntary compliance with the provisions of the Oklahoma Personnel Act; ~~and~~

2. Investigate allegations of violations of the provisions of the Oklahoma Personnel Act within their jurisdiction; ~~and~~

3. Investigate allegations of abuses in the employment practices of the Administrator of the Office of Personnel Management or of any state agency; ~~and~~

4. Investigate allegations of violations of the rules of the Merit System of Personnel Administration and prohibited activities in the classified service; ~~and~~

5. Establish and maintain a statewide Alternative Dispute Resolution Program to provide dispute resolution services for state agencies and employees; ~~and~~

6. Establish rules and regulations, pursuant to the Administrative Procedures Act, ~~Sections 301 through 326 of Title 75 of the Oklahoma Statutes,~~ as may be necessary to perform the duties and functions of the Commission; ~~and~~

7. Establish guidelines for the qualifications, duties, responsibilities, authority, power, and continued employment of the Executive Director, ~~hearing examiners, and other employees of the Commission~~ Administrative Hearing Officers, mediators, and other resolution arbitrators or facilitators; ~~and~~

8. Prepare and preserve an audio tape of all proceedings of all hearings conducted by the Commission and furnish transcripts of such tapes upon payment of the costs of such transcripts by the party requesting the transcripts; ~~and~~

9. Submit quarterly, fiscal year reports on workload statistics to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate containing the following information:

a. the number of cases, complaints, and requests for hearing filed, disposed of and pending with the Commission for each month of the quarter,

b. a numerical breakdown of the methods of disposition of such cases, complaints, and requests for hearing,

- c. a numerical breakdown of mediations, prehearing conferences, and appellate hearings, conducted, and
- d. the date of the oldest pending case, complaint, and request for hearing.

The report for the first quarter of fiscal year 1989 shall be submitted on or before October 31, 1988. Quarterly reports thereafter shall be submitted within thirty (30) days following the last day of the month of the appropriate quarter; and

10. Make all records of the Commission, except those made confidential by law, available for public inspection, copying and mechanical reproduction, or either of them, in accordance with the Oklahoma Open Records Act and charge a fee not to exceed twenty-five cents (\$0.25) per page as the direct costs of document copying or mechanical reproduction. All fees collected pursuant to the provisions of this paragraph shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-1-12 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Merit Protection Commission is directed to publish summaries of Merit Protection Commission appeal hearings.

The Oklahoma Merit Protection Commission shall charge state agencies, associations and other interested parties for the cost of such summaries and recordings. All monies accruing from the sale of hearing summaries and recordings are to be deposited to the Oklahoma Merit Protection Commission Revolving Fund.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-1-13 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Merit Protection Commission shall establish a training and certification program for all hearing officers employed by the Oklahoma Merit Protection Commission and grievance managers appointed by state agencies. The Commission may also provide training for other agency personnel employees. The

Executive Director shall be authorized to bill agencies for the training pursuant to this section to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Oklahoma Merit Protection Commission established by law.

SECTION 33. AMENDATORY 74 O.S. 1991, Section 841.9, as amended by Section 17, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.9), is amended to read as follows:

Section 841.9 A. ~~The Office of Personnel Management Oklahoma Merit Protection Commission shall establish and adopt a uniform employee grievance procedure standard internal agency grievance resolution procedures for permanent classified state employees. A copy of the grievance procedure plan shall be furnished and explained to each employee. No employee shall be disciplined or otherwise prejudiced in his employment for exercising his rights under the plan, and the use of the plan shall be encouraged in the resolution of grievances arising in the course of public employment. As used in this section, grievances may include, but are not necessarily limited to classification, reclassification, annual leave, sick leave, compensatory time, dismissal, service ratings, suspensions, promotions, and demotions. Compensation shall not be deemed a proper subject for consideration under the grievance procedure~~ The procedures shall encourage prompt and equitable resolution of grievances at the lowest possible level within the employing agency. Each appointing authority shall either use the procedures established by the Commission or adopt other procedures which address the specific needs of their agencies. All procedures shall contain the minimum requirements established pursuant to this section.

B. The appointing authority of each agency shall furnish to each classified employee a copy of the internal agency grievance resolution procedure utilized by the agency.

C. No employee shall be disciplined or otherwise prejudiced in his or her employment for exercising his or her rights under the internal agency grievance resolution procedure.

D. Internal agency grievances may include, but are not limited to, any direct or indirect form of discipline, reduction-in-force, work assignments, withholding of work, classification, reclassification, promotion, leave, performance appraisal, length of service, overtime, compensatory time, transfers, or any alleged violation of the Oklahoma Personnel Act or merit rules.

E. The internal agency grievance ~~procedure~~ resolution procedures established and adopted by the ~~Office of Personnel Management~~ Oklahoma Merit Protection Commission shall contain the following minimum requirements:

1. ~~Procedure requiring prompt resolution of the grievance and establishing time periods for each step of the procedure~~ Procedures encouraging resolution of disputes within the agency quickly, informally and at the lowest possible level;

2. ~~Provision for impartial review of the grievance~~ Procedures requiring prompt resolution of the internal agency grievance within established time periods; and

3. ~~Procedure~~ Procedures guaranteeing the employee the right to be represented by a person of his own choosing at each step of the procedure, except the initial informal discussion with his immediate supervisor.

~~E.~~ F. The Oklahoma Merit Protection Commission shall promulgate rules as necessary to implement the provisions of subsections A through I of this section to establish internal agency grievance resolution procedures, provided that such rules previously promulgated by the Administrator of the Office of Personnel Management shall be transferred to the Oklahoma Merit Protection Commission and shall remain in effect until duly modified by the Commission.

G. The appointing authority of each classified agency shall designate employees of the agency to receive and process internal agency grievances. Within six (6) months after designation to serve in this capacity, these employees shall complete the

training programs established by the Commission. Upon successful completion, such employees shall be certified to perform the duties associated with receiving and processing internal agency grievances.

H. The appointing authority of each classified agency shall ensure that employees designated to receive and process internal agency grievances are scheduled to attend and notified of the required training and shall make time available for employees to complete the training.

I. Each agency shall maintain records of each grievance filed as well as summary information about the number, nature and outcome of all grievances filed. Agencies shall keep records of grievances separate and apart from other individual employee personnel files. Agencies shall report grievance information and related statistical data to the Oklahoma Merit Protection Commission pursuant to rules adopted by the Commission. An employee or former employee shall have a right of access to the grievance record of grievances he or she filed after the grievance procedure has been completed.

J. Employees may only appeal a reduction-in-force action to the Oklahoma Merit Protection Commission on the basis of procedural errors in the application of the reduction-in-force plan of the employing agency, board, or commission.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-6-3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Each appointing authority shall establish written policies and procedures for progressive discipline of employees according to the rules established by the Oklahoma Merit Protection Commission. Sections 530:10-11-111 and 10-11-113 of the Oklahoma Administrative Code promulgated by the Administrator of the Office of Personnel Management are hereby transferred to the Oklahoma Merit Protection Commission and shall remain in effect until duly amended by the Commission.

B. Progressive discipline is a system designed to ensure not only the consistency, impartiality and predictability of discipline, but also the flexibility to vary penalties if justified by aggravating or mitigating conditions. Typically, penalties range from verbal warning to discharge, with intermediate levels of a written warning, suspension or demotion. Absent mitigating circumstances, repetition of an offense is accompanied by a generally automatic progression to the next higher level of discipline.

C. Each supervisor shall be responsible for applying discipline when necessary that is progressive in nature, appropriate for the offense, and equitable. Each supervisor shall consider aggravating or mitigating circumstances when determining the proper disciplinary action. Each supervisor shall use prompt, positive action to avoid more serious disciplinary actions. The Oklahoma Merit Protection Commission shall promulgate rules to establish the requirements and guidelines for discipline.

SECTION 35. AMENDATORY 74 O.S. 1991, Section 841.12, is amended to read as follows:

Section 841.12 A. It shall be the responsibility of the Office of Personnel Management to supply all state agencies with a sufficient quantity of ~~rules~~ Merit System of Personnel Administration Rules promulgated by that Office for distribution to all employees of the classified service. It shall be the responsibility of each appointing authority to provide a copy of such rules to employees of the classified service employed in his agency upon becoming subject to this act.

B. It shall be the responsibility of the Oklahoma Merit Protection Commission to supply all state agencies with a sufficient quantity of the provisions of the Oklahoma State Employee Bill of Rights within thirty (30) calendar days of the effective date of this act for distribution to all state employees. It shall be the responsibility of each appointing authority to provide a copy of said provisions of the Oklahoma State Employee Bill of Rights to all state employees employed in

his agency within sixty (60) calendar days of the effective date of this act.

C. Every new state employee shall be provided a copy of the provisions of the Oklahoma State Employee Bill of Rights by his appointing authority upon the effective date of his appointment.

SECTION 36. AMENDATORY Section 7, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.13C), is amended to read as follows:

Section 841.13C A. The Oklahoma Merit Protection Commission shall establish and maintain a mandatory Alternative Dispute Resolution Program and shall adopt and promulgate such rules as may be necessary for the implementation and management of the program.

B. A purpose of the Alternative Dispute Resolution Program is to provide an economical means and access to effective alternative dispute resolution services to all state agencies and employees.

C. The Oklahoma Merit Protection Commission may require employees and agencies to utilize the Alternative Dispute Resolution Program to resolve disputes brought before the Commission pursuant to Sections 841.13 and 841.15 of Title 74 of the Oklahoma Statutes.

D. Alternative dispute resolution programs established and utilized by the Commission are not subject to Article II of the Administrative Procedures Act. The decision in such cases may be appealed by any party ~~pursuant to Article II of the Administrative Procedures Act, Sections 309 through 323 of Title 75 of the Oklahoma Statutes~~ to the Oklahoma Merit Protection Commission and thereafter to district court.

SECTION 37. AMENDATORY 74 O.S. 1991, Section 841.18, is amended to read as follows:

Section 841.18 A. A member of the Oklahoma Merit Protection Commission and the Executive Director shall have power to ~~administer oaths,~~ subpoena witnesses and compel the production of books and papers pertinent to any investigation, dispute resolution or hearing authorized by this act. Members of the Oklahoma Merit Protection Commission, the Executive Director, and

their designees shall have the power to administer oaths. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation, dispute resolution or hearing or who shall knowingly give false testimony therein upon conviction shall be ~~guilty of a misdemeanor~~ subject to penalties pursuant to Section 40 of this act.

B. Any state employee subpoenaed by the Executive Director or Commission to appear shall be reimbursed by the employing agency for expenses as provided in the State Travel Reimbursement Act and shall be paid his or her regular salary for each day that the employee is subpoenaed to appear. Said reimbursement and payment shall be in lieu of any witness fees to which the employee might otherwise be entitled by law and a request by a state employee for such fees shall not remove the obligation which the state employee has to honor the subpoena.

SECTION 38. AMENDATORY 74 O.S. 1991, Section 841.20, is amended to read as follows:

Section 841.20 A. A permanent classified employee or a regular unclassified employee shall be entitled to take leave with pay for not to exceed three (3) days a year to attend meetings of job-related professional organizations of which the employee is a member upon receiving permission from the appointing authority. The denial by an appointing authority or organizational leave shall be in writing and state the reasons for denying said leave.

~~B. For purposes of this section, "job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees.~~

~~C.~~ The leave authorized by this section shall not be used for lobbying activities which include the lobbying of legislative or executive branch elected officials within state-owned or leased buildings.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-2-26 of Title 74,

unless there is created a duplication in numbering, reads as follows:

A. In order to provide increased services to the public, to assist state employees in meeting the needs of their families, improve employee morale and productivity, appointing authorities are encouraged to consider the adoption of flextime attendance policies and alternative work schedules.

B. For purposes of this section, flextime means a regular, eight-hour-day work schedule that permits the use of alternative starting and ending times within limits set by the appointing authority and that includes a common work period during which all employees are expected to be present.

C. The Administrator of the Office of Personnel Management shall provide technical assistance to agencies in developing flextime policies and alternative work schedules and shall promulgate rules pursuant to the Administrative Procedures Act for such policies.

SECTION 40. AMENDATORY 74 O.S. 1991, Section 841.23, is amended to read as follows:

Section 841.23 A. ~~Any person who willfully violates any provision of the Oklahoma Personnel Act or of any rule or regulation adopted pursuant to the authority herein granted, or fails, within a reasonable time, to implement an order of the The Oklahoma Merit Protection Commission, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for not longer than six (6) months, or by both such fine and imprisonment or the Administrator of the Office of Personnel Management may levy an administrative fine not to exceed Five Thousand Dollars (\$5,000.00) against any person, whether subject to the provisions of the merit system or in unclassified service, who after proper notice fails or refuses, within a reasonable period of time, to implement a written order of the Oklahoma Merit Protection Commission or the Administrator of the Office of Personnel Management. Such fine shall be assessed against the person who~~

violates the order and shall not be paid by any monies of the employing entity in which the person is employed or serves.

~~B. Any person who is convicted of a misdemeanor under the provisions of the Oklahoma Personnel Act shall, for a period of five (5) years, be ineligible for appointment to or employment in a position in state service and, if at the time of conviction he or she is an employee of the state, shall forfeit his or her position~~ against whom an administrative fine is levied who continues the violation for an unreasonable period of time, as determined by the Oklahoma Merit Protection Commission or Administrator of the Office of Personnel Management, shall forfeit his or her position and shall be ineligible for appointment to or employment in state government for a period of five (5) years.

C. Any fines collected pursuant to this section shall be deposited to the revolving fund of the respective entity which levies the fine.

SECTION 41. AMENDATORY 63 O.S. 1991, Section 1-2418, as last amended Section 143, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1993, Section 2-10-202), is amended to read as follows:

Section 2-10-202. A. The Department shall have the power and duty to:

1. Advise, consult and cooperate with other agencies and instrumentalities of the state, other states and the federal government and with affected groups and industries in the formulation of plans and the implementation of the solid waste disposal program;

2. Administer and make available such loans and grants from the federal government and from other sources as may be available to the Department for the planning, construction, and operation of solid waste disposal sites;

3. Develop a statewide integrated solid waste management plan with input from the public, municipal and county governments and regional solid waste planning and management entities;

4. Review and act upon applications for solid waste disposal site permits and inspect construction, operation, closure and maintenance of solid waste disposal sites;

5. Make investigations and inspections which it deems necessary to ensure compliance with this Code, the Oklahoma Solid Waste Management Act and rules promulgated thereunder and orders, permits and licenses issued pursuant thereto;

6. Provide technical assistance to solid waste planning units, public solid waste management service entities, political subdivisions, business and industry, and the general public to promote development and implementation of recycling activities to meet the goals of the Oklahoma Solid Waste Management Act;

7. Establish and maintain, or cause to be established and maintained, in cooperation with the Department of Commerce, a database for tracking markets for materials which are being or could be recovered from the municipal solid waste stream in Oklahoma. The database shall contain information including but not limited to the names and addresses of buyers and sellers of secondary materials relevant to Oklahoma, market prices, and specifications required by buyers; and

8. Establish an office for local solid waste systems development and coordination, ~~the coordinator of such office shall be in the unclassified service;~~ and

B. Any local governing body may by ordinance or resolution adopt standards for the location, design, construction, and maintenance of solid waste disposal sites and facilities more restrictive than those promulgated by the Board under the provisions of the Oklahoma Solid Waste Management Act.

SECTION 42. AMENDATORY 56 O.S. 1991, Section 26.17, is amended to read as follows:

Section 26.17 A. The Director of ~~Public Welfare~~ Human Services, subject to the approval of the ~~Oklahoma Public Welfare Commission~~ for Human Services, shall have the power to employ and fix the qualifications, duties and compensation of employees necessary to the fulfillment of the provisions of this act, and shall have the power to approve any legal claim for payment.

B. The Department of Human Services shall be a Merit System agency. The provisions of this section shall supersede and revoke any and all Executive Orders placing the Department of Human Services or its predecessors under the provisions of the Merit System of Personnel Administration.

C. In addition to offices, positions, and personnel in the unclassified service pursuant to Sections 8 and 15 of this act, the following offices, positions, and personnel shall be in the unclassified service:

1. Campus police appointed pursuant to Section 162.2 of Title 56 of Oklahoma Statutes;

2. The legal division or unit established pursuant to Section 236 of Title 56 of the Oklahoma Statutes;

3. The Construction Unit and the Architectural and Engineering Unit or their successor units; and

4. A maximum of two percent (2%) of the maximum number of full-time-equivalent positions authorized by law to the Department of Human Services provided the Director of the Department of Human Services certifies that each position so designated as unclassified meets at least one of the following criteria:

a. any incumbent in the position reports directly to the Director or provides support directly to the Commission, or

b. the duties of the position are primarily administrative or managerial in nature and involve establishing broad policies or program direction for the Department or divisions within the Department.

The Director shall submit such certification and a list of such positions to the Office of Personnel Management by September 1, 1994, and annually thereafter.

D. All other offices, positions and personnel of the Department of Human Services shall be classified and subject to the provisions of the Merit System of Personnel Administration, as provided in the Oklahoma Personnel Act and rules promulgated thereunder.

E. Effective September 1, 1994, all unclassified employees of the Department of Human Services occupying classified positions shall be granted permanent status in the classified service unless:

1. They are retained by the Director in the unclassified service pursuant to subsection C of this section; or

2. They waive in writing their right to classified status pursuant to this subsection and elect to remain in the unclassified service while in the positions they occupy on September 1, 1994.

Employees who are classified shall be granted permanent status in the classes to which the positions they occupy are allocated by the Office of Personnel Management. The Office of Personnel Management shall not require such employees to independently complete descriptions of the positions they occupy. Such descriptions may be completed by the Department of Human Services, provided that each employee shall be given a copy and any employee who elects to do so may independently complete a position description questionnaire before submission to the Office of Personnel Management. If an employee elects to complete a position description questionnaire, the Department of Human Services, after review and comment, shall submit it to the Office of Personnel Management for allocation. For the initial classification, these employees shall not be required to possess the minimum qualifications or to pass any required examinations, and their salaries shall not be reduced. Thereafter, the provisions and conditions of their employment shall be subject to the provisions of the Merit System of Personnel Administration.

Employees retained in the unclassified service under the provisions of this section shall be employees at will.

SECTION 43. Two (2) professional personnel employees with experience in allocation of classified positions who are employed by the Department of Human Services shall be assigned to the Office of Personnel Management for a period not to exceed twelve (12) months beginning September 1, 1994. The purpose of this assignment is to, under the supervision of the Office of Personnel

Req. No. L9858Page 71

Management, conduct position audits and allocate positions that are being classified pursuant to Section 42 of this act. The Administrator of the Office of Personnel Management and the Director of the Department of Human Services shall cooperate to effectuate this temporary assignment of employees.

During this assignment, the employees shall continue to be considered employees of the Department of Human Services for all purposes except for supervision. No Department of Human Services employee who is assigned to the Office of Personnel Management shall lose, or suffer diminution of any right, power, privilege, or benefit to which the employee would otherwise be entitled, including but not limited to salary, seniority, promotion, reinstatement, insurance, retirement, and classified or unclassified status. The Department of Human Services shall continue to compensate the employees who are assigned to the Office of Personnel Management for the period of the assignment. The employees who are assigned shall receive no compensation from the Office of Personnel Management; however, the Office of Personnel Management shall, in accordance with any applicable laws and policies, reimburse any necessary per diem and travel expenses incurred while assigned to the Office of Personnel Management pursuant to the State Travel Reimbursement Act.

SECTION 44. AMENDATORY 61 O.S. 1991, Section 3, is amended to read as follows:

Section 3. ~~Eight~~ A. Except as provided in subsection B of this section, eight (8) hours shall constitute a day's work for all ~~laborers, workmen, mechanics, prison guards, janitors of public institutions, or other persons now employed or who may hereafter be employed by or on behalf of the state, or by or on behalf of any county, city, township or other municipality, except in~~ employees not otherwise exempt from or covered by special provisions under the federal Fair Labor Standards Act, 29 U.S.C.A., Section 201 et seq. and regulations thereto. In cases ~~of extraordinary emergency which may arise in time of war, or in cases~~ where it may be necessary to work more than eight (8) hours per calendar day ~~for the protection of property or human life:~~

~~Provided, that in all such cases the laborers, workmen, mechanics which results in more than forty (40) hours worked per week, all public employees not otherwise exempt from or otherwise covered by special provisions under the federal Fair Labor Standards Act and regulations related thereto or other persons so employed and working to exceed eight (8) hours per calendar day shall be paid on the basis of eight (8) hours constituting a day's work: Provided, further, that not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen, mechanics, prison guards, janitors in public institutions, or other persons so employed by or on behalf of the state, or any county, city, township, or other municipality; and laborers, workmen, mechanics, or other persons employed by contractors or subcontractors in the execution of any contract or contracts with the state, or with any county, city, township, or other municipality thereof, shall be deemed to be employed by or on behalf of the state, or of such county, city, township, or other municipality compensated in accordance with the federal Fair Labor Standards Act and regulations related thereto.~~

B. Public employees may be allowed to work in excess of eight (8) hours per day when such hours are assigned as part of an alternative work schedule. In any case where such work schedule results in an employee working in excess of forty (40) hours per work week who is not exempt from or covered by special provisions under the overtime provisions of the Fair Labor Standards Act, the employee shall be compensated in accordance with the Fair Labor Standards Act and regulations related thereto.

SECTION 45. AMENDATORY 62 O.S. 1991, Section 7.11, is amended to read as follows:

Section 7.11 A. The Office of Personnel Management is directed to develop and publish a Merit System of Personnel Administration Salary Schedule, to be effective ~~July 1, 1991~~ September 1, 1994. The following schedule reflects the minimum and maximum salary in the grade indicated.

<u>GRADE</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
--------------	----------------	----------------

1	\$ 8,791.00	\$10,970.00	<u>\$11,039.00</u>
2	8,955.00	11,175.00	<u>11,244.00</u>
3	9,122.00	11,383.00	<u>11,454.00</u>
4	9,292.00	11,595.00	<u>11,668.00</u>
5	9,465.00	11,811.00	<u>11,885.00</u>
6	9,641.00	12,031.00	<u>12,106.00</u>
7	9,820.00	12,255.00	<u>12,332.00</u>
8	10,003.00	12,483.00	<u>12,561.00</u>
9	10,190.00	12,715.00	<u>12,795.00</u>
10	10,379.00	12,952.00	<u>13,033.00</u>
11	10,573.00	13,194.00	<u>13,276.00</u>
12	10,770.00	13,439.00	<u>13,524.00</u>
13	10,970.00	13,690.00	<u>13,775.00</u>
14	11,175.00	13,945.00	<u>14,032.00</u>
15	11,383.00	14,204.00	<u>14,294.00</u>
16	11,595.00	14,469.00	<u>14,559.00</u>
17	11,811.00	14,738.00	<u>14,831.00</u>
18	12,031.00	15,013.00	<u>15,106.00</u>
19	12,255.00	15,292.00	<u>15,388.00</u>
20	12,483.00	15,628.00	<u>15,724.00</u>
21	12,715.00	15,965.00	<u>16,019.00</u>
22	12,952.00	16,319.00	<u>16,373.00</u>
23	13,194.00	16,672.00	<u>16,727.00</u>
24	13,439.00	17,044.00	<u>17,099.00</u>
25	13,690.00	17,415.00	<u>17,470.00</u>
26	13,945.00	17,805.00	<u>17,860.00</u>
27	14,204.00	18,195.00	<u>18,250.00</u>
28	14,469.00	18,604.00	<u>18,659.00</u>
29	14,738.00	19,014.00	<u>19,069.00</u>
30	15,013.00	19,443.00	<u>19,498.00</u>
31	15,292.00	19,873.00	<u>19,929.00</u>
32	15,628.00	20,325.00	<u>20,381.00</u>
33	15,965.00	20,776.00	<u>20,833.00</u>
34	16,319.00	21,249.00	<u>21,306.00</u>
35	16,672.00	21,723.00	<u>21,780.00</u>
36	17,044.00	22,221.00	<u>22,278.00</u>

37	17,415.00	22,718.00	<u>22,776.00</u>
38	17,805.00	23,241.00	<u>23,299.00</u>
39	18,195.00	23,763.00	<u>23,822.00</u>
40	18,604.00	24,312.00	<u>24,371.00</u>
41	19,014.00	24,861.00	<u>24,920.00</u>
42	19,443.00	25,436.00	<u>25,495.00</u>
43	19,873.00	26,013.00	<u>26,072.00</u>
44	20,325.00	26,617.00	<u>26,676.00</u>
45	20,776.00	27,223.00	<u>27,282.00</u>
46	21,249.00	27,858.00	<u>27,918.00</u>
47	21,723.00	28,493.00	<u>28,554.00</u>
48	22,221.00	29,159.00	<u>29,220.00</u>
49	22,718.00	29,827.00	<u>29,888.00</u>
50	23,241.00	30,526.00	<u>30,587.00</u>
51	23,763.00	31,226.00	<u>31,289.00</u>
52	24,312.00	31,962.00	<u>32,025.00</u>
53	24,861.00	32,697.00	<u>32,761.00</u>
54	25,436.00	33,468.00	<u>33,532.00</u>
55	26,013.00	34,240.00	<u>34,305.00</u>
56	26,617.00	35,036.00	<u>35,101.00</u>
57	27,223.00	35,831.00	<u>35,912.00</u>
58	27,858.00	36,666.00	<u>36,747.00</u>
59	28,493.00	37,502.00	<u>37,583.00</u>
60	29,159.00	38,379.00	<u>38,460.00</u>
61	29,827.00	39,256.00	<u>39,339.00</u>
62	30,526.00	40,177.00	<u>40,260.00</u>
63	31,226.00	41,097.00	<u>41,181.00</u>
64	31,962.00	42,065.00	<u>42,150.00</u>
65	32,697.00	43,032.00	<u>43,117.00</u>
66	33,468.00	44,047.00	<u>44,132.00</u>
67	34,240.00	45,062.00	<u>45,148.00</u>
68	35,036.00	46,128.00	<u>46,214.00</u>
69	35,831.00	47,194.00	<u>47,281.00</u>
70	36,666.00	48,314.00	<u>48,401.00</u>
71	37,502.00	49,433.00	<u>49,522.00</u>
72	38,379.00	50,609.00	<u>50,698.00</u>

73	39,256.00	51,784.00	<u>51,874.00</u>
74	40,177.00	53,018.00	<u>53,108.00</u>
75	41,097.00	54,252.00	<u>54,343.00</u>
76	42,065.00	55,547.00	<u>55,638.00</u>
77	43,032.00	56,844.00	<u>56,936.00</u>
78	44,047.00	58,204.00	<u>58,296.00</u>
79	45,062.00	59,565.00	<u>59,659.00</u>
80	46,128.00	60,993.00	<u>61,087.00</u>
81	47,194.00	62,422.00	<u>62,518.00</u>
82	48,314.00	63,922.00	<u>64,018.00</u>
83	49,433.00	65,422.00	<u>65,520.00</u>
84	50,609.00	66,997.00	<u>67,095.00</u>
85	51,784.00	68,572.00	<u>68,672.00</u>
86	53,018.00	70,226.00	<u>70,326.00</u>
87	54,252.00	71,880.00	<u>71,982.00</u>
88	55,547.00	73,616.00	<u>73,718.00</u>
89	56,844.00	75,352.00	<u>75,456.00</u>
90	58,204.00	77,176.00	<u>77,280.00</u>
91	59,565.00	79,000.00	<u>79,105.00</u>
92	60,993.00	80,914.00	<u>81,019.00</u>
93	62,422.00	82,828.00	<u>82,937.00</u>
94	63,922.00	84,838.00	<u>84,947.00</u>
95	65,422.00	86,849.00	<u>86,959.00</u>
96	66,997.00	88,959.00	<u>89,069.00</u>
97	68,572.00	91,070.00	<u>91,183.00</u>
98	70,226.00	93,286.00	<u>93,399.00</u>
99	71,880.00	95,503.00	<u>95,618.00</u>
100	73,616.00	97,829.00	<u>97,944.00</u>

B. ~~Each grade shall have thirteen (13) salary steps~~ If the rate of pay of an employee is higher than the maximum rate of the grade for the class, the rate will remain the same as long as the employee retains the present classification, but no further increases will be approved unless provided by law.

SECTION 46. AMENDATORY 62 O.S. 1991, Section 7.12, as amended by Section 11, Chapter 367, O.S.L. 1992 (62 O.S. Supp. 1993, Section 7.12), is amended to read as follows:

Section 7.12 Except as otherwise provided by law, any ~~full-time~~ classified, unclassified or exempt employee of the state, excluding members of boards and commissions, institutions under the administrative authority of the Regents of Higher Education, employees of public school districts and elected officials, on July 1, 1991, and earning less than Twelve Thousand Sixty-three Dollars (\$12,063.00) per annum shall receive the necessary grade or salary adjustment to provide for a minimum ~~annual~~ annualized salary of Twelve Thousand Four Hundred Eighty-three Dollars (\$12,483.00). Any ~~full-time~~ classified, unclassified or exempt employee of the state, excluding members of boards and commissions, institutions under the administrative authority of the Regents of Higher Education, employees of public school districts and elected officials, employed after July 1, 1991 shall receive a minimum annual salary of Twelve Thousand Four Hundred Eighty-three Dollars (\$12,483.00). This section shall not apply to those persons employed pursuant to paragraph 12, Section 840.8 of Title 74 of the Oklahoma Statutes or to those persons employed pursuant to Sections 1806.1 and 1825 of Title 74 of the Oklahoma Statutes or those persons employed pursuant to Section ~~10~~ 1.6a of ~~this act~~ Title 53 of the Oklahoma Statutes.

SECTION 47. AMENDATORY 74 O.S. 1991, Section 18c, is amended to read as follows:

Section 18c. Subject to the exceptions hereinafter set out, no state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission ~~and the Office of Public Affairs,~~ the Department of Central Services, the Oklahoma Merit Protection Commission, the Office of Personnel Management, and the Oklahoma Water Resources Board, shall have authority to employ or appoint attorneys to advise or represent said officer, board or

commission, in any matter, and all the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title; and provided further, that liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity, and at their request the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, provided after investigation he is convinced there is sufficient legal merit to justify the action. Provided however, any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of the Governmental Tort Claims Act. Provided further, that nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state last hereinabove mentioned, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

SECTION 48. AMENDATORY 74 O.S. 1991, Section 915, as amended by Section 24, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1993, Section 915), is amended to read as follows:

Section 915. A. (1) Except as provided in paragraph (2) of this subsection, any member who shall retire on or after his normal retirement date shall be entitled to receive an annual

retirement benefit equal to two percent (2%) of the member's final average compensation, multiplied by the number of years credited service that has been credited to the member in accordance with the provisions of Section 913 of this title; however, the minimum amount shall be no less than the sum of One Hundred Twenty Dollars (\$120.00) per annum multiplied by the number of years of credited service. Any member who has elected a vested benefit shall be entitled to receive benefits as outlined above except the percent factor of the member's final average compensation in effect the date his employment was terminated with a participating employer shall be applicable.

(2) Any member who is a correctional officer or a probation and parole officer employed by the Department of Corrections at the time of retirement shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars (\$25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) if elected by the member pursuant to Section 902 of this title but not exceeding Forty Thousand Dollars (\$40,000.00), multiplied by the number of years of service as a correctional officer or a probation and parole officer, provided, any years accrued prior to July 1, 1990, as a correctional officer or a probation and parole officer by a member who is employed as a correctional officer or a probation and parole officer on July 1, 1990 shall be calculated for retirement purposes at two and one-quarter percent (2 1/4%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars (\$25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) if elected by the member pursuant to Section 902 of this title but not exceeding Forty Thousand Dollars (\$40,000.00), multiplied by the number of years of such service and any years in excess of twenty (20) years as such an officer or years credited to the member in accordance with the provisions of Section 913 of this title shall be calculated for retirement purposes at two percent (2%) of the final average

compensation of the member multiplied by the number of years of such service. Any person who contributes to the System as a correctional officer or a probation and parole officer as provided in paragraph (b) of subsection (1) of Section 919.1 of this title, and who does not qualify for normal retirement under subparagraph (c) of paragraph (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional or a probation and parole officer after July 1, 1990 computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer or a probation and parole officer.

(3) Upon death of a retirant, there shall be paid to his beneficiary an amount equal to the excess, if any, of his accumulated contributions over the sum of all retirement benefit payments made.

(4) Such annual retirement benefits shall be paid in equal monthly installments, except that the Board may provide for the payment of retirement benefits which total less than Two Hundred Forty Dollars (\$240.00) a year on other than a monthly basis.

(5) Pursuant to the rules established by the Board, a retiree receiving monthly benefits from the System may authorize warrant deductions for any products currently offered to active state employees through the Employees Benefits Council, provided that product is offered to state retirees as a group and has a minimum participation of five hundred (500) state retirees. The System has no responsibility for the marketing, enrolling or administration of such products, but shall retain a processing fee of two percent (2%) of the gross deductions for the products. Retirement benefit deductions shall be made for membership dues for any statewide association for which payroll deductions are authorized pursuant to subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes for retired members of any state-supported retirement system, upon proper authorization given by the member to the board from which the member or beneficiary is currently receiving retirement benefits.

B. A member shall be considered disabled if such member qualifies for the payment of Social Security disability benefits, and shall be eligible for benefits hereunder upon proof of such disability, provided such member is an active regularly scheduled employee with a participating employer at the time of injury or inception of illness or disease resulting in subsequent certification of eligibility for Social Security disability benefits by reason of such injury, illness or disease, providing such disability is certified by the Social Security Administration within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service. The member shall submit to the Retirement System the Social Security Award Notice certifying the date of entitlement for disability benefits, as issued by the Social Security Administration, Department of Health and Human Services. Disability benefits shall become effective on the date of entitlement as established by the Social Security Administration, but not before the first day of the month following removal from the payroll, whichever is later, and final approval by the Retirement System. Benefits shall be based upon length of service and compensation as of the date of disability, without actuarial reduction because of commencement prior to the normal retirement date. The only optional form of benefit payment available for disability benefits is Option A as provided for in Section 918 of this title. Option A must be elected in accordance with the provisions of Section 918 of this title. Benefit payments shall cease upon the member's recovery from disability prior to the normal retirement date. Future benefits, if any, shall be paid based upon length of service and compensation as of the date of disability. In the event that disability ceases and the member returns to employment within the System credited service to the date of disability shall be restored, and future benefits shall be determined accordingly.

SECTION 49. AMENDATORY 74 O.S. 1991, Section 4190, as amended by Section 12, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 4190), is amended to read as follows:

Section 4190. A. The Administrator of the Office of Personnel Management is authorized to implement a pilot program establishing one or more child day care centers for minor dependents of state employees.

1. The Administrator shall appoint an advisory committee to review the child care needs of state employees, recommend suitable sites for centers, monitor and evaluate the operation of centers.

2. The advisory body shall report annually on the progress of the program to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

B. The Office of Personnel Management, the ~~Office of Public Affairs~~ Department of Central Services, the Department of Human Services, and the Oklahoma State Department of Health are directed to cooperate in the implementation of this pilot program.

C. The Administrator is authorized to promulgate any State Employee Child Day Care Program Rules necessary for the establishment and implementation of this program. Any such rules shall:

1. Include eligibility requirements for participation in the program; and

2. Be promulgated pursuant to the provisions of the Administrative Procedures Act.

D. The initial child day care center shall be located in the Tulsa State Office Building. This child day care center shall reserve ~~two-thirds (2/3)~~ a minimum of one-half (1/2) of the licensed spaces for eligible minor dependents of the state employees and may allow eligible children of other than state employees to utilize ~~one-third (1/3)~~ a maximum of one-half (1/2) of the licensed spaces, with state employees retaining first priority for all vacant spaces.

E. The Administrator shall establish rates for child care consistent with the rates of the industry within the geographic area.

SECTION 50. AMENDATORY Section 1, Chapter 171, O.S.L. 1992 (74 O.S. Supp. 1993, Section 7101), is amended to read as follows:

Section 7101. A. There is hereby created a State Employee Assistance Program within the Office of Personnel Management. The program may provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance. The program may also provide for assessment and referral assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems. Participation in the State Employee Assistance Program shall be on a voluntary basis.

B. The Administrator of the Office of Personnel Management is hereby directed to:

1. Promulgate rules necessary for the administration of the State Employee Assistance Program and the maintenance and release of participant records;

2. Conduct training specific to the State Employee Assistance Program; and

3. Establish evaluation methods to assess the effectiveness of the State Employee Assistance Program.

C. Nothing in this act is intended to nullify any agency's existing employee assistance program or to prohibit any state agency from establishing its own employee assistance program; provided, however, such programs established by state agencies shall be subject to compliance with rules promulgated by the Administrator of the Office of Personnel Management to ensure equitable treatment of employees.

D. Records that relate to participation by an individual in the State Employee Assistance Program or an employee assistance program established by a state agency shall be maintained separate and apart from regular personnel records and shall not become part of an employee's personnel file. Such records relating to an individual's participation in an employee assistance program shall be confidential and not subject to subpoena unless a participant poses a threat to ~~self~~ deliberately harm himself or others. Such determination shall be made by an Employee Assistance Program

Professional. A participant in an employee assistance program shall have a right of access to his or her own employee assistance program records.

E. No provision of this act or the rules promulgated pursuant to this act shall be construed to conflict with an appointing authority's responsibility and authority to maintain discipline or to take disciplinary measures against employees for misconduct or unacceptable performance. Further, participation or nonparticipation in any state employee assistance program shall not excuse an employee from discipline or otherwise affect the terms and conditions of such employee's employment status or opportunities for advancement with the state.

F. 1. There is hereby created the Employee Assistance Program Advisory Council to assist in the implementation of the state's employee assistance program. The Council shall advise the Administrator on policy issues and provide support to expand and improve program services that are available to state employees and their families.

2. The Employee Assistance Program Advisory Council shall consist of the current nine members who shall continue to hold their current positions through June 30, 1995. Effective July 1, 1995, three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the President Pro Tempore of the Senate. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy in office shall be filled by the individual who made the initial appointment. The Council shall select a chair and vice-chair from among its membership. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.

3. Members of the Council shall receive no compensation for serving on the Council, but shall receive necessary travel

reimbursement by the employing agency for members who are state employees or appointing authorities of agencies pursuant to the State Travel Reimbursement Act. Any member employed in state government shall receive the reimbursement from their employing entity. Members who are not employed in state government shall receive travel reimbursement from the Office of Personnel Management.

4. The Council shall not have authority to adopt rules pursuant to the Administrative Procedures Act.

G. The Legislature and the judicial branch of state government may utilize the services of the State Employee Assistance Program at their discretion.

SECTION 51. A. Effective September 1, 1994, classified state employees who were in probationary status with an agency on December 1, 1992, because of an interagency transfer and who meet the criteria established in this section shall receive a salary increase equal to the difference of the amount of their base pay on November 30, 1992, and the amount their base pay would have been if they had been eligible to receive the equivalent of a two and one-half percent (2 1/2%) salary increase granted state employees pursuant to Section 23, Chapter 367, O.S.L. 1992, as amended by Section 2, Chapter 190, O.S.L. 1993. Provided, that such employees must meet the following criteria:

1. They must be employees of the State of Oklahoma on July 1, 1994;

2. They were permanent classified employees in the agency from which they were transferred; and

3. They did not receive the mandatory one-step increase effective December 1, 1992, pursuant to subsection A or B of Section 23, Chapter 367, O.S.L. 1992, because they were on probationary status after an interagency transfer.

B. Such employees who meet the criteria established in subsection A of this section shall receive a one-time payment, in an amount equal to the difference of the amount of their base pay on November 30, 1992, and the amount their base pay would have been if they had been eligible to receive the equivalent of a two

and one-half percent (2 1/2%) salary increase granted state employees pursuant to Section 23, Chapter 367, O.S.L. 1992, as amended by Section 2, Chapter 190, O.S.L. 1993, for the period between December 1, 1992, and June 30, 1993.

SECTION 52. A. Effective September 1, 1994, classified state employees who meet the criteria established in this section shall receive a salary increase equal to the difference of the amount of their base pay after a voluntary demotion and the base pay after such demotion if their base pay had only been reduced by two steps. Provided, such employees must meet the following criteria:

1. Are employees of the Department of Human Services on July 1, 1994;

2. Received the mandatory one-step increase effective December 1, 1992, pursuant to subsection A or B of Section 23, Chapter 367, O.S.L. 1992;

3. Accepted voluntary demotion in lieu of being separated from the Department of Human Services as a result of a reduction-in-force following reorganization on or after December 1, 1992, and before July 1, 1993; and

4. Received a reduction in salary greater than two steps in order to place them within the salary range of the class to which they were demoted.

B. Such employees who meet the criteria established in subsection A of this section shall receive a one-time payment, in an amount equal to the difference of the amount of their base pay after the voluntary demotion and the base pay after such demotion if their base pay had only been reduced by two steps, for the period between the effective date of the voluntary demotion and June 30, 1993.

SECTION 53. RECODIFICATION 74 O.S. 1991, Section 840.14a shall be recodified as Section 500.16A of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 54. RECODIFICATION 74 O.S. 1991, Sections 840.1, 840.2, 840.3, as amended by Section 1 of this act, 840.4, 840.5a, 840.6, 841.1, 841.2, as amended by Section 29 of this act, Req. No. L9858Page 86

841.3 as amended by Section 30 of this act, 841.18, as amended by Section 37 of this act, 841.9, as last amended by Section 33 of this act, 841.11, 840.11, 840.12, 840.14, 841.12, as amended by Section 35 of this act, 840.5b, as amended by Section 28 of this act, and 841.24 shall be recodified as Sections 840-1-1, 840-1-2, 840-1-3, 840-1-4, 840-1-5, 840-1-6, 840-1-7, 840-1-8, 840-1-9, 840-1-10, 840-1-11, 840-1-14, 840-1-16, 840-1-17, 840-1-18, 840-1-19, 840-1-20 and 840-1-21, respectively, of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering. 74 O.S. 1991, Sections 840.25, as amended by Section 25 of this act, 840.25a, 840.25b, 841.7, as last amended by Section 1, Chapter 84, O.S.L. 1993, 841.8, Section 2, Chapter 367, O.S.L. 1992, Section 33 of Enrolled House Joint Resolution No. 1077, O.S.L. 1992, Sections 841.10, 7101, as amended by Section 50 of this act, Section 28, Chapter 367, O.S.L. 1992, 74 O.S. 1991, Section 840.5, as amended by Section 3 of this act, Section 1, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.5c), as amended by Section 4 of this act, 74 O.S. 1991, Sections 840.22A, as amended by Section 16, Chapter 367, O.S.L. 1992, and 840.16d, 62 O.S. 1991, Section 7.12, as last amended by Section 46 of this act, 74 O.S. 1991, Sections 840.16b, as amended by Section 15, Chapter 367, O.S.L. 1992, 805.2, 840.23, 840.7a, as last amended by Section 6 of this act, 840.7b, 840.7c, as last amended by Section 7 of this act, 840.7d, as amended by Section 2, Chapter 221, O.S.L. 1992, Section 1 of Enrolled Senate Bill No. 1065 of the 2nd Session of the 44th Oklahoma Legislature, and 841.20, as amended by Section 38 of this act (74 O.S. Supp. 1993, Sections 841.7, 840.5d, 840.32, 841.6A, 840.22A, 840.16b and 840.7d) shall be recodified as Sections 840-2-1, 840-2-2, 840-2-3, 840-2-5, 840-2-6, 840-2-7, 840-2-8, 840-2-9, 840-2-10, 840-2-11, 840-2-12, 840-2-13, 840-2-14, 840-2-15, 840-2-16, 840-2-17, 840-2-18, 840-2-19, 840-2-20, 840-2-21, 840-2-22, 840-2-23, 840-2-24 and 840-2-25, respectively, of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 1, Chapter 387, O.S.L. 1992, 74 O.S. 1991, Sections 840.40, 840.41, 840.42, 840.43, 840.44, 840.45, 840.26, 840.27, 840.28, 840.29, 840.30 and

840.31 (74 O.S. Supp. 1993, Section 840.35) shall be recodified as Sections 840-3-1, 840-3-2, 840-3-3, 840-3-4, 840-3-5, 840-3-6, 840-3-7, 840-3-9, 840-3-10, 840-3-11, 840-3-12, 840-3-13 and 840-3-14, respectively, of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering. 74 O.S. 1991, Sections 840.13, as amended by Section 21 of this act, 840.22, as amended by Section 24 of this act, 840.19a, 62 O.S. 1991, Section 7.11, as amended by Section 45 of this act, 74 O.S. 1991, Sections 840.16, as amended by Section 22 of this act, 840.16a, 840.16c, 840.17, 840.18, 840.21, 840. 19, 840.20, as last amended by Section 23 of this act, 840.15, 841.19, 841.19a, 841.16, as amended by Section 18, Chapter 367, O.S.L. 1992 and 841.14 (74 O.S. Supp. 1993, Section 841.16), shall be recodified as Sections 840-4-2, 840-4-3, 840-4-4, 840-4-5, 840-4-6, 840-4-7, 840-4-8, 840-4-9, 840-4-10, 840-4-11, 840-4-12, 840-4-13, 840-4-14, 840-4-15, 840-4-16, 840-4-17 and 840-4-18, respectively, of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering. 74 O.S. 1991, Sections 840.7, 840.8a, 840.9, 840.8c, 840.8, as last amended by Section 8 of this act and 840.8b shall be recodified as Sections 840-5-1, 840-5-2, 840-5-3, 840-5-4, 840-5-5 and 840-5-6, respectively, of Title 74 of the Oklahoma Statutes. Section 7, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.13C), as amended by Section 36 of this act, 841.9, as last amended by Section 33 of this act, 841.13B, 841.13, as amended by Section 6, Chapter 367, O.S.L. 1992, 841.15, as amended by Section 8, Chapter 367, O.S.L. 1992, 841.13A, 841.15A and 841.23, as amended by Section 4 of this act (74 O.S. Supp. 1993, Sections 841.13 and 841.15) shall be recodified as Sections 840-6-1, 840-6-2, 840-6-4, 840-6-5, 840-6-6, 840-6-7, 840-6-8 and 840-6-9, respectively, of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 55. Sections 16, 17, 18, 19, 20, 43, 51 and 52 of this act shall not be codified in the Oklahoma Statutes.

SECTION 56. REPEALER 74 O.S. 1991, Sections 284, 840.10 and 841.6, are hereby repealed.

