

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2331

By: McCorkell and Steidley of
the House

and

Mickle, Williams (Penny)
and Monson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

(state government personnel - amending various sections
in Titles 56, 61, 62 and 74 - Human Services Commission
- Department of Human Services - repealing 74 O.S.,
Sections 840.8 and 7101 - codification - effective date
-
emergency)

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

SECTION 1. 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.
Effective July 1, 1994, all positions and personnel within the
Department of Human Services shall be in the classified service
and shall be subject 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,
except as provided in subsections B, C and E of this section.

B. Campus police appointed pursuant to Section 162.2 of Title
56 of the Oklahoma Statutes and the legal division or unit

established pursuant to Section 236 of Title 56 of the Oklahoma Statutes shall be in the unclassified service.

C. Effective July 1, 1994, all employees of the Department of Human Services who have been appointed to the unclassified service pursuant to Section 4 of Article XXV of the Oklahoma Constitution, other than the unclassified employees at Hissom Memorial Center, shall become subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. These employees shall be granted permanent status in the classified service in the classes to which the positions they occupy are allocated by the Office of Personnel Management. These employees shall not be required to possess the minimum qualifications or take any required examinations, and their salaries shall not be reduced.

D. The Director of the Department of Human Services may permit employees of the Department of Human Services who have been appointed to the unclassified service pursuant to Section 4 of Article XXV of the Oklahoma Constitution to remain in the unclassified service while in the positions they currently occupy.

E. The Director of the Department of Human Services may designate up to two percent (2%) of the maximum number of full-time employees authorized by law to the Department of Human Services as being in the unclassified service, provided that the incumbents:

1. Report directly to the Director or provide support directly to the Commission; or
2. Are assigned duties which are primarily administrative in nature and involve establishing broad policies for the agency or divisions within the agency.

F. The Department of Human Services may employ in probationary status persons who have completed training under the Work Employment Program authorized under Section 402(a)(19) of the Social Security Act, as amended by Section 201(a) of the Family Support Act of 1988. Provided, such persons shall be required to possess the qualifications and to pass any examinations prescribed by the Office of Personnel Management for the positions to which

such persons are assigned, but shall not be subject to appointment from a register. At the end of the probationary period such persons shall acquire permanent status in the classified service.

SECTION 2. 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~~ 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, 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. 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 3. 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~~ 1994. The following schedule reflects the minimum and maximum salary in the grade indicated.

<u>GRADE</u>	<u>ANNUAL WAGE</u>	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
1	\$ 8,791.00	\$10,970.00
2	8,955.00	11,175.00
3	9,122.00	11,383.00
4	9,292.00	11,595.00
5	9,465.00	11,811.00
6	9,641.00	12,031.00
7	9,820.00	12,255.00
8	10,003.00	12,483.00
9	10,190.00	12,715.00
10	10,379.00	12,952.00
11	10,573.00	13,194.00
12	10,770.00	13,439.00
13	10,970.00	13,690.00
14	11,175.00	13,945.00
15	11,383.00	14,204.00
16	11,595.00	14,469.00
17	11,811.00	14,738.00
18	12,031.00	15,013.00
19	12,255.00	15,292.00

20	12,483.00	15,628.00
21	12,715.00	15,965.00
22	12,952.00	16,319.00
23	13,194.00	16,672.00
24	13,439.00	17,044.00
25	13,690.00	17,415.00
26	13,945.00	17,805.00
27	14,204.00	18,195.00
28	14,469.00	18,604.00
29	14,738.00	19,014.00
30	15,013.00	19,443.00
31	15,292.00	19,873.00
32	15,628.00	20,325.00
33	15,965.00	20,776.00
34	16,319.00	21,249.00
35	16,672.00	21,723.00
36	17,044.00	22,221.00
37	17,415.00	22,718.00
38	17,805.00	23,241.00
39	18,195.00	23,763.00
40	18,604.00	24,312.00
41	19,014.00	24,861.00
42	19,443.00	25,436.00
43	19,873.00	26,013.00
44	20,325.00	26,617.00
45	20,776.00	27,223.00
46	21,249.00	27,858.00
47	21,723.00	28,493.00
48	22,221.00	29,159.00
49	22,718.00	29,827.00
50	23,241.00	30,526.00
51	23,763.00	31,226.00
52	24,312.00	31,962.00
53	24,861.00	32,697.00
54	25,436.00	33,468.00
55	26,013.00	34,240.00

56	26,617.00	35,036.00
57	27,223.00	35,831.00
58	27,858.00	36,666.00
59	28,493.00	37,502.00
60	29,159.00	38,379.00
61	29,827.00	39,256.00
62	30,526.00	40,177.00
63	31,226.00	41,097.00
64	31,962.00	42,065.00
65	32,697.00	43,032.00
66	33,468.00	44,047.00
67	34,240.00	45,062.00
68	35,036.00	46,128.00
69	35,831.00	47,194.00
70	36,666.00	48,314.00
71	37,502.00	49,433.00
72	38,379.00	50,609.00
73	39,256.00	51,784.00
74	40,177.00	53,018.00
75	41,097.00	54,252.00
76	42,065.00	55,547.00
77	43,032.00	56,844.00
78	44,047.00	58,204.00
79	45,062.00	59,565.00
80	46,128.00	60,993.00
81	47,194.00	62,422.00
82	48,314.00	63,922.00
83	49,433.00	65,422.00
84	50,609.00	66,997.00
85	51,784.00	68,572.00
86	53,018.00	70,226.00
87	54,252.00	71,880.00
88	55,547.00	73,616.00
89	56,844.00	75,352.00
90	58,204.00	77,176.00
91	59,565.00	79,000.00

92	60,993.00	80,914.00
93	62,422.00	82,828.00
94	63,922.00	84,838.00
95	65,422.00	86,849.00
96	66,997.00	88,959.00
97	68,572.00	91,070.00
98	70,226.00	93,286.00
99	71,880.00	95,503.00
100	73,616.00	97,829.00

~~B. Each grade shall have thirteen (13) salary steps.~~

SECTION 4. AMENDATORY 62 O.S. 1991, Section 7.10, as amended by Section 1, Chapter 142, O.S.L. 1992 (62 O.S. Supp. 1993, Section 7.10), is amended to read as follows:

Section 7.10 A. 1. Upon the request of a state employee, a state agency, board, or commission shall make voluntary payroll deductions for the employee to a credit union which primarily serves state employees or employees of a political subdivision of the state.

2. The governing body of any county, municipality, or school district may provide for voluntary payroll deductions to a credit union serving the employees of the county, municipality, or school district.

B. Upon the request of a state employee and pursuant to procedures established by the Administrator of the Office of Personnel Management, a state agency, board, or commission shall make payroll deductions for:

1. The payment of any insurance premiums due a private insurance organization with a minimum participation of five hundred (500) state employees for life, accident, and health insurance which is supplemental to that provided for by the state;

2. The payment of any insurance premiums due a private insurance organization or service company which is regulated by the State Insurance Commissioner and with a minimum participation of five hundred (500) state employees for legal services;

3. Premiums or payments for retirement plans with a minimum participation of five hundred (500) state employees for retirement plans which are supplemental to that provided for by the state;

4. Salary adjustment agreements included in a flexible benefits plan as authorized by the State Employees Flexible Benefits Act; and

5. Membership dues in the Oklahoma Public Employees Association or any other statewide association limited to state employee or retired state employee membership with a minimum membership of one thousand (1,000) dues-paying members.

C. The administrative costs of processing payroll deductions or administering salary adjustment agreements for insurance premiums as provided for in subsection B of this section shall be a charge of two percent (2%) of the gross annual premiums for insurance plans. The administrative costs of processing payroll deductions or administering salary adjustment agreements for payments for retirement plans as provided for in subsection B of this section shall be one percent (1%) of the gross annual payments for retirement plans. These charges shall be collected monthly from the private insurance or retirement plan organization by the Office of Personnel Management and shall be deposited to the credit of the General Revenue Fund. Provided that these costs shall not be collected from state employees or state agencies unless otherwise directed in this act.

D. Any insurance or retirement plan organization with a payroll deduction as of the date the Office of State Finance begins administering this section shall be exempt from the minimum state employee participation requirement for a period of six (6) months from said date.

E. Any statewide association granted a payroll deduction prior to the effective date of this act shall be exempt from the minimum state employee membership requirement.

F. Approval of a payroll deduction or salary adjustment agreement for any insurance organization, line of coverage or policy shall not be construed as an assumption of liability, for the term of policy or the performance of the insurance

organization, by this state, or any of its agencies, boards, commissions, institutions or any officer or employee thereof. Contracts for such insurance shall be in all respects subject to the insurance laws of this state, and shall be enforceable solely pursuant to such laws.

G. The Oklahoma Employment Security Commission is authorized to deduct from the wages or salary of its employees the employees' contribution to the Employment Security Commission Retirement Plan.

H. ~~Payroll~~ Retirement benefit deductions shall be made for premium payments for group insurance for retired members or beneficiaries of any state-supported retirement system upon proper authorization given by the member or beneficiary to the board from which the member or beneficiary is currently receiving retirement benefits.

I. Retirement benefit deductions shall be made for membership dues for any statewide association for which payroll deductions are authorized pursuant to paragraph 5 of subsection B of this section 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.

SECTION 5. 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, and the Office of Personnel Management,

shall have authority to employ or appoint attorneys to advise or

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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 6. 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 law judges, 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 7. 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~~ 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 unit to

assist agencies with human resource needs based upon the administrative capacity and resources of the various agencies;

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

7. 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. 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. Develop, in cooperation with appointing authorities, a management training program, a recruiting program, and a system of performance appraisals and assist appointing authorities in the setting of productivity goals;

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

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

13. 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~~ Section 250 et seq. 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. 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. 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;

16. 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.

SECTION 8. 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.

SECTION 9. 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 The following offices, positions, and personnel comprise the exempt unclassified 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 shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and 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, except as provided by Section 10 or 11 of this act;

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 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;

~~16.~~ 15. 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.~~ 16. 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.~~ 17. 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.~~ 18. 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.~~ 19. 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.~~ 20. 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. Deputy Director for Client Services, and
- e. Executive Secretary to Director;

~~22.~~ 21. ~~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.~~ 22. Employees of the Oklahoma Development Finance Authority;

~~24.~~ 23. Those positions so specified in the annual business plan of the Department of Commerce;

~~25.~~ 24. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

~~26.~~ 25. 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;

~~27.~~ 26. 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. Workers' Compensation Insurance Consultants,
- m. Workers' Compensation Insurance Technicians,
- n. Fraud Investigation Specialists, and
- o. Collections Attorneys;

~~28.~~ 27. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

~~29.~~ 28. 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,
- aw. Physician Assistant, and
- ax. Pharmacist;

~~30.~~ 29. 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~~ 28 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.~~ 30. 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.~~ 31. The State Bond Advisor and his employees;

~~33.~~ 32. 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.~~ 33. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

~~35.~~ 34. The officers and employees of the State Banking Department; ~~and~~

~~36.~~ 35. 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;

36. The Director of the Marketing Division of the Department of Agriculture;

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

38. Oklahoma Turnpike Authority employees occupying the following offices and positions:

- a. Administrative Officer,
- b. Comptroller,
- c. Administrative Assistant,
- d. Director of Engineering,
- e. Principal Assistant, and
- f. Executive secretary.

SECTION 10. All positions and employees of the Department, unless otherwise unclassified pursuant to Section 840.8 of Title 74 of the Oklahoma Statutes, shall become classified and subject to the provisions of the Merit System of Personnel Administration Req. No. L9739Page 24

as provided in the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes. All incumbent employees subject to this section shall be granted permanent status in the Merit System classification to the position occupied by the employee allocated by the Office of Personnel Management.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.8d of Title 74, unless there is created a duplication in numbering, reads as follows:

Appointing authorities of every state agency shall prepare a position description and a set of minimum qualifications for every executive branch position within the unclassified service. Position descriptions and a corresponding description of minimum qualifications shall be available for public inspection. The Administrator shall have audit responsibility to enforce this provision.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.13a of Title 74, unless there is created a duplication in numbering, reads as follows:

Effective July 1, 1994, all employees of the Oklahoma Aeronautics Commission 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 840.8 of Title 74 of the Oklahoma Statutes shall become classified and subject to the provisions of the Merit System of Personnel Administration. 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 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.13b of Title 74, Req. No. L9739Page 25

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

On and after July 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 840.8 of Title 74 of the Oklahoma Statutes, except the Governor's Representative, shall be in the classified service of the Merit System of Personnel Administration. Effective July 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 14. 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 schedules as appropriate to meet the needs of agencies. Each 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. Pay differentials, including on-call pay, shift pay, hazardous duty pay, and competitive area 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 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.16e 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, and improve employee morale and productivity, appointing authorities of agencies with classified employees are encouraged to consider the adoption of flextime attendance policies and alternative work schedules pursuant to Section 3 of Title 61 of the Oklahoma Statutes.

B. For purposes of this section, "flextime" means a work schedule that permits the use of alternative starting and ending times within limits set by the appointing authority and that includes a period of time 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

establish standards for such policies within the State Personnel System.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.20A of Title 74, unless there is created a duplication in numbering, reads as follows:

State positions requiring applicants to hold state or nationally recognized professional licenses shall be exempt from the Office of Personnel Management's testing and rating processes. The Administrator shall develop a list of approved licensure standards for various professions. Applicants for such positions may apply directly to the appointing authority.

The Administrator shall develop audit processes to verify the achievement of professional licensure by employees hired for state positions requiring such. The Administrator shall have the power to remove employees from state employment if falsification of professional licensure is found during an audit.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.25c of Title 74, unless there is created a duplication in numbering, reads as follows:

The Administrator of the Office of Personnel Management shall develop and publish rules and standards for defining an agency's progress toward a balanced and representative workforce.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.25d of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. REQUIREMENTS. 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 and affirmative action. 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. 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.

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 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 rule 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.

B. 1. AFFIRMATIVE ACTION REVIEW COUNCIL. 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 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 on equal employment opportunity and affirmative action required by this section for agencies. Staff for the Council shall be provided by the Office of Personnel Management.

2. MEMBERSHIP. The Affirmative Action Review Council shall consist of six (6) members, experienced in the field, theory, and application of human resources management and affirmative action,

who 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. Each individual making appointments shall give consideration to the diversity of the Council's membership when making the appointments. 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 for cause 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 section, 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. TRAVEL REIMBURSEMENT. 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. DUTIES.

- a. The Council shall review agency affirmative action plans for compliance with the standards adopted by the Administrator of the Office of Personnel Management. The Council shall reject any agency plans which it finds in noncompliance.

- b. The Council shall request the Administrator to investigate any agency that the Council believes has violated equal employment opportunity or affirmative action laws 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 direct the Administrator to act in accordance with this section to require the agency to remedy failures to comply with equal employment opportunity and affirmative action laws.
- c. 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.
- d. 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.

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

C. LEGISLATURE AND JUDICIARY. Each house of the Legislature shall prepare affirmative action plans. 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. Each house of the Legislature, the Court of Criminal Appeals, Administrator of the Workers' Compensation Court and the Administrative Director of the Courts

shall provide copies of their affirmative action plans to the Office of Personnel Management.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.25e of Title 74, unless there is created a duplication in numbering, reads as follows:

The Administrator of the Office of Personnel Management shall develop rules for the imposition of appropriate remedies for agencies that are found to have a pattern of noncompliance with affirmative action goals. Remedies shall include:

1. Requiring noncomplying appointing authorities to participate in programs for special recruiting efforts;
2. Development of training programs to enhance promotability of minorities within agencies and supervisory training in equal opportunity employment;
3. Affirmative action; and
4. Managing workplace diversity.

Remedies may also include 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. The Administrator may also require any agency in noncompliance with affirmative action remedies to appoint a full-time affirmative action officer.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.46 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Administrator of the Office of Personnel Management shall design a mentor program for outstanding state employees with executive potential. The mentor program shall be open to all state employees but shall place a special emphasis on development of women, racial minorities and the disabled as executives. A selection committee 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. Members may be removed for cause.

The selection committee may select up to five (5) candidates during a two-year period for participation in the mentor program. The selection committee shall develop a selection process for nominees. Nomination criteria may include:

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 nominate 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 of state government accepting the mentor executive.

Each of the agencies 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.

Salary and benefit costs for mentor executives shall be paid for out of the budget of the agency in which the mentor executive is officed during each phase of his or her management rotation.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.47 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The state hereby establishes the Employee Assistance Program to restore effective performance, and control turnover, absenteeism, and other costs associated with personal problems, including, but not limited to, alcohol abuse, drug abuse and emotional, marital, familial and financial problems.

B. 1. The Administrator of the Office of Personnel Management shall establish the State Employee Assistance Program within the State Personnel System to provide assistance to agencies, except institutions within The Oklahoma State System of Higher Education, in the management of state employees whose personal problems may have a negative impact on their own or others' job performance. The Program may also provide for assessment and referral assistance to state employees and their family members seeking help with personal problems.

2. Any agency may establish and maintain an employee assistance program affiliated with the State Employee Assistance Program subject to this section and rules adopted by the Administrator.

3. Supervisors are encouraged to refer employees to the State Employee Assistance Program for help with personal problems.

4. Participation in the State Employee Assistance Program shall be voluntary.

5. No provision of the State Employee Assistance Program shall limit the responsibility and authority of an appointing authority to maintain discipline or to take disciplinary measures against employees for misconduct or unacceptable performance. Participation or nonparticipation shall not excuse state employees from discipline or affect their status or opportunities for advancement.

6. Records relating to an individual's participation in the State Employee Assistance Program shall be maintained separately from regular personnel records and shall not become part of an

employee's personnel file. Unless a participant poses a threat to himself or others, records relating to an individual's participation shall be confidential and not subject to subpoena. A participant shall have a right of access to his or her own State Employee Assistance Program records.

C. 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 Office of Personnel Management 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 (9) members who shall continue to hold their current positions through June 30, 1994. Effective July 1, 1994, 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 chairman and vice-chairman 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 travel reimbursement by the employing agency for members who are state employees or appointing authorities of agencies. 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, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

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

SECTION 22. 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 law judges and other personnel as deemed necessary for the proper administration of the duties and functions of the Commission and may fix their compensation. Effective July 1, 1994, employees of the Commission shall become classified employees, except as provided in Sections 840.8 and 840.10 of this title.

SECTION 23. 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 by the Commission.

B. The appointing authority of each agency shall furnish and explain 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 and transfers.

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.

F. The Oklahoma Merit Protection Commission shall promulgate rules to establish internal agency grievance resolution procedures.

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. 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 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 841.9A 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 requirements established by the Oklahoma Merit Protection 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 extenuating or mitigating conditions. Typically, penalties range from verbal warning to discharge, with intermediate levels of a written warning, suspension or demotion. Repetition of an offense is accompanied by a generally automatic

progression to the next higher level of discipline, at least absent extenuating circumstances.

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 extenuating 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 25. 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, Section 308a of Title 75 of the Oklahoma Statutes. 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 or district court.

SECTION 26. 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.

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 27. 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 or 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.

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 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 841.25 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 all grievance hearings.

The Oklahoma Merit Protection Commission is authorized to 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 designated to the Oklahoma Merit Protection Commission Revolving Fund.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 841.26 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Merit Protection Commission is directed to establish a training and certification program for all hearing officers and administrative law judges employed by the Oklahoma Merit Protection Commission and grievance officers appointed by state agencies.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 842 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. INTAKE ASSESSMENT AND PERFORMANCE APPRAISAL TASK FORCE.

1. There is hereby created the Intake Assessment and Performance Appraisal Task Force to exist until July 1, 1996. The Task Force shall advise the Administrator of the Office of Personnel Management in developing and implementing standards for intake

assessment and performance appraisal systems required by this section.

2. The Task Force shall include seven (7) members, one of whom shall be the Administrator or his designee, two of whom shall be appointed by the Governor, two of whom shall be appointed by the Speaker of the House of Representatives, and two of whom shall be appointed by the President Pro Tempore of the Senate. Of the members appointed by the Speaker of the House of Representatives, one shall be a member of the House of Representatives. Of the members appointed by the President Pro Tempore of the Senate, one shall be a member of the State Senate. The Administrator or his designee shall serve as Chairman of the Task Force. The Task Force shall elect a Vice Chairman from among its membership. Staff for the Task Force shall be provided by the Office of Personnel Management.

3. Members of the Task Force shall receive no compensation for serving on the Task Force, but shall receive travel reimbursement as follows:

- a. legislative members of the Task Force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes from the legislative body in which they serve, and
- b. the nonlegislative members of the Task Force shall be reimbursed by the Office of Personnel Management for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

4. The Chairman shall call the first meeting of the Task Force by July 15, 1994. The Task Force shall report recommendations to the Administrator, the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by August 15, 1995.

5. A majority of the members of the Task Force 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 Task Force and every act of a majority of the members present shall be deemed the act of the Task Force.

B. REQUIREMENTS. The Task Force shall recommend to the Administrator standards for testing, rating and other assessment mechanisms for employee recruitment into and promotion within the State Personnel System. The Task Force shall also recommend standards for performance appraisal systems for agencies. Standards for both assessment and performance appraisal shall be submitted by the Administrator for promulgation pursuant to the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes. The standards for intake assessment may include but are not limited to:

1. Use of a wide array of testing methods ranging from improved tests, rankings of individual achievement records, oral interviews and simulations;

2. Creation of a method for combining and ranking written tests with individual achievement records and other valid assessment criteria;

3. Creation of alternative assessment criteria based on superior academic record or other professional achievement; and

4. Creation of tests for a broad series of similar occupations.

The standards for performance appraisal may include but are not limited to:

- a. an annual evaluation of the state employee performance of assigned duties and responsibilities, and other factors that affect individual, work group, or agency performance,
- b. an evaluation of the effectiveness of managers and supervisors in contributing to the achievement of agency affirmative action goals and equal employment practices,
- c. consideration of acquisition of additional skills and competencies relevant to agency performance,

- d. consideration of information solicited from the state employee's peers, if appropriate, and
- e. an annual evaluation of supervisors in agencies in both the classified and the unclassified service by classified employees that shall include performance evaluation information from employees of the supervisors. To the extent possible, the annual evaluation of supervisors shall maintain the anonymity of the employee and prohibit retaliation against employees. The standards for the annual evaluation of supervisors shall include, but not be limited to, employee perception of the supervisor's:
 - (1) respect for employees under their supervision,
 - (2) leadership qualities,
 - (3) ability to communicate to employees the mission of the agency and the particular agency work units under the direct or indirect supervision of the supervisor,
 - (4) success in removing organizational barriers within the supervisors' control of barriers that reduce employee effectiveness, and
 - (5) willingness to communicate with employees about ways in which work units under the direct or indirect supervision of the supervisor can improve the overall quality of those units.

C. STUDY OF PERFORMANCE APPRAISAL APPEALS. The Task Force shall study and make recommendations regarding appeal procedures on performance appraisals authorized by Section 841.16 of Title 74 of the Oklahoma Statutes and this section. The report shall be submitted to the Administrator of the Office of Personnel Management, the Executive Director of the Merit Protection Commission, the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate on or before January 1, 1995.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 842.1 of Title 74, Req. No. L9739Page 44

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

A. DELEGATION PILOT. The Administrator of the Office of Personnel Management is directed to establish a pilot program delegating a portion of the human resources function currently performed by the Office of Personnel Management for the Department of Human Services to the appointing authority of the Department of Human Services.

B. REQUIREMENTS. 1. The Administrator and the appointing authority of the Department of Human Services shall cooperate in designing systems and establishing standards and procedures for delegating to the Department of Human Services the authority to create classes and assign positions to classes. The Administrator additionally may also provide for delegating recruitment and assessment qualification functions as well as other appropriate human resources functions normally conducted by the Office of Personnel Management to appointing authorities.

2. The Administrator shall provide training, consultation, and technical support to assist appointing authorities in selecting, developing, and retaining certified personnel experts within their agencies.

3. The Administrator shall develop standards in accordance with the Administrative Procedures Act, Section 250 et seq. of Title 74 of the Oklahoma Statutes, for auditing and monitoring the personnel actions of the Department of Human Services and for the correction of errors.

The delegation pilot shall be designed so that the administration of a position classification system at the Department of Human Services shall enhance the flexibility of the agency to accomplish their mission. Audit standards shall not inhibit efficiency and flexibility in position classification.

The Administrator shall establish standards for procedures for the audit of positions and assignment of positions to classes. The Administrator shall also establish procedures to review complaints from employees that their appointing authority has assigned them duties that are inconsistent with the employees'

classification. The Department of Human Services shall continue to pay its pro rata share of administrative expenses to the Office of Personnel Management on a quarterly basis. The Office shall deposit these funds to the credit of the General Revenue Fund of the State Treasury.

After twelve (12) months of operation of the Department of Human Services human resources pilot, the Administrator shall prepare an evaluation report for the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The evaluation report shall include data pertaining to error rates and compliance history derived from audit reports, data on costs and savings associated with the pilot, a comparison of classification activity for the pilot agency compared with other state merit agencies and final recommendations on the continuation and expansion of future human resources delegation initiatives. A comment section from the appointing authority of the Department of Human Services shall be included with the evaluation report.

SECTION 32. AMENDATORY 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, 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 33. A. Effective July 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 mandatory salary increase granted state employees pursuant to Section 23, Chapter 367, O.S.L. 1992. 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 mandatory salary increase granted state employees pursuant to Section 23, Chapter 367, O.S.L. 1992, for the period between December 1, 1992, and June 30, 1993.

SECTION 34. A. Effective July 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 35. REPEALER Section 1, Chapter 171, O.S.L. 1992 (74 O.S. Supp. 1993, Section 7101), is hereby repealed.

SECTION 36. NONCODIFICATION Sections 10, 33 and 34 of this act shall not be codified in the Oklahoma Statutes.

SECTION 37. This act shall become effective July 1, 1994.

SECTION 38. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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