

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1441

By: McCorkell

COMMITTEE SUBSTITUTE

An Act relating to state personnel; creating the State Human Resources Reform Act of 1993; providing short titles; making section captions part of the act; stating purposes and legislative intent; defining terms; amending 74 O.S. 1991, Section 840.5, which relates to the Office of Personnel Management; modifying powers and duties of the Office; stating qualifications of the Administrator of the Office; modifying duties of the Administrator; amending 74 O.S. 1991, Section 841.1, which relates to the Oklahoma Merit Protection Commission; deleting obsolete language; modifying powers and duties of the Commission; amending 74 O.S. 1991, Section 841.2, which relates to the Executive Director of the Oklahoma Merit Protection Commission; stating qualifications of the Executive Director; stating duties and powers of the Commission and the Executive Director; establishing policy of management flexibility; imposing duties on appointing authorities; identifying responsibilities of state officers and employees; excluding certain persons from consideration as state employees; providing for severability upon determination of conflicts with federal requirements; requiring compliance with federal requirements; authorizing certain agreements with municipalities; providing for the payment of administrative costs and expenses; creating the Office of Personnel Management Revolving Fund; providing for deposits to and expenditures from said fund; transferring certain unobligated monies from the Certified Public Managers Revolving Fund to the Office of Personnel Management Revolving Fund; amending 74 O.S. 1991, Section 841.24, which relates to the Oklahoma Merit Protection Commission Revolving Fund; clarifying language; granting power to administer oaths, subpoena witnesses, and compel production of books and papers; providing for reimbursement of employees; clarifying statutory references; providing for the status of officers and employees of the Office of Personnel Management and of the Oklahoma Merit Protection Commission; preserving certain acts; protecting pending matters; stating effect of act on the status of employees and positions; requiring a study of and report on state government positions; identifying provisions applicable to the State Personnel System; identifying scope of the State Personnel System; stating policy and requirements applicable to equal employment opportunity, workforce diversity and affirmative action; providing for rulemaking; amending 74 O.S. 1991, Section 841.7, as amended by Section 1, Chapter 174, O.S.L. 1992 (74 O.S. Supp. 1992, Section 841.7), which relates to

communications between state employees and others; stating policy encouraging freedom of expression; deleting rulemaking requirement; modifying hearing procedures; deleting probation requirement; deleting requirement for referral for prosecution; requiring rulemaking; prohibiting discrimination; identifying prohibited acts; requiring the investigation of certain complaints; requiring rulemaking; providing for a State Employee Assistance Program and stating policy and requirements related thereto; authorizing affiliated programs; providing for a central payroll system and stating purpose and requirements related thereto; providing for rulemaking; amending Section 1, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 840.5c), which relates to the Personnel Management Information System; modifying the system and stating policy and requirements related thereto; providing for rulemaking; stating policy and requirements related to the suspension of personnel transactions; requiring compliance with the United States Fair Labor Standards Act and requiring rules related thereto; prohibiting the inspection or disclosure of certain personal information of state employees; establishing maximum salaries; prohibiting claims for amounts exceeding appropriation; establishing minimum annual salary of state employees; amending 74 O.S. 1991, Section 805.2, which relates to longevity; modifying the longevity pay plan; providing for rulemaking; providing procedures for payroll certification and errors; providing for payroll audits; providing for rulemaking; stating policy and requirements for leave programs; providing for rulemaking; stating policy and requirements for furloughs; providing for rulemaking; providing short title; stating policy and requirements for human resources development; providing for rulemaking; creating the Advisory Council on Education for Oklahoma State Government's Workforce; providing for membership, election of officers, duties and staffing; stating policy and requirements related to training and certification of personnel professionals; providing for rulemaking; stating policy and requirements related to supervisory training; providing for rulemaking; establishing the Carl Albert Public Internship Programs; stating policy and requirements related thereto; providing for rulemaking; establishing a Certified Public Manager Program; stating purpose; providing requirements related to the Program; providing for rulemaking; stating policy and requirements related to a state personnel interchange program; providing for rulemaking; providing short title; stating policy providing for adherence to certain merit principles; providing for rulemaking; authorizing the Governor to place agencies and positions under the career service; stating prohibition; identifying status of employees whose positions are placed under the career service system; providing for rulemaking; prohibiting certain activities; providing for rulemaking; providing for the delegation of personnel authority and stating requirements related thereto; providing for rulemaking; stating policy and requirements related to model human resource projects; providing for rulemaking; stating policy and requirements related to position classification, class specifications and classification of employees; providing for rulemaking; stating policy and requirements related to pay; requiring an annual

analysis of rates of pay; imposing reporting requirement; providing for rulemaking; stating policy and requirements related to recruitment, examinations, certification and appointment; providing for rulemaking; stating policy and requirements related to probationary periods; providing for rulemaking; stating policy and requirements related to recruitment plans; providing for rulemaking; stating policy and requirements related to employee performance appraisals; providing for rulemaking; stating policy and requirements related to the career executive service; providing for rulemaking; stating policy and requirements related to management of personnel policies, procedures and records; providing for rulemaking; stating policy and requirements related to corrective discipline; providing for rulemaking; stating policy and requirements related to involuntary demotion, suspension without pay, and discharge; providing for rulemaking; stating policy and requirements related to reductions-in-force and reorganization; providing for rulemaking; providing for the withdrawal of personnel authority and control; providing for rulemaking; providing short title; defining the selective service; making the selective service subject to the State Personnel System; providing exclusions; providing for the status of selective service employees; identifying offices, positions and personnel comprising the selective service; authorizing the Administrator of the Office of Personnel Management to adopt rules related to the career service; providing short title; stating policy and requirements related to dispute resolution; providing for rulemaking; stating policy and requirements related to internal agency grievance resolution; providing for rulemaking; providing appellate procedures; providing for rulemaking; providing requirements related to the appeal of the discharge, suspension or demotion of an employee; providing for rulemaking; authorizing appeals of an employee's rights of expression and appeals of discrimination and prohibited activities; providing procedures; providing for rulemaking; authorizing appeals for corrective action and providing procedures related thereto; providing for corrective action; making decisions final; providing for rulemaking; providing policy and requirements related to hearing procedure; providing for rulemaking; providing penalties; amending 74 O.S. 1991, Section 953, which relates to the purpose and duties of the Oklahoma Human Rights Commission; deleting investigatory duty of the Commission; providing for noncodification; providing for recodification; repealing 62 O.S. 1991, Sections 7.11 and 7.12, as amended by Section 11, Chapter 367, O.S.L. 1992 (62 O.S. Supp. 1992, Section 7.12), which relate to salary levels of state employees; 74 O.S. 1991, Section 284, which relates to minimum salary levels for full-time state officers and employees; 74 O.S. 1991, Sections 805.3 and 823.1, which relate to the Merit System of Personnel Administration; 74 O.S. 1991, Sections 840.1, 840.2, 840.3, 840.4, 840.5a, 840.5b, Section 2, Chapter 367, O.S.L. 1992, 840.6, 840.7, 840.7a, as amended by Section 3, Chapter 367, O.S.L. 1992, 840.7b, 840.7c, as amended by Section 1, Chapter 221, O.S.L. 1992, 840.8, as amended by Section 21, Chapter 373, O.S.L. 1992, 840.8a, 840.8b, 840.8c, 840.9, 840.10, 840.11, 840.12, 840.13, 840.14, 840.16, 840.16a, 840.16b, as amended by Section 15, Chapter 367, O.S.L. 1992, 840.16c, 840.16d, 840.17, 840.18, 840.19a, 840.20, 840.21, 840.22, 840.22A, as

amended by Section 16, Chapter 367, O.S.L. 1992, 840.23, 840.26, 840.27, 840.28, 840.29, 840.30, 840.31, Section 1, Chapter 387, O.S.L. 1992, 840.40, 840.41, 840.42, 840.43, 840.44, 840.45, 841.3, as amended by Section 5, Chapter 367, O.S.L. 1992, 841.6, Section 28, Chapter 367, O.S.L. 1992, 841.8, 841.9, as amended by Section 17, Chapter 367, O.S.L. 1992, 841.10, 841.11, 841.12, 841.13, as amended by Section 6, Chapter 367, O.S.L. 1992, 841.13A, 841.13B, 841.13C, as amended by Section 7, Chapter 367, O.S.L. 1992, 841.14, 841.15, as amended by Section 8, Chapter 367, O.S.L. 1992, 841.16, as amended by Section 18, Chapter 367, O.S.L. 1992, 841.18, 841.19, 841.19a, 841.20 and 841.23 (74 O.S. Supp. 1992, Sections 840.5d, 840.7a, 840.7c, 840.8, 840.16b, 840.22A, 840.35, 841.3, 841.6A, 841.9, 841.13, 841.13C, 841.15 and 841.16), which relate to the Oklahoma Personnel Act; 74 O.S. 1991, Section 954, which relates to discrimination in state employment; and Section 1, Chapter 171, O.S.L. 1992 (74 O.S. Supp. 1992, Section 7101), which relates to the State Employee Assistance Program; providing for codification; and providing for an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-101 of Title 74, unless there is a duplication of numbering, reads as follows:

This article shall be known and may be cited as "Article 1. Purpose; Administration and Authority Relationships".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-102 of Title 74, unless there is a duplication in numbering, reads as follows:

SHORT TITLE

Sections 850-101 through 850-609 of this title shall be known and may be cited as the "State Human Resources Reform Act of 1993". Section captions are part of the State Human Resources Reform Act of 1993.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-103 of Title 74, unless there is created a duplication in numbering, reads as follows:

PURPOSE; LEGISLATIVE INTENT

A. POLICY. The state must formalize and communicate to employees and the public an organizational culture that is rooted in a service commitment to its citizens. It is essential to the welfare of all Oklahoma citizens that state officers and employees

provide quality services to the people who are the customers of state government. All officers and employees shall work toward continuous improvement of services, analytical problem solving, and employee involvement. Continuous quality improvement shall be the job of each state officer and employee. In turn, the State must view state personnel as valued employees regardless of their line of work, treat them with dignity and respect, and reward them for their service.

B. PURPOSES. The general purposes of the State Human Resources Reform Act of 1993 are to:

1. Improve the state's ability to provide efficient and economical quality services to its citizens;
2. Establish conditions of state service that will attract officers and employees of character, integrity, courage, wisdom, dedication, and ability;
3. Establish and maintain a diverse workforce representative of the citizens it serves;
4. Provide opportunities and incentives for teamwork and leadership within the state service;
5. Provide for orderly and effective human resources management in the state service; and
6. Provide administrative flexibility balanced with adequate and reasonable protection and security for state employees.

C. LEGISLATIVE INTENT. With these purposes in mind, the Oklahoma Legislature expresses its intention to:

1. Create a State Personnel System applicable to agencies and employees in both the career and selective services of the state; and
2. Protect and preserve a career service according to the principles of merit and competence and equal employment opportunity.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-104 of Title 74, unless there is created a duplication in numbering, reads as follows:

DEFINITIONS

As used in the State Human Resources Reform Act of 1993:
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1. "Administrator" means the appointing authority of the Office of Personnel Management;
2. "Agency" means any office, department, board, commission, or institution of state government;
3. "Appointing authority" means the chief administrative officer of a state agency;
4. "Career service" means offices, positions, and employees in the state service who are subject to the provisions of the career service in Article 4 of this act and rules adopted thereunder;
5. "Career service agency" means an agency with employees in the career service;
6. "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;
7. "Class specification" means a written document that describes a class;
8. "Commission" means the Oklahoma Merit Protection Commission;
9. "Demotion" means reclassification of an employee to another class with a lower pay grade;
10. "Discharge" means a disciplinary action taken by an agency against an employee resulting in termination from employment for cause;
11. "Examination" means any technique or procedure designed to determine the qualifications, fitness, and ability of the persons examined to perform the duties and responsibilities of the class or position;
12. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;
13. "Furlough" means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave without pay;
14. "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;

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

16. "Model human resources project" means a project conducted by the Office, or under its supervision, to determine whether a specified change in human resources policies or procedures would result in improved human resources management;

17. "Office" means the Office of Personnel Management;

18. "Permanent career service employee" means a career service employee who has acquired permanent status in accordance with this act and rules adopted hereunder and who has the right to appeal involuntary demotion, suspension without pay, and discharge to the Commission;

19. "Promotion" means reclassification of an employee to another class with a higher pay grade;

20. "Reassignment" means moving an employee from a position in one class to a different position in the same class;

21. "Reclassification" means changing the classification of an employee;

22. "Regular selective service employee" means a selective service employee who is not on a temporary or other time-limited appointment;

23. "Selective service" means offices, positions, and employees in the state service who are not subject to the provisions of the career service in Article 4 of this act and rules adopted thereunder;

24. "State employee" means an elected or appointed officer or employee of the executive, judicial or legislative branch of government except members of the House of Representatives and the Senate;

25. "State service" means all state agencies and state employees in both the career and selective services; and

26. "Suspension without pay" means a disciplinary action taken by an agency against an employee to temporarily relieve the

employee of duties and responsibilities and place the employee on leave without pay for cause.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 840.5, is amended to read as follows:

Section 840.5

OFFICE OF PERSONNEL MANAGEMENT;

ADMINISTRATOR; POWERS AND DUTIES

A. OFFICE OF PERSONNEL MANAGEMENT. 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 Office of Personnel Management shall develop and administer a human resources management system for state government which is both accountable to the citizens of the State of Oklahoma and responsive to the needs of agencies as they seek to establish and maintain a quality workforce. The Office shall achieve these goals by designing human resources systems to implement state policies governing the rights, responsibilities, and authority of agencies and employees and the provisions and conditions of employment in the state service. The Office shall be both a service and regulatory organization, providing consultation, technical assistance, and training to agencies and employees, and auditing and enforcing compliance with this act and the rules and procedures adopted by the Administrator. All officers and employees of the state shall cooperate with and aid the Office in implementing this act.~~

B. ADMINISTRATOR. The Administrator shall be appointed by the Governor with the confirmation of the Senate, and serve at ~~his~~ the pleasure of the Governor. The appointing authority of the Office shall be the Administrator who shall be experienced in the field, theory, and application of human resources management. 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. 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, on-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 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.

C. DUTIES. The Administrator is charged with the effective administration of this act. All powers, necessary to that end, which are not exclusively vested by statute in the Oklahoma Merit Protection Commission or appointing authorities, are reserved to the Administrator. The Administrator shall:

- a. adopt rules, policies, and procedures necessary to implement the provisions of this act,
- b. prepare and submit an annual budget projecting the costs of administering the Office and an annual report regarding the work of the Office, and
- c. employ an attorney and other personnel as the Administrator finds necessary to carry out the duties of the Office.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 841.1, is amended to read as follows:

Section 841.1

OKLAHOMA MERIT PROTECTION COMMISSION;

EXECUTIVE DIRECTOR

A. OKLAHOMA MERIT PROTECTION COMMISSION. There is hereby created the Oklahoma Merit Protection Commission. ~~Whenever the terms "Ethics and Merit Commission" or "Special Counsel of the Ethics and Merit Commission" appear in the Oklahoma Statutes, they shall mean the Oklahoma Merit Protection Commission or the Executive Director of the Oklahoma Merit Protection Commission as may be appropriate to the context in which they appear. The Commission shall develop and administer dispute resolution and appeals systems which are both accountable to the citizens of the State of Oklahoma and responsive to the needs of agencies and employees.~~ The Commission shall achieve these goals by designing systems to implement policies governing the rights, responsibilities, and authority of agencies and employees in the state service within their jurisdiction. The Commission shall be both a service and enforcement organization, providing consultation, technical assistance, and training to agencies and employees, and auditing and enforcing compliance with this act and the rules, policies, and procedures adopted by the Commission and

the Administrator. All officers and employees of the state shall cooperate with and aid the Commission in implementing its duties under this act.

B. MEMBERSHIP. 1. The Oklahoma Merit Protection Commission shall consist of nine (9) members who shall be appointed for a term of three (3) years. The members shall be removable only for cause, as provided by law for the removal of officers not subject to impeachment. Two members of the Commission shall be appointed by the President Pro Tempore of the Senate. Two members of the Commission shall be appointed by the Speaker of the House of Representatives. Five members of the Commission shall be appointed by the Governor. No more than four of the appointments made by the Governor shall be from the same political party. ~~Of the initial appointments made to the Commission, one member appointed by the President Pro Tempore, one member appointed by the Speaker and one member appointed by the Governor shall be for a term of three (3) years; and one member appointed by the President Pro Tempore, one member appointed by the Speaker and one member appointed by the Governor shall be for a term of two (2) years. The remaining three initial appointments by the Governor shall be designated to serve a term of one (1) year. At the expiration of the initial term, each new appointee shall serve a three-year term. All initial appointments shall be made prior to July 1, 1982.~~

B. 2. Members of the Commission shall be entitled to reimbursement for expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

C. OFFICERS. The Commission shall elect a chairman, to serve a two-year term and such other officers as deemed necessary for the performance of ~~their~~ its duties. The Commission shall hold regular meetings not less than once a month and such additional meetings as called by the chairman as may be required for the proper discharge of its duties.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 841.2, is amended to read as follows:

Section 841.2

EXECUTIVE DIRECTOR

~~The appointing authority of the Oklahoma Merit Protection Commission shall be the Executive Director. The Executive Director shall be appointed by the Commission. The Commission shall appoint an Executive Director to serve at its pleasure. The Executive Director shall be experienced in the field, theory, and application of human resources management.~~ The Executive Director, with the approval of the Commission, shall select and employ such hearing examiners, employ, and compensate an attorney and other personnel as deemed as the Executive Director finds necessary for the proper administration of the duties and functions powers of the Commission and may fix their compensation.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-108 of Title 74, unless there is created a duplication in numbering, reads as follows:

OKLAHOMA MERIT PROTECTION COMMISSION;

EXECUTIVE DIRECTOR; POWERS AND DUTIES

A. DUTIES OF THE COMMISSION AND THE EXECUTIVE DIRECTOR. In addition to any other duties expressly set forth by law, the Commission and Executive Director shall:

1. Offer consultation and technical assistance concerning employee dispute resolution, grievance management, appeals, and corrective discipline to all state agencies within available resources;
2. Establish and maintain statewide alternative dispute resolution programs to provide dispute resolution services for state agencies and employees;
3. Receive and act on complaints, counsel state employees on their rights and duties, and take actions designed to obtain voluntary compliance with the provisions of this act;
4. Investigate alleged violations of the provisions of this act within its jurisdiction;
5. Establish the qualifications of persons who serve as administrative law judges, mediators, and other dispute resolution arbitrators or facilitators;

6. Prepare and submit an annual budget projecting the costs of the Commission and an annual report regarding the work of the Commission; and

7. Prepare and preserve an audio tape of all hearings conducted by the Commission and furnish transcripts upon payment of the costs of preparing the transcripts by the party requesting them.

B. POWERS. In addition to any other statutory powers, the Commission shall adopt rules necessary for the implementation of its specific duties under this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-109 of Title 74, unless there is created a duplication in numbering, reads as follows:

APPOINTING AUTHORITIES; AUTHORITY AND ACCOUNTABILITY
FOR PERSONNEL PRACTICES

A. POLICY. It is the policy of this state to provide appointing authorities the flexibility to manage their agencies to best serve the public and accomplish their individual missions, while holding them accountable for equitable, responsible, lawful, and efficient human resource management.

B. REQUIREMENTS. Subject to this act and rules adopted thereunder, each appointing authority, in addition to constitutional and statutory duties, shall:

1. Develop clear mission and goal statements to guide the agency and employee performance;

2. Promote involvement of managers and employees in the identification of ways to improve organizational effectiveness;

3. Encourage participation of employees in the development of agency personnel policies and procedures;

4. Assess agency and individual effectiveness on a regular basis to measure progress toward goals, with emphasis on productivity, quality of services, innovation, and the economical use of resources;

5. Support and implement affirmative action programs to ensure workforce diversity and equal employment opportunity;

6. Create, fill, modify, and abolish positions as necessary to accomplish the agency's mission;

7. Appoint persons to, or separate persons from, employment, discipline employees, assign their duties, fix their compensation, and designate the place or places where they shall perform their duties;

8. Provide managers with the skills and knowledge needed to manage employees effectively;

9. Plan for the succession of personnel as turnover occurs, and provide opportunities for employees to develop and advance in the state service and increase the quality of their service;

10. Actively encourage equitable, timely resolution of personnel disputes at the lowest possible level within the agency;

11. Where appropriate, delegate in writing part or all of the power of appointment, including discipline and removal; and

12. Submit an annual human resource management plan and self-evaluation report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Administrator, and the Commission. The report shall include, but not be limited to, a review of the agency's personnel policies and transactions. It shall be prepared according to State Personnel System Rules independently adopted by the Administrator after consultation with the Commission and the Director of State Finance.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-110 of Title 74, unless there is created a duplication in numbering, reads as follows:

STATE OFFICERS AND EMPLOYEES; RESPONSIBILITIES

Each state officer and employee shall have the following responsibilities:

1. Serve well the citizens of the state by devoting full time and attention to job-related matters;

2. Be faithful stewards of public funds and resources;

3. Promptly and equitably follow the provisions of this act and rules adopted hereunder;

4. Expedite handling of human resources transactions;
5. Reduce and simplify the procedures and paperwork required by this act;
6. Promote an atmosphere of teamwork;
7. Handle all job-related matters in a fair and impartial manner, free from personal prejudices;
8. Assume personal responsibility for seeking to resolve problems;
9. Seek ways to improve efficiency, productivity, and quality of service; and
10. Strive to improve professional knowledge and skills.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-111 of Title 74, unless there is created a duplication in numbering, reads as follows:

CERTAIN PERSONS NOT CONSIDERED STATE EMPLOYEES

The following offices, positions, and personnel are not subject to the provisions of this act and shall not be considered state employees except as otherwise provided by law:

1. Patient and inmate help in state institutions;
2. Employees of contractors engaged in public work for the state;
3. All employees of all public school districts; and
4. Officers and members of the Oklahoma National Guard, as such.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-112 of Title 74, unless there is created a duplication in numbering, reads as follows:

CONFLICTS WITH FEDERAL REQUIREMENTS

A. Subject to the Oklahoma Constitution, if any part of this act is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this act shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and the findings shall not affect the

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operation of the remainder of this act in its application to the agencies concerned.

B. No rule or policy shall be adopted under this act which would deprive the state of federal grants or other forms of financial assistance. The rules and policies adopted under this act shall include standards, provisions, terms, and conditions for personnel engaged in the administration of federally aided programs, which shall comply with the necessary requirements for a qualified personnel system under the standards applicable to personnel engaged in the administration of the federally aided program.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-113 of Title 74, unless there is created a duplication in numbering, reads as follows:

AGREEMENTS WITH MUNICIPALITIES TO FURNISH
SERVICES AND FACILITIES

The Administrator and the Oklahoma Merit Protection Commission may independently enter into agreements with any municipality or political subdivision of the state to furnish services and facilities to the municipality or political subdivision. Any agreement shall provide for the reimbursement to the state of the cost of the services and facilities furnished. All municipalities and political subdivisions of the state may enter into these agreements.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-114 of Title 74, unless there is created a duplication in numbering, reads as follows:

PAYMENT OF ADMINISTRATIVE COSTS AND EXPENSES

A. The Administrator shall maintain accurate records reflecting the costs of administering the Office of Personnel Management and the career service. At the close of each quarter, the Administrator shall summarize these costs, and shall bill each career service agency with a pro rata share of the administrative costs based on the relationship between the quarterly average

number of employees in the career service of the agency, and the quarterly average number of employees in the career service of all agencies.

B. The administrative expenses of the Office and costs of operating the career service shall be paid by the agencies included within the career service. Each career service agency shall include in its budget estimates its pro rata share of these costs and shall remit its share quarterly from agency funds to the Office. The Office shall deposit these funds to the credit of the General Revenue Fund of the State Treasury.

C. The Administrator shall separately categorize and estimate expenditures and budget needs for other services performed which are not appropriately charged to agencies on a pro rata basis.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-115 of Title 74, unless there is created a duplication in numbering, reads as follows:

OFFICE OF PERSONNEL MANAGEMENT REVOLVING FUND

There is hereby created in the State Treasury a revolving fund for the Office of Personnel Management to be designated the "Office of Personnel Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of Personnel Management, except for appropriated monies and monies received as payment for administrative expenses under Section 14 of this act. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Office for the purpose of paying the costs incurred in performing the duties and functions of the Office. Expenditures from the 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.

SECTION 16. On the effective date of this act, all unexpended, unencumbered or otherwise unobligated monies remaining in the Certified Public Managers Revolving Fund created pursuant to Section 840.5b of Title 74 of the Oklahoma Statutes shall be

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transferred to the credit of the Office of Personnel Management Revolving Fund created in Section 15 of this act.

SECTION 17. AMENDATORY 74 O.S. 1991, Section 841.24, is amended to read as follows:

Section 841.24 A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Merit Protection Commission, to be designated the "Oklahoma Merit Protection Commission Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies, except appropriated monies, received by the Oklahoma Merit Protection Commission. All monies accruing to the credit of said the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Merit Protection Commission for the purpose of paying the costs incurred in performing the duties and functions imposed upon the Oklahoma Merit Protection Commission by law.

B. The Commission is hereby directed to pay from the Fund the costs of transcribing the record of any proceeding hearing before the Commission, which. The record may be designated requested by an indigent respondent, if such the respondent first establishes indigent condition through execution of an in forma pauperis affidavit upon a form approved by the Commission, provided that if. If the indigent respondent has a financial recovery, the fund shall be reimbursed from said the proceeds.

C. Expenditures from said the 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.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-117 of Title 74, unless there is a duplication in numbering, reads as follows:

OATHS, SUBPOENA AND PRODUCTION OF BOOKS AND PAPERS;

REIMBURSEMENT OF EMPLOYEES

A. OATHS, SUBPOENA AND PRODUCTION OF BOOKS AND PAPERS.

Members of the Oklahoma Merit Protection Commission, the Executive Director, and the Administrator shall have power to administer oaths, subpoena witnesses, and compel the production of books and

papers pertinent to any audit, investigation, dispute resolution, or hearing authorized by this act. 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 audit, investigation or hearing shall be guilty of contempt, which upon application to the district court, may be enforced.

B. REIMBURSEMENT. Any state employee subpoenaed by the Commission, the Executive Director, or Administrator 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. The 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 the fees shall not remove the obligation which the employee has to honor the subpoena.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-118 of Title 74, unless there is created a duplication in numbering, reads as follows:

STATUTORY REFERENCES;

STATUS OF OFFICERS AND EMPLOYEES;

PRESERVATION OF CERTAIN ACTS;

PENDING MATTERS

A. STATUTORY REFERENCES. All references to the Merit System of Personnel Administration and the Merit System appearing in the Oklahoma Statutes and rules and policies adopted thereunder shall mean the Career Service System, and references to the classified service shall mean the career service. All references to the unclassified service, the exempt service and the exempt unclassified service shall mean the selective service.

B. STATUS OF OFFICERS AND EMPLOYEES. Officers and employees of the Office of Personnel Management shall be entitled to the same status, rights, and privileges as before the effective date of this act. Members of the Oklahoma Merit Protection Commission shall continue in the same status as before the effective date of
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this act. On the effective date of this act, employees of the Commission shall become career service employees, except as provided in Section 68 of this act.

C. PRESERVATION OF CERTAIN ACTS. All rules, acts, orders, determinations and decisions of the Office or the Commission pertaining to the functions and powers herein transferred and assigned to the Office or the Commission, in force at the time of the transfer, assignment, or assumption, shall continue in force and effect until duly modified or abrogated by the appropriate body.

D. PENDING MATTERS. No action or proceeding pending before the Office or Commission on the effective date of this act, or brought by or against the Office or the Commission prior to the effective date of this act, shall be affected by this act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-119 of Title 74, unless there is created a duplication in numbering, reads as follows:

EFFECT OF ACT ON STATUS OF
EMPLOYEES AND POSITIONS

On the effective date of this act, all probationary classified employees shall become career service employees and shall be entitled to the same status, rights and privileges as before the effective date of this act. On the effective date of this act, all permanent classified employees shall become permanent career service employees and shall be entitled to the same status, rights and privileges as before the effective date of this act. No probationary or permanent classified employee shall be placed in the selective service as a result of the passage of this act. Any probationary or permanent classified employee whose position may be placed in the selective service as a result of the passage of this act, shall continue to serve in the career service until the employee vacates the position in accordance with the provisions of the Career Service System and rules adopted thereunder.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-120 of Title 74,
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unless there is created a duplication in numbering, reads as follows:

STUDY OF STATE GOVERNMENT POSITIONS

The Administrator of the Office of Personnel Management shall conduct a study of the positions in state government which are in the selective service to determine which positions should be assigned to the career service or to the selective service. The study should be conducted in cooperation with the Secretaries of the Governor's Cabinet. Among the criteria that the Administrator shall utilize in formulating the report's recommendations is the mission of the agency and the degree of accountability and professional, technical, and administrative skills that the agency requires of its employees to accomplish its mission. The Administrator shall submit the report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate by September 1, 1994.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-201 of Title 74, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as "Article 2. State Personnel System".

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-202 of Title 74, unless there is created a duplication in numbering, reads as follows:

STATE PERSONNEL SYSTEM

The State Personnel System shall be governed by the provisions in this article and in Article 3 of this act and rules adopted thereunder. The State Personnel System shall apply to all agencies, positions, and personnel in both the career and selective services.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-203 of Title 74, unless there is created a duplication in numbering, reads as follows:

EQUAL EMPLOYMENT OPPORTUNITY; WORKFORCE DIVERSITY;

AFFIRMATIVE ACTION

A. POLICY. The State of Oklahoma values workforce diversity and shall establish a culture within the state service that values and respects the heritage of all of its citizens. The State of Oklahoma reaffirms its strong commitment to a policy of fair employment practices and aggressive affirmative action to guarantee equal opportunity and include participation of all persons at the highest attainable level of government employment without regard to race, gender, color, creed, religious opinion, national origin, age or disability.

B. REQUIREMENTS. 1. The appointing authority of any agency of any branch of state government shall be personally responsible and accountable for equal opportunity and affirmative action efforts and progress within the agency. The appointing authority of any state agency with two hundred or more full-time-equivalent employees shall designate a civil rights officer or coordinator to assist the agency in internal and external equal opportunity efforts and affirmative action.

2. The Administrator shall establish qualification requirements for personnel serving as agency civil rights or affirmative action officers or coordinators. 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 Section 42 of this act.

3. Appointing authorities in all branches of state government shall adopt an affirmative action plan, in accordance with standards established by the Administrator, and implement an affirmative action program to develop and maintain a balanced and representative workforce at all levels of the agency. Each appointing authority shall submit an annual affirmative action plan to the Office of Personnel Management for approval by October 1 of each year. Appointing authorities shall also submit United States Equal Employment Opportunity reports, required by the federal government, to the Office.

4. By January 1 of each year, the Administrator shall submit a status report on equal employment opportunity and affirmative action progress in state government and individual agencies to the Speaker of the House of Representatives, President Pro Tempore of the Senate, and the Governor.

5. For affirmative action purposes, and individual who identifies American Indian/Native American as his or her race or national origin, within thirty (30) days of appointment, shall verify tribal affiliation by providing a Certificate of Degree of Indian Blood from the United States Department of Interior, Bureau of Indian Affairs, or by providing the name and address of tribal officials who can verify tribal affiliation.

6. If, after notice, appropriate administrative hearing and determination, the Administrator finds than an appointing authority of any State Personnel System agency in the executive branch, excluding the Governor and the Lieutenant Governor, has failed to make significant progress toward affirmative action goals without justifiable reasons, the Administrator shall withdraw from that appointing authority and agency, any and all authority provided in Section 9 of this act or elsewhere in this act. The Administrator shall exercise such authority in a ministerial capacity for the agency including, with the assistance of the Director of State Finance, control of the agency's personal services funds. Such action shall remain in effect until the Administrator determines the appointing authority and agency have the capability of reassuming the authority that was removed. The section shall supersede any contrary provisions elsewhere in the Oklahoma Statutes.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 25. AMENDATORY 74 O.S. 1991, Section 841.7, as amended by Section 1, Chapter 174, O.S.L. 1992 (74 O.S. Supp. 1992, Section 841.7), is amended to read as follows:

Section 841.7

FREEDOM OF EXPRESSION

A. POLICY. State officers and employees shall be encouraged to disclose improper governmental action. The state shall protect the rights of state officers and employees who disclose this type of information, while also protecting state officers and employees from unwarranted allegations of wrongdoing.

B. REQUIREMENTS. 1. No officer or employee of any state agency shall prohibit or take disciplinary action against employees of such agency, whether ~~subject to the provisions of the Merit System or in unclassified service in the career or the selective service,~~ for:

1. a. disclosing public information~~,~~,
2. b. reporting any violation of state or federal law, rule or policy; mismanagement; a gross waste of public funds; an abuse of authority; or a substantial and specific danger to public health or safety~~,~~,
3. c. reporting ~~such this type of~~ information without giving prior notice to the employee's supervisor or anyone else in the employee's chain of command~~,~~,
4. d. discussing the operations and functions of the agency, either specifically or generally, with the Governor, members of the Legislature or others.

B. 2. No employee who has authority to take, direct others to take, recommend or approve any personnel action shall ~~not~~ take or fail to take any personnel action with respect to any employee for filing an appeal with the Oklahoma Merit Protection Commission. This section shall not be construed as prohibiting disciplinary action of an employee who discloses information which the employee:

1. a. knows to be false~~,~~,
2. b. knowingly and willfully discloses with reckless disregard for its truth or falsity~~,~~ or
3. c. knows to be confidential ~~pursuant to~~ under law.

C. 3. Each ~~state~~ agency, department, institution, board and commission in all branches of state government, including all institutions in The Oklahoma State System of Higher Education,

shall prominently post a copy of this section of law in locations where it can reasonably be expected to come to the attention of all employees.

D. 4. As used in this section, "disciplinary action" means any direct or indirect form of discipline, any dismissal, demotion, transfer, reassignment, suspension, reprimand, admonishment, warning of possible dismissal, reduction in force, reduction in rank, reduction in status, or withholding of work.

E. 5. Any employee or any former employee aggrieved pursuant to this section may file an appeal with the Oklahoma Merit Protection Commission within thirty (30) days of the alleged disciplinary action. ~~The Oklahoma Merit Protection Commission shall promulgate rules to establish procedures for the conduct of investigations.~~ If, after investigation, the Executive Director determines a violation of this section may have occurred, the Executive Director shall appoint ~~a hearing examiner an administrative law judge to hear the case or refer the case to an alternative dispute resolution procedure as provided for in~~ Section ~~841.15~~ 77 of this title ~~act~~.

F. 6. If, after ~~the~~ a hearing, it is determined that a violation has occurred, the Commission or ~~hearing examiner administrative law judge~~ shall order corrective action pursuant to Section ~~841.15 of this title~~ 75 of this act. Such corrective action shall include, but not be limited to, suspension without pay, demotion or discharge. ~~Any employee found to have violated this section of law, in addition to being suspended or demoted, shall be placed on probation for six (6) months. Such probation shall commence on the date of the final decision filed by the Commission. Probation for the purpose of this section shall mean: Any employee who is determined to have violated the Oklahoma Personnel Act, Section 840.1 et seq. of this title, while serving said probation shall forfeit his position for one (1) year.~~

7. Any employee, supervisor or appointing authority of any state agency, whether ~~subject to the provisions of the Merit System of Personnel Administration or in unclassified service in the career or the selective service~~, who knowingly and willfully

violates the provisions of this section shall forfeit his position and be ineligible for appointment to or employment in a position in state service for a period of at least one (1) year and no more than five (5) years, and the Merit Protection Commission shall also refer the matter to the local district attorney for action pursuant to Section 841.23 of this title. The decision of the Commission 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.

C. RULEMAKING. The Commission shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-205 of Title 74, unless there is created a duplication in numbering, reads as follows:

PROHIBITED DISCRIMINATION

A. GENERAL PROHIBITION. No person in the state service shall be appointed to or demoted or dismissed from any position in the state service, or in any way favored, harassed, or discriminated against with respect to employment in the state service because of religious opinions or affiliations, race, creed, gender, age, color or national origin, ancestry, or by reason of any disability so long as the disability does not render the employee unable, even with reasonable accommodation, to do the work for which he or she is employed.

B. PROHIBITED EMPLOYMENT DISCRIMINATION. Further, no agency, official, employee, or representative of the State of Oklahoma shall, because of any reason listed in subsection A of this section, discharge or refuse to employ any person, otherwise qualified; discriminate on this basis in regard to tenure, terms, or conditions of employment; deny promotion or increase in compensation solely on this basis; publish an offer of employment based on this type of discrimination; adopt or enforce any rule or employment policy which so discriminates as to any employee; or

discriminate in the selection of personnel for training solely on this basis.

C. PROHIBITED ACTS. No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or as a result of any appointment, proposed appointment, promotion or proposed promotion to or any advantage in, a position in the career or selective service.

D. COMPLAINTS. The Oklahoma Merit Protection Commission shall investigate, upon its own initiative, upon complaint filed by any aggrieved person, or upon complaint filed by the Human Rights Commission, any violation of this section and enforce compliance with the same, both in the career and the selective services. The Human Rights Commission shall refer any such complaints filed with it by a state employee to the Oklahoma Merit Protection Commission.

E. RULEMAKING. The Commission shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-206 of Title 74, unless there is created a duplication in numbering, reads as follows:

EMPLOYEE ASSISTANCE PROGRAM

A. POLICY. State government is legitimately concerned with personal problems of employees that interfere with job performance. Therefore, the state shall establish a state employee assistance program to help restore effective performance, and control turnover, absenteeism, and other costs associated with personal problems.

B. REQUIREMENTS. 1. The Administrator shall establish a State Employee Assistance Program to provide assistance to agencies, except institutions within The Oklahoma State System of Higher Education, in the management of 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. Participation in the State Employee Assistance Program shall be voluntary.

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

5. 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. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-207 of Title 74, unless there is created a duplication in numbering, reads as follows:

CENTRAL PAYROLL SYSTEM

A. PURPOSE. The Administrator shall establish and maintain a central payroll system for all state employees.

B. REQUIREMENTS. All agencies, excluding institutions within The Oklahoma State System of Higher Education, shall use the central payroll system administered by the Office of Personnel

Management. Institutions within The Oklahoma State System of Higher Education have the option of using the central payroll system.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 29. AMENDATORY Section 1, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 840.5c), is amended to read as follows:

Section 840.5c MANAGEMENT OF COSTS OF HUMAN RESOURCES

A. POLICY. State government cannot speculate about the costs and deployment of its human resources. Elected officials must have access to information about the state workforce in order to make decisions in the best interests of the public.

B. REQUIREMENTS. 1. 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, 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. an automated human resources system to facilitate processing of transactions that are consistent with this act and rules adopted thereunder. It shall include information on state positions and personnel that provides various management reports designed to facilitate decision making within agencies and promotes the efficient use of human resources. The system shall~~

include information on both the career and selective services, but shall not require institutions within The Oklahoma State System of Higher Education to participate.

2. The Administrator shall establish requirements for career and selective service agencies to use in reporting transactions regarding positions and personnel.

3. The Personnel Management Information System system shall be implemented for include all state agencies under the Merit System career service by July 1, 1993, and for all other 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 C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-209 of Title 74, unless there is created a duplication in numbering, reads as follows:

HIRING FREEZES

A. POLICY. The Governor may implement a hiring freeze or suspend other types of personnel transactions within the state service that are normally within the discretion of appointing authorities.

B. REQUIREMENTS. 1. During these periods, no audits of career positions or reallocation of selective service positions shall be initiated or conducted, except at the direction of the Governor or at the request of an employee who files a classification complaint.

2. The provisions of this section shall not suspend the responsibility of any agency to ensure that the duties and responsibilities assigned to a career employee are consistent with the current class of the employee.

3. All appointing authorities shall assist and support efforts to avoid more serious measures such as reductions-in-force and furloughs.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-210 of Title 74, unless there is created a duplication in numbering, reads as follows:

UNITED STATES FAIR LABOR STANDARDS ACT COMPLIANCE

Appointing authorities shall be responsible for complying with the United States Fair Labor Standards Act. The Administrator of the Office of Personnel Management shall adopt State Personnel System Rules necessary to facilitate implementation of standards for compliance with that act. The rules shall not apply to institutions within The Oklahoma State System of Higher Education.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-211 of Title 74, unless there is created a duplication in numbering, reads as follows:

HOME ADDRESSES, TELEPHONE NUMBERS,

AND SOCIAL SECURITY NUMBERS OF STATE EMPLOYEE

The home addresses, home telephone numbers, and social security numbers of state employees shall not be open to public inspection or disclosure, provided that this shall not prohibit releasing such information for job-related purposes.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-212 of Title 74, unless there is created a duplication in numbering, reads as follows:

SALARIES FIXED BY STATUTE ARE MAXIMUM SALARIES;

NO CLAIM FOR EXCESS ABOVE APPROPRIATION

The amount of salary as fixed by any statute, heretofore or hereafter enacted, creating positions or fixing salaries for positions of any officer or employee of the State of Oklahoma, except as limited by Section 10 of Article XXIII of the Oklahoma Constitution, shall be and is intended by the Legislature to be the maximum salary which each of the respective officers or employees shall receive or be entitled to receive and none of the salaries, nor any part of the salary shall constitute a valid

claim against the State of Oklahoma in excess of the amount or amounts specifically appropriated therefor.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-213 of Title 74, unless there is created a duplication in numbering, reads as follows:

STATE EMPLOYEES; MINIMUM ANNUAL SALARY

Except as otherwise provided by law, any full time state employee, excluding members of boards and commissions, institutions within The Oklahoma State System of Higher Education, and elected officials, shall receive a minimum annual salary of Twelve Thousand Four Hundred Eighty-three Dollars (\$12,483.00).

SECTION 35. AMENDATORY 74 O.S. 1991, Section 805.2, is amended to read as follows:

Section 805.2 ~~A. A longevity pay plan is hereby adopted. This plan applies to all state classified, unclassified, and exempt employees, excluding members of boards and commissions, institutions under the administrative authority of the State Regents for Higher Education, employees of public school districts, and elected officials.~~

~~B. The Oklahoma Conservation Commission is hereby authorized to establish a longevity pay program for employees of the conservation districts employed under Section 1501-419 of Title 82 of the Oklahoma Statutes. Such longevity pay program shall be consistent with the longevity pay program for state employees authorized under this title and payments shall be made in a manner consistent with procedures for reimbursement to conservation districts.~~

~~C. To be eligible for longevity pay, employees must have been continuously employed in the classified or unclassified service of the state for a minimum of two (2) years in full-time status or in part-time status working more than one thousand (1,000) hours a year.~~

~~For purposes of this section, a break in service of thirty (30) calendar days or less shall not be considered an interruption of continuous service; a break in service of more than thirty (30)~~

~~calendar days shall mark an end to continuous service. The legislative session employees who have worked for two (2) years or more in part-time status and are eligible for state retirement benefits, but do not receive other longevity payments, shall be eligible and shall be considered to have been continuously employed for purposes of calculating longevity payments, notwithstanding the provisions of subsection E of this section.~~

D. (1)

LONGEVITY PAY

A. POLICY. The state's investment in the training and development of its workforce must be complemented by compensation programs designed to encourage employees to remain in the state service.

B. REQUIREMENTS. 1. The Administrator shall establish a longevity pay plan based on cumulative service to the state.

2. a. Longevity pay for the first twenty (20) years of service shall be determined pursuant to the following schedule:

Years of Service	Annual Longevity Payment
At least 2	
years but less than 4 years	\$250.00
At least 4	
years but less than 6 years	\$426.00
At least 6	
years but less than 8 years	\$626.00
At least 8	
years but less than 10 years	\$850.00
At least 10	
years but less than 12 years	\$1,062.00
At least 12	
years but less than 14 years	\$1,250.00
At least 14	
years but less than 16 years	\$1,500.00
At least 16	
years but less than 18 years	\$1,688.00
At least 18	

years but less than 20 years	\$1,900.00
At least 20 years	\$2,000.00

(2) b. For each additional two (2) years of service after the first twenty (20) years an additional Two Hundred Dollars (\$200.00) shall be added to the amount stated above for twenty (20) years of service.

c. The total amount of the annual longevity payment made to an employee by any and all state agencies in any year shall not exceed the amount shown on the table corresponding to that employee's years of service with the state. Further, no employee shall receive duplicating longevity payments for the same periods of service with any and all agencies.

E. ~~To determine years of service, cumulative periods of full-time employment or part-time employment working more than one hundred fifty (150) hours per month with the state excluding service as specified in subsection A of this section are applicable. Part-time employment, working one hundred fifty (150) hours per month or less for the state, excluding service as specified in subsection A of this section, shall be counted only if:~~

~~1. the period of employment was continuous for at least five (5) months; and~~

~~2. the person worked more than two-fifths (2/5) time.~~

~~Other employment shall not be counted as service for purposes of longevity payments. Further, no period of employment with the state, whether with one or more than one agency, shall be counted as more than full-time service.~~

F. ~~Years of service under the administrative authority of the State Regents for Higher Education or the administrative authority of the Department of Vocational and Technical Education of any employee who is now employed in a job classification which is eligible for longevity pay shall be included in years of service for purposes of determining longevity pay.~~

~~G. Years of service shall be certified through the current employing agency by the appointing authority on a form approved by the Office of Personnel Management. Said form shall be filed with the Office of Personnel Management by the current employing agency within sixty (60) calendar days before an employee becomes eligible for longevity payments and thereafter whenever the employee's anniversary date is changed.~~

~~H. Eligible employees, in full-time status or in part-time status working more than one hundred fifty (150) hours per month, shall receive one (1) lump-sum annual payment, in the amount provided on the preceding schedule, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. Eligible part-time employees who work one hundred fifty (150) hours per month or less shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. To receive longevity pay an employee must be in pay status on or after his or her anniversary date.~~

~~Eligible employees who would not otherwise receive annual longevity payments because their employment includes regular periods of leave without pay in excess of thirty (30) calendar days shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during:~~

~~1. the month of August if the employee is in pay status on July 1; or~~

~~2. during the month following the employee's first return to duty that fiscal year if the employee is not in pay status on July 1.~~

~~Employees terminated as a result of a reduction in force or retiring from state employment shall receive upon said termination or retirement the proportionate share of any longevity payment which may have accrued as of the date of termination or retirement. Provided further that, the proportionate share of any longevity payment which may have accrued as of the date of death of an employee shall be made to the surviving spouse of the~~

~~employee or if there is no surviving spouse to the estate of the employee.~~

~~I. Periods of leave without pay taken in accordance with Section 840.7b of this title shall be counted as service. Other periods of nonpaid leave status in excess of thirty (30) calendar days shall not mark a break in service; however, they shall:~~

~~1. not be used in calculating total months of service for longevity pay purposes; and~~

~~2. extend the anniversary date for longevity pay by the total period of time on nonpaid leave status except as provided in subsection H of this section for employees whose conditions of employment include regular periods of leave without pay.~~

~~J. Employees currently receiving longevity pay who work for the judicial branch of state government or who work for the Department of Vocational and Technical Education shall not be eligible for the longevity pay plan provided for in this section.~~

~~K. A break in service with the state in excess of thirty (30) days but which does not exceed two (2) years which was caused by a reduction in force shall be treated as if it were a period of nonpaid leave status as provided for in subsection I of this section for the purpose of calculating total months of service for longevity pay. This subsection shall only apply to state employees laid off after June 30, 1982.~~

~~L. Eligible part-time employees working less than one hundred fifty (150) hours per month and other eligible employees with regular annual periods of leave without pay of more than thirty (30) calendar days will receive a prorated share of the "Annual Longevity Payment" authorized in subsection D of this section. The prorated amount of payment will be based on actual hours worked in the immediately preceding twelve (12) months.~~

~~M. An employee shall not be entitled to retroactive longevity payments as a result of amendments to this section unless specifically authorized by law.~~

~~N. The Administrator of the Office of Personnel Management is authorized to promulgate such Longevity Pay Plan Rules as he or she finds necessary to carry out the provisions of this section.~~

3. This plan shall apply to all state employees, excluding members of boards and commissions, institutions within The Oklahoma State System of Higher Education, employees of public school districts, and elected officials.

4. To be eligible for longevity pay, employees must be continuously employed in the career or selective service of the state for a minimum of two years in full-time status or in part-time status working more than one thousand (1,000) hours a year.

5. The legislative session employees who have worked for two years or more in part-time status and are eligible for state retirement benefits, but do not receive other longevity payments, shall be eligible and shall be considered to have been continuously employed for purposes of calculating longevity payments.

6. The Oklahoma Conservation Commission may establish a longevity pay program for employees of the conservation districts employed under Section 1501-419 of Title 82 of the Oklahoma Statutes. This longevity pay program shall be consistent with the longevity pay program for state employees authorized under this section and payments shall be made in a manner consistent with procedures for reimbursement to conservation districts.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-215 of Title 74, unless there is created a duplication in numbering, reads as follows:

PAYROLL CERTIFICATION AND ERRORS OF CLAIMS

A. No one shall make or approve any payment for personal services unless the payroll bears the certification of the Administrator or an authorized agent of the Administrator. Anyone who certifies a payroll shall be responsible for certifying the payments therein are consistent with the provisions of this act and rules adopted thereunder.

B. Any sum paid contrary to the provisions of this act and rules adopted thereunder may be recovered from the person who certified the payroll. The monies shall be paid into the State Treasury.

C. Any person employed under the provisions of this act, who performs a service for which he or she is not paid may bring action against the person who made the appointment to recover the agreed pay. No person shall be reimbursed by the state for any sum paid on account of the action.

D. The Administrator, for proper cause, may withhold certification from an entire payroll or from any specific item or items thereon. If the Administrator wrongfully withholds certification of the payroll voucher or account of any employee, the employee may maintain an action or proceeding in the courts to compel the Administrator to certify the payroll voucher or account.

E. The Administrator shall establish a system of payroll audits for career service agencies. The employing agency shall correct administrative errors resulting in erroneous payments for personal services in accordance with procedures established by the Administrator. Before initiating recovery of overpayments from an employee, the agency shall provide the employee with adequate notice and an opportunity to respond.

F. The Director of State Finance shall not approve any payroll claim for which the Office has filed a notification of unresolved audit exception under this section, unless:

1. The person named in the audit exception has been removed from the payroll;
2. The overpayment has been converted by the agency; or
3. The exception has been withdrawn or waived in writing by the Office of Personnel Management.

G. The provisions of this section shall not apply to institutions within The Oklahoma State System of Higher Education.

H. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section for career service agencies.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-216 of Title 74, unless there is created a duplication in numbering, reads as follows:

LEAVE

A. POLICY. State leave policies shall provide appointed state employees adequate time away from work to ensure the state can recruit and retain a healthy and productive workforce. No person chosen by election or appointment to fill an elective office shall be subject to any leave rule or eligible for accrual of any leave benefits. Institutions within The Oklahoma State System of Higher Education shall not be subject to this section.

B. REQUIREMENTS. The Administrator shall establish various types of leave programs for employees. Such programs shall include, but not be limited to, the types of leave identified in this subsection. The Administrator shall establish policies, conditions and procedures for these and other types of leave as appropriate.

1. ANNUAL AND SICK LEAVE.

a. Career service and regular selective service employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with this paragraph. Leave shall be accrued on a monthly basis and prorated, as appropriate, for less than full-time service.

b. Leave benefits shall be determined pursuant to the following schedule:

ACCRUAL RATES

ACCUMULATION

LIMITS

Continuous

Years of Service	Annual Leave	Sick Leave	Annual Leave
Five years or less	15 days per year	15 days per year	30 days
Over five years but not more than			

twenty years	18 days per year	15 days per year	60 days
Over twenty years	20 days per year	15 days per year	60 days

c. Notwithstanding the provisions of subparagraph b of this paragraph, at the discretion of the appointing authority, employees may accumulate more than the maximum leave accumulation limits for annual leave; provided, however, such excess must be used within two (2) years after the employee exceeds the limit.

2. FAMILY LEAVE. A permanent career service employee or a regular selective service employee with over one year continuous service shall be eligible to take family leave because of childbirth, receiving custody of a minor child through adoption, or caring for a terminally or critically ill child or dependent adult. Family leave shall not be accrued or accumulated. Family leave may include use of other types of leave as determined by the Administrator.

3. LEAVE SHARING. A permanent career service or regular selective service employee may donate annual leave to a state employee who is eligible for and requires family leave, or who requires other sick or enforced leave which has caused or is likely to cause the employee to take leave without pay.

4. LEAVE WITHOUT PAY DUE TO WORK-RELATED ILLNESS OR INJURY. If an employee is absent because of an illness or injury arising out of and sustained in the course of his or her employment with the state, and for which a workers' compensation claim has been filed, the employing agency shall place the employee on job-related leave without pay if the employee so requests. An employee shall have the right to be returned to work in his or her original class within one year after the start of job-related leave without pay. If the employee is unable to perform the essential functions of the original class, but is qualified to perform the functions of any other class within the agency, and appointment to the other class does not constitute a promotion, the agency shall give the employee preference in filling any vacancy in the other class at the employee's request.

5. ORGANIZATIONAL LEAVE. A permanent career service employee or a regular selective service employee shall be entitled to take leave with pay, not to exceed three days a year, to attend meetings of job-related professional organizations of which that employee is a member.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-217 of Title 74, unless there is created a duplication in numbering, reads as follows:

FURLough

A. POLICY. An appointing authority may conduct a furlough when funding for the current fiscal period will be inadequate to effectively discharge the agency's responsibilities, when a temporary decline in or cessation of work activities warrants a furlough, or when it is necessary to accomplish the agency's mission efficiently. Offices and positions of the State Senate and House of Representatives shall not be subject to this section but shall be subject to any furlough plan adopted by the President Pro Tempore of the Senate or the Speaker of the House of Representatives. Further, this section shall not apply to institutions within The Oklahoma State System of Higher Education.

B. REQUIREMENTS. 1. An appointing authority may institute a furlough after certifying the reasons for it and developing an equitable and systematic plan for implementing it.

2. The Administrator shall establish requirements for agency furlough plans.

3. Furloughs conducted under this section shall not affect service credit for leave accrual, longevity payments, or retirement, and shall not affect participation in the State and Education Employees Group Insurance Program.

4. Furloughs conducted under this section shall not be appealable to the Oklahoma Merit Protection Commission.

5. If the reason for the furlough is inadequate funding, the Director of State Finance shall approve the certification. All other furloughs shall be approved by the Governor.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-301 of Title 74, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as "Article 3. Human Resources Development".

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-302 of Title 74, unless there is created a duplication in numbering, reads as follows:

HUMAN RESOURCES DEVELOPMENT

A. POLICY. In order to provide means for the development of maximum proficiency by state officers and employees in the performance of their official duties, to respond to ever-changing human resources needs, and to continually improve the quality of public service, it is necessary and desirable in the public interest that self-improvement be supplemented and extended by state-sponsored training programs. All appointing authorities are encouraged to budget not less than one percent (1%) of their total agency personal services spending limits for staff development and training.

B. REQUIREMENTS. 1. In cooperation with appointing authorities, the Administrator shall assess and monitor current and future training and educational needs of appointing authorities, managers, supervisors, and other employees. This shall include all levels and types of needs such as workforce literacy and job retraining.

2. The Administrator may develop and offer appropriate training for state officers and employees. The Administrator may

charge fees as necessary for the conduct of training programs and job-related conferences.

3. All state agencies may participate in government employee training programs established by institutions within The Oklahoma State System of Higher Education or the State Department of Vocational and Technical Education.

4. The Administrator shall establish standards that provide for agencies to provide educational stipends, leave and scholarship programs for state employees to obtain needed knowledge or skills related to the mission of the employing agency. The standards shall provide for selection of participants, agreements between the participant and the employing agency, and for the agency to refund to participants an amount not to exceed the cost of tuition and necessary books and fees.

5. Nothing in this act shall be construed to prohibit state agencies from participating at their discretion in training programs offered by private sector vendors or others.

C. RULEMAKING. The Administrator shall adopt State Personnel System rules necessary to implement the provisions of this section.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-303 of Title 74, unless there is created a duplication in numbering, reads as follows:

ADVISORY COUNCIL ON EDUCATION FOR
OKLAHOMA STATE GOVERNMENT'S WORKFORCE

A. POLICY. Institutions within The Oklahoma State System of Higher Education and the State Department of Vocational and Technical Education shall be encouraged to establish a partnership with state agencies to assure the availability of quality education for the state service into the Twenty-first Century.

B. ADVISORY COUNCIL ON EDUCATION FOR OKLAHOMA STATE GOVERNMENT'S WORKFORCE. There is hereby created the Advisory Council on Education for Oklahoma State Government's Workforce, until July 1, 1995, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the

Oklahoma Statutes. It is the purpose of the Advisory Council to foster cooperation between The Oklahoma State System of Higher Education and the State Department of Vocational and Technical Education and Oklahoma state government for the education and re-education of the professional and administrative employees in state government to foster high quality performance in state government, to improve the leadership capacity in state government, and to prepare state government for the challenges facing the public sector in the Twenty-first Century.

C. MEMBERSHIP. The Advisory Council shall consist of the Administrator, three Secretaries of the Governor's Cabinet or their designees and one state employee who is a Certified Public Manager appointed by the Governor, two persons from The Oklahoma State System of Higher Education appointed by the State Chancellor for Higher Education, two persons from the Oklahoma State Department of Vocational and Technical Education appointed by the State Superintendent of Public Instruction, one legislative staff director from the House of Representatives appointed by the Speaker of the Oklahoma House of Representatives and one legislative staff director appointed by the President Pro Tempore of the State Senate. All appointed members of the Advisory Council shall serve at the pleasure of their respective appointing authority.

D. OFFICERS. The Chair of the Advisory Council shall be the Administrator. A vice-chair shall be elected by the Advisory Council from among its membership.

E. DUTIES. The Advisory Council shall assess the existing level of cooperation between The Oklahoma State System of Higher Education and the Board of Vocational and Technical Education and state government in the training and retraining of the professional and administrative employees in state government and make any recommendations for improving the level of cooperation by July 1, 1994, in a report to the Governor, the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the Senate, the Chancellor of the State Regents for Higher Education, and the State Superintendent of Public Instruction.

The Advisory Council may monitor implementation of its recommendations, conduct further studies, and make further recommendations as it deems appropriate to accomplish its purpose.

F. STAFFING. Staffing for the Advisory Council shall be provided by the Administrator, the Chancellor of The Oklahoma State Regents for Higher Education, and the State Superintendent of Public Instruction.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-304 of Title 74, unless there is created a duplication in numbering, reads as follows:

PERSONNEL PROFESSIONALS TRAINING REQUIREMENTS

A. POLICY. Employees responsible for carrying out the human resources policies of state government play a critical role in implementing the requirements of this act. Therefore, it is the policy of this state to establish continuing training and certification requirements for all personnel professionals in the executive branch of government, excluding institutions within The Oklahoma State System of Higher Education.

B. REQUIREMENTS. 1. The Administrator shall establish standards for training and certification of personnel professionals in the state service, excluding institutions within The Oklahoma State System of Higher Education.

2. Employees appointed to professional personnel positions shall complete an initial training program within six months. Thereafter, they shall complete annual training requirements. All human resources training programs shall be in accordance with standards adopted by the Administrator.

3. 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.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-305 of Title 74, unless there is created a duplication in numbering, reads as follows:

SUPERVISORY TRAINING REQUIREMENTS

A. POLICY. State government managers and supervisors must develop the knowledge and skills necessary to establish and maintain, according to the policies of this state, a motivated and productive workforce.

B. REQUIREMENTS. 1. The Administrator shall establish standards for training programs for all levels of supervisory personnel in the state service, excluding institutions within The Oklahoma State System of Higher Education. The standards shall offer flexibility in tailoring training to meet the needs of individual agencies.

2. Employees appointed to supervisory positions shall complete an initial supervisory training program within six months after assuming the supervisory position. Thereafter, supervisors shall complete annual training requirements. All supervisory training programs shall be in accordance with standards adopted by the Administrator.

3. Each appointing authority shall ensure that all supervisory employees are notified of, and scheduled to attend, required training programs and shall make time available for employees to complete the programs.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-306 of Title 74, unless there is created a duplication in numbering, reads as follows:

CARL ALBERT PUBLIC INTERNSHIP PROGRAMS

A. POLICY. State government shall cooperate with Oklahoma's secondary and postsecondary educational systems to establish

programs that provide students with work experience and career opportunities in state government.

B. REQUIREMENTS. 1. The Carl Albert Public Internship Programs are established within the Office of Personnel Management. The programs shall consist of, but not be limited to:

- a. an Undergraduate Internship Program of less than one thousand (1,000) hours of employment for students enrolled for internship credit in a state institution of higher education and working toward an undergraduate degree. Undergraduate interns shall be employed in the selective service as persons employed to work less than one thousand (1,000) hours in any twelve-month period according to Section 68 of this act, and
- b. an Executive Fellows Program consisting of placements not to exceed two years in professional or managerial level positions for students who have completed a baccalaureate degree and at least six semester hours of graduate credit. Executive fellows shall be employed in the selective service as professional trainees according to Section 68 of this act and shall be granted the same leave benefits as regular state employees. Executive fellows who are expected to work one thousand (1,000) hours or more in any twelve-month period shall be eligible to participate in the state retirement and insurance programs as regular employees. Upon successful completion of a two-year internship in the Executive Fellows Program, a participant who has met all education, experience, and examination requirements shall be eligible for noncompetitive appointment to a position in the career service.

2. Qualified state employees may participate upon their appointing authority's approval. These state employees shall:

- a. have the right to return to their previous class at any time during the internship or upon completion of the internship, and
- b. continue to receive all the benefits they would have received in their career service positions.

3. Intern positions established according to this section shall not be included within any limitation on full-time-equivalent employee positions for any agency.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-307 of Title 74, unless there is created a duplication in numbering, reads as follows:

CERTIFIED PUBLIC MANAGER

A. PURPOSE. There is hereby created a Certified Public Manager Program within the Office of Personnel Management. The purpose of this Program shall be to improve the management capabilities of officers and employees in the state service. This section shall not apply to institutions within The Oklahoma State System of Higher Education.

B. REQUIREMENTS. The Administrator shall establish:

1. Admission and curriculum requirements for the Program; and
2. Fees sufficient for the operation of the Program. The fees for participating employees shall be nominal.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-308 of Title 74, unless there is created a duplication in numbering, reads as follows:

PERSONNEL INTERCHANGE PROGRAM

A. POLICY. State agencies shall promote methods of management that allow for individuals with valuable skills and abilities to use them more flexibly within and among agencies.

B. REQUIREMENTS. 1. The Administrator shall establish a state personnel interchange program for temporary employee assignments within and among state agencies to:

- a. better use the talent and skills of employees,
- b. effectively deploy the state's human resources, and
- c. offer growth opportunities for employees.

2. Agencies shall share personnel needed by other agencies at no cost, if it is possible. Otherwise, agencies may enter into reimbursement agreements.

3. No participating employee, by virtue of assignment, shall be considered an employee of a receiving agency for any purpose other than supervision.

4. No participating employee who is assigned to a receiving agency 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 career or selective service status.

C. RULEMAKING. The Administrator shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-401 of Title 74, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as "Article 4. Career Service System".

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-402 of Title 74, unless there is created a duplication in numbering, reads as follows:

MERIT PRINCIPLES

A. POLICY. Within the career service, it is the policy of the State of Oklahoma to follow these merit principles:

1. Recruit, select and advance state employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment;

2. Provide equitable and adequate compensation to state employees;

3. Train state employees to assure high quality performance;

4. Retain state employees on the basis of the adequacy of their performance, correct inadequate performance, and separate employees whose inadequate performance cannot be corrected;

5. Assure fair treatment of applicants and state employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This fair treatment principle includes compliance with the federal equal employment opportunity and nondiscrimination laws; and

6. Assure that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

B. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section and to establish provisions and conditions of employment in the career service.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-403 of Title 74, unless there is created a duplication in numbering, reads as follows:

PLACEMENT OF AGENCIES AND POSITIONS

UNDER THE CAREER SERVICE SYSTEM BY THE GOVERNOR

A. AUTHORIZATION. The Governor of the State of Oklahoma may place any agency of state government and the positions thereof under the Career Service System by Executive Order. The Executive

Order may exempt positions that shall remain in the selective service.

B. PROHIBITION AGAINST REMOVAL. This section shall not authorize the removal by the Governor of any agency or position of state government placed under the Career Service System.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-404 of Title 74, unless there is created a duplication in numbering, reads as follows:

STATUS OF EMPLOYEES WHOSE POSITIONS ARE
MADE SUBJECT TO THE CAREER SERVICE SYSTEM

A. POLICY. On the effective date a position is placed under the Career Service System by Executive Order or legislation, any regular selective service employee occupying the position shall be given status in the career service. Persons who are on temporary or other limited term appointments shall not be given status in the career service according to this section.

B. REQUIREMENTS. 1. Regular selective service employees who have been continuously employed by the agency for at least one year shall be given permanent status with the agency. Other regular employees of the agency shall be given probationary status.

2. Employees shall be given status in the class to which the position they occupy is assigned by the Office of Personnel Management without regard to qualifications or examinations and with no reduction in basic compensation.

3. Persons appointed to fill vacancies in the state service of any agency shall achieve probationary and permanent status in the career service only in accordance with Career Service System Rules.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules that are necessary to implement the provisions of this section.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-405 of Title 74,

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

PROHIBITED ACTIVITIES

A. USE OF OFFICIAL AUTHORITY. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the career service, or an increase in pay or other advantage in employment in any position, because of political opinion or affiliation, or for the purpose of influencing the vote or political action of any person, or for any consideration. Letters of inquiry, recommendation and reference for public employees by public officials shall not be considered official authority or influence unless the letter contains a threat, intimidation, or information known by the public official to be false.

B. AFFECTING RIGHTS OR PROSPECTS OF EMPLOYMENT. No person shall deny, deceive or obstruct any other person in his or her right to examination, eligibility, certification or appointment or furnish to any other person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the career service.

C. FALSE OR FRAUDULENT ACTS. No person shall make any false statement, certificate, score, rating or report with regard to any test, certification or appointment made under any provision of the State Human Resources Reform Act of 1993 or in any manner commit any fraud preventing the implementation of the provisions of the State Human Resources Reform Act of 1993 and rules adopted pursuant thereto.

D. RULEMAKING. The Oklahoma Merit Protection Commission shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-406 of Title 74, unless there is created a duplication in numbering, reads as follows:

DELEGATION OF PERSONNEL AUTHORITY

A. POLICY. In order to provide agencies sufficient autonomy to pursue their separate missions effectively, the Administrator shall design human resources systems and procedures to promote delegation to appointing authorities.

B. REQUIREMENTS. 1. The Administrator shall design systems and establish procedures for delegating to appointing authorities the authority to assign positions to classes and to determine if applicants are qualified for the positions they seek. The Administrator may additionally provide for delegating 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 personnel experts within their agencies.

3. The Administrator shall develop standards for the performance of delegated activities, for auditing and monitoring the actions of the employing agency, and for the correction of errors.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-407 of Title 74, unless there is created a duplication in numbering, reads as follows:

MODEL HUMAN RESOURCE PROJECTS

A. POLICY. Recognizing that new ideas require nurturing and refinement before being applied statewide, the State of Oklahoma supports the development of innovative human resources policies and practices to encourage greater productivity resulting in continuously improving customer services.

B. REQUIREMENTS. 1. The Administrator shall encourage and assist agencies in designing model human resource projects to test

and evaluate the effect of innovative policies, standards, and procedures.

2. Except as provided in this section and rules adopted thereunder, model projects shall not be limited by any lack of specific authority under this act to take the action contemplated, or by any provision of this act, or any rule adopted under this act which is inconsistent with the action. However, no project undertaken according to this section shall infringe upon or conflict with the merit principles listed in Section 48 of this act.

3. Before conducting a model project, an agency shall do all of the following:

- a. develop a plan for the project which shall include a listing of each affected law and rule,
 - b. post a copy of the proposed plan in each office where employees may be affected and provide an opportunity for affected employees to submit written comments, and
 - c. obtain approval from the Administrator, who shall consult with the Executive Director, and who shall provide the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives with a description of the plan prior to its approval by the Administrator.
4. a. The Administrator of the Office of Personnel Management shall adopt permanent rules requiring agencies to seek the participation of affected employees in designing and implementing model human resource projects authorized by this section. The Administrator shall establish minimum guidelines that agencies must meet to demonstrate proper notification of affected employees and representation of employees in negotiating model human resource projects.
- b. Rules adopted by the Administrator to implement this subsection shall include, but not be limited to:

(1) agency publication in the Oklahoma Register of the agency's intent to develop a model human resource project that shall state the goals of the proposed project, how the agency intends to solicit employee participation, and proposed time frames for development of the model human resource project, and

(2) agency response to employee participation in design of the model project as part of the plan that will be submitted to the Administrator.

c. The Administrator may disapprove or delay approval of any model human resource project plan submitted by any agency upon a finding that agency efforts to solicit participation of affected employees was not sufficient to achieve the goals of the project as established by the plan.

5. Each model project shall be approved by the Administrator for a maximum period of three years.

6. The Office of Personnel Management shall monitor and conduct periodic audits or evaluations of each project and its effect on improving public management. The Administrator may terminate a project if the Administrator determines that the project creates a substantial hardship on, or is not in the best interests of, the public, employees, or state government. The process for terminating a project is not subject to the Administrative Procedures Act and the decision of the Administrator is final.

7. At the end of a demonstration project, employees included in the project shall be given all rights they would have had if they had not been in the project. A project shall not grant any continuing right, privilege, or interest to a participating employee.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-408 of Title 74, unless there is created a duplication in numbering, reads as follows:

POSITION CLASSIFICATION; CLASS SPECIFICATIONS;

CLASSIFICATION OF EMPLOYEES

A. POLICY. The state shall pursue the use of broader classes of positions as a means for achieving greater flexibility in assigning tasks to staff, while providing job and career mobility for employees. Agencies, within budgetary limits, shall have flexibility in staffing positions and deploying staff as long as employees' work assignments are consistent with the employees' classifications.

B. REQUIREMENTS. 1. The Administrator shall develop and maintain a position classification system based on broad classes of positions. The system shall be designed to enhance the flexibility agencies require to accomplish their respective missions. It shall also permit agencies to use functional job titles for positions. Class specifications shall not constitute rules within the meaning of the Administrative Procedures Act.

2. Agencies may transfer and reassign employees and reassign the duties of employees as long as an employee's regular work assignments continue to be consistent with the employee's classification. The work assignments agencies give to career service employees on a regular and consistent basis shall be consistent with the employees' classifications. Employees shall not be considered working out of classification because of occasionally performing work of other classes. An employee shall not be entitled to a specific position or to specific duties and responsibilities.

3. The Office of Personnel Management shall establish procedures to audit positions and assign positions to classes. It shall also establish procedures to review complaints from employees that their employing agency has assigned them duties or responsibilities that are inconsistent with the employees' classification. This procedure shall be informal and not subject

to Article II of the Administrative Procedures Act. The decision of the Administrator shall be final, enforceable, and not subject to appeal or review by the Oklahoma Merit Protection Commission or a district court.

4. Nothing in this section shall be construed as preventing agencies from reclassifying employees in accordance with this act and rules adopted thereunder.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-409 of Title 74, unless there is created a duplication in numbering, reads as follows:

PAY

A. POLICY. 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 with the state's ability to pay. To this end, 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. REQUIREMENTS. 1. The Administrator shall develop and publish Career Service System Salary Schedules as appropriate to meet the needs of agencies. Each schedule shall reflect the minimum and maximum salaries for each grade listed.

2. The Administrator shall establish and maintain a salary administration and pay system applicable to all classes of positions in the Career Service System. The Administrator shall design the system to permit delegation to appointing authorities where appropriate. The system may include but shall not be limited to:

- a. entrance rates above the minimum,
- b. pay differentials, including on-call pay, shift pay, hazardous duty pay, and competitive area pay,

- c. salaries on reclassifications, promotions, demotions, and detail to special duty,
- d. lead worker pay and coordinator pay,
- e. performance pay and incentive additive pay, and
- f. other types of pay incentives and adjustments.

3. After public hearing, the Administrator may assign and reassign pay grades to classes of positions. Assignment of grades shall not be subject to the provisions of the Administrative Procedures Act.

C. ANALYSIS OF RATES OF PAY. The Administrator shall conduct an annual 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. The analysis shall include all forms of compensation, including fringe benefits.

D. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-410 of Title 74, unless there is created a duplication in numbering, reads as follows:

RECRUITMENT, EXAMINATIONS, CERTIFICATION, AND APPOINTMENT

A. POLICY. Recruitment and selection shall be based upon the current and projected employing agency needs, taking into consideration the number and types of positions to be filled and the labor market conditions, with special emphasis on recruiting efforts to attract minorities, women, and other groups that are underrepresented in the workforce of the agency.

B. REQUIREMENTS. 1. The Administrator shall assist agencies in projecting their future human resources needs and in establishing plans to meet those needs. After consultation with employing agencies, the Administrator shall:

- a. determine the qualifications for job classes, and
- b. develop and conduct examinations as appropriate.

2. The Administrator shall establish standards and procedures for competitive and non-competitive selection procedures that are fair, objective, practical, and predictive of important elements of relevant work behavior. These standards and procedures shall be designed to assist agencies in selecting employees who can contribute to accomplishing the missions of the employing agencies. The Administrator shall adopt standards and procedures for:

- a. recruiting applicants,
- b. screening of individuals' qualifications,
- c. certifying eligibles, and
- d. employment of persons by agencies on probationary, permanent and other types of appointment as necessary.

3. The Administrator shall provide alternative hiring procedures to:

- a. attain agency affirmative action hiring goals,
- b. encourage the employment of qualified disabled veterans and other disabled persons, and
- c. attract scarce skilled labor and professionals to occupational categories or geographic areas.

4. The Administrator shall establish a procedure to review complaints from applicants. This procedure shall be informal and not subject to Article II of the Administrative Procedures Act. The decision of the Administrator shall be final, enforceable, and not subject to further appeal or review by the Oklahoma Merit Protection Commission or a district court. The Administrator may order corrective action.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-411 of Title 74, unless there is created a duplication in numbering, reads as follows:

PROBATIONARY PERIODS

A. POLICY. Appointing authorities shall make strategic use of the probationary periods for new employees to facilitate their entry and adjustment to state service, including providing appropriate orientation and training regarding key agency values and expectations, and for the separation of persons who do not meet expectations.

B. REQUIREMENTS. 1. Persons, upon initial appointment under the career service, shall serve a probationary period before obtaining permanent status. The Administrator shall establish the length of probationary periods for classes of positions. Probationary periods shall not be less than six months or more than one year. A probationary employee released during the probationary period shall not have the right to appeal. At the end of the probationary period the employee shall acquire permanent status in the career service.

2. Subject to standards and procedures established by the Administrator, agencies may require employees to serve probationary periods, not to exceed six months, after interagency transfer, reinstatement, or other reemployment action, and may require trial periods in the new class after reclassification action.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-412 of Title 74, unless there is created a duplication in numbering, reads as follows:

RECRUITMENT PLAN

A. POLICY. Appointing authorities shall develop recruitment plans that provide internal notice of opportunities within their agencies and shall consider permanent career service employees who apply. Appointing authorities may also use other sources of recruitment, including but not limited to, providing notices to and accepting applications from employees of other agencies,

persons eligible for reinstatement to the state service, and external candidates.

B. REQUIREMENTS. 1. Each appointing authority shall develop a recruitment plan for the agency in accordance with standards established by the Administrator.

2. Recruitment plans shall assure consideration of qualified permanent career service employees of the agency who apply. The plans shall require posting of jobs within an agency at least five calendar days before the agency makes an appointment.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-413 of Title 74, unless there is created a duplication in numbering, reads as follows:

EMPLOYEE PERFORMANCE APPRAISAL SYSTEM

A. POLICY. It is the policy of this state to evaluate the effectiveness of employees through annual formal performance appraisals. Appraisals shall be used to assess and improve the performance of the agency workforce.

B. REQUIREMENTS. The Administrator shall adopt a standard employee performance appraisal system for use by agencies and standards for agency developed systems. An agency may use the standard system or develop its own system, subject to approval by the Administrator.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-414 of Title 74, unless there is created a duplication in numbering, reads as follows:

CAREER EXECUTIVE SERVICE

A. POLICY. It shall be the policy of this state to provide a career executive service to identify, attract and retain qualified

and diverse senior level candidates; provide career service employees a broad opportunity for selective service appointment; and provide for the mobility of these employees among agencies.

B. REQUIREMENTS. 1. The career executive service shall include permanent career service employees who voluntarily accept appointment to serve in senior level positions in the selective service of career service agencies. Employees who accept appointment to a position in the career executive service serve in that position at the pleasure of the appointing authority. The appointing authority may remove an employee from a position in the career executive service without showing cause.

2. Selection of employees for appointment to the career executive service is at the discretion of the appointing authority.

3. Any permanent career service employee not discharged for improper conduct pursuant to Section 63 of this act, upon leaving a career executive service position in an agency, shall instead of separation, have a right to return to the career service within that agency at a salary not less than the base salary earned immediately before entering the career executive service.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-415 of Title 74, unless there is created a duplication in numbering, reads as follows:

COPIES OF RULES, POLICIES, FORMS, AND PERSONNEL RECORDS

A. POLICY. Proper management of personnel policies, procedures, and records is critical to the effective management of the human resources of this state.

B. REQUIREMENTS. 1. The Administrator shall make copies of rules adopted under this act available through the Department of Central Services.

2. Appointing authorities shall establish written personnel policies and procedures. The adoption of these policies and

procedures shall not be subject to Article I of the Administrative Procedures Act, but they shall be made available to the employees they affect. Appointing authorities shall also make forms and rules adopted under this act available to the employees they affect.

3. The Administrator may establish standards for the form and substance of personnel forms and records for all agencies and for access to such forms and records.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-416 of Title 74, unless there is created a duplication in numbering, reads as follows:

CORRECTIVE DISCIPLINE

A. POLICY. Each appointing authority is responsible for developing and maintaining a productive working environment, free from avoidable disruption caused by employee misconduct. Each appointing authority shall be responsible for applying discipline when necessary that is corrective in nature, appropriate for the offense considering aggravating and mitigating circumstances, and equitable. Appointing authorities are encouraged to use prompt, positive action, such as coaching or training, to avoid more serious disciplinary actions.

B. REQUIREMENTS. 1. Each appointing authority shall establish written policies and procedures for corrective discipline of employees according to the requirements established by the Oklahoma Merit Protection Commission.

2. Corrective discipline may include, but is not limited to, oral and written reprimands, suspension without pay, demotion, and discharge.

C. RULEMAKING. The Commission shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-417 of Title 74, unless there is created a duplication in numbering, reads as follows:

INVOLUNTARY DEMOTION, SUSPENSION WITHOUT PAY, AND DISCHARGE

A. POLICY. Permanent career service employees shall have adequate and reasonable protection from involuntary demotion, suspension without pay, and discharge.

B. REQUIREMENTS. 1. An appointing authority may involuntarily demote, suspend without pay, or discharge a permanent career service employee for inefficiency, inability to perform the assigned duties, unsatisfactory performance, willful violation of this act or rules adopted by the Office of Personnel Management or the Oklahoma Merit Protection Commission, misconduct, insubordination, conduct unbecoming a public employee, or any other just cause. The action shall be in accordance with policies, procedures, and standards established by the Commission.

2. Policies, procedures, and standards established by the Commission shall include, but not be limited to, the following requirements:

- a. notice and an opportunity to respond before involuntary demotion, suspension without pay, or discharge, and
- b. notice of the time limits and procedure to use in filing an appeal with the Commission.

C. RULEMAKING. The Commission shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-418 of Title 74, unless there is created a duplication in numbering, reads as follows:

REDUCTIONS-IN-FORCE; REORGANIZATION

A. POLICY. Appointing authorities shall project workforce needs carefully and make appointments prudently to avoid overstaffing and excess levels of management. When necessary,

appointing authorities shall reorganize their agencies to carry out their mission more effectively and efficiently. An appointing authority may conduct a reduction-in-force because of inadequate funds, change in workload, lack of work, or reorganization.

B. REQUIREMENTS. 1. The Administrator shall establish standards and procedures for reductions-in-force and reorganization of agencies that result in occupied positions being abolished. The standards shall require agencies to conduct a reorganization as a reduction-in-force if a reorganization requires the involuntary separation of any permanent employee. If a reorganization does not require the involuntary separation of any permanent employee, an agency shall not be required to conduct a reduction-in-force.

2. Before an appointing authority abolishes occupied positions in an agency, an appointing authority shall develop a plan for the reorganization or reduction-in-force according to policies, procedures, and standards established by the Administrator. The appointing authority shall ensure that employees of the agency have an opportunity to review and comment on the plan before it is adopted and implemented.

3. The Administrator's standards for agency reorganization plans shall include consideration of length of service, performance, discipline, and other appropriate factors in reassigning and reclassifying employees. The standards shall not require reductions in the salaries of employees who are reclassified to a class with a lower salary grade as a result of a reorganization. Employees may not appeal involuntary reclassification or reassignment resulting from a reorganization to the Commission.

4. Before conducting a reduction-in-force for any reason, an appointing authority shall take positive action, appropriate to the circumstances, to avoid it. Should the conduct of a reduction-in-force become necessary, the appointing authority shall certify the reasons for it and the actions taken to avoid it. If the reason for the reduction-in-force is inadequate funds, the Director of State Finance shall approve the certification.

5. In a reduction-in-force, retention of employees shall be based on type of appointment and classification. Retention of permanent employees in affected classes shall be based on length of service, performance appraisals, and disciplinary record.

6. The appointing authority may limit displacement or bumping of employees at the time of a reduction-in-force if the limitation is based upon reasonable, clearly written criteria.

7. In establishing standards and procedures for reduction-in-force plans, retention of employees, and the conduct of reductions-in-force, the Administrator shall include, but is not limited to, the following provisions:

- a. alternatives to layoff, such as voluntary demotion and reassignment,
- b. recall of employees to their former status after a reduction-in-force, and
- c. priority consideration for employment with other agencies for employees who have been laid off or who are scheduled for layoff because of a reduction-in-force or abolition of a state agency.

C. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-419 of Title 74, unless there is created a duplication in numbering, reads as follows:

WITHDRAWAL OF PERSONNEL AUTHORITY AND CONTROL

A. AUTHORIZATION FOR WITHDRAWAL. If, after notice, appropriate administrative hearing, and determination, the Administrator finds that an appointing authority of any career service agency has a pattern of noncompliance with any or all provisions of this act, the Administrator shall withdraw from that appointing authority and agency, any or all authority provided in Section 9 of this act or elsewhere in this act. The Administrator shall exercise such authority in a ministerial capacity for the agency including, with the assistance of the Director of State

Finance, control of the agency's personal services funds. Such action shall remain in effect until the Administrator determines the appointing authority and the agency have the capability of reassuming the authority that was removed. This section shall supersede any contrary provisions elsewhere in the Oklahoma Statutes.

B. RULEMAKING. The Administrator shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 66. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-501 of Title 74, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as "Article 5. Selective Service".

SECTION 67. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-502 of Title 74, unless there is created a duplication in numbering, reads as follows:

SELECTIVE SERVICE; CONDITIONS OF EMPLOYMENT

A. SELECTIVE SERVICE. The selective service of the State of Oklahoma includes all offices, positions and personnel not subject to the Career Service System.

B. SELECTIVE SERVICE SUBJECT TO STATE PERSONNEL SYSTEM. Offices, positions, and personnel in the executive branch of the selective service, excluding institutions within The Oklahoma State System of Higher Education, are subject to the provisions of the State Personnel System. Except as otherwise specifically provided in this act, offices, positions, and personnel in the legislative and judicial branches of state government are not subject to this act.

C. STATUS OF SELECTIVE SERVICE EMPLOYEES. Within the executive branch of state government, appointed personnel in the selective service shall serve at the pleasure of the appointing authority. No appointing authority shall convey any right or expectation of continued employment to selective service

personnel. The appointing authority may separate a selective service employee at any time with or without cause. No provision of this act or the rules adopted thereunder shall be construed as granting any property interest in employment to any selective service employee in the executive branch. The provisions of this subsection shall apply only to officers and employees of the executive branch of state government, excluding officers and employees of institutions within The Oklahoma State System of Higher Education.

SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-503 of Title 74, unless there is created a duplication in numbering, reads as follows:

OFFICES, POSITIONS AND PERSONNEL

COMPRISING THE SELECTIVE SERVICE

A. MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL. The following offices, positions, and personnel shall be in the selective service and may not be placed under the Career Service System by Executive Order:

1. Persons chosen by popular vote or appointment to fill an elective office;
2. Members of boards and commissions, and heads of agencies, and one deputy or principal assistant and one private executive secretary for each agency;
3. All judges, elected or appointed, and their employees;
4. All officers and employees of institutions within The Oklahoma State System of Higher Education and the State Department of Vocational and Technical Education;
5. Election officials and employees;
6. Employees of the State Senate and House of Representatives; and
7. Employees of the Governor, Lieutenant Governor, State Treasurer, and the Auditor and Inspector.

B. SELECTIVE SERVICE PERSONNEL ON LIMITED TERM APPOINTMENTS. An appointing authority may appoint time-limited selective service

personnel in the following categories. These personnel may not be placed under the Career Service System by Executive Order:

1. Persons in federally funded employment training programs to help them become self-supporting;
2. Persons employed with one-time, limited-duration, federal grant funding that is not continuing. The length of the selective service employment shall not exceed the period of time for which the specific federal funding is provided;
3. Employees employed to work less than one thousand (1,000) hours in any twelve-month period;
4. Professional trainees only during the prescribed length of their course of training or extension study; and
5. Persons employed to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature, a legislative committee, or by authority of the Governor. These appointments and authorization shall terminate on the first day of the legislative session immediately following appointment, if not terminated earlier. However, nothing in this section shall prevent the reauthorization and reappointment of any person.

C. DISCRETIONARY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL. The selective service of the state may include, at the discretion of the appointing authority, the following regular offices, positions, and personnel. Persons employed under this subsection may not be placed under the Career Service System by Executive Order:

1. Licensed medical doctors, osteopathic physicians, dentists, and psychologists;
2. Certified public accountants;
3. Licensed attorneys; and
4. Licensed veterinarians.

D. OTHER SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL. The selective service shall include:

1. All agencies, positions and personnel that have not been made subject to the Career Service System by Executive Order or the Legislature. Nothing in this paragraph shall prohibit the

placement of agencies, positions, and personnel under the Career Service System; and

2. Persons filling positions exempted from the provisions of the Career Service System in an Executive Order placing an agency under the Career Service System. However, these exempted positions, together with the current incumbent employees, may be placed under the Career Service System by a superseding Executive Order.

E. ADDITIONAL SELECTIVE SERVICE POSITIONS. The Contingency Review Board, upon an appointing authority's request and the Administrator's recommendation, may authorize additional selective service positions for an agency, if there are compelling reasons for exemption from the Career Service System. Nothing in this section shall be construed as authorizing the removal of any employee from the career service.

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-504 of Title 74, unless there is created a duplication in numbering, reads as follows:

ADMINISTRATOR AUTHORIZED TO ADOPT RULES

In order to ensure the proper determination of the status of positions and personnel within career service agencies, whether career or selective service, the Administrator shall adopt rules to uniformly apply the provisions of this article within career service agencies.

SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-601 of Title 74, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as "Article 6. Dispute Resolution and Appeals".

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-602 of Title 74, unless there is created a duplication in numbering, reads as follows:

DISPUTE RESOLUTION

A. POLICY. The state shall provide a variety of innovative models to resolve disputes between agencies and employees that provide levels of dispute resolution that are appropriate to the nature of the dispute. The purpose of the dispute resolution programs shall be to provide an economical means and access to effective alternative dispute resolution services to all state agencies and employees.

B. REQUIREMENTS. 1. The Oklahoma Merit Protection Commission shall establish and maintain alternative dispute resolution programs which may be used by all state agencies and employees to resolve disputes. In establishing these programs, the Commission shall endeavor to design programs that are equitable, expeditious, informal, and easily understood.

2. The Commission may require employees and agencies to use alternative dispute resolution to resolve disputes brought before the Commission.

3. Except for hearings conducted according to Section 77 of this act, alternative dispute resolution programs established by the Commission are not subject to Article II of the Administrative Procedures Act and the decision of the Commission is final, enforceable, and not subject to further appeal or review by a district court.

C. RULEMAKING. The Commission shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-603 of Title 74, unless there is created a duplication in numbering, reads as follows:

INTERNAL AGENCY GRIEVANCE RESOLUTION

A. POLICY. Each appointing authority shall actively encourage an equitable resolution of disputes within the agency, quickly, informally, and at the lowest possible level.

B. REQUIREMENTS. 1. The Oklahoma Merit Protection Commission shall adopt a standard agency grievance procedure for permanent career service employees that encourages prompt,

informal, and equitable resolution of grievances at the lowest possible level within the employing agency. Each appointing authority shall either use this procedure or adopt another procedure subject to the approval of the Commission. The Commission shall encourage appointing authorities to develop procedures which address the specific needs of their agencies; however, all procedures shall contain the minimum requirements established by the Commission.

2. 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.

3. If an appointing authority adopts a grievance procedure different from the one established by the Commission, the agency's procedure may include a review of involuntary demotion, suspension without pay, and discharge of career service employees.

4. Complaints about the following issues must be filed directly with the Office of Personnel Management:

- a. the salary grade assigned to a job class,
- b. the assignment of a position to a class of positions,
- c. the qualifications for a class of positions, or
- d. the refusal of the Office to certify a persons' eligibility for a class.

Complaints about these issues shall not be subject to internal agency grievance procedures adopted pursuant to this section.

5. The Commission may exempt other issues from internal agency grievance procedures.

6. An appointing authority shall not discipline any employee or otherwise prejudice his or her employment for exercising his or her rights under the grievance procedure.

7. Each appointing authority shall furnish a copy of the grievance procedure to each career service employee.

C. RULEMAKING. The Commission shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 73. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-604 of Title 74, unless there is created a duplication in numbering, reads as follows:

FILING APPEALS; JURISDICTIONAL REQUIREMENTS

A. APPELLATE PROCEDURES. The Oklahoma Merit Protection Commission shall establish procedures and time limits for the filing of appeals. Upon receipt of an appeal, the Executive Director shall determine if the jurisdictional requirements have been met. If the requirements have been met, the Executive Director shall refer the appeal request to an administrative law judge for hearing or refer the appeal request to an alternative dispute resolution procedure.

B. RULEMAKING. The Commission shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 74. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-605 of Title 74, unless there is created a duplication in numbering, reads as follows:

APPEAL OF DISCHARGE, SUSPENSION OR DEMOTION OF EMPLOYEE

A. REQUIREMENTS. 1. In all hearings of appeals from involuntary demotion, suspension without pay, or discharge, the burden of proof shall rest with the appointing authority who must prove its case by a preponderance of the evidence.

2. Upon a finding that just cause existed for the demotion, suspension, or discharge, the administrative law judge shall affirm the demotion, suspension, or discharge.

3. Upon a finding that just cause did not exist for the demotion, suspension, or discharge, the administrative law judge may order the reinstatement of the employee, with or without back pay.

4. Upon a finding that just cause for disciplinary action existed, but did not justify the severity of the action taken, the administrative law judge may, in its limited discretion, reduce the penalty.

5. The administrative law judge is limited in its discretionary reduction of discharges and suspensions to consider only the following circumstances:

- a. the seriousness of the conduct as it relates to the employee's duties and responsibilities,
- b. consistency of action taken with respect to similar conduct by other employees of the agency,
- c. the previous employment record and disciplinary record of the employee, and
- d. extraordinary aggravating and mitigating circumstances.

6. The State of Oklahoma or any agency shall not be allowed to appeal to the district court unless the employee is continued on full pay in the same status of employment existing prior to suspension or discharge.

B. RULEMAKING. The Commission shall adopt Career Service System Rules necessary to implement the provisions of this section.

SECTION 75. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-606 of Title 74, unless there is created a duplication in numbering, reads as follows:

APPEALS OF AN EMPLOYEE'S RIGHTS OF EXPRESSION

AND APPEALS OF DISCRIMINATION AND PROHIBITED ACTIVITIES

A. APPEAL. Any person who believes that his or her rights under Sections 25, 26 or 51 of this act or the rules adopted thereunder have been violated may appeal to the Oklahoma Merit Protection Commission. The burden of proof shall rest with the appellant, and decisions shall be by a preponderance of the evidence.

B. PROCEDURES. 1. The Executive Director shall conduct preliminary investigation and shall prepare a report of the

investigation stating the issues and findings of fact. If it is the determination of the Executive Director that a violation of Sections 25, 26 or 51 of this act or the rules adopted thereunder may have occurred, the Executive Director shall appoint an administrative law judge to hear the case or refer the case to an alternative dispute resolution procedure.

2. If, after the hearing, it is determined a violation has occurred, the Commission or administrative law judge shall:

- a. direct the appointing authority to take the necessary corrective action, or
- b. report the finding to the appropriate authorities for further action.

3. Corrective action shall be confined to issues submitted for decision and shall be consistent with applicable laws and rules and limited to actions specifically granted to the Commission and administrative law judges in this act and shall not alter, reduce, or modify any existing right or authority as provided by statute or rule.

C. RULEMAKING. The Commission shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 76. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-607 of Title 74, unless there is created a duplication in numbering, reads as follows:

APPEALS FOR CORRECTIVE ACTION

A. APPEAL. Any state employee who believes that his or her rights under this act or the rules adopted hereunder have been violated may appeal to the Oklahoma Merit Protection Commission for corrective action.

B. PROCEDURES. Excluding the procedures set forth in Sections 54, 56, 74 and 75 of this act, the Executive Director shall conduct a preliminary investigation or direct the employing agency to conduct a preliminary investigation, and may refer the issue to an appropriate alternative dispute resolution procedure.

C. CORRECTIVE ACTION. The Executive Director or the presiding official in a dispute resolution procedure may direct the appointing authority to take corrective action if it is determined the alleged violation of this act or rules adopted hereunder did occur and the appointing authority failed to take corrective action. The corrective action ordered shall be confined to issues submitted for decision, shall be limited to that action that makes the person harmed by the violation whole as if the violation had not occurred, and shall be consistent with applicable laws and rules and limited to actions specifically granted to the Commission in this act and shall not alter, reduce, or modify any existing right or authority as provided by statute or rule.

D. FINALITY OF DECISION. Appeals filed and processed according to this section are not subject to Article II of the Administrative Procedures Act and the decision of the Commission is final, enforceable, and not subject to further appeal or review by a district court.

E. RULEMAKING. The Commission shall adopt State Personnel System Rules that are necessary to implement the provisions of this section.

SECTION 77. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-608 of Title 74, unless there is created a duplication in numbering, reads as follows:

HEARING PROCEDURE

A. POLICY. The state shall provide a system of hearings for employees that shall be prompt, fair, and equitable.

B. REQUIREMENTS. 1. The Oklahoma Merit Protection Commission shall establish policies and procedures for prehearings and hearings of appeals. The policies and procedures shall be designed to:

- a. encourage voluntary settlement among the parties, and
- b. encourage agencies and employees to represent themselves in proceedings before the Commission.

However, a party may choose to be represented by legal counsel or by any individual who qualifies as a representative according to rules of the Commission. The Commission shall not require a representative to be an attorney.

2. Prehearing conferences shall be informal and shall not be open to the public.

3. A party requesting discovery shall demonstrate a reasonable need for the information requested and an inability to obtain relevant information by any other means.

4. All hearings shall be open to the public and shall only be conducted by an administrative law judge.

5. The hearing shall be conducted in accordance with the Administrative Procedures Act, except to the extent it is inconsistent with this section, the procedures in this section shall govern.

6. The appointing authority concerned, or a designee, shall appear in person and shall present the position of the agency in the personnel action.

7. Decisions issued as a result of the policies and procedures shall be confined to the issues submitted for decision and consistent with applicable laws and rules.

8. The findings of the administrative law judge shall be final regarding all questions of law within their jurisdiction except as provided in the Administrative Procedures Act.

C. RULEMAKING. The Commission shall adopt State Personnel System Rules necessary to implement the provisions of this section.

SECTION 78. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-609 of Title 74, unless there is created a duplication in numbering, reads as follows:

PENALTIES

A. Any person who knowingly and willfully breaches any provision of the State Human Resources Reform Act of 1993 or of any rule adopted thereunder, or fails, within a reasonable time,

to implement an order of the Oklahoma Merit Protection Commission, shall be liable for an administrative violation and subject to a fine of not more than One Thousand Dollars (\$1,000.00).

B. Any person who is liable for an administrative violation under the provisions of this section, for a period of five (5) years, may be ineligible for appointment to or employment in a position in state service and, if at the time of such violation he or she is an employee of the state, may forfeit his or her position.

SECTION 79. AMENDATORY 74 O.S. 1991, Section 953, is amended to read as follows:

Section 953. It shall be the purpose of the Oklahoma Human Rights Commission to work toward removing friction, eliminating discrimination, and promoting unity and understanding among all the people of Oklahoma. In furtherance of such purpose, the Commission shall:

(a) annually choose from among its number a Chairman, who shall be the presiding officer at all meetings of the Commission and from time to time employ and fix the salaries of a Director, who shall attend and serve as secretary of all meetings of the Commission and shall be responsible for the execution and administration of the program and projects of the Commission authorized by law and adopted by the Commission in furtherance thereof, and who shall appoint other necessary part-time and full-time personnel; provided, the salaries of the Director and other personnel of the Commission shall not be more than, but may be less than, the amounts set forth in the appropriation to the agency.

(b) appoint an advisory committee or committees as it may deem advisable in furtherance of its purpose; provided, members of any such advisory committee, as such, shall receive no compensation.

(c) alone and in cooperation with other organizations and agencies, public and private, discourage discrimination and encourage fair treatment of all persons regardless of race, color, creed, national origin, age, handicap, or ancestry.

(d) foster, conduct, and contract for research projects and make studies into, and public reports on, discrimination in Oklahoma; and serve in a consultative capacity to communities, organizations, and businesses which desire the services of the Commission; prepare and disseminate to private businesses and industry its reports, findings and other pertinent facts and information that may assist business and industry in promoting full and open opportunity for all citizens.

(e) receive and investigate complaints of discrimination and recommend ways of eliminating any injustices occasioned thereby and serve as a conciliator in regard thereto, ~~and, in particular, shall receive and investigate complaints of violations of Section 954 of this title, relating to discrimination in state employment, and file its findings with the Oklahoma Merit Protection Commission and the Governor~~ and serve in an advisory capacity in regard to discrimination in state employment to the Governor and to said Commission with the right to appear before said Commission in regard thereto.

(f) have the power to hold hearings and request the appearance of witnesses; the Attorney General shall advise and represent the Commission in all legal matters and serve as the attorney therefor.

(g) make a biennial report to the Governor and to the Legislature of its activities under this act and may make recommendations concerning needed additional legislation in the field of human rights.

SECTION 80. NONCODIFICATION Section 16 of this act shall not be codified in the Oklahoma Statutes.

SECTION 81. RECODIFICATION 74 O.S. 1991, Sections 840.5, 841.1, 841.2, 841.24, 841.7, 840.5c and 805.2, as amended by Sections 5, 6, 7, 17, 25, 29 and 35 of this act, shall be recodified as Sections 850-105, 850-106, 850-107, 850-116, 850-204, 850-208 and 850-214 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 82. RECODIFICATION 74 O.S. 1991, Section 840.14a, shall be recodified as Section 500.37 of Title 74 of the

Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 83. REPEALER 62 O.S. 1991, Sections 7.11 and 7.12, as amended by Section 11, Chapter 367, O.S.L. 1992 (62 O.S. Supp. 1992, Section 7.12), 74 O.S. 1991, Sections 284, 805.2, 805.3, 823.1, 840.1, 840.2, 840.3, 840.4, 840.5a, 840.5b, 840.6, 840.7, 840.7a, as amended by Section 3, Chapter 367, O.S.L. 1992, 840.7b, 840.7c, as amended by Section 1, Chapter 221, O.S.L. 1992, 840.8, as amended by Section 21, Chapter 373, O.S.L. 1992, 840.8a, 840.8b, 840.8c, 840.9, 840.10, 840.11, 840.12, 840.13, 840.14, 840.16, 840.16a, 840.16b, as amended by Section 15, Chapter 367, O.S.L. 1992, 840.16c, 840.16d, 840.17, 840.18, 840.19a, 840.20, 840.21, 840.22, 840.22A, as amended by Section 16, Chapter 367, O.S.L. 1992, 840.23, 840.26, 840.27, 840.28, 840.29, 840.30, 840.31, 840.40, 840.41, 840.42, 840.43, 840.44, 840.45, 841.3, as amended by Section 5, Chapter 367, O.S.L. 1992, 841.6, 841.8, 841.9, as amended by Section 17, Chapter 367, O.S.L. 1992, 841.10, 841.11, 841.12, 841.13, as amended by Section 6, Chapter 367, O.S.L. 1992, 841.13A, 841.13B, 841.13C, as amended by Section 7, Chapter 367, O.S.L. 1992, 841.14, 841.15, as amended by Section 8, Chapter 367, O.S.L. 1992, 841.16, as amended by Section 18, Chapter 367, O.S.L. 1992, 841.18, 841.19, 841.19a, 841.20, 841.23 and 954 (74 O.S. Supp. 1992, Sections 840.7a, 840.7c, 840.8, 840.16b, 840.22A, 841.3, 841.9, 841.13, 841.13C, 841.15 and 841.16), Section 2, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 840.5d), Section 1, Chapter 387, O.S.L. 1992 (74 O.S. Supp. 1992, Section 840.35), Section 28, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 841.6A), and Section 1, Chapter 171, O.S.L. 1992 (74 O.S. Supp. 1992, Section 7101), are hereby repealed.

SECTION 84. This act shall become effective January 1, 1994.