

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2769

By: McCorkell of the House

and

Williams (Penny) of the  
Senate

AS INTRODUCEDAn Act relating to state personnel; creating the State Human Resources Reform Act of 1994; 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; making the Attorney General legal counsel for the Oklahoma Merit Protection Commission; imposing duties on appointing authorities; identifying goals for state employees; providing for Attorney General opinions; amending 74 O.S. 1991, Section 840.9, which relates to persons excluded from designation as state employees; modifying exclusions; amending 74 O.S. 1991, Section 840.11, which relates to potential conflicts with federal requirements; providing for severability upon determination of conflicts with federal requirements; requiring compliance with federal requirements; providing that federal requirements supercede

conflicting provisions; amending 74 O.S. 1991, Section 840.12, which relates to agreements with political subdivisions; authorizing the Administrator and the Commissioner to make certain agreements with municipalities, political subdivisions, and agencies; providing for deposit of certain revenue; 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; removing requirement that Commission pay certain costs; clarifying language; amending 74 O.S. 1991, Section 841.18, which relates to oath, subpoenas and production of books and papers; extending power to administer oaths, subpoena witnesses, and compel production of books and papers to Administrator and to certain designees; providing designation of Commission members to administer oaths; modifying scope of subpoena; modifying penalty; 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; providing short title; identifying scope of the State Personnel System; stating policy and requirements applicable to equal employment opportunity, workforce diversity and affirmative action; creating the Affirmative Action Review Council; stating purpose and duties; providing for Council composition and appointments; providing for a chair and vice-chair; providing for travel reimbursement; providing that Council shall not have rulemaking authority; providing for legislative and judicial Affirmative Action Plans; amending 74 O.S. 1991, Section 841.7, as last amended by Section 1, Chapter 84, O.S.L. 1993 (74 O.S. Supp.

1993, Section 841.7), which relates to communications between state employees and others; stating policy encouraging freedom of expression; clarifying that The Oklahoma State System of Higher Education is within scope of law; removing definition; modifying hearing procedures; deleting probation requirement; deleting requirement for referral for prosecution; prohibiting discrimination; providing for enforcement rules; providing for procedures for internal agency investigations; prohibiting certain acts; requiring the investigation of certain complaints; providing for a State Employee Assistance Program and stating policy and requirements related thereto; creating the Employee Assistance Program Advisory Council; providing for composition and appointments; providing for a chair and vice-chair; providing for travel reimbursement; providing that the Council shall not have rulemaking authority; authorizing the Legislature to utilize the services of the State Employees Assistance Program; amending Section 2, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.5d), which relates to a central payroll system; clarifying language; authorizing the legislative and judicial branches to utilize the central payroll system; amending Section 1, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.5c), which relates to the Personnel Management Information System; modifying the System to provide for an automated human resources system and stating policy and requirements related thereto; providing for certain annual reports; authorizing certain hiring freezes; prohibiting certain audits, with exception; stating certain requirements; requiring compliance with the United States Fair Labor Standards Act and regulations related thereto; providing for overtime pay for certain employees; providing for compensatory time; defining term; amending Section 28, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.6A), which relates to employee personal information; modifying prohibition against disclosure of certain personal information of state employees;

amending 74 O.S. 1991, Section 283, which relates to salaries fixed by statute; clarifying terms; amending 62 O.S. 1991, Section 7.12, as amended by Section 11, Chapter 367, O.S.L. 1992 (62 O.S. Supp. 1993, Section 7.12), which relates to minimum annual salaries of employees; clarifying terms; amending 74 O.S. 1991, Section 840.16b, as amended by Section 15, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.16b), which relates to the granting of raises; clarifying terms; removing obsolete language; amending 74 O.S. 1991, Section 805.2, which relates to longevity; clarifying language and statutory references; amending 74 O.S. 1991, Section 840.23, which relates to payroll; providing procedures for career service agency payroll certification and errors; providing for recovery of unauthorized payments; providing certain cause of action; prohibiting reimbursement from state funds for certain actions; authorizing withholding of certification; providing cause of action for wrongful withholding; providing for payroll audits; modifying complaint procedure; providing exemption; providing for flextime; defining term; providing for assistance for development of policies, work schedules and standards; stating policy and requirements for leave programs; creating the Single Leave Legislative Advisory Task Force; stating duties; requiring a report; providing for appointments and composition; providing for a chair and vice-chair; providing for travel reimbursement; providing for staffing; stating policy, procedures and requirements for furloughs; providing short title; stating policy and requirements for human resources development; requiring annual report; creating the Advisory Council on Education for Oklahoma State Government's Workforce; providing for membership, election of officers, duties and staffing; providing for travel reimbursement; providing that the Council shall not have rulemaking authority; stating policy and requirements related to training of personnel professionals; amending Section 1, Chapter 387, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.35), which relates

to supervisory training; excluding certain persons from training requirement; clarifying references; providing for approval of programs by the Administrator; establishing the Carl Albert Public Internship Programs; stating policy and requirements related thereto; authorizing participation by the Legislature and Judiciary, at their discretion; establishing a Certified Public Manager Program; stating purpose; providing scope of application; providing requirements related to the Program; providing for deposit of certain fees; establishing a Certified State Employee Program; stating purpose; providing scope of application; providing requirements; providing for policies and standards; stating policy and requirements related to a state personnel interchange program; providing short title; stating policy providing for adherence to certain merit principles; 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 standards and procedures for placement in the career service; prohibiting certain activities; providing for the delegation of personnel authority and stating requirements related thereto; stating policy, scope of authority, and requirements related to model human resource projects; stating policy and requirements related to position classification, class specifications and classification of employees; providing for transfers and reassignments; providing protest procedures; providing for audits; providing for reclassification; stating policy and requirements related to pay; requiring an annual analysis of rates of pay; imposing reporting requirement; amending 62 O.S. 1991, Section 7.11, which relates to the Merit System of Personnel Administration Salary Schedule; clarifying terms; modifying effective date of schedule; eliminating requirement that each grade have thirteen steps; amending 74 O.S. 1991, Section 840.15, which relates to veterans' preferences; clarifying terms; stating policy

and requirements related to recruitment, examinations, certification and appointment; stating policy and requirements related to probationary periods; stating policy and requirements related to recruitment plans; amending 74 O.S. 1991, Section 840.19a, which relates to positions requiring certain special knowledge and skills; clarifying language; amending 74 O.S. 1991, Section 841.16, as amended by Section 18, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.16), which relates to employee service-rating systems; clarifying language; repealing section on a certain date; providing for the development and implementation of performance appraisal systems; creating the Performance Appraisal Task Force until a certain date; stating duties; providing for appointment and composition; providing for chair and vice-chair; providing for travel reimbursement; providing for initial meeting; providing for recommendations for standards; providing that the Task Force shall not have rulemaking authority; stating policy and requirements related to the career executive service; making copies of rules available; stating policy and requirements related to management of personnel policies, procedures and records; stating policy and requirements related to discipline; stating policy and requirements related to involuntary demotion, suspension without pay, and discharge; providing for predisciplinary hearings and procedures related thereto; providing interim reorganization procedure; providing for appeals; repealing section on certain date; amending 74 O.S. 1991, Section 841.14, which relates to reduction-in-force; providing interim reduction-in-force procedures; repealing section on certain date; providing reorganization and reduction-in-force requirements and procedures under the State Human Resources Reform Act of 1994; providing for reorganization plans; providing for reduction-in-force plans; providing displacement limitations; providing for recall; providing for priority consideration for reemployment; providing for reduction-in-force when Legislature is

not in session; providing option to retain insurance program membership; providing for the withdrawal of personnel authority and control; providing for a human resource management plan and report and requirements related thereto; providing for audits; establishing the Human Resource Management Advisory Committee; providing composition and duties; providing for initial meeting; providing for chair and vice-chair; providing for travel reimbursement; providing that the Committee shall not have rulemaking authority; providing short title; defining the selective service; making the executive branch selective service subject to the State Personnel System; providing exclusions; providing for the status of selective service employees; amending 74 O.S. 1991, Section 840.8, as last amended by Section 2, Chapter 333, O.S.L. 1993 (74 O.S. Supp. 1993, Section 840.8); identifying offices, positions and personnel comprising the selective service; providing discretionary selective service; providing mandatory selective service within certain agencies; authorizing the Administrator of the Office of Personnel Management to adopt rules related to the selective service for career service agencies; providing short title; stating policy and requirements related to dispute resolution; requiring standards and procedures; providing for training and certification; providing exceptions to certain requirements; providing for payment of costs; providing for deposit of fees; stating policy and requirements related to internal agency grievance resolution; providing appellate procedures; providing requirements related to the appeal of the discharge, suspension or demotion of an employee; providing jurisdiction of presiding official; providing for appeal after administrative procedures; authorizing appeals of an employee's rights of expression and appeals of discrimination and prohibited activities; providing procedures; authorizing appeals for corrective action and providing procedures related thereto; providing for corrective action; making decisions final; providing policy and requirements

related to hearing procedure; providing for a discovery code; amending 74 O.S. 1991, Section 841.15A, which relates to attorneys fees; clarifying terms; providing penalties; amending 74 O.S. 1991, Section 953, which relates to the purpose and duties of the Oklahoma Human Rights Commission; deleting certain investigatory duty of the Oklahoma Human Rights Commission; requiring the Oklahoma Human Rights Commission to cooperate with the Oklahoma Merit Protection Commission in certain matters; authorizing Oklahoma Human Rights Commission to employ an attorney; amending 74 O.S. 1991, Section 18c, which relates to the Office of Attorney General; modifying list of agencies authorized to hire attorney; providing for quality improvement work teams and projects; authorizing performance payments; requiring certification; requiring establishment of standards, procedures and time frames; amending 61 O.S. 1991, Section 3, which relates to statutory work day; modifying scope of law; providing for work in excess of eight hours per day in certain circumstances; providing for compensation for overtime in accordance with the Fair Labor Standards Act and regulations related thereto; amending 51 O.S. 1991, Section 6, as last amended by Section 3, Chapter 331, O.S.L. 1993 (51 O.S. Supp. 1993, Section 6), which relates to dual office holding; modifying exemptions for dual office holding prohibition; amending 74 O.S. 1991, Section 840.6, which relates to administration of the Office of Personnel Management; modifying statutory references; providing for noncodification; providing for recodification; repealing 74 O.S. 1991, Section 284, which relates to minimum salary levels for full-time state officers and employees, 74 O.S. 1991, Section 805.3, which relates to the Merit System of Personnel Administration, 74 O.S. 1991, Sections 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, 840.7d, as amended by Section 2, Chapter 221, O.S.L. 1992, 840.8a, 840.8b, 840.8c,



840.10, 840.13, 840.14, 840.16, 840.16a, 840.16c, 840.16d, 840.17, 840.18, 840.19, 840.20, as amended by Section 2, Chapter 83, O.S.L. 1993, 840.21, 840.22, 840.22A, as amended by Section 16, Chapter 367, O.S.L. 1992, 840.25, 840.25a, 840.25b, 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, 841.14, as amended by Section 74 of this act, 841.15, as amended by Section 8, Chapter 367, O.S.L. 1992, 841.16, as last amended by Section 66 of this act, 841.19, 841.19a, 841.20 and 841.23 and Section 7, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Sections 840.7a, 840.7c, 840.7d, 840.20, 840.22A, 841.3, 841.9, 841.13, 841.13C and 841.15), which relate to the Oklahoma Personnel Act, Section 68 of this act, which relates to the Performance Appraisal Task Force, Section 73 of this act, which relates to interim provisions for reorganization and reduction-in-force, 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. 1993, Section 7101), which relates to the State Employee Assistance Program; providing for codification; providing effective dates; and declaring an emergency.

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 in numbering, reads as follows:

SHORT TITLE. Sections 1 through 99 of this act shall be known and may be cited as the "State Human Resources Reform Act of 1994".

Section captions are part of the State Human Resources Reform Act of 1994.

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 of numbering, reads as follows:

Sections 2 through 20 of this act shall be known and may be cited as "Article 1. Purpose; Administration and Authority Relationships".

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:

A. PURPOSES. The general purposes of the State Human Resources Reform Act of 1994 are to:

1. Improve the state's ability to provide efficient and effective services to its citizens;
2. Establish working conditions, compensation, and other conditions of state service that will attract and retain employees of character, integrity, courage, wisdom, dedication, and ability;
3. Establish and maintain a diverse workforce representative of the people the workforce 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.

B. 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.

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 1994:

1. "Administrator" means the appointing authority of the Office of Personnel Management;

2. "Affirmative action" means focused and intensified recruitment and training of women and minorities, and development of employment programs to overcome the lingering effects of past discrimination;

3. "Agency" means any office, department, board, commission or institution of the executive branch of state government;

4. "Appointing authority" means the chief administrative officer of an agency;

5. "Base pay" means the pay of an employee not including benefits, longevity pay, pay differentials, on-call pay, overtime pay, and other pay additives;

6. "Career service" means offices, positions, and employees in the state service who are subject to all of the provisions of the State Human Resources Reform Act of 1994 and State Personnel and Career Service System Rules adopted pursuant thereto;

7. "Career service agency" means an agency with employees in the career service;

8. "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;

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

10. "Commission" means the Oklahoma Merit Protection Commission;

11. "Demotion" means reclassification of an employee to another class with a lower salary grade;

12. "Discharge" means a disciplinary action taken by an agency against an employee resulting in termination from employment for cause;

13. "Enter on duty date" means the date on which an employee reports to work with an agency of the State of Oklahoma;

14. "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;

15. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;

16. "Furlough" means the involuntary temporary reduction of work hours or the nondisciplinary placement of an employee on involuntary leave without pay;

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

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

19. "Job-related organization" means a membership association that includes state employees which exists for the purpose of dealing with professional or employment concerns and which collects annual dues and conducts annual meetings;

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

21. "Lead worker" means any individual who has been assigned to participate in one or more of the following functions as a regular part of his or her work assignment with respect to co-workers:

- a. distributes and assigns work to co-workers and checks and corrects work done by co-workers, or
- b. trains co-workers in the performance of their assigned duties;

22. "Model human resources project" means a project of a career service agency conducted under the supervision of the Office to determine whether a specified change in human resources policies or procedures would result in improved human resources management;

23. "Noncompetitive appointment" means the appointment of a person to a noncompetitive class, i.e., a class of positions of unskilled or semiskilled labor or a similar class designated by the Office of Personnel Management as noncompetitive;

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

25. "Permanent career service employee" means a career service employee who has acquired permanent status in accordance with the State Human Resources Reform Act of 1994, and rules adopted pursuant thereto, and who has the right to appeal involuntary demotion, suspension without pay, and discharge to the Commission;

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

27. "Probationary period" means either six (6) months or one (1) year after the initial enter on duty date of an employee in the career service or a maximum of six (6) months after the enter on duty date of a career service employee who transfers from one agency to another or is reinstated or reemployed in the career service;

28. "Progressive discipline" means a system designed to ensure the consistency, impartiality and predictability of discipline and

the flexibility to vary penalties if justified by extenuating or mitigating conditions;

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

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

31. "Reclassification" means changing the classification of a career service employee by promotion, demotion, lateral transfer, or other action;

32. "Reduction-in-force" means the involuntary separation of an employee from employment because one or more occupied positions in an agency have been abolished. A reduction-in-force that results in the separation of a permanent career service employee from a career service agency is subject to Section 76 of this act;

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

34. "Release" means termination;

35. "Reorganization" means a formal process used to change the structure, positions, or functions of an agency;

36. "Selective service" means offices, positions, and employees in the state service who are subject to the provisions of the State Personnel System in Articles 2 and 3 and elsewhere in the State Human Resources Reform Act of 1994 and State Personnel Rules adopted pursuant thereto, but who are not subject to the provisions of the career service in Article 4 and elsewhere in the State Human Resources Reform Act of 1994 or Career Service System Rules adopted pursuant thereto;

37. "Separation" means the complete severance of relationship of employee and employing agency. Separation may be initiated by either the employee or the agency. Separation includes terminations as well as resignations and retirements;

38. "State employee" means an elected or appointed officer or employee of the executive branch of government;

39. "State service" means both the career and selective services within the executive branch of state government;

40. "Supervisor" means a career service or selective service employee in the executive branch of state government who has been assigned authority and responsibility for all of the following functions on a regular and consistent basis with respect to persons who report to the employee:

- a. assigning work and making sure work is performed correctly and in a timely manner;
- b. training such persons in the performance of their assigned duties or planning and directing training through other persons who report to the employee;
- c. reviewing work performance of such persons; and
- d. participating in determining personnel actions, such as progressive discipline, regarding such persons;

41. "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;

42. "Termination" means separation of an employee by the employing agency. Termination may be with prejudice or without prejudice. Discharge of permanent career service employees, dismissal, or release, of probationary career service employees and selective service employees, and release of career service employees during a reduction-in-force are examples of terminations;

43. "Trial period" means a maximum of six (6) months after the effective date of the promotion, demotion, or lateral transfer of a permanent career service employee during which the employee may be returned to his or her previous class without the right to appeal the return to the Oklahoma Merit Protection Commission; and

44. "Veteran" means a person who is an honorably discharged veteran as defined by Section 67.13a and Section 67.13b of Title 72 of the Oklahoma Statutes.

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

Section 840.5 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 state government and its employees 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 appointing authorities and employees and the provisions and conditions of employment in the state service within its jurisdiction. The Office shall have both service and regulatory responsibilities. The Office shall provide consultation, technical assistance, and training to appointing authorities and their employees. The Office shall have the responsibility for auditing and enforcing compliance with the State Human Resources Reform Act of 1994 and the rules, policies, and procedures adopted by the Administrator and the Commission. All appointing authorities and employees of the state shall cooperate with and aid the Office in implementing its duties pursuant to the State Human Resources Reform Act of 1994.

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. POWERS AND DUTIES. The Administrator shall:

1. Adopt rules, policies and procedures for the State Personnel System and the Career Service System that are necessary to implement the powers and duties imposed on the Administrator by law and the State Human Resources Reform Act of 1994 as it pertains to the duties and responsibilities of the Administrator and the Office, except as provided by law to the Oklahoma Merit Protection Commission and the Executive Director.

a. State Personnel Rules adopted by the Administrator shall include but not be limited to establishment, maintenance, and administration of policies, procedures, and standards for human resource functions of agencies, positions and personnel within both the selective service and the career service in the areas of affirmative action and equal employment opportunity, employee assistance, time and leave, mandatory furlough, longevity pay, human resource training and development, internship and interchange

programs, personnel management information, central payroll, and compliance with the federal Fair Labor Standards Act, 29 U.S.C. 201 et seq. and regulations pursuant thereto.

b. Career Service System Rules adopted by the Administrator shall include but not be limited to establishment, maintenance, and administration of policies, procedures, and standards for human resource functions of agencies, positions and personnel within the career service, such as recruitment, selection, probationary and other types of appointment as necessary, classification and reclassification, transfer, reassignment, compensation policies and standards, pay rates and salary administration, advancement, performance appraisal, reorganization, reductions-in-force, resignation and other separations except as within the jurisdiction of the Commission and the Executive Director, reinstatement, reemployment, and other provisions and conditions of employment in the Career Service System;

2. Cooperate with and assist the Oklahoma Merit Protection Commission and the Executive Director in effectuating their duties and in reducing or eliminating overlap of function;

3. Prepare and submit an annual budget projecting the costs of administering the Office and an annual report regarding the work of the Office;

4. Employ and compensate an attorney and other personnel as the Administrator finds necessary to carry out the duties and powers of the Office; and

5. Make all records of the Office, except those made confidential by law, available for public inspection, copying and mechanical reproduction in accordance with the Oklahoma Open Records

Act and charge a fee not to exceed twenty-five cents (\$0.25) per page as the direct costs of document copying or mechanical reproduction. All fees collected pursuant to the provisions of this paragraph shall be deposited in the Office of Personnel Management Revolving Fund.

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

Section 841.1 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 state government and its employees. The Commission shall achieve these goals by designing systems to implement policies governing the rights, responsibilities, and authority of appointing authorities and employees in the state service within the jurisdiction of the Commission. The Commission shall have both service and enforcement responsibilities. The Commission shall provide consultation, technical assistance, and training to appointing authorities and their employees. The Commission shall have the responsibility for auditing and enforcing compliance with the State Human Resources Reform Act of 1994 and the rules, policies, and procedures adopted by the Commission and the Administrator. All appointing authorities and state employees shall cooperate with and aid the Commission in implementing its duties under the State Human Resources Reform Act of 1994.

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:

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 training, consultation and technical assistance concerning employee dispute resolution, grievance management, appeals, and corrective discipline to state government within available resources;

2. Establish and maintain statewide alternative dispute resolution programs to provide dispute resolution services for appointing authorities and their employees;

3. Receive and act on complaints, advise employees on their rights and duties, and take actions designed to obtain voluntary compliance with the provisions of the State Human Resources Reform Act of 1994;

4. Investigate alleged violations of the provisions of the State Human Resources Reform Act of 1994 within the jurisdiction of the Commission;

5. Investigate alleged violations of the Career Service or State Personnel Systems pursuant to a case or controversy properly under the jurisdiction of the Commission;

6. Investigate allegations of violations of the rules of the Career Service or State Personnel Systems and prohibited activities within the career service;

7. Establish the qualifications for persons who serve as administrative law judges, mediators, and other dispute resolution arbitrators or facilitators;

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

9. 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. All fees collected pursuant to this paragraph shall be deposited in the Oklahoma Merit Protection Revolving Fund; and

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

B. POWERS. The Commission shall:

1. Adopt rules, policies and procedures for the State Personnel System and the Career Service System that are necessary to implement the powers and duties imposed on the Commission by law and the State Human Resources Reform Act of 1994 as it pertains to the duties and responsibilities of the Commission and the Executive Director,



except as provided by law to the Administrator of the Office of Personnel Management.

- a. State Personnel Rules adopted by the Commission shall include but not be limited to establishment, maintenance and administration of policies, procedures and standards for review of complaints and appeals alleging prohibited discrimination or other acts prohibited within both the career and selective services and for various alternative dispute resolution programs and hearing procedures applicable to agencies, positions and personnel in both the career and selective services and for training.
- b. Career Service System Rules adopted by the Commission shall include but not be limited to establishment, maintenance and administration of policies, procedures and standards for agencies, positions and personnel within the career service, such as internal agency grievance management, progressive discipline, levels of progressive discipline, and actions relating to the demotion, suspension and discharge of career service employees including appeals filed by permanent career service employees; and

2. Cooperate with and assist the Administrator of the Office of Personnel Management in effectuating the duties of the Administrator and the Office and in reducing or eliminating overlap of function.

C. LEGAL COUNSEL. The Attorney General shall be the legal counsel for the Oklahoma Merit Protection Commission and represent the Commission when decisions of the Commission are appealed to higher courts. The Office of the Attorney General shall be legal counsel for and represent the Merit Protection Commission notwithstanding representation by the Office of the Attorney General of any other state department, agency, board or commission in the

same or related matters pending before the Merit Protection Commission or before any court. The Attorney General shall establish internal administrative procedures to ensure that both such agencies are provided independent legal representation, and such simultaneous representation shall not, of itself, be deemed to constitute a conflict of interest. In the event the Attorney General determines an irreconcilable conflict of interest exists, to the extent he or she is unable to provide simultaneous representation to both the Merit Protection Commission and another state department, agency, board or commission the provisions of Section 18c-2 of Title 74 of the Oklahoma Statutes shall apply.

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:

DUTIES OF APPOINTING AUTHORITIES. Subject to the State Human Resources Reform Act of 1994 and rules adopted pursuant thereto, each appointing authority, in addition to and consistent with constitutional and statutory authority, duties, and limitations, shall:

1. Develop clear mission and goal statements to guide the agency and employee performance;
2. Promote involvement of supervisors and employees in the identification of ways to improve organizational effectiveness;
3. Provide for participation of state 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 efficient use of resources;
5. Aggressively 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 state employees, assign their duties, fix their compensation, and designate the place or places where they shall perform their duties;

8. Provide opportunity for supervisors to obtain 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 to the public;

10. Provide for equitable, timely resolution of personnel disputes at the lowest possible level within the agency; and

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

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:

A. RESPONSIBILITIES OF STATE EMPLOYEES. Each state employee, with the assistance of the appointing authority, shall strive to achieve the following goals:

1. Attempt to treat all citizens with dignity and respect;

2. Be faithful stewards of public funds and resources;

3. Promptly and equitably follow the provisions of the State Human Resources Reform Act of 1994 and rules adopted thereunder;

4. Reduce and simplify the procedures and paperwork related to the State Human Resources Reform Act of 1994;

5. Promote an atmosphere of teamwork;

6. Handle all job-related matters in a fair and impartial manner, free from personal prejudices;

7. Contribute to a working environment free from discrimination and harassment;

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.

B. ATTORNEY GENERAL OPINIONS. When any officer or employee of the state is in doubt as to the application of the Human Resources Reform Act of 1994 as to that officer or employee or to any employee under his or her supervision, he or she may submit to the Attorney General a full written statement of the facts and questions he or she may have. The Attorney General shall render an opinion on the questions to such person and may publish these opinions, or abstracts thereof, with the use of the name of the person advised unless such person requests otherwise in writing.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 840.9, is amended to read as follows:

Section 840.9 PERSONS NOT CONSIDERED STATE EMPLOYEES. The following offices, positions and personnel are not subject to the provisions of the State Human Resources Reform Act of 1994 and shall not be considered state employees, except as otherwise provided by law:

1. Patient and inmate help in the state ~~charitable, mental and correctional~~ institutions;

2. ~~Persons~~ Contractors and their employees engaged in public work for the state, ~~but employed by contractors when the performance of such contract is authorized by the Legislature or other competent authority;~~

3. All ~~employees~~ personnel of all public school districts; and

4. Officers and members of the Oklahoma National Guard, ~~as such~~ when acting in that capacity.

SECTION 12. AMENDATORY 74 O.S. 1991, Section 840.11, is amended to read as follows:

Section 840.11 A. CONFLICTS WITH FEDERAL REQUIREMENTS. If any part of ~~this act~~ the State Human Resources Reform Act of 1994 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~~ said act shall be inoperative solely to the extent of the conflict and with respect to the ~~agencies~~ state entities directly affected, and such findings shall not affect the operation of the remainder of ~~this~~ said act in its application to the ~~agencies~~ entities concerned.

B. ~~Notwithstanding any provisions in this act to the contrary,~~ ~~no regulation~~ RULES AND POLICIES. No rule or policy shall be adopted which would deprive the state of federal grants or other forms of financial assistance, ~~and the.~~ The rules and ~~regulations~~ policies promulgated ~~hereunder~~ pursuant to the State Human Resources Reform Act of 1994 shall include standards, provisions, terms and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified personnel system under the standards applicable to personnel engaged in the administration of federally aided programs.

C. INTENT. No provision of the State Human Resources Reform Act of 1994 is intended to conflict with any federal law, rule or regulation. To the extent of any conflict, the federal law, rule or regulation shall supercede any conflicting provision of the State Human Resources Reform Act of 1994.

SECTION 13. AMENDATORY 74 O.S. 1991, Section 840.12, is amended to read as follows:

Section 840.12 A. AGREEMENTS WITH POLITICAL SUBDIVISIONS. The ~~Office Administrator~~ Commission may independently enter into ~~agreement~~ agreements with any municipality or political subdivision

of the state to furnish services and ~~facilities of the Office~~ assistance to the municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the state of the cost of the services and ~~facilities~~ assistance furnished. All municipalities and political subdivisions of the state may enter into such agreements.

B. AGREEMENTS WITH AGENCIES. The Administrator and the Commission may independently enter into agreements with any agency to furnish services and assistance that are outside the normal scope of duties and responsibilities of the Office or the Commission, to the agency in the administration of its personnel system. Any such agreement shall provide for the reimbursement to the Office or Commission by the agency for the cost of the services and assistance furnished. Any agency may enter into such agreements.

C. COSTS. Any monies collected by the Administrator or Office pursuant to this section shall be deposited in the Office of Personnel Management Revolving Fund. Any monies collected by the Commission pursuant to this section shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund.

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:

A. ADMINISTRATIVE COSTS AND EXPENSES. 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 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. PAYMENT OF COSTS AND EXPENSES. 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. OTHER EXPENSES. 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, monies received as payment for administrative expenses under Section 14 of this act, monies placed in the Employee Benefits Revolving Fund, monies placed in the Benefits Council Administration Revolving Fund, and any monies in revolving funds established by the Office of State Finance to support the operation of the Oklahoma Employees Benefits Council or to reimburse the Office of Personnel Management for services the Office provides to the Council. All monies accruing to the credit of 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. Effective July 1, 1994, 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 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. OKLAHOMA MERIT PROTECTION COMMISSION REVOLVING FUND. 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.

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

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

Section 841.18 A. ~~A member of the~~ OATHS, SUBPOENA, PRODUCTION OF BOOKS AND PAPERS. The Oklahoma Merit Protection Commission and en banc, 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 investigation, audit, dispute resolution, or hearing authorized by ~~this act~~ the State Human Resources Reform Act of 1994. The Executive Director, the Administrator, and their respective designees shall have the power to administer oaths. A member of the Commission shall have the power to administer oaths during any hearing conducted by the Commission, if designated to do so by a majority of the members of the Commission present at the meeting. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation, audit, dispute resolution, or hearing ~~or who shall knowingly give false testimony therein upon conviction~~ shall be guilty of a ~~misdemeanor~~ contempt, which, upon application to the district court, may be enforced.

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

A. STATUTORY REFERENCES. All references to the Oklahoma Personnel Act appearing in the Oklahoma Statutes and rules and policies adopted pursuant thereto shall mean the State Human Resources Reform Act of 1994. All references to the Merit System of Personnel Administration and the Merit System appearing in the Oklahoma Statutes and rules and policies adopted pursuant thereto 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 EMPLOYEES OF THE OFFICE AND THE COMMISSION. The Administrator and employees of the Office of Personnel Management shall be entitled to retain the same employment status and positions that they held June 30, 1995. Effective July 1, 1995, employees of the Commission shall become career service employees, except as provided in Article 5 of the State Human Resources Reform Act of 1994.

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 prior to June 30, 1995, or brought by or against the Office or the Commission prior to July 1, 1995, shall be affected by the provisions of the State Human Resources Reform Act of 1994. Any such action or proceeding shall be governed by the law in effect at the time the action was filed.

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:

STATUS OF CLASSIFIED EMPLOYEES. Effective July 1, 1995, all probationary classified employees shall become probationary career service employees and shall be entitled to the same employment status and positions that they held June 30, 1995. Effective July 1, 1995, all permanent classified employees shall become permanent career service employees and shall be entitled to the same employment status and positions that they held June 30, 1995. No probationary or permanent classified employee shall be placed in the selective service as a result of the passage of the State Human Resources Reform Act of 1994. Any probationary or permanent classified employee whose position is placed in the selective service as a result of the passage of the State Human Resources Reform Act of 1994 shall continue to serve in the career service until the employee vacates the position; provided, subsequent appointments to any such position shall be placed in the selective service.

SECTION 21. 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:

Sections 21 through 41 of this act shall be known and may be cited as "Article 2. State Personnel System".

SECTION 22. 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 apply to all agencies, positions, and personnel in both the career and selective services, unless otherwise provided by law.

SECTION 23. 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:

A. AFFIRMATIVE ACTION. The State of Oklahoma values workforce diversity and shall create an environment within state government that respects the heritage and culture of all of its people. The State of Oklahoma reaffirms its strong commitment to a policy of fair employment practices and to the development of a workforce that reflects the diversity of its people throughout state government. Therefore, in order to achieve workforce diversity, the State of Oklahoma is committed to aggressive affirmative action programs to assist females, African Americans, Hispanics, Native Americans, Asian Americans, and Americans with disabilities in attaining full participation at all levels of state employment. Agencies producing significant affirmative action results or maintaining a representative workforce shall be recognized publicly and given priority consideration with respect to new programs and additional employees.

B. REQUIREMENTS. 1. The appointing authority of any agency shall be responsible and accountable for equal opportunity and affirmative action efforts and progress within the agency. All appointing authorities shall designate a person to assist in affirmative action and civil rights compliance. The appointing authority of any agency with two hundred or more full-time-equivalent employees shall designate a full-time civil rights administrator to assist the agency in internal and external equal opportunity efforts, affirmative action, and civil rights compliance, but who shall not serve as agency grievance manager. The civil rights administrator shall report directly to and work under the administrative direction of the appointing authority. The civil rights administrator shall assist the appointing authority in ensuring that the agency is complying with all applicable civil

rights laws and rules. Any agency may appoint additional civil rights or affirmative action personnel. The Administrator shall establish a "circuit rider" civil rights program to assist the appointing authorities of agencies in their affirmative action efforts.

2. The Administrator shall establish qualification requirements for personnel serving as agency civil rights or affirmative action administrators, officers, coordinators and other personnel responsible for civil rights compliance and affirmative action. Such qualification requirements shall include, but not be limited to, knowledge of federal and state civil rights, affirmative action, and equal employment laws and regulations. Such personnel shall be subject to the training requirements in Section 26 of this act. Effective December 1, 1995, complaints of alleged illegal discrimination shall be investigated only by personnel trained pursuant to the requirements in Section 26 of this act, unless otherwise provided by federal or state law.

3. Appointing authorities 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. The preparation and submission of such plan shall be coordinated with the human resource management plan and annual self-evaluation report required pursuant to Section 78 of this act. Appointing authorities shall also submit United States Equal Employment Opportunity reports, required by the federal government, to the Office.

4. By December 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, the President Pro Tempore of the Senate, and the Governor.

5. For affirmative action purposes, any 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, administrative hearing and determination, pursuant to Article II of the Administrative Procedures Act, the Administrator finds that an appointing authority of any agency has failed to make significant progress toward affirmative action goals, or within an agency of two hundred or more full-time-equivalent employees, has failed to appoint a civil rights administrator without justifiable reasons, the Administrator shall withdraw from that appointing authority and agency, any or all authority provided in Section 79 of this act. The Administrator shall exercise such authority in a ministerial capacity for the agency. 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 provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the Administrator the authority provided for in this paragraph, unless the agency is specifically excluded by law from the provisions of this paragraph.

C. 1. AFFIRMATIVE ACTION REVIEW COUNCIL. There is hereby created the Affirmative Action Review Council to assist in the implementation of the state's equal employment opportunity and affirmative action efforts mandated by this section. The Administrator of the Office of Personnel Management shall consult with and request the assistance of the Council in developing

standards that agencies shall follow in adopting their affirmative action plans. The Council shall review agency affirmative action plans and assist the Administrator in preparing the annual status report on equal employment opportunity and affirmative action required by this section for agencies. Staff for the Council shall be provided by the Office of Personnel Management.

2. MEMBERSHIP. The Affirmative Action Review Council shall consist of six members, experienced in the field, theory, and application of human resources management and affirmative action, who shall serve at the pleasure of the respective individuals making the appointments. Two members of the Council shall be appointed by the Governor, two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President Pro Tempore of the Senate. Each individual making appointments shall give consideration to the diversity of the Council's membership when making the appointments. The Governor shall appoint the initial chair from among the Council's membership to serve a two-year term. Thereafter, the chair shall be selected by the Council from among its membership. The Council shall select a vice-chair from among its membership. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy on the Council shall be filled by the individual who made the original appointment.

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

3. TRAVEL REIMBURSEMENT. Members of the Council shall receive no compensation for serving on the Council, but shall be reimbursed

for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act. Any member who is employed in state government shall receive the reimbursement from their employing entity. Any member who is not an employee of state government shall receive the reimbursement from the Office of Personnel Management.

4. DUTIES.

- a. The Council shall review agency affirmative action plans for compliance with the standards adopted by the Administrator. The Council shall reject any agency plans which it finds in noncompliance.
- b. The Council shall request the Administrator to investigate any agency that the Council believes has violated equal employment opportunity or affirmative action laws and to conduct hearings to determine if such violations have occurred. If the Administrator finds that an agency is not in compliance with such law and the Council believes that the noncompliance indicates a pattern of noncompliance, the Council, upon a two-thirds vote of its members, may direct the Administrator to act in accordance with this section to compel the agency to comply with equal employment opportunity and affirmative action laws.
- c. Any member who is an employee of an agency that is subject to investigation pursuant to subparagraph b of this paragraph shall disqualify himself or herself from voting on the matter.
- d. This paragraph applies to review of issues related to affirmative action. This paragraph does not apply to prohibited discrimination that is within the jurisdiction of the Oklahoma Merit Protection Commission.



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

D. LEGISLATURE AND JUDICIARY. Each house of the Legislature shall prepare affirmative action plans. Affirmative action plans for the judicial branch of government, except the Court of Criminal Appeals and the Workers' Compensation Court, shall be prepared by the Administrative Director of the Courts. The Court of Criminal Appeals shall prepare affirmative action plans for the Court of Criminal Appeals. The Administrator of the Workers' Compensation Court shall prepare affirmative action plans for the Workers' Compensation Court. Each house of the Legislature, the Court of Criminal Appeals, Administrator of the Workers' Compensation Court and the Administrative Director of the Courts shall provide copies of their affirmative action plans to the Office of Personnel Management.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-204 of Title 74, unless there is created a duplication in numbering, reads as follows:

Qualified persons with disabilities who are certified as disabled by the Department of Human Services, Rehabilitative Services Division, or its successors, according to standards and procedures established by the Administrator of the Office of Personnel Management with the assistance of the Office of Handicapped Concerns shall not be included within any full-time-equivalent employee limitations during:

1. The probationary period of a career service employee after initial appointment; or
2. The first twelve (12) months after the entry-on-duty date of an employee in the selective service.

SECTION 25. AMENDATORY 74 O.S. 1991, Section 841.7, as last amended by Section 1, Chapter 84, O.S.L. 1993 (74 O.S. Supp. 1993, Section 841.7), is amended to read as follows:

Section 841.7 ~~A.~~ REQUIREMENTS. 1. No officer or employee of any state agency, department, institution, board or commission of any branch of state government or of The Oklahoma State System of Higher Education shall prohibit or take disciplinary action against employees of such agency, department, institution, board or commission, whether ~~subject to the provisions of the Merit System or in unclassified~~ in the career or selective service, for:

~~1. Disclosing~~ a. disclosing public information~~†, 1.~~

~~2. Reporting~~ 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~~†, 1.~~

~~3. Reporting such~~ c. reporting this type of information without giving prior notice to the employee's supervisor or anyone else in the employee's chain of command~~†, 1.~~

~~4. Discussing~~ d. discussing the operations and functions of the agency, department, institution, board or commission, 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. Knows~~ a. knows to be false~~†, 1.~~

~~2. Knowingly~~ b. knowingly and willfully discloses with reckless disregard for its truth or falsity~~†, 1.~~ or

~~3. Knows~~ c. knows to be confidential pursuant to 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: ~~1. "Disciplinary,~~  
"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; ~~and~~

~~2. "Probation" means that period of time, after an officer or employee is found to have violated the provisions of this section and corrective action is ordered, during which time that officer's or employee's performance and conduct is being monitored by the employing agency for further violations of the Oklahoma Personnel Act.~~

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 for~~  
the enforcement of this section. If, after investigation, the Executive Director determines a violation of this section may have occurred, the Executive Director shall ~~appoint a hearing examiner to~~  
hear the case as provided for in Section 841.15 of this title refer  
the case to a hearing or refer the case to an alternative dispute  
resolution procedure.

F. 6. If, after ~~the~~ a hearing or alternative dispute  
resolution, it is determined that a violation has occurred, the Commission or ~~hearing examiner~~ presiding official shall order corrective action ~~pursuant to Section 841.15 of this title.~~ Such corrective action ~~shall~~ may 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. 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, department, institution, board or commission in any branch of state government, including The Oklahoma State System of Higher Education, whether ~~subject to the provisions of the Merit System of Personnel Administration or in unclassified~~ 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.~~

SECTION 26. 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:

A. GENERAL PROHIBITION. No person in state government 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 state government 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, with reasonable accommodation, to do the work for which he or she is employed.

B. PROHIBITED EMPLOYMENT DISCRIMINATION. Further, no appointing authority, 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 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 on this basis. An appointing authority shall appropriately discipline any employee who causes, engages in, encourages, condones or otherwise permits prohibited discrimination.

C. INTERNAL AGENCY COMPLAINTS. 1. The Commission shall establish standards for internal agency investigation procedures for complaints of prohibited discrimination and shall establish requirements for training and certification of employees conducting the investigations with agencies. Each appointing authority shall either use the procedures established by the Commission or adopt other procedures which address the specific needs of their agency. All procedures shall contain the minimum requirements established by the Commission.

2. The appointing authority of each agency shall designate an employee of the agency to receive and process complaints of alleged prohibited discrimination. In agencies with two hundred (200) or more full-time-equivalent employees, the employee so designated shall be the agency civil rights administrator.

3. Internal agency complaints alleging prohibited discrimination shall be separate and apart from the employee grievance procedure. The minimum standards established by the Commission shall include time limits for conducting the

investigation, determining the facts, making recommendations, and responding to the employee filing the complaint.

4. Nothing in this subsection is intended to prohibit an appointing authority from requesting assistance of civil rights personnel from other agencies in investigating complaints. However, such assistance shall not change the appointing authority's responsibility or authority to resolve the complaint internally.

D. 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. No person shall in any matter commit any fraud in implementing the provisions of the State Human Resources Reform Act of 1994.

E. COMPLAINTS. The Oklahoma Merit Protection Commission shall adopt rules for the enforcement of this section. The Commission shall investigate, upon its own initiative or upon complaint filed by any aggrieved person or representative of an aggrieved person, or direct the appointing authority to investigate any violation of this section and enforce compliance with the same, both in the career and the selective services. The Human Rights Commission and the Oklahoma Merit Protection Commission shall cooperate to reduce duplication of actions and overlap of functions.

SECTION 27. 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:

A. EMPLOYEE ASSISTANCE PROGRAM. The state hereby establishes an employee assistance program to restore effective performance, and control turnover, absenteeism, and other costs associated with personal problems, including but not limited to alcohol abuse, drug abuse and emotional, marital, familial and financial problems.

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

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

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

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

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

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

C. EMPLOYEE ASSISTANCE PROGRAM ADVISORY COUNCIL. 1. There is hereby created the Employee Assistance Program Advisory Council to assist in the implementation of the state's employee assistance

program. The Council shall advise the Office of Personnel Management on policy issues and provide support to expand and improve program services that are available to state employees and their families.

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

3. Members of the Council shall receive no compensation for serving on the Council, but shall receive travel reimbursement by the employing agency for members who are state employees or appointing authorities of agencies. Any member employed in state government shall receive the reimbursement from their employing entity. Members who are not employed in state government shall receive travel reimbursement from the Office of Personnel Management.

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



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

SECTION 28. AMENDATORY Section 2, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.5d), is amended to read as follows:

Section 840.5d ~~Beginning July 1, 1993, all~~ CENTRAL PAYROLL SYSTEM. ~~All state agencies, boards, commissions, departments and offices, excluding state institutions of higher education within The Oklahoma State System of Higher Education,~~ shall utilize the central payroll system administered by the ~~state~~ Office of Personnel Management. This provision shall not prohibit ~~state institutions of higher education within The Oklahoma State System of Higher Education or the legislative and judicial branches of state government~~ from utilizing the central payroll system at their discretion.

SECTION 29. AMENDATORY Section 1, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.5c), is amended to read as follows:

Section 840.5c A. HUMAN RESOURCES INFORMATION SYSTEM. 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~~ an automated human resources system within the State Personnel System to facilitate processing of transactions that are consistent with the State Human Resources Reform Act of 1994 and rules adopted pursuant thereto. It shall include information on state positions and personnel that provides various management reports designed to facilitate decision making within state government 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. Provided, institutions within The Oklahoma State System of Higher Education and the legislative and judicial branches of state government may participate at their discretion.

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

C. AGENCIES IN SYSTEM. The Personnel Management Information System human resources information 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 REPORT. The Administrator, based on information provided by agencies in the selective service in their annual self-evaluation plan required pursuant to Section 78 of this act or comparable information from agencies in the selective service in a format established by the Administrator, shall submit an annual report that summarizes and analyzes all agency reallocation decisions, adjustments to pay grades or salary assignments for classes in the selective service,

and all transactions by agencies in the selective or career service involving the establishment of new positions that were not authorized specifically by legislative action. The report shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by October 1.

SECTION 30. 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:

A. HIRING FREEZES. 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 of agencies within the executive branch of state government.

B. REQUIREMENTS. 1. During these periods, no audits of career service positions or reallocation of career 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 service 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 850-211 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. FEDERAL FAIR LABOR STANDARDS ACT COMPLIANCE. Appointing authorities shall be responsible for complying with the federal Fair Labor Standards Act, 29 U.S.C. 201 et seq. and regulations pursuant thereto.

B. OVERTIME COMPENSATION. Nonexempt employees as defined by the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., working in an institutional setting shall receive overtime pay at the rate of one and one-half (1 1/2) times their regular hourly rate for each overtime hour worked. Compensatory time at the rate of one and one-half hours for each hour worked in lieu of overtime pay may be given to nonexempt employees under certain conditions as provided for and in compliance with the Fair Labor Standards Act, 29 U.S.C., Section 201, et seq.

C. COMPENSATORY TIME. Any employee receiving compensatory time under the provisions of subsection B of this section shall not be required to take compensatory time off unless the employee requests said leave. An employee receiving compensatory time under the provisions of subsection B of this section shall be permitted to use accrued compensatory time within one-hundred-eighty (180) days following the pay period in which it was accrued, provided the taking of compensatory time does not unduly impact agency operations or the health, safety or welfare of the public, or endanger public property. Agencies shall not be allowed to extend this one-hundred-eighty-day time period. The balance of any unused compensatory time received but not taken during this time period shall be paid to the employee at the employee's current regular hourly rate.

D. DEFINITION. As used in this section, "institutional setting" shall mean any agency or part of any agency where twenty-four-hour care, monitoring or supervision is required for patients, clients or inmates to protect public health, safety or property.

SECTION 32. AMENDATORY Section 28, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.6A), is amended to read as follows:

Section 841.6A EMPLOYEE PERSONAL INFORMATION. ~~State employee~~ Employee home addresses, ~~state employee~~ home telephone numbers, and ~~state employee~~ social security numbers shall not be open to public

inspection or disclosure. This section shall not prohibit releasing such information if permission to do so has been obtained from the employee, nor shall this section prohibit releasing the telephone number of a state employee if release of that information is directly related to the performance of the employee's job duties.

SECTION 33. AMENDATORY 74 O.S. 1991, Section 283, is amended to read as follows:

Section 283. SALARIES FIXED BY STATUTE. The amount of salary as fixed by any statute, heretofore or hereafter enacted, creating positions or fixing salaries for positions of any ~~officer or~~ state employee of the State of Oklahoma, except as limited by Section 10 of Article XXIII of the Constitution of the State of Oklahoma, shall be and it 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 such salaries, nor any part of any such salary shall constitute a valid claim against the State of Oklahoma in excess of the amount or amounts specifically appropriated therefor.

SECTION 34. AMENDATORY 62 O.S. 1991, Section 7.12, as amended by Section 11, Chapter 367, O.S.L. 1992 (62 O.S. Supp. 1993, Section 7.12), is amended to read as follows:

Section 7.12 MINIMUM ANNUAL SALARY. Except as otherwise provided by law, any full-time ~~classified, unclassified or exempt~~ career service or selective service employee of ~~the~~ any branch of state government, excluding members of boards and commissions, institutions under the administrative authority of the Regents of Higher Education, employees of public school districts and elected officials, on July 1, 1991, and earning less than Twelve Thousand Sixty-three Dollars (\$12,063.00) per annum shall receive the necessary grade or salary adjustment to provide for a minimum annual salary of Twelve Thousand Four Hundred Eighty-three Dollars (\$12,483.00). Any full-time ~~classified, unclassified or exempt~~

career service or selective service employee of the any branch of state government, excluding members of boards and commissions, institutions under the administrative authority of the Regents of Higher Education, employees of public school districts and elected officials, employed after July 1, 1991 shall receive a minimum annual salary of Twelve Thousand Four Hundred Eighty-three Dollars (\$12,483.00). This section shall not apply to ~~those persons employed pursuant to paragraph 12, Section 840.8 of Title 74 of the Oklahoma Statutes~~ the spouses of personnel who are employed on a part-time basis in the selective service to assist or work as relief for their spouses in the Oklahoma Department of Tourism and Recreation or to those persons employed pursuant to Sections 1806.1 and 1825 of Title 74 of the Oklahoma Statutes or those persons employed pursuant to Section ~~10 of this act~~ 1.6a of Title 53 of the Oklahoma Statutes.

SECTION 35. AMENDATORY 74 O.S. 1991, Section 840.16b, as amended by Section 15, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.16b), is amended to read as follows:

Section 840.16b A. PROHIBITION AGAINST CERTAIN RAISES. Unless otherwise provided by the Oklahoma Constitution, language in law which authorizes the setting or fixing of compensation, pay or salary of state ~~officers and~~ employees shall not be construed to authorize any agency, ~~board, commission, department, institution, bureau, executive officer or other entity of the executive branch of state government~~ to award, grant, give, authorize, or promise any ~~officer or state~~ employee of the State of Oklahoma a raise except as herein provided. The term "raise" includes, but is not limited to, increases in pay, wages and salaries, commonly known as "merit increases", "performance pay increases", "salary adjustments", and "step increases". Such raises are prohibited unless authorized by the Legislature and by ~~Merit System of Personnel Administration~~ State Personnel System Rules promulgated by the Administrator. This

prohibition applies to all ~~classified, unclassified and exempt officers and~~ career or selective service employees in the executive branch of state government, excluding institutions under the administrative authority of the State Regents for Higher Education.

B. PERMISSIBLE RAISES. However, nothing in this section shall be construed to prohibit the following actions if the action is made in good faith and not for the purpose of circumventing subsection A of this section, and if the appointing authority certifies that the action can be implemented for the current fiscal year and the subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency, and if the appointing authority clearly explains ~~in the Agency Pay Plan filed in accordance with Section 23 of this act or~~ in a separately filed plan how the agency will absorb within the personal services budget any increased costs for these actions in the current fiscal year and in the next fiscal year:

1. Salary advancements on promotion or direct reclassification to a job classification with a higher grade;

2. Salary adjustments resulting from a grade change for a class adopted by the Office of Personnel Management;

3. Increases in longevity payments pursuant to Section ~~805.2~~ 36 of this ~~title~~ act;

4. Payment of overtime, special entrance rates, pay differentials; or

5. Payment of wages, salaries, or rates of pay established and mandated by law.

C. RECLASSIFICATION REQUIRING ADDITIONAL FUNDING. Provided however, any reclassification for one of the purposes provided in subsection B of this section that would require additional funding by the Legislature shall not be implemented without approval of the Legislature.

SECTION 36. AMENDATORY 74 O.S. 1991, Section 805.2, is amended to read as follows:

Section 805.2 A. LONGEVITY PAY PLAN. A longevity pay plan is hereby adopted. This plan applies to all employees of the Legislature and 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. OKLAHOMA CONSERVATION COMMISSION. 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. ELIGIBILITY. To be eligible for longevity pay, employees must have been continuously employed in ~~the classified or unclassified service of the~~ state government 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~~ G of this section.



D. ~~(1)~~ SCHEDULE. 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)~~ E. ADDITIONAL SERVICE. 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~~ in subsection D of this section for twenty (20) years of service.

F. TOTAL AMOUNT OF LONGEVITY. The total amount of the annual longevity payment made to an employee by ~~any and all state agencies~~ state government 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~~  
state government.

E. G. CALCULATION OF YEARS OF SERVICE. 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 more than one ~~or more than one agency~~ entity of state government, shall be counted as more than full-time service.

F. H. OTHER SERVICE. Years of service under the administrative authority of the State Regents for Higher Education or ~~the administrative authority of~~ while employed by 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. I. CERTIFICATION OF YEARS OF SERVICE. Years of service shall be certified ~~through the current employing agency~~ by the current 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~~ appointing authority within sixty (60) calendar days before an employee becomes eligible for longevity payments and thereafter whenever the employee's anniversary date is changed.

~~H.~~ J. LUMP-SUM PAYMENT. 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~~ date 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 ~~H.~~ N of this section, during the month following the anniversary date of the employee's most recent enter-on-duty ~~day~~ date 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 ~~H.~~ N 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~~ designated beneficiary of the employee or if there is no ~~surviving spouse~~ designated beneficiary to the estate of the employee.

~~I.~~ K. LEAVE WITHOUT PAY. Periods of job-related leave without pay taken in accordance with Section ~~840.7b~~ 39 of this ~~title~~ act and periods of mandatory furlough taken in accordance with Section 41 of this act 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~~ J of this section for employees whose conditions of employment include regular periods of leave without pay.

~~J.~~ L. INELIGIBLE EMPLOYEES. 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.~~ M. BREAK IN SERVICE. 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~~ K 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.~~ N. PART-TIME EMPLOYEES. 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~~ subsections D and E of this section. The prorated amount of payment will be based on actual hours worked in the immediately preceding twelve (12) months.

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

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

SECTION 37. AMENDATORY 74 O.S. 1991, Section 840.23, is amended to read as follows:

Section 840.23 A. CAREER SERVICE AGENCY PAYROLL CERTIFICATION AND ERRORS OF CLAIMS. No one shall make or approve any payment for personal services for a career service agency unless the payroll bears the certification of the Administrator or an authorized agent of the Administrator. Anyone who certifies a payroll for a career service agency shall be responsible for certifying the payments therein are consistent with the provisions of the State Human Resources Reform Act of 1994 and rules adopted thereunder.

B. UNAUTHORIZED EMPLOYMENT. Any person employed by a career service agency in contravention of the provisions of the State Human Resources Reform Act of 1994 or any rules or orders pursuant thereto, 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.

C. WITHHOLDING OF CERTIFICATION. The Administrator, for proper cause, may withhold certification for any specific item or items in a career service agency payroll. If the Administrator wrongfully withholds certification of the payroll voucher or account of any state employee of a career service agency, the employee may maintain an action or proceeding in the courts to compel the Administrator to certify the payroll voucher or account.

D. PAYROLL AUDIT SYSTEM. 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.

1. The Director of State Finance shall not approve any payroll claim for payment for any career service agency unless said claim contains or is accompanied by the certification by the administrative head of said agency or an authorized employee of said agency that the persons named in said claim have been appointed and employed in accordance with the provisions of the ~~Oklahoma Personnel State Human Resources Reform Act of 1994~~ and ~~the rules and regulations and orders promulgated pursuant to the provisions of the Oklahoma Personnel Act~~ State Personnel System Rules adopted by the Administrator. For purposes of this section, "payroll claim" shall also include longevity payments made pursuant to Section ~~805.2~~ 36 of this ~~title act~~.

~~B. 2.~~ If, as a result of a payroll audit, the Office of Personnel Management finds that an agency has made payments of salaries or wages contrary to the provisions of the ~~Oklahoma Personnel State Human Resources Reform Act of 1994~~ and ~~the rules and regulations promulgated pursuant to the provisions of the Oklahoma Personnel Act~~ State Personnel System Rules adopted by the Administrator:

~~1. Audit findings shall be promptly transmitted~~

a. The Administrator shall promptly transmit audit findings to the appointing authority of the agency certifying the payroll claim or claims involved; and

~~2. An~~ b. The Administrator shall schedule an audit conference with said agency shall be scheduled within fifteen (15) days, at which time the audit exceptions will be resolved or become a

determination of error unless the parties to the conference agree to a further review; and

- ~~3.~~ c. If the Administrator finds that underpayments or overpayments made by said agency are ~~deemed to be~~ the result of administrative error, the agency which certified the payroll claim or claims in error shall refund to the employee the balance of the actual amounts due and owing to the payee or shall seek repayment from the payee of any amount paid in excess of the actual amount due and owing the payee; and
- ~~4.~~ d. If an agency neglects or refuses to seek repayment after a determination that an error in payroll amount or amounts has been made, or to properly adjust a then current salary or wage, the Administrator of the Office of Personnel Management shall notify the Director of State Finance of an unresolved audit exception stating the agency involved and the person to whom said exception refers; and
- ~~5.~~ e. Upon receipt of notification that a procedure to initiate repayment has been instituted by the certifying agency or that a protest has been filed with the Oklahoma Merit Protection Commission, said notice shall be withdrawn or waived by the Administrator of the Office of Personnel Management, in writing, to the Director of State Finance. Implementation of procedures provided in this section shall not operate to deny or delay payment of proper salaries or wages to any employee of this state; and
- ~~6.~~ f. The provisions of this section regarding collections of any overpayment of salaries or wages by any agency to any state employee or officer shall not include any such overpayment made prior to July 1, 1983; and

~~7.~~ g. Recovery of overpayments from an employee shall include all overpayments occurring within one (1) year prior to the determination of error. Disbursement of underpayments to an employee shall include all underpayments made within a period of two (2) years prior to the determination of error; and

~~8.~~ h. If an agency discovers overpayment or underpayment errors through an internal audit, the agency shall recover overpayments from the employee or disburse underpayment amounts in accordance with this section. Prior to initiation of recovery of overpayments from an employee, the agency shall provide the employee with adequate notice and an opportunity to respond.

~~6.~~ 3. The Director of State Finance shall not approve any payroll claim for payment for any career service agency for which the Administrator of the Office of Personnel Management has filed with the Director of State Finance a notification of unresolved audit exception pursuant to this section, unless the person named in the audit exception has been removed from the payroll by the certifying agency, the overpayment has been converted by the agency, or the exception has been withdrawn or waived in writing by the Office of Personnel Management.

~~D.~~ 4. Any sum on a payroll claim found to have been paid in excess of the actual amount due and owing may be recovered from the payee through the following procedures:

~~1.~~ a. Upon the determination that an error in payroll amount has been made, the agency which certified the claim or claims shall notify the payee in writing within ten (10) days from said determination. The notice to the payee shall contain:

~~a.~~ (1) the amounts paid in error; and

~~b.~~ (2) the dates of said payments; and



- ~~e.~~ (3) the options available for repayment; and
- ~~d.~~ (4) the right of the payee to protest the findings.

Said notice shall also provide space for the payee to indicate an election of a repayment option or to protest the findings. Said election shall be required within thirty (30) days after the notification. ~~A~~ The agency shall forward a copy of said notice ~~shall be forwarded~~ to the Office of Personnel Management.

- ~~2.~~ b. If the payee is, at the time of said notification, an officer or employee of the agency seeking repayment, options available for repayment shall be by:

- ~~a.~~ (1) lump-sum cash repayment; or
- ~~b.~~ (2) reduction of the corrected current salary or miscellaneous payroll deduction in a lump sum or in installments over a term not to exceed the term in which the erroneous payments were made; or
- ~~e.~~ (3) reduction in accrued annual leave by an amount of time at the then current correct salary level equal in value to the total of the amount or amounts to be repaid; or
- ~~d.~~ (4) any combination thereof.

- ~~3.~~ c. If the payee is, at the time of said notification, an officer or employee of an agency of the state other than the agency seeking repayment, the options provided by ~~paragraph 2~~ subparagraph b of this ~~subsection~~ paragraph may be exercised by the payee with the approval of the then current employing agency. Payment of amounts deducted or charged against annual leave shall be paid to the agency seeking repayment by an appropriate miscellaneous claim for interagency payment. If a payroll deduction

is elected pursuant to the provisions of this ~~paragraph~~ subparagraph and employment is subsequently terminated, any balance remaining shall be deducted from any final payment otherwise due to the employee.

4. d. If a payee who is, at the time of said notification, a permanent ~~classified~~ career service officer or employee of any agency of this state protests the determination of the error or the amount of said determination, the agency seeking repayment shall present, within five (5) days of the return of said protest, the facts in writing, the notice, and the protest of the payee, to the Oklahoma Merit Protection Commission and shall send copies to the Office of Personnel Management. ~~The Oklahoma Merit Protection Commission shall treat any such protest as a complaint pursuant to Section 841.3 of this title. The Commission and Executive Director, after investigation and hearing, shall make a determination which shall be binding on the agency. The salary or wages of any payee exercising the right to the protest shall not be suspended or reduced until a determination has been issued by the Oklahoma Merit Protection Commission and Executive Director.~~
5. e. If the payee is no longer an employee of the state but agrees to repay the amount or amounts paid in error, repayment may be accepted:
- a. (1) by lump-sum cash repayment; or
  - b. (2) in installments over a period not to exceed twelve (12) months.
6. f. If the payee is no longer an employee of the state, and does not respond or cannot be located within ten (10) days after mailing of the determination of error,

or refuses repayment, the agency seeking repayment shall present the facts in writing to the Attorney General and shall send a copy to the Office of Personnel Management. The Attorney General shall determine what action may be taken to recover said amount.

~~7.~~ g. Repayments other than by reduction in present salary or reduction in accrued annual leave for a payee currently employed by the agency seeking repayment shall be deposited in the General Revenue Fund unless the fund to which the amount in error was originally charged can be identified and was other than a General Revenue Fund appropriation. Said deposits shall be treated as nonrevenue receipts.

~~8.~~ h. The agency seeking repayment shall report monthly to the Office of Personnel Management the results of the procedures and amounts recovered pursuant to the provisions of this section.

i. ~~The Office of Personnel Management~~ Administrator shall file a quarterly report with the Offices of the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives, summarizing, by agency, all actions and recoveries pursuant to the provisions of this section.

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

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-218 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. FLEXTIME. In order to provide increased services to the public, to assist state employees in meeting the needs of their

families, improve employee morale and productivity, appointing authorities are encouraged to consider the adoption of flextime attendance policies and alternative work schedules pursuant to Section 103 of this act.

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

C. REQUIREMENTS. The Administrator of the Office of Personnel Management shall provide technical assistance to agencies in developing flextime policies and alternative work schedules and shall establish standards for such policies within the State Personnel System.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-219 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. LEAVE. State leave policies shall be established to provide employees adequate time away from work to ensure the state can recruit and retain a healthy and productive workforce. Institutions within The Oklahoma State System of Higher Education shall not be subject to this section. Further, no person chosen by election or appointment to fill an elective office shall be subject to any leave plan or rule nor shall such person be eligible for accrual of any leave benefits. Offices and positions of the legislative and judicial branches of government shall be subject to the provisions of this section.

B. REQUIREMENTS. The Administrator shall establish various types of leave programs for employees of all branches of state government. 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, paid and unpaid, as appropriate.

1. ANNUAL AND SICK LEAVE.

a. Career service and regular selective service employees 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	Annual	Sick	Annual
<u>Service</u>	<u>Leave</u>	<u>Leave</u>	<u>Leave</u>
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

2. FAMILY AND MEDICAL LEAVE. The Administrator shall establish standards and procedures for family and medical leave that at a minimum are consistent with the federal Family and Medical Leave Act of 1993 (P.L. 103-3) as enacted or amended, provided all permanent career service and regular selective service employees with over six (6) months of continuous employment with the state are entitled to family and medical leave.

3. LEAVE SHARING. A permanent career service or regular selective service employee may donate annual leave to an 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 JOB-RELATED ILLNESS OR INJURY.

- a. 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.
- b. The agency shall not require the employee to exhaust his or her sick or annual leave accumulations before placing the employee on leave without pay.
- c. An employee shall have the right to be returned to work in his or her original class within one (1) year after the start of job-related leave without pay. If the employee is unable to perform the essential functions of positions in the original class, but is qualified to perform the functions of any other class, whether in the career service or the selective service, 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. The appointing authority shall provide reasonable accommodation to the employee in performing the essential functions of positions in the original class and in other classes for which the employee is qualified.
- d. An employee shall submit a medical statement to the appointing authority at least every three (3) months while receiving rights and benefits under this paragraph.

- e. An employee who is absent from work because of an illness or injury arising out of and sustained in the course of his or her employment with the state shall be eligible to participate in the Disability Insurance Program established under the provisions of Section 1331 et seq. of Title 74 of the Oklahoma Statutes in accordance with rules adopted by the Oklahoma State and Education Employees Group Insurance Board.
- f. If the employee has not returned to work with the agency within one (1) year after the start of job-related leave without pay, the appointing authority may separate the employee according to State Personnel System Rules adopted by the Administrator, and the employee shall not be able to appeal the separation to the Oklahoma Merit Protection Commission.
- g. All benefits, rights and obligations contained in this paragraph shall continue during the time the employee remains on job-related leave without pay status, for a continuous period not to exceed twelve (12) months. However, if a workers' compensation claim based on the job-related illness or injury is denied during the twelve-month period, all benefits, rights, and obligations conferred on an employee under this paragraph shall cease immediately.
- h. A career service employee who is separated under subparagraph f of this paragraph shall be eligible for reinstatement to employment with any state agency for twelve (12) months after the date of separation if the employee is qualified for the position to which he or she is reinstated. A selective service employee who is separated under subparagraph f of this paragraph shall be eligible for reinstatement to selective

service employment with any agency for twelve (12) months after the date of separation if the employee is qualified for the position to which he or she is reinstated. Nothing in this subparagraph shall be interpreted to limit or reduce a former employee's eligibility for reinstatement under other general reinstatement or reemployment provisions of Career Service System Rules adopted by the Administrator.

5. ORGANIZATIONAL LEAVE WITH PAY. A permanent career service employee or a regular selective service employee shall be entitled to take leave with pay, not to exceed three (3) days a year, to attend meetings of job-related professional organizations of which that employee is a member, upon receiving permission from the appointing authority. The denial by an appointing authority of organizational leave shall be in writing and state the reasons for denying said leave. Organizational leave shall not be used for lobbying activities which include the lobbying of legislative or executive branch elected officials.

6. ORGANIZATIONAL LEAVE WITHOUT PAY. A permanent career service employee or a regular selective service employee may be granted leave without pay upon receiving written permission of the appointing authority to attend to labor organization or job-related professional organizations business or activities, provided that the employee is a member of said labor organization or professional organization. The employee must request such leave in writing and must include the reason for the leave and the beginning and ending date of the leave. A properly executed leave without pay pursuant to this subsection shall accord the employee the right to be returned to his or her previous job classification and with no reduction in base pay. The appointing authority, for cause and with written notice, may cancel such leave without pay. Such leave shall not be considered a break in service.



SECTION 40. A. There is hereby created the Single Leave Legislative Advisory Task Force. The purpose of the Task Force is to study the feasibility and the advantages or disadvantages of creating a system for state government to accrue leave on an undifferentiated basis in lieu of the current practice that divides leave accrual into annual and sick leave. The Task Force shall consider the fiscal impact and potential benefits that state employees may derive from such reform in the leave system for the state service. The Task Force shall report its findings and recommendations to the Speaker of the Oklahoma House of Representatives and President Pro Tempore of the Senate by December 1, 1994.

B. The Single Leave Legislative Advisory Task Force shall consist of eight (8) members. The Speaker of the Oklahoma House of Representatives shall appoint three members, one of whom shall be a member of the Oklahoma House of Representatives, one of whom shall be an administrator of a state association representing state employees, and one of whom shall be the appointing authority of a state agency with fewer than fifty (50) full-time employees. The President Pro Tempore of the Senate shall appoint three members, one of whom shall be a member of the State Senate, one of whom shall be a personnel director of an agency, and one of whom shall be the appointing authority or his designee of an agency with more than fifty (50) full-time employees. The Administrator of the Office of Personnel Management and the Director of State Finance, or their designees, shall be ex officio members of the Task Force. The state representative appointed by the Speaker of the Oklahoma House of Representatives shall serve as chair. The state senator appointed by the President Pro Tempore of the State Senate shall serve as the vice-chair. A majority of the members of the Task Force shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the

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

C. Members of the Task Force shall receive no compensation for serving on the Task Force, but shall receive travel reimbursement by the employing agencies for members who are employed in state government or appointing authorities of agencies. Legislative members shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes by their respective legislative body. All other members shall receive travel reimbursement from the Legislative Service Bureau.

D. Staff for the Task Force shall be provided by the Oklahoma House of Representatives, State Senate, and Office of Personnel Management.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-220 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. MANDATORY FURLOUGH. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of a state employee on involuntary leave without pay. Furlough, as provided for in this section or by State Personnel System Rules adopted by the Administrator of the Office of Personnel Management, shall not be appealable under the provisions of the State Human Resources Reform Act of 1994. State Personnel System Rules governing leave regulations, longevity pay and participation in the State and Education Employees Group Program shall not be affected by mandatory furloughs.

B. FURLOUGH DIRECTED BY THE CONTINGENCY REVIEW BOARD. 1. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct and require mandatory furloughs for all state employees whenever it is deemed necessary and proper. The Contingency Review Board shall specify the

effective dates for furloughs and shall note any exceptions to employees affected by same. All selective service employees and career service employees in the executive branch of government, including those selective service and career service employees of agencies established by statute or the Constitution, shall be affected by such actions.

2. Members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough required by the Contingency Review Board. The Contingency Review Board shall additionally call upon elected officials, members of the judiciary, and other state officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

C. AGENCY FURLOUGHS. After developing a plan to equitably distribute leave without pay status among all employees of the agency, division, or agency subdivision affected by the furlough, an appointing authority may institute a furlough with the approval of the Governor. The furlough plan shall be consistent with the provisions of this section and State Personnel System Rules adopted pursuant to this section. Provided, state employees may volunteer for additional leave without pay beyond the requirements of the furlough.

D. REPORTING REQUIREMENTS. All agencies directed by the Contingency Review Board to furlough state employees, shall report the cumulative cost savings and impact on delivery of services achieved by the furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on a quarterly basis for one (1) year following the effective date of the action.

SECTION 42. 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:

Sections 42 through 50 of this act shall be known and may be cited as "Article 3. Human Resources Development".

SECTION 43. 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:

A. HUMAN RESOURCES DEVELOPMENT. In order to provide means for the development of maximum proficiency by state 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 in the public interest that self-improvement training for state employees be supplemented and extended by state-sponsored training programs.

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

2. The Administrator and Commission may develop and offer appropriate training for employees within the State Personnel System. The Administrator and Commission may charge fees to the employing agencies of participants in training as necessary for the conduct of training programs and job-related conferences. Such fees shall not exceed the cost of the programs or conferences. Fees collected pursuant to this paragraph by the Administrator shall be deposited in the Office of Personnel Management Revolving Fund. Fees collected pursuant to this paragraph by the Commission shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund.

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 State Personnel System standards that provide for agencies to offer educational stipends, educational leave and scholarship programs for 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 the State Human Resources Reform Act of 1994 shall be construed to prohibit agencies from participating at their discretion in training programs offered by private sector vendors or others.

C. REPORT. The Administrator shall report to the Governor, the Speaker of the Oklahoma House of Representatives and President Pro Tempore of the State Senate annually regarding the nature of agency training and expenditures for training. The report shall include agency compliance with supervisor training and the extent that agencies use training by other entities than the Office of Personnel Management for that purpose.

SECTION 44. 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:

A. EDUCATION COOPERATION. 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 agencies to assure the availability of quality education and training for the state service for the future.

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, 1996. 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, re-education, and training of the professional, administrative, and technical 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 future challenges facing the public sector.

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 Director of the Oklahoma State Department of Vocational and Technical Education, one person appointed by the Speaker of the Oklahoma House of Representatives and one person appointed by the President Pro Tempore of the State Senate. Each appointed member of the Advisory Council shall serve at the pleasure of the respective individual who appointed them. A majority of the members shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.

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, 1995, 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. TRAVEL REIMBURSEMENT. Members of the Council shall receive no compensation for serving on the Council, but shall receive travel reimbursement as follows:

1. Members who are officers or employees of the executive branch of state government shall receive reimbursement from their respective employing agencies; and

2. Members of the Legislature appointed to the Council shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes by the legislative body to which the legislative member has been elected to serve.

G. 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 Department of Vocational and Technical Education.

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

SECTION 45. 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:

A. PROFESSIONALS TRAINING POLICY. The Administrator shall establish standards for continuing training and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education.

B. TRAINING REQUIREMENTS. Employees appointed to professional personnel positions shall complete an initial training program within six (6) months after assuming the professional personnel position. Thereafter, they shall complete annual training requirements.

C. DUTIES OF APPOINTING AUTHORITY. 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.

SECTION 46. AMENDATORY Section 1, Chapter 387, O.S.L. 1992 (74 O.S. Supp. 1993, Section 840.35), is amended to read as follows:

Section 840.35 A. ~~Each supervisor employed as of January 1, 1993, by a state agency, board or commission in the executive branch of state government, excluding those within The Oklahoma State System of Higher Education, shall attend, prior to December 31, 1993, a training program for supervisory personnel. The training program shall be established pursuant to subsection D of this section.~~

~~B. Employees~~ SUPERVISORY TRAINING REQUIREMENTS. Persons appointed to supervisory positions after January 1, 1993, by a state agency, excluding those persons appointed to supervisory positions within The Oklahoma State System of Higher Education, shall complete training pursuant to subsection D B of this section within six (6)



months of assuming such supervisory position. Thereafter, supervisors are required to complete sixteen (16) hours of training pursuant to subsection ~~D~~ B of this section each year. The appointing authority of each agency shall ensure each supervisory employee is notified and scheduled to attend such required training and shall make time available for each such employee to complete the training.

~~C. As used in this section "supervisor" means a classified or unclassified employee who has been assigned authority and responsibility for all of the following functions on a continuous and uninterrupted basis with respect to subordinates:~~

~~1. Assigning work to subordinates and making sure work is performed correctly and in a timely manner;~~

~~2. Training subordinates in the performance of their assigned duties or planning and directing such training through subordinates;~~

~~3. Reviewing work performance of subordinates; and~~

~~4. Participating in determining appropriate personnel actions regarding subordinates such as performance appraisal, discipline, and corrective action.~~

~~D.~~ B. SUPERVISORY TRAINING PROGRAMS. 1. The Office of Personnel Management shall ~~promulgate any rules necessary to~~ develop and implement training programs for supervisory personnel ~~which~~ that shall include areas such as: supervisory skills, affirmative action and equal employment opportunity, selection, performance appraisal, employee assistance, ~~corrective~~ progressive discipline, and other legal and ethical issues relevant to supervisors.

2. Training programs for supervisors under ~~this act~~ the State Human Resources Reform Act of 1994 may be approved by the ~~Office of Personnel Management~~ Administrator; provided, however, such programs shall be subject to standards developed by the ~~Office of Personnel Management~~ Administrator. All ~~state~~ agencies, ~~boards and commissions~~ may participate in any such government employee training

program established by an institution that is a member of The Oklahoma State System of Higher Education and approved by the ~~Office of Personnel Management~~ Administrator as provided for in this paragraph.

SECTION 47. 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:

A. CARL ALBERT PUBLIC INTERNSHIP PROGRAMS. 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 consisting of placements of not more than two (2) semesters and 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 82 of this act, and
- b. an Executive Fellows Program consisting of placements not to exceed two (2) 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 82 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 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 previous career service or selective 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. LEGISLATURE AND JUDICIARY. The Legislature and the judicial branch of state government may participate in Carl Albert Internship Programs at their discretion.

SECTION 48. 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:

A. CERTIFIED PUBLIC MANAGER PROGRAM. 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 employees in state government. The Program shall apply to the State Personnel System. 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 to cover the cost for participation in the Program.

The Administrator shall require the participant to pay a nominal part of the cost and the employing agency of the participant to pay the balance of the cost. Any fees collected pursuant to this paragraph shall be deposited in the Office of Personnel Management Revolving Fund.

SECTION 49. 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:

A. CERTIFIED STATE EMPLOYEE PROGRAM. There is hereby created a Certified State Employee Program within the Office of Personnel Management. The purpose of this Program shall be to improve the services of state employees to the public. The Program shall apply to the State Personnel System. This section shall not apply to institutions within The Oklahoma State System of Higher Education.

B. REQUIREMENTS. 1. All career service and selective service employees shall receive recognition for continuing training and education through the Certified State Employee Program.

2. Appointing authorities may permit employees to obtain continuing training and education pursuant to this section in accordance with the agency's annual human resource management plan and self-evaluation report required by Section 78 of this act.

C. POLICIES AND STANDARDS. The Administrator shall establish policies and standards for continuing education and training for all state employees in the state service to enable state employees to participate and receive continuing education and professional certification. The standards shall permit vocational and technical schools, other public and private sector organizations, employee

associations, labor associations, professional associations, colleges and universities to offer training and education for credit in this Program. The standards shall include minimum education and training requirements for receiving a Certified State Employee designation and minimum annual requirements for recertification. The Administrator shall also establish guidelines for acceptance of course certificates, syllabuses and other records to verify participation of employees in Certified State Employee training and education and for agency tracking.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-309 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. PERSONNEL INTERCHANGE PROGRAM. 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 and branches of state government 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.

SECTION 51. 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:

Sections 51 through 79 of this act shall be known and may be cited as "Article 4. Career Service System".

SECTION 52. 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. Within the career service, it is the policy of the State of Oklahoma to follow these merit principles:

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

2. Provide equitable compensation to employees;

3. Train employees to assure high quality performance;

4. Retain employees on the basis of their performance, correct inadequate performance, and terminate employees whose inadequate performance has not been corrected;

5. Assure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or disability 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.

SECTION 53. 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:

A. PLACEMENT OF AGENCIES AND POSITIONS UNDER THE CAREER SERVICE SYSTEM. The Governor of the State of Oklahoma may place any executive branch agency of state government and the positions thereof under the Career Service System by Executive Order. The Executive Order may exempt positions within the agency 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 54. 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:

A. STATUS OF CERTAIN EMPLOYEES. 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. The Administrator shall establish standards and procedures for according selective service personnel status in the career service, in compliance with this section. The standards and procedures shall include but not be limited to the following provisions:

1. Regular selective service employees who have been continuously employed by the agency for at least six (6) months shall be given permanent status in the career service with the agency. Other regular employees of the agency shall be given probationary status in the career service with the agency.

2. State 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 base pay.

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.

SECTION 55. 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:

A. PROHIBITED 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 career service 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 career service 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 knowingly make any false statement about any test, certification or appointment made under any provision of the Career Service System.



SECTION 56. 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:

A. DELEGATION OF PERSONNEL AUTHORITY. In order to enhance the ability of agencies to pursue their separate missions effectively, the Administrator shall design human resources systems and procedures to promote delegation to the appointing authorities of career service system agencies.

B. REQUIREMENTS. 1. The Administrator shall design systems and establish standards and 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 additionally shall 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 certified personnel experts within their agencies.

3. The Administrator shall develop standards for agency proposals to delegate appropriate human resource functions normally conducted by the Office of Personnel Management to appointing authorities, for approving the delegation of functions to appointing authorities for the performance of delegated activities, for auditing and monitoring the actions of the employing agency, for the correction of errors, and for the withdrawal of delegated authority.

C. APPROVAL OF HUMAN RESOURCES DELEGATION TO APPOINTING AUTHORITIES. All agency proposals to delegate appropriate human resource functions normally conducted by the Office of Personnel Management to the appointing authority of an agency shall be submitted to the Administrator pursuant to this section. The Administrator shall submit such proposals and his recommendations

for approval or rejection to the Human Resources Management Advisory Committee for final action. The Committee may either reject or approve the proposal, in whole or in part, in writing. No such proposal shall take effect prior to January 1, 1996, and no such proposal shall take effect unless it is incorporated in an approved agency annual human resource management plan and self-evaluation report required pursuant to Section 78 of this act for the fiscal year that the proposed delegation would take effect.

D. NOTIFICATION. The appointing authority shall notify agency employees and the Administrator before implementing a delegation of human resource functions normally conducted by the Office of Personnel Management to appointing authorities approved pursuant to this section. The notification shall state the date that such delegation shall start.

SECTION 57. 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:

A. MODEL HUMAN RESOURCE PROJECT. 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.

B. SCOPE OF AUTHORITY. Except as provided in this section and Career Service System rules adopted by the Administrator pursuant thereto, model projects shall not be limited by any lack of specific authority under the State Human Resources Reform Act of 1994 to take the action contemplated, or by any provision of said act, or any rule adopted pursuant thereto 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 52 of this act or violate the provisions of Sections 25, 26, 55 or 72 of this act.

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

1. Develop a plan for the project which shall include a listing of each affected law and rule and provide for an evaluation component including a description of the methods and measures for the evaluation;

2. 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

3. The proposed plan shall be submitted to the Administrator for review. The Administrator shall consult with the Executive Director and provide the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives a description of the proposed plan and a recommendation for approval or disapproval of the proposed plan. The Administrator shall submit the proposed plan and the recommendation to the Human Resources Management Advisory Committee for final action. The Committee may either reject or approve the proposed plan, in whole or in part, in writing. No such approved plans can take effect prior to July 1, 1995.

D. TIME PERIOD. Each model project shall be approved by the Administrator for a maximum period of three (3) years.

E. NOTIFICATION. The appointing authority shall notify agency employees and the Administrator before implementing model projects approved pursuant to this section. The notification shall state the date that the project shall start and the date that it terminates.

F. AUDITS. The Office of Personnel Management shall monitor and conduct periodic audits or evaluations of each project and its effect on improving state 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.

SECTION 58. 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:

A. CLASSIFICATION OF EMPLOYEES. The Administrator shall develop and maintain a position classification system within the career service. 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 as defined in the Administrative Procedures Act.

B. TRANSFER AND REASSIGNMENTS. An appointing authority of an agency shall have sole and final authority to designate the place or places where employees of the agency shall perform their duties. 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 and the positions have been assigned to a class according to standards and procedures established by the Administrator. 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.

However, the base pay of an employee shall not be reduced except on demotion or reorganization as provided in the State Human Resources Reform Act of 1994. The Oklahoma Merit Protection Commission shall not have jurisdiction to entertain an appeal of an employee from action of the employing agency reassigning or transferring the employee from one locality to another, changing the

assigned duties of the employee, reducing the compensation of the employee other than base pay, laterally transferring or promoting the employee, changing the shift assignment of the employee, or relieving the employee from performance of duty at a particular place and reassigning to the employee duties to be performed at another place, unless an investigation by the Commission indicates that:

1. A violation of the provisions of Sections 25, 26 or 55 of this act may have occurred; or

2. The action may have been taken for disciplinary reasons, in which case, review by the Commission shall be to determine if the discipline was justified.

C. PROTESTS. Final position allocation decisions may only be protested by either the incumbent employee in the position or the employing agency. All protests must be filed with the Office within twenty (20) calendar days after the final allocation decision is issued.

If it is determined by the administrator that the protest was filed timely and other jurisdictional requirements have been met, the Office shall schedule the protest to be resolved through an Alternative Dispute Resolution Facilitator provided by the Oklahoma Merit Protection Commission.

D. PROCEDURES. The procedure to resolve the dispute shall be informal and not subject to Article II of the Administrative Procedures Act. Within fifteen (15) calendar days after the date of the final decision, either participant may request the Administrator to review such decision. The request for review must contain specific reasons for the request.

E. AUDITS. The Administrator shall establish standards and procedures for the audit of positions and the assignment of positions to classes. The Administrator shall also establish procedures to review complaints from employees that their appointing

authority has assigned them duties or responsibilities that are inconsistent with the employees' classification. The decision of the Administrator on matters pertaining to the adoption and revision of class specifications, assignments of positions to classes, and other matters subject to this section shall not be subject to Article II of the Administrative Procedures Act, shall be final, enforceable, and shall not be subject to appeal or review by the Oklahoma Merit Protection Commission or a district court.

F. PERMISSIBLE RECLASSIFICATION. Nothing in this section shall be construed as preventing agencies from reclassifying employees in accordance with the State Human Resources Reform Act of 1994 and Career Service System Rules adopted by the Administrator.

SECTION 59. 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:

A. PAY STRUCTURE. The State of Oklahoma, to recruit, retain, and motivate a quality workforce for the purpose of providing quality services to the citizens of Oklahoma, shall provide a pay structure based on internal equity and external competitiveness balanced by the state's fiscal conditions.

B. REQUIREMENTS. 1. The Administrator shall develop and publish a Career Service System Salary Schedule to meet the needs of agencies pursuant to Section 58 of this act. The 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 in accordance with the personnel plan approved pursuant to Section 76 of this act. 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,
- e. work team performance pay pursuant to Section 102 of this act, and
- f. other types of pay incentives and adjustments.

3. The Administrator shall establish standards and procedures to be used in assigning and reassigning salary grades. Proposed assignment and reassignment of salary grades may be adopted by the Administrator after a public hearing. Such action shall become effective the following July 1, unless the Administrator finds it essential for the provision or continuation of government services to adopt an earlier effective date. All such actions shall be reported to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The report shall include the justification and financial impact of the action. The provisions of this paragraph shall not be subject to the Administrative Procedures Act. The assignment or reassignment of salary grades shall not reduce the pay of a permanent employee for this reason. Action pursuant to this paragraph is not appealable to the Oklahoma Merit Protection Commission.

C. ANALYSIS OF RATES OF PAY. The Administrator shall conduct an annual analysis of the rates of pay prevailing in relevant public and private sector labor markets 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 and recommendations for changes to the salary schedule based upon the analysis.

SECTION 60. AMENDATORY 62 O.S. 1991, Section 7.11, is amended to read as follows:

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

<u>GRADE</u>	<u>ANNUAL WAGE</u>	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
1	\$ 8,791.00	\$10,970.00
2	8,955.00	11,175.00
3	9,122.00	11,383.00
4	9,292.00	11,595.00
5	9,465.00	11,811.00
6	9,641.00	12,031.00
7	9,820.00	12,255.00
8	10,003.00	12,483.00
9	10,190.00	12,715.00
10	10,379.00	12,952.00
11	10,573.00	13,194.00
12	10,770.00	13,439.00
13	10,970.00	13,690.00
14	11,175.00	13,945.00
15	11,383.00	14,204.00
16	11,595.00	14,469.00
17	11,811.00	14,738.00
18	12,031.00	15,013.00
19	12,255.00	15,292.00
20	12,483.00	15,628.00
21	12,715.00	15,965.00
22	12,952.00	16,319.00
23	13,194.00	16,672.00



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

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

88	55,547.00	73,616.00
89	56,844.00	75,352.00
90	58,204.00	77,176.00
91	59,565.00	79,000.00
92	60,993.00	80,914.00
93	62,422.00	82,828.00
94	63,922.00	84,838.00
95	65,422.00	86,849.00
96	66,997.00	88,959.00
97	68,572.00	91,070.00
98	70,226.00	93,286.00
99	71,880.00	95,503.00
100	73,616.00	97,829.00

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

SECTION 61. AMENDATORY 74 O.S. 1991, Section 840.15, is amended to read as follows:

Section 840.15 A. VETERANS PREFERENCES. In establishing employment lists of eligible persons for competitive and noncompetitive appointment, certain preferences shall be allowed for honorably discharged veterans as defined by Section 67.13a and Section 67.13b of Title 72 of the Oklahoma Statutes. In determination of the register rank:

1. Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a veteran or unremarried surviving spouse of a veteran;

2. Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a spouse of a veteran who is unemployable due to a service-connected disability as certified by the Veterans Administration or agency of the Defense Department within six (6) months of date of application; and

3. Ten points shall be added to the final grade of any war veteran as defined in Section 67.13a of Title 72 of the Oklahoma Statutes who has passed the examination and has submitted proof of having a service-connected disability as certified by the Veterans Administration or agency of the Defense Department within six (6) months of date of application. Such veterans' names shall be placed at the top of the register in accordance with their numerical rating if in receipt of benefits payable at the rate of thirty percent (30%) or more and such veterans shall not be denied employment and passed over for other veterans or nonveterans, without showing cause. Acceptable cause shall include a reasonable expectation of the inability of the preferenced applicant to satisfactorily perform at the required level of the position and shall be reviewed in each instance by the Administrator of the Office of Personnel Management. If the Administrator finds that acceptable cause for the denial of employment to the preferenced applicant does not exist, the appointing authority shall be required to hire the preferenced applicant. The position shall not be permanently filled until the Administrator has issued his findings.

B. WAR VETERANS. War veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who have been awarded the Purple Heart or have a service-incurred disability rated by the Veterans Administration or a branch of the Armed Forces of the United States and who have been a resident of Oklahoma for at least one (1) year prior to the date of the examination, shall be authorized to open any closed register established by the ~~Merit Career Service System of Personnel Administration.~~

C. SPECIAL DISABLED VETERANS. Subsection A of this section shall not apply to special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes. Provided, said veterans may elect

instead to be considered for employment according to the procedures set out in this section.

SECTION 62. 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:

A. RECRUITMENT, EXAMINATIONS, CERTIFICATION, AND APPOINTMENT POLICY. Recruitment and selection of employees within the Career Service 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 noncompetitive appointments and for promotions, lateral transfers, voluntary demotions, reinstatements to the career service, and other types of appointments 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. establishing employment lists of eligible persons for competitive and noncompetitive appointment,

- d. certifying eligibles, and
- e. employment of persons by agencies on probationary, permanent and other types of appointment as necessary.

3. The Administrator shall provide alternative certification and hiring procedures that shall not be subject to requirements for establishing employment lists of eligible persons for competitive and noncompetitive appointment. The purpose of these procedures shall be to:

- a. attain agency affirmative action hiring goals to reduce significant agency workforce imbalances in the employment of females, African Americans, Hispanics, Native Americans, and Asian Americans who are legal residents of the state. Provided, the appointing authority of the employing agency shall certify that remedial action is required to reach agency affirmative action targeted goals. Provided further, that eligible war veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who are members of the group for which a hiring goal has been set shall be considered by the employing agency before a nonveteran member of the targeted group is appointed,
- b. encourage the employment of special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes,
- c. encourage the employment of other qualified persons with disabilities who are certified as disabled according to standards and procedures established by the Administrator with the assistance of the Office of Handicapped Concerns and the Department of Human Services, Rehabilitative Services Division, and

d. 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 procedure shall include review of protests from career service employees who are applicants for reclassification by an alternative dispute resolution facilitator, provided by the Oklahoma Merit Protection Commission, who shall recommend action to the Administrator. The Administrator may order corrective action. 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.

SECTION 63. 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:

A. PROBATIONARY PERIODS. Appointing authorities shall make strategic use of the probationary periods for new career service employees to facilitate their entry and adjustment to state service, including providing appropriate orientation and training regarding performance 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 and other standards and procedures for probationary periods pursuant to this section. Probationary periods for classes of positions shall be either six (6) months or one (1) year. All probationary periods shall be the same within the same class. A probationary employee may be released at any time during the probationary period without

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, appointing authorities may require probationary periods, not to exceed six (6) months, after interagency transfer, reinstatement, or other reemployment action. An appointing authority shall give the person appointed actual written notice that a probationary period will be required and the length of the probationary period to be served before the person enters on duty with the agency. A probationary employee may be released at any time during the probationary period without the right to appeal. The appointing authority may cancel the probationary period in writing at any time and the employee will immediately become permanent. No extension of the probationary period shall be permitted.

3. The appointing authority may require trial periods, according to standards and procedures established by the Administrator, not to exceed six (6) months, in the new class after intra-agency reclassification of a permanent career service employee. During the trial period, the employee shall retain his or her permanent status with the agency, but may be returned to employment in his or her previous class with the agency and his or her salary shall be fixed at the same salary to which the person would have been entitled had the reclassification not occurred. The employee shall not have the right of appeal to the Oklahoma Merit Protection Commission.

SECTION 64. 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:

A. RECRUITMENT PLAN. Appointing authorities shall develop recruitment plans that provide internal notice of career service opportunities within their agencies and shall consider permanent



career service employees of the agency 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 and other objective criteria to measure the ability of an applicant to perform job requirements.

2. Recruitment plans shall ensure 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 (5) calendar days before the agency makes an appointment.

3. Each appointing authority shall be responsible for developing an employee career development plan which shall ensure consideration of qualified permanent employees in the agency or career service who apply. Seniority shall be considered along with other appropriate factors in developing the employee career development plan. However, such plan shall also include provisions to bring persons in to the career service through open competition. Appointments shall be subject to post-audit by the Office.

SECTION 65. AMENDATORY 74 O.S. 1991, Section 840.19a, is amended to read as follows:

Section 840.19a HEARING IMPAIRED. When the appointing authority determines that certain knowledge and sign language skills are required in any position in order to effectively work with hearing impaired persons, such requirements shall be incorporated into the specifications of the appropriate job classifications. Such requirements shall not be construed as placing additional requirements on persons who are incumbents in such positions at the time such a determination is made.

SECTION 66. AMENDATORY 74 O.S. 1991, Section 841.16, as amended by Section 18, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.16), is amended to read as follows:

Section 841.16 A. EMPLOYEE SERVICE RATING SYSTEM. Each agency shall adopt and maintain a system of employee service ratings. The Office of Personnel Management shall make available a standard system for this purpose, but an appointing authority may develop a separate system, subject to approval of the Administrator of the Office of Personnel Management. The purpose of the system of employee service rating is to evaluate the performance of each ~~regular classified, unclassified and exempt~~ or career service employee in the executive branch of state government ~~except those in the exempt unclassified service as specified in paragraphs 1 and 2 of Section 840.8 of this title and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education.~~ The Administrator of the Office of Personnel Management, on or before January 1 of each year, shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor identifying those state agencies that have complied with the provisions of this section.

B. SYSTEM REQUIREMENTS. The system shall provide for the following:

1. An objective evaluation of the employee, by the immediate supervisor, of the performance of the employee within the assigned duties of the job;

2. The identification of the strengths and deficiencies of the employee;

3. Corrective actions, if necessary, to correct deficiencies;

4. An interview with the employee by the immediate supervisor who shall provide the employee with a copy of the service ratings; and

5. The opportunity for the employee to submit written comments regarding the service rating.

C. RATINGS. Each employee shall be rated thirty (30) days prior to the end of the probationary period. Thereafter, each employee shall be rated no less than once each year.

D. GRIEVANCE. Any ~~permanent~~ classified or career service employee who disagrees with his or her individual service rating may file a grievance pursuant to Section ~~841.9~~ 92 of this ~~title act.~~ Any employee, regardless of status, who is required to be rated pursuant to this section and who disagrees with his or her individual service rating may file a complaint through any other dispute resolution process made available through the employing agency or the Oklahoma Merit Protection Commission. The Oklahoma Merit Protection Commission shall not have jurisdiction to investigate or hear appeals ~~of~~ on individual service ~~ratings~~ rating scores.

E. USE OF SERVICE RATINGS. The agency shall use the service ratings of employees in decisions regarding promotions, demotions, performance pay increases and discharges. Reductions-in-force shall not be considered discharges.

F. COPIES OF SERVICE RATINGS. The agency shall retain a copy of the service rating for each employee of the agency. A copy of the service rating shall be furnished to the Administrator of the Office of Personnel Management for review to determine compliance with the provisions of this section and shall be retained in the file on the employee.

G. REPEALER. Beginning July 1, 1996, the provisions of this section shall cease to have the force and effect of law.

SECTION 67. 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:

PERFORMANCE APPRAISAL SYSTEMS. The state shall develop and July 1, 1996, shall implement performance appraisal systems to improve communications between career service employees and their supervisors; enhance the development of employees; provide supervisors factual information regarding their performance from their employees; promote work group and agency enhanced performance; support administrative decision making concerning performance and productivity; and provide adequate documentation of individual, work group and agency performance.

SECTION 68. 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:

A. PERFORMANCE APPRAISAL TASK FORCE. 1. There is hereby created the Performance Appraisal Task Force, until July 1, 1996. The Task Force shall advise the Administrator of the Office of Personnel Management in developing and implementing standards for the performance appraisal systems required by this section.

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

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

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

4. The Chair shall call the first meeting of the Task Force by August 15, 1995.

5. A majority of the members of the Task Force shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Task Force and every act of a majority of the members present shall be deemed the act of the Task Force.

B. REQUIREMENTS. The Task Force shall recommend to the Administrator standards for performance appraisal systems for agencies that shall be submitted by the Administrator for promulgation pursuant to the Administrative Procedures Act. The standards may include but are not limited to:

1. An annual evaluation of the state employee performance of assigned duties and responsibilities, and other factors that affect individual, work group, or agency performance;

2. An evaluation of the effectiveness of the state employee in contributing to the achievement of agency affirmative action goals and equal employment practices;

3. Consideration of information solicited from the state employee's peers, if appropriate; and

4. An annual evaluation of supervisors in agencies in both the career service and the selective service with career service employees that shall include performance evaluation information from employees of the supervisors. To the extent possible, the annual evaluation of supervisors shall maintain the anonymity of the employee and prohibit retaliation against employees. The standards for the annual evaluation of supervisors shall include, but not be limited to, employee perception of the supervisors:

- a. respect for employees under their supervision,
- b. leadership qualities,
- c. ability to communicate to employees the mission of the agency and the particular agency work units under the direct or indirect supervision of the supervisor,
- d. success in removing organizational barriers within the supervisors' control of barriers that reduce employee effectiveness, and
- e. willingness to communicate with employees about ways in which work units under the direct or indirect supervision of the supervisor can identify strategies to improve the overall quality of those units and provide enhanced services to clients.

C. STUDY OF PERFORMANCE APPRAISAL APPEALS. The Task Force shall study and make recommendations regarding appeal procedures on performance appraisals authorized by Section 67 of this act and this section. The report shall be submitted to the Administrator of the Office of Personnel Management, the Executive Director of the Merit Protection Commission, the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate on or before January 1, 1995.

D. RULEMAKING. The Task Force shall not have the authority to adopt rules pursuant to the Administrative Procedures Act.

SECTION 69. 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:

A. CAREER EXECUTIVE SERVICE. The Administrator shall establish a career executive service within the career service system to identify, attract and retain qualified and diverse senior level candidates; provide career service employees a broad opportunity for selective service appointment; and permit 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. Permanent career service 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 unless otherwise provided by the State Human Resources Reform Act of 1994.

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 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, unless discharged for improper conduct pursuant to Section 71 of this act.

SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-420 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. COPIES OF RULES. The Administrator shall make copies of rules adopted under the State Human Resources Reform Act of 1994 available.

B. POLICIES AND PROCEDURES. 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 the State Human Resources Reform Act of 1994 available to the employees they affect.

C. PERSONNEL FORMS AND RECORDS. The Administrator shall establish standards for the form and substance of personnel forms and records for all career service agencies and for access to such forms and records, except as provided by the Commission for forms and records within its jurisdiction.

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-421 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. DISCIPLINE. Each supervisor is responsible for developing and maintaining a productive working environment, free from avoidable disruption caused by employee misconduct. Each supervisor shall be responsible for applying discipline when necessary that is progressive in nature, appropriate for the offense considering aggravating and mitigating circumstances, and equitable. Supervisors shall use prompt, positive action, such as counseling or training, to avoid more serious disciplinary actions.

B. PROGRESSIVE DISCIPLINE POLICIES AND PROCEDURES. 1. Each appointing authority shall establish written policies and procedures for progressive discipline of employees according to the requirements established by the Oklahoma Merit Protection Commission.



2. Progressive discipline may include penalties that range from verbal warnings to discharge, with intermediate levels of a written warning, suspension, or demotion. Repetition of an offense may be accompanied by an automatic progression to the next higher level of discipline.

SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-422 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. INVOLUNTARY DEMOTION, SUSPENSION WITHOUT PAY, AND DISCHARGE. Permanent career service employees shall have due process rights in connection with involuntary demotion, suspension without pay, and discharge.

B. REQUIREMENTS. 1. An appointing authority may demote, suspend without pay for a maximum of sixty (60) calendar days in any twelve-month period, or discharge a permanent career service employee for inefficiency, inability to perform the assigned duties, unsatisfactory performance, willful violation of the State Human Resources Reform Act of 1994 or rules adopted by the Administrator of the Office of Personnel Management or the Oklahoma Merit Protection Commission, misconduct, insubordination, conduct unbecoming a career service employee, or any other just cause. Within ten (10) calendar days after such discharge, suspension without pay, or involuntary demotion, the appointing authority shall notify the employee by certified mail or personal service of the action taken and the specific cause or causes for which said appointing authority has taken such action. 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. PREDISCIPLINARY HEARING. A predisciplinary hearing shall be held before the appointing authority or its designee for any permanent career service employee before such employee shall be terminated from the state service unless the termination is part of a reduction-in-force.

D. PROCEDURES. The procedures for a predisciplinary hearing shall be:

1. Notice of the hearing shall be served by actual delivery or by certified or registered mail service at least seven (7) calendar days prior to the scheduled hearing;

2. Said notice of the hearing shall state all grounds for termination and shall include a general summary of evidence or physical evidence to support each of the stated grounds for termination;

3. The employee shall be advised of his or her rights of representation by legal counsel or a representative of choice;

4. Any hearing shall be recorded in its entirety by an audible electronic tape recording, and a copy of the tape shall be provided to the employee at no cost if the employee appeals to the Oklahoma Merit Protection Commission;

5. The hearing need not be a full evidentiary hearing. Formal rules of evidence shall not apply. The hearing shall be conducted so as to provide the appointing authority with information from which it may determine whether reasonable grounds exist to believe that the charges against the employee are true, and whether the grounds support the proposed action;

6. Following review of the recordings of the hearing and all evidence by the appointing authority, said appointing authority shall notify the employee of the final decision in the manner aforesaid within ten (10) calendar days after the hearing;

7. Such notice shall state all grounds for termination; and

8. In any subsequent proceedings before the Oklahoma Merit Protection Commission or district court, no grounds for termination other than those stated in the aforementioned notices shall be considered.

SECTION 73. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 841.14A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. REORGANIZATION. 1. Appointing authorities shall project workforce needs carefully and make appointments prudently to avoid overstaffing and excess levels of management. When necessary, appointing authorities may reorganize their agencies to carry out their mission more effectively and efficiently.

2. The Administrator shall establish standards for reorganization of agencies within the classified service that result in occupied positions being abolished. Provided, however, the standards shall require agencies to conduct a reorganization as a reduction-in-force according to Section 841.14 of Title 74 of the Oklahoma Statutes if a reorganization requires the involuntary separation of any permanent classified employee. If a reorganization does not require the involuntary separation of any permanent classified employee, an agency shall not be required to conduct a reduction-in-force.

3. Before an appointing authority conducts a reorganization that includes abolishing occupied positions in a merit system agency, the appointing authority shall develop a plan for the reorganization according to 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 for at least fifteen (15) calendar days before it is implemented.

4. The Administrator's standards for agency reorganization plans may include consideration of length of service, performance, discipline, and other appropriate factors in reassigning and reclassifying employees. The standards shall permit appointing authorities to maintain the base pay of employees even if the base pay is above the maximum pay for an employee's salary grade after the reorganization. A permanent classified employee who is reclassified downward during a reorganization conducted according to this section shall not have his pay reduced for this reason for a period of at least two (2) years after the effective date of the reclassification. Provided, such reclassification downward shall not be considered a demotion.

B. APPEALS. Employees may only appeal a reorganization or resulting personnel transactions, including downward reclassification, to the Oklahoma Merit Protection Commission, on the basis of procedural errors in the application of the reorganization of the employing agency.

C. REPEALER. Beginning July 1, 1995, this section shall cease to have the force and effect of law.

SECTION 74. AMENDATORY 74 O.S. 1991, Section 841.14, is amended to read as follows:

Section 841.14 A. REDUCTION-IN-FORCE. No appointing authority may conduct a reduction-in-force of classified service employees until other personnel cost-reduction mechanisms are in place. 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. These mechanisms shall include consideration of imposing a hiring freeze, offering an early retirement option if available to directly affected employees pursuant to statute, conducting furloughs, establishing outplacement

counseling services for affected employees, abolishing all vacant positions in affected classes, separating all limited-term classified service employees in affected classes, terminating contract personnel performance duties similar to affected classes, and offering affected employees reclassification and reassignment into vacant positions critical to the agency mission. If the reason for the reduction-in-force is inadequate funds, the Director of State Finance shall approve the certification. The appointing authority shall determine when the requirements of this subsection have been met. This determination shall not be subject to the approval of the Administrator of the Office of Personnel Management.

B. REDUCTION-IN-FORCE PLAN REQUIREMENTS. 1. Whenever the number of classified service positions and classified service employees in any state agency is reduced, the appointing authority shall, subject to the approval of the Administrator of the Office of Personnel Management, provide a plan for such reduction-in-force within the agency. Such plan and subsequent personnel transactions shall be in compliance with rules adopted by the Administrator. The appointing authority shall post in each office of the agency a copy of the proposed reduction-in-force plan five (5) days prior to the submission of the proposed plan to the Administrator.

2. Such plan shall provide for the appointing authority to determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof. It shall also provide for retention of employees based on classification and type of appointment. It shall require the separation of probationary and other limited term unclassified/exempt and classified employees in classes affected by a reduction-in-force prior to the separation or displacement of any permanent classified employee in an affected class. The plan shall additionally provide for retention of permanent classified employees in classes affected by the reduction-in-force based upon

~~consideration of length of service. The plans for agencies having both classified and unclassified/exempt positions in affected classes shall provide that the percentage of occupied classified positions abolished as compared to the total number of occupied classified positions in the affected class shall not exceed the percentage of occupied unclassified/exempt positions abolished as compared to the total number of occupied unclassified/exempt positions in the affected class.~~

The Administrator of the Office of Personnel Management shall review the agency plan and shall reject any plan which is not in substantial compliance with this section and the rules promulgated hereunder.

~~B.~~ C. DISPLACEMENT LIMITATIONS. The appointing authority may limit displacement of employees at the time of a reduction-in-force if such limitation is based upon reasonable, clearly written, articulated criteria. Such action is not subject to the approval of the Administrator. If displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women.

~~C.~~ D. RECALL OF EMPLOYEES. Permanent classified employees removed from a class by an agency under the provisions of this section shall be recalled by the agency to the class from which removed in inverse order of removal before the agency may appoint other persons to the class, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided in subsection ~~D~~ E of this section. Upon declination of an offer of reappointment to the class from which removed or eighteen (18) months after the date of removal from the class, whichever is first, this right to be recalled shall expire.

~~D.~~ E. PRIORITY CONSIDERATION FOR REEMPLOYMENT. 1. The names of probationary and permanent classified employees, ~~and regular exempt and unclassified full-time employees with over six (6) months~~

~~continuous service~~ who have been separated as a result of an officially conducted reduction-in-force or the abolition of a state agency, board or commission or any part thereof within the classified service, who apply and meet all requirements for state jobs in the classified service shall be placed on Priority Reemployment Consideration Rosters in accordance with their individual final earned ratings for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any person eligible for initial appointment from the employment register, persons on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen (18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a class having the same or higher grade than that class from which removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire.

~~E. 2.~~ If an institution, facility, or agency within the classified service of this state is scheduled to be closed or abolished as a result of legislation or a court order, the employees of the institution, facility, or agency who would be eligible for Priority Reemployment Consideration after their separation in accordance with paragraph 1 of this subsection ~~D of this section~~, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation.

F. OTHER REDUCTIONS-IN-FORCE. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct agencies, boards and commissions to reduce the number of employees working for said agency, board or commission whenever it is deemed necessary and proper. ~~Such~~ Within the

classified service, such reduction shall be made pursuant to reduction-in-force plans as provided in this section.

G. OPTION TO RETAIN MEMBERSHIP IN THE STATE AND EDUCATION EMPLOYEES GROUP INSURANCE PROGRAM. State employees separated as a result of a reduction-in-force or as a consequence of the abolition of a state agency, board or commission or any part thereof shall be given the option of being placed on leave without pay status and may retain their membership in the State and Education Employees Group ~~Health, Dental and Life~~ Insurance program for a period of time consistent with applicable rules and regulations. Each affected employee electing to retain his or her insurance membership shall be responsible for payment of all premiums on the insurance.

H. ~~1. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct and require mandatory furloughs for all state employees whenever it is deemed necessary and proper. The Contingency Review Board shall specify the effective dates for furloughs and shall note any exceptions to state employees affected by same. All classified, unclassified, exempt or nonmerit employees, including those employees of agencies or offices established by statute or the Constitution, shall be affected by such actions.~~

~~2. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave without pay. Rules governing leave regulations, longevity pay and participation in the State Employees Group Health, Dental and Life Insurance program shall not be affected by mandatory furloughs. Furlough, as provided for in this section or by rules adopted by the Administrator of the Office of Personnel Management, shall not be appealable under the provisions of the Oklahoma Personnel Act.~~

~~3. Notwithstanding existing laws or provisions to the contrary, members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough. The Contingency~~



~~Review Board shall additionally call upon elected officials, members of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.~~ APPEALS. Employees may only appeal a reduction-in-force action to the Oklahoma Merit Protection Commission on the basis of procedural errors in the application of the reduction-in-force plan of the employing agency, board or commission.

I. REPORTING REQUIREMENTS. All agencies, boards and commissions directed by the Contingency Review Board to ~~terminate or furlough~~ layoff career service employees, shall report the cumulative cost savings achieved by the reductions-in-force or furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on a quarterly basis for one (1) year following the effective date of the action.

J. REPEALER. Beginning July 1, 1995, this section shall cease to have force and effect of law.

SECTION 75. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-423 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. REORGANIZATION. 1. Appointing authorities shall project workforce needs carefully and make appointments prudently to avoid overstaffing and excess levels of management. When necessary, appointing authorities may reorganize their agencies to carry out their mission more effectively and efficiently.

2. The Administrator shall establish standards for reorganization of agencies within the classified service that result in occupied positions being abolished. Provided, however, the standards shall require agencies to conduct a reorganization as a reduction-in-force according to Section 76 of this act 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.

B. REORGANIZATION PLAN. 1. Before an appointing authority conducts a reorganization that includes abolishing occupied positions in a career service agency, the appointing authority shall develop a plan for the reorganization according to 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 implemented.

2. The Administrator's standards for agency reorganization plans may include consideration of length of service, performance, discipline, and other appropriate factors in reassigning and reclassifying employees. The standards shall permit appointing authorities to maintain the base pay of employees even if the base pay is above the maximum pay for an employee's salary grade after the reorganization. Permanent employees who are reclassified downward during a reorganization conducted according to this section shall not have their pay reduced for this reason for a period of at least two (2) years after the effective date of the reclassification. Provided, such reclassification downward shall not be considered a demotion.

C. APPEALS. Employees may only appeal a reorganization or resulting personnel transactions, including downward reclassification, to the Oklahoma Merit Protection Commission, on the basis of procedural errors in the application of the reorganization of the employing agency.

SECTION 76. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-424 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. REDUCTION-IN-FORCE. No appointing authority may conduct a reduction-in-force of career service employees until other personnel

cost-reduction mechanisms are in place. 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. These mechanisms shall include consideration of imposing a hiring freeze, offering an early retirement option if available directly to affected employees pursuant to statute, conducting furloughs, establishing outplacement counseling services for affected employees, abolishing all vacant positions in affected classes, separating all limited-term selective service employees in affected classes, terminating contract personnel performance duties similar to affected classes, and offering affected employees reclassification and reassignment into vacant positions critical to the agency mission. If the reason for the reduction-in-force is inadequate funds, the Director of State Finance shall approve the certification. The appointing authority shall determine when the requirements of this subsection have been met. This determination shall not be subject to the approval of the Administrator of the Office of Personnel Management.

B. REDUCTION-IN-FORCE PLAN REQUIREMENTS. 1. Whenever the number of career service positions and career service employees in any state agency is reduced, the appointing authority shall, subject to the approval of the Administrator of the Office of Personnel Management, provide a plan for such reduction-in-force within the agency. Such plan and subsequent personnel transactions shall be in compliance with Career Service System Rules adopted by the Administrator. The appointing authority shall post in each office of the agency a copy of the proposed reduction-in-force plan at least fifteen (15) days prior to the submission of the proposed plan to the Administrator.

2. Such plan shall provide for the appointing authority to determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts

thereof. It shall also provide for retention of employees based on classification and type of appointment. It shall require the separation of probationary and other limited-term selective service and career service employees in classes affected by a reduction-in-force prior to the separation or displacement of any permanent career service employee in an affected class. The plan shall additionally provide for retention of permanent career service employees in classes affected by the reduction-in-force based upon consideration of length of service.

The Administrator of the Office of Personnel Management shall review the agency plan and shall reject any plan which is not in substantial compliance with this section and Career Service System Rules.

C. DISPLACEMENT LIMITATIONS. The appointing authority may limit displacement of employees at the time of a reduction-in-force if such limitation is based upon reasonable, clearly written criteria. Such action is not subject to the approval of the Administrator. If displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women.

D. RECALL OF EMPLOYEES. Permanent career service employees removed from a class by an agency under the provisions of this section shall be recalled by the agency to the class from which removed in inverse order of removal before the agency may appoint other persons to the class, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided in subsection E of this section. Upon declination of an offer of reappointment to the class from which removed or eighteen (18) months after the date of removal from the class, whichever is first, this right to be recalled shall expire.

E. PRIORITY CONSIDERATION FOR REEMPLOYMENT. 1. The names of probationary and permanent career service employees who have been

separated as a result of an officially conducted reduction-in-force or the abolition of a state agency, board or commission or any part thereof within the career service, who apply and meet all requirements for state jobs in the classified service shall be placed on Priority Reemployment Consideration Rosters in accordance with their individual final earned ratings for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any person eligible for initial appointment from the employment register, persons on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen (18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a class having the same or higher grade than that class from which removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire.

2. If an institution, facility, or agency within the career service of this state is scheduled to be closed or abolished as a result of legislation or a court order, the employees of the institution, facility, or agency who would be eligible for Priority Reemployment Consideration after their separation in accordance with paragraph 1 of this subsection, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation.

F. OTHER REDUCTIONS-IN-FORCE. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct agencies, boards and commissions to reduce the number of employees working for said agency, board or commission whenever it is deemed necessary and proper. Within the career service, such reduction shall be made pursuant to reduction-in-force plans as provided in this section.

G. OPTION TO RETAIN MEMBERSHIP IN THE STATE AND EDUCATION EMPLOYEES GROUP INSURANCE PROGRAM. State employees separated as a result of a reduction-in-force or as a consequence of the abolition of a state agency, board or commission or any part thereof shall be given the option of being placed on leave without pay status and may retain their membership in the State and Education Employees Group Insurance program for a period of time consistent with applicable rules and regulations. Each affected employee electing to retain his or her insurance membership shall be responsible for payment of all premiums on the insurance.

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

I. REPORTING REQUIREMENTS. All agencies, boards and commissions directed by the Contingency Review Board to layoff career service employees shall report the cumulative cost savings achieved by the reductions-in-force or furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on a quarterly basis for one (1) year following the effective date of the action.

SECTION 77. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-425 of Title 74, unless there is created a duplication in numbering, reads as follows:

AUTHORIZATION FOR WITHDRAWAL. If, after notice, 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 the State Human Resources Reform Act of 1994, the Administrator shall withdraw from that appointing authority and agency, any or all authority as provided in the State Human Resources Reform Act of 1994. The Administrator shall exercise such authority in a ministerial

capacity for the agency. 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. The provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the Administrator the authority provided for in this section, unless the agency is specifically excluded by law from the provisions of this section.

SECTION 78. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-426 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. HUMAN RESOURCE MANAGEMENT PLAN AND REPORT. The appointing authority of each career service agency shall prepare an annual human resource management plan and self-evaluation report for submission to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Administrator, and the Commission. The appointing authority shall prepare and submit this plan and report according to Career Service Rules adopted by the Administrator of the Office of Personnel Management. The Administrator shall prescribe forms for the submission of the plan and report.

B. PLAN REQUIREMENTS. The annual human resource management plan shall include but not be limited to:

1. Affirmative action;
2. Staffing, recruitment, and promotion;
3. Classification and compensation;
4. Training and staff development, including actual expenditures for training for the previous fiscal year, projected for the current fiscal year, and forecasted for the plan fiscal year, as a percentage of total payroll;
5. Number of internal agency grievances and internal agency complaints of discrimination filed, number of discharges,

suspensions without pay and demotions, and number of Commission directed investigations; and

6. Strategies for assuring employee participation in the development of agency personnel plans, policies and procedures. Appointing authorities shall select employee participation strategies, such as, agency employee advisory councils, agency employee surveys, bulletin board postings, circulation for comment, that are appropriate to the individual agency.

C. REPORT REQUIREMENTS. The annual self-evaluation report shall include, but not be limited to:

1. A determination of whether the agency has established the personnel policies and procedures required by the State Human Resources Reform Act of 1994;

2. A comparison of the agency's personnel transactions and practices with its policies and procedures;

3. A comparison of the agency's personnel transactions with the human resource management plan for the preceding fiscal year, ending June 30;

4. All reallocation decisions for both selective and career service positions and all adjustments to pay grades or salary assignments for classes in the selective service, along with an analysis;

5. All transactions in both the selective and career services involving the establishment of new positions that have not been authorized specifically by legislative action;

6. Documentation of employee participation in the development of the annual human resource management plan and self-evaluation including an evaluation of the effectiveness of the employee participation strategies used during the preceding fiscal year; and

7. A summary of employee comments and the changes or lack of changes made as a result of employee comments regarding the agency's human resource management self-evaluation plan and evaluation.



D. AUDITS. The Administrator shall initiate a system for conducting periodic on-site human resource management audits of career service system agencies to determine the agencies' compliance with the State Human Resources Reform Act of 1994, rules and plans pursuant thereto, and the individual agency plan. Beginning July 1, 1996, each career service system agency shall be audited a minimum of once every five (5) years. In addition, the Administrator of the Office of Personnel Management and the Executive Director of the Oklahoma Merit Protection Commission, at the direction of the Governor, Speaker of the House of Representatives, or the President Pro Tempore of the Senate, shall conduct agency audits of human resource management policies, procedures, and practices within their respective jurisdictions. The Administrator and the Executive Director may also conduct such audits on their own initiative.

SECTION 79. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-427 of Title 74, unless there is created a duplication in numbering, reads as follows:

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

1. Five members shall be appointed by the Governor, four of whom shall be persons from the private and public sectors with human resources management experience and one of whom shall be a representative of a state employee association or labor organization representing state employees;

2. Two members appointed by the Speaker of the House of Representatives, one of whom shall be a member of the House of Representatives and one of whom shall be a person from the private or public sector with human resource management experience; and

3. Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Senate and one of whom

shall be a person from the private or public sector with human resource management experience.

In selecting these appointees, each individual making the appointments to the Advisory Committee shall strive to ensure that the composition of the committee achieves racial and gender balance and shall not select more than two persons of the same gender or race. Members shall serve at the pleasure of the individual making the appointment. The Administrator shall convene the initial meeting. The Committee shall select a chair and vice-chair from its membership. A majority of the members of the Committee shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Committee and every act of a majority of the members present shall be deemed the act of the Committee.

B. DUTIES. The duties of the Advisory Committee shall be to:

1. Participate in the development of policies and procedures to implement the provisions of this section;

2. Recommend necessary rules to the Administrator of the Office of Personnel Management;

3. Participate in the review of annual human resource plans and self-evaluation reports;

4. Take final action on proposals to delegate appropriate human resource functions normally conducted by the Office of Personnel Management to appointing authorities pursuant to Section 56 of this act and proposed model human resource project plans pursuant to Section 57 of this act; and

5. Prepare a report by September 1, 1997, for the Governor, Speaker of the House of Representative, and President Pro Tempore of the Senate. The report shall include an assessment of the impact of this section on the productivity and morale of both career service and selective service employees of career service agencies.

C. STUDY OF STATE GOVERNMENT POSITIONS. The Committee shall conduct a study of the positions in agencies which are in the unclassified service to determine which positions should be assigned to the career service or to the selective service and prepare a written report of findings and recommendations. The study shall be conducted in cooperation with the Secretaries of the Governor's Cabinet. Among the criteria that the Committee 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 Committee 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, 1995.

D. TRAVEL REIMBURSEMENT. Members of the Committee shall receive no compensation for serving on the Committee, but shall receive travel reimbursement for their necessary travel expenses incurred in the performance of their duties. Travel reimbursement shall be provided by the employing agency if they are employed by state government in accordance with the State Travel Reimbursement Act. Legislators shall receive travel reimbursement by their respective legislative bodies in accordance with Section 456 of Title 74 of the Oklahoma Statutes. Members of the Committee who are not employed by state government shall be reimbursed by the Office of Personnel Management in accordance with the State Travel Reimbursement Act.

E. RULEMAKING. The Committee shall not have the authority to adopt rules pursuant to the Administrative Procedures Act.

SECTION 80. 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:

Sections 80 through 89 of this act shall be known and may be cited as "Article 5. Selective Service".

SECTION 81. 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:

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 the State Human Resources Reform Act of 1994, offices, positions, and personnel in the legislative and judicial branches of state government are not subject to the State Human Resources Reform Act of 1994.

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. Appointing authorities shall not 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 the State Human Resources Reform Act of 1994 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 82. AMENDATORY 74 O.S. 1991, Section 840.8, as last amended by Section 2, Chapter 333, O.S.L. 1993 (74 O.S. Supp. 1993, Section 840.8), is amended to read as follows:

Section 840.8 A. MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL. The following offices, positions, and personnel ~~comprise the exempt unclassified~~ shall be in the selective service and shall not be placed under the Career Service System by Executive Order:

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

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

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

4. ~~Federally funded time-limited employees hired for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and~~ Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the selective service employment shall not exceed the period of time for which that specific ~~federal~~ funding is provided;

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

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

7. Election officials and employees;

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

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

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

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

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

student is regularly attending classes during that semester of employment, or

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

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

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

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

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

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

- ~~a. the general manager, assistant general managers, secretaries to the general manager, and assistant general managers,~~
- ~~b. the chief engineer and the engineers, superintendents, and assistant superintendents,~~
- ~~c. the general counsel and the attorneys on the general counsel's staff,~~
- ~~d. the secretary,~~
- ~~e. the treasurer,~~
- ~~f. rate analysts, and~~
- ~~g. unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned~~

~~nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service;~~

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

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

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

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

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

- ~~a. Administrative Assistants,~~
- ~~b. Informational Representatives III,~~
- ~~c. Driver Educational Electronics Technician,~~
- ~~d. Media Technical Assistants,~~
- ~~e. Executive Secretaries,~~
- ~~f. Accounting Supervisor,~~
- ~~g. Supervisor of Records,~~



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

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

~~20.~~ 15. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

~~21.~~ 16. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

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

~~22.~~ 17. The State Comptroller, Office of the Director of State Finance;

~~23.~~ 18. Employees of the Oklahoma Development Finance Authority;

~~24.~~ 19. Those positions so specified in the annual business plan of the Department of Commerce;

~~25.~~ 20. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

~~26.~~ 21. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section ~~or in Section 840.10 of this title;~~

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

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

~~1. Collections Attorneys;~~

~~28.~~ 22. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

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

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

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

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

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

~~The positions listed in this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified sales~~

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

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

~~31. 23. Department of Labor personnel occupying the following offices and positions:~~

- ~~a. Deputy Commissioner,~~
- ~~b. Executive Secretary to the Commissioner,~~

- c. Chief of Staff, and
- d. Administrative Assistant, Legal;

~~32.~~ 24. The State Bond Advisor and his employees;

~~33.~~ 25. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director;

~~34.~~ 26. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant; ~~and~~

~~35.~~ 27. The officers and employees of the State Banking Department; and

28. Officers and employees of the University Hospitals Authority except personnel in the Career Service System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes.

B. DISCRETIONARY SELECTIVE SERVICE. 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 paragraph 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.

SECTION 83. 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:

MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL OF THE GRAND RIVER DAM AUTHORITY. The following offices, positions, and personnel of the Grand River Dam Authority shall be in the

selective service and shall not be placed under the Career Service System by Executive Order:

1. The general manager, assistant general managers, secretaries to the general manager, and assistant general managers;

2. The chief engineer and the engineers, superintendents, and assistant superintendents;

3. The general counsel and the attorneys on the general counsel's staff;

4. The secretary;

5. The treasurer;

6. Rate analysts; and

7. Selective service employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified selective service employees are vacated, the positions shall revert to the career service.

SECTION 84. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-505 of Title 74, unless there is created a duplication in numbering, reads as follows:

MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL OF THE OKLAHOMA TAX COMMISSION. The following offices, positions, and personnel of the Oklahoma Tax Commission shall be in the selective service and shall not be placed under the Career Service System by Executive Order:

1. All revenue administrators, the budget officer and the comptroller of the Tax Commission;

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

3. All Computer Programming Systems Specialist positions;

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

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

6. Public Information Officer; and

7. All Tax Economist positions.

SECTION 85. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-506 of Title 74, unless there is created a duplication in numbering, reads as follows:

MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL OF THE CORPORATION COMMISSION. The following offices, positions, and personnel of the Corporation Commission shall be in the selective service and shall not be placed under the Career Service System by Executive Order:

1. Administrative assistant, administrative aides, and executive secretaries to the Commissioners;

2. Directors of all the divisions; and

3. General Counsel.

SECTION 86. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-507 of Title 74, unless there is created a duplication in numbering, reads as follows:

MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL OF THE STATE DEPARTMENT OF EDUCATION. The following offices, positions, and personnel of the State Department of Education shall be in the selective service and shall not be placed under the Career Service System by Executive Order:

1. Administrative Assistants;

2. Informational Representatives III;

3. Driver Educational Electronics Technician;

4. Media Technical Assistants;

5. Executive Secretaries;

6. Accounting Supervisor;

7. Supervisor of Records;

8. Supervisor of Printing Services;



9. Migrant Records Transfer System Representative;

10. Financial Managers; and

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

Nothing in this paragraph is intended to change the status, whether career service or selective service, of any person employed by the Department of Education prior to May 1, 1989. No position shall be made part of the selective service while it is occupied by a career service employee because of any change in salary or grade.

Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be made part of selective service upon being vacated.

SECTION 87. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-508 of Title 74, unless there is created a duplication in numbering, reads as follows:

MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL OF THE STATE INSURANCE FUND. The following offices, positions, and personnel of the State Insurance Fund shall be in the selective service and shall not be placed under the Career Service System by Executive Order:

1. Commissioner;

2. Deputy Commissioner;

3. Administrative Assistants to the Commissioner;

4. Executive Secretaries to the Commissioner and Deputy

Commissioner;

5. Law Clerks and Legal Assistants;

6. Special Counsel;

7. General Counsel;

8. Medical Analysts Supervisor;
9. Medical Analysts;
10. Field Adjusters;
11. Investment Officer; and
12. Collections Attorneys.

SECTION 88. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-509 of Title 74, unless there is created a duplication in numbering, reads as follows:

MANDATORY SELECTIVE SERVICE OFFICES, POSITIONS, AND PERSONNEL OF THE DEPARTMENT OF CORRECTIONS. The following offices, positions, and personnel of the Department of Corrections shall be in the selective service and shall not be placed under the Career Service System by Executive Order:

1. a. Associate Director,
- b. Executive Secretary,
- c. General Counsel,
- d. Assistant General Counsel,
- e. Deputy Director,
- f. Public Information Officer,
- g. Personnel Manager,
- h. Administrator of Planning and Research,
- i. Administrator of Finance and Accounting,
- j. Executive Assistant,
- k. Administrator of Information Services,
- l. Affirmative Action Officer,
- m. System Development Manager,
- n. Computer Operations Manager,
- o. Training Director,
- p. Assistant Training Director,
- q. Administrator of Construction and Maintenance,
- r. Administrative Assistant,
- s. Secretary,

- t. Administrator of Classification and Programs,
- u. Coordinator of Facility Classification,
- v. Mediation Coordinator,
- w. Inspector General,
- x. Medical Director,
- y. Psychiatrist,
- z. Physician,
- aa. Optometrist,
- ab. Dental Services Supervisor,
- ac. Dentist,
- ad. Psychologist,
- ae. Administrator of Dietary Services,
- af. Warden I,
- ag. Warden II,
- ah. Warden III,
- ai. Deputy Warden I,
- aj. Deputy Warden II,
- ak. Deputy Warden III,
- al. Community Treatment Center Superintendent,
- am. Community Treatment Center Assistant Superintendent,
- an. Probation and Parole District Supervisor,
- ao. Probation and Parole Assistant District Supervisor,
- ap. Administrator of Human Resources,
- aq. Facility Staffing Pattern Analyst,
- ar. Correctional School Superintendent,
- as. Regional Director,
- at. Assistant Regional Director,
- au. Chief of Operations, and
- av. Chief Psychologist; and

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

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

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

Incumbents in positions listed in paragraph 1 of this section and in this paragraph who were classified under the Merit System of Personnel Administration on the effective date the position they occupy became part of the unclassified service shall have the option of remaining in their career service status. Incumbents who choose to accept selective service appointments shall so signify in writing. All future appointees to these positions shall be in the selective service. Incumbents who choose to remain in the career service shall be subject to all rules and procedures of the career service system. By the end of the first full work week of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of

part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position.

SECTION 89. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-510 of Title 74, unless there is created a duplication in numbering, reads as follows:

AUTHORITY TO ADOPT RULES. In order to ensure the proper determination of positions and personnel, whether in the career or selective service, within career service agencies, the Administrator shall adopt rules to uniformly apply the provisions of this article within career service agencies. Further, the Administrator and the Commission are authorized to begin rule adoption pursuant to the Human Resources Reform Act of 1994, prior to the effective dates of specific provisions in the act to enable the Administrator and the Commission the opportunity for public input and ensure the efficient implementation of said act. The rules adopted by the Commission which were in effect July 1, 1994, shall remain in effect until June 30, 1995.

SECTION 90. 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:

Sections 90 through 99 of this act shall be known and may be cited as "Article 6. Dispute Resolution and Appeals".

SECTION 91. 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:

A. DISPUTE RESOLUTION. The state shall provide a variety of innovative models to resolve disputes between agencies and state 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 agencies and state employees.

B. REQUIREMENTS. 1. The Oklahoma Merit Protection Commission shall establish and maintain mandatory alternative dispute resolution programs within the State Personnel System for use by all agencies and state employees to resolve disputes. In establishing these programs, the Commission shall 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. 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.

C. TRAINING. The Commission shall establish standards and procedures for alternative dispute resolution and certification and shall conduct training programs in alternative dispute resolution procedures and shall certify presiding officials and persons representing parties in alternative dispute resolution procedures and hearings. Provided, that such training and certification shall not be required for persons representing parties in alternative dispute resolution procedures and hearings. Effective July 1, 1995, presiding officials shall have completed the training required for certification and be certified. The Commission shall require persons representing parties in alternative dispute resolution procedures and hearings to pay the cost for their training. Any fees collected pursuant to this subsection shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund.

SECTION 92. 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. The Oklahoma Merit Protection Commission shall establish standard internal agency grievance procedures for career service employees that encourage prompt, informal, and equitable resolution of grievances at the lowest possible level within the employing agency. Each appointing authority shall either use the procedures established by the Commission or adopt other procedures which address the specific needs of their agency. All procedures shall contain the minimum requirements established by the Commission.

B. Grievances may include, but are not limited to, any direct or indirect form of discipline, reduction-in-force, work assignments, withholding of work, workplace health and safety conditions, classification, reclassification, promotion, leave, performance appraisal, length of service, overtime, compensatory time, and transfers.

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

1. The salary grade assigned to a job class;
2. The assignment of a position to a class;
3. The qualifications for a class; or
4. 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.

D. Complaints of prohibited discrimination shall not be subject to internal agency grievance procedures provided in this section. Such complaints shall be subject to the procedure in Section 26 of this act for internal agency complaints of discrimination.

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

F. No employee shall be disciplined or be subject to any retaliation in his or her employment for exercising his or her rights under the grievance procedure.

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

H. The appointing authority of each career service agency shall designate employees of the agency to receive and process internal agency grievances. Within six (6) months after designation to serve in this capacity, these employees shall complete the training programs established by the Commission. Upon successful completion, such employees shall be certified to perform the duties associated with receiving and processing internal agency grievances.

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

SECTION 93. 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:

APPELLATE PROCEDURES. Appeals of discharge, suspension without pay, or involuntary demotion of career service employees shall be filed with the Oklahoma Merit Protection Commission within twenty (20) calendar days after receipt of the notice of the action taken. All other appeals must be filed with the Oklahoma Merit Protection Commission within twenty (20) calendar days after the alleged violation occurred or of becoming aware of the alleged violation, unless otherwise provided by law. The Executive Director may extend the time period for filing an appeal for good cause shown.

SECTION 94. 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:



A. APPEAL OF DISCHARGE, SUSPENSION OR DEMOTION OF EMPLOYEE. 1.

In all appeals or from involuntary demotion, suspension without pay, or discharge of permanent career service employees, the burden of proof shall rest with the appointing authority who must prove his case by a preponderance of the evidence.

2. Upon a finding that just cause existed for the demotion, suspension without pay, or discharge, the presiding official shall affirm the demotion, suspension without pay, or discharge.

3. Upon a finding that just cause did not exist for the demotion, suspension, or discharge, the presiding official 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 presiding official may reduce the penalty.

B. JURISDICTION OF PRESIDING OFFICIAL. The presiding official shall consider the following circumstances in reducing discharges and suspensions without pay:

- 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 with the employing agency, and
- d. aggravating and mitigating circumstances.

C. APPEAL AFTER ADMINISTRATIVE PROCEDURES. After exhausting all remedies under Article II of the Administrative Procedures Act, either party to an appeal of involuntary demotion, suspension without pay, or discharge may appeal to district court within thirty (30) calendar days. The State of Oklahoma or any agency shall not be allowed to appeal to district court unless the employee is continued on full pay in the same status of employment existing prior to suspension or discharge.

SECTION 95. 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:

A. APPEALS OF AN INDIVIDUAL'S RIGHTS OF EXPRESSION AND APPEALS OF DISCRIMINATION AND PROHIBITED ACTIVITIES. Any individual who believes that his or her rights under Sections 25, 26 or 55 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. The Commission shall establish standards and procedures for the processing of such appeals.

B. PROCEDURES. 1. The Executive Director or designee shall conduct a preliminary investigation and shall prepare a report stating the issues and findings of fact. If it is the determination of the Executive Director that a violation of Sections 25, 26 or 55 of this act or the rules adopted thereunder may have occurred, the Executive Director shall refer the case to a hearing or to an alternative dispute resolution procedure.

2. If, after the hearing or alternative dispute resolution, it is determined a violation has occurred, the Commission or presiding officials shall:

- a. order 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 shall not alter, reduce, or modify any existing right or authority as provided by law.

SECTION 96. 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:

A. APPEALS FOR CORRECTIVE ACTION. Any state employee who believes that his or her rights under the State Human Resources Reform Act of 1994 or the rules adopted thereunder have been violated may appeal to the Oklahoma Merit Protection Commission for corrective action under this section, unless the issues are subject to Sections 58, 62, 94 and 95 of this act.

B. PROCEDURES. The Commission shall establish standards and procedures for processing appeals for corrective action. 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. The provisions of this section shall not apply to issues subject to review according to Sections 58 and 62 of this act.

C. CORRECTIVE ACTION. The Executive Director or the presiding official in a dispute resolution procedure may order the appointing authority to take corrective action if it is determined the alleged violation did occur. 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 shall not alter, reduce, or modify any existing right or authority as provided by law.

D. FINALITY OF DECISION. Appeals filed and processed according to this section are not subject to Article II of the Administrative Procedures Act. The decision of the Commission is appealable.

SECTION 97. 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:

A. HEARING PROCEDURE. 1. The Oklahoma Merit Protection Commission shall establish policies and procedures for prehearings

and hearings of appeals that shall be prompt, fair and equitable.

The policies and procedures shall:

- 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.

4. All hearings shall be open to the public.

5. The hearing shall be conducted in accordance with Article II of the Administrative Procedures Act.

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

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 presiding official shall be final regarding all questions of law within their jurisdiction.

B. DISCOVERY CODE. The Commission shall adopt a discovery code and rules necessary to implement the provisions of this section.

SECTION 98. AMENDATORY 74 O.S. 1991, Section 841.15A, is amended to read as follows:

Section 841.15A A. ATTORNEY FEES. The Oklahoma Merit Protection Commission or presiding officer ~~official~~ of any hearing before the Oklahoma Merit Protection Commission may require payment by the agency of reasonable attorney fees if the appellant is the

prevailing party and the agency's position was without reasonable basis or was frivolous.

B. MOTION. Requests by prevailing appellants for payment of attorney fees shall be filed by motion with a copy served on the agency and other appellees within ten (10) calendar days ~~of~~ after the date that the decision is issued. The agency or other appellee may file a responsive pleading within ten (10) calendar days ~~of~~ after the date the motion is ~~received~~ filed with the Commission. The motion and any responsive pleadings shall be filed at the office of the Oklahoma Merit Protection Commission ~~to the attention of the presiding officer~~ and the ruling on the motion shall be made in an addendum decision.

C. SUPPORTING EVIDENCE. The motion for fees shall state why the appellant believes he or she is entitled to an award under this statute and shall be supported by evidence substantiating the amount of the request. Such evidence shall include the following:

1. Accurate and current time records;
2. A copy of the terms of any fee agreement between the appellant and the attorney;
3. The attorney's customary billing rate for similar work, provided the attorney has a billing practice to report; and
4. Evidence of the prevailing community rate sufficient to establish a market value for the services rendered.

D. FRIVOLOUS APPEALS. If the Oklahoma Merit Protection Commission determines that the appeal is frivolous, the appellant may be assessed attorney fees and costs of the action.

E. PETITION FOR REVIEW. A petition for judicial review by the Oklahoma Merit Protection Commission of the addendum decision shall be filed in accordance with Article II of the Administrative Procedures Act, ~~Section 250.1 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes~~, within ten (10) days of the issue date of said decision.

SECTION 99. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850-610 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. PENALTIES. For failure to implement, within a reasonable period of time, a written order of the Oklahoma Merit Protection Commission or the Administrator pursuant to the Human Resources Reform Act of 1994, the authority which issued the order may levy an administrative fine, not to exceed Five Thousand Dollars (\$5,000.00), against any person who fails to implement or violates the order. Further, if the person against whom the fine was levied continues to violate the order for an unreasonable length of time as determined by the Commission or Administrator, the person shall forfeit his or her position and, for a period of five (5) years, shall be ineligible for an appointment to or employment in state government.

B. DEFINITION. For purposes of this section, "order" means all or part of a final decree made by the Administrator or the Commission to enforce provisions of the State Human Resources Reform Act of 1994.

SECTION 100. 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 an attorney and 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~~ cooperate with the Oklahoma Merit Protection Commission to reduce duplication of actions and overlap of functions relating to discrimination in state employment, 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;

(g) may request the Attorney General ~~shall~~ to advise and represent the Commission in all legal matters and serve as the attorney therefor.

~~(g)~~ (h) make a biennial report to the Governor and to the Legislature of its activities ~~under this act~~ pursuant to Sections 951 through 958 of this title and may make recommendations concerning needed additional legislation in the field of human rights.

SECTION 101. AMENDATORY 74 O.S. 1991, Section 18c, is amended to read as follows:

Section 18c. Subject to the exceptions hereinafter set out, no state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission ~~and the Office of Public Affairs,~~ the Department of Central Services, the Oklahoma Merit Protection Commission, the Office of Personnel Management, and the Human Rights Commission, shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission, in any matter, and all the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title; and provided further, that liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney



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

SECTION 102. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4121 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Appointing authorities may register quality improvement work teams and projects that are directed at eliminating redundant operations and better using existing or available technologies with the Committee for Incentive Awards for State Employees, as created by Section 4112 of Title 74 of the Oklahoma Statutes. Appointing authorities who register work teams and projects may use current fiscal year savings to award lump-sum performance payments to

quality improvement work teams. To be eligible, the work teams must apply tools, techniques, and processes that assure customer satisfaction, continuous improvement of services, analytical problem solving, and employee involvement in the successful completion of their projects. These awards may not exceed a cumulative maximum total of one percent (1%) of agency payroll for the current fiscal year as certified by the Director of the Office of State Finance.

B. Before the appointing authority may award any lump-sum performance payment, the appointing authority shall obtain certification from the Director of the Office of State Finance of the projected amount of the difference between actual expenditures and agency spending limits to determine projected agency savings for the current fiscal year.

C. The Committee for Incentive Awards for State Employees, with the assistance of the Administrator of the Office of Personnel Management, shall establish standards, procedures, and time frames for the registration of work teams and projects and for the evaluation of project outcomes and measured results. Work team projects must clearly document the application of tools, techniques, and processes that assure customer satisfaction, continuous improvement of services, analytical problem solving, and employee involvement. The Committee shall also establish standards, procedures, and time frames for certification by the Director of the Office of State Finance of projected savings and the amounts and distribution of awards as provided in subsection A of this section.

D. Lump-sum performance payments awarded under this section shall be exempt from retirement contributions and shall not be included in computations of a retirement allowance under any retirement system of this state.

SECTION 103. AMENDATORY 61 O.S. 1991, Section 3, is amended to read as follows:

Section 3. ~~Eight~~ A. Except as provided in subsection B of this section, eight (8) hours shall constitute a day's work for all ~~laborers, workmen, mechanics, prison guards, janitors of public institutions~~ employees not otherwise exempt from the federal Fair Labor Standards Act, 29 U.S.C.A., Section 201 et seq. and regulations thereto, or other persons now employed or who may hereafter be employed by or on behalf of the state, or by or on behalf of any county, city, township or other municipality, ~~except in.~~ In cases of extraordinary emergency which may arise in time of war, or in cases where it may be necessary to work more than eight (8) hours per calendar day ~~for the protection of property or human life:~~ Provided, that in all such cases the laborers, workmen, mechanics which results in more than forty (40) hours worked per week, all public employees or other persons so employed ~~and working to exceed eight (8) hours per calendar day shall be paid on the basis of eight (8) hours constituting a day's work:~~ Provided, further, that not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen, mechanics, prison guards, janitors in public institutions, or other persons so employed by or on behalf of the state, or any county, city, township, or other municipality; and laborers, workmen, mechanics, or other persons employed by contractors or subcontractors in the execution of any contract or contracts with the state, or with any county, city, township, or other municipality thereof, shall be deemed to be employed by or on behalf of the state, or of such county, city, township, or other municipality compensated in accordance with the federal Fair Labor Standards Act and regulations related thereto.

B. Public employees may be allowed to work in excess of eight (8) hours per day when such hours are assigned as part of an alternative work schedule. In any case where such work schedule results in an employee working in excess of forty (40) hours per

work week who is not exempt from the overtime provisions of the Fair Labor Standards Act, the employee shall be compensated in accordance with the Fair Labor Standards Act and regulations related thereto.

SECTION 104. AMENDATORY 51 O.S. 1991, Section 6, as last amended by Section 3, Chapter 331, O.S.L. 1993 (51 O.S. Supp. 1993, Section 6), is amended to read as follows:

Section 6. A. Except as may be otherwise provided, no person holding an office under the laws of the state and no deputy of any officer so holding any office shall, during his term of office, hold any other office or be the deputy of any officer holding any office, under the laws of the state. The provisions of this section shall not apply to:

1. Notaries public;
2. Members of the State Textbook Committee;
3. County free fair board members;
4. Municipal and county law enforcement officers serving in positions as law enforcement officers of both such governmental entities upon such terms and conditions as are mutually approved by resolutions adopted by the board of county commissioners and governing body of the municipality employing such officers;
5. Any person holding a county or municipal office or position, or membership on any public trust authority, who is a member of a board or commission that relates to federal, state, county or municipal government and is created by the United States Government, the State of Oklahoma or a political subdivision of the state, except where the duties of the offices or positions conflict;
6. Any elected municipal officers and school board members who are appointed to a state board, commission, or similar entity if there is no compensation for such services other than reimbursement for necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes;

7. Any trustee of a public trust, who is appointed as a trustee of a different public trust or any trustee of the Tulsa County Public Facilities Authority who may also be employed by the Department of Transportation;

8. Law enforcement officers employed by municipal or county law enforcement departments or agencies, other than those law enforcement officers elected or appointed as sheriff, chief of police or some similar position in which they are the head of a county or municipal law enforcement agency, who are elected to local boards of education; provided, the provisions of this paragraph shall not prohibit any law enforcement officer employed by a municipality having a population of ten thousand (10,000) or fewer people from serving as a member of a local board of education;

9. Any member of the Oklahoma Highway Patrol Division of the Department of Public Safety who is elected to a local board of education;

10. Any District Supervisor, Assistant District Supervisor, Team Supervisor, Parole Officer 1 or Parole Officer 2 of the Department of Corrections who is elected or appointed to a city council;

11. Any trustee or director of a rural electric cooperative, or port authority who is appointed or elected to a state, county or municipal board, commission or similar entity;

12. Deputy county treasurers who are elected as members of town or city councils;

13. Municipal, county, state or tribal law enforcement or peace officers operating under cross-deputization agreements with an Indian tribe or branch of the federal government;

14. Municipal or county law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon such terms and conditions as are mutually

approved by resolution adopted by the governing body of the municipality or county and the governing board of the institution of higher education;

15. State law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon such terms and conditions as are mutually approved by written agreement between the Commissioner of Public Safety and the governing board of the institution of higher education;

16. Municipal and county law enforcement officers serving in positions as part-time rangers under the Oklahoma Tourism and Recreation Department; ~~and~~

17. The Administrator of a Scenic Rivers Commission serving in the position of a park ranger under the Oklahoma Tourism and Recreation Department;

18. Members of the University Hospitals Authority; and

19. Individuals serving on the Affirmative Action Review Council, Employee Assistance Program Advisory Council, Advisory Council on Education for Oklahoma State Government's Workforce, Performance Appraisal Task Force, or Human Resources Management Advisory Committee, established pursuant to the State Human Resources Reform Act of 1994.

The provisions of this section shall not prohibit any person holding an office under the laws of the state or any deputy of any officer so holding any office from serving upon the board of Oklahoma Futures or upon the board of directors of the Oklahoma Center for the Advancement of Science and Technology. The provisions of this section shall not prohibit a member of the board of directors of the Oklahoma Center for the Advancement of Science and Technology from serving upon the board of Oklahoma Futures.

B. Any salaries, emoluments or benefits that would otherwise be paid by the agency or political subdivision to a loaned employee or

officer shall instead be paid to the regular employer of such employee who shall in turn be paid his regular salary and benefits the same as if he were continuing his regular employment with his permanent employer.

SECTION 105. AMENDATORY 74 O.S. 1991, Section 840.6, is amended to read as follows:

Section 840.6 The internal administrative organization of the Office shall be determined by the Administrator in such a manner as to promote the efficient and effective enforcement of ~~this act~~ the State Human Resources Act of 1994.

The Administrator may employ attorneys, accountants and other personnel as he deems necessary to carry out the duties imposed upon the Office. Employees of the Office shall be subject to the Merit System of Personnel Administration, unless otherwise exempted by Section ~~§~~ 840.8 or 840.10 of this ~~act~~ title.

SECTION 106. NONCODIFICATION Sections 16 and 40 of this act shall not be codified in the Oklahoma Statutes.

SECTION 107. RECODIFICATION 74 O.S. 1991, Sections 840.5, 841.1, 841.2, 840.9, 840.11, 840.12, 841.24, 841.18, 283, 805.2, 840.23, 840.15, 840.19a and 841.15A, as amended by Sections 5, 6, 7, 11, 12, 13, 17, 18, 33, 36, 37, 61, 65 and 98 of this act, shall be recodified as Sections 850-105, 850-106, 850-107, 850-111, 850-112, 850-113, 850-116, 850-117, 850-213, 850-216, 850-217, 850-411, 850-415 and 850-609 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering. 74 O.S. 1991, Sections 841.7, as last amended by Section 25 of this act, 840.16b, as last amended by Section 35 of this act, 841.16, as last amended by Section 66 of this act, and 840.8, as last amended by Section 82 of this act, shall be recodified as Sections 850-205, 850-215, 850-416 and 850-503 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 2, Chapter 367, O.S.L. 1992, Section 1, Chapter 367, O.S.L. 1992, Section 28,

Chapter 367, O.S.L. 1992, and Section 1, Chapter 387, O.S.L. 1992 (74 O.S. Supp. 1993, Sections 840.5d, 840.5c, 841.6A and 840.35), as amended by Sections 28, 29, 32 and 46 of this act, shall be recodified as Sections 850-208, 850-209, 850-212 and 850-305 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering. 74 O.S. 1991, Section 840.14a shall be recodified as Section 500.3A of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 108. RECODIFICATION 62 O.S. 1991, Section 7.11, as amended by Section 60 of this act and 7.12, as last amended by Section 34 of this act, shall be recodified as Sections 850-410 and 850-214 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 109. REPEALER 74 O.S. 1991, Section 840.5b and Section 1, Chapter 171, O.S.L. 1992 (74 O.S. Supp. 1993, Section 7101), are hereby repealed.

SECTION 110. REPEALER 74 O.S. 1991, Sections 284, 805.3, 840.1, 840.2, 840.3, 840.4, 840.5a, 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, 840.7d, as amended by Section 2, Chapter 221, O.S.L. 1992, 840.8a, 840.8b, 840.8c, 840.10, 840.13, 840.14, 840.16, 840.16a, 840.16c, 840.16d, 840.17, 840.18, 840.19, 840.20, as amended by Section 2, Chapter 83, O.S.L. 1993, 840.21, 840.22, 840.22A, as amended by Section 16, Chapter 367, O.S.L. 1992, 840.25, 840.25a, 840.25b, 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, 841.14, as amended by Section 74 of this act, 841.15, as amended by Section 8, Chapter 367, O.S.L. 1992, 841.19, 841.19a, 841.20, 841.23 and 954 (74 O.S.



Supp. 1993, Sections 840.7a, 840.7c, 840.7d, 840.20, 840.22A, 841.3, 841.9, 841.13 and 841.15), Section 7, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1993, Section 841.13C), and Section 73 of this act, are hereby repealed.

SECTION 111. REPEALER 74 O.S. 1991, Section 841.16, as last amended by Section 66 of this act and Section 68 of this act shall be repealed effective July 1, 1996.

SECTION 112. Sections 15, 16, 17, 18, 24, 27, 28, 32, 38, 40, 60, 66, 68, 73, 74, 79, 89, 91, 100, 101, 102, 103, 104, 105 and 109 of this act shall become effective July 1, 1994.

SECTION 113. Section 57 of this act shall become effective January 1, 1995.

SECTION 114. Sections 1 through 14, 19, 20 through 23, 25, 26, 29 through 31, 33 through 37, 39, 41 through 56, 58, 59, 61 through 65, 67, 69 through 72, 75 through 78, 80 through 88, 90, 92 through 99 and 106, 107, 108 and 110 of this act shall become effective July 1, 1995.

SECTION 115. Section 111 of this act shall become effective July 1, 1996.

SECTION 116. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-7718

SD/GH