

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 742

By: Dickerson of the Senate

and

Dunegan of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state government and statutes and reports; amending 74 O.S. 1991, Sections 500.2, as last amended by Section 1 of Enrolled House Bill No. 2293 of the 2nd Session of the 45th Oklahoma Legislature, 500.9, as last amended by Section 4, Chapter 335, O.S.L. 1995, 500.11, 500.18, as last amended by Section 20 of Enrolled House Bill No. 2428 of the 2nd Session of the 45th Oklahoma Legislature, 840.3, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1, Chapter 310, O.S.L. 1995, 840.5, as amended by Section 3, Chapter 242, O.S.L. 1994, and as last renumbered by Section 24, Chapter 310, O.S.L. 1995, Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994, and 840.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 14, Chapter 310, O.S.L. 1995 (74 O.S. Supp. 1995, Sections 500.9, 840-1.3, 840-1.6A, 840-2.10 and 840-4.12), which relate to the State Travel Reimbursement Act, the Oklahoma Personnel Act, the State and Education Employees Group Insurance Act, the Oklahoma State Employees Benefits Act, and the State Employee Assistance Program; authorizing the Alcoholic Beverage Laws Enforcement Commission to arrange for and charge meals and lodging of state personnel under certain circumstances; defining terms; allowing state agencies to enter into certain contracts and agreements; transferring the Employee Assistance Program; deleting authority and requirements of the Employee Assistance Program Advisory Council; allowing certain positions; creating certain fund; providing for duties and compensation of employees; modifying amount of out-of-state travel reimbursement for portion of day; authorizing utilization of appropriate forms of transportation; limiting amount of reimbursement; modifying duties of Administrator of Office of Personnel Management; amending 75 O.S. 1991, Section 250.4, as last amended by Section 4, Chapter 330, O.S.L. 1995 (75 O.S. Supp. 1995, Section 250.4), which relates to the Administrative Procedures Act; exempting certain procedure from Article I of the Administrative Procedures Act; requiring certain appeal be confined to the record in accordance with Article II of the Administrative Procedures Act; repealing 74 O.S. 1991, Section 500.2, as last amended by Section 1, Chapter 335,

O.S.L. 1995 (74 O.S. 1995, Section 500.2), which is a duplicate section which relates to the State Travel Reimbursement Act; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 500.2, as last amended by Section 1 of Enrolled House Bill No. 2293 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 500.2 A. Officials and employees of the state, traveling on authorized state business, may be reimbursed for expenses incurred in such travel in accordance with the provisions of this act and existing statutes relating to state travel. Persons who are not state employees, but who are performing substantial and necessary services to the state which have been directed or approved by the appropriate department official shall enjoy the protection of the sovereign immunity of the state to the same extent as a paid employee. Such persons may be reimbursed for expenses incurred during authorized official travel under these same statutory provisions, provided it is indicated on the claim the person is not a state employee, a description of services performed is entered, and the agency head by ~~his~~ approval of the claim certifies such services were substantial and necessary, and germane to the duties and functions of the reimbursing agency. Travel expenses incurred by a person during the course of seeking employment with a state agency, unless such travel is performed at the request of the employing agency, shall not be considered expenses incurred in performing substantial and necessary services to the state and shall not be reimbursed under the provisions of this act.

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Military Department, the Department of Corrections, the Department

of Central Services ~~and, the Alcoholic Beverage Laws Enforcement Commission,~~ the Department of Civil Emergency Management and the State Fire Marshal may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the purpose of preserving the public health, safety or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in this act.

The chief administrative officer of each agency involved in an operation as provided for above shall require the vendor furnishing meals, lodging or both meals and lodging to submit an itemized statement for payment.

When a claim for lodging is made for a contingent of state personnel, individual members of the contingent may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

~~C. The Department of Public Safety is hereby authorized to enter into contracts and agreements for the payment of classroom space, food and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction sponsored or conducted by the Department of Public Safety. Such expenses may be paid for directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each law enforcement officer shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

~~D. The Oklahoma Tourism and Recreation Department is hereby authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees attending an official course of instruction or training conducted or sponsored by the Oklahoma Tourism and Recreation Department. Such expenses may be paid for directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

~~E. The Oklahoma Department of Commerce is hereby authorized to enter into contracts and agreements for the payment of food,~~

~~lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce shall provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.~~

~~F. The Oklahoma Center for the Advancement of Science and Technology is hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses necessary for sponsoring meetings and conferences relating to economic development and science and technology issues. Such contracts or agreements shall be awarded on a competitive basis and expenses may be paid directly to the contracting agency or business establishment. The President of the Oklahoma Center for the Advancement of Science and Technology shall provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.~~

~~G. The State Fire Marshal is hereby authorized to enter into contracts and agreements for the payment of classroom space, food and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction sponsored or conducted by the State Fire Marshal. Such expenses may be paid for directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each law enforcement officer shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

~~H. The Department of Civil Emergency Management is hereby authorized to enter into contracts and agreements for the payment of classroom space, food and lodging expenses as may be necessary for official courses of instruction and conferences sponsored by the Department of Civil Emergency Management. Such expenses may be paid directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each~~

~~student or attendee shall not exceed the total daily rate as provided for in the State Travel Reimbursement Act.~~

~~I. For purposes of this section:~~

~~1. "State agency" means any constitutionally or statutorily created state board, commission or department, including the Legislature and the Courts;~~

~~2. State agencies are authorized to enter into contracts and agreements for the payment of classroom space, food and lodging expenses as may be necessary for employees attending official conferences, meetings or training sessions. Such expenses may be paid directly to the contracting agency or business establishment. Provided, the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title.~~

~~D. The Oklahoma Department of Commerce is hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce shall provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.~~

~~E. The Department of Transportation is hereby authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees assigned to emergency situations, attending an official course of instruction, meetings or training conducted or sponsored by the Department of Transportation. Such expenses may be paid directly to the contracting agency or business establishment. The cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

~~F. The Office of the Attorney General is hereby authorized to enter into contracts and agreements for the payment of food, lodging expenses and meeting facilities as may be necessary for~~

employees to properly prepare and carry out their duties in representing the state, the Legislature, any state board, agency or commission, or any employee or official of the state entitled to representation in any legal dispute.

G. State agencies are authorized to make direct purchases of commercial airline tickets for use by employees in approved out-of-state travel. Each claim or invoice submitted to the Director of State Finance for the payment of such purchase shall bear the airline identifying ticket number, the name of the airline, total cost of each ticket purchased, class of accommodation, social security number and name of the employee for whom the ticket was purchased, and shall be filed on claim forms as prescribed by the Director of State Finance. An affidavit shall state that said employee did use any direct purchase commercial airline ticket received for his or her approved out-of-state travel.

~~J.~~ H. State agencies are authorized to make direct purchases of lodging at facilities operated by the Oklahoma Tourism and Recreation Department. Such lodging shall be at the rate authorized by Section 500.9 of this title. Claims for payment shall be filed on claim forms as prescribed by the Office of State Finance.

~~K.~~ I. State agencies are authorized to enter into contracts and agreements with the Oklahoma Tourism and Recreation Department for the payment of food, lodging and other authorized expenses as may be necessary for employees attending conferences, meetings or training sessions conducted or sponsored by the contracting agencies. Provided the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act, ~~Section 500.1 et seq. of this title.~~

~~L. The Oklahoma Department of Human Services is hereby authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees attending an official course of instruction or training conducted or sponsored by the Oklahoma Department of Human Services. Such~~

~~expenses may be paid directly to the contracting agency or business establishment. The cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

~~M. 1. The Oklahoma Water Resources Board is hereby authorized to enter into contracts and agreements for the payment of food, lodging and other authorized expenses as may be necessary to host, conduct, sponsor or participate in conferences, meetings or training sessions. The Board may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings and training sessions.~~

~~2. The cost for food and lodging for employees attending any conferences, meetings and training sessions shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

~~N. 1. The Department of Environmental Quality is hereby authorized to enter into contracts and agreements for the payment of food, lodging and other authorized expenses as may be necessary to host, conduct, sponsor or participate in conferences, meetings or training sessions. The Department may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings and training sessions.~~

~~2. The cost for food and lodging for employees attending any conferences, meetings and training sessions shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

~~Ø. J. The Oklahoma State Banking Department is hereby authorized to enter into contracts and agreements for the payment of lodging expenses as may be necessary for employees engaged in their official duties for the Department. The expenses may be billed directly by the business establishment which provided the lodging to the Department, and the Department may pay the business directly for the lodging. However, the cost for lodging for each~~

Department employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

~~P. 1. The Department of Wildlife Conservation is hereby authorized to enter into contracts and agreements for the payment of food, lodging and other authorized expenses as may be necessary to host, conduct, sponsor or participate in conferences, meetings or training sessions. The Department may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.~~

~~2. The cost for food or lodging for employees attending any conferences, meetings and training sessions shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.~~

SECTION 2. AMENDATORY 74 O.S. 1991, Section 500.9, as last amended by Section 4, Chapter 335, O.S.L. 1995 (74 O.S. Supp. 1995, Section 500.9), is amended to read as follows:

Section 500.9 A. Reimbursement for overnight lodging, while in official travel status, may be made at not to exceed Forty Dollars (\$40.00) or the actual cost, if lower, per night except as provided in subsections C, D and F of this section and Section 500.9A of this title. Receipts issued by the hotel, motel or other public lodging place shall accompany claims for reimbursement.

B. A per diem allowance in lieu of subsistence may be authorized by a travel claim issued in accordance with Section 500.3 of this title, which shall include all charges for meals and lodging. Not to exceed Thirty-five Dollars (\$35.00) per diem may be authorized on the travel claim for the performance of travel within the State of Oklahoma and not to exceed Thirty-six Dollars (\$36.00) per diem may be authorized for the performance of travel outside the State of Oklahoma. In computing the per diem allowance, a day shall be a period of twenty-four (24) hours. Reimbursement for each one-fourth (1/4) day consisting of six (6)

hours or major fraction thereof, more than three (3) hours, may be made at the rate of ~~Eight Dollars and twenty-five cents (\$8.25)~~ Eight Dollars and seventy-five cents (\$8.75) in state and Nine Dollars (\$9.00) out of state. Provided, however, that no per diem shall be allowed pursuant to this section for periods of less than overnight in travel status. Reimbursement for expenses other than meals and lodging may also be made in accordance with the provisions of ~~this act~~ the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

C. State officers or employees attending meetings, workshops, conferences or other objectives of trips which are conducted at a designated hotel, motel or other public lodging place or where lodging has been arranged for by the blocking of rooms or by rate reductions for the participants by the sponsor as evidenced by the announcement or notice of the meeting, workshop, conference or other objective shall be reimbursed the actual lodging expense not to exceed the single occupancy room rate charged by the designated hotel, motel or other public lodging place, provided that the officials or employees are in official travel status approved by the agency head or designee. Provided further, those state officers or employees attending meetings, workshops, conferences or other objectives of trips, which are conducted at a designated hotel, motel or other public lodging place as provided by this subsection, who choose to acquire less expensive lodging at another hotel, motel or other public lodging place shall be reimbursed the actual lodging expense not to exceed the single occupancy room rate charged by the designated hotel, motel or other public lodging place. Provided further, those state officers or employees so choosing this option shall not be reimbursed for local transportation costs incurred traveling between such optional lodging and the designated hotel, motel or other public lodging place. Receipts issued by the hotel, motel or other public lodging place shall accompany claims for reimbursement.

D. The Legislature recognizes the existence of areas where the reimbursement is not sufficient to pay lodging costs, and

wherein a higher lodging reimbursement should be allowed. It is hereby provided that any state officials or employees in official travel status out of the state in one of the designated high rate geographical areas shall be reimbursed their actual lodging expense up to a maximum of Sixty-five (\$65.00) Dollars per night, except as provided in Section 500.9A of this title. The high rate geographical areas are hereby designated as follows:

Anchorage, AK

Atlanta, GA

Baltimore, MD

Boston, MA including all locations within Middlesex, Norfolk and Suffolk Counties

Chicago, IL including all locations within Lake and Cook Counties

Dallas and Fort Worth, TX including all locations within Dallas and Tarrant Counties

Denver, CO including all locations within Denver, Adams, Arapahoe and Jefferson Counties

Detroit, MI

Honolulu, HI

Houston, TX including all locations within the corporate limits of Houston

Kansas City, MO and Kansas City, KS

Los Angeles, CA including all locations within Los Angeles, Orange and Ventura Counties

Miami, FL including all locations within Dade, Broward, Palm Beach and Monroe Counties

Minneapolis-St. Paul, MN including all locations within Anoka, Hennepin and Ramsey Counties

New Orleans, LA including all locations within Jefferson, Orleans, Plaquemines and St. Bernard Parishes

New York, NY including all locations within the boroughs of the Bronx, Brooklyn, Manhattan, Queens and Staten Island and the counties of Nassau and Suffolk

Newark, NJ including all locations within Bergen, Essex, Hudson, Passaic and Union Counties

Philadelphia, PA including all locations within Philadelphia
and Bala Cynwyd, PA

Pittsburgh, PA

St. Louis, MO

San Diego, CA including all locations within San Diego County

San Francisco and Oakland, CA including all locations within
San Francisco and Alameda Counties

San Jose, CA including all locations within Santa Clara County

Seattle, WA including all locations within King County

Washington, DC including all locations within the corporate
limits of Washington, DC, the cities of Alexandria, Falls Church
and Fairfax, and the counties of Arlington, Loudoun and Fairfax in
Virginia, and the counties of Montgomery and Prince Georges in
Maryland.

E. State officers and employees who have been required to
attend hearings or meetings of any congressional committee or
subcommittee or any federal agency, board or commission shall be
reimbursed for their actual and necessary travel and lodging
expenses; however, the agency head must approve any claims in
connection with such expenses.

F. Reimbursement for meals and lodging on out-of-state trips
shall not begin more than twenty-four (24) hours before the
meeting, workshop, conference or other objective of trip begins
and shall not continue more than twenty-four (24) hours after ~~said~~
the meeting, workshop, conference or other objective of trip ends.

G. Reimbursement for meals and lodging incurred in official
travel in areas outside of the United States to implement the
objectives of contracts, grants, agreements or gifts for which
funds from these sources are furnished shall be reimbursed from
~~said~~ such funds at actual cost not to exceed the amount authorized
United States Government employees in its periodical publication
entitled "Standard Regulations (Government Civilians, Foreign
Areas), Department of State, Washington, DC". Provided, however,
travel to points outside of the United States, whether performed
under authority of contract, grant, agreement or otherwise, shall

not begin more than forty-eight (48) hours before or end more than forty-eight (48) hours after the objective of the trip.

H. Claims submitted to the Director of State Finance for payment under the provisions of this section shall be certified to by the principal fiscal officer or contract and grant administrator of each agency. Such officer shall certify that such claim complies with and is authorized under this section.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 500.11, is amended to read as follows:

Section 500.11 ~~Reimbursement~~ A. Authorized persons traveling on official state business outside of the State of Oklahoma may utilize appropriate forms of transportation including, but not limited to, common carriers, transit system carriers, state-owned or privately owned motor vehicles or airplanes, contract rental motor vehicles or commuter airplanes to reach their destinations.

B. 1. Except as otherwise provided by this section, reimbursement for out of state transportation costs as authorized by this section shall not exceed the normal charge for the type of transportation used, but in no instance shall reimbursement for transportation used in lieu of commercial airline exceed the cost of coach airplane class air fare. ~~Reimbursement for transportation by privately owned motor vehicles utilized on out of state travel shall not exceed this amount.~~

2. Reimbursement for travel by commercial airplane on a first-class basis may be made if coach class space is not available within a reasonable time and is justified by attachment to claim for reimbursement.

3. Claims for reimbursement for transportation by commercial airline shall be accompanied by the passenger's duplicate of airline ticket, or other airline receipt which includes information as to class of accommodation for which reimbursement is claimed.

4. If commuter airlines are the only airlines available to reach a destination, reimbursement for transportation used in lieu of commuter air fare shall not exceed the cost of the commuter air fare.

C. Reimbursement for authorized use of privately owned motor vehicles used for out-of-state travel shall be limited to mileage reimbursement authorized by Section 500.4 of this title.

Reimbursement for authorized use of vehicles from motor vehicle rental agencies used for out-of-state travel shall be limited to the actual cost for such vehicle. However, in no instance shall reimbursement for such vehicle exceed the cost for commercial class air fare or commuter air fare, whichever is appropriate.

Distances for which reimbursement for use of privately owned motor vehicles or vehicles from vehicle rental agencies is claimed shall not exceed distances set forth in a recognized published national atlas or road map. Vicinity travel on official business shall be entered on travel claims as a separate item.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 500.18, as last amended by Section 20 of Enrolled House Bill No. 2428 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 500.18 A. Except for members of the Legislature, the Governor and the Lieutenant Governor, provisions of Sections 500.1 through 500.18 of this title shall be mandatory as to all officials and employees of all departments, boards, commissions and institutions of the state, regardless of the provisions of any other act of the Legislature, except as provided by this section. The enactment of any measure in the future providing for travel reimbursement of state officers and employees on the basis of "actual and necessary" expenses or in any other manner inconsistent with Sections 500.1 through 500.18 of this title shall be deemed to provide for reimbursement in accordance with Sections 500.1 through 500.18 of this title unless a contrary intent is explicitly expressed in this section. Sections 500.1 through 500.18 of this title shall not apply, however, to travel reimbursements made by political subdivisions of this state, except as otherwise provided by law.

B. The agencies listed below are authorized certain exceptions and/or exemptions to the provisions of Sections 500.1 through 500.18 of this title to the extent specified:

1. State Department of Agriculture:

The actual and reasonable expenses of travel and subsistence in pursuing and developing markets for Oklahoma agricultural products incurred by the Commissioner, Deputy Commissioner and such employees designated by the State Board of Agriculture within the marketing development programs of the Department of Agriculture shall be reimbursed to the employee incurring such expenses. Reimbursement of such expenses shall be in accordance with rules and regulations adopted by the Board. Such expenses claimed shall, prior to reimbursement, be reviewed by the Board at each regular meeting and individually approved or disapproved.

2. Wheat Utilization, Research and Market Development Commission:

The actual and reasonable expenses of travel, lodging and subsistence in pursuing and developing markets for Oklahoma wheat and wheat products incurred by the Commission, staff and such persons authorized by the Commission shall be reimbursed to the person incurring such expenses. Expenses of wheat trade officials on wheat trade missions from foreign countries and from other states can be reimbursed to the person previously authorized by the Commission to incur the expense. No actual and reasonable expenses shall be paid except for time spent working with wheat trade officials on wheat trade missions. Reimbursement of such expenses shall be made in accordance with rules and regulations adopted by the Commission. Such expenses claimed shall, prior to reimbursement, be reviewed by the Commission at each regular meeting and individually approved or disapproved.

3. Department of Public Safety:

Not more than seven personnel assigned by the Commissioner for executive security shall be allowed their actual and necessary traveling expenses, upon claims approved by the Commissioner, when traveling with the Governor or at his request.

4. Department of Corrections:

The Department of Corrections shall be exempt from limitations of reimbursement for rented automobiles, as set forth in Section 500.5 of ~~Title 74 of the Oklahoma Statutes~~ this title, when such

rental is by a Correctional Officer or Transportation Officer for the limited purpose of transporting inmates. Reimbursement for such expense shall be on the basis of actual cost.

5. Oklahoma Tourism and Recreation Department:

Authorization is provided the Oklahoma Tourism and Recreation Commission and Department staff who promote in-state and out-of-state business to Oklahoma's state-operated parks and lodges and the tourism and recreation industry, the actual and necessary expense of travel, subsistence and entertainment for this purpose. Authorization is also provided the Director of the Oklahoma Tourism and Recreation Department to reimburse the Publisher of Oklahoma Today magazine and its staff for expenses for meals and other entertainment in order to gain advertising and promotion for Oklahoma Today magazine. Reimbursement of all actual and necessary expenses shall be in accordance with rules and regulations adopted by the Commission on Tourism and Recreation.

6. Oklahoma Department of Commerce:

- a. The actual and necessary expenses incurred by the Director and other employees of the Department authorized by the Director for the purpose of business recruitment shall be reimbursed to such employee. Reimbursement of such expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma Department of Commerce. Such expenses claimed shall prior to reimbursement be reviewed by the Director and individually approved or disapproved.
- b. The Department, at the discretion of the Director, may charter aircraft for the purposes of carrying out its duties and responsibilities related to business recruitment and to implement the duties of the Director. The cost of such charter shall be exempt from the provisions of Section 500.6 of this title. Claims filed with the Office of State Finance shall bear the following certification:

The best interests of the citizens of Oklahoma were better served in that conventional ground transportation was not practical or feasible for this trip, aircraft from the Department of Public Safety was not available for this trip, and no other claim has been or will be filed as a payment for the cost of transportation in connection with this trip herein claimed.

7. ~~Office of Public Affairs~~ State Retirement Systems:

The actual expenses of travel and subsistence incurred outside the state in recruiting and evaluating professional money managers for the state's pension funds by the Director, ~~Assistant Director and any employee~~ authorized employees and any board members of the state retirement systems which are approved by the state retirement system Director ~~of the Office of Public Affairs outside the state in recruiting and evaluating professional money managers for the state's pension funds~~ shall be reimbursed to the employee incurring such expenses. Reimbursement for lodging expenses shall be supported by three telephone bids from hotels within a reasonable distance of the activity for which the travel was approved.

8. Oklahoma Futures:

The actual and necessary expenses incurred by the members of Oklahoma Futures in the performance of their duties shall be reimbursed to the members incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with rules and regulations adopted by Oklahoma Futures.

9. Oklahoma Development Finance Authority:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Development Finance Authority in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Authority.

10. Oklahoma Center for the Advancement of Science and Technology:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Center for the Advancement of Science and Technology in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Center.

11. Center for International Trade Development:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Director and authorized employees of the Center for International Trade Development for performance of their duties for the purpose of business recruitment and assistance shall be reimbursed to the person incurring such expenses. Reimbursement of such expenses shall be in accordance with the rules and regulations adopted by the Director of the Center for International Trade Development. Such expenses claimed shall be reviewed and individually approved or disapproved, prior to reimbursement, first by the Director, and finally by either the Vice President, Business and Finance of Oklahoma State University or the President of Oklahoma State University.

12. Oklahoma State Bureau of Investigation:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each such employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma State Bureau of Investigation. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

13. Department of Human Services:

- a. The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the purpose of representing the Department of Human Services or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court,

administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Such expenses claimed shall be approved by the General Counsel and the Director of Human Services prior to reimbursement.

- b. The Department, at the discretion of the Director, may charter aircraft when determined by the Director such charter would be more practical or less expensive than normal modes of transportation and when aircraft of the Department of Public Safety are unavailable. The costs of such charter shall be exempt from the provisions of Section 500.6 of this title.

14. Oklahoma Health Care Authority:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the purpose of representing the Authority or any of its officials or employees, at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Such expenses claimed shall be approved by the Administrator prior to reimbursement.

15. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each such employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules and regulations adopted by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

16. University Hospitals:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Office in the

performance of their duties for the purpose of representing the University Hospitals or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Such expenses claimed shall be approved by the Chief Executive Officer of the University Hospitals or by the University Hospitals Authority.

17. Oklahoma Historical Society:

The actual and necessary expenses of travel, subsistence and entertainment incurred by the Executive Director, Deputy Director and any employees designated by the Executive Committee of the Oklahoma Historical Society Board of Directors in pursuing and developing programs and projects for the preservation and marketing of Oklahoma history shall be reimbursed to the person incurring the expenses. Reimbursement of expenses shall be in accordance with rules adopted by the Oklahoma Historical Society Board of Directors. Prior to reimbursement, expenses claimed shall be reviewed by the Executive Committee at a regularly scheduled meeting and each claim shall be individually approved or disapproved.

18. The Oklahoma Department of Mines:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Department in the performance of their duties for the purpose of representing the Department or any of its officials or employees, at any proceeding, hearing or meeting with federal agencies, boards, commissions, congressional representatives, congressional committees or staff, shall be reimbursed to the employee incurring such expenses. Such expenses claimed shall be approved by the executive Director prior to reimbursement.

19. The Office of Attorney General:

The actual and necessary expenses of travel, lodging and subsistence incurred by its employees in the performance of their duties for the purpose of representing the state, the Legislature, any state board, agency or commission, or any employee or official

of the state entitled to representation, at any proceeding, including depositions, held before any court, administrative body or any representative thereof, shall be reimbursed to the employee incurring the expenses. The expenses shall be approved by the Attorney General prior to reimbursement.

20. District Attorneys Council:

The actual and necessary expenses incurred by each district attorney and other employees of the district attorney authorized by the district attorney as a result of conducting investigations shall be reimbursed to each employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the District Attorneys Council. Prior to reimbursement, expenses claimed shall be reviewed by the Council and individually approved or disapproved.

C. The agencies listed in subsection B of this section shall be required to report annually the actual expenses excepted or exempted from Sections 500.1 through 500.18 of this title to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The report shall be submitted no later than the first day of September following the end of each fiscal year.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 840.3, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1, Chapter 310, O.S.L. 1995 (74 O.S. Supp. 1995, Section 840-1.3), is amended to read as follows:

Section 840-1.3 As used in this act:

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

2. "Employee" or "state employee" means an elected or appointed officer or employee of an agency unless otherwise indicated;

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

4. "Class" or "class of positions" means positions that are sufficiently similar in duties, levels of responsibility, and

requirements of the work to warrant similar treatment as to title, pay grade, and minimum qualifications;

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

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

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

8. ~~"Examination" means any technique or procedure designed to determine the qualification, fitness, and ability of the persons examined to perform the duties and responsibilities of the class or position~~ "Entrance examination" means any employment test used by the Office of Personnel Management to rank the names of applicants who possess the minimum requirements of education, experience, or licensure for a class on a register of eligibles established by the Office of Personnel Management;

9. "Promotional examination" means any employment test designated by the Office of Personnel Management to determine further the qualifications of a permanent classified employee of a state agency for employment in a different class for which he or she possesses the minimum qualifications of education, experience, or licensure within that agency;

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

~~10.~~ 11. "Intra-agency transfer" means moving an employee from one position to another position with the same agency either with or without reclassification;

~~11.~~ 12. "Job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees, including any association for which payroll deductions for membership dues are authorized pursuant to

paragraph 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes;

~~12.~~ 13. "Lateral transfer" means reclassification of an employee to another class with the same salary grade;

~~13.~~ 14. "Merit Rules" or "Merit Rules for Employment" or "Merit System of Personnel Administration Rules" means rules adopted by the Administrator of the Office of Personnel Management or the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act;

~~14.~~ 15. "Noncompetitive appointment" means the appointment of a person to a noncompetitive class;

~~15.~~ 16. "Noncompetitive class" means a class of positions of unskilled or semiskilled labor or a similar class designated by the Office of Personnel Management as noncompetitive;

~~16.~~ 17. "Permanent classified employee" means a classified service employee who has acquired permanent status in accordance with the Oklahoma Personnel Act, and rules adopted pursuant thereto, and who has the right to appeal involuntary demotion, suspension without pay, and discharge to the Commission;

~~17.~~ 18. "Presiding official" means a person serving the Oklahoma Merit Protection Commission in the capacity of administrative hearing officer, mediator, or other alternative dispute resolution arbitrator or facilitator;

~~18.~~ 19. "Progressive discipline" means a system designed to ensure the consistency, impartiality and predictability of discipline and the flexibility to vary penalties if justified by aggravating or mitigating conditions;

~~19.~~ 20. "Regular and consistent" means, in connection with the work assignments of an employee, the usual and normal work assignments of the employee, excluding incidental, casual, or occasional tasks and activities the employee assumes without direction to do so. Temporary work assignments of less than sixty (60) days in any twelve (12) consecutive months period shall not be considered regular and consistent;

~~20.~~ 21. "Regular unclassified service employee" means an unclassified service employee who is not on a temporary or other time-limited appointment;

~~21.~~ 22. "Unclassified service" or "exempt service" means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration;

~~22.~~ 23. "Merit System" means the Oklahoma Merit System of Personnel Administration;

~~23.~~ 24. "Administrator" means the appointing authority of the Office of Personnel Management;

~~24.~~ 25. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;

~~25.~~ 26. "Office" means the Office of Personnel Management;

~~26.~~ 27. "Commission" means the Oklahoma Merit Protection Commission; and

~~27.~~ 28. "Veteran" means a person who has been honorably discharged from the Armed Forces of the United States and has been a resident of Oklahoma for at least one (1) year prior to the date of the examination.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 840.5, as amended by Section 3, Chapter 242, O.S.L. 1994, and as last renumbered by Section 24, Chapter 310, O.S.L. 1995 (74 O.S. Supp. 1995, Section 840-1.6A), is amended to read as follows:

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

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

2. Effective July 1, 1995, organize the Office to provide both service and regulatory functions that are effective and

efficient in meeting the management needs of various state agencies. The Administrator is directed to establish an agency service function to assist agencies with human resource needs based upon the administrative capacity and resources of the various agencies;

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

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

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

6. Develop a program for the recruitment of qualified persons, including the administration of valid job-related nondiscriminatory selection procedures providing for competitive examinations when practical and for reasonable selection criteria when competitive examinations are not practical;

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

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

9. Assist state agencies in implementing their duties and obligations pursuant to the Oklahoma Personnel Act, Section ~~840.1~~ 840-1.1 et seq. of this title, and provide standard forms to the agencies if necessary;

10. Develop, in cooperation with appointing authorities, a employee training programs, management training ~~program~~ programs,

a certified public manager program, a recruiting program, and a system of performance appraisals, and assist appointing authorities in the setting of productivity goals. The Administrator may establish and collect fees for participation in training programs;

11. 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;

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

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

14. Adopt and implement rules 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, Section 250 et seq. of Title 75 of the Oklahoma Statutes. All rules adopted by the Oklahoma Merit Protection Commission shall remain in full force and effect until modified by the appropriate authority;

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

16. Be responsible for the development and maintenance of a uniform occupation code system, grouped by job titles or duties, for all classified, unclassified, and exempt state positions. Said responsibility shall include the establishment of rules governing the identification, tracking, and reporting of all state positions as provided in Section 4 840-2.13 of this ~~act~~ title;

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

18. Establish standards for continuing training, including affirmative action, and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education. Employees appointed to professional personnel positions shall

complete an initial training program within six (6) months after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of, and scheduled to attend, required training programs and shall make time available for employees to complete the programs. The Administrator shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Office of Personnel Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of Personnel Management established by law.

SECTION 7. AMENDATORY Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1995, Section 840-2.10), is amended to read as follows:

Section 840-2.10 A. ~~There is hereby created a~~ Effective July 1, 1996, the State Employee Assistance Program ~~within~~ shall be transferred from the Office of Personnel Management to the State and Education Employees Group Insurance Board. The program may provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance. The program may also provide for assessment and referral assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems. Participation in the State Employee Assistance Program shall be on a voluntary basis. The transfer of this program to the State and Education Employees Group Insurance Board shall include any personnel and equipment assigned to the program.

B. ~~The Administrator~~ Director of the ~~Office of Personnel Management~~ State Employee Assistance Program is hereby directed to:

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

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

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

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

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

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

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

2. ~~The Employee Assistance Program Advisory Council shall consist of the current nine (9) members who shall continue to hold their current positions through June 30, 1995.~~ Effective July 1, 1995, three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the President Pro Tempore of the Senate. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy in office shall be filled by the individual who made the initial appointment. The Council shall select a chair and vice-chair from among its membership. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.

3. Members of the Council shall receive no compensation for serving on the Council, but shall receive necessary travel reimbursement by the employing agency for members who are state employees or appointing authorities of agencies pursuant to the State Travel Reimbursement Act. Any member employed in state government shall receive the reimbursement from ~~their~~ his or her employing entity. Members who are not employed in state government shall receive travel reimbursement from the ~~Office of Personnel Management~~ Oklahoma State and Education Employees Group Insurance Board.

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

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

H. The Administrator of the State and Education Employees Group Insurance Board shall employ and fix the compensation of the Director of the State Employee Assistance Program. The Director of the State Employee Assistance Program shall employ and fix the compensation of not to exceed four (4) full-time-equivalent personnel as deemed necessary for the proper administration of the duties and functions of the Program, one (1) of which shall be in the unclassified service. These four (4) full-time-equivalent personnel shall include any personnel transferred from the Office of Personnel Management pursuant to subsection A of this section. The personnel authorized in this section shall be in addition to those full-time-equivalent personnel described in Sections 1320 and 3601 of this title.

I. There is hereby created in the State Treasury a revolving fund for the State Employee Assistance Program, to be designated the "State Employee Assistance Program 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 State Employee Assistance Program. The fund shall also include all monies transferred from the State and Education Employees Group Insurance Board. All monies accruing to the credit of such fund are hereby appropriated and may be budgeted and expended by the State Employee Assistance Program for the purpose of paying the costs incurred in performing the duties and functions imposed upon the State Employee Assistance Program by law.

Expenditures from such 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 8. AMENDATORY 74 O.S. 1991, Section 840.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 14, Chapter 310, O.S.L. 1995 (74 O.S. Supp. 1995, Section 840-4.12), is amended to read as follows:

Section 840-4.12 A. The Administrator shall be responsible for conducting promotional examinations and entrance examinations as required under the Oklahoma Personnel Act. Such examinations shall be of such character as to determine the qualifications, fitness and ability of the persons tested to perform the duties of the class of positions for which such tests or examinations are given. Provided, however, tests and examinations of persons with severe disabilities who have satisfactorily completed vocational and technical education courses in vocational training units or divisions approved by the Department of Rehabilitation Services shall be limited in scope so as to relate to the skill and physical capability required for a particular position. Adequate public notice shall be given of all examinations except for promotion within a department or agency.

B. No person shall be required to take an entrance examination if that person has been previously tested and licensed by the State of Oklahoma; such person shall be rated according to training and experience.

C. No entrance examination shall be required when the job specifications require a bachelor's degree or its equivalent, plus three (3) years of qualifying work experience; such person shall be rated according to training and experience.

D. Promotional examinations for promotion within an agency, unless requested by the agency, shall not be required; provided that said promotion is in accordance with guidelines adopted by the Administrator and is in accordance with a plan adopted by the promoting agency.

E. The Administrator shall accept Certificates of Proficiency issued by accredited private or public schools, colleges or the Oklahoma Employment Security Commission in lieu of typing and shorthand tests.

F. The Office of Personnel Management shall certify that a candidate meets the necessary job qualifications of a position in the classified service for the purpose of allowing a that candidate to ~~take any required examination or otherwise compete for a~~ occupy that position. The Administrator of the Office of

Personnel Management may delegate the certification function provided by this section to an agency pursuant to paragraph 5 of subsection D of Section 840-1.15 of this title. Any statute which creates any position or qualifications for any position in the classified service shall not be construed to limit the power of the Administrator to interpret or add to those qualifications in a reasonable manner consistent with the intent of the Legislature and the duties of that position. Any statute which empowers any agency head or other employer to hire or nominate persons for employment within the classified service shall not be construed to empower that agency head or other employer to waive or modify any qualification or rule for employment established by the Administrator. The Administrator shall not be construed to have the authority to limit or reduce any qualification established by statute for any position. The constructions established herein shall apply to any statutes or positions heretofore or hereafter created unless that statute clearly and specifically states that such constructions do not apply.

G. Subsections A, B, C, D, E and F 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 subsections A through F of this section.

H. Subsections A, B, C, D, E and F of this section shall not apply to persons with severe disabilities who are considered for employment under the provisions of this subsection. Provided, said persons may elect instead to be considered for employment according to the procedures set out in subsections A through F of this section.

1. As used in this subsection "persons with severe disabilities" means persons certified as having disabilities according to standards and procedures established by the Administrator. Said standards and procedures shall be developed by the Administrator of the Office of Personnel Management with

the assistance of the Office of Handicapped Concerns, and the Department of Rehabilitation Services.

2. Agencies of this state may employ persons with severe disabilities who are legal residents of the state in competitive and noncompetitive jobs. Except for the requirement of minimum qualifications specified in applicable job specifications, such persons with disabilities shall be exempt from entrance examinations and hiring procedures administered by the Office of Personnel Management pursuant to ~~Sections 840-4.12~~ this section and Section 840-4.13 of this title.

3. Persons with severe disabilities hired pursuant to this subsection shall be appointed for a probationary period of six (6) months. At the end of the probationary period if the work of said person with severe disabilities is satisfactorily performed, the person with a severe disability shall acquire permanent status.

4. Persons with severe disabilities hired pursuant to this subsection shall be subject to the rules of the Administrator of the Office of Personnel Management.

5. A list of persons with severe disabilities employed by state agencies pursuant to this section shall be provided by each state agency to the Office of Personnel Management which shall maintain records regarding the employment of persons with severe disabilities and report the total number of such persons with severe disabilities so employed to the Director of the Office of Handicapped Concerns.

I. 1. This subsection shall be known and may be cited as the "Fair Employment Practices Act".

2. Agencies of this state may use the optional hiring procedure provided in this subsection to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives, as defined by the Equal Employment Opportunity Commission, who are legal residents of the state in competitive and noncompetitive jobs. Individuals must meet the minimum qualifications and pass any required examinations established by the Office of Personnel Management or by statute. Except for any required examinations and minimum qualifications specified in

applicable job specifications, such persons shall be exempt from the hiring procedures administered by the Office of Personnel Management. Persons may only be employed under this subsection in a job class, group or category which has been identified as underutilized and in which an appropriate hiring goal has been set in the state agency's affirmative action plan approved by the Office of Personnel Management pursuant to the provisions of Section 840-2.1 of this title. In addition, the appointing authority of the employing agency must determine that a manifest imbalance exists which justifies remedial action pursuant to this subsection in order to reach the affirmative action hiring goal. 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 is appointed pursuant to this subsection.

3. To be eligible for appointment, the persons who are members of the group for which a hiring goal has been set must score within the top ten scores of other available members of said group based on any examination or rating of education and experience.

4. Persons hired pursuant to this subsection shall be appointed for a probationary period of six (6) months, except that the appointing authority may extend a probationary period, not to exceed a total of nine (9) months for an individual, provided, however, that the employee and the Administrator of the Office of Personnel Management shall be notified in writing as to such action and the reason therefor. At the end of the probationary period if the work of such person is satisfactorily performed as reflected in a service rating made pursuant to Section 840-4.17 of this title, such person shall acquire permanent status.

5. Upon acquiring permanent status, the employee shall be subject to the rules and regulations of the Office of Personnel Management and to full rights and entitlements of state employees in the classified service.

6. The authority for an agency to make appointments pursuant to this subsection shall be temporary and shall cease when the appointing authority of an agency can no longer justify remedial action pursuant to this subsection.

7. A list of persons employed by state agencies pursuant to this subsection shall be provided by each state agency to the Office of Personnel Management which shall maintain records regarding the employment of persons and annually report the total number of persons so employed to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate and the Merit Protection Commission.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1324 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State and Education Employees Group Insurance Board shall be responsible for transferring sufficient funds to operate the State Employee Assistance Program to the State Employee Assistance Program Revolving Fund. Such a transfer of funds shall take place on or before July 1 of each year.

SECTION 10. AMENDATORY 75 O.S. 1991, Section 250.4, as last amended by Section 4, Chapter 330, O.S.L. 1995 (75 O.S. Supp. 1995, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act, Section 250.3 of this title.

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and F of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority shall be exempt from Article I of the Administrative Procedures Act.

5. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. The Commissioner of Public Safety shall be exempt from Section 253, subsections C and D of Section 303 and Sections 303.1, 307.1, 308 and 308.1 of this title insofar as it is necessary to adopt rules under the Oklahoma ~~Hazardous Materials Transportation and Motor Carrier Act~~ Motor Carrier Safety and Hazardous Materials Transportation Act, Section 230.1 et seq. of Title 47 of the Oklahoma Statutes, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations for which the Commissioner has no discretion when the state is mandated to adopt rules identical to federal rules and regulations. Such rules may be adopted by the

Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in The Oklahoma Register. Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference. Provided, for any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act, Section 308a et seq. of this title:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The Oklahoma Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;
9. The Board of Regents or employees of any university, college, or other institution of higher learning, except with respect to expulsion of any student for disciplinary reasons; provided, that upon any alleged infraction by a student of rules of such institutions, with a lesser penalty than expulsion, such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, and the following grounds of misconduct, if properly alleged in disciplinary proceedings against a student, shall be cause to be

barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:

- a. participation in a riot as defined by the penal code,
- b. possession or sale of any drugs or narcotics prohibited by the penal code, Section 1 et seq. of Title 21 of the Oklahoma Statutes, or
- c. willful destruction of or willful damage to state property;

10. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules,
- f. any filing of false information;

11. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

12. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985, Section 451 et seq. of Title 71 of the Oklahoma Statutes;

13. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

14. The Oklahoma Military Department;

15. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation until January 1, 1990;

16. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority; ~~and~~

17. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; ~~and~~

18. The position audit procedure, including the impartial review process, of the Office of Personnel Management pursuant to Section 840-4.3 of Title 74 of the Oklahoma Statutes; provided that any appeal from an impartial review determination to a court of competent jurisdiction shall be confined to the record in accordance with the provisions of Article II of the Administrative Procedures Act.

SECTION 11. REPEALER 74 O.S. 1991, Section 500.2, as last amended by Section 1, Chapter 335, O.S.L. 1995 (74 O.S. Supp. 1995, Section 500.2), is hereby repealed.

SECTION 12. Sections 1, 2, 3, 4, 7, 9 and 11 of this act shall become effective July 1, 1996.

SECTION 13. Sections 5, 6, 8 and 10 of this act shall become effective November 1, 1996.

SECTION 14. 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.

45-2-2842

KCM