ENGROSSED SENATE
BILL NO. 742

By: Dickerson of the Senate

and

Dunegan of the House

An Act relating to state government and statutes and reports; amending 74 O.S. 1991, Sections 500.2, as last amended by Section 9, Chapter 358, O.S.L. 1995, 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, 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 500.2, 840-1.3, 840-1.6A and 840-4.12), which relate to the State Travel Reimbursement Act and the Oklahoma Personnel Act; 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; authorizing the Office of Personnel Management to enter into certain contract agreements; limiting certain cost; deleting certain definition; modifying duties of the Administrator of the Office of Personnel Management; allowing the establishment and collection of fees for certain training programs; providing procedure for

certification of classified employees; modifying certain exemption to the Administrative Procedures Act, and providing procedure thereto; and providing an effective date.

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 9, Chapter 358, O.S.L. 1995 (74 O.S. Supp. 1995, Section 500.2), 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 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, Section 500.1 et seq. of this title.

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~~ facilities 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~~ facilities 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. 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. 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. 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.

O. 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 Administrator of the Office of Personnel Management 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 Administrator 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.

SECTION 2. 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;~~

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

~~10.~~ 9. "Intra-agency transfer" means moving an employee from one position to another position with the same agency either with or without reclassification;

~~11.~~ 10. "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.~~ 11. "Lateral transfer" means reclassification of an employee to another class with the same salary grade;

~~13.~~ 12. "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.~~ 13. "Noncompetitive appointment" means the appointment of a person to a noncompetitive class;

~~15.~~ 14. "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.~~ 15. "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.~~ 16. "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.~~ 17. "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.~~ 18. "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.~~ 19. "Regular unclassified service employee" means an unclassified service employee who is not on a temporary or other time-limited appointment;

~~21.~~ 20. "Unclassified service" or "exempt service" means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration;

~~22.~~ 21. "Merit System" means the Oklahoma Merit System of Personnel Administration;

~~23.~~ 22. "Administrator" means the appointing authority of the Office of Personnel Management;

~~24.~~ 23. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;

~~25.~~ 24. "Office" means the Office of Personnel Management;

~~26.~~ 25. "Commission" means the Oklahoma Merit Protection Commission; and

~~27.~~ 26. "Veteran" means a person who has been honorably discharged from the Armed Forces of the United States and has been a resident of Oklahoma for at least one (1) year prior to the date of the examination.

SECTION 3. 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 4. 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~~ classification in the classified service for the purpose of allowing ~~a~~ the candidate to ~~take any required examination or otherwise~~

~~compete for a position~~ be appointed to such classification. 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 5. 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 6. This act shall become effective November 1, 1996.

Passed the Senate the 27th day of February, 1996.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1996.

Speaker of the House of Representatives