

ENROLLED SENATE
BILL NO. 703

By: Leftwich of the Senate

and

Braddock of the House

An Act relating to state employees; amending 44 O.S. 2001, Sections 209, as amended by Section 1, Chapter 396, O.S.L. 2002 and 231 (44 O.S. Supp. 2002, Section 209), which relate to leave of absence; providing for benefit and pay adjustments to acting incumbents; authorizing certain agreements with other states; authorizing establishment and operation of certain youth programs; providing for implementation of programs; amending 62 O.S. 2001, Section 7.10, as amended by Section 1, Chapter 204, O.S.L. 2002 (62 O.S. Supp. 2002, Section 7.10), which relates to voluntary payroll deductions; clarifying treatment of certain online forms; amending 72 O.S. 2001, Section 48, as amended by Section 3, Chapter 396, O.S.L. 2002 (72 O.S. Supp. 2002, Section 48), which relates to leave of absence during active service; providing for benefit and pay adjustments to acting incumbents; amending 74 O.S. 2001, Sections 840-1.6A, as last amended by Section 4, Chapter 347, O.S.L. 2002, 840-1.15, 840-1.18, 840-2.10, 840-2.11, as amended by Section 6, Chapter 347, O.S.L. 2002, 840-2.19, 840-2.27B, 840-2.27C, 840-2.27D, 840-2.27E, as amended by Section 10, Chapter 347, O.S.L. 2002, 840-3.8, as amended by Section 13, Chapter 347, O.S.L. 2002, 840-4.15, 840-4.17, 840-5.1A and 840-5.5, as last amended by Section 89 of Enrolled House Bill No. 1816 of the 1st Session of the 49th Oklahoma Legislature (74 O.S. Supp. 2002, Sections 840-1.6A, 840-2.11, 840-2.27E and 840-3.8), which relate to the Oklahoma Personnel Act; modifying duties of the Administrator of the Office of Personnel Management; deleting obsolete language; removing references to the Human Resources Management Advisory Committee; transferring duties of the Human Resources Management Advisory Committee to the Administrator; clarifying provisions concerning certification of vouchers and accounts; making certain testimony not subject to subpoena; extending confidentiality of employee information; deleting requirement for sending copies of materials related to excess payroll errors; deleting certain reference to limited term unclassified employees; deleting certain reduction-in-force plan requirements; providing for reduction-in-force notice requirement;

removing provisions relating to unclassified employee reduction-in-force; providing for reduction-in-force implementation plan; amending references; removing provisions relating to unclassified employee reduction-in-force; removing certain written explanation requirement; deleting certain exemption from approval by the Administrator; making certain severance benefits to unclassified employees permissive; deleting obsolete language; clarifying language concerning repayment of certain severance benefits; providing for intermittent Mentor Executive rotations; deleting certain requirements for posting certain announcements; requiring agencies to describe method certain announcements in the promotional posting plan; adding certain information to be included in posting; authorizing Administrator to prescribe certain compliance form; allowing agencies to provide certain severance benefits to certain unclassified employees; providing for submission of plan to the Office of State Finance; providing requirements for the Office of State Finance to reject such plans; allowing certain classified employees to become acting incumbents; limiting service as active incumbent; authorizing establishment of certain positions; providing for expiration of certain appointments; providing for uninterrupted benefits; providing for restoration to classified service; authorizing agencies to appoint nurses in the unclassified service; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 44 O.S. 2001, Section 209, as amended by Section 1, Chapter 396, O.S.L. 2002 (44 O.S. Supp. 2002, Section 209), is amended to read as follows:

Section 209. All officers and employees of the state or a political subdivision thereof who are members of the National Guard, shall, when ordered by proper authority to active or inactive service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating. During the first twenty (20) calendar days for employees of political subdivisions or the first twenty (20) regular scheduled work days for state employees of such leave of absence in any federal fiscal year, the officers or employees shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of such leave of absence in any federal fiscal year, the employing state agency or political subdivision may elect to pay them an amount equal to the difference between the officers' or employees' full regular pay from the employing state agency or political subdivision and their

National Guard pay, except that state officers and employees shall receive the difference between their full regular pay and their National Guard pay when they are ordered by proper authority to active or inactive service retroactive to the date that the state officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of their positions during such absence, the authority having power to fill a vacancy in the positions may appoint substitutes, to be known as acting incumbents, who shall qualify as required for the regular incumbents and shall receive the same pay, including benefits and pay adjustments, as fixed by law, if any, or otherwise such pay, including benefits and pay adjustments, as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees.

SECTION 2. AMENDATORY 44 O.S. 2001, Section 231, is amended to read as follows:

Section 231. A. The Governor may request volunteers of the National Guard to provide assistance to federal, state and local law enforcement officers, within or outside the boundaries of this state, in drug interdiction and counter drug activities pursuant to 32 U.S.C., Section 112. These activities may include, but not be limited to, the operation and maintenance of equipment and facilities. The Governor may order, with their consent, any National Guard members, who volunteer pursuant to this section, to duty in federally funded status. The Governor may delegate the Governor's authority under this section to the Adjutant General. The Adjutant General shall follow all laws and regulations of the United States Department of Defense when ordering National Guard members to perform drug interdiction and counter drug activities pursuant to this section.

B. The Adjutant General, with the consent of the Governor, may enter into mutual assistance and support agreements with one or more other states, whether those activities are within or outside this state, in order to facilitate and coordinate efficient and cooperative enforcement efforts directed toward drug interdiction, counter drug activities, and demand reduction.

C. A National Guard member assisting in drug interdiction and counter drug activities pursuant to this section shall obey and execute the instruction of the law enforcement officer in charge of these activities given to the National Guard member through the military chain of command.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 232 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to rules promulgated by the Adjutant General of the State of Oklahoma, the Oklahoma Military Department is authorized to establish and operate youth programs utilizing National Guard or state-owned facilities and civilian or National Guard personnel to provide military-styled training and other benefits to civilian youth pursuant to agreement with federal, state and local governmental agencies.

B. The Adjutant General is authorized further to enter into agreements and to do all things deemed necessary or incidental to the performance of any duty authorized by subsection A of this section, including, but not limited to:

1. The execution of memoranda of agreement for assistance to federal, state and local governmental agencies;
2. The execution of grant agreements;
3. The execution of grant agreements with the federal government; and
4. The execution of other contracts and agreements.

C. The Adjutant General is hereby authorized to accept gifts or donations for and on behalf of the state to be used for the use and benefit of the youth programs authorized by this section and their participants. The Oklahoma Military Department is directed to maintain and preserve appropriate records for all gifts made to the state pursuant to this section.

SECTION 4. AMENDATORY 62 O.S. 2001, Section 7.10, as amended by Section 1, Chapter 204, O.S.L. 2002 (62 O.S. Supp. 2002, Section 7.10), is amended to read as follows:

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

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

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

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

2. The payment of any insurance premiums due a private insurance organization or service company which is regulated by the

State Insurance Commissioner and with a minimum participation of five hundred (500) state employees for legal services;

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

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

5. Membership dues in the Oklahoma Public Employees Association or any other statewide association limited to state employee membership with a minimum membership of one thousand (1,000) dues-paying members. For purposes of this paragraph, ~~the Office of Personnel Management~~ state agencies shall accept online or electronically submitted forms from the Oklahoma Public Employees Association and other ~~statewide~~ state employee associations. The Office of Personnel Management shall develop and implement a verification process for online or electronically submitted forms which may include the use of electronic signature technology or other process as determined appropriate;

6. Contributions to its foundation organized pursuant to 26 U.S.C., Section 501(c)(3) in the Oklahoma Public Employees Association or any other statewide association limited to state employee membership with a minimum membership of one thousand (1,000) dues-paying members; and

7. Payments to a college savings account administered under the Oklahoma College Savings Plan Act pursuant to Section 3970.1 et seq. of Title 70 of the Oklahoma Statutes.

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

D. Any statewide association granted a payroll deduction prior to March 23, 1984, shall be exempt from the minimum state employee membership requirement.

E. Approval of a payroll deduction or salary adjustment agreement for any insurance organization, line of coverage or policy shall not be construed as an assumption of liability, for the term of policy or the performance of the insurance organization, by this state, or any of its agencies, boards, commissions, institutions or any officer or employee thereof. Contracts for such insurance shall

be in all respects subject to the insurance laws of this state, and shall be enforceable solely pursuant to such laws.

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

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

SECTION 5. AMENDATORY 72 O.S. 2001, Section 48, as amended by Section 3, Chapter 396, O.S.L. 2002 (72 O.S. Supp. 2002, Section 48), is amended to read as follows:

Section 48. All officers and employees of the state or a political subdivision thereof who are members, either officers or enlisted, of the Reserve Components, to include the Army and Air National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves, or any other component of the Armed Forces of the United States, shall, when ordered by the proper authority to active or inactive duty or service, be entitled to a leave of absence from such civilian employment for the period of such service without loss of status or seniority. During the first twenty (20) calendar days for employees of political subdivisions or the first twenty (20) regularly scheduled work days for state employees of such leave of absence in any federal fiscal year, the officers or employees shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of such leave of absence in any federal fiscal year, the employing state agency or political subdivision may elect to pay the officer or employee an amount equal to the difference between their full regular pay from the employing state agency or political subdivision and their military pay, except that state officers and employees shall receive the difference between their full regular pay and their Reserve Components pay when they are ordered by proper authority to active or inactive service retroactive to the date that the officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of their positions during such absence, the authority having power to fill a vacancy in the positions may appoint substitutes, to be known as acting incumbents, who shall qualify as required for the regular incumbents and shall receive the same pay, including benefits and pay adjustments as fixed by law, if any, or otherwise such pay, including benefits and pay adjustments, as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 840-1.6A, as last amended by Section 4, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2002, 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 the Governor's pleasure. In addition to the other duties imposed 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 December 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. As part of the recruitment program established by this section, the Administrator may identify positions or job family levels for expedited recruitment. Such expedited recruitment jobs may include only those jobs where education, experience or certification requirements substantially limit the pool of available applicants. Applicants who have been certified by the Office of Personnel Management as meeting the minimum qualifications for such jobs may be referred to agencies with vacancies in such jobs without examination or ranking, and may be eligible for appointment upon referral. However, a referral may not occur until the register for the job has been publicly announced for at least fourteen (14) calendar days. The Administrator may remove positions or job family levels from expedited recruitment at

any time. The Administrator shall adopt rules to implement expedited recruitment;

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 840-1.1 et seq. of this title, and provide standard forms to the agencies if necessary;

10. Develop, in cooperation with appointing authorities, employee training programs, management training 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. The Administrator is authorized to purchase awards for presentation to state employees as part of employee recognition activities sponsored by the Office of Personnel Management;

11. Establish rules for leave and pay regulations, regulations for including, but not limited to, rules for leave, furloughs, performance pay increases, rates for pay differentials, on-call pay, and other types of pay incentives and salary adjustments consistent with the Oklahoma Personnel Act;

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 necessary to perform the duties imposed by law on the Office of Personnel Management in accordance with the provisions of the Administrative Procedures Act. 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 and unclassified state positions. Said responsibility shall include the establishment of rules governing the identification, tracking, and reporting of all state positions as provided in Section 840-2.13 of this title;

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

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;

~~19. Effective on or after November 1, 1999, implement a new classification and compensation system for classified employees that converts classes into job families and salary grades into pay bands. All classified employees shall be converted into the new job families and pay bands at the time the new classification and compensation system is implemented without loss of pay or status, and shall not have the right to appeal such conversion. The Administrator of the Office of Personnel Management shall adopt rules pursuant to Section 840-4.3 of this title which shall include a process for review by the Office of Personnel Management of internal classification grievances of job family level assignments which cannot be resolved at the agency level;~~

20. Conduct a study identifying the following, by job family descriptor(s):

- a. selected job family levels with a turnover rate in excess of ten percent (10%),
- b. selected job family levels identified by the Administrator of the Office of Personnel Management with salaries and benefits that are ten percent (10%) or more below the market for such position(s), and
- c. selected job family levels identified by the Administrator of the Office of Personnel Management in which recruitment efforts have yielded a low number of qualified applicants.

The initial study shall be conducted by December 1, 2001, and every two (2) years thereafter;

~~21.~~ 20. Issue orders directing agencies to:

- a. conform and comply with the provisions of the Oklahoma Personnel Act, the Merit Rules of Personnel Administration, and all memoranda or other written communications issued to agencies explaining the Oklahoma Personnel Act, the Rules, and any other matter relating to the Merit System of Personnel Administration or under the jurisdiction of the Administrator of the Office of Personnel Management, and
- b. take action pursuant to Section 840-6.9 of this title for failure to implement those orders; and

~~22.~~ 21. Establish a workforce planning function within the Office of Personnel Management to assist state agencies in analyzing the current workforce, determining future workforce needs, and implementing solutions so that agencies may accomplish their missions.

SECTION 7. AMENDATORY 74 O.S. 2001, Section 840-1.15, is amended to read as follows:

Section 840-1.15 A. ~~Effective September 1, 1994, there is hereby created a nine-member Human Resources Management Advisory Committee. The membership of the advisory body shall be as follows:~~

~~1. The Administrator of the Office of Personnel Management or a designee; and~~

~~2. The Executive Director of the Oklahoma Merit Protection Commission or a designee; and~~

~~3. The Executive Director of the Oklahoma Public Employees Association or a designee; and~~

~~4. Two members shall be appointed by the Governor, one of whom shall be an employee of an agency employing less than two hundred full-time equivalent employees and the other shall be an employee of an agency employing more than two hundred full-time equivalent employees; and~~

~~5. Two members appointed by the Speaker of the House of Representatives, one of whom shall be a member of the House of Representatives, the other shall have human resource management experience in the public sector; and~~

~~6. Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Senate, the other shall have human resource management experience in the public sector.~~

~~B. The Administrator or designee shall chair the Advisory Committee. A majority of the members of the Advisory Committee shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Advisory Committee, and every act of a majority of a quorum of the members present shall be deemed an act of the Advisory Committee. Any vacancy in office shall be filled in the same manner~~

~~as the original appointment. Staff for the Advisory Committee shall be provided by the Office of Personnel Management and the Oklahoma Merit Protection Commission.~~

~~The Advisory Committee shall be exempt from the Administrative Procedures Act and shall not have authority to promulgate administrative rules pursuant to Article I of the Administrative Procedures Act.~~

~~C. Members of the Advisory Committee shall receive no compensation for serving on the Advisory Committee but shall receive travel reimbursement for their necessary travel expenses incurred in the performance of their duties on the Advisory Committee as follows:~~

- ~~a. legislative members of the Advisory Committee shall be reimbursed in accordance with Section 456 of Title 74 of the Oklahoma Statutes from the legislative body in which they serve,~~
- ~~b. nonlegislative members of the Advisory Committee who are officers or employees of the state shall be reimbursed by their employing agency in accordance with the State Travel Reimbursement Act, and~~
- ~~c. members of the Advisory Committee who are not otherwise officers or employees of the state shall be reimbursed by the Office of Personnel Management in accordance with the State Travel Reimbursement Act.~~

~~D. The Advisory Committee shall conduct the following study and shall make recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives:~~

~~Study of Single Leave.~~

~~The Advisory Committee is to study the feasibility and the advantages or disadvantages of creating a system for state government to accrue leave on an undifferentiated basis in lieu of the current practice that divides leave accrual into annual and sick leave. The Advisory Committee shall consider the fiscal impact and potential benefits that state employees may derive from such reform in the leave system for the state service. The Advisory Committee shall submit its recommendations regarding this study by January 1, 1997.~~

~~E. The Advisory Committee Administrator shall recommend systems and establish standards and procedures for delegating to appointing authorities the authority to administer human resources functions normally conducted by the Office of Personnel Management to appointing authorities. The delegation projects shall not include discipline or compensation. The Administrator shall have the authority to approve delegation applications which shall constitute authority for the agency to implement approved delegations of personnel authority.~~

~~B. The Advisory Committee is to develop recommendations to Administrator shall create a program to allow agencies to design model human resource projects to test and evaluate the effect of innovative policies, standards, and procedures.~~

The number and scope of model projects ~~would~~ shall be limited only by the capacity of the agency to implement the model projects, the quality of model project applications, and the ability of the Office of Personnel Management to monitor the projects. ~~The Advisory Committee would have to approve the projects and would receive recommendations from the Office of Personnel Management Administrator. Upon approval by the Advisory Committee, the~~ The Administrator shall have the authority to approve model project applications which shall constitute authority for the agency to implement approved model projects.

~~Such procedures for delegations of personnel authority and model projects may include, but not be limited to, an evaluation component, employee participation in the development of the plan and notification of approved delegation of personnel authority or model project, audits, and conditions for termination of a delegation of personnel authority or a model project by the Administrator.~~

~~A~~ C. The Administrator shall create a Human Resource Management Plan and Self-Evaluation Report system for agencies ~~should include including~~ but not be limited to provisions related to affirmative action; staffing, recruitment, and promotion; classification and compensation; training and staff development expenditures; the reporting of internal agency grievances and discrimination complaints filed, discharges, suspensions without pay and demotions, and number of investigations directed by the Oklahoma Merit Protection Commission and the outcome of all such actions; and strategies for assuring employee participation in the development of agency personnel activities. The self-evaluation should include comparisons with the previous year or years' personnel actions.

SECTION 8. AMENDATORY 74 O.S. 2001, Section 840-1.18, is amended to read as follows:

Section 840-1.18 A. The administrative expenses and costs of operating the Merit System shall be paid by the various divisions of the state government included within the Merit System, and each such agency shall be authorized to include in its budget estimates its pro rata share of such costs, and shall remit such shares quarterly from departmental or agency funds to the Office of Personnel Management who shall deposit such shares to the credit of the General Revenue Fund of the State Treasury.

B. The Administrator shall maintain accurate records reflecting the costs of administering its provisions, and at the close of each quarter-year period he shall summarize said costs, and shall bill each department or agency included within the terms of this act with a pro rata share of the administrative costs based on the relationship between the quarterly average number of employees in the classified service of such department or agency, and the quarterly average number of employees in the classified service of

all the departments or agencies included within the terms of this act by Executive Order for the appropriate calendar quarter.

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

D. No state disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the state classified service, brought under this act unless the payroll voucher or account of such pay bears the certification of the ~~Director, or of his authorized agent~~ appointing authority or designee, that the persons named therein have been appointed and employed in accordance with the provisions of this act and the rules, regulations and orders promulgated hereunder. The ~~Director~~ appointing authority or designee may for proper cause withhold certification from an entire payroll or from any specific item or items thereon.

Any citizen may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of this act, rules or regulations promulgated hereunder. Any sum paid contrary to any provision of this act or any rule, regulation or order promulgated hereunder may be recovered in an action maintained by any citizen, from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All monies recovered in any such action shall be paid into the State Treasury.

Any person appointed or employed in contravention of any provision of this act or any rules, regulations or orders promulgated hereunder, whose employment is brought within the terms of this act, who performs service for which he is not paid, may maintain an action against the officer or officers who purported to appoint or employ him to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services.

If the ~~Director~~ appointing authority or designee wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain an action or proceeding in the courts to compel the ~~Director~~ appointing authority or designee to certify such payroll voucher or account.

SECTION 9. AMENDATORY 74 O.S. 2001, Section 840-2.10, is amended to read as follows:

Section 840-2.10 A. There is hereby created a State Employee Assistance Program within the Office of Personnel Management. 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, referral, consultation, and problem resolution 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.

B. The Administrator of the Office of Personnel Management 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 of the Office of Personnel Management 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~~ neither the records nor the testimony of an Employee Assistance Program professional shall be subject to subpoena unless a participant poses a threat to deliberately harm the participant 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 section or the rules promulgated pursuant to this section 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 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 employing entity. Members who are not employed in state government shall receive travel reimbursement from the Office of Personnel Management.

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

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

SECTION 10. AMENDATORY 74 O.S. 2001, Section 840-2.11, as amended by Section 6, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2002, Section 840-2.11), is amended to read as follows:

Section 840-2.11 The home addresses, home telephone numbers, ~~and~~ social security numbers, and information related to personal electronic communication devices of current and former state employees shall not be open to public inspection or disclosure without written permission from the current or former state employees or without an order from a court of competent jurisdiction.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 840-2.19, is amended to read as follows:

Section 840-2.19 A. The Director of State Finance shall not approve any payroll claim for payment for any agency unless said claim contains or is accompanied by the certification by the administrative head of said agency or an authorized employee of said agency that the persons named in said claim have been appointed and employed in accordance with the provisions of the Oklahoma Personnel Act and the rules and orders promulgated pursuant to the provisions of the Oklahoma Personnel Act. For purposes of this section,

"payroll claim" shall also include longevity payments made pursuant to Section 840-2.18 of this title.

B. If, as a result of a payroll audit, the Office of Personnel Management finds that an agency has made payments of salaries or wages contrary to the provisions of the Oklahoma Personnel Act and the rules promulgated pursuant to the provisions of the Oklahoma Personnel Act:

1. Audit findings shall be promptly transmitted to the appointing authority of the agency certifying the payroll claim or claims involved; and

2. An audit conference with said agency shall be scheduled within fifteen (15) days, at which time the audit exceptions will be resolved or become a determination of error unless the parties to the conference agree to a further review; and

3. If underpayments or overpayments made by said agency are deemed to be the result of administrative error, the agency which certified the payroll claim or claims in error shall refund to the employee the balance of the actual amounts due and owing to the payee or shall seek repayment from the payee of any amount paid in excess of the actual amount due and owing the payee; and

4. If an agency neglects or refuses to seek repayment after a determination that an error in payroll amount or amounts has been made, or to properly adjust a then current salary or wage, the Office of Personnel Management shall notify the Director of State Finance of an unresolved audit exception stating the agency involved and the person to whom said exception refers; and

5. Upon receipt of notification that a procedure to initiate repayment has been instituted by the certifying agency or that a protest has been filed with the Oklahoma Merit Protection Commission, said notice shall be withdrawn or waived by the Office of Personnel Management, in writing, to the Director of State Finance. Implementation of procedures provided in this section shall not operate to deny or delay payment of proper salaries or wages to any employee of this state; and

6. The provisions of this section regarding collections of any overpayment of salaries or wages by any agency to any state employee or officer shall not include any such overpayment made prior to July 1, 1983;

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

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

from an employee, the agency shall provide the employee with adequate notice and an opportunity to respond.

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

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

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

- a. the amounts paid in error; and
- b. the dates of said payments; and
- c. the options available for repayment; and
- d. the right of the payee to protest the findings.

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

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

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

3. If the payee is, at the time of said notification, an officer or employee of an agency of the state other than the agency seeking repayment, the options provided by paragraph 2 of this subsection may be exercised by the payee with the approval of the

then current employing agency. Payment of amounts deducted or charged against annual leave shall be paid to the agency seeking repayment by an appropriate miscellaneous claim for interagency payment. If a payroll deduction is elected pursuant to the provisions of this paragraph and employment is subsequently terminated, any balance remaining shall be deducted from any final payment otherwise due to the employee.

4. If a payee who is, at the time of said notification, a permanent classified officer or employee of any agency of this state protests the determination of the error or the amount of said determination, the agency seeking repayment shall present, within five (5) days of the return of said protest, the facts in writing, the notice, and the protest of the payee, to the Oklahoma Merit Protection Commission ~~and shall send copies to the Office of Personnel Management~~. The Oklahoma Merit Protection Commission shall treat any such protest as a complaint pursuant to Section 840-1.9 of this title. The Commission and Executive Director, after investigation and hearing, shall make a determination which shall be binding on the agency. The salary or wages of any payee exercising the right to the protest shall not be suspended or reduced until a determination has been issued by the Oklahoma Merit Protection Commission and Executive Director.

5. If the payee is no longer an employee of the state but agrees to repay the amount or amounts paid in error, repayment may be accepted:

- a. by lump-sum cash repayment; or
- b. in installments over a period not to exceed twelve (12) months.

6. If the payee is no longer an employee of the state, and does not respond or cannot be located within ten (10) days after mailing of the determination of error, or refuses repayment, the agency seeking repayment shall present the facts in writing to the Attorney General and shall send a copy to the Office of Personnel Management. The Attorney General shall determine what action may be taken to recover said amount.

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

SECTION 12. AMENDATORY 74 O.S. 2001, Section 840-2.27B, is amended to read as follows:

Section 840-2.27B As used in Sections 840-2.27B through 840-2.27G of this title:

1. "Affected job family levels" means those containing affected positions;

2. "Affected employees" means classified ~~and unclassified~~ employees in affected positions;

3. "Affected positions" means positions being abolished or positions which are subject to displacement action;

4. "Agency" means any office, department, board, commission, or institution of all branches of state government, except for institutions within The Oklahoma State System of Higher Education;

5. "Displacement" or "displace" means the process of an employee accepting an offer of employment to an occupied or funded vacant position;

6. "Displacement limit" means any area within an agency in which displacement may not occur. These areas may include, but are not limited to, job families, units, and geographic areas within an agency;

7. "Displacement opportunity" means the circumstances under which an occupied or funded vacant position is subject to displacement by an affected employee;

8. "Displacement privilege" means the privilege an affected employee has to utilize a displacement opportunity;

9. "Educational institution" means an institution within The Oklahoma State System of Higher Education, a facility under the management or control of the Oklahoma Department of Career and Technology Education, or a licensed private educational institution in the State of Oklahoma;

~~10. "Limited-term unclassified employee" means an unclassified affected employee in an employment status in the state service whose employment status is temporary or time-limited and does not make an employee eligible for participation in a state retirement system;~~

~~11.~~ "Personnel transaction" means the record of the separation as a result of a reduction-in-force of a classified affected employee from an agency, or the record of the transfer or demotion of a classified affected employee;

~~12.~~ 11. "Reduction-in-force" means abolition of positions in an agency or part of an agency and the corresponding nondisciplinary removal of affected employees from such positions through separation from employment or through displacement to other positions. Reduction-in-force may also include reorganizations;

~~13.~~ 12. "Severance benefits" means employee benefits provided by the State Government Reduction-in-Force and Severance Benefits Act to affected employees separated through a reduction-in-force; and

~~14.~~ 13. "Years of service" means current and prior service which is creditable for the Longevity Pay Plan. An affected employee shall not be required to have been continuously employed

for two (2) years to be given credit for either current or prior service pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

SECTION 13. AMENDATORY 74 O.S. 2001, Section 840-2.27C, is amended to read as follows:

Section 840-2.27C A. ~~Whenever a reduction-in-force occurs, the appointing authority shall provide a plan for such reduction-in-force at~~ At least sixty (60) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force notice that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit rules. Such notice shall be posted for five (5) days. The appointing authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action. ~~The reduction-in-force plan of an agency, except for the fiscal components of the plan as provided by paragraph 1 of this subsection, in the executive branch of state government is subject to the approval of the Administrator of the Office of Personnel Management who shall reject any plan that is not in substantial compliance with this section and the rules promulgated hereunder.~~

~~1. The Director of the Office of State Finance shall review the fiscal components of the plan and reject any plan that does not:~~

- ~~a. demonstrate that funds are available to cover projected costs,~~
- ~~b. contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 840-2.27D of this title, and~~
- ~~c. contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.~~

~~2. If the reduction-in-force is conducted pursuant to a reorganization, the fiscal components of the reduction-in-force plan shall contain reasons for the reorganization, which may include, but not be limited to, increased efficiency, improved service delivery, or enhanced quality of service.~~

B. The reduction-in-force implementation plan and subsequent personnel transactions directly related to the reduction-in-force in executive branch agencies shall be in compliance with rules adopted by the Administrator. ~~The appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force plan a copy of the plan five (5) days prior to the submission of the proposed plan to the Administrator and the Director of State Finance. An approved~~ The reduction-in-force implementation plan, including the description of and reasons for displacement limits and protections from displacement actions, and severance benefits that will be offered pursuant to Section 840-2.27D of this title, and the implementation schedule shall be posted

in each office affected by the plan within ~~two (2)~~ five (5) business days after approval of the plan by the Administrator for executive branch agencies or appointing authorities in the legislative and judicial departments posting of the reduction-in-force notice. The reduction-in-force implementation plan shall:

1. Provide for the appointing authority to determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof;

2. Provide for retention of affected employees based on ~~classification and type of appointment. If an agency has both classified and unclassified positions in affected job family levels, the appointing authority shall not reduce a higher percentage of occupied classified positions than occupied unclassified positions;~~

3. Require the separation of probationary classified affected employees in affected job family levels, except those affected employees on probationary status after reinstatement from permanent classified status without a break in service, prior to the separation or displacement of any permanent classified affected employee in an affected job family level;

4. ~~Require the separation of limited term unclassified affected employees and regular unclassified affected employees with less than one (1) year continuous service in affected classes or job family levels prior to the separation or displacement of regular unclassified affected employees with one (1) year or more of continuous service in an affected class or job family level;~~

~~5.~~ Provide for retention of permanent classified affected employees in affected job family levels and those affected employees on probationary status after reinstatement from permanent classified status without a break in service based upon consideration of years of service;

~~6.~~ 5. Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service if any displacement opportunities exist; and

~~7.~~ 6. Provide outplacement assistance and employment counseling from the Oklahoma Employment Security Commission and any other outplacement assistance and employment counseling made available by the agency to affected employees regarding the options available pursuant to the State Government Reduction-in-Force and Severance Benefits Act prior to the date that a reduction-in-force is implemented.

C. The Director of the Office of State Finance shall review the fiscal components of the reduction-in-force implementation plan and within five (5) business days of receipt reject any plan that does not:

1. Demonstrate that funds are available to cover projected costs;

2. Contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 840-2.27D of this title; and

3. Contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.

If the reduction-in-force is conducted pursuant to a reorganization, the fiscal components of the reduction-in-force implementation plan shall contain reasons for the reorganization, which may include, but not be limited to, increased efficiency, improved service delivery, or enhanced quality of service.

D. The appointing authority may limit displacement of affected employees at the time of a reduction-in-force. Displacement limits shall not be subject to the approval of the Administrator. Any limitation shall be based upon reasonable, written, articulated criteria as certified by the appointing authority. If displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women. ~~However, if an appointing authority does not limit displacement, the appointing authority shall explain in writing the reasons displacement was not limited.~~

1. The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees in affected positions within displacement limits; provided, that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected, ~~which explanation shall not be subject to the approval of the Administrator.~~

2. If the affected employee has not held within the last five (5) years a position in the job family level or predecessor class in which the affected employee is otherwise eligible for a displacement opportunity, the appointing authority may determine that the affected employee does not possess the recent relevant experience for the position and deny in writing the displacement opportunity.

3. An affected permanent classified employee may exercise a displacement privilege, if one exists, if the affected employee has received an overall rating of at least "satisfactory", or its equivalent, on the most recent annual service rating. If an affected employee has not been rated in accordance with the time limits established in Section 840-4.17 of this title, the employee shall be deemed to have received an overall rating of at least "satisfactory" or its equivalent on the most recent service rating.

4. An affected employee who exercises a displacement privilege pursuant to this section shall:

- a. be required, as a condition of continued employment by the agency, to sign an agreement, in a form to be prescribed by the Administrator of the Office of

Personnel Management, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. An affected employee who signs the agreement required by this subparagraph waives any privilege which might otherwise have been available to the affected employee pursuant to the agreement for the provision of severance benefits, and

- b. not have the right to exercise any subsequent right to receive severance benefits from the agency for which the affected employee performs services on the date that the employee exercises a displacement privilege. The provisions of this section shall not prohibit any person from exercising a displacement privilege in, or accepting severance benefits from, more than one agency during employment with the State of Oklahoma or from the agency which the affected employee exercised a displacement privilege in any future reduction-in-force.

~~D.~~ E. An affected employee who does not agree pursuant to Section 840-2.27E of this title to accept severance benefits and who does not have a displacement opportunity or does not accept a displacement opportunity shall be separated by the reduction-in-force and shall not receive any severance benefits that would have otherwise been provided pursuant to Section 840-2.27D of this title.

~~E.~~ F. Permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service removed from a job family level by taking a position in another job family level through displacement or separated after foregoing severance benefits shall be recalled by the agency to the job family level from which removed in inverse order of removal before the agency may appoint other persons to the job family level, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided by this section. Upon declination of an offer of reappointment to the job family level from which removed or eighteen (18) months after the date of removal from the job family level, whichever is first, this right to be recalled shall expire.

~~F.~~ G. The names of permanent classified affected employees, ~~and those affected employees on probationary status after reinstatement from permanent classified status without a break in service and regular unclassified affected employees with one (1) year or more continuous service~~ who have been separated pursuant to the State Government Reduction-in-Force and Severance Benefits Act, who apply and meet all requirements for state jobs in the classified service shall be placed on Priority Reemployment Consideration Rosters in accordance with their individual final earned ratings for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any individual eligible for initial appointment from the employment register, individuals on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen

(18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a job family level having the same or higher pay band than the job family level from which removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire. If an agency, including but not limited to the University Hospitals Authority, has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency who have been separated shall be eligible for priority reemployment consideration.

~~G.~~ H. If an agency or any part thereof is scheduled to be closed or abolished as a result of legislation or a court order, the affected employees, who would be eligible for Priority Reemployment Consideration after their separation in accordance with subsection ~~F~~ G of this section, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation. If an agency, including but not limited to the University Hospitals Authority, has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency shall be eligible for Priority Reemployment Consideration beginning with the date the schedule is posted, not to exceed twelve (12) months before the scheduled date of separation.

~~H.~~ I. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct agencies, boards and commissions to reduce the number of employees working for said agency, board or commission whenever it is deemed necessary and proper. Such reduction shall be made pursuant to reduction-in-force plans as provided in this section.

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

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

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

Review Board shall additionally call upon elected officials, members of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

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

~~K.~~ L. The appointing authority of an agency which has an approved reduction-in-force plan pursuant to the State Government Reduction-in-Force and Severance Benefits Act may request the Administrator of the Office of Personnel Management to appoint an interagency advisory task force for the purpose of assisting the agency and its employees with the implementation of the reduction-in-force. The appointing authority of state agencies requested by the Administrator to participate on a task force shall assign appropriate administrative personnel necessary to facilitate the necessary assistance required for the efficient implementation of the approved reduction-in-force.

~~L.~~ M. Except as otherwise provided, the University Hospitals Authority shall not be subject to the provisions of this section. Beginning August 25, 1995, the provisions of subsection E of this section regarding priority reemployment consideration shall apply to any employee of the University Hospitals Authority who was employed on or became employed after February 1, 1995, and who is separated from state service as a result of a reduction-in-force. The University Hospitals Authority shall conduct a reduction-in-force to terminate employees, regardless of status, whose positions are eliminated because of a contract with a private nongovernmental entity for the lease and operations of the University Hospitals pursuant to the University Hospitals Authority Act.

SECTION 14. AMENDATORY 74 O.S. 2001, Section 840-2.27D, is amended to read as follows:

Section 840-2.27D A. Agencies shall provide severance benefits to the following categories of affected employees who are separated from the state service as a result of a reduction-in-force: permanent classified affected employees, ~~and~~ and affected employees on probationary status after reinstatement from permanent classified status without a break in service, and regular unclassified affected employees with one (1) year or more continuous state service; provided, however, affected employees of the University Hospitals Authority must have been continuously employed in the state service since on or before January 1, 1995, to receive severance benefits. Pursuant to this section and Section 840-5.1A of this title, state agencies may provide severance benefits provided by this subsection to regular unclassified employees with one (1) year or more continuous state service who are separated from the state service for budgetary reasons. Affected employees who qualify for severance

benefits pursuant to this section, in addition to the payment of any compensable accrued leave or other benefits an affected employee is eligible to receive upon separation from the state service, shall receive severance benefits consisting of the following elements:

1. All agency severance benefits shall provide the following:
 - a. payment equal to the affected employee's current health insurance premium for the affected employee only for eighteen (18) months based on the cost of the premium at the time of the reduction-in-force. The appointing authority of the agency can ask the Director of the Office of State Finance to waive the severance benefit provision in this subparagraph or to reduce the length of coverage or subsequent severance benefit payment upon demonstration of the agency's inability to fund the full benefit,
 - b. a longevity payment, as prescribed by Section 840-2.18 of this title, in the amount which would otherwise be paid to the affected employee on the affected employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for affected employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of this title, and
 - c. outplacement assistance and employment counseling prior to and after the reduction-in-force from the Oklahoma Employment Security Commission and other state or private entities that the entity may contract with to assist individuals who may be impacted by a reduction-in-force;

2. In addition to the severance benefits provided by paragraph 1 of this subsection, agencies may give affected employees, except as otherwise provided by paragraph 3 of this subsection, severance benefit packages based on any combination of the following options, provided that all affected employees who receive severance benefits in the reduction-in-force shall be accorded uniform treatment pursuant to the State Government Reduction-in-Force and Severance Benefits Act:

- a. up to one (1) week of pay, calculated by dividing the affected employee's current annual salary by the whole number fifty-two (52), for each year of service,
- b. a maximum lump-sum payment of Five Thousand Dollars (\$5,000.00), and
- c. payment for accumulated sick leave or extended illness benefits at up to one-half $(\frac{1}{2})$ of the affected employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit; and

3. An affected employee may direct payment of all or a portion of the affected employee's severance benefits to the options authorized by this paragraph by exercising an option to receive education vouchers for use in connection with the Reduction-in-Force Education Voucher Action Fund subject to the following requirements and rules of the Administrator of the Office of Personnel Management, provided that the agency offers to match employee severance funds pursuant to this paragraph. In such case:

- a. the affected employee may purchase One Dollar (\$1.00) in voucher credit for each One Dollar (\$1.00) contributed by the affected employee to the fund subject to a maximum affected employee contribution of Three Thousand Dollars (\$3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars (\$3,000.00); provided, that the agency contribution shall not exceed the contribution of the affected employee,
- b. the affected employee may pay the cost for the voucher program directly, subject to the requirements of subparagraph a of this paragraph, or the employing agency of the affected employee may pay the cost of the voucher from funds which would otherwise have been used to make payments to the displaced affected employee pursuant to an election by the affected employee to receive severance benefits,
- c. no voucher issued pursuant to the provisions of this paragraph shall:
 - (1) be redeemed by the affected employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or
 - (2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the affected employee,
- d. the Administrator of the Office of Personnel Management shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees from the educational institution which shall be credited to the affected employee's account, and
- e. the Administrator of the Office of Personnel Management shall distribute to the affected employee and the agency any monies remaining in the affected employee's account after the voucher credit has expired. The distribution shall be based on the proportional share of contributions made by the affected employee and the agency.

B. Each affected employee who is separated from state service as a result of a reduction-in-force after July 1, 1998, besides being eligible for the eighteen (18) months of continuation coverages provided by the Public Health Service Act, 42 U.S.C., Section 30066-1 et seq., i.e., health, dental, vision and healthcare reimbursement account options, under this severance benefit, shall also be eligible to elect additional continuation coverage for any life insurance, in twenty-thousand-dollar units, on self or five-thousand-dollar units, on dependents, and to continue participation in the dependent care reimbursement account provided that these additional coverages were in effect immediately prior to the effective date of the reduction-in-force, the date of which shall serve as the qualifying event date. Provided, that no coverage elected for continuation through the Public Health Service Act for the full eighteen-month period is allowed to lapse, then that affected employee may elect to continue those same coverages for an additional eighteen (18) months at whatever rate is then in effect. This additional eighteen-month continuation period of coverage shall be administered by the Oklahoma State Employees Benefits Council following the initial eighteen-month period of continuation which shall be administered by the COBRA office at the State and Education Employees Group Insurance Board.

C. Part-time affected employees shall receive benefits pursuant to this section on a prorated basis. Part-time employees shall have been compensated for at least one thousand (1,000) hours during the twelve (12) months immediately preceding the effective date of the reduction-in-force to be eligible for severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

D. No appointing authority shall grant affected employees in a reduction-in-force severance benefits except as provided in this section.

SECTION 15. AMENDATORY 74 O.S. 2001, Section 840-2.27E, as amended by Section 10, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2002, Section 840-2.27E), is amended to read as follows:

Section 840-2.27E Any affected employee who receives severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act shall execute a separation agreement with the employing agency, on forms to be prescribed by the Administrator of the Office of Personnel Management. The forms shall comply with applicable federal laws and may include but not be limited to the following elements:

1. Agreement by the affected employee that the receipt of the benefits is in lieu of continued employment with the agency or other severance benefits related to the current reduction-in-force;

2. Agreement by the affected employee that, to the extent allowed by federal or state law, respectively, the affected employee releases the State of Oklahoma and the agency from all claims, liabilities, demands and causes of action known or unknown, fixed or contingent, equitable, legal or administrative, except unemployment insurance;

3. Agreement by the affected employee that, to the extent allowed by federal or state law, respectively, the affected employee releases the State of Oklahoma and the agency from any claim or cause of action which might arise under federal or state laws governing the employment relationship; and

4. Agreement by the affected employee that the affected employee knows and understands that the receipt of severance benefits is in exchange, to the extent allowed by federal or state law, for any rights the affected employee may have had to:

- a. continued employment with any agency, and
- b. future employment with the agency from which separated for a period of one (1) year from the date of the agreement, provided that nothing in this subparagraph shall prohibit an appointing authority of any agency from employing an affected employee who has received a severance benefit ~~if the affected employee repays~~. If an affected employee is reemployed by the agency from which separated as a result of a reduction-in-force within one (1) year of separation, the affected employee shall repay all severance benefits received pursuant to the State Government Reduction-in-Force and Severance Benefits Act on a proportional basis. The repayment amount of the severance benefits received by or paid on behalf of the affected employee shall be reduced one-three-hundred-sixty-fifths (1/365) for each day after the separation of the affected employee, provided that any education voucher credit benefits shall not include agency contributions.

The provisions of this section shall not prohibit any affected employee from accepting severance benefits from more than one agency during employment with the State of Oklahoma.

SECTION 16. AMENDATORY 74 O.S. 2001, Section 840-3.8, as amended by Section 13, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2002, Section 840-3.8), is amended to read as follows:

Section 840-3.8 A. Effective July 1, 1995, the Administrator of the Office of Personnel Management shall design a mentor program for state employees with executive potential in all branches of state government. The mentor program shall be open to all state employees but shall place a special emphasis on development of women, racial minorities and persons with disabilities as executives. As used in this section, "agency" means any office, department, board, commission, or institution in all branches of state government.

B. Effective July 1, 1995, there is hereby created a seven-member Mentor Selection Advisory Committee which shall be composed of the following permanent members: The Administrator or designee, the Director of the Office of State Finance or designee, a designee of the Governor, a designee of the President Pro Tempore of the Senate and a designee of the Speaker of the House of

Representatives. Two other agency appointing authorities shall be selected every two (2) years by the Advisory Committee's permanent members. Agency appointing authority members may be represented at committee meetings by a designee. Appointed members not serving a specific term will serve at the pleasure of their appointing authority. Members shall be reimbursed for necessary travel expenses incurred in the performance of their duties by the Office of Personnel Management.

Any state employee may nominate another state employee for the mentor program. The Mentor Selection Advisory Committee shall select candidates for the mentor program and recommend those candidates to the Administrator for approval. The Advisory Committee shall select candidates from those employees nominated for participation in the program. The Mentor Selection Advisory Committee may recommend to the Administrator up to five candidates during a two-year period for participation in the mentor program. Selection criteria shall include, but not be limited to:

1. Demonstrated leadership qualities;
2. Outstanding achievement record;
3. Outstanding recommendations by supervisors or peers;
4. Special knowledge of state systems; and
5. Completion of the Certified Public Manager Program or similar achievement.

Individuals recommended by the Advisory Committee, ~~and approved by the Administrator, and placed in a management rotation~~ and approved by the Administrator, and placed in a management rotation shall be referred to as mentor executives. ~~Mentor executives~~ Each mentor executive shall complete a two-year be assigned to a management rotation assignment in which they are assigned to a policy level manager for six (6) months in any state agency accepting the mentor executive and the mentor executive's sending agency, provided that each agency rotation shall not exceed six (6) months. Each sending agency appointing authority shall participate in the design and implementation of the management rotations for the mentor executive selected from that agency. The mentor executive shall be assigned to at least one policy level manager during the period of time the mentor executive is serving in a management rotation.

Rotation assignments in agencies other than the mentor executive's sending agency shall be accomplished through the State Personnel Interchange Program, Section 840-3.9 et seq. of this title, and shall not exceed a total of twenty-four (24) months for all rotations combined. Each mentor executive shall be considered an employee of the sending agency for all purposes other than supervision. The Administrator shall establish minimum compensation for mentor executives and shall adopt rules as the Administrator finds necessary for the administration of the State Mentor Program. Such rules shall provide for the sending agency and the agency in which the mentor executive is completing his or her management rotation to share the compensation of the mentor executive or for either agency to pay the total amount. A state employee's salary

may be increased during the period of his or her participation in the State Mentor Program, but shall not be reduced during such period. Each agency participating in the mentor program shall assign an executive-level manager to serve as the mentor for the period the mentor executive is completing the mentor executive's management rotation in that agency.

The mentor's duties are to instill in the mentor executive knowledge of the agency's purpose and functions, and a sense of professionalism and public service. Mentors will further serve as a source of career guidance and reference after the management rotation is finished. The employees participating in the mentor program shall be exempt from any full-time-equivalent limitations established by law.

The Administrator of the Office of Personnel Management may intercede in mentor executive rotational assignments if the Administrator determines that the assignments are not functioning in accordance with guidelines established for the state mentor program. The result of the intercession may include, but is not limited to, reassignment or removal from the program.

SECTION 17. AMENDATORY 74 O.S. 2001, Section 840-4.15, is amended to read as follows:

Section 840-4.15 A. The appointing authority shall post announcements of a vacancy or vacancies in accordance with a promotional plan filed by the agency with the Office of Personnel Management. ~~In order to give qualified employees an opportunity to apply for and be considered for possible promotions, the vacancy notices shall be posted conspicuously in transparent, secured enclosures situated in prominent locations throughout the agency, at least five (5) working days prior to the closing date for the receipt of applications by the appointing authority.~~ Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any supervisory position or level. Each agency's promotional posting plan shall describe ~~where promotional notices will be posted and require that all vacancy or promotional notices be posted conspicuously in transparent, secured enclosures. Notices must be posted throughout the agency. However, an agency's plan may limit the posting of notices for a vacancy in a work unit, local office or administrative area to within that location, if the vacancy is to be filled by an employee from the same location~~ the method by which all agency employees will be notified of vacancy announcements. The posting shall include:

1. ~~A copy of the job family descriptor;~~
2. Identification of the job family level of the vacancy or vacancies;
2. A listing of job title, major work duties and minimum qualifications;
3. The pay band and range;

4. The anticipated number of vacancies;
5. The specific location of work;
6. The time limits and procedure for filing an application with the appointing authority; and
7. Any additional factors which the appointing authority will consider in filling the vacancy.

B. The appointing authority may elect to post general promotional opportunities in accordance with the provisions of this section in cases where there are usually continuous multiple vacant positions within a given job family; provided the appointing authority maintains a promotional applicant list for each job family which is posted on the basis of general promotional opportunities. In such cases, the posting must include the length of time and conditions under which the promotional application of the candidate will remain available for active consideration by the appointing authority.

C. If an employee still feels that the employee has not been treated fairly with regard to a promotional action pursuant to this section after such complaint has been reviewed in a formal grievance procedure conducted in accordance with the provisions of Section 840-6.2 of this title, the employee may seek a remedy through the procedures established in the Oklahoma Personnel Act. If a violation of Section 840-2.9 of this title has been committed, the Oklahoma Merit Protection Commission may declare a position open.

SECTION 18. AMENDATORY 74 O.S. 2001, Section 840-4.17, is amended to read as follows:

Section 840-4.17 A. The Office of Personnel Management shall make available one standard performance management system to be used by all agencies for completing employee service ratings. Agencies shall implement this new system on or before January 1, 2000. Until January 1, 2000, agencies may continue to use employee service rating systems which were approved or provided by the Administrator prior to November 1, 1999. The purpose of this employee performance management system is to evaluate the performance of each regular classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 of this title and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education.

B. The employee performance management system shall provide for the following:

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

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

3. Corrective actions, if necessary, to correct deficiencies;
4. An interview with the employee by the immediate supervisor who shall provide the employee with a copy of the service ratings; and
5. The opportunity for the employee to submit written comments regarding the service rating.

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

D. Any permanent classified employee who disagrees with the employee's individual service rating may file a grievance pursuant to Section 840-6.2 of this title. Any employee, regardless of status, who is required to be rated pursuant to this section and who disagrees with the individual service rating of the employee may file a complaint through any other dispute resolution process made available through the employing agency or the Oklahoma Merit Protection Commission. The Oklahoma Merit Protection Commission shall not have jurisdiction to investigate or hear appeals of individual service ratings.

E. The agency shall use available service ratings of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases and discharges. Reductions-in-force shall not be considered discharges.

F. The agency shall retain a copy of the service rating for each employee of the agency. A copy of the service rating shall be retained in the employee's personnel file.

G. Each appointing authority shall confirm in writing to the Administrator of the Office of Personnel Management on or before January 1 of each year that ~~the employees of the appointing authority's agency have been rated pursuant to~~ is in compliance with the provisions of this section. The Administrator shall prescribe a form for such confirmation.

H. The Administrator of the Office of Personnel Management shall conduct an annual random audit of state agencies in compliance with this section.

SECTION 19. AMENDATORY 74 O.S. 2001, Section 840-5.1A, is amended to read as follows:

Section 840-5.1A A. Within state government, persons appointed to a position in the unclassified service after June 30, 1996, shall serve at the pleasure of the appointing authority. Appointing authorities shall not convey any right or expectation of continued employment to such unclassified employees. The appointing authority may separate such unclassified employees at any time with or without cause. No provision of the Oklahoma Personnel Act shall be construed as granting any property interest in employment to any unclassified service employee.

B. Nothing in this section is intended to change the status of any unclassified employee appointed to a position on or before June 30, 1996.

C. This section shall not apply to persons in positions in institutions under the jurisdiction of the Oklahoma State Regents for Higher Education or subject to the University Hospitals Authority Model Personnel System created pursuant to Section 3211 of Title 63 of the Oklahoma Statutes.

D. Agencies may provide severance benefits pursuant to Section 840-2.27D of this title to regular unclassified employees with one (1) year or more continuous state service who are separated from the state service for budgetary reasons. A plan providing for such benefits shall be submitted to the Director of the Office of State Finance who shall reject any plan that does not:

1. Demonstrate that funds are available to cover projected costs;

2. Contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 840-2.27D of this title; and

3. Contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.

SECTION 20. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended by Section 89 of Enrolled House Bill No. 1816 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

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

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

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

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

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

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

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period and seasonal employees employed pursuant to Section 1806.1 of this title who work less than one thousand two hundred (1,200) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Department of Public Safety employees occupying the following offices or positions:

- a. two administrative aides to the Commissioner,
- b. executive secretaries to the Commissioner,
- c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,
- d. Highway Patrol Colonel,
- e. Highway Patrol Lieutenant Colonel,
- f. Highway Patrol Major,
- g. Director of Finance,
- h. noncommissioned pilots,
- i. Information Systems Administrator,
- j. Law Enforcement Telecommunications System Specialist,
- k. Law Enforcement Programs Administrator,
- l. Civil Rights Administrator
- m. Budget Analyst,
- n. Comptroller,
- o. Law Enforcement Highway Patrol Administrator, and
- p. a maximum of seven positions for the purpose of administering the Oklahoma Police Corps Program, within full-time employee limitations of the

Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued;

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

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

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

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

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

14. Employees of the House of Representatives, the State Senate, or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,

- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,
- g. Public Utility Division Deputy Director,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,
- m. Public Utility Division Chief of Telecommunications,
and
- n. Director of Information Services;

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

17. Bill Willis Community Mental Health and Substance Abuse Center personnel occupying the following offices and positions:

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

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Division Manager,
- c. Network Manager,
- d. Network Technician,
- e. Employees of the Budget Division, and

- f. Employees of the Research Division;
- 19. Employees of the Oklahoma Development Finance Authority;
- 20. Those positions so specified in the annual business plan of the Oklahoma Department of Commerce;
- 21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;
- 22. The following positions and employees of the Oklahoma School of Science and Mathematics:
 - a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
 - b. positions requiring certification by the State Department of Education, and
 - c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;
- 23. Office of Personnel Management employees occupying the following positions:
 - a. the Carl Albert Internship Program Coordinator, and
 - b. one Administrative Assistant;
- 24. Department of Labor personnel occupying the following offices and positions:
 - a. two Deputy Commissioners,
 - b. Executive Secretary to the Commissioner,
 - c. Chief of Staff, and
 - d. two Administrative Assistants;
- 25. The State Bond Advisor and his or her employees;
- 26. The Oklahoma Employment Security Commission employees occupying the following positions:
 - a. Associate Director,
 - b. Secretary to the Associate Director, and
 - c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. The officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

- a. three Administrative Service Assistant positions, and
- b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;

31. The Oklahoma State Bureau of Investigation employees occupying the following positions:

- a. five assistant directors,
- b. two special investigators,
- c. one information representative,
- d. one federally funded physical evidence technician,
- e. four federally funded laboratory analysts,
- f. one Data Base Administrator,
- g. two Data Processing Branch Managers,
- h. four Senior Data Processing Applications Specialists,
- i. a total of three positions from the following classes: Senior Data Processing Systems Specialists, Data Processing Applications Specialists, or Data Processing Systems Specialists,
- j. one Senior Computer Services Technician, or Computer Services Technician,
- k. one Senior Computer Services Coordinator, or Computer Services Coordinator, and
- l. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics Commission,

- b. five Department of Transportation Assistant Director positions,
- c. eight field division engineer positions, and
- d. one pilot position;

33. Commissioners of the Land Office employees occupying the following positions:

- a. Director of the Investments Division,
- b. Assistant Director of the Investments Division, and
- c. one Administrative Assistant;

34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

- a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,
- c. one fiscal officer,
- d. one full-time Programmer, and
- e. one full-time Network Engineer;

35. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

36. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

37. The following positions and employees of the Department of Central Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing,
- c. one Alternate Fuels Administrator,
- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. one Contracts Manager,
- i. one Associate Director, and
- j. one specialized HiTech/Food Contracting Officer;

38. Four Water Quality Specialists, and four Water Resources Division Chiefs within the Oklahoma Water Resources Board;

39. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

- a. Physical Therapists,
- b. Physical Therapist Assistants,
- c. Occupational Therapists,
- d. Certified Occupational Therapist Aides, and
- e. Speech Pathologists;

40. The Development Officer and the Director of the State Museum of History within the Oklahoma Historical Society;

41. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,
- b. Agricultural Marketing Coordinator III,
- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the

Oklahoma Department of Agriculture, Food, and Forestry during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,

- d. one Administrator for Human Resources,
- e. one Director of Administrative Services,
- f. one Water Quality Consumer Complaint Coordinator,
- g. one hydrologist position,
- h. Public Information Office Director,
- i. Market Development Services Director,
- j. Legal Services Director,
- k. Animal Industry Services Director,
- l. Water Quality Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director,
- o. one Grants Administrator position,
- p. Director of Laboratory Services,
- q. Chief of Communications,
- r. Public Information Manager,
- s. Inventory/Supply Officer,
- t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,
- u. Rural Fire Coordinator,
- v. Poultry Coordinator, and
- w. Food Safety Division Director;

42. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

43. The Development Officer within the Oklahoma Department of Libraries;

44. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

a. Educational Program Director, and

b. Data Processing Manager;

45. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

46. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

47. All officers and employees of the Oklahoma Motor Vehicle Commission;

48. One Museum Archivist of The Will Rogers Memorial Commission;

49. One Fire Protection Engineer of the Office of the State Fire Marshal; and

50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

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

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than June 30, 2004, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than June 30, 2004. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

SECTION 21. This act shall become effective July 1, 2003.

SECTION 22. 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.

Passed the Senate the 7th day of May, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 9th day of April, 2003.

Presiding Officer of the House
of Representatives