

**EHB 1500**

**THE STATE SENATE**  
**Wednesday, April 13, 2005**

**ENGROSSED**

**House Bill No. 1500**

**As Amended**

ENGROSSED HOUSE BILL NO. 1500 - By: BALKMAN of the House and NICHOLS of the Senate.

**[ state government - Oklahoma Personnel Act - updating citations - state employee compliance - noncodification - effective date -**

**emergency ]**

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-1.6, is amended to read as follows:

Section 840-1.6 A. The internal administrative organization of the Office of Personnel Management shall be determined by the Administrator in such a manner as to promote the efficient and effective enforcement of ~~this act~~ the Oklahoma Personnel Act.

B. The Administrator may employ attorneys, accountants and other personnel as he deems necessary to carry out the duties imposed upon the Office.

C. Employees of the Office shall be subject to the Merit System of Personnel Administration, unless otherwise exempted by Section ~~&~~ 840-5.5 of this ~~act~~ title.

1 SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-1.9, is  
2 amended to read as follows:

3 Section 840-1.9 In addition to any other duties expressly set  
4 forth by law, the Oklahoma Merit Protection Commission shall:

5 1. Receive and act on complaints, counsel persons and groups on  
6 their rights and duties and take action designed to obtain voluntary  
7 compliance with the provisions of the Oklahoma Personnel Act;

8 2. Investigate allegations of violations of the provisions of  
9 the Oklahoma Personnel Act within ~~their~~ its jurisdiction;

10 3. Investigate allegations of abuses in the employment  
11 practices of the Administrator of the Office of Personnel Management  
12 or of any state agency;

13 4. Investigate allegations of violations of the rules of the  
14 Merit System of Personnel Administration and prohibited activities  
15 in the classified service;

16 5. Establish and maintain a statewide Alternative Dispute  
17 Resolution Program to provide dispute resolution services for state  
18 agencies and employees;

19 6. Establish rules ~~and regulations~~, pursuant to the  
20 Administrative Procedures Act, as may be necessary to perform the  
21 duties and functions of the Commission including, but not limited  
22 to, rules to monitor state agency grievance processes to ensure  
23 fairness and balance. The Commission shall also recommend any

1 changes it deems necessary to improve such grievance processes to  
2 the appropriate state agency;

3 7. Establish guidelines for the qualifications, duties,  
4 responsibilities, authority, power, and continued employment of the  
5 Executive Director, Administrative Hearing Officers, mediators, and  
6 other resolution arbitrators or facilitators;

7 8. Prepare and preserve an audio tape of all proceedings of all  
8 hearings conducted by the Commission and furnish transcripts of such  
9 tapes upon payment of the costs of such transcripts by the party  
10 requesting the transcripts;

11 9. Submit quarterly, fiscal year reports on workload statistics  
12 to the Governor, the Speaker of the House of Representatives, and  
13 the President Pro Tempore of the Senate containing the following  
14 information:

- 15 a. the number of cases, complaints, and requests for  
16 hearing filed, disposed of and pending with the  
17 Commission for each month of the quarter,  
18 b. a numerical breakdown of the methods of disposition of  
19 such cases, complaints, and requests for hearing,  
20 c. a numerical breakdown of mediations, prehearing  
21 conferences, and appellate hearings, conducted, and  
22 d. the date of the oldest pending case, complaint, and  
23 request for hearing.

1 ~~The report for the first quarter of fiscal year 1989 shall be~~  
2 ~~submitted on or before October 31, 1988.~~ Quarterly reports  
3 ~~thereafter~~ shall be submitted within thirty (30) days following the  
4 last day of the month of the appropriate quarter; and

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

13 SECTION 3. AMENDATORY 74 O.S. 2001, Section 840-2.27C, as  
14 last amended by Section 1, Chapter 277, O.S.L. 2004 (74 O.S. Supp.  
15 2004, Section 840-2.27C), is amended to read as follows:

16 Section 840-2.27C A. At least sixty (60) days before the  
17 scheduled beginning of reduction-in-force separations or as  
18 otherwise provided by law, the appointing authority shall post in  
19 each office of executive branch agencies affected by the proposed  
20 reduction-in-force notice that a reduction-in-force will be  
21 conducted in accordance with the Oklahoma Personnel Act and Merit  
22 rules. The reduction-in-force implementation plan shall be provided  
23 to the Director of State Finance and any state employee association

1 representing state employees at such time. The notice shall not be  
2 posted unless approved by the cabinet secretary for the agency  
3 conducting the reduction-in-force. If there is no incumbent cabinet  
4 secretary for the agency, the cabinet-secretary-notice-approval  
5 requirement shall not be applicable. The approved notice shall be  
6 posted in each office affected by the proposed plan for five (5)  
7 days. The appointing authority shall provide a copy of the notice  
8 to the Administrator. A reduction-in-force shall not be used as a  
9 disciplinary action.

10 B. The reduction-in-force implementation plan and subsequent  
11 personnel transactions directly related to the reduction-in-force in  
12 executive branch agencies shall be in compliance with rules adopted  
13 by the Administrator. The reduction-in-force implementation plan,  
14 including the description of and reasons for displacement limits and  
15 protections from displacement actions, and severance benefits that  
16 will be offered pursuant to Section 840-2.27D of this title shall be  
17 posted in each office affected by the plan within five (5) business  
18 days after posting of the reduction-in-force notice. The reduction-  
19 in-force implementation plan shall:

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

1           2. Provide for retention of affected employees based on type of  
2 appointment;

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

9           4. Provide for retention of permanent classified affected  
10 employees in affected job family levels and those affected employees  
11 on probationary status after reinstatement from permanent classified  
12 status without a break in service based upon consideration of years  
13 of service;

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

19           6. Provide outplacement assistance and employment counseling  
20 from the Oklahoma Employment Security Commission and any other  
21 outplacement assistance and employment counseling made available by  
22 the agency to affected employees regarding the options available  
23 pursuant to the State Government Reduction-in-Force and Severance

1 Benefits Act prior to the date that a reduction-in-force is  
2 implemented.

3 C. If an agency implements a reduction-in-force then it shall  
4 give a veteran's preference over affected nonveterans who have equal  
5 retention points to the affected veteran.

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

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

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

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

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

22 E. The appointing authority may limit displacement of affected  
23 employees at the time of a reduction-in-force. Displacement limits

1 shall not be subject to the approval of the Administrator. Any  
2 limitation shall be based upon reasonable, written, articulated  
3 criteria as certified by the appointing authority. If displacement  
4 is limited, the appointing authority shall take action to avoid or  
5 minimize any adverse impact on minorities or women.

6 1. The appointing authority may protect from displacement  
7 action up to twenty percent (20%) of projected post-reduction-in-  
8 force employees in affected positions within displacement limits;  
9 provided, that any fractional number resulting from the final  
10 mathematical calculation of the number of those positions shall be  
11 rounded to the next higher whole number. The appointing authority  
12 must explain why affected employees are being protected.

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

19 3. An affected permanent classified employee may exercise a  
20 displacement privilege, if one exists, if the affected employee has  
21 received an overall rating of at least "satisfactory", or its  
22 equivalent, on the most recent annual service rating. If an  
23 affected employee has not been rated in accordance with the time

1 limits established in Section 840-4.17 of this title, the employee  
2 shall be deemed to have received an overall rating of at least  
3 "satisfactory" or its equivalent on the most recent service rating.

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

6 a. be required, as a condition of continued employment by  
7 the agency, to sign an agreement, in a form to be  
8 prescribed by the Administrator of the Office of  
9 Personnel Management, acknowledging that the employee  
10 had an opportunity to receive severance benefits and  
11 affirmatively elected to exercise a displacement  
12 privilege and to forego such benefits. An affected  
13 employee who signs the agreement required by this  
14 subparagraph waives any privilege which might  
15 otherwise have been available to the affected employee  
16 pursuant to the agreement for the provision of  
17 severance benefits, and

18 b. not have the right to exercise any subsequent right to  
19 receive severance benefits from the agency for which  
20 the affected employee performs services on the date  
21 that the employee exercises a displacement privilege.  
22 The provisions of this section shall not prohibit any  
23 person from exercising a displacement privilege in, or

1 accepting severance benefits from, more than one  
2 agency during employment with the State of Oklahoma or  
3 from the agency which the affected employee exercised  
4 a displacement privilege in any future reduction-in-  
5 force.

6 F. An affected employee who does not agree pursuant to Section  
7 840-2.27E of this title to accept severance benefits and who does  
8 not have a displacement opportunity or does not accept a  
9 displacement opportunity shall be separated by the reduction-in-  
10 force and shall not receive any severance benefits that would have  
11 otherwise been provided pursuant to Section 840-2.27D of this title.

12 G. Permanent classified affected employees, and those affected  
13 employees on probationary status after reinstatement from permanent  
14 classified status without a break in service who were removed from a  
15 job family level by taking a position in another job family level  
16 through displacement or separated after foregoing severance  
17 benefits, shall be recalled by the agency to the job family level  
18 from which they were removed in inverse order of removal before the  
19 agency may appoint other persons to the job family level, from the  
20 employment register, by internal action, or from Priority  
21 Reemployment Consideration Rosters, as provided by this section.  
22 Upon declination of an offer of reappointment to the job family  
23 level from which the employee was removed or eighteen (18) months

1 after the date of removal from the job family level, whichever is  
2 first, this right to be recalled shall expire.

3 H. The names of permanent classified affected employees and  
4 those affected employees on probationary status after reinstatement  
5 from permanent classified status without a break in service who have  
6 been separated pursuant to the State Government Reduction-in-Force  
7 and Severance Benefits Act, who apply and meet all requirements for  
8 state jobs in the classified service, shall be placed on Priority  
9 Reemployment Consideration Rosters in accordance with their  
10 individual final earned ratings for a maximum of eighteen (18)  
11 months after the date of separation. Before any vacant position is  
12 filled by any individual eligible for initial appointment from the  
13 employment register, individuals on the Priority Reemployment  
14 Consideration Rosters shall be given priority consideration for  
15 reemployment by any state agency within eighteen (18) months after  
16 the date of the reduction-in-force. Upon declination of an offer of  
17 reemployment to a job family level having the same or higher pay  
18 band than the job family level from which the employee was removed,  
19 or eighteen (18) months after the date of separation, whichever is  
20 first, this priority consideration for reemployment shall expire.  
21 If an agency, including but not limited to the University Hospitals  
22 Authority, has posted a reduction-in-force plan and implementation  
23 schedule, all affected employees in positions covered by the plan

1 and any within the displacement limits established by the appointing  
2 authority of the agency who have been separated shall be eligible  
3 for priority reemployment consideration.

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

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

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

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

19           3. Notwithstanding existing laws or provisions to the contrary,  
20 members of state boards and commissions shall not receive per diem  
21 expenses during periods of mandatory furlough. The Contingency  
22 Review Board shall additionally call upon elected officials, members  
23 of the judiciary, and other public officers whose salary or

1 emoluments cannot be altered during current terms of office, to  
2 voluntarily donate to the General Revenue Fund any portion of their  
3 salary which would otherwise have been affected by a mandatory  
4 furlough.

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

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

22 N. Except as otherwise provided, the University Hospitals  
23 Authority shall not be subject to the provisions of this section.

1 Beginning August 25, 1995, the provisions of subsection G of this  
2 section regarding priority reemployment consideration shall apply to  
3 any employee of the University Hospitals Authority who was employed  
4 on or became employed after February 1, 1995, and who is separated  
5 from state service as a result of a reduction-in-force. The  
6 University Hospitals Authority shall conduct a reduction-in-force to  
7 terminate employees, regardless of status, whose positions are  
8 eliminated because of a contract with a private nongovernmental  
9 entity for the lease and operations of the University Hospitals  
10 pursuant to the University Hospitals Authority Act.

11 SECTION 4. AMENDATORY 74 O.S. 2001, Section 840-4.17, as  
12 last amended by Section 12, Chapter 312, O.S.L. 2004 (74 O.S. Supp.  
13 2004, Section 840-4.17), is amended to read as follows:

14 Section 840-4.17 A. The Office of Personnel Management shall  
15 make available one standard performance management system that shall  
16 be used by all agencies for completing employee service ratings.  
17 The purpose of this employee performance management system is to  
18 evaluate the performance of each regular classified, unclassified  
19 and exempt employee in the executive branch of state government  
20 except those in the exempt unclassified service as specified in  
21 paragraphs 1 and 2 of subsection A of Section 840-5.5 of this title  
22 and those employees employed by the institutions under the

1 administrative authority of The Oklahoma State System of Higher  
2 Education.

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

5 1. An objective evaluation ~~of the employee, by the immediate~~  
6 ~~supervisor,~~ of the performance of the employee within the assigned  
7 duties of the job by the immediate supervisor. The evaluation shall  
8 contain the agency number, date of review, and number assigned to  
9 the employee by the Office of Personnel Management;

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

12 3. Corrective actions for deficiencies, if necessary, ~~to~~  
13 ~~correct deficiencies;~~

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

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

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

22 D. Any permanent classified employee who disagrees with the  
23 employee's individual service rating may file a grievance pursuant

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

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

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

16 G. Each appointing authority shall annually report ~~their~~ its  
17 compliance with the provisions of this section in writing to the  
18 Administrator of the Office of Personnel Management. The  
19 Administrator shall prescribe a form for such reporting.

20 H. The Administrator of the Office of Personnel Management  
21 shall conduct ~~an annual random audit~~ audits of state agencies to  
22 determine whether they are in compliance with this section. Any  
23 agency deemed to be out of compliance shall submit a written plan to

1 the Administrator detailing the efforts the agency will make to come  
2 into compliance at the earliest possible date.

3 SECTION 5. AMENDATORY 74 O.S. 2001, Section 840-5.1, is  
4 amended to read as follows:

5 Section 840-5.1 A. Unless otherwise provided, offices and  
6 positions in the unclassified service are in no way subject to any  
7 of the provisions of ~~this act~~ the Oklahoma Personnel Act or of the  
8 rules ~~and regulations~~ promulgated hereunder except for rules on  
9 leave ~~regulations~~. Provided, offices and positions of the State  
10 Senate and House of Representatives shall not be subject to  
11 ~~regulations~~ rules of the Office of Personnel Management on  
12 involuntary leave without pay or furlough, but shall be subject to  
13 any involuntary leave without pay or furlough plan adopted by the  
14 President Pro Tempore of the Senate or the Speaker of the House of  
15 Representatives. No person chosen by election or appointment to  
16 fill an elective office shall be subject to any leave plan or  
17 regulation or shall such person be eligible for accrual of any leave  
18 benefits.

19 B. The Office of Personnel Management shall promulgate rules  
20 requiring all state agencies to submit policies and procedures  
21 governing the employment, compensation, administration, discipline  
22 and other human resource functions relating to unclassified  
23 employees. Such policies and procedures shall be submitted no later

1 than December 1, 2005, and whenever they are revised thereafter, and  
2 shall be available for public inspection at the Office of Personnel  
3 Management.

4 SECTION 6. AMENDATORY 74 O.S. 2001, Section 840-5.5, as  
5 last amended by Section 28, Chapter 418, O.S.L. 2004 (74 O.S. Supp.  
6 2004, Section 840-5.5), is amended to read as follows:

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

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

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

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

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

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

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

13           7. Election officials and employees;

14           8. Temporary employees employed to work less than one thousand  
15 (1,000) hours in any twelve-month period and seasonal employees  
16 employed pursuant to Section 1806.1 of this title who work less than  
17 one thousand two hundred (1,200) hours in any twelve-month period.  
18 This category of employees may include persons employed on an  
19 intermittent, provisional, seasonal, temporary or emergency basis;

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

22           a. administrative aides to the Commissioner,

23           b. executive secretaries to the Commissioner,

1 c. the Governor's representative of the Oklahoma Highway  
2 Safety Office who shall be appointed by the Governor,  
3 d. Highway Patrol Colonel,  
4 e. Highway Patrol Lieutenant Colonel,  
5 f. Highway Patrol Major,  
6 g. Director of Finance,  
7 h. noncommissioned pilots,  
8 i. Information Systems Administrator,  
9 j. Law Enforcement Telecommunications System Specialist,  
10 k. Director of Driver License Administration,  
11 l. Director of Transportation Division,  
12 m. Director of the Alcohol and Drug Countermeasures Unit,  
13 n. Director of the Oklahoma Highway Safety Office,  
14 o. Civil Rights Administrator,  
15 p. Budget Analyst,  
16 q. Comptroller,  
17 r. Law Enforcement Highway Patrol Administrator,  
18 s. Director of Safety Compliance, and  
19 t. a maximum of seven positions for the purpose of  
20 administering the Oklahoma Police Corps Program,  
21 within full-time employee limitations of the  
22 Department, employed with federal funding that is  
23 continuing or indefinitely renewable. The

1 authorization for such positions shall be terminated  
2 if the federal funding for positions is discontinued;  
3 provided, any person appointed to a position prescribed in  
4 subparagraphs d, e, f or o of this paragraph shall have a right of  
5 return to the classified commissioned position without any loss of  
6 rights, privileges or benefits immediately upon completion of the  
7 duties in the unclassified commissioned position, and any person  
8 appointed to a position prescribed in subparagraph i, j, k, l, m or  
9 n of this paragraph shall have a right of return to the previously  
10 held vacant classified position within the Department of Public  
11 Safety without any loss of rights, privileges or benefits  
12 immediately upon completion of the duties in the unclassified  
13 commissioned position;

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

16 11. Students who are employed on a part-time basis, which shall  
17 be seventy-five percent (75%) of a normal forty-hour work week or  
18 thirty (30) hours per week, or less, or on a full-time basis if the  
19 employment is pursuant to a cooperative education program such as  
20 that provided for under Title I IV-D of the Higher Education Act of  
21 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly  
22 enrolled in:

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

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

19           13.  Service substitute attendants who are needed to replace  
20                  museum and site attendants who are unavoidably absent.  Service  
21                  substitutes may work as part-time or full-time relief for absentees  
22                  for a period of not more than four (4) weeks per year in the  
23                  Oklahoma Historical Society sites and museums; such substitutes will

1 not count towards the agency's full-time-equivalent (FTE) employee  
2 limit;

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

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

- 7 a. Administrative aides, and executive secretaries to the
- 8 Commissioners,
- 9 b. Directors of all the divisions, personnel managers and
- 10 comptrollers,
- 11 c. General Counsel,
- 12 d. Public Utility Division Chief Engineer,
- 13 e. Public Utility Division Chief Accountant,
- 14 f. Public Utility Division Chief Economist,
- 15 g. Public Utility Division Deputy Director,
- 16 h. Secretary of the Commission,
- 17 i. Deputy Conservation Director,
- 18 j. Manager of Pollution Abatement,
- 19 k. Manager of Field Operations,
- 20 l. Manager of Technical Services,
- 21 m. Public Utility Division Chief of Telecommunications,
- 22 and
- 23 n. Director of Information Services;

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

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

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

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

- 14          a. State Comptroller,
- 15          b. Information Services Division Manager,
- 16          c. Network Manager,
- 17          d. Network Technician,
- 18          e. Employees of the Budget Division, and
- 19          f. Employees of the Research Division;

20          19. Employees of the Oklahoma Development Finance Authority;

21          20. Those positions so specified in the annual business plan of  
22 the Oklahoma Department of Commerce;

1           21. Those positions so specified in the annual business plan of  
2 the Oklahoma Center for the Advancement of Science and Technology;

3           22. The following positions and employees of the Oklahoma  
4 School of Science and Mathematics:

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

16          23. Office of Personnel Management employees occupying the  
17 following positions:

- 18          a. the Carl Albert Internship Program Coordinator, and  
19          b. one Administrative Assistant;

20          24. Department of Labor personnel occupying the following  
21 offices and positions:

- 22          a. two Deputy Commissioners,  
23          b. Executive Secretary to the Commissioner,

- 1           c. Chief of Staff, and
- 2           d. two Administrative Assistants;
- 3       25. The State Bond Advisor and his or her employees;
- 4       26. The Oklahoma Employment Security Commission employees
- 5 occupying the following positions:
- 6           a. Associate Director,
- 7           b. Secretary to the Associate Director, and
- 8           c. Assistant to the Executive Director;
- 9       27. Oklahoma Human Rights Commission personnel occupying the
- 10 position of Administrative Assistant;
- 11       28. The officers and employees of the State Banking Department;
- 12       29. Officers and employees of the University Hospitals
- 13 Authority except personnel in the state classified service pursuant
- 14 to Section 3211 of Title 63 of the Oklahoma Statutes and members of
- 15 the University Hospitals Authority Model Personnel System created
- 16 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma
- 17 Statutes or as otherwise provided for in Section 3213.2 of Title 63
- 18 of the Oklahoma Statutes;
- 19       30. Alcoholic Beverage Laws Enforcement Commission employees
- 20 occupying the following positions:
- 21           a. three Administrative Service Assistant positions,
- 22                   however, employees in such positions who are in the
- 23                   unclassified service on ~~the effective date of this act~~

1           June 4, 2003 may make an election to be in the  
2           classified service without a loss in salary by  
3           September 1, 2003, and

- 4           b.    the Deputy Director position in addition to the one  
5           authorized by paragraph 2 of this subsection;

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

- 8           a.    five assistant directors,  
9           b.    two special investigators,  
10          c.    one information representative,  
11          d.    one federally funded physical evidence technician,  
12          e.    four federally funded laboratory analysts,  
13          f.    one Data Base Administrator,  
14          g.    two Data Processing Branch Managers,  
15          h.    four Senior Data Processing Applications Specialists,  
16          i.    a total of three positions from the following classes:  
17                Senior Data Processing Systems Specialists, Data  
18                Processing Applications Specialists, or Data  
19                Processing Systems Specialists,  
20          j.    one Senior Computer Services Technician, or Computer  
21                Services Technician,  
22          k.    one Senior Computer Services Coordinator, or Computer  
23                Services Coordinator, and

- 1           1.    one executive secretary in addition to the one  
2                    authorized pursuant to paragraph 2 of this subsection;
- 3       32.   The Department of Transportation, the following positions:
- 4           a.    Director of the Oklahoma Aeronautics Commission,  
5           b.    five Department of Transportation Assistant Director  
6                   positions,  
7           c.    eight field division engineer positions, and  
8           d.    one pilot position;
- 9       33.   Commissioners of the Land Office employees occupying the  
10   following positions:
- 11           a.    Director of the Investments Division,  
12           b.    Assistant Director of the Investments Division, and  
13           c.    one Administrative Assistant;
- 14       34.   Within the Oklahoma State Bureau of Narcotics and Dangerous  
15   Drugs Control Commission, the following positions:
- 16           a.    six Narcotics Agent positions and three Typist  
17                   Clerk/Spanish transcriptionists, including a Typist  
18                   Clerk Supervisor/Spanish transcriptionist, provided,  
19                   authorization for such positions shall be terminated  
20                   if the federal funding for the positions is  
21                   discontinued,  
22           b.    one executive secretary in addition to the one  
23                   authorized pursuant to paragraph 2 of this subsection,

- 1           c.    one fiscal officer,
- 2           d.    one full-time Programmer, and
- 3           e.    one full-time Network Engineer;

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

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

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

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

- 1           a.    one Executive Secretary in addition to the Executive  
2                    Secretary authorized by paragraph 2 of this  
3                    subsection,  
4           b.    the Director of Central Purchasing,  
5           c.    one Alternate Fuels Administrator,  
6           d.    one Director of Special Projects,  
7           e.    three postauditors,  
8           f.    four high-technology contracting officers,  
9           g.    one Executive Assistant to the Purchasing Director,  
10          h.    one Contracts Manager,  
11          i.    one Associate Director,  
12          j.    one specialized HiTech/Food Contracting Officer, and  
13          k.    one State Use Contracting Officer;

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

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

- 19               a.    Physical Therapists,  
20               b.    Physical Therapist Assistants,  
21               c.    Occupational Therapists,  
22               d.    Certified Occupational Therapist Aides, and  
23               e.    Speech Pathologists;

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

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

5           a. one Executive Secretary in addition to the Executive  
6 Secretary authorized by paragraph 2 of this subsection  
7 and one Executive Assistant,

8           b. eighteen Agricultural Marketing Coordinator III  
9 positions,

10          c. temporary fire suppression personnel, regardless of  
11 the number of hours worked, who are employed by the  
12 Oklahoma Department of Agriculture, Food, and Forestry  
13 during the period of October 1 through May 31 in any  
14 fiscal year; provided, however, notwithstanding the  
15 provisions of any other section of law, the hours  
16 worked by such employees shall not entitle such  
17 employees to any benefits received by full-time  
18 employees,

19          d. one Administrator for Human Resources,

20          e. one Director of Administrative Services,

21          f. one Water Quality Consumer Complaint Coordinator,

22          g. one hydrologist position,

23          h. Public Information Office Director,

- 1 i. Market Development Services Director,
- 2 j. Legal Services Director,
- 3 k. Animal Industry Services Director,
- 4 l. Water Quality Services Director,
- 5 m. Forestry Services Director,
- 6 n. Plant Industry and Consumer Services Director,
- 7 o. one Grants Administrator position,
- 8 p. Director of Laboratory Services,
- 9 q. Chief of Communications,
- 10 r. Public Information Manager,
- 11 s. Inventory/Supply Officer,
- 12 t. five Agriculture Field Inspector positions assigned
- 13 the responsibility for conducting inspections and
- 14 audits of agricultural grain storage warehouses. All
- 15 other Agriculture Field Inspector positions and
- 16 employees of the Oklahoma Department of Agriculture,
- 17 Food, and Forestry shall be classified and subject to
- 18 the provisions of the Merit System of Personnel
- 19 Administration. On November 1, 2002, all other
- 20 unclassified Agriculture Field Inspectors shall be
- 21 given status in the classified service as provided in
- 22 Section 840-4.2 of this title,
- 23 u. Rural Fire Coordinator,

1           v.    Poultry Coordinator,  
2           w.    Food Safety Division Director, and  
3           x.    one Mammal Control Officer;  
4        42.   The Contracts Administrator within the Oklahoma State  
5 Employees Benefits Council;  
6        43.   The Development Officer within the Oklahoma Department of  
7 Libraries;  
8        44.   Oklahoma Real Estate Commission personnel occupying the  
9 following offices and positions:  
10           a.   Educational Program Director, and  
11           b.   Data Processing Manager;  
12        45.   A Chief Consumer Credit Examiner for the Department of  
13 Consumer Credit;  
14        46.   All officers and employees of the Oklahoma Capitol Complex  
15 and Centennial Commemoration Commission;  
16        47.   All officers and employees of the Oklahoma Motor Vehicle  
17 Commission;  
18        48.   One Museum Archivist of The Will Rogers Memorial  
19 Commission;  
20        49.   One Fire Protection Engineer of the Office of the State  
21 Fire Marshal;  
22        50.   Acting incumbents employed pursuant to Section 209 of Title  
23 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not

1 be included in any limitation on full-time equivalency imposed by  
2 law on an agency. Permanent classified employees may request a  
3 leave of absence from classified status and accept an unclassified  
4 appointment and compensation as an acting incumbent with the same  
5 agency; provided, the leave shall expire no later than two (2) years  
6 from the date of the acting incumbent appointment. An appointing  
7 authority may establish unclassified positions and appoint  
8 unclassified employees to perform the duties of a permanent  
9 classified employee who is on leave of absence from a classified  
10 position to serve as an acting incumbent. All unclassified  
11 appointments created pursuant to this paragraph shall expire no  
12 later than two (2) years from the date of appointment. Classified  
13 employees accepting unclassified appointments and compensation  
14 pursuant to this paragraph shall be entitled to participate without  
15 interruption in any benefit programs available to classified  
16 employees, including retirement and insurance programs. Immediately  
17 upon termination of an unclassified appointment pursuant to this  
18 paragraph, an employee on assignment from the classified service  
19 shall have a right to be restored to the classified service and  
20 reinstated to the former job family level and compensation plus any  
21 adjustments and increases in salary or benefits which the employee  
22 would have received but for the leave of absence; and

1           51. The Oklahoma Homeland Security Director and all other  
2 positions assigned the responsibilities of working in the Oklahoma  
3 Office of Homeland Security.

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

7           1. Licensed medical doctors, osteopathic physicians, dentists,  
8 psychologists, and nurses;

9           2. Certified public accountants;

10          3. Licensed attorneys;

11          4. Licensed veterinarians; and

12          5. Licensed pharmacists.

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

19          D. The appointing authority of agencies participating in the  
20 statewide information systems project may establish unclassified  
21 positions and appoint unclassified employees to the project as  
22 needed. Additional unclassified positions may be established, if  
23 required, to appoint an unclassified employee to perform the duties

1 of a permanent classified employee who is temporarily absent from a  
2 classified position as a result of assignment to this project. All  
3 unclassified appointments under this authority shall expire no later  
4 than December 31, 2005, and all unclassified positions established  
5 to support the project shall be abolished. Both the positions and  
6 appointments resulting from this authority shall be exempt from any  
7 agency FTE limitations and any limits imposed on the number of  
8 unclassified positions authorized. Permanent classified employees  
9 may request a leave of absence from classified status and accept an  
10 unclassified appointment and compensation with the same agency under  
11 the provisions of this subsection; provided, the leave shall expire  
12 no later than December 31, 2005. Employees accepting the  
13 appointment and compensation shall be entitled to participate  
14 without interruption in any benefit programs available to classified  
15 employees, including retirement and insurance programs. Immediately  
16 upon termination of an unclassified appointment pursuant to this  
17 subsection, an employee on assignment from the classified service  
18 shall have a right to be restored to the classified service and  
19 reinstated to the former job family level and compensation plus any  
20 adjustments and increases in salary or benefits which the employee  
21 would have received but for the leave of absence.

1       E. The Office of Personnel Management shall establish a  
2 regulatory system to approve and monitor the addition of  
3 unclassified positions to state government.

4       SECTION 7.        AMENDATORY        74 O.S. 2001, Section 840-6.5, as  
5 amended by Section 5, Chapter 353, O.S.L. 2003 (74 O.S. Supp. 2004,  
6 Section 840-6.5), is amended to read as follows:

7       Section 840-6.5 A. It is the purpose of this section to  
8 provide a system for the prompt, fair, and equitable disposition of  
9 appeals by permanent classified employees who have been demoted,  
10 suspended, or discharged. Further, it is the intent of this section  
11 that all decisions rendered as a result of this procedure shall be  
12 confined to the issues submitted for decision and consistent with  
13 the applicable laws and rules.

14       B. If an employee in the classified service is demoted as a  
15 result of a position audit or reclassification, the agency shall  
16 provide notice of such demotion to the Office of Personnel  
17 Management, which shall review the findings of the agency prior to  
18 such demotion occurring.

19       C. Any employee in the classified service may be discharged,  
20 suspended without pay for not to exceed sixty (60) calendar days, or  
21 demoted by the agency, department, institution, or officer by whom  
22 employed, for misconduct, insubordination, inefficiency, habitual  
23 drunkenness, inability to perform the duties of the position in

1 which employed, willful violation of the Oklahoma Personnel Act or  
2 of the rules prescribed by the Office of Personnel Management or by  
3 the Oklahoma Merit Protection Commission, conduct unbecoming a  
4 public employee, conviction of a crime involving moral turpitude, or  
5 any other just cause. Employees in the classified service, upon  
6 final conviction of, or pleading guilty or nolo contendere to, a  
7 felony shall be discharged if the felony is job-related pursuant to  
8 Section 24.1 of Title 51 of the Oklahoma Statutes. Before any such  
9 action is taken against a permanent classified employee, the  
10 employing agency, department, institution or officer shall provide  
11 the employee with a written statement of the specific acts or  
12 omissions that are causes or reasons for the proposed action, an  
13 explanation of the agency's evidence, and an opportunity to present  
14 reasons why the proposed action is improper.

15 Within ten (10) business days after such discharge, suspension,  
16 or demotion, the appointing authority shall notify the employee by  
17 certified mail or personal service of the action taken and the  
18 specific cause for which said appointing authority has so acted.  
19 Within twenty (20) calendar days after receiving the written  
20 notification provided for in this section, the employee may file a  
21 written request for appeal with the Oklahoma Merit Protection  
22 Commission. The Executive Director shall determine if the  
23 jurisdictional requirements provided for in this section have been

1 met. If the jurisdictional requirements are not met, the Executive  
2 Director shall notify both the employee and the agency within five  
3 (5) calendar days after the receipt of a written appeal request.  
4 Such notice shall specifically describe the requirements that were  
5 not met. If said requirements have been met, the Executive Director  
6 shall refer the appeal request to an administrative hearing officer  
7 for a hearing on said discharge, suspension, or demotion, or refer  
8 the appeal request to the Alternative Dispute Resolution Program.

9 If the case is not referred to the Alternative Dispute  
10 Resolution Program, then within five (5) calendar days after receipt  
11 of said properly executed appeal request, the Executive Director  
12 shall provide said employee and the appointing authority with a  
13 written notice of (1) a prehearing conference to be held at least  
14 five (5) working days, but not more than ten (10) working days,  
15 before the date of the hearing; and (2) the appeal hearing date  
16 which shall be no later than thirty-five (35) calendar days after  
17 the receipt of the appeal request, unless continued for good cause.  
18 Any continuances shall not exceed a combined total of sixty (60)  
19 calendar days except for good cause shown. Both the prehearing  
20 conference and the hearing shall be conducted in accordance with the  
21 provisions of Section 840-6.7 of this title. The notice shall be in  
22 the following form:

23 Notice of Hearing

1 Oklahoma Merit Protection Commission to \_\_\_\_\_. You are  
2 hereby notified that pursuant to your request an appeal hearing on  
3 your (discharge), (suspension), (demotion), from the position of  
4 \_\_\_\_\_ has been set for the \_\_\_\_\_ day of \_\_\_\_\_ at  
5 \_\_\_\_\_ M. at \_\_\_\_\_ in \_\_\_\_\_, a copy of said cause for your  
6 (discharge), (suspension), (demotion), being hereto attached.

7 Dated this \_\_\_\_\_ day of \_\_\_\_\_ City of \_\_\_\_\_ By \_\_\_\_\_  
8 Special Counsel of the Oklahoma Merit Protection Commission.

9 In appeals from demotion, suspension, or discharge, the burden  
10 of proof shall rest with the appointing authority, and decisions  
11 shall be made based on the rule of preponderance of evidence. The  
12 employee shall be sustained or not sustained. If the employee is  
13 not sustained in the appeal, the employee shall be discharged, or  
14 suspended without pay for not to exceed sixty (60) calendar days, or  
15 demoted. If sustained in the appeal, in whole or in part, the  
16 presiding official may either adjudge a forfeiture of pay not in  
17 excess of sixty (60) calendar days without loss of other rights and  
18 benefits or order reinstatement of appellant to the class previously  
19 held with full rights and without loss of pay or other benefits;  
20 provided that the decision will not result in an employee working  
21 out of proper classification as determined by the Office of  
22 Personnel Management.

1           The findings of the presiding officials shall be final and  
2     conclusive upon all questions within their jurisdiction between the  
3     parties except as provided for in Sections 317 and 318 of Title 75  
4     of the Oklahoma Statutes. Upon the timely filing of a petition to  
5     rehear, reopen, or reconsider, the Oklahoma Merit Protection  
6     Commission shall schedule the matter for consideration by the  
7     Commissioners on the earliest possible date. The Commission shall  
8     rule on petitions by a majority vote of a quorum of the  
9     Commissioners. Based on the Commission review of the petition, the  
10    Commission shall issue a Final Petition Decision within thirty (30)  
11    days after the petition is heard. The Final Petition Decision shall  
12    address the issues which are within the jurisdiction of the  
13    Commission raised in the petition, and the Decision shall be written  
14    in clear and concise language. Final Petition Decisions are subject  
15    to judicial review if appealed to the district court within thirty  
16    (30) calendar days. The State of Oklahoma or any agency of the  
17    state shall not be allowed to appeal to the district court unless  
18    the employee is continued on full pay in the same status of  
19    employment existing prior to suspension or discharge.

20           SECTION 8.           NEW LAW           A new section of law not to be  
21    codified in the Oklahoma Statutes reads as follows:

22           A. There is hereby created the Task Force for the Study of  
23    Classified and Unclassified Positions in State Government.

1        B. The Task Force shall consist of eight (8) members to be  
2 selected as follows:

3        1. One member to be appointed by the Governor;

4        2. Two members to be appointed by the Speaker of the House of  
5 Representatives;

6        3. Two members to be appointed by the President Pro Tempore of  
7 the State Senate;

8        4. A person selected by the governing board of a statewide  
9 nonprofit membership organization formed for the benefit of active  
10 state employees with at least two thousand five hundred members;

11       5. The Administrator of the Office of Personnel Management or  
12 designee; and

13       6. The Executive Director of the Oklahoma Merit Protection  
14 Commission or designee.

15       C. As used in this section, "classified" and "unclassified"  
16 positions shall mean, respectively, those positions which are and  
17 are not included in the Merit Protection System.

18       D. The purpose of the Task Force shall be to study the nature,  
19 status, functions, and composition of the classified and  
20 unclassified services of the state, to review reasons for  
21 unclassifying positions, and to make recommendations to the  
22 Governor, the Oklahoma House of Representatives and the Oklahoma  
23 State Senate for reclassifying positions.

1 E. In making recommendations based on this study, the Task  
2 Force shall include recommendations regarding:

3 1. Appropriate conditions and provisions for employment in the  
4 classified and unclassified services;

5 2. The types of offices, positions, and personnel that should  
6 comprise the classified service and the unclassified services,  
7 including recommendations for the transfer of positions from the  
8 classified service to the unclassified and vice versa; and

9 3. Such other matters relevant to a thorough study and analysis  
10 of the classified and unclassified services as the Task Force may  
11 select.

12 F. The Task Force shall select from among its membership a  
13 chair and vice-chair.

14 G. The Task Force shall be authorized to meet as required in  
15 order to perform the duties imposed upon it. The business of the  
16 Task Force may be conducted by an affirmative vote of a simple  
17 majority of the members in attendance.

18 H. The Task Force shall be subject to the provisions of the  
19 Oklahoma Open Meeting Act and the Oklahoma Open Records Act. Travel  
20 reimbursement for members of the Task Force shall be paid by the  
21 appointing authority pursuant to the provisions of the State Travel  
22 Reimbursement Act. Legislators appointed to serve on the Task Force

1 shall be reimbursed as provided by Section 456 of Title 74 of the  
2 Oklahoma Statutes.

3 I. Staffing for the Task Force shall be provided by the  
4 Oklahoma House of Representatives and the Oklahoma State Senate.  
5 Additional assistance shall be provided by the Office of Personnel  
6 Management and the Oklahoma Merit Protection Commission.

7 J. The Task Force shall summarize the information required by  
8 the provisions of subsection E of this section in a final report.  
9 The Task Force may disclose possible inequities between classified  
10 and unclassified positions performing the same tasks, and make  
11 recommendations for reclassifying identified job classes across  
12 state government.

13 K. The final report of the Task Force shall be submitted to the  
14 Governor, the Speaker of the Oklahoma House of Representatives and  
15 the President Pro Tempore of the State Senate not later than January  
16 31, 2006.

17 L. The Office of Personnel Management shall establish a  
18 regulatory system to approve and monitor the addition of  
19 unclassified positions to state government based on the  
20 recommendations of the Task Force.

21 SECTION 9. AMENDATORY Section 1, Chapter 376, O.S.L.  
22 2003 (68 O.S. Supp. 2004, Section 238.2), is amended to read as  
23 follows:

1 Section 238.2 A. It is the intent of the Legislature that the  
2 provisions of this section operate to provide for the collection of  
3 income taxes due to the State of Oklahoma by state employees in a  
4 manner that will maximize flexibility for state employees to pay any  
5 such taxes due while minimizing disruption to operations of state  
6 agencies. It is the further intent of the Legislature that the  
7 Oklahoma Tax Commission provide notice to state employees pursuant  
8 to the provisions of subsection C of this section.

9 B. The Office of State Finance shall, not later than August 1,  
10 2003, and August 1 of each year thereafter, provide to the Tax  
11 Commission a list of all state employees as of the preceding July 1  
12 and such identifying information as may be required by the Tax  
13 Commission. Such list and information shall be used by the Tax  
14 Commission exclusively for the purpose of collection of income taxes  
15 due to the State of Oklahoma. The provisions of any laws making  
16 information confidential shall not apply with respect to information  
17 supplied to the Tax Commission pursuant to the provisions of this  
18 section; provided, such information shall be subject to the  
19 provisions of Section 205 of ~~Title 68 of the Oklahoma Statutes~~ this  
20 title.

21 C. The Tax Commission shall, not later than November 1, 2003,  
22 and November 1 of each year thereafter, notify any state employee

1 who is not in compliance with the income tax laws of this state.

2 Such notification shall include:

3 1. A statement that the employee will be subject to  
4 disciplinary action by the appointing authority, subject to the  
5 procedures of the Oklahoma Personnel Act, unless the taxpayer is  
6 deemed by the Tax Commission to be in compliance with the income tax  
7 laws of this state;

8 2. The reasons that the taxpayer is considered to be out of  
9 compliance with the income tax laws of this state, including a  
10 statement of the amount of any tax, penalties and interest due or a  
11 list of the tax years for which income tax returns have not been  
12 filed as required by law;

13 3. An explanation of the rights of the taxpayer and the  
14 procedures which must be followed by the taxpayer in order to come  
15 into compliance with the income tax laws of this state; and

16 4. Such other information as may be deemed necessary by the Tax  
17 Commission.

18 D. A state employee who has entered into and is abiding by a  
19 payment agreement, or who has requested relief as an innocent spouse  
20 which is pending or has been granted, shall be deemed to be in  
21 compliance with the state income tax laws for purposes of this  
22 section.

1 E. If the Tax Commission notifies a state employee who is not  
2 in compliance with the income tax laws of this state as required in  
3 this section and such state employee does not respond to such  
4 notification or fails to come into compliance with the income tax  
5 laws of this state after an assessment has been made final or after  
6 the Tax Commission determines that every reasonable effort has been  
7 made to assist the state employee to come into compliance with the  
8 income tax laws of this state, the Tax Commission, notwithstanding  
9 the provisions of Section 205 of ~~Title 68 of the Oklahoma Statutes~~  
10 this title, shall so notify the appointing authority, which shall  
11 commence disciplinary action with respect to the state employee and  
12 ~~shall notify the state employee of the reason for such action;~~  
13 ~~provided, if a state agency receives notification with respect to a~~  
14 ~~state employee who has been subject to disciplinary action pursuant~~  
15 ~~to the provisions of this section two or more times in the previous~~  
16 ~~three (3) calendar years, such employee shall be terminated by the~~  
17 ~~state agency according to the procedures provided by law, subject to~~  
18 the procedures of the Oklahoma Personnel Act. If a state employee  
19 who has been previously reported by the Tax Commission to a state  
20 agency as being out of compliance comes into compliance, the Tax  
21 Commission shall immediately notify the appointing authority.  
22 Neither a state agency nor an appointing authority shall be held

1 liable for any action with respect to a state employee pursuant to  
2 the provisions of this section.

3 F. The Tax Commission shall promulgate rules for the  
4 implementation of the provisions of this section.

5 G. As used in this section:

6 1. "State agency" means any office, department, board,  
7 commission or institution of the executive, legislative or judicial  
8 branch of state government;

9 2. "Employee" or "state employee" means an appointed officer or  
10 employee of a state agency; provided, the term employee or state  
11 employee shall not include an elected official or an employee of a  
12 local governmental entity; and

13 3. "Appointing authority" means the chief administrative  
14 officer of a state agency.

15 SECTION 10. This act shall become effective July 1, 2005.

16 SECTION 11. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO  
21 PASS, As Amended.