

CS for SB 473

1 THE STATE SENATE
2 Tuesday, March 1, 2005

3 Committee Substitute for
4 Senate Bill No. 473

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 473 - By: CAPPS of the
6 Senate and BRADDOCK of the House.

7 [state personnel - Oklahoma Personnel Act - unclassified
8 positions - codification - effective date -
9 emergency]

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

11 SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-1.18, as
12 last amended by Section 2, Chapter 312, O.S.L. 2004 (74 O.S. Supp.
13 2004, Section 840-1.18), is amended to read as follows:

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

22 B. The Administrator shall maintain accurate records reflecting
23 the costs of administering its provisions, and at the close of each
24 quarter-year period shall summarize said costs, and shall bill each
25 department or agency included within the terms of ~~this act~~ the

1 Oklahoma Personnel Act with a pro rata share of the administrative
2 costs based on the relationship between the quarterly average number
3 of employees in the classified service of such department or agency,
4 and the quarterly average number of employees in the classified
5 service of the state.

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

9 D. Any state agency for which the Administrator provides
10 payroll services shall pay for such services at a rate established
11 by the Administrator, which shall be based upon the cost to the
12 Administrator of providing such services. Each agency shall remit
13 payment for such services quarterly from departmental or agency
14 funds to the Administrator who shall deposit such payments into the
15 Office of Personnel Management Revolving Fund created in Section
16 840-1.20 of this title.

17 E. No state disbursing or auditing officer shall make or
18 approve or take any part in making or approving any payment for
19 personal service to any person holding a position in the state
20 classified service, brought under ~~this act~~ the Oklahoma Personnel
21 Act unless the payroll voucher or account of such pay bears the
22 certification of the appointing authority or designee, that the
23 persons named therein have been appointed and employed in accordance

1 with the provisions of ~~this act~~ the Oklahoma Personnel Act and the
2 rules, ~~regulations and orders~~ promulgated hereunder. The appointing
3 authority or designee may for proper cause withhold certification
4 from an entire payroll or from any specific item or items thereon.

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

16 Any person appointed or employed in contravention of any
17 provision of ~~this act~~ the Oklahoma Personnel Act or any rules,
18 ~~regulations~~ or orders promulgated hereunder, whose employment is
19 brought within the terms of ~~this act~~ the Oklahoma Personnel Act, who
20 performs service for which he or she is not paid, may maintain an
21 action against the officer or officers who purported to appoint or
22 employ ~~him~~ the person to recover the agreed pay for such services,
23 or the reasonable value thereof if no pay was agreed upon. No

1 officer shall be reimbursed by the state at any time for any sum
2 paid to such person on account of such services.

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

8 SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-2.15, is
9 amended to read as follows:

10 Section 840-2.15 A. ~~Nonexempt employees as defined by the Fair~~
11 ~~Labor Standards Act, 29 U.S.C. Section 201, et seq., working in an~~
12 ~~institutional setting shall receive overtime pay at the rate of one~~
13 ~~and one-half (1 1/2) times their regular hourly rate for each~~
14 ~~overtime hour worked. Compensatory time at the rate of one and one-~~
15 ~~half hours for each hour worked in lieu of overtime pay may be given~~
16 ~~to nonexempt employees under certain conditions as provided for and~~
17 ~~in compliance with the Fair Labor Standards Act, 29 U.S.C., Section~~
18 ~~201, et seq. The federal Fair Labor Standards Act, 29 U.S.C.,~~
19 ~~Section 201, et seq., provides for minimum standards for both wages~~
20 ~~and overtime entitlement, and spells out administrative procedures~~
21 ~~by which covered work time must be compensated. This section is not~~
22 ~~a comprehensive listing of the provisions of the Fair Labor~~

1 Standards Act and regulations promulgated thereunder, and is not
2 intended to conflict with either the Act or the regulations.

3 B. Any employee receiving compensatory time ~~under~~ consistent
4 with the provisions of ~~subsection A of this section shall not be~~
5 ~~required to take compensatory time off unless the employee requests~~
6 ~~said leave~~ the Fair Labor Standards Act shall exhaust such
7 compensatory time prior to the taking of annual leave, except where
8 the employee is subject to losing such annual leave due to the
9 application of the accumulation limits in Section 840-2.20 of this
10 title.

11 C. An employee receiving compensatory time under the provisions
12 of subsection A of this section shall be permitted to use accrued
13 compensatory time within one-hundred-eighty (180) days following the
14 pay period in which it was accrued, provided the taking of
15 compensatory time does not unduly impact agency operations or the
16 health, safety or welfare of the public, or endanger public
17 property. Agencies shall not be allowed to extend this one-hundred-
18 eighty-day time period for employees in an institutional setting.
19 The balance of any unused compensatory time received but not taken
20 during this time period shall be paid to the employee at the
21 employee's current regular hourly rate.

22 D. As used in this ~~act~~ section, "Institutional setting" shall
23 mean any agency or part of any agency where twenty-four-hour care,

1 monitoring or supervision is required for patients, clients or
2 inmates to protect public health, safety or property.

3 SECTION 3. AMENDATORY 74 O.S. 2001, Section 840-2.18, as
4 last amended by Section 6, Chapter 312, O.S.L. 2004 (74 O.S. Supp.
5 2004, Section 840-2.18), is amended to read as follows:

6 Section 840-2.18 A. A longevity pay plan is hereby adopted.
7 This plan applies to all state classified, unclassified, and exempt
8 employees, excluding members of boards and commissions, institutions
9 under the administrative authority of the State Regents for Higher
10 Education, employees of public school districts, and elected
11 officials. The plan shall also apply to those employees of the
12 Oklahoma School for the Blind and the Oklahoma School for the Deaf
13 who qualify for longevity pay in accordance with subsection D of
14 Section 1419 of Title 10 of the Oklahoma Statutes.

15 B. The Oklahoma Conservation Commission is hereby authorized to
16 establish a longevity pay program for employees of the conservation
17 districts employed under Section 3-3-103 of Title 27A of the
18 Oklahoma Statutes. Such longevity pay program shall be consistent
19 with the longevity pay program for state employees authorized under
20 this title and payments shall be made in a manner consistent with
21 procedures for reimbursement to conservation districts.

22 C. To be eligible for longevity pay, employees must have been
23 continuously employed in the classified or unclassified service of

1 the state for a minimum of two (2) years in full-time status or in
2 part-time status working more than one thousand (1,000) hours a
3 year.

4 For purposes of this section, a break in service of thirty (30)
5 calendar days or less shall not be considered an interruption of
6 continuous service; a break in service of more than thirty (30)
7 calendar days shall mark an end to continuous service. The
8 legislative session employees who have worked for two (2) years or
9 more in part-time status and are eligible for state retirement
10 benefits, but do not receive other longevity payments, shall be
11 eligible and shall be considered to have been continuously employed
12 for purposes of calculating longevity payments, notwithstanding the
13 provisions of subsection E of this section.

14 D. 1. Longevity pay for the first twenty (20) years of service
15 shall be determined pursuant to the following schedule:

16	Years of Service	Annual Longevity Payment
17	At least 2	
18	years but less than 4 years	\$250.00
19	At least 4	
20	years but less than 6 years	\$426.00
21	At least 6	
22	years but less than 8 years	\$626.00
23	At least 8	

1	years but less than 10 years	\$850.00
2	At least 10	
3	years but less than 12 years	\$1,062.00
4	At least 12	
5	years but less than 14 years	\$1,250.00
6	At least 14	
7	years but less than 16 years	\$1,500.00
8	At least 16	
9	years but less than 18 years	\$1,688.00
10	At least 18	
11	years but less than 20 years	\$1,900.00
12	At least 20 years	\$2,000.00

13 2. For each additional two (2) years of service after the first
14 twenty (20) years an additional Two Hundred Dollars (\$200.00) shall
15 be added to the amount stated above for twenty (20) years of
16 service.

17 The total amount of the annual longevity payment made to an
18 employee by any and all state agencies in any year shall not exceed
19 the amount shown on the table corresponding to that employee's years
20 of service with the state, except as otherwise provided by Sections
21 840-2.27D and 840-2.28 of this title. Further, no employee shall
22 receive duplicating longevity payments for the same periods of

1 service with any and all agencies, except as otherwise provided by
2 Sections 840-2.27D and 840-2.28 of this title.

3 E. To determine years of service, cumulative periods of full-
4 time employment or part-time employment working more than one
5 hundred fifty (150) hours per month with the state excluding service
6 as specified in subsection A of this section are applicable. Part-
7 time employment, working one hundred fifty (150) hours per month or
8 less for the state, excluding service as specified in subsection A
9 of this section, shall be counted only if:

10 1. The period of employment was continuous for at least five
11 (5) months; and

12 2. The person worked more than two-fifths (2/5) time.

13 Other employment shall not be counted as service for purposes of
14 longevity payments. Further, no period of employment with the
15 state, whether with one or more than one agency, shall be counted as
16 more than full-time service.

17 F. Years of service under the administrative authority of the
18 State Regents for Higher Education or the administrative authority
19 of the Oklahoma Department of Career and Technology Education of any
20 employee who is now employed in a job classification which is
21 eligible for longevity pay shall be included in years of service for
22 purposes of determining longevity pay.

1 G. Years of service shall be certified through the current
2 employing agency by the appointing authority on a form approved by
3 the Office of Personnel Management. Said form shall be ~~filed with~~
4 ~~the Office of Personnel Management~~ completed and posted as directed
5 by the Administrator of the Office of Personnel Management by the
6 current employing agency ~~within sixty (60) calendar days before an~~
7 ~~employee becomes eligible for longevity payments~~ when the employee
8 initially enters on duty with the agency and thereafter whenever the
9 employee's anniversary date is changed.

10 H. Eligible employees, in full-time status or in part-time
11 status working more than one hundred fifty (150) hours per month,
12 shall receive one (1) lump-sum annual payment, in the amount
13 provided on the preceding schedule, during the month following the
14 anniversary date of the employee's most recent enter-on-duty day
15 with the state. Upon implementation of the statewide information
16 systems project, the lump-sum annual payment may be paid concurrent
17 with the final payroll of the month of the employee's anniversary
18 date. Eligible part-time employees who work one hundred fifty (150)
19 hours per month or less shall receive one (1) lump-sum annual
20 payment, based on the formula in subsection L of this section,
21 during the month following the anniversary date of the employee's
22 most recent enter-on-duty day with the state. To receive longevity

1 pay an employee must be in pay status on or after his or her
2 anniversary date.

3 Eligible employees who would not otherwise receive annual
4 longevity payments because their employment includes regular periods
5 of leave without pay in excess of thirty (30) calendar days shall
6 receive one (1) lump-sum annual payment, based on the formula in
7 subsection L of this section, during:

8 1. The month of August if the employee is in pay status on July
9 1; or

10 2. During the month following the employee's first return to
11 duty that fiscal year if the employee is not in pay status on July
12 1.

13 Except as otherwise provided by Sections 840-2.27D and 840-2.28
14 of this title, employees terminated as a result of a reduction-in-
15 force or retiring from state employment shall receive upon said
16 termination or retirement the proportionate share of any longevity
17 payment which may have accrued as of the date of termination or
18 retirement. Provided further that, the proportionate share of any
19 longevity payment which may have accrued as of the date of death of
20 an employee shall be made to the surviving spouse of the employee or
21 if there is no surviving spouse to the estate of the employee.

22 I. Periods of leave without pay taken in accordance with
23 Section 840-2.21 of this title shall be counted as service. Other

1 periods of nonpaid leave status in excess of thirty (30) calendar
2 days shall not mark a break in service; however, they shall:

3 1. Not be used in calculating total months of service for
4 longevity pay purposes; and

5 2. Extend the anniversary date for longevity pay by the total
6 period of time on nonpaid leave status except as provided in
7 subsection H of this section for employees whose conditions of
8 employment include regular periods of leave without pay.

9 J. Employees currently receiving longevity pay who work for the
10 judicial branch of state government or who work for the Oklahoma
11 Department of Career and Technology Education shall not be eligible
12 for the longevity pay plan provided for in this section.

13 K. A break in service with the state in excess of thirty (30)
14 days but which does not exceed two (2) years which was caused by a
15 reduction-in-force shall be treated as if it were a period of
16 nonpaid leave status as provided for in subsection I of this section
17 for the purpose of calculating total months of service for longevity
18 pay. This subsection shall only apply to state employees laid off
19 after June 30, 1982.

20 L. Eligible part-time employees working less than one hundred
21 fifty (150) hours per month and other eligible employees with
22 regular annual periods of leave without pay of more than thirty (30)
23 calendar days will receive a prorated share of the "Annual Longevity

1 Payment" authorized in subsection D of this section. The prorated
2 amount of payment will be based on actual hours worked in the
3 immediately preceding twelve (12) months.

4 M. An employee shall not be entitled to retroactive longevity
5 payments as a result of amendments to this section unless
6 specifically authorized by law.

7 N. The Administrator of the Office of Personnel Management is
8 authorized to promulgate such Longevity Pay Plan Rules as he or she
9 finds necessary to carry out the provisions of this section.

10 O. As of July 1, 1998, years of service with a city-county
11 health department for employees who left a city-county health
12 department for employment with the Department of Environmental
13 Quality or the State Department of Agriculture, between July 1, 1993
14 and July 1, 1998, and who are now employed in a job classification
15 that is eligible for longevity pay pursuant to this section, shall
16 be included in years of service for purposes of determining
17 longevity pay subsequent to July 1, 1998.

18 P. As of July 1, 2003, years of service with a local
19 conservation district shall be included in years of service for
20 purposes of determining longevity pay for local conservation
21 district employees transferred to the Oklahoma Conservation
22 Commission pursuant to ~~this act~~ the provisions of Enrolled Senate
23 Bill No. 149 of the 1st Session of the 49th Legislature.

1 SECTION 4. AMENDATORY 74 O.S. 2001, Section 840-2.26, is
2 amended to read as follows:

3 Section 840-2.26 A. In order to provide increased services to
4 the public, to assist state employees in meeting the needs of their
5 families, improve employee morale and productivity, appointing
6 authorities are encouraged to consider the adoption of flextime
7 attendance policies and alternative work schedules.

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

13 C. The Administrator of the Office of Personnel Management
14 shall provide technical assistance to agencies in developing
15 flextime policies and alternative work schedules and shall
16 promulgate rules pursuant to the Administrative Procedures Act as
17 necessary for such policies.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 840-2.30 of Title 74, unless
20 there is created a duplication in numbering, reads as follows:

21 It is the policy of the State of Oklahoma to be accountable to
22 state taxpayers for the expenditure of public funds. To this end,
23 all state employees shall be paid according to a pay system

1 established pursuant to the principles of public accountability that
2 prohibits payment to any state employee for time not worked unless
3 the time not worked is covered by available paid leave. Violation
4 of this provision may result in disciplinary action and criminal
5 prosecution under Oklahoma law.

6 SECTION 6. AMENDATORY Section 1, Chapter 62, O.S.L. 2003
7 (74 O.S. Supp. 2004, Section 840-5.1B), is amended to read as
8 follows:

9 Section 840-5.1B A. There is hereby created the State
10 Classification Task Force for the purpose of reviewing unclassified
11 positions in the executive branch of state government, excluding The
12 Oklahoma State System of Higher Education, and making
13 recommendations to the Legislature concerning the current
14 unclassified service and the feasibility of proposals to add
15 positions to or remove positions from the unclassified service.

16 B. The Task Force shall consist of ten (10) members of the
17 Oklahoma Legislature, five members of the House of Representatives
18 appointed by the Speaker of the House of Representatives and five
19 members of the Senate appointed by the President Pro Tempore of the
20 Senate. Members shall serve at the pleasure of their appointing
21 authority.

22 C. ~~Beginning on the effective date of this act and for~~ For the
23 Forty-ninth Oklahoma Legislature, the Speaker of the House of

1 Representatives shall select the chair of the Task Force and the
2 President Pro Tempore of the Senate shall select the ~~vice-chair~~ vice
3 chair of the Task Force. Thereafter, the chair and ~~vice-chair~~ vice
4 chair shall rotate between the House of Representatives and Senate
5 with the President Pro Tempore of the Senate and the Speaker of the
6 House of Representatives making the respective appointments.

7 D. Staffing for the Task Force shall be provided by the
8 legislative staff of the House of Representatives and the Senate,
9 and the Administrator of the Office of Personnel Management.

10 E. Members of the Task Force shall receive no compensation for
11 serving on the Task Force but shall receive travel reimbursement for
12 their necessary travel expenses incurred in the performance of their
13 duties in accordance with Section 456 of Title 74 of the Oklahoma
14 Statutes from the legislative body in which they serve.

15 F. 1. State agencies subject to the provisions of the Merit
16 System of Personnel Administration shall submit requests for
17 authorizations for unclassified positions and employees to the
18 Administrator of the Office of Personnel Management who shall
19 forward such requests to the Task Force. The Administrator shall
20 review, analyze, and provide recommendations to the Task Force
21 regarding such requests.

22 2. The Task Force shall meet in November of each year and shall
23 review any agency proposals to add unclassified positions to the

1 state service. A representative from each appointing authority of a
2 state agency that desires to add unclassified positions shall attend
3 the meeting and present the proposal of the agency.

4 ~~2.~~ 3. The Task Force shall also review positions currently in
5 the unclassified service. The Administrator of the Office of
6 Personnel Management shall review and analyze such positions and
7 provide recommendations to the Task Force. The Task Force may
8 request the presence of state agency representatives to provide
9 information concerning such positions.

10 ~~3.~~ 4. On or before February 1 of each year, the Task Force
11 shall present any recommendations to the Speaker of the House of
12 Representatives and the President Pro Tempore of the Senate
13 concerning current positions in the unclassified service and agency
14 proposals to add unclassified positions.

15 ~~4.~~ 5. The Task Force may also meet during the regular session
16 of the Legislature to consider any additional requests to add
17 unclassified positions to the state service submitted pursuant to
18 this subsection.

19 SECTION 7. AMENDATORY 74 O.S. 2001, Section 840-5.5, as
20 last amended by Section 1, Chapter 462, O.S.L. 2004 (74 O.S. Supp.
21 2004, Section 840-5.5), is amended to read as follows:

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

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

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

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

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

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

20 6. Persons employed in a professional or scientific capacity to
21 make or conduct a temporary and special inquiry, investigation, or
22 examination on behalf of the Legislature or a committee thereof or
23 by authority of the Governor. These appointments and authorizations

1 shall terminate on the first day of the regular legislative session
2 immediately following the appointment, if not terminated earlier.
3 However, nothing in this paragraph shall prevent the reauthorization
4 and reappointment of any such person. Any such appointment shall be
5 funded from the budget of the appointing authority;

6 7. Election officials and employees;

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

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

- 15 a. two administrative aides to the Commissioner,
- 16 b. executive secretaries to the Commissioner,
- 17 c. the Governor's representative of the Oklahoma Highway
18 Safety Office who shall be appointed by the Governor,
- 19 d. Highway Patrol Colonel,
- 20 e. Highway Patrol Lieutenant Colonel,
- 21 f. Highway Patrol Major,
- 22 g. Director of Finance,
- 23 h. noncommissioned pilots,

- 1 i. Information Systems Administrator,
2 j. Law Enforcement Telecommunications System Specialist,
3 k. Director of Driver License Administration,
4 l. Director of Transportation Division,
5 m. Director of the Alcohol and Drug Countermeasures Unit,
6 n. Director of the Oklahoma Highway Safety Office,
7 o. Civil Rights Administrator,
8 p. Budget Analyst,
9 q. Comptroller,
10 r. Chaplain,
11 s. Helicopter Mechanic, and
12 t. a maximum of seven positions for the purpose of
13 administering the Oklahoma Police Corps Program,
14 within full-time employee limitations of the
15 Department, employed with federal funding that is
16 continuing or indefinitely renewable. The
17 authorization for such positions shall be terminated
18 if the federal funding for positions is discontinued;
19 provided, any person appointed to a position prescribed in
20 subparagraphs d, e, f or o of this paragraph shall have a right of
21 return to the classified commissioned position without any loss of
22 rights, privileges or benefits immediately upon completion of the
23 duties in the unclassified commissioned position, and any person

1 appointed to a position prescribed in subparagraph i, j, k, l, m or
2 n of this paragraph shall have a right of return to the previously
3 held vacant classified position within the Department of Public
4 Safety without any loss of rights, privileges or benefits
5 immediately upon completion of the duties in the unclassified
6 commissioned position;

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

9 11. Students who are employed on a part-time basis, which shall
10 be seventy-five percent (75%) of a normal forty-hour work week or
11 thirty (30) hours per week, or less, or on a full-time basis if the
12 employment is pursuant to a cooperative education program such as
13 that provided for under Title I IV-D of the Higher Education Act of
14 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly
15 enrolled in:

16 a. an institution of higher learning within The Oklahoma
17 State System of Higher Education,

18 b. an institution of higher learning qualified to become
19 coordinated with The Oklahoma State System of Higher
20 Education. For purposes of this section, a student
21 shall be considered a regularly enrolled student if
22 the student is enrolled in a minimum of five (5) hours
23 of accredited graduate courses or a minimum of ten

1 (10) hours of accredited undergraduate courses,
2 provided, however, the student shall only be required
3 to be enrolled in a minimum of six (6) hours of
4 accredited undergraduate courses during the summer, or
5 c. high school students regularly enrolled in a high
6 school in Oklahoma and regularly attending classes
7 during such time of enrollment;

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

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

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

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

22 a. Administrative aides, and executive secretaries to the
23 Commissioners,

- 1 b. Directors of all the divisions, personnel managers and
2 comptrollers,
3 c. General Counsel,
4 d. Public Utility Division Chief Engineer,
5 e. Public Utility Division Chief Accountant,
6 f. Public Utility Division Chief Economist,
7 g. Public Utility Division Deputy Director,
8 h. Secretary of the Commission,
9 i. Deputy Conservation Director,
10 j. Manager of Pollution Abatement,
11 k. Manager of Field Operations,
12 l. Manager of Technical Services,
13 m. Public Utility Division Chief of Telecommunications,
14 and
15 n. Director of Information Services;

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

20 17. Department of Mental Health and Substance Abuse Services
21 personnel occupying the following offices and positions at each
22 facility:

- 23 a. Director of Facility,

- 1 b. Deputy Director for Administration,
- 2 c. Clinical Services Director,
- 3 d. Executive Secretary to Director, and
- 4 e. Directors or Heads of Departments or Services;

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

- 7 a. State Comptroller,
- 8 b. Administrative Officer,
- 9 c. Alternator Claims Auditor,
- 10 d. Employees hired to fulfill state compliance agency
11 requirements under Model Tribal Gaming Compacts,
- 12 e. Employees of the Budget Division,
- 13 f. Employees of the Fiscal and Research Division, and
- 14 g. Information Services Division:
 - 15 (1) Information Services Division Manager,
 - 16 (2) Network Manager,
 - 17 (3) Network Technician,
 - 18 (4) Security Manager,
 - 19 (5) Contracts/Purchasing Manager,
 - 20 (6) Operating and Applications Manager,
 - 21 (7) Project Manager,
 - 22 (8) Help Desk Manager,
 - 23 (9) Help Desk Technician,

- 1 (10) Quality Assurance Manager,
- 2 (11) ISD Analysts,
- 3 (12) CORE Manager,
- 4 (13) Enterprise System/Database Software Manager,
- 5 (14) Data Center Operations and Production Manager,
- 6 (15) Voice Communications Manager,
- 7 (16) Applications Development Manager,
- 8 (17) Projects Manager,
- 9 (18) PC's Manager,
- 10 (19) Servers Manager, and
- 11 (20) Portal Manager;

12 19. Employees of the Oklahoma Development Finance Authority;

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

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

17 22. The following positions and employees of the Oklahoma
18 School of Science and Mathematics:

- 19 a. positions for which the annual salary is Twenty-four
20 Thousand One Hundred Ninety-three Dollars (\$24,193.00)
21 or more, as determined by the Office of Personnel
22 Management, provided no position shall become

1 unclassified because of any change in salary or grade
2 while it is occupied by a classified employee,
3 b. positions requiring certification by the State
4 Department of Education, and
5 c. positions and employees authorized to be in the
6 unclassified service of the state elsewhere in this
7 section or in subsection B of this section;

8 23. Office of Personnel Management employees occupying the
9 following positions:

- 10 a. the Carl Albert Internship Program Coordinator, ~~and~~
11 b. one Administrative Assistant, and
12 c. one Workforce Planning Manager;

13 24. Department of Labor personnel occupying the following
14 offices and positions:

- 15 a. two Deputy Commissioners,
16 b. Executive Secretary to the Commissioner,
17 c. Chief of Staff, and
18 d. two Administrative Assistants;

19 25. The State Bond Advisor and his or her employees;

20 26. The Oklahoma Employment Security Commission employees
21 occupying the following positions:

- 22 a. Associate Director,
23 b. Secretary to the Associate Director, and

1 c. Assistant to the Executive Director;

2 27. Oklahoma Human Rights Commission personnel occupying the

3 position of Administrative Assistant;

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

5 29. Officers and employees of the University Hospitals

6 Authority except personnel in the state classified service pursuant

7 to Section 3211 of Title 63 of the Oklahoma Statutes and members of

8 the University Hospitals Authority Model Personnel System created

9 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma

10 Statutes or as otherwise provided for in Section 3213.2 of Title 63

11 of the Oklahoma Statutes;

12 30. Alcoholic Beverage Laws Enforcement Commission employees

13 occupying the following positions:

14 a. three Administrative Service Assistant positions,

15 however, employees in such positions who are in the

16 unclassified service on ~~the effective date of this act~~

17 June 4, 2003, may make an election to be in the

18 classified service without a loss in salary by

19 September 1, 2003, and

20 b. the Deputy Director position in addition to the one

21 authorized by paragraph 2 of this subsection;

22 31. The Oklahoma State Bureau of Investigation employees

23 occupying the following positions:

- 1 a. five assistant directors,
2 b. two special investigators,
3 c. one information representative,
4 d. one federally funded physical evidence technician,
5 e. four federally funded laboratory analysts,
6 f. one Data Base Administrator,
7 g. two Data Processing Branch Managers,
8 h. four Senior Data Processing Applications Specialists,
9 i. a total of three positions from the following classes:
10 Senior Data Processing Systems Specialists, Data
11 Processing Applications Specialists, or Data
12 Processing Systems Specialists,
13 j. one Senior Computer Services Technician, or Computer
14 Services Technician,
15 k. one Senior Computer Services Coordinator, or Computer
16 Services Coordinator, and
17 l. one executive secretary in addition to the one
18 authorized pursuant to paragraph 2 of this subsection;
- 19 32. The Department of Transportation, the following positions:
20 a. Director of the Oklahoma Aeronautics Commission,
21 b. five Department of Transportation Assistant Director
22 positions,
23 c. eight field division engineer positions, and

1 d. one pilot position;

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

4 a. Director of the Investments Division,

5 b. Assistant Director of the Investments Division,

6 c. one Administrative Assistant,

7 d. one Audit Tech position,

8 e. one Auditor I position,

9 f. two Accounting Tech I positions,

10 g. two Administrative Assistant I positions,

11 h. two Imaging Specialist positions, and

12 i. one Information Systems Specialist position;

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

15 a. six Narcotics Agent positions and three Typist

16 Clerk/Spanish transcriptionists, including a Typist

17 Clerk Supervisor/Spanish transcriptionist, provided,

18 authorization for such positions shall be terminated

19 if the federal funding for the positions is

20 discontinued,

21 b. one executive secretary in addition to the one

22 authorized pursuant to paragraph 2 of this subsection,

23 c. one fiscal officer,

- 1 d. one full-time Programmer, and
- 2 e. one full-time Network Engineer;

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

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

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

20 37. The following positions and employees of the Department of
21 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,
13 k. one State Use Contracting Officer, and
14 l. one Property Distribution Administrator;

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

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

- 20 a. Physical Therapists,
21 b. Physical Therapist Assistants,
22 c. Occupational Therapists,
23 d. Certified Occupational Therapist Aides, and

1 e. Speech Pathologists;

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

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

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

9 b. eighteen Agricultural Marketing Coordinator III
10 positions,

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

20 d. one Administrator for Human Resources,

21 e. one Director of Administrative Services,

22 f. one Water Quality Consumer Complaint Coordinator,

23 g. one hydrologist position,

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

- 1 u. Rural Fire Coordinator,
- 2 v. Poultry Coordinator,
- 3 w. Food Safety Division Director,
- 4 x. one Mammal Control Officer,
- 5 y. Two Scale Technicians, and
- 6 z. Two Plant Protection Specialists;

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

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

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

- 13 a. Educational Program Director, and
- 14 b. Data Processing Manager;

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

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

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

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

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

3 50. Acting incumbents employed pursuant to Section 209 of Title
4 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not
5 be included in any limitation on full-time equivalency imposed by
6 law on an agency. Permanent classified employees may request a
7 leave of absence from classified status and accept an unclassified
8 appointment and compensation as an acting incumbent with the same
9 agency; provided, the leave shall expire no later than two (2) years
10 from the date of the acting incumbent appointment. An appointing
11 authority may establish unclassified positions and appoint
12 unclassified employees to perform the duties of a permanent
13 classified employee who is on leave of absence from a classified
14 position to serve as an acting incumbent. All unclassified
15 appointments created pursuant to this paragraph shall expire no
16 later than two (2) years from the date of appointment. Classified
17 employees accepting unclassified appointments and compensation
18 pursuant to this paragraph shall be entitled to participate without
19 interruption in any benefit programs available to classified
20 employees, including retirement and insurance programs. Immediately
21 upon termination of an unclassified appointment pursuant to this
22 paragraph, an employee on assignment from the classified service
23 shall have a right to be restored to the classified service and

1 reinstated to the former job family level and compensation plus any
2 adjustments and increases in salary or benefits which the employee
3 would have received but for the leave of absence;

4 51. The Oklahoma Homeland Security Director and all other
5 positions assigned the responsibilities of working in the Oklahoma
6 Office of Homeland Security; and

7 52. The following eighteen (18) positions in the State
8 Department of Health:

- 9 a. one surveillance supervisor,
- 10 b. one surveillance project monitor,
- 11 c. two bilingual interviewers,
- 12 d. eight senior interviewers, and
- 13 e. six interviewers.

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

- 17 1. Licensed medical doctors, osteopathic physicians, dentists,
18 psychologists, and nurses;
- 19 2. Certified public accountants;
- 20 3. Licensed attorneys;
- 21 4. Licensed veterinarians; and
- 22 5. Licensed pharmacists.

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

7 D. The appointing authority of agencies participating in the
8 statewide information systems project may establish unclassified
9 positions and appoint unclassified employees to the project as
10 needed. Additional unclassified positions may be established, if
11 required, to appoint an unclassified employee to perform the duties
12 of a permanent classified employee who is temporarily absent from a
13 classified position as a result of assignment to this project. All
14 unclassified appointments under this authority shall expire no later
15 than December 31, ~~2005~~ 2007, and all unclassified positions
16 established to support the project shall be abolished. Both the
17 positions and appointments resulting from this authority shall be
18 exempt from any agency FTE limitations and any limits imposed on the
19 number of unclassified positions authorized. Permanent classified
20 employees may request a leave of absence from classified status and
21 accept an unclassified appointment and compensation with the same
22 agency under the provisions of this subsection; provided, the leave
23 shall expire no later than December 31, ~~2005~~ 2007. Employees

1 accepting the appointment and compensation shall be entitled to
2 participate without interruption in any benefit programs available
3 to classified employees, including retirement and insurance
4 programs. Immediately upon termination of an unclassified
5 appointment pursuant to this subsection, an employee on assignment
6 from the classified service shall have a right to be restored to the
7 classified service and reinstated to the former job family level and
8 compensation plus any adjustments and increases in salary or
9 benefits which the employee would have received but for the leave of
10 absence.

11 SECTION 8. AMENDATORY 62 O.S. 2001, Section 7.10, as
12 last amended by Section 52, Chapter 5, O.S.L. 2004 (62 O.S. Supp.
13 2004, Section 7.10), is amended to read as follows:

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

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

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

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

9 2. The payment of any insurance premiums due a private
10 insurance organization or service company which is regulated by the
11 State Insurance Commissioner and with a minimum participation of
12 five hundred ~~(500)~~ state employees for legal services;

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

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

18 5. Membership dues in the Oklahoma Public Employees Association
19 or any other statewide association limited to state employee
20 membership with a minimum membership of one thousand ~~(1,000)~~ dues-
21 paying members. For purposes of this paragraph, state agencies
22 shall accept online or electronically submitted forms from the
23 Oklahoma Public Employees Association and other state employee

1 associations. The Office of Personnel Management shall develop and
2 implement a verification process for online or electronically
3 submitted forms which may include the use of electronic signature
4 technology or other process as determined appropriate;

5 6. Contributions to its foundation organized pursuant to 26
6 U.S.C., Section 501(c)(3) in the Oklahoma Public Employees
7 Association or any other statewide association limited to state
8 employee membership with a minimum membership of one thousand
9 ~~(1,000)~~ dues-paying members;

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

13 8. Subscriptions to the Oklahoma Today magazine published by
14 the State of Oklahoma through the Oklahoma Tourism and Recreation
15 Department.

16 C. The administrative costs of processing payroll deductions or
17 administering salary adjustment agreements for insurance premiums as
18 provided for in subsection B of this section shall be a charge of
19 two percent (2%) of the gross annual premiums for insurance plans.
20 The administrative costs of processing payroll deductions or
21 administering salary adjustment agreements for payments for
22 retirement plans as provided for in subsection B of this section
23 shall be one percent (1%) of the gross annual payments for

1 retirement plans. These charges shall be collected monthly from the
2 private insurance or retirement plan organization by the Office of
3 Personnel Management and shall be deposited ~~to the credit of the~~
4 ~~General Revenue Fund~~ into the Office of Personnel Management
5 Revolving Fund created in Section 840-1.20 of this title. Provided
6 that these costs shall not be collected from state employees or
7 state agencies unless otherwise directed ~~in Section 1 et seq. of~~
8 ~~this title~~ by law.

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

12 E. Approval of a payroll deduction or salary adjustment
13 agreement for any insurance organization, line of coverage or policy
14 shall not be construed as an assumption of liability, for the term
15 of policy or the performance of the insurance organization, by this
16 state, or any of its agencies, boards, commissions, institutions or
17 any officer or employee thereof. Contracts for such insurance shall
18 be in all respects subject to the insurance laws of this state, and
19 shall be enforceable solely pursuant to such laws.

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

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

6 H. Upon request of instructional personnel employed at either
7 the Oklahoma School for the Blind or the Oklahoma School for the
8 Deaf and pursuant to procedures established by the Administrator of
9 the Office of Personnel Management, the Commission for
10 Rehabilitation Services shall make payroll deductions for membership
11 dues in any statewide educational employee organization or
12 association.

13 SECTION 9. AMENDATORY 75 O.S. 2001, Section 250.4, as
14 last amended by Section 6, Chapter 157, O.S.L. 2004 (75 O.S. Supp.
15 2004, Section 250.4), is amended to read as follows:

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

19 2. The Corporation Commission shall be required to comply with
20 the provisions of Article I of the Administrative Procedures Act
21 except for subsections A, B, C and E of Section 303 of this title
22 and Section 306 of this title. To the extent of any conflict or
23 inconsistency with Article I of the Administrative Procedures Act,

1 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
2 it is expressly declared that Article I of the Administrative
3 Procedures Act is an amendment to and alteration of Sections 18
4 through 34 of Article IX of the Oklahoma Constitution.

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

8 4. The Oklahoma Ordnance Works Authority, the Northeast
9 Oklahoma Public Facilities Authority, the Oklahoma Office of
10 Homeland Security and the Board of Trustees of the Oklahoma College
11 Savings Plan shall be exempt from Article I of the Administrative
12 Procedures Act.

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

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

23 a. prescribing standards of higher education,

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

7 7. Institutional governing boards within The Oklahoma State
8 System of Higher Education shall be exempt from Article I of the
9 Administrative Procedures Act.

- 10 8. a. The Commissioner of Public Safety shall be exempt from
11 Sections 303.1, 303.2, 304, 307.1, 308 and 308.1 of
12 this title insofar as it is necessary to promulgate
13 rules pursuant to the Oklahoma Motor Carrier Safety
14 and Hazardous Materials Transportation Act, to
15 maintain a current incorporation of federal motor
16 carrier safety and hazardous material regulations, or
17 pursuant to Chapter 6 of Title 47 of the Oklahoma
18 Statutes, to maintain a current incorporation of
19 federal commercial driver license regulations, for
20 which the Commissioner has no discretion when the
21 state is mandated to promulgate rules identical to
22 federal rules and regulations.

1 b. Such rules may be adopted by the Commissioner and
2 shall be deemed promulgated twenty (20) days after
3 notice of adoption is published in "The Oklahoma
4 Register". Such publication need not set forth the
5 full text of the rule but may incorporate the federal
6 rules and regulations by reference.

7 c. Such copies of promulgated rules shall be filed with
8 the Secretary as required by Section 251 of this
9 title.

10 d. For any rules for which the Commissioner has
11 discretion to allow variances, tolerances or
12 modifications from the federal rules and regulations,
13 the Commissioner shall fully comply with Article I of
14 the Administrative Procedures Act.

15 9. The Council on Judicial Complaints shall be exempt from
16 Section 306 of Article I of the Administrative Procedures Act, with
17 respect to review of the validity or applicability of a rule by an
18 action for declaratory judgment, or any other relief based upon the
19 validity or applicability of a rule, in the district court or by an
20 appellate court. A party aggrieved by the validity or applicability
21 of a rule made by the Council on Judicial Complaints may petition
22 the Court on the Judiciary to review the rules and issue opinions
23 based upon them.

1 10. The Department of Corrections, State Board of Corrections,
2 county sheriffs and managers of city jails shall be exempt from
3 Article I of the Administrative Procedures Act with respect to:

4 a. prescribing internal management procedures for the
5 management of the state prisons, county jails and city
6 jails and for the management, supervision and control
7 of all incarcerated prisoners, and

8 b. prescribing internal management procedures for the
9 management of the probation and parole unit of the
10 Department of Corrections and for the supervision of
11 probationers and parolees.

12 B. As specified, the following agencies or classes of agency
13 activities are not required to comply with the provisions of Article
14 II of the Administrative Procedures Act:

- 15 1. The Oklahoma Tax Commission;
- 16 2. The Commission for Human Services;
- 17 3. The Oklahoma Ordnance Works Authority;
- 18 4. The Corporation Commission;
- 19 5. The Pardon and Parole Board;
- 20 6. The Midwestern Oklahoma Development Authority;
- 21 7. The Grand River Dam Authority;
- 22 8. The Northeast Oklahoma Public Facilities Authority;
- 23 9. The Council on Judicial Complaints;

1 10. The Board of Trustees of the Oklahoma College Savings Plan;

2 11. The supervisory or administrative agency of any penal,
3 mental, medical or eleemosynary institution, only with respect to
4 the institutional supervision, custody, control, care or treatment
5 of inmates, prisoners or patients therein; provided, that the
6 provisions of Article II shall apply to and govern all
7 administrative actions of the Oklahoma Alcohol Prevention, Training,
8 Treatment and Rehabilitation Authority;

9 12. The Board of Regents or employees of any university,
10 college, or other institution of higher learning, except with
11 respect to expulsion of any student for disciplinary reasons;
12 provided, that upon any alleged infraction by a student of rules of
13 such institutions, with a lesser penalty than expulsion, such
14 student shall be entitled to such due process, including notice and
15 hearing, as may be otherwise required by law, and the following
16 grounds of misconduct, if properly alleged in disciplinary
17 proceedings against a student, shall be cause to be barred from the
18 campus and be removed from any college or university-owned housing,
19 upon conviction in a court of law:

- 20 a. participation in a riot as defined by the penal code,
21 b. possession or sale of any drugs or narcotics
22 prohibited by the penal code, Section 1 et seq. of
23 Title 21 of the Oklahoma Statutes, or

1 c. willful destruction of or willful damage to state
2 property;

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

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

17 14. The Commissioner of Public Safety only with respect to
18 driver license hearings and hearings conducted pursuant to the
19 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

20 15. The Administrator of the Department of Securities only with
21 respect to hearings conducted pursuant to provisions of the Oklahoma
22 Take-over Disclosure Act of 1985;

1 16. Hearings conducted by a public agency pursuant to Section
2 962 of Title 47 of the Oklahoma Statutes;

3 17. The Oklahoma Military Department;

4 18. The University Hospitals Authority, including all hospitals
5 or other institutions operated by the University Hospitals
6 Authority;

7 19. The Oklahoma Health Care Authority Board and the
8 Administrator of the Oklahoma Health Care Authority; and

9 20. ~~The position audit procedure, including the impartial
10 review process, of the Office of Personnel Management pursuant to
11 Section 840-4.3 of Title 74 of the Oklahoma Statutes. Provided,
12 that any appeal from an impartial review determination to a court of
13 competent jurisdiction shall be confined to the record in accordance
14 with the provisions of Article II of the Administrative Procedures
15 Act; and~~

16 ~~21.~~ The Oklahoma Office of Homeland Security.

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-16-05 - DO
23 PASS, As Amended and Coauthored.