

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 3041

By: Osborn and Blackwell

4
5
6 AS INTRODUCED

7 An Act relating to state employee compensation and
8 benefits; authorizing state employee pay increase;
9 amending 68 O.S. 2011, Section 1353, which relates to
10 the apportionment of sales tax; providing for
11 apportionment of sales tax revenue to State Employee
12 Market Compensation Revolving Fund; creating State
13 Employee Market Compensation Revolving Fund;
14 providing for apportionment of revenue; providing
15 purpose of expenditures; amending 74 O.S. 2011,
16 Section 840-2.18, which relates to longevity pay;
17 modifying authorized longevity pay amounts; providing
18 for increase based on certain performance evaluation;
19 providing for indexed amounts using Consumer Price
20 Index; amending 74 O.S. 2011, Section 1370, which
21 relates to a flexible benefits program; modifying
22 flexible benefit amount; providing for codification;
23 providing for noncodification; providing an effective
24 date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

Effective July 1, 2013, the salary of each state employee in
both the classified and the unclassified service shall, to the
extent the funding provided by Section 1353 of Title 68 of the

1 Oklahoma Statutes allows, be increased so that the salary of each
2 such employee is at least eighty-five percent (85%) of the market-
3 based compensation as determined by the Office of Personnel
4 Management.

5 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1353, is
6 amended to read as follows:

7 Section 1353. A. It is hereby declared to be the purpose of
8 the Oklahoma Sales Tax Code to provide funds for the financing of
9 the program provided for by the Oklahoma Social Security Act and to
10 provide revenues for the support of the functions of the state
11 government of Oklahoma, and for this purpose it is hereby expressly
12 provided that, revenues derived pursuant to the provisions of the
13 Oklahoma Sales Tax Code, subject to the apportionment requirements
14 for the Oklahoma Tax Commission and Office of State Finance Joint
15 Computer Enhancement Fund provided by Section 265 of this title,
16 shall be apportioned as follows:

17 1. a. the following amounts shall be paid to the State
18 Treasurer to be placed to the credit of the General
19 Revenue Fund to be paid out pursuant to direct
20 appropriation by the Legislature:

21	Fiscal Year	Amount
22	FY 2003 and FY 2004	86.04%
23	FY 2005	85.83%
24	FY 2006	85.54%

1	FY 2006	4.0%
2	FY 2007	4.5%
3	FY 2008 and each fiscal	
4	year thereafter	5.0%

5 4. For the fiscal year beginning July 1, 2010, and for each
6 fiscal year thereafter, eighty-seven one-hundredths percent (0.87%)
7 shall be paid to the State Treasurer to be further apportioned as
8 follows:

- 9 a. thirty-six percent (36%) shall be placed to the credit
- 10 of the Oklahoma Tourism Promotion Revolving Fund, and
- 11 b. sixty-four percent (64%) shall be placed to the credit
- 12 of the Oklahoma Tourism Capital Improvement Revolving
- 13 Fund; and

14 5. For the fiscal year beginning July 1, 2010, and for each
15 fiscal year thereafter, six one-hundredths percent (0.06%) shall be
16 placed to the credit of the Oklahoma Historical Society Capital
17 Improvement and Operations Revolving Fund.

18 6. During the first fiscal year after the State Board of
19 Equalization has made a determination as provided in Section 2355.1B
20 of this title, regarding a baseline amount of revenue apportioned
21 pursuant to paragraph 3 of this ~~section~~ subsection, and for each
22 fiscal year thereafter, in no event shall monies apportioned
23 pursuant to paragraph 3 of this ~~section~~ subsection, paragraph 3 of
24

1 Section 1403 of this title and subparagraph c of paragraph 1 of
2 Section 2352 of this title be less than such baseline amount.

3 B. Provided, for the fiscal year beginning July 1, 2007, and
4 every fiscal year thereafter, an amount of revenue shall be
5 apportioned to each municipality or county which levies a sales tax
6 subject to the provisions of Section 1357.10 of this title and
7 subsection F of Section 2701 of this title equal to the amount of
8 sales tax revenue of such municipality or county exempted by the
9 provisions of Section 1357.10 of this title and subsection F of
10 Section 2701 of this title. The Oklahoma Tax Commission shall
11 promulgate and adopt rules necessary to implement the provisions of
12 this subsection.

13 C. Notwithstanding any other provision of this section, for the
14 fiscal year beginning July 1, 2013, and for each fiscal year
15 thereafter, the first Twenty Million Dollars (\$20,000,000.00) that
16 would otherwise be apportioned as provided by this section shall be
17 apportioned to the State Employee Market Compensation Revolving Fund
18 created pursuant to Section 3 of this act to be administered by the
19 Office of State Finance for purposes of providing pay increases in
20 order for state employee compensation to reach eighty-five percent
21 (85%) of market-based compensation levels.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 34.101 of Title 62, unless there
24 is created a duplication in numbering, reads as follows:

1 There is hereby created in the State Treasury a revolving fund
2 for the Office of State Finance to be designated the "State Employee
3 Market Compensation Revolving Fund". The fund shall be a continuing
4 fund, not subject to fiscal year limitations, and shall consist of
5 all monies received by the Office of State Finance from the
6 apportionment of sales tax revenue provided by subsection C of
7 Section 1353 of Title 68 of the Oklahoma Statutes. All monies
8 accruing to the credit of said fund are hereby appropriated and may
9 be budgeted and expended by the Office of State Finance for the
10 purpose of raising state employee compensation levels to eighty-five
11 percent (85%) of market-based compensation levels. Expenditures
12 from said fund shall be made upon warrants issued by the State
13 Treasurer against claims filed as prescribed by law with the
14 Director of the Office of State Finance for approval and payment.

15 SECTION 4. AMENDATORY 74 O.S. 2011, Section 840-2.18, is
16 amended to read as follows:

17 Section 840-2.18 A. A longevity pay plan is hereby adopted.
18 This plan applies to all state classified, unclassified, and exempt
19 employees, excluding members of boards and commissions, institutions
20 under the administrative authority of the State Regents for Higher
21 Education, employees of public school districts, and elected
22 officials. The plan shall also apply to those employees of the
23 Oklahoma School for the Blind and the Oklahoma School for the Deaf
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1 who qualify for longevity pay in accordance with subsection D of
2 Section 1419 of Title 10 of the Oklahoma Statutes.

3 B. The Oklahoma Conservation Commission is hereby authorized to
4 establish a longevity pay program for employees of the conservation
5 districts employed under Section 3-3-103 of Title 27A of the
6 Oklahoma Statutes. Such longevity pay program shall be consistent
7 with the longevity pay program for state employees authorized under
8 this title and payments shall be made in a manner consistent with
9 procedures for reimbursement to conservation districts.

10 C. To be eligible for longevity pay, employees must have been
11 continuously employed in the classified or unclassified service of
12 the state for a minimum of two (2) years in full-time status or in
13 part-time status working more than one thousand (1,000) hours a
14 year.

15 For purposes of this section, a break in service of thirty (30)
16 calendar days or less shall not be considered an interruption of
17 continuous service; a break in service of more than thirty (30)
18 calendar days shall mark an end to continuous service. The
19 legislative session employees who have worked for two (2) years or
20 more in part-time status and are eligible for state retirement
21 benefits, but do not receive other longevity payments, shall be
22 eligible and shall be considered to have been continuously employed
23 for purposes of calculating longevity payments, notwithstanding the
24 provisions of subsection E of this section.

1 D. 1. ~~Longevity~~ Except as otherwise provided by this section,
2 longevity pay for the first twenty (20) years of service shall be
3 determined pursuant to the following schedule with the first listed
4 dollar amount payable in the event a state employee does not qualify
5 for the doubled amount pursuant to paragraph 3 of this subsection
6 and the second listed dollar amount payable in the event a state
7 employee does qualify for the doubled amount pursuant to paragraph 3
8 of this subsection:

9	Years of Service	Annual Longevity Payment
10	At least 2	
11	years but less than 4 years	\$250.00 <u>or \$500.00</u>
12	At least 4	
13	years but less than 6 years	\$426.00 <u>or \$852.00</u>
14	At least 6	
15	years but less than 8 years	\$626.00 <u>or \$1252.00</u>
16	At least 8	
17	years but less than 10 years	\$850.00 <u>or \$1700.00</u>
18	At least 10	
19	years but less than 12 years	\$1,062.00 <u>or \$2,124.00</u>
20	At least 12	
21	years but less than 14 years	\$1,250.00 <u>or \$2,500.00</u>
22	At least 14	
23	years but less than 16 years	\$1,500.00 <u>or \$3,000.00</u>
24	At least 16	

1	years but less than 18 years	\$1,688.00 <u>or \$3,376.00</u>
2	At least 18	
3	years but less than 20 years	\$1,900.00 <u>or \$3,800.00</u>
4	At least 20 years	\$2,000.00 <u>or \$4,000.00</u>

5 2. For each additional two (2) years of service after the first
6 twenty (20) years an additional Two Hundred Dollars (\$200.00) or
7 \$400.00 shall be added to the amount stated above for twenty (20)
8 years of service.

9 The total amount of the annual longevity payment made to an
10 employee by any and all state agencies in any year shall not exceed
11 the amount shown on the table corresponding to that employee's years
12 of service with the state, except as otherwise provided by Sections
13 840-2.27D and 840-2.28 of this title. Further, no employee shall
14 receive duplicating longevity payments for the same periods of
15 service with any and all agencies, except as otherwise provided by
16 Sections 840-2.27D and 840-2.28 of this title.

17 3. Effective July 1, 2012, if a state employee has received a
18 performance evaluation which indicates that the employee "meets
19 standards" or a better rating on the evaluation, the amounts
20 prescribed by this subsection shall be doubled.

21 4. Effective July 1, 2012, the amounts prescribed by this
22 subsection, including the doubled amounts, shall be adjusted based
23 on the increase, if any, in the Consumer Price Index-All Urban
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1 Consumers (CPI-U) as released by the Bureau of Labor Statistics each
2 year.

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.

23 G. Years of service shall be certified through the current
24 employing agency by the appointing authority on a form approved by

1 the Office of Personnel Management. Said form shall be completed
2 and posted as directed by the Administrator of the Office of
3 Personnel Management by the current employing agency when the
4 employee initially enters on duty with the agency and thereafter
5 whenever the employee's anniversary date is changed.

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

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

3 1. The month of August if the employee is in pay status on July
4 1; or

5 2. During the month following the employee's first return to
6 duty that fiscal year if the employee is not in pay status on July
7 1.

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

17 I. Periods of leave without pay taken in accordance with
18 Section 840-2.21 of this title shall be counted as service. Other
19 periods of nonpaid leave status in excess of thirty (30) calendar
20 days shall not mark a break in service; however, they shall:

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

23 2. Extend the anniversary date for longevity pay by the total
24 period of time on nonpaid leave status except as provided in

1 subsection H of this section for employees whose conditions of
2 employment include regular periods of leave without pay.

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

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

14 L. Eligible part-time employees working less than one hundred
15 fifty (150) hours per month and other eligible employees with
16 regular annual periods of leave without pay of more than thirty (30)
17 calendar days will receive a prorated share of the "Annual Longevity
18 Payment" authorized in subsection D of this section. The prorated
19 amount of payment will be based on actual hours worked in the
20 immediately preceding twelve (12) months.

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

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

4 O. As of July 1, 1998, years of service with a city-county
5 health department for employees who left a city-county health
6 department for employment with the Department of Environmental
7 Quality or the ~~State~~ Oklahoma Department of Agriculture, Food, and
8 Forestry, between July 1, 1993, and July 1, 1998, and who are now
9 employed in a job classification that is eligible for longevity pay
10 pursuant to this section, shall be included in years of service for
11 purposes of determining longevity pay subsequent to July 1, 1998.

12 P. As of July 1, 2003, years of service with a local
13 conservation district shall be included in years of service for
14 purposes of determining longevity pay for local conservation
15 district employees transferred to the Oklahoma Conservation
16 Commission pursuant to the provisions of Enrolled Senate Bill No.
17 149 of the 1st Session of the 49th Legislature.

18 SECTION 5. AMENDATORY 74 O.S. 2011, Section 1370, is
19 amended to read as follows:

20 Section 1370. A. Subject to the requirement that a participant
21 must elect the default benefits, the basic plan, or is a person who
22 has retired from a branch of the United States military and has been
23 provided with health care through a federal plan, to the extent that
24 it is consistent with federal law, or is an active employee who is

1 eligible to participate and who is a participant who has opted out
2 of the state's basic plan according to the provisions of Section ~~2~~
3 1308.3 of this ~~act~~ title, and provides proof of this coverage,
4 flexible benefit dollars may be used to purchase any of the benefits
5 offered by the Oklahoma State Employees Benefits Council under the
6 flexible benefits plan. A participant who has opted out of the
7 state's basic plan and provided proof of other coverage as described
8 in this subsection shall receive One Hundred Fifty Dollars (\$150.00)
9 in lieu of the flexible benefit monthly. A participant's flexible
10 benefit dollars for a plan year shall consist of the sum of (1)
11 flexible benefit allowance credited to a participant by the
12 participating employer, and (2) pay conversion dollars elected by a
13 participant.

14 B. Each participant shall be credited annually with a specified
15 amount as a flexible benefit allowance which shall be available for
16 the purchase of benefits. The amount of the flexible benefit
17 allowance credited to each participant shall be communicated to him
18 or her prior to the enrollment period for each plan year.

19 C. Except as provided in subsection D of this section, ~~for the~~
20 ~~plan year ending December 31, 2012~~ beginning January 1, 2013, the
21 benefit allowance shall not be less than the Plan Year 2012 benefit
22 allowance amounts, and each plan year thereafter, the amount of a
23 participant's benefit allowance, which shall be the total amount the
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1 employer contributes for the payment of insurance premiums or other
2 benefits, shall be:

3 1. The greater of ~~Two Hundred Sixty-two Dollars and nineteen~~
4 ~~cents (\$262.19) per month~~ the amount of benefit which the
5 participant would have qualified for as of plan year 2012 or an
6 amount equal to the ~~sum of the average monthly premiums~~ premium of
7 ~~all high option health insurance plans, excluding the point-of-~~
8 ~~service plans~~ the Health Choice High Option Plan, the average
9 monthly premiums of the dental plans, the monthly premium of the
10 disability plan, and the monthly premium of the basic life insurance
11 plan offered to state employees or the amount determined by the
12 Council based on a formula for determining a participant's benefit
13 credits consistent with the requirements of 26 U.S.C., Section
14 125(g) (2) and regulations thereunder; or

15 2. The greater of ~~Two Hundred Twenty-four Dollars and sixty-~~
16 ~~nine cents (\$224.69) per month~~ the amount of benefit which the
17 participant would have qualified for as of plan year 2012 or an
18 amount equal to the ~~sum of the average monthly premiums~~ premium of
19 ~~all high option health insurance plans, excluding the point-of-~~
20 ~~service plans~~ the Health Choice High Option Plan, the average
21 monthly premiums of the dental plans, the monthly premium of the
22 disability plan, and the monthly premium of the basic life insurance
23 plan offered to state employees plus one of the additional amounts
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1 as follows for participants who elect to include one or more
2 dependents:

3 a. for a spouse, seventy-five percent (75%) of ~~the~~
4 ~~average price of all high option benefit plans,~~
5 ~~excluding the point-of-service plans~~ the Health Choice
6 High Option Plan, available for coverage of a spouse,

7 b. for one child, seventy-five percent (75%) of ~~the~~
8 ~~average price of all high option benefit plans~~
9 ~~available, excluding the point-of-service plans~~ the
10 Health Choice High Option Plan, for coverage of one
11 child,

12 c. for two or more children, seventy-five percent (75%)
13 of ~~the average price of all high option benefit plans~~
14 ~~available, excluding the point-of-service plans~~ the
15 Health Choice High Option Plan, for coverage of two or
16 more children,

17 d. for a spouse and one child, seventy-five percent (75%)
18 of ~~the average price of all high option benefit plans~~
19 ~~available, excluding the point-of-service plans~~ the
20 Health Choice High Option Plan, for coverage of a
21 spouse and one child, or

22 e. for a spouse and two or more children, seventy-five
23 percent (75%) of ~~the average price of all high option~~
24 ~~benefit plans available, excluding the point-of-~~

1 ~~service plans~~ the Health Choice High Option Plan, for
2 coverage of a spouse and two or more children.

3 D. To the extent that it is consistent with federal laws and
4 regulations, and in particular the regulations set forth by the
5 Secretary of Defense in 32 C.F.R. Section 199.8(d)(6), a benefit may
6 be provided to an employee who is an eligible TRICARE beneficiary
7 whereby he or she may purchase a group TRICARE Supplemental product
8 under a qualifying cafeteria plan consistent with the requirements
9 of 26 U.S.C., Section 125, provided that (i) the State, as employer
10 may not provide any payment for nor receive any consideration or
11 compensation for offering the benefit, (ii) the employer's only
12 involvement is in providing the administrative support for the
13 benefit under the cafeteria plan and (iii) the employee's
14 participation in the plan is completely voluntary. The benefit
15 allowance under paragraph 2 of subsection C of this section of an
16 employee whose plan participation includes a group TRICARE
17 Supplemental benefit shall not include any allowance or portion
18 thereof for such TRICARE Supplemental benefit.

19 E. This section shall not prohibit payments for supplemental
20 health insurance coverage made pursuant to Section 1314.4 of this
21 title or payments for the cost of providing health insurance
22 coverage for dependents of employees of the Grand River Dam
23 Authority.

1 F. If a participant desires to buy benefits whose sum total of
2 benefit prices is in excess of his or her flexible benefit
3 allowance, the participant may elect to use pay conversion dollars
4 to purchase such excess benefits. Pay conversion dollars may be
5 elected through a salary reduction agreement made pursuant to the
6 election procedures of Section 1371 of this title. The elected
7 amount shall be deducted from the participant's compensation in
8 equal amounts each pay period over the plan year. On termination of
9 employment during a plan year, a participant shall have no
10 obligation to pay the participating employer any pay conversion
11 dollars allocated to the portion of the plan year after the
12 participant's termination of employment.

13 G. If a participant elects benefits whose sum total of benefit
14 prices is less than his or her flexible benefit allowance, he or she
15 shall receive any excess flexible benefit allowance as taxable
16 compensation. Such taxable compensation will be paid in
17 substantially equal amounts each pay period over the plan year. On
18 termination during a plan year, a participant shall have no right to
19 receive any such taxable cash compensation allocated to the portion
20 of the plan year after the participant's termination. Nothing
21 herein shall affect a participant's obligation to elect the minimum
22 benefits or to accept the default benefits of the plan with
23 corresponding reduction in the sum of his or her flexible benefit
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1 allowance equal to the sum total benefit price of such minimum
2 benefits or default benefits.

3 SECTION 6. This act shall become effective July 1, 2012.

4 SECTION 7. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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