

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

SENATE BILL 590

4
5 By: Senator Harriman
6
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE 21-5-203, 21-5-207, 21-
10 5-211, 21-5-214, 21-5-219, 21-5-1001, 21-5-1002, 21-5-
11 1003, 21-5-1004, 21-5-1005, AND 21-5-1006 IN ORDER TO
12 IMPLEMENT A CAREER LADDER INCENTIVE PROGRAM; AND FOR
13 OTHER PURPOSES."

Subtitle

14
15 "AMENDMENTS TO IMPLEMENT A CAREER LADDER
16 INCENTIVE PROGRAM."
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code 21-5-203 is amended to read as follows:

23 "21-5-203. Definitions.

24 As used in this subchapter, unless the context otherwise requires:

25 (1) 'Office of Personnel Management' means the Office of
26 Personnel Management of the Division of Management Services of the Department
27 of Finance and Administration acting under the authority granted in this
28 subchapter and subject to the direction of the Director of the Department of
29 Finance and Administration;

30 (2) 'State agencies' means all agencies, authorities,
31 departments, boards, commissions, bureaus, councils, or other agencies of the
32 state supported by appropriation of state or federal funds, except those
33 agencies excluded pursuant to § 21-5-204;

34 (3) 'Agency head' or 'agency director' means the executive head
35 of all agencies, authorities, departments, boards, commissions, bureaus,
36 councils, or other agencies of the state;

1 (4) 'Institution of higher education' or 'institution' means all
 2 public institutions of higher education supported in whole or in part by
 3 appropriation of state funds;

4 (5) 'Head of institution' means the executive head of all
 5 institutions of higher education;

6 (6) 'Employee' means a person regularly appointed or employed in
 7 a position of state service by a state agency or institution of higher
 8 education, as defined in this section, for which he is compensated on a full-
 9 time basis, and for which a class title and pay grade is established in the
 10 appropriation act for such agency or institution in accordance with the
 11 classification and compensation plan enacted in this subchapter;

12 (7) 'Class' means a group of positions sufficiently similar as to
 13 duties performed, scope of discretion and responsibility, minimum requirements
 14 of training and experience or skill, and other characteristics that the same
 15 title, the same test of fitness, and the same scale of compensation have been
 16 or may be applied to each position in the group;

17 (8) 'Class specification' means a written document which
 18 identifies a group of positions that have the same type of work and
 19 responsibility and states the general components by providing a class title,
 20 class code, distinguishing features and example of work, knowledge, skills,
 21 and abilities, and the necessary minimum education and experience requirements
 22 to perform the assigned duties;

23 (9) 'Grade' means a pay range having an entrance salary rate,
 24 intermediate rates, and a maximum rate of pay as provided in this subchapter;

25 (10) 'Position' means an office or employment in an agency or
 26 institution of higher education, occupied or vacant, involving duties
 27 requiring the services of one (1) or two (2) persons;

28 (11) ~~'Step'~~ 'Pay Level' means any single rate of pay in a grade
 29 including the entrance, intermediate rates, and the maximum rate of pay;

30 (12) 'Occupational group' is defined as a collection of classes
 31 having similar features of job components and sharing a primary function. In
 32 determining the occupational group to which a class will be assigned,
 33 consideration will be given to the type of work to be performed, the type of
 34 education or experience required, job elements or tasks, and the purpose of
 35 the job;

36 ~~(13) 'Quality management incentive pay' is defined as additional~~

1 ~~compensation for those classified employees, including those at the maximum of~~
 2 ~~their pay grade (Pay Level IV), who participate in the Quality Management~~
 3 ~~Program, and develop cost-saving suggestions that are adopted and implemented~~
 4 ~~by state agencies and institutions. Upon certification by the Chief Fiscal~~
 5 ~~Officer of the State, such employees shall be eligible for an additional pay~~
 6 ~~increase of up to three percent (3%) of their current maximum annual salary~~
 7 ~~rate;~~

8 ~~(14)~~(13) 'Working title' is defined as a descriptive title given
 9 a position within a class for ready identification of the job being performed.
 10 A working title consists of a procedural description of the duties and
 11 responsibilities of a position;

12 ~~(15)~~(14) 'Reclassification' is defined as a change in the
 13 assignment of a position from one (1) classification title to another
 14 classification title of either a higher or lower salary grade when material
 15 and permanent changes in the duties and responsibilities of the position being
 16 recommended for reclassification have occurred or when it is necessary to
 17 establish a new classification title to meet federal standards as a
 18 prerequisite for federal programs. Positions eligible for reclassification
 19 within an agency or institution of higher education shall be only those
 20 positions assigned a specific classification title and salary grade. Positions
 21 having a line item maximum salary shall be considered exempt from the
 22 provisions in this section and may not be reclassified from line item status
 23 to a classified designation bearing a salary grade. Positions within the
 24 agency or institution of higher education allocated to a specific
 25 classification title and salary grade may not be reclassified to a
 26 classification title having a maximum annual line item salary amount;

27 ~~(16)~~(15) 'Promotion' is defined as the change in duty assignment
 28 of an employee from a position in one classification to a position in another
 29 classification of a higher salary grade requiring higher qualifications, such
 30 as greater skill and longer experience, and involving a higher level of
 31 responsibility. A promotion, for purposes of salary determination, shall be
 32 classified as 'minor' if the change in duty assignment is to a classification
 33 of one (1) grade higher or 'major' if to a classification of two (2) or more
 34 grades higher than the employee's grade at the time of promotion;

35 ~~(17)~~(16) 'Demotion' is defined as the change in duty assignment
 36 of an employee from a position in one classification to a position in another

1 classification of a lower salary grade requiring fewer qualifications such as
 2 lower skill requirements, less job-related experience, and a lower level of
 3 responsibility;

4 ~~(18)~~(17) 'Legislatively enacted salary grade change' is defined
 5 as the enactment of legislation which has the effect of lowering the salary
 6 grade level assigned to a specific classification title, referred to as a
 7 class downgrade, or raising the salary grade level assigned to a specific
 8 classification title, referred to as a class upgrade, from a level other than
 9 that assigned to the class title on June 30 of the previous fiscal year;

10 ~~(19)~~(18)(A) 'Job sharing' means a form of employment in which the
 11 hours of work of two (2) persons are arranged in such a way as to cover a
 12 single, regular full-time salary position. The Department of Finance and
 13 Administration may authorize job sharing for all regular full-time salary
 14 positions.

15 (B)(i) The Director of the Department of Finance and
 16 Administration or his designee shall promulgate necessary rules and
 17 regulations as deemed necessary to carry out the provisions of this
 18 subdivision.

19 (ii) All rules and regulations promulgated pursuant
 20 to this subdivision shall be reviewed by the House and Senate Interim
 21 Committees on Public Health, Welfare, and Labor or appropriate subcommittees
 22 thereof;

23 (19) 'Competency-Based Criteria' is defined as job-related
 24 requirements which must be successfully completed by employees.

25 (A) The following competency-based criteria have been
 26 established for the career ladder incentive program and employees must meet
 27 any combination of these criteria, as prescribed by their agency or
 28 institution of higher education for the employee's job classification, to be
 29 eligible to receive a career ladder promotion, salary adjustment or bonus
 30 payment:

- 31 (i) Meets experience requirements;
- 32 (ii) Attains specialized certification;
- 33 (iii) Documented shifts in the labor market;
- 34 (iv) Participates in successful projects that help the
 35 agency or institution of higher education reach certain milestones or goals;
- 36 (v) Completes job related training;

1 (vi) Demonstrates acceptable job performance; or

2 (vii) Demonstrates appropriate conduct.

3 (B) State agencies and institutions of higher education
4 shall evaluate employees utilizing competency-based criteria and certify that
5 such criteria has been met before implementing promotions, salary adjustments
6 or bonus payments;

7 (C) State agencies and institutions of higher education may
8 supplement the job-related requirements specified herein after approval by the
9 Office of Personnel Management and after review by the Legislative Council;

10 (20) 'Competency-Based Pay System' is defined as an incentive-
11 based pay system which includes pay for performance principles and
12 incorporates job related criteria which must be met before an employee
13 receives a career ladder promotion, salary adjustment or bonus payment;

14 (21) 'Career Ladder Series' is defined as a grouping of similar
15 job classifications designated by the Office of Personnel Management with
16 increasing levels of experience, knowledge, ability, skill and related job
17 criteria to be utilized by state agencies and institutions of higher education
18 to communicate career opportunities to employees;

19 (22) 'Career Ladder Promotion' is defined as a change in duty
20 assignment of an employee from one position in a career ladder series to
21 another position within the same career ladder series of a higher salary grade
22 with increased duties, responsibilities, experience and education. A
23 promotion, for purposes of salary determination, shall be classified as
24 'minor' if the change in duty assignment is to a classification of one (1)
25 grade higher or 'major' if to a classification of two (2) or more grades
26 higher than the employee's grade at the time of promotion;

27 (23) 'Career Ladder Incentive Payment' is defined as a bonus or
28 salary adjustment paid to an incumbent who has completed all necessary
29 competency-based criteria;

30 (24) 'Salary Savings' is defined as funds and appropriations
31 accumulated when regular salary positions remain vacant due to normal
32 attrition, agency or institution of higher education decisions to leave such
33 positions vacant for specified periods of time or agency or institution of
34 higher education decisions to refill vacant positions at lower salary rates
35 than those of previous incumbents. Funds and appropriations accumulated in
36 this manner may be utilized to fund or offset the cost of salary adjustments

1 associated with the Career Ladder Incentive Program;

2 (25) 'Standards-Based Evaluation System' is defined as a system
 3 of monitoring an employee's performance of job duties and comparing that
 4 performance against pre-established standards of satisfactory performance.
 5 Effective performance standards are: (A) measurable and observable, (B)
 6 realistic in terms of the job, (C) within the employee's control, and (D)
 7 expressed in terms of the results achieved; and

8 (26) 'Uniform Conduct Standards' is defined as uniform
 9 disciplinary procedures and guidelines developed by the Office of Personnel
 10 Management after review by the Legislative Council for state agencies and
 11 institutions of higher education to utilize as part of the Career Ladder
 12 Incentive Program. A state agency or institution of higher education may
 13 utilize the procedures and guidelines with or without modification. All
 14 modifications must be approved by the Office of Personnel Management after
 15 review by the Legislative Council."

16
 17 SECTION 2. Arkansas Code 21-5-207 is amended to read as follows:

18 "21-5-207. Office of Personnel Management - Duties.

19 (a) It shall be the duty of the Office of Personnel Management to
 20 perform the following administrative responsibilities with respect to the
 21 state classification and compensation plan, subject to the provisions of this
 22 subchapter:

23 (1) To determine that each position of a state agency or
 24 institution of higher education affected by this subchapter is allocated to a
 25 class having a written class specification based on the duties and
 26 responsibilities assigned to the position and the requirements necessary to
 27 satisfactorily perform the duties;

28 (2) To assist the various state agencies or institutions of
 29 higher education in the allocation of positions to classes established in this
 30 subchapter, and in the appropriation act covering each of the several state
 31 agencies or institutions affected by this subchapter, and to disallow the
 32 allocation of a position to a class that is not in conformance with the
 33 provisions of this subchapter;

34 (3) To cooperate with any other state agency, department, board,
 35 commission, or institution that is not covered by this subchapter which may
 36 wish to voluntarily establish its positions into classifications in a like

1 manner as provided in this subchapter for state agencies or institutions of
2 higher education covered by it;

3 (4)(A) To authorize the reclassification of positions in a state
4 agency or institution of higher education affected by the provisions of this
5 subchapter in cases where it has been determined by the Office of Personnel
6 Management that there are material changes in the duties and responsibilities
7 assigned to the position when there is no available vacant position having the
8 proper classification and where it is impracticable to restructure the duties
9 of the position to the proper classification.

10 (B) The reclassification of positions may also be
11 authorized where it is necessary to establish a new classification to meet
12 federal standards as a prerequisite for federal programs, provided that no
13 position may be reclassified to a class with a higher salary grade than that
14 approved by the General Assembly, and the reclassified positions shall not be
15 placed in a class and receive pay at a salary rate in excess of the maximum
16 salary rate authorized for the position, which was reclassified as provided in
17 the appropriation act of the agency or institution.

18 (C) Reclassifications of positions authorized may be
19 approved by the Office of Personnel Management, but shall be reported monthly
20 to the Legislative Council;

21 (5)(A) To review all class specifications and all classes and
22 grades and the compensation plan affecting all state agencies and institutions
23 of higher education covered by the provisions of this subchapter and to submit
24 to the Legislative Council and the Governor in advance of the regular session
25 of the General Assembly recommendations for revisions, modifications, or
26 additions thereto.

27 (B) The Office of Personnel Management shall, when
28 necessary, confer with the staff of the Legislative Council on the development
29 of and revisions to uniform classification and compensation systems.

30 (C) Time periods for the development of recommendations and
31 time periods for the review by the Legislative Council of those
32 recommendations will be as established by the Personnel Committee of the
33 Legislative Council.

34 (D) The time period shall be sufficiently in advance of
35 budget hearings for the regular session to allow for the thorough review by
36 the Personnel Committee of the Legislative Council;

1 (6) To develop and implement rules and regulations to accomplish
2 the purposes of this subchapter;

3 (7) To revise, as necessary, upon review by the Legislative
4 Council, the minimum education and experience requirements for all class
5 specifications in order to maintain a valid relationship between the
6 requirements and the duties and responsibilities of the jobs;

7 (8)(A) To establish a procedure to allow for the review of the
8 qualifications of applicants whose education and experience do not meet or
9 exceed that required by the class specification but who have other job-related
10 qualifications which might be validly substituted for the class requirements.

11 (B) This procedure is intended specifically to allow
12 agencies or institutions to substitute job-related education and experience
13 for the specific requirements stated on the class specification without the
14 necessity for the revision of the class requirements.

15 (C) The procedure will require the final approval of the
16 personnel administrator, with the review of the Arkansas Legislative Council;

17 (9)(A) To monitor agency and institution personnel transactions
18 to ensure that unqualified appointments, including new hires, promotions, and
19 reductions in grade are identified.

20 (B) Questionable appointments shall be forwarded to the
21 personnel administrator for further review.

22 (C) Payroll vouchers containing unqualified appointments
23 will not be processed until the unqualified appointment is removed from the
24 payroll or placed into a position for which the individual meets the minimum
25 qualifications of the classification.

26 (D) It is the specific responsibility of the director of
27 each agency or the head of each institution covered by the provisions of this
28 subchapter to certify that the qualifications of persons appointed to
29 positions within the agency or institution do meet or exceed the minimum
30 education and experience requirements as stated on the class specification;

31 (10)(A) To establish during the biennium, upon the review of the
32 Legislative Council, new classifications at an appropriate grade level in
33 order to meet new or changed conditions and to report, at the end of each
34 fiscal year, all class titles contained in § 21-5-208 for which a class
35 specification has not been written.

36 (B) Any classification established within the biennium

1 under the provisions of this subdivision shall remain in effect for the
 2 remainder of the biennium during which it was established unless specifically
 3 authorized to continue by the General Assembly as an addition to this
 4 subchapter;

5 (11) To revise, as necessary, with the review of the Legislative
 6 Council, the class specification of a classification in order to ensure the
 7 accuracy of the description of the assigned duties and the minimum
 8 requirements necessary to perform these duties;

9 (12) To administer and maintain a system for the evaluation of
 10 employee performance effectiveness;

11 (13) To provide assistance to state agencies or institutions
 12 covered by the merit system in the areas of recruitment, testing, and merit
 13 placement of applicants under the rules and regulations established for the
 14 merit system;

15 (14) To provide assistance to state agencies and institutions in
 16 identifying, developing, and maintaining training and resource programs; and

17 (15) To develop and implement, as needed, upon the review of the
 18 Arkansas Legislative Council, rules and regulations to ensure a uniform system
 19 of personnel administration within state government-; and

20 (16) To establish a procedure for the implementation of a Career
 21 Ladder Incentive Program, upon review by the Legislative Council, including an
 22 official list of career ladder classifications, managerial and technical
 23 classifications and selected unclassified positions, educate and train state
 24 agency and institution of higher education payroll and human resource
 25 personnel on program specifics, assist state agencies and institutions of
 26 higher education in developing standards-based performance evaluation systems,
 27 ensure that the program is administered uniformly, conduct performance audits
 28 to ensure that state agencies and institutions of higher education are
 29 complying with requirements, implement sanctions if a state agency or
 30 institution of higher education is found to be in non-compliance with the
 31 program, provide the Legislative Council with periodic reports on the program
 32 statistics and adjust the current Arkansas Human Resource Management System to
 33 accommodate the program. To require state agencies and institutions of higher
 34 education to develop a plan for implementation of the career ladder program
 35 subject to approval by the Office of Personnel Management and review by the
 36 Legislative Council.

1 (b) In order to ensure and provide for the accuracy and efficiency of
 2 the Uni form Classi fication and Compensation Plan and to provide for an
 3 efficient and equi table system of personnel management, the Office of
 4 Personnel Management, with the review of the Legislative Council, is directed
 5 to:

6 (1) Study on a continuing basis and modify and revise when and
 7 where necessary the current classi fications, the class speci fications, and
 8 minimum requirements;

9 (2) Create where necessary new classi fications at an appropriate
 10 grade level which will accurately describe those positions for which no
 11 appropriate classi fication exists;

12 (3) Determine those positions which are improperly classi fied and
 13 reclassi fy those positions to the appropriate classi fication subject to the
 14 provisions of this subchapter;

15 (4) Develop and implement the policies, rules, regulations, and
 16 procedures necessary for the establishment and maintenance of the Uni form
 17 Classi fication and Compensation Act."

18
 19 SECTION 3. Arkansas Code 21-5-211 is amended to read as follows:

20 "21-5-211. Implementation procedure for grade changes - Salary
 21 adjustments.

22 (a) The Office of Personnel Management shall have administrative
 23 responsibility for enforcing compliance by state agencies and institutions
 24 affected by this subchapter in implementing classi fication grade changes.

25 (b) Subject to funds and appropriations being provided, the following
 26 implementation procedures shall apply to state agencies and institutions
 27 covered by the provisions of this subchapter, commencing on July 1, of each
 28 fiscal year:

29 (1) The maximum annual salary rate for which an employee covered
 30 by the provisions of this subchapter shall be eligible for each year of the
 31 biennium shall be determined as follows:

32 (A)(i)(a)(1) The maximum rate of compensation for which an
 33 employee shall be eligible on July 1, ~~1997~~ 1999, shall be determined by
 34 increasing the employee's June 30, ~~1997~~ 1999, salary by two and eight-tenths
 35 percent (2.8%). Employees whose salaries fall below Pay Level I for the grade
 36 assigned to their classi fication may be adjusted to the entry level. All other

1 employees shall be adjusted to the appropriate pay level for the grade
 2 assigned to their classification but may not exceed the maximum rate provided
 3 for that grade unless otherwise provided for by this section--;

4 (2) Salary adjustments provided for in
 5 this section shall be made for all employees covered by the provisions of this
 6 subchapter prior to all other salary adjustments--;

7 (b) The maximum rate of compensation for which
 8 an employee shall be eligible on July 1, ~~1998~~ 2000, shall be determined by
 9 increasing the employee's June 30, ~~1998~~ 2000, salary by ~~three and two-tenths~~
 10 ~~percent (3.2%)~~ two and eight-tenths percent (2.8%). Employees whose salaries
 11 fall below Pay Level I for the grade assigned to their classification may be
 12 adjusted to the entry level. All other employees shall be adjusted to the
 13 appropriate pay level for the grade assigned to their classification, but may
 14 not exceed the maximum rate provided for that grade unless otherwise provided
 15 for by this section--;

16 (ii) When an employee is demoted for cause or
 17 voluntarily solicits a demotion, his or her rate of pay shall be fixed in the
 18 lower-graded position at a rate equal to six percent (6%) less than the
 19 employee's rate of pay at the time of demotion for demotions of one (1) grade
 20 and a maximum of eight percent (8%) less than the employee's rate of pay at
 21 the time of demotion for demotions of two (2) or more grades--;

22 (iii) Employees covered by the provisions of this
 23 subchapter shall be eligible, during the ~~1997-99~~ 1999-2001 biennium, for an
 24 additional two percent (2%) salary increase, provided that the Chief Fiscal
 25 Officer of the State determines that sufficient general revenues become
 26 available. Provided that the additional two percent (2%) salary increase shall
 27 not allow an employee's compensation to exceed the amount set out for Pay
 28 Level IV for the position--;

29 (iv) Employees compensated at a Pay Level IV amount
 30 shall be eligible to receive the two and eight-tenths percent (2.8%) salary
 31 increases authorized in this section on July 1, 1999 and July 1, 2000 as lump
 32 sum payments, and such payments shall not be construed as exceeding the
 33 maximum salary;

34 (v) The across-the-board salary increases and career
 35 ladder incentive payments authorized herein which are awarded as lump sum
 36 payments shall be considered as salary for the purposes of retirement

1 eligibility;

2 (B) An employee_τ who due to legislative enactment is to be
3 compensated at a higher grade (upgrade) than that which was in effect on June
4 30 of the previous fiscal year_τ shall be eligible for an additional six
5 percent (6%) increase in his maximum annual salary in the new grade.

6 Employees_τ who due to legislative enactment are to be compensated at a lower
7 grade (downgrade) than that which was in effect on June 30 of the previous
8 year_τ shall not have their maximum salary rate reduced due to the grade
9 reduction;

10 (2)(A) Employees promoted on or after July 1, ~~1997~~ 1999, shall
11 have the maximum annual salary for which they are eligible established as
12 follows:

13 (i) Minor promotion: The employee's maximum rate of
14 pay ~~shall~~ may be increased ~~by~~ up to six percent (6%);

15 (ii) Major promotion: The employee's maximum rate of
16 pay ~~shall~~ may be increased ~~by~~ up to eight percent (8%).

17 (B) An employee who upon promotion is receiving a rate of
18 pay below Pay Level I for the new grade may be adjusted to the entry level for
19 that grade. In no event, however, may an employee's rate of pay upon promotion
20 exceed the amount provided for by Pay Level IV of the grade assigned to the
21 classification. An employee's anniversary date shall not change due to
22 promotion;

23 (C) Employees within an established Career Ladder series
24 may be promoted during the biennium to a higher level classification within
25 the series after established competency-based criteria is satisfied;

26 (D) Managerial and technical employees may receive either
27 a one-time bonus payment up to eight percent (8%) of the employee's annual
28 salary or a salary adjustment up to eight percent (8%) added to the employee's
29 base pay after satisfying established competency-based criteria. The decision
30 of whether to receive a one-time bonus payment or a salary adjustment added to
31 base pay is at the discretion of the employee. If the agency or institution
32 of higher education has a compelling reason not to honor the employee's
33 decision, an appeal may be filed with the Office of Personnel Management for a
34 recommendation after review by the Legislative Council. One-time bonus
35 payments may be paid at the end of the fiscal year in which the bonus was
36 earned or upon completion of a qualifying project and such payments shall not

1 be construed as exceeding the maximum salary. One-time bonus payments will be
 2 considered as salary for retirement purposes. The Chief Fiscal Officer of the
 3 State, after review by the Legislative Council, may approve such salary
 4 adjustments or bonus payments, including the time of payment, for employees
 5 occupying positions in such classifications;

6 (E) Employees within a career ladder series and employees
 7 of classes that are not in a career ladder series that are not classified as
 8 managerial or technical, who meet competency-based criteria on an annual basis
 9 but are not eligible for a career ladder promotion, may be eligible for salary
 10 adjustments up to five percent (5%).

11 (F) Employees, who reach the top classification within a
 12 career ladder series or the maximum salary of their pay grade, may receive
 13 salary adjustments or bonus payments up to five percent (5%) after satisfying
 14 established competency-based criteria. Bonus payments will be considered as
 15 salary for retirement purposes and may be paid at the end of the fiscal year
 16 in which the bonus was earned or at the completion of a qualifying project,
 17 subject to the approval of the Chief Fiscal Officer of the State, after review
 18 by the Legislative Council.

19 (3)(A) An employee, upon demotion, shall retain his rate of pay
 20 at the time of demotion with the following exceptions:

21 (i) Any employee who is assigned to a position in a
 22 classification he formerly occupied within a twelve-month period after
 23 promotion from the classification shall be eligible for a rate of pay no
 24 greater than that for which he would have been eligible had he remained in the
 25 lower graded classification;

26 (ii) Any employee who is placed in a lower graded
 27 position because his original position has expired due to lack of funding,
 28 program changes, or withdrawal of federal grant funds, may continue to be paid
 29 at the same rate as he was being paid in the higher graded position upon
 30 approval of the Office of Personnel Management after seeking the review of the
 31 Legislative Council.

32 (B) When an employee's position has been approved for
 33 reclassification to a classification title of a higher salary grade, the
 34 employee shall be eligible for an additional six percent (6%) increase in the
 35 new classification. An employee, upon reclassification, who is receiving a
 36 rate of pay that is less than the entrance rate for the new grade, may be

1 adjusted to the new entrance rate.

2 (C) When an employee's position has been approved for
3 reclassification to a classification title of a lower salary grade, the
4 employee's pay shall be fixed at a rate in the lower grade which does not
5 exceed the employee's rate of pay in the higher graded position at the time of
6 reclassification.

7 (c)(1) In the event that the Chief Fiscal Officer of the State
8 determines that general revenue funds are insufficient to implement the salary
9 increases authorized in this subchapter or any other law which affects salary
10 increases for state employees, the Chief Fiscal Officer of the State may, upon
11 approval of the Governor, reduce the percentage of all authorized salary
12 increases for all state employees covered by this subchapter without regard to
13 whether the employees are compensated from general or special revenues,
14 federal funds, or trust funds.

15 (2) Provided that, if sufficient general revenues should then
16 become available at any time during the biennium to provide the maximum
17 additional salary increases for all state employees without regard to the
18 source of revenues, salary increases for state employees provided for in this
19 subchapter or any other law may then be fully implemented by the Chief Fiscal
20 Officer of the State.

21 (d) All percentage calculations stipulated in this subchapter or any
22 other law affecting salaries of state employees may be rounded to the nearest
23 even dollar amount by the Office of Personnel Management when making the
24 percentage changes to state employee salaries."

25

26 SECTION 4. Arkansas Code 21-5-214 is amended to read as follows:

27 "21-5-214. New appointments.

28 New appointments to positions in a state agency or institution of higher
29 education covered by this subchapter shall not be at greater than Pay Level I
30 unless a special rate is requested and approved as follows:

31 (1)(A) State agencies or institutions of higher education may
32 request special rates of compensation for either current or prospective
33 employees within the agency or institution under the following conditions:

34 (i) Where prevailing market rates of compensation for
35 a specific classification title are such that the agency or institution is
36 unable to competitively recruit at the entry level for the salary grade

1 assigned to that classification, the Chief Fiscal Officer of the State may
 2 authorize salary adjustments up to the maximum annual rate authorized for the
 3 grade assigned to career ladder classifications after review of such salary
 4 adjustments by the Legislative Council;

5 (ii) Where an acute shortage of qualified applicants
 6 for a specific classification exists;

7 (iii) Where the agency or institution desires to
 8 obtain the services of an exceptionally well-qualified applicant for a
 9 specific classification; or

10 (iv) To meet any requirements of the federal Fair
 11 Labor Standards Act.

12 (B)(i) State agencies or institutions of higher education
 13 may hire new employees up to a pay level equal to fifty percent (50%) of the
 14 range between Pay Level II and Pay Level III of the appropriate grade with the
 15 written approval of the Chief Fiscal Officer of the State, or above that level
 16 only with the approval of the Chief Fiscal Officer of the State after review
 17 by the Legislative Council, for new appointments where qualified applicants
 18 cannot be obtained at Pay Level I of the assigned grade.

19 (ii) No special rates of compensation shall be
 20 approved under the provisions of this section unless the classification is
 21 properly reviewed and approved as a market rate classification and listed on a
 22 register of such classifications to be maintained by the Office of Personnel
 23 Management of the Department of Finance and Administration.

24 (iii) The Office of Personnel Management shall file a
 25 report of all such classifications with the Legislative Council within the
 26 month following such approval.

27 (C)(i) In all instances where a special rate of
 28 compensation has been approved for a specific classification due to prevailing
 29 market rates of compensation or an acute shortage of qualified applicants,
 30 current employees within the state agency or institution allocated to the
 31 affected classification shall not be adjusted to that new rate by the agency
 32 or institution until it has received approval to do so, where justified, by
 33 the Office of Personnel Management after seeking the review of the Legislative
 34 Council.

35 (ii) Agency or institution requests for special rates
 36 of compensation due to prevailing market rates or an acute shortage of

1 qualified applicants for a specific classification may be approved up to the
2 maximum annual rate authorized for the grade assigned to a classification;

3 (2)(A) State agencies or institutions may hire a new employee up
4 to a pay level equal to fifty percent (50%) of the range between Pay Level II
5 and Pay Level III of the appropriate pay grade with the written approval of
6 the Chief Fiscal Officer of the State and up to Pay Level IV with the approval
7 of the Chief Fiscal Officer of the State after review by the Legislative
8 Council, provided that this provision is intended to be used exclusively for
9 the hiring of the exceptionally well-qualified employee whose background and
10 experience qualify the applicant to perform the job with very little or
11 substantially less orientation and training than would be the case for a
12 qualified applicant.

13 (B) Requests by state agencies or institutions for special
14 rates of compensation based on an exceptional level of qualifications held by
15 a prospective employee may be approved only after the agency or institution
16 has met the following conditions:

17 (i) It has documented to the satisfaction of the
18 Chief Fiscal Officer of the State that no current employee of the affected
19 agency or institution could have been considered for promotion as an
20 equivalent alternative to the exceptionally well-qualified applicant. The
21 Chief Fiscal Officer of the State shall, upon request, supply any
22 documentation to the Legislative Council; and

23 (ii) The prospective employee possesses a level of
24 experience or educational credentials that would permit him to perform the
25 duties and responsibilities of the position for which the special rate is
26 being requested with significantly less training and orientation than all
27 other qualified applicants.

28 (C) The hiring of a new employee under subdivision (2) of
29 this section shall not affect the salary level or salary eligibility of any
30 existing employee within the agency or institution.

31 (D) The provisions of this section shall apply to both
32 current and prospective state employees;

33 (3) In all instances where approval has been granted to a
34 requesting agency or institution for special rates of compensation in
35 accordance with the provisions of this section, the Chief Fiscal Officer of
36 the State shall report all approvals monthly to the Legislative Council;

1 (4)(A) There shall be established a pool of ~~two hundred (200)~~
 2 four hundred (400) positions at grade 26 assigned to the Office of Personnel
 3 Management to be used to reclassify positions in state agencies and
 4 institutions, when justified, to the proper classification and grade when the
 5 agency or institution does not have a vacant position available with the
 6 appropriate classification and grade.

7 (B) To obtain a position from the pool, an agency or
 8 institution must surrender to the pool the position being reclassified.

9 (C) The Office of Personnel Management shall review all
 10 requests and may grant approval of the reclassification after seeking the
 11 review of the Legislative Council; and

12 (5) An employee's anniversary date may be changed on approval of
 13 the Office of Personnel Management with the review of the Legislative Council
 14 in the event that an inequity is created due to the implementation procedures
 15 of this subchapter."
 16

17 SECTION 5. Arkansas Code 21-5-219 is amended to read as follows:

18 "21-5-219. Nonclassified employees.

19 (a) The maximum annual salary rates for the ~~1998-99 fiscal year~~ 1999-
 20 2000 and 2000-2001 fiscal years as set out in dollars by law enacted by the
 21 ~~Eighty-First~~ Eighty-Second General Assembly for departments, boards,
 22 commissions, institutions of higher education and state agencies, including
 23 constitutional offices and departments, may be increased by an amount not to
 24 exceed the amount required to increase the maximum annual salary for the
 25 position for the immediately previous fiscal year by ~~three and two-tenths~~
 26 ~~percent (3.2%)~~ two and eight-tenths percent (2.8%). The resulting salary shall
 27 represent the maximum annual salary rate for the ~~1998-99 fiscal year~~ 1999-2000
 28 and 2000-2001 fiscal years.

29 (b) The maximum annual salary rates for the ~~1997-99~~ 1999-2001 biennium
 30 as set out in dollars by law enacted by the ~~Eighty-First~~ Eighty-Second General
 31 Assembly for all departments, boards, commissions, institutions of higher
 32 education and state agencies may be increased by an additional amount of not
 33 to exceed two percent (2%), provided that the Chief Fiscal Officer of the
 34 State determines that sufficient general revenues become available. The
 35 resulting salary shall represent the maximum annual salary rates for the 1997-
 36 99 biennium.

1 (c) Selected unclassified employees qualifying as a result of
 2 prevailing labor market conditions may receive a one-time bonus up to eight
 3 percent (8%) of the employees annual salary after satisfying established
 4 competency-based criteria. One-time bonus payments may be paid at the end of
 5 the fiscal year in which the bonus was earned or upon completion of a
 6 qualifying project and such payments shall not be construed as exceeding the
 7 maximum salary. One-time bonus payments will be considered as salary for
 8 retirement purposes. The Chief Fiscal Officer of the State, after review by
 9 the Legislative Council, may approve such bonus payments, including the time
 10 of payment, for such unclassified employees."

11
 12 SECTION 6. Arkansas Code 21-5-1001 is amended to read as follows:

13 "21-5-1001. Legislative intent.

14 It is the intent of the General Assembly that each state agency, board,
 15 commission, and institution of higher education evaluate the performance of
 16 their employees annually as a part of a competency-based pay system. Employees
 17 evaluated using an instrument approved by the Office of Personnel Management,
 18 Department of Finance and Administration, who ~~exceed standards in the~~
 19 ~~performance of their duties shall be eligible for incentive pay awards. All~~
 20 ~~such awards shall be in the form of a bonus and shall be subject to all~~
 21 ~~applicable state and federal taxes. Incentive pay awards shall not be added to~~
 22 ~~the employee's base pay for retirement credit purposes nor for the calculation~~
 23 ~~of any other salary adjustments. Such awards shall not be construed as~~
 24 ~~exceeding the employee's maximum allowable annual salary. demonstrate~~
 25 acceptable job performance and meet the required competency-based criteria
 26 shall be eligible to receive a career ladder salary adjustment or bonus
 27 payment."

28
 29 SECTION 7. Arkansas Code 21-5-1002 is amended to read as follows:

30 "21-5-1002. Performance evaluation categories.

31 (a) There are hereby established the following uniform performance
 32 evaluation categories ~~for use in determining incentive pay award eligibility:~~

33 (1) 'Unsatisfactory'. As used in this section, 'unsatisfactory'
 34 shall mean an overall performance of duties that is consistently unacceptable
 35 in quality, accuracy and timeliness.

36 (2) 'Satisfactory'. As used in this section, 'satisfactory' shall

1 mean an overall evaluation which demonstrates competency in the performance of
 2 the duties and responsibilities of the job.

3 (3) 'Exceeds standards'. As used in this section, 'exceeds
 4 standards' shall mean an overall evaluation which demonstrates performance of
 5 the duties and responsibilities of the job at a level exceeding that of a
 6 satisfactory evaluation.

7 (b) During any fiscal year in which the Governor determines sufficient
 8 funds are available, employees as defined by § 21-5-203 achieving an overall
 9 rating of 'exceeds standards' shall be eligible for incentive pay awards
 10 ranging from zero percent (0%) to five and one-half percent (5.5%) of their
 11 salaries at the time of evaluation. An employee may not receive more than one
 12 (1) incentive pay award under the provisions of this section in any twelve-
 13 month period."

14
 15 SECTION 8. Arkansas Code 21-5-1003 is amended to read as follows:
 16 "21-5-1003. Performance evaluation process.

17 Any agency, board, commission, or institution of higher education may
 18 revise or develop an evaluation process as a part of a competency-based pay
 19 system which is suited to the mission of the
 20 agency/board/commission/institution provided the evaluation process identifies
 21 performance which is 'unsatisfactory', 'satisfactory' and 'exceeds standards'
 22 and provided the evaluation system complies with the competency-based pay
 23 system criteria guidelines established by the Office of Personnel Management.
 24 The agency/board/commission/institution may implement the performance
 25 evaluation system after review by the Arkansas Legislative Council."

26
 27 SECTION 9. Arkansas Code 21-5-1004 is amended to read as follows:
 28 "21-5-1004. Annual evaluation required.

29 Management or supervisory personnel who fail to complete an annual
 30 evaluation of employees under their administrative control shall not be
 31 eligible for ~~incentive pay awards~~ career ladder incentive payments
 32 themselves."

33
 34 SECTION 10. Arkansas Code 21-5-1005 is hereby repealed.

35 ~~21-5-1005. Amount of incentive pay award.~~
 36 ~~No agency, board, commission, institution, or constitutional office~~

1 ~~shall expend more than one and one-half percent (1.5%) of their total regular~~
2 ~~salary appropriation for incentive pay awards in any fiscal year. The~~
3 ~~Department of Finance and Administration shall oversee the incentive pay~~
4 ~~awards for each agency, board, commission, and institution, and will monitor~~
5 ~~the distribution of the incentive funds to ensure compliance with the~~
6 ~~legislative intent of fair and equitable incentive pay awards.~~

7
8 SECTION 11. Arkansas Code 21-5-1006 is hereby repealed.

9 ~~21-5-1006. Analysis of current systems.~~

10 ~~The Office of Personnel Management shall review evaluation systems~~
11 ~~currently used in state government and report to the Arkansas Legislative~~
12 ~~Council by July 1, 1998, its recommendations to revise the current systems or~~
13 ~~implement a new process to evaluate performance.~~

14
15 SECTION 12. All provisions of this act of a general and permanent
16 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
17 Code Revision Commission shall incorporate the same in the Code.

18
19 SECTION 13. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

24
25 SECTION 14. All laws and parts of laws in conflict with this act are
26 hereby repealed.