SENATE FLOOR VERSION
April 9, 2014
AS AMENDED

ENGROSSED HOUSE
BILL NO. 3294 By: Osborn of the House

and

Jolley of the Senate

[state government - creating the Oklahoma Career Service Act - repealer - codification - effective date]

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-1.1, is amended to read as follows:

Section 840-1.1 ~~A. Sections 840-1.1 through 840-6.9 of this title~~ This act shall be known and may be cited as the "Oklahoma ~~Personnel~~ Career Service Act".

~~B. All statutes hereinafter enacted and codified within Sections 840-1.1 through 840-6.9 of this title shall be part of the Oklahoma Personnel Act.~~

SECTION 2. AMENDATORY 74 O.S. 2011, Section 840-1.2, is amended to read as follows:

Section 840-1.2 A. It is the purpose of this act to ~~protect the public from improper use of authority, to protect public officials and employees from unwarranted assaults on their integrity~~

~~and to enforce the protections for classified employees and citizens under the Merit System of Personnel Administration. It is further the general purpose of this act to establish for the state a system to recruit, select, develop and maintain an effective and responsive work force; to provide for administrative flexibility and adequate and reasonable protection and security for those who have entered and will enter into the service of the state; to provide for the preservation and protection of the Merit System; and to provide policies and procedures for the selection, hiring, retention, advancement, career development, job classification, salary administration, discipline, discharge and other related activities, all in accordance with principles of merit and fitness and equal employment opportunity, and to maintain a high level of morale, motivation and productivity among state employees~~ establish an effective system of human resources management that will attract, select, retain and promote the best-qualified employees based on merit and equal opportunity, and free from coercive political influences. The intent of this act is to allow agencies flexibility in human resources management within a framework of consistent best practices across all state agencies and entities.

B. As provided in this act, it is the policy of the state that agencies treat all employees in accordance with the following principles:

1. Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, national origin, gender, age, disability, religion or creed, or political opinions or affiliations. This "fair treatment" principal includes compliance with all applicable state and federal equal-employment-opportunity and nondiscrimination laws;

2. Recruiting, selecting, and promoting employees on the basis of their relative skills, abilities, competencies and knowledge, including an open process to consider qualified applicants for initial employment;

3. Providing equitable and adequate compensation based on performance, job value and competitiveness and applicable labor markets;

4. Training and developing employees to assure a high level of performance and to provide workforce knowledge and skills needed to maintain and advance the goals and objectives of the state;

5. Retaining employees on the basis of their performance, counseling inadequate performance and unacceptable conduct, and terminating employees whose performance or conduct is inadequate, unsuitable or inferior; and

6. Assuring that employees are protected against coercion from partisan political purposes and are protected from using their official authority for the purpose of interfering with, or affecting the result of, an election or nomination for office.

SECTION 3. AMENDATORY 74 O.S. 2011, Section 840-1.3, as amended by Section 868, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-1.3), is amended to read as follows:

Section 840-1.3 As used in the Oklahoma ~~Personnel~~ Career Service Act, unless otherwise provided in Sections 840-1.1 through 840-6.9 of this title:

1. "Agency" means any office, department, board, commission or institution of the executive branch of state government. Agency shall not include any nonappropriated agency;

2. "Employee" or "state employee" means an elected or appointed officer or employee of an agency unless otherwise indicated;

3. "Appointing authority" means the chief administrative officer of an agency;

4. "Classification" means:

a. the process of placing an employee into an appropriate job family and level within the job family, consistent with the allocation of the position to which the employee is assigned, or

b. an employee's job family and the level at which work is assigned;

5. "Classification plan" means the orderly arrangement of positions within an agency into separate and distinct job families so that each job family will contain those positions which involve similar or comparable skills, duties and responsibilities;

6. "~~Classified~~ Career service" means state employees ~~and~~ in positions ~~under the jurisdiction of the Oklahoma Merit System of Personnel Administration~~ that are not required to be in the executive service pursuant to Section 840-5.5 of this title;

7. "Copy" means the duplication of an original document or recording. The copy may be provided in an electronic format generated from technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

8. ~~"Entrance examination" means any employment test used by the Office of Management and Enterprise Services to rank the names of applicants who possess the minimum requirements of education, experience, or licensure for a job or group of similar jobs on a register of eligibles established by the Office of Management and Enterprise Services~~ "Executive service" means employees and positions required to be in the executive service pursuant to Section 840-5.5 of this title;

9. "Job" means a position or job family level in a job family;

10. "Job family" means:

a. jobs which require similar core skills and involve similar work, and

b. a logical progression of roles in a specific type of occupation in which the differences between roles are related to the depth and breadth of experience at various levels within the job family and which are

sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills and abilities required, and education and experience requirements;

11. "Job family level" means a role in a job family having distinguishable characteristics such as knowledge, skills, abilities, education, and experience;

12. "Job family descriptor" means a written document that:

a. describes a job family, including, but not limited to, the basic purpose, typical functions performed, various levels within the job family, and the knowledge, skills, abilities, education, and experience required for each level, and

b. identifies the pay band assigned for each level;

13. "Promotional ~~examination~~ assessment" means any employment ~~test~~ tool designated by the Office of Management and Enterprise Services to determine further the qualifications of a permanent ~~classified~~ career service employee of a state agency for employment in a different job for which the employee possesses the minimum qualifications of education, experience, or licensure within that agency;

14. "Interagency transfer" means an action in which an employee leaves employment with one agency and enters employment with another agency while continuously employed with the state;

15. "Intra-agency transfer" means moving an employee from one position to another position with the same agency either with or without reclassification;

16. "Job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees, including any association for which payroll deductions for membership dues are authorized pursuant to paragraph 5 of subsection B of Section ~~7.10~~ 34.70 of Title 62 of the Oklahoma Statutes;

17. "Lateral transfer" means the reassignment of an employee to another state job with the same pay band assignment as the job family level in which the employee was ~~classified~~ employed career service prior to the lateral transfer;

18. ~~"Merit Rules" or "Merit~~ "Career Service Rules for Employment" or ~~"Merit System of Personnel Administration Rules"~~ "Career Service Code" means rules adopted by the Director of the Office of Management and Enterprise Services ~~or the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act~~;

19. "Noncompetitive appointment" means the appointment of a person to a noncompetitive job level within a job family;

20. "Noncompetitive job" means an unskilled or semiskilled job designated by the Office of Management and Enterprise Services as noncompetitive. Noncompetitive jobs do not require ~~written~~

~~examinations~~ assessment for placement on ~~registers~~ lists of eligibles;

21. ~~"Permanent classified employee" means a classified service employee who has acquired permanent status in accordance with the Oklahoma Personnel Act, and rules adopted pursuant thereto, and who has the right to appeal involuntary demotion, suspension without pay, and discharge to the Commission;~~

~~22. "Presiding official" means a person serving the Oklahoma Merit Protection Commission in the capacity of administrative hearing officer, mediator, or other alternative dispute resolution arbitrator or facilitator;~~

~~23. "Progressive discipline"~~ "Career coaching" means a system designed to ensure the consistency, impartiality and predictability of discipline and the flexibility to vary penalties if justified by aggravating or mitigating conditions;

~~24.~~ 22. "Reclassification" means the process of changing a ~~classified~~ career service employee from one job family to another job family or from one job family level to another job family level in the same job family, resulting in a change in the employee's assigned job code;

~~25.~~ 23. "Regular and consistent" means, in connection with the work assignments of an employee, the usual and normal work assignments of the employee, excluding incidental, casual, or occasional tasks and activities the employee assumes without

direction to do so. Temporary work assignments of less than sixty (60) days in any twelve (12) consecutive months period shall not be considered regular and consistent;

~~26. "Regular unclassified service employee" means an unclassified service employee who is not on a temporary or other time-limited appointment;~~

~~27.~~ 24. "Supervisor" means a ~~classified~~ career service or ~~unclassified~~ executive service officer or employee who has been assigned authority and responsibility for evaluating the performance of subordinates;

~~28. "Unclassified service" or "exempt service" means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration;~~

~~29. "Merit~~ 25. "Career Service System" means the ~~Oklahoma Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration;

~~30.~~ 26. "Director" means the appointing authority of the Office of Management and Enterprise Services;

~~31. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;~~

~~32.~~ 27. "Office" means the Office of Management and Enterprise Services;

~~33.~~ 28. "Commission" means the ~~Oklahoma Merit Protection~~ Career Service Commission;

~~34.~~ 29. "Veteran" means a person who has been honorably discharged from the Armed Forces of the United States and has been a resident of Oklahoma for at least one (1) year prior to the date of the ~~examination~~ assessment; and

~~35.~~ 30. "Voluntary out" means the voluntary separation of employees from the state service in exchange for benefits offered by an agency in order to reduce or eliminate the adverse impact of an imminent reduction-in-force.

SECTION 4. AMENDATORY 74 O.S. 2011, Section 840-1.6, as amended by Section 5, Chapter 303, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-1.6), is amended to read as follows:

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

B. The Director of the Office of Management and Enterprise Services may employ attorneys, accountants and other personnel as the Director deems necessary to carry out the duties imposed upon the Office.

C. Employees of the Office shall be subject to the ~~Merit~~ Oklahoma Career Service System of ~~Personnel~~ Human Resources Administration, unless otherwise exempted by Section 840-5.5 of this title.

SECTION 5. AMENDATORY 74 O.S. 2011, Section 840-1.6A, as amended by Section 6, Chapter 303, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-1.6A), is amended to read as follows:

Section 840-1.6A The Office of Personnel Management Division of the Office of State Finance is hereby consolidated into and renamed the Office of Management and Enterprise Services. Where the term "Office of Personnel Management" is used within the Oklahoma Statutes, it shall mean the Office of Management and Enterprise Services. The chief administrative officer shall be the Director of the Office of Management and Enterprise Services. In addition to the other duties imposed by law, the Director shall:

1. Be responsible for the development of an efficient and effective system of ~~personnel~~ human resources administration that meets the management needs of the various agencies;

2. Organize the Office to provide both service and regulatory functions that are effective and efficient in meeting the management needs of various state agencies. The Director is directed to establish an agency service function to assist agencies with human resource needs based upon the administrative capacity and resources of the various agencies;

3. Prepare, maintain, and revise a ~~classified~~ career service system of employment designed to assure the impartial consideration of applicants for employment and to protect state employees from arbitrary dismissal or unfair treatment;

4. Develop and maintain a classification and compensation system for all ~~classified~~ career service and executive service positions in the executive branch of state government including those established by the Oklahoma Constitution;

5. Conduct an analysis of the rates of pay prevailing in the state in the public and private sectors for comparable jobs and report the findings to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives no later than ~~December~~ February 1 of each year. Such analysis shall include all forms of compensation including fringe benefits. Information solicited by the Office of Management and Enterprise Services from public and private sector employers for such analysis, including but not limited to salaries, benefits, and compensation policies and procedures, shall be confidential and shall not be subject to disclosure under the Oklahoma Open Records Act;

6. Develop a program for the recruitment of qualified persons, including the administration of valid job-related nondiscriminatory selection procedures ~~providing for competitive examinations when practical and for reasonable selection criteria when competitive examinations are not practical. As part of the recruitment program established by this section, the Director may identify positions or job family levels for expedited recruitment. Such expedited recruitment jobs may include only those jobs where education, experience or certification requirements substantially limit the~~

~~pool of available applicants. Applicants who have been certified by the Office of Management and Enterprise Services as meeting the minimum qualifications for such jobs may be referred to agencies with vacancies in such jobs without examination or ranking, and may be eligible for appointment upon referral. However, a referral may not occur until the register for the job has been publicly announced for at least fourteen (14) calendar days. The Director may remove positions or job family levels from expedited recruitment at any time. The Director shall promulgate rules to implement expedited recruitment~~;

7. Develop and implement a reasonable and expeditious method for referral of capable candidates for vacancies, probationary periods of employment, and the employment of individuals on other types of appointments as necessary;

8. Assist state agencies in implementing their duties and obligations pursuant to the Oklahoma ~~Personnel~~ Career Service Act and provide standard forms to the agencies if necessary;

9. Develop, in cooperation with appointing authorities, employee training programs, management training programs, a certified public manager program, a recruiting program, and a system of performance appraisals, and assist appointing authorities in the setting of productivity goals. The Director may establish and collect fees for participation in training programs. The Director is authorized to purchase awards for presentation to state employees

as part of employee recognition activities sponsored by the Office of Management and Enterprise Services;

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

11. Assist the ~~Oklahoma Merit Protection~~ Career Service Commission ~~and the Executive Director~~ in effectuating ~~their~~ its duties, enforcement of the rules of the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration, and implementation of corrective action issued by the Commission;

12. Be responsible for the development and maintenance of a uniform occupation code system, grouped by job titles or duties, for all ~~classified and unclassified~~ career service and executive service state positions. The responsibility shall include the establishment of rules governing the identification, tracking, and reporting of all state positions as provided in Section 840-2.13 of this title;

13. Be responsible for advising state agencies on ~~personnel~~ human resources policy and administration;

14. Establish standards for continuing training~~, including affirmative action,~~ and certification of ~~personnel~~ human resources professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education.

~~Employees appointed to professional personnel positions shall complete an initial training program within one (1) year after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of, and scheduled to attend, required training programs and shall make time available for employees to complete the programs.~~ The Director shall be authorized to bill agencies for the training of ~~personnel~~ human resources professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Human Capital Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of Management and Enterprise Services established by law;

15. Not less than once during each two-year period, conduct a study identifying the following, by job family descriptors:

a. selected job family levels with a turnover rate in excess of ten percent (10%),

b. selected job family levels identified by the Director of the Office of Management and Enterprise Services with salaries and benefits that are ten percent (10%) or more below the market for such positions, and

c. selected job family levels identified by the Director in which recruitment efforts have yielded a low number of qualified applicants;

16. Issue orders directing agencies to:

a. conform and comply with the provisions of the Oklahoma ~~Personnel~~ Career Service Act, the ~~Merit Rules of Personnel~~ Career Service System of Human Resources Administration, and all memoranda or other written communications issued to agencies explaining the Oklahoma ~~Personnel~~ Career Service Act, the Rules, and any other matter relating to the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration or under the jurisdiction of the Director, and

b. take action pursuant to Section 840-6.9 of this title for failure to implement those orders;

17. Establish a workforce planning function within the Office of Management and Enterprise Services to assist state agencies in analyzing the current workforce, determining future workforce needs, and implementing solutions so that agencies may accomplish their missions; and

18. Establish a quality management function within the Office of Management and Enterprise Services and assist state agencies in fully integrating quality management concepts and models into their

business practices for the purpose of improving the overall efficiency and effectiveness of state government.

SECTION 6. AMENDATORY 74 O.S. 2011, Section 840-1.9, as amended by Section 7, Chapter 303, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-1.9), is amended to read as follows:

Section 840-1.9 ~~In addition to any other duties expressly set forth by law,~~ All functions, powers, duties and obligations of the Oklahoma Merit Protection Commission shall be transferred to the Office of Management and Enterprise Services. In addition to any other duties expressly set forth by law, the Office of Management and Enterprise Services shall:

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

2. Investigate allegations of violations of the provisions of the Oklahoma ~~Personnel~~ Career Service Act within its jurisdiction;

3. ~~Investigate allegations of abuses in the employment practices of the Director of the Office of Management and Enterprise Services or of any state agency;~~

~~4.~~ Investigate allegations of violations of the rules of the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration and prohibited activities in the ~~classified~~ career service;

~~5.~~ 4. Establish and maintain a statewide Alternative Dispute Resolution Program to provide dispute resolution services for state agencies and employees. Actions ~~agreed to~~ through the Alternative Dispute Resolution Program ~~provided by the Commission~~ shall be consistent with applicable laws and rules and shall not alter, reduce, or modify any existing right or authority as provided by statute or rule;

~~6.~~ 5. Establish rules, pursuant to the Administrative Procedures Act as may be necessary to perform the duties and functions of the Commission including, but not limited to, rules to monitor state agency ~~grievance~~ complaint processes to ensure full compliance with the law~~. The Commission may also recommend any changes it deems necessary to improve such grievance processes to the appropriate state agency~~;

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

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

~~9.~~ 8. Submit ~~quarterly,~~ annual fiscal year reports on workload statistics to the Governor, the Speaker of the House of

Representatives, ~~and~~ the Minority Leader of the House of Representatives, the President Pro Tempore of the Senate ~~containing the following information:~~

~~a. the number of cases, complaints, and requests for hearing filed, disposed of and pending with the Commission for each month of the quarter,~~

~~b. a numerical breakdown of the methods of disposition of such cases, complaints, and requests for hearing,~~

~~c. a numerical breakdown of mediations, prehearing conferences, and appellate hearings, conducted, and~~

~~d. the date of the oldest pending case, complaint, and request for hearing.~~

~~Quarterly reports shall be submitted within thirty (30) days following the last day of the month of the appropriate quarter~~, and the Minority Leader of the Senate; and

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

SECTION 7. AMENDATORY 74 O.S. 2011, Section 840-1.10, is amended to read as follows:

Section 840-1.10 A. ~~A member of the Oklahoma Merit Protection Commission and the Executive Director~~ The Office of Management and Enterprise Services and the Career Service Commission shall have power to subpoena witnesses and compel the production of books and papers pertinent to any investigation, dispute resolution or hearing authorized by this act. ~~Members of the Oklahoma Merit Protection Commission, the Executive Director, and their~~ The Career Service Commission or its designees shall have the power to administer oaths. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation, dispute resolution or hearing or who shall knowingly give false testimony therein upon conviction shall be subject to penalties pursuant to Section ~~40~~ 840-6.9 of this ~~act~~ title.

B. Any state employee subpoenaed ~~by the Executive Director or Commission~~ to appear pursuant to this section shall be reimbursed by the employing agency for expenses as provided in the State Travel Reimbursement Act and shall be paid his or her regular salary for each day that the employee is subpoenaed to appear. Said reimbursement and payment shall be in lieu of any witness fees to which the employee might otherwise be entitled by law and a request

by a state employee for such fees shall not remove the obligation which the state employee has to honor the subpoena.

SECTION 8. AMENDATORY 74 O.S. 2011, Section 840-1.14, is amended to read as follows:

Section 840-1.14 When any officer or employee of the state is in doubt as to the application of the Oklahoma ~~Personnel~~ Career Service Act as to himself or to any employee under his supervision, he may submit to the Attorney General a full written statement of the facts and questions he may have. The Attorney General shall then render an opinion to such person and may publish these opinions, or abstracts thereof, with the use of the name of the person advised unless such person requests otherwise in writing. ~~The Attorney General shall be the legal counsel for the Oklahoma Merit Protection Commission and represent it when its decisions are appealed to higher courts. The Office of the Attorney General shall be legal counsel for and represent the Merit Protection Commission notwithstanding its representation of any other state department, agency, board or commission in the same or related matters pending before the Merit Protection Commission or before any court. The Attorney General shall establish internal administrative procedures to ensure that both such agencies are provided independent legal representation, and such simultaneous representation shall not, of itself, be deemed to constitute a conflict of interest. In the event the Attorney General determines an irreconcilable conflict of~~

~~interest exists, to the extent that he is unable to provide simultaneous representation to both the Merit Protection Commission and another state department, agency, board or commission the provision of Section 18c-2 of this title shall apply.~~

SECTION 9. AMENDATORY 74 O.S. 2011, Section 840-1.18, as amended by Section 869, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-1.18), is amended to read as follows:

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

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

department or agency, and the quarterly average number of employees in the ~~classified~~ career service of the state.

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

D. Any state agency for which the Director provides payroll services shall pay for such services at a rate established by the Director, which shall be based upon the cost to the Director of providing such services. Each agency shall remit payment for such services quarterly from departmental or agency funds to the Director who shall deposit such payments into the Office of Management and Enterprise Services Revolving Fund created in Section 840-1.20 of this title.

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

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

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

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

compel the appointing authority or designee to certify such payroll voucher or account.

SECTION 10. AMENDATORY 74 O.S. 2011, Section 840-1.19, as amended by Section 9, Chapter 303, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-1.19), is amended to read as follows:

Section 840-1.19 It shall be the responsibility of each appointing authority to distribute copies of the ~~Merit System of Personnel Administration~~ Career Service Rules for Employment promulgated and published by the Office of Management and Enterprise Services ~~or the Merit Protection Commission, respectively,~~ to all ~~classified~~ career service employees at the request of ~~the Executive Director of the Commission or~~ the Director of the Office.

SECTION 11. AMENDATORY 74 O.S. 2011, Section 840-1.20, as amended by Section 10, Chapter 303, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-1.20), is amended to read as follows:

Section 840-1.20 A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Human Capital Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, for the purpose of paying the costs incurred in performing the duties and functions imposed upon the Office of Management and Enterprise Services and shall consist of fees and all other monies received by the Office of Management and Enterprise Services for providing training for a certified public

managers program, and all other monies received by the Office of Management and Enterprise Services, except for appropriated monies and monies received as payment for administrative expenses under Section 840-1.18 of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for defraying the costs incurred in performing the duties and functions of the Office. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. There is hereby created a petty cash fund not to exceed Two Hundred Fifty Dollars ($250.00) for the Office of Management and Enterprise Services. The Director of the Office of Management and Enterprise Services shall prescribe the rules and procedures for the administration of the petty cash fund.

C. Any monies in or obligations against the Oklahoma Merit Protection Commission Revolving Fund, Employee Benefits Revolving Fund and the Benefits Council Administration Revolving Fund shall be transferred to the Human Capital Management Revolving Fund. Funds previously designated for deposit into the Oklahoma Merit Protection Commission Revolving Fund, Employee Benefits Revolving Fund and the Benefits Council Administration Revolving Fund shall be deposited into the Human Capital Management Revolving Fund.

D. The Office of Management and Enterprise Services is hereby directed to pay from the fund the costs of transcribing the record of any proceeding before the Office of Management and Enterprise Services, which record may be designated by an indigent respondent, if such respondent first establishes indigent condition through execution of an in forma pauperis affidavit upon a form approved by the Office of Management and Enterprise Services; provided, that if the indigent respondent has a financial recovery the fund shall be reimbursed from the proceeds.

SECTION 12. AMENDATORY 74 O.S. 2011, Section 840-2.5, is amended to read as follows:

Section 840-2.5 A. This section shall be known and may be cited as the "Whistleblower Act". The purpose of the Whistleblower Act is to encourage and protect the reporting of wrongful governmental activities and to deter retaliation against state employees for reporting those activities. No conviction of any person shall be required to afford protection for any employee under this section.

B. For purposes of this section, "agency" means any office, department, commission or institution of the state government. No officer or employee of any state agency shall prohibit or take disciplinary action against employees of such agency, whether subject to the provisions of the ~~Merit~~ Career Service System or in ~~unclassified~~ executive service, for:

1. Disclosing public information to correct what the employee reasonably believes evidences a violation of the Oklahoma Constitution or law or a rule promulgated pursuant to law;

2. Reporting a violation of the Oklahoma Constitution, state or federal law, rule or policy; mismanagement; a gross waste of public funds; an abuse of authority; or a substantial and specific danger to public health or safety;

3. Discussing the operations and functions of the agency, either specifically or generally, with the Governor, members of the Legislature, the print or electronic media or other persons in a position to investigate or initiate corrective action; or

4. Taking any of the above actions without giving prior notice to the employee's supervisor or anyone else in the employee's chain of command.

C. Any person who has authority to take, direct others to take, recommend or approve any personnel action shall not take or fail to take any personnel action with respect to any employee for filing an appeal or testifying on behalf of any person filing an appeal with the ~~Oklahoma Merit Protection~~ Career Service Commission. This section shall not be construed as prohibiting disciplinary action of an employee who discloses information which the employee:

1. Knows to be false;

2. Knowingly and willfully discloses with reckless disregard for its truth or falsity; or

3. Knows to be confidential pursuant to law.

D. Each state agency, department, institution, board and commission in all branches of state government, including all institutions in The Oklahoma State System of Higher Education, shall prominently post or publish a copy of this section of law in locations where it can reasonably be expected to come to the attention of all employees.

E. As used in this section:

1. "Disciplinary action" means any direct or indirect form of discipline, any dismissal, demotion, transfer, reassignment, suspension, reprimand, admonishment, warning of possible dismissal, reduction in force, reduction in rank, reduction in status, or withholding of work;

2. "Probation" means that period of time, after an officer or employee is found to have violated the provisions of this section and corrective action is ordered, during which time that officer's or employee's performance and conduct is being monitored by the employing agency for further violations of the Oklahoma ~~Personnel~~ Career Service Act; and

3. "Mismanagement" means fraudulent activity, criminal misuse of funds or abuse or violation of a well-established, articulated, clear and compelling public policy.

F. An appeal to the ~~Oklahoma Merit Protection~~ Commission ~~must~~ shall identify the person on whose behalf it is made. The person

making the appeal ~~must~~ shall provide the ~~Oklahoma Merit Protection~~ Commission with the name, address, and telephone number of the person on whose behalf the appeal is made. The ~~Oklahoma Merit Protection~~ Commission personnel shall verify the authorization of such appeal by the person on whose behalf the appeal is made. The person claiming to be aggrieved has the responsibility to cooperate with the Commission in the investigation. The failure to cooperate in the investigation shall be grounds for dismissal of the appeal filed on behalf of the aggrieved party.

G. Any state employee or former state employee aggrieved pursuant to this section, or any authorized third-party state employee who has actual knowledge of the discipline or retaliatory act taken against the whistleblower, may file an appeal with the ~~Oklahoma Merit Protection~~ Commission within sixty (60) days of the alleged violation. The ~~Oklahoma Merit Protection Commission~~ Office of Management and Enterprise Services shall promulgate rules ~~to establish procedures for the conduct of investigations. If, after investigation, the Executive Director determines a violation of this section may have occurred, the Executive Director shall appoint an administrative law judge to hear the case as provided for in Section 840-6.6 of this title~~ for implementation of this section.

H. If, after the hearing, it is determined that a violation has occurred, the Commission ~~or administrative law judge~~ shall order corrective action pursuant to Section 840-6.6 of this title. Such

corrective action shall include, but not be limited to, suspension without pay, demotion or discharge. Any employee found to have violated this section of law, in addition to being suspended or demoted, shall be placed on probation for six (6) months. Such probation shall commence on the date of the final decision filed by the Commission. Any employee who is determined to have violated the Oklahoma ~~Personnel~~ Career Service Act, Section 840-1.1 et seq. of this title, while serving said probation shall forfeit the position of the person for one (1) year. Any employee, supervisor or appointing authority of any state agency, whether subject to the provisions of the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration or in ~~unclassified~~ executive service, who knowingly and willfully violates the provisions of this section shall forfeit the position of the person and be ineligible for appointment to or employment in a position in state service for a period of at least one (1) year and no more than five (5) years. The decision of the Commission in such cases may be appealed by any party pursuant to Article II of the Administrative Procedures Act.

SECTION 13. AMENDATORY 74 O.S. 2011, Section 840-2.9, is amended to read as follows:

Section 840-2.9 A. No person in the state service, whether subject to the provisions of the ~~Merit~~ Career Service System or in ~~unclassified~~ executive service, shall be appointed to or demoted or dismissed from any position in the state service, or in any way

favored or discriminated against with respect to employment in the state service because of political or religious opinions or affiliations, race, creed, gender, color or national origin or by reason of any physical handicap so long as the physical handicap does not render the employee unable to do the work for which he is employed. The hiring of special disabled veterans pursuant to Sections 401 through 404 of Title 72 of the Oklahoma Statutes shall not constitute favoritism as herein prohibited.

B. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the ~~classified~~ career service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. Letters of inquiry, recommendation and reference for public employees by public officials shall not be considered official authority or influence unless such letter contains a threat, intimidation, or irrelevant, derogatory or false information.

C. No person shall make any false statement, certificate, score, rating or report with regard to any ~~test~~ assessment, certification or appointment made under any provision of the Oklahoma ~~Personnel~~ Career Service Act or in any manner commit any

fraud preventing the implementation of the provisions of the Oklahoma ~~Personnel~~ Career Service Act and rules made pursuant thereto.

D. No employee, ~~examiner~~ assessor or other person shall deny, deceive or obstruct any person in his or her right to ~~examination~~ assessment, eligibility, certification or appointment or furnish to any person any special or secret information for the purpose of effecting the rights or prospects of any person with respect to employment in the ~~classified~~ career service.

E. No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or as a result of any appointment, proposed appointment, promotion or proposed promotion to or any advantage in, a position in the ~~classified~~ career service or ~~unclassified~~ executive service.

F. Alleged violation of this section shall be reported ~~to the Oklahoma Merit Protection Commission~~ pursuant to the rules promulgated by the Office of Management and Enterprise Services.

SECTION 14. AMENDATORY 74 O.S. 2011, Section 840-2.13, as amended by Section 874, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.13), is amended to read as follows:

Section 840-2.13 A. The Director of the Office of Management and Enterprise Services shall establish a Personnel Management Information System to provide various management reports to

facilitate decision making within agencies, and to promote the efficient utilization of personnel resources by providing a method for tracking, monitoring and reporting positions and employee transactions. The System shall include information on both the ~~classified~~ career and ~~unclassified~~ executive services within the executive branch of government, but shall not require institutions within The Oklahoma State System of Higher Education to participate.

B. The Director of the Office of Management and Enterprise Services shall promulgate rules regarding the Personnel Management Information System as necessary to implement the provisions of this section. Such rules shall establish a schedule to ensure the orderly implementation of such Personnel Management Information System.

C. The Personnel Management Information System shall be implemented for all state agencies under the ~~Merit~~ Career Service System ~~by July 1, 1993, and for all other executive branch state agencies by July 1, 1994~~.

D. State agencies shall assist the Office of Management and Enterprise Services as necessary to ensure the orderly completion of implementation as provided for in this section.

E. Appointing authorities in the legislative or judicial branches of state government may participate in the Personnel Management Information System at their option.

SECTION 15. AMENDATORY 74 O.S. 2011, Section 840-2.14, as amended by Section 875, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.14), is amended to read as follows:

Section 840-2.14 A. The intent of the Legislature is to increase individual agency skill and accountability in managing the costs associated with personnel and in applying controls that will enhance the ability of the State of Oklahoma to manage the overall costs of human resources as efficiently as possible, while continuing to maintain fairness to employees.

B. ~~All agencies, boards, and commissions shall report all reallocation decisions for both classified and unclassified positions and all adjustments to pay grades or salary assignments for classes in the unclassified service to the Office of Management and Enterprise Services on a semiannual basis.~~ The Office of Management and Enterprise Services shall ~~submit the semiannual reports to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, along with an analysis of statewide~~ produce an electronic report on an annual basis of all reallocation decisions for career service positions.

C. ~~All agencies, boards, and commissions shall report to the Office of Management and Enterprise Services on a semiannual basis all transactions in both the classified and unclassified service involving the establishment of new positions that have not been authorized specifically by legislative action. Agencies shall~~

~~report the transactions for the six-month period ending June 30 or December 31.~~ The Office of Management and Enterprise Services shall ~~forward the semiannual reports to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives, accompanied by an analysis of agency decisions concerning such~~ produce an electronic report on an annual basis of all transactions in the career service and executive service involving the establishment of new positions.

D. As a further control on human resource costs, the Governor may declare a financial emergency or implement a freeze in hiring, by declaring this section to be in effect. CompSource Oklahoma shall not be subject to the provisions of this subsection. During such periods, no audits of ~~classified~~ career service positions or reallocation of ~~unclassified~~ executive service positions shall be initiated or conducted at the request of an agency except at the direction of the Governor. The provisions of the Oklahoma ~~Personnel~~ Career Service Act relating to agency-requested audits may be suspended during such periods to the extent that they are in conflict with this section. Provided, an audit at the request of an employee who files a classification ~~grievance~~ complaint shall be conducted during such periods in accordance with the provisions of Section 840-4.3 of this title.

E. The Office of Management and Enterprise Services shall establish due dates and specify the format for electronic reports

required by this section. Agencies that do not respond by the due dates shall be identified in a special section of the ~~semiannual~~ annual analysis reports forwarded to the Governor, President Pro Tempore of the Senate ~~and~~, the Minority Leader of the Senate, Speaker of the House of Representatives and the Minority Leader of the House of Representatives.

F. The provisions of this section shall not be construed to suspend the responsibility of any agency to ensure that the duties and responsibilities assigned to an employee are consistent with the current classification of the employee.

SECTION 16. AMENDATORY 74 O.S. 2011, Section 840-2.16, is amended to read as follows:

Section 840-2.16 Except as otherwise provided by law, any ~~classified~~ career, ~~unclassified~~ executive or exempt employee of the state, excluding members of boards and commissions, institutions under the administrative authority of the Oklahoma State Regents for Higher Education, employees of public school districts and elected officials, on July 1 of each year, earning less than the amount established in the Federal Poverty Guidelines for a three-person household, issued each year in the Federal Register by the United States Department of Health and Human Services, shall receive the necessary grade or salary adjustment to provide for a minimum annualized salary equal to the amount established in the Federal Poverty Guidelines for a three-person household, issued each year in

the Federal Register by the United States Department of Health and Human Services. Any ~~classified~~ career, ~~unclassified~~ executive or exempt employee of the state, excluding members of boards and commissions, institutions under the administrative authority of the Oklahoma State Regents for Higher Education, employees of public school districts and elected officials, employed after July 1, 2007, shall receive a minimum annualized salary equal to the amount established in the Federal Poverty Guidelines for a three-person household, issued each year in the Federal Register by the United States Department of Health and Human Services. This section shall not apply to those persons employed pursuant to ~~paragraph 8 and paragraph 12 of subsection A of~~ Section 840-5.5 and Section 2241 of this title or those persons employed pursuant to Section 1.6a of Title 53 of the Oklahoma Statutes.

SECTION 17. AMENDATORY 74 O.S. 2011, Section 840-2.19, as amended by Section 878, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.19), is amended to read as follows:

Section 840-2.19 A. The Director of the Office of Management and Enterprise Services shall not approve any payroll claim for payment for any agency unless said claim contains or is accompanied by the certification by the administrative head of said agency or an authorized employee of said agency that the persons named in said claim have been appointed and employed in accordance with the provisions of the Oklahoma ~~Personnel~~ Career Service Act and the

rules and orders promulgated pursuant to the provisions of the Oklahoma ~~Personnel~~ Career Service Act. For purposes of this section, "payroll claim" shall also include longevity payments made pursuant to Section 840-2.18 of this title.

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

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

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

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

4. If an agency neglects or refuses to seek repayment after a determination that an error in payroll amount or amounts has been

made, or to properly adjust a then current salary or wage, the Director of the Office of Management and Enterprise Services shall note an unresolved audit exception stating the agency involved and the person to whom said exception refers;

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

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

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

8. If an agency discovers overpayment or underpayment errors through an internal audit, the agency shall recover overpayments from the employee or disburse underpayment amounts in accordance

with this section. Prior to initiation of recovery of overpayments from an employee, the agency shall provide the employee with adequate notice and an opportunity to respond.

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

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

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

a. the amounts paid in error,

b. the dates of said payments,

c. the options available for repayment, and

d. the right of the payee to protest the findings.

Said notice shall also provide space for the payee to indicate an election of a repayment option or to protest the findings. Said

election shall be required within thirty (30) days after the notification;

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

a. lump-sum cash repayment,

b. reduction of the corrected current salary or miscellaneous payroll deduction in a lump sum or in installments over a term not to exceed the term in which the erroneous payments were made,

c. reduction in accrued annual leave by an amount of time at the then current correct salary level equal in value to the total of the amount or amounts to be repaid, or

d. any combination thereof;

3. If the payee is, at the time of said notification, an officer or employee of an agency of the state other than the agency seeking repayment, the options provided by paragraph 2 of this subsection may be exercised by the payee with the approval of the then current employing agency. Payment of amounts deducted or charged against annual leave shall be paid to the agency seeking repayment by an appropriate miscellaneous claim for interagency payment. If a payroll deduction is elected pursuant to the provisions of this paragraph and employment is subsequently

terminated, any balance remaining shall be deducted from any final payment otherwise due to the employee;

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

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

a. by lump-sum cash repayment, or

b. in installments over a period not to exceed twelve (12) months;

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

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

SECTION 18. AMENDATORY 74 O.S. 2011, Section 840-2.21, as amended by Section 881, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.21), is amended to read as follows:

Section 840-2.21 A. If a state employee, whether in the ~~classified~~ career service or ~~unclassified~~ executive service, is absent because of an illness or injury arising out of and sustained in the course of his or her employment with the state, and for which workers' compensation benefits have been filed, the employing agency

shall place the employee on leave without pay if the employee so requests; provided, leave without pay pursuant to this section shall not for any purpose be considered a break in service.

B. An employee who sustains an illness or injury arising out of and sustained in the course of employment with the State of Oklahoma shall not be required to use either accumulated sick or annual leave during such period prior to being placed on leave without pay pursuant to this section.

C. An employee placed on leave without pay pursuant to the provisions of this section shall continue receiving basic plan insurance coverage as defined in Section 1363 of this title and dependent insurance benefit allowance pursuant to paragraph 2 of subsection C of Section 1370 of this title paid by the agency during the leave without pay.

D. An employee on leave without pay pursuant to the provisions of this section shall have the right to be returned to his or her original position in accordance with rules promulgated by the Office of Management and Enterprise Services. If it is found necessary for the good of the state to fill the position during the period the employee is on leave without pay the employee filling the position shall vacate the position upon the return of the employee on leave without pay, subject to layoff, transfer or demotion rights earned under the Oklahoma ~~Personnel~~ Career Service Act and rules of the Office of Management and Enterprise Services. The right to return

to the original position shall expire one (1) year from the date of the start of leave without pay. The employee may be separated in accordance with the Oklahoma ~~Personnel~~ Career Service Act and Office of Management and Enterprise Services Rules if the employee has not returned to the original position of the employee or some other position within the agency within one (1) year from the date of the start of leave without pay.

E. An employee on leave without pay pursuant to the provisions of this section shall provide a medical statement as to his or her ability to perform the duties of the position to the appointing authority at least every three (3) months.

F. If the employee becomes medically able with reasonable accommodation to perform the duties of his or her original position, the employee shall be returned to such position. If the employee is unable to perform the duties of the original position with reasonable accommodation, but is medically able with reasonable accommodation to perform the duties of any other position within the agency for which the employee is qualified, and appointment to such other position does not constitute a promotion, the employee shall have first preference for any such position which becomes vacant within the agency, notwithstanding any other preference provisions of the Oklahoma ~~Personnel~~ Career Service Act or of other laws of the State of Oklahoma. An employee accepting another position pursuant to this subsection shall not forfeit his or her right to be returned

to the original position within twelve (12) months after the start of leave without pay pursuant to the provisions of subsection D of this section.

G. An ill or injured employee shall be eligible to participate in the Disability Insurance Program established pursuant to the provisions of Section 1331 et seq. of this title in accordance with rules promulgated by the Office of Management and Enterprise Services.

H. All benefits, rights, and obligations contained in this section shall continue during the time the employee remains on leave without pay status, for a continuous period not to exceed twelve (12) months. However, if a workers' compensation claim based on such illness or injury is denied during the twelve-month period, all benefits, rights and obligations conferred upon an employee pursuant to this section shall cease and be discontinued immediately.

I. A classified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to employment with any state agency for twelve (12) months after the date of separation whether in the ~~classified~~ career service or ~~unclassified~~ executive service in accordance with rules adopted by the Director of the Office of Management and Enterprise Services provided the employee is qualified for the position to which reinstated. An ~~unclassified~~ employee in executive service who is separated pursuant to subsection D of this section shall be eligible

for reinstatement to ~~unclassified~~ executive service employment with any state agency for twelve (12) months after the date of separation in accordance with rules promulgated by the Director of the Office of Management and Enterprise Services provided the employee is qualified for the position to which reinstated. Nothing in this subsection shall be construed to compel or require any agency of the state to reinstate a former employee who is separated pursuant to subsection D of this section. Further, nothing in this subsection shall be construed as limiting or reducing a former employee's eligibility for reinstatement pursuant to other general reinstatement or reemployment provisions in rules promulgated by the Director.

SECTION 19. AMENDATORY 74 O.S. 2011, Section 840-2.25, is amended to read as follows:

Section 840-2.25 A. A ~~permanent classified~~ career service employee or ~~a regular unclassified~~ executive service employee shall be entitled to take leave with pay ~~for~~ not to exceed three (3) days a year to attend meetings of job-related professional organizations of which the employee is a member upon receiving permission from the appointing authority. The denial by an appointing authority or organizational leave shall be in writing and state the reasons for denying said leave.

B. The leave authorized by this section shall not be used for lobbying activities which include the lobbying of legislative or

executive branch elected officials within state-owned or leased buildings.

SECTION 20. AMENDATORY 74 O.S. 2011, Section 840-2.27B, is amended to read as follows:

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

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

2. "Affected employees" means ~~classified~~ career service employees in affected positions;

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

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

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

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

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

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

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

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

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

12. "Reorganization" means the planned elimination, addition or redistribution of functions or duties either wholly within an agency, any of its subdivisions, or between agencies;

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

14. "Years of service" means current and prior service which is creditable for the Longevity Pay Plan. An affected employee shall not be required to have been continuously employed for two (2) years to be given credit for either current or prior service pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

SECTION 21. AMENDATORY 74 O.S. 2011, Section 840-2.27C, as amended by Section 884, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.27C), is amended to read as follows:

Section 840-2.27C A. At least sixty (60) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force notice that a reduction-in-force will be conducted in accordance with the Oklahoma ~~Personnel~~ Career Service Act and ~~Merit rules~~ Career Service Rules for Employment. The reduction-in-force implementation plan shall be provided to the Director of the Office of Management and Enterprise Services and any state employee association representing state employees at such time. The notice shall not be posted unless approved by the cabinet secretary for the agency conducting the reduction-in-force. If there is no incumbent cabinet secretary for the agency, the cabinet-

secretary-notice-approval requirement shall not be applicable. If the appointing authority is governed by an elected official, the cabinet-secretary-notice-approval requirement shall not be applicable. The approved notice shall be posted in each office affected by the proposed plan for five (5) days. The appointing authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action.

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

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

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

3. Require the separation of probationary ~~classified~~ career service affected employees in affected job family levels, except

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

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

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

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

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

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

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

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

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

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

E. The appointing authority may limit displacement of affected employees at the time of a reduction-in-force. Displacement limits shall not be subject to the approval of the Administrator. Any limitation shall be based upon reasonable, written, articulated criteria as certified by the appointing authority. If displacement

is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women.

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

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

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

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

a. be required, as a condition of continued employment by the agency, to sign an agreement, in a form to be prescribed by the Director of the Office of Management and Enterprise Services, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. An affected employee who signs the agreement required by this subparagraph waives any privilege which might otherwise have been available to the affected employee pursuant to the agreement for the provision of severance benefits, and

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

a displacement privilege in any future reduction-in-force.

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

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

H. The names of permanent ~~classified~~ career service affected employees and those affected employees ~~on probationary status~~ after reinstatement from permanent ~~classified~~ career service status without a break in service who have been separated pursuant to the State Government Reduction-in-Force and Severance Benefits Act, who apply and meet all requirements for state jobs in the ~~classified~~ career service shall be placed on Priority Reemployment Consideration Rosters for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any individual eligible for initial appointment from the employment ~~register~~ lists, individuals on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen (18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a job family level having the same or higher pay band than the job family level from which the employee was removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire. If an agency has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency who have been separated shall be eligible for priority reemployment consideration.

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

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

K. 1. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct and require mandatory furloughs for all state employees whenever it is deemed necessary and proper. The Contingency Review Board shall specify the effective dates for furloughs and shall note any

exceptions to state employees affected by same. All ~~classified~~ career service, ~~unclassified,~~ executive service or exempt ~~or nonmerit~~ employees, including those employees of agencies or offices established by statute or the Constitution, shall be affected by such actions.

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

3. Notwithstanding existing laws or provisions to the contrary, members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough. The Contingency Review Board shall additionally call upon elected officials, members of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

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

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

SECTION 22. AMENDATORY 74 O.S. 2011, Section 840-2.27D, as amended by Section 885, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.27D), is amended to read as follows:

Section 840-2.27D A. Agencies shall provide severance benefits to affected employees who are separated from the state service as a result of a reduction-in-force due to a reorganization or any other action by an agency which results in affected positions being

abolished and affected employees being severed from the state service. Severance benefits shall be given to the following categories of affected employees: permanent ~~classified~~ career service affected employees and affected employees on probationary status after reinstatement from permanent ~~classified~~ career service status without a break in service; provided, however, affected employees of the University Hospitals Authority must have been continuously employed in the state service since on or before January 1, 1995, to receive severance benefits. Pursuant to this section and Section 840-5.1A of this title, state agencies may provide severance benefits provided by this subsection to regular ~~unclassified~~ executive service employees with one (1) year or more continuous state service who are separated from the state service for budgetary reasons; however, state agencies shall offer regular ~~unclassified~~ executive service state employees with one (1) year or more continuous state service who are separated from the state service the same severance benefit as the affected employees in a reduction-in-force if the ~~unclassified~~ executive service employees' separation is as a result of the conditions causing the agency to implement a reduction-in-force. Affected employees who qualify for severance benefits pursuant to this section, in addition to the payment of any compensable accrued leave or other benefits an affected employee is eligible to receive upon separation from the

state service, shall receive severance benefits consisting of the following elements:

1. All agency severance benefits shall provide the following:

a. payment equal to the affected employee's current health insurance premium for the affected employee only for eighteen (18) months based on the cost of the premium at the time of the reduction-in-force. The appointing authority of the agency can ask the Director of the Office of Management and Enterprise Services to waive the severance benefit provision in this subparagraph or to reduce the length of coverage or subsequent severance benefit payment upon demonstration of the agency's inability to fund the full benefit,

b. a longevity payment, as prescribed by Section 840-2.18 of this title, in the amount which would otherwise be paid to the affected employee on the affected employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for affected employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state

service as would otherwise be determined by Section 840-2.18 of this title, and

c. outplacement assistance and employment counseling prior to and after the reduction-in-force from the Oklahoma Employment Security Commission and other state or private entities that the entity may contract with to assist individuals who may be impacted by a reduction-in-force; and

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

a. up to one (1) week of pay, calculated by dividing the affected employee's current annual salary by the whole number fifty-two (52), for each year of service,

b. a maximum lump-sum payment of Five Thousand Dollars ($5,000.00), and

c. payment for accumulated sick leave or extended illness benefits at up to one-half (1/2) of the affected

employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit~~; and~~

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

~~a. the affected employee may purchase One Dollar ($1.00) in voucher credit for each One Dollar ($1.00) contributed by the affected employee to the fund subject to a maximum affected employee contribution of Three Thousand Dollars ($3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars ($3,000.00); provided, that the agency contribution shall not exceed the contribution of the affected employee,~~

~~b. the affected employee may pay the cost for the voucher program directly, subject to the requirements of subparagraph a of this paragraph, or the employing agency of the affected employee may pay the cost of the voucher from funds which would otherwise have been~~

~~used to make payments to the displaced affected employee pursuant to an election by the affected employee to receive severance benefits,~~

~~c. no voucher issued pursuant to the provisions of this paragraph shall:~~

~~(1) be redeemed by the affected employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or~~

~~(2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the affected employee,~~

~~d. the Director of the Office of Management and Enterprise Services shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees from the educational institution which shall be credited to the affected employee's account, and~~

~~e. the Director of the Office of Management and Enterprise Services shall distribute to the affected employee and the agency any monies remaining in the affected employee's account after the voucher credit has expired. The distribution shall be based on the~~

~~proportional share of contributions made by the affected employee and the agency~~.

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

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

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

SECTION 23. AMENDATORY 74 O.S. 2011, Section 840-2.28, as amended by Section 889, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.28), is amended to read as follows:

Section 840-2.28 A. Agencies shall be authorized to provide voluntary-out benefits to ~~permanent classified~~ career service employees and ~~regular unclassified~~ executive service employees with one (1) year or more of continuous state service who are voluntarily separated from the state service in order to reduce or eliminate the adverse impact of an imminent reduction-in-force. For purposes of this section, "agency" or "agencies" shall include agencies, boards, commissions, or departments of all three branches of state government. Voluntary-out benefit payments made pursuant to this section, in addition to the payment of any compensable accrued leave and other benefits an employee who voluntarily separates is eligible

to receive upon separation from the state service, shall consist of the following elements:

1. All agency voluntary-out benefits shall provide the following:

a. payment equal to the employee's current health insurance premium for the employee only for eighteen (18) months based on the cost of the premium at the time of the voluntary separation, and

b. a longevity payment, as prescribed by Section 840-2.18 of this title in the amount which would otherwise be paid to the employee on the employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of this title; and

2. In addition to the voluntary-out benefits provided by paragraph 1 of this subsection, agencies may give employees, ~~except as otherwise provided by paragraph 3 of this subsection,~~ voluntary-out benefit packages based on any combination of the following options, provided that all employees who are separated as a result

of the agency offer of a voluntary-out benefit pursuant to this section in anticipation of the imminent reduction-in-force are accorded uniform treatment pursuant to this section:

a. up to one (1) week of pay, calculated by dividing the employee's current annual salary by the whole number fifty-two (52), for each year of service,

b. a maximum lump-sum payment of Five Thousand Dollars ($5,000.00),

c. payment for accumulated sick leave or extended illness benefits at up to one-half of the employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit, and

d. payment of health benefit premiums as provided by the Public Health Service Act, 42 U.S.C., Section 300bb-1 et seq., for a period not to exceed eighteen (18) months. The agency shall not be authorized to make a cash payment to the employee in lieu of the payment by the agency of the cost of continued health care coverage for the employee~~; and~~

~~3. An employee may direct payment of all or a portion of the employee's voluntary out benefits to the options authorized by this paragraph by exercising an option to receive education vouchers for use in connection with the Reduction-in-Force Education Voucher Action Fund subject to the following requirements and rules of the~~

~~Director of the Office of Management and Enterprise Services, provided that the agency offers to match employee voluntary out funds pursuant to this paragraph. In such case:~~

~~a. the employee may purchase One Dollar ($1.00) in voucher credit for each One Dollar ($1.00) contributed by the employee to the fund subject to a maximum employee contribution of Three Thousand Dollars ($3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars ($3,000.00); provided, that the agency contribution shall not exceed the contribution of the employee,~~

~~b. the employee may pay the cost for the voucher program directly, subject to the requirements of subparagraph a of this paragraph, or the employing agency of the employee may pay the cost of the voucher from funds which would otherwise have been used to make payments to the displaced employee pursuant to an election by the employee to receive voluntary out benefits,~~

~~c. no voucher issued pursuant to the provisions of this paragraph shall:~~

~~(1) be redeemed by the employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or~~

~~(2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the employee,~~

~~d. the Director of the Office of Management and Enterprise Services shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees from the educational institution which shall be credited to the employee's account, and~~

~~e. the Director of the Office of Management and Enterprise Services shall distribute to the affected employee and the agency any monies remaining in the employee's account after the voucher credit has expired. The distribution shall be based on the proportional share of contributions made by the employee and the agency~~.

B. Appointing authorities in agencies of the executive branch shall submit to the Director of the Office of Management and Enterprise Services, prior to offering voluntary-out benefits pursuant to this section, a plan with details on why the agency has determined a reduction-in-force is imminent, the anticipated impact of the imminent reduction-in-force on the agency or part of the agency, the voluntary-out benefits the agency intends to offer pursuant to this section and their cost, and how the agency intends

to execute the offer of the voluntary-out benefits. The Director shall review the fiscal components of the plan and have ten (10) business days to disapprove it.

C. Part-time employees who are eligible to receive voluntary-out benefits shall receive benefits pursuant to this section on a prorated basis. Part-time employees shall have been compensated for at least one thousand (1,000) hours during the twelve (12) months immediately preceding the separation of the employee due to the employee's acceptance of a voluntary-out benefit.

D. An employee who accepts voluntary-out benefits pursuant to this section shall not be eligible to accept any future voluntary-out benefits pursuant to this section.

SECTION 24. AMENDATORY 74 O.S. 2011, Section 840-2.29, is amended to read as follows:

Section 840-2.29 A ~~classified~~ career service employee who is on-call shall be compensated for a minimum of two (2) hours of work if the employee reports to a work location while in an on-call status. This provision shall apply anytime the employee reports and works less than two (2) hours.

SECTION 25. AMENDATORY 74 O.S. 2011, Section 840-3.1, as amended by Section 892, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-3.1), is amended to read as follows:

Section 840-3.1 A. ~~Each supervisor employed as of January 1, 1993, by a state agency, board or commission in the executive branch~~

~~of state government, excluding those within The Oklahoma State System of Higher Education, shall attend, prior to December 31, 1993, a training program for supervisory personnel. The training program shall be established pursuant to subsection C of this section.~~

~~B.~~ Employees appointed to supervisory positions ~~after January 1, 1993,~~ shall complete twenty-four (24) hours of training pursuant to subsection ~~C~~ B of this section within twelve (12) months of assuming such supervisory position. Thereafter, supervisors are required to complete twelve (12) hours of training pursuant to subsection ~~C~~ B of this section each year. The appointing authority of each agency shall ensure each supervisory employee is notified and scheduled to attend such required training and shall make time available for each such employee to complete the training.

~~C.~~ B. 1. The Director of the Office of Management and Enterprise Services shall promulgate any rules necessary to develop and implement training programs for supervisory personnel which shall include courses related to the effective performance of an agency manager or supervisor. Rules authorized by this subsection shall require supervisors to attend such training within a reasonable period of time determined by the Director.

2. Training programs for supervisors under this section may be approved by the Office of Management and Enterprise Services; provided, however, such programs shall be subject to standards

developed by the Office of Management and Enterprise Services. All state agencies, boards and commissions may participate in any such government employee training program established by an institution that is a member of The Oklahoma State System of Higher Education and approved by the Office of Management and Enterprise Services as provided for in this paragraph.

SECTION 26. AMENDATORY 74 O.S. 2011, Section 840-3.2, as amended by Section 893, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-3.2), is amended to read as follows:

Section 840-3.2 There is hereby established within the Office of Management and Enterprise Services, the ~~Carl Albert Public~~ State Internship Program. The purposes of the program shall be to assist students at institutions of higher education in gaining experience and knowledge in state government and to encourage recruitment of such students to pursue careers in state government service. In administering the program, the Director of the Office of Management and Enterprise Services shall:

1. Consult with the chief administrative officers of the legislative, executive, and judicial branches of government in encouraging the establishment and development of intern positions within their agencies;

2. Coordinate with the State Regents for Higher Education and the appropriate public and private institutions of higher education

in Oklahoma in the development of a statewide internship program, soliciting qualified applicants, and selecting participants;

3. Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall provide for equal employment opportunities in accordance with state and federal law;

4. Develop and coordinate a training plan for the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

5. Develop guidelines for a compensation plan for interns participating in this program; and

6. ~~Provide for recruitment in the regular state service of persons who have successfully completed the Executive Fellows Program provided for in Section 840-3.4 of this title~~ Promulgate any rules necessary to develop, implement and maintain the State Internship Program.

SECTION 27. AMENDATORY 74 O.S. 2011, Section 840-3.5, as last amended by Section 5, Chapter 237, O.S.L. 2013 (74 O.S. Supp. 2013, Section 840-3.5), is amended to read as follows:

Section 840-3.5 The Office of Management and Enterprise Services shall promulgate rules to provide that:

1. Upon successful completion of an internship ~~in the Undergraduate or Senior Undergraduate Internship Program or~~

~~Executive Fellows Program,~~ a participant who has met all requirements of education and experience ~~shall~~ may be eligible for appointment to a position in the ~~classified or unclassified~~ career service or executive service of the state and shall be deemed as meeting all other statutory requirements;

2. Persons leaving ~~classified~~ career service or ~~unclassified~~ executive service positions in state government in order to take an internship shall:

a. have the right to return to the previous position at any time during the internship or upon completion of the internship, and

b. continue to receive all fringe benefits they would have received in their previous ~~classified~~ career service or ~~unclassified~~ executive service positions;

3. ~~Participants in the Undergraduate Internship Program who were not public employees prior to accepting a position in the program shall be employed in accordance with paragraph 8 of subsection A of Section 840-5.5 of this title;~~

~~4.~~ Participants in the ~~Senior Undergraduate~~ State Internship Program who were not public employees prior to accepting a position in the program ~~shall~~ may be employed in accordance with ~~paragraph 10 of~~ subsection A of Section 840-5.5 of this title, except that they shall be granted leave benefits commensurate with regular state employees;

~~5. Participants in the Executive Fellows Program who were not public employees prior to accepting a position in the program shall be appointed in accordance with paragraph 10 of subsection A of Section 840-5.5 of this title, except that they shall be granted leave benefits commensurate with regular state employees;~~

~~6.~~ 4. Selection of interns shall be coordinated by the Office of Management and Enterprise Services, but shall permit appropriate involvement by institutions of higher education and state agencies in order to ensure the integrity of the program, permit the appropriate match between interns and agency assignments, and to benefit the employing agency;

~~7. The Director of the Office of Management and Enterprise Services may waive the completion of six (6) semester hours of approved graduate level work required by Section 840-3.4 of this title for participation in the Executive Fellows Program for an undergraduate intern enrolled in six (6) semester hours of approved graduate level work and currently employed by a state agency;~~

~~8. Establish compensation plans for interns;~~ and

~~9.~~ 5. Empower the Office of Management and Enterprise Services to intercede in an internship when the Office determines, at the request of the intern, the agency, or the institution of higher education at which the intern is enrolled, that an internship is not functioning in accordance with guidelines established for the

program and that are necessary for the efficiency and integrity of the program.

SECTION 28. AMENDATORY 74 O.S. 2011, Section 840-3.7, is amended to read as follows:

Section 840-3.7 Provided that nothing in this act creating the ~~Carl Albert Public~~ State Internship Program shall be construed to limit the authority of state agencies and institutions of higher education to continue or establish other internship programs or positions.

SECTION 29. AMENDATORY 74 O.S. 2011, Section 840-3.11, as amended by Section 896, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-3.11), is amended to read as follows:

Section 840-3.11 The Director of the Office of Management and Enterprise Services is hereby directed to establish programs to facilitate the interchange of employees among state governmental entities, to evaluate the efficient utilization and deployment of state personnel, and to adopt rules necessary to carry out the provisions of the State Personnel Interchange Program. The State Personnel Interchange Program and rules promulgated hereunder shall apply to both ~~unclassified and classified employee~~ executive and career services.

SECTION 30. AMENDATORY 74 O.S. 2011, Section 840-3.12, is amended to read as follows:

Section 840-3.12 All employees in the ~~classified and unclassified~~ career and executive service are eligible for interchange.

SECTION 31. AMENDATORY 74 O.S. 2011, Section 840-3.13, as amended by Section 897, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-3.13), is amended to read as follows:

Section 840-3.13 A. All personnel interchange assignments are intended to be temporary in nature. An individual's period of assignment to any receiving agency shall not exceed twelve (12) months in any thirty-six-month period~~; except that the period of assignment for mentor executives participating in the mentor program established by Section 840-3.8 of this title shall not exceed twenty-four (24) months in any thirty-six-month period~~.

B. An individual shall be assigned as a participating employee only upon the individual's freely given written consent, without any form of coercion or duress. Personnel interchanges shall be executed by mutual consent agreement by the appointing authority of the sending agency, the appointing authority of the receiving agency, and the participating individual.

C. A participating employee shall be considered an employee of the sending agency for all purposes other than supervision. The receiving agency shall be responsible for all costs and liabilities arising from the performance of work assigned to the participating

employee by the receiving agency which is found to be contrary to law and public policy by a court of competent jurisdiction.

D. A participating ~~classified or unclassified~~ career or executive service employee may be assigned to a ~~classified or unclassified~~ career or executive service position for the duration of the assignment without regard to the status of the employee in the sending agency.

E. Work assigned to a participating employee by a receiving agency shall be exempt from the classification and compensation provisions of the Oklahoma ~~Personnel~~ Career Service Act. Further, although all agencies are encouraged to resolve employee complaints at the lowest possible level, nothing in this section shall be construed to require a receiving agency to establish or adopt a ~~grievance~~ complaint procedure pursuant to Section 840-6.2 of this title, to hear formal ~~grievances~~ complaints, or to designate a ~~grievance~~ complaint manager. Whenever an interchange agreement is terminated in accordance with the Oklahoma ~~Personnel~~ Career Service Act and rules promulgated by the Director of the Office of Management and Enterprise Services, the participating employee shall be entitled to return to the previous class or job family level of the employee or its successor class or job family level, if one exists in the sending agency. Otherwise, the reduction-in-force provision of Section ~~840-2.27~~ 840-2.27C of this title shall apply.

F. Except as provided in subsection E of this section, a participating employee who is assigned to a receiving agency shall neither lose, or suffer diminution of, any right, power, privilege, or benefit to which the employee would otherwise be entitled, including but not limited to salary, seniority, promotion, reinstatement, insurance, retirement, ~~classified or unclassified~~ career or executive service status, ~~progressive discipline~~ career coaching, and use of ~~grievance~~ complaint and appeals procedures. An employee's class or job family level shall not be adversely affected by another employee's participation in an interchange.

G. Any participating employee who suffers injury, occupational disease, or death, arising out of and in the course of an assignment to a receiving agency or sustained in the discharge of duties in connection with said assignment shall be considered an employee of the sending agency, and shall not be deprived by virtue of participating in said program of any right or expectancy that would otherwise accrue pursuant to the laws of this state governing labor and workers' compensation.

H. Except as provided in this section, a participating employee shall neither receive nor accept any compensation from the receiving agency to which the employee is assigned. Any receiving agency shall, in accordance with any applicable laws and policies, reimburse the per diem and travel expenses of any participating employee assigned thereto.

I. Nothing in the State Personnel Interchange Program is intended to preclude the adoption of rules governing the interchange of employees of state governmental entities via other interchange provisions, such as leaves of absence without pay and career executive appointments.

SECTION 32. AMENDATORY 74 O.S. 2011, Section 840-4.1, is amended to read as follows:

Section 840-4.1 A. The Governor of the State of Oklahoma is hereby empowered and authorized by an Executive Order to place any agency, and the employees thereof, except positions exempted from the ~~classified~~ career service as stipulated by said Order, under the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration prescribed by the Oklahoma ~~Personnel~~ Career Service Act and the rules promulgated thereunder. Further, the Governor may issue an Executive Order to place any position exempted from the ~~Merit~~ Career Service System by Executive Order and its incumbent under the ~~Merit~~ Career Service System. This section shall not authorize the removal of any agency, position, or employee placed under the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration.

B. The provisions of the ~~Merit System of Personnel Administration~~ Career Service Rules for Employment shall not be extended to any agency except by Executive Order as provided in this section or by legislation.

C. The placement of an agency under the ~~Merit System of Personnel Administration~~ Career Service Rules for Employment covers functions, positions, and employees in an agency on the effective date of the legislation or the Executive Order and functions, positions, and employees subsequently added to the agency, unless otherwise provided by law.

D. Upon placement of an agency under the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration by Executive Order or legislation, subsequent changes in the name of the agency, its organization or structure, or repeal of statutory language placing the agency under the ~~Merit~~ Career Service System shall not alone be construed to remove the agency from the ~~Merit~~ Career Service System. An agency shall be removed from the ~~Merit~~ Career Service System by enacting legislation which affirmatively declares the agency is removed from the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration.

E. Upon placement of an agency under the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration by Executive Order or legislation, the agency shall abide by the provisions of the ~~Merit System of Personnel Administration Rules~~ Career Service Rules for Employment and the Oklahoma ~~Personnel~~ Career Service Act. Statutory provisions not included in the Oklahoma ~~Personnel~~ Career Service Act that authorize agencies to effect personnel transactions, including but not limited to preparing personnel

schedules, employing and appointing personnel, defining their duties and fixing their salaries or compensation shall be interpreted as authorizing agencies to effect personnel transactions within the provisions of the Oklahoma ~~Personnel~~ Career Service Act and the rules promulgated thereunder unless the Legislature expresses a contrary intent.

SECTION 33. AMENDATORY 74 O.S. 2011, Section 840-4.2, as amended by Section 900, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.2), is amended to read as follows:

Section 840-4.2 A. Except as otherwise provided by law, effective on the date an ~~unclassified~~ executive service employee is made subject to the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration by virtue of an Executive Order issued pursuant to Section 840-4.1 of this title or legislation, the employee shall be given status in the job family level to which the position occupied by the employee is initially allocated by the Office of Management and Enterprise Services. The employee shall not be required to take any ~~examination~~ assessment or qualify for the job family level, and the salary of the employee shall not be reduced as a result of such initial allocation. The status of the employee shall be determined as follows:

1. An employee who has been continuously employed by the agency for a minimum of twelve (12) months immediately preceding the date on which the employee is made subject to the provisions of the ~~Merit~~

Career Service System shall be given permanent status in the ~~classified~~ career service.

2. An employee who has been continuously employed by the agency for less than twelve (12) months on the date the employee is made subject to the provisions of the ~~Merit~~ Career Service System shall be given probationary status in the ~~classified~~ career service. Such employee may obtain permanent status in the ~~classified~~ career service twelve (12) months after the employee's entry-on-duty date with the agency pursuant to the provisions of the ~~Merit~~ Career Service System.

B. Persons appointed to the ~~classified~~ career service of any agency under the ~~Merit~~ Career Service System shall achieve ~~classified~~ career service status only in accordance with the ~~Oklahoma Merit System of Personnel Administration~~ Career Service Rules for Employment promulgated pursuant to the Oklahoma ~~Personnel~~ Career Service Act.

C. Any ~~classified~~ career service employee who is serving in a position on the effective date of the removal of the position from the ~~classified~~ career service and placement into the ~~unclassified~~ executive service shall have the option of retaining the employee's ~~classified~~ career status. Any such employee who elects to change from ~~classified~~ career to ~~unclassified~~ executive status shall so indicate in writing. If the employee chooses to remain in the ~~classified~~ career service, the position occupied by the employee

shall remain in the ~~classified~~ career service until the employee either vacates the position or elects ~~unclassified~~ executive status. All future appointees to such positions shall be in the ~~unclassified~~ executive service.

SECTION 34. AMENDATORY 74 O.S. 2011, Section 840-4.3, as amended by Section 901, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.3), is amended to read as follows:

Section 840-4.3 A. The Office of Management and Enterprise Services shall conduct audits of positions in the ~~classified~~ career service to determine the proper job family to which a position is allocated, and may delegate the auditing function to an agency ~~pursuant to subsection E of Section 840-1.15 of this title~~. Appointing authorities have control of positions within their agency and have the authority to organize their agencies, to create positions, to abolish positions and to prescribe or change the duties and responsibilities assigned to any position or employee at any time and shall determine the level within a job family at which duties and responsibilities are assigned. The Director of the Office of Management and Enterprise Services shall adopt rules establishing policies and procedures for appointing authorities to follow when determining the job family level at which duties and responsibilities are assigned within their agencies. Such rules shall include a process for review by the Office of Management and Enterprise Services of internal classification ~~grievances~~ complaints

of job family level assignments which cannot be resolved at the agency level. Individual audits of positions shall be conducted at the request of the appointing authority based on information provided by the agency. An incumbent employee will be given an opportunity to respond; however, the Office of Management and Enterprise Services will rely on the appointing authority for an official listing of the duties and responsibilities of the position.

B. The appointing authority has the responsibility to ensure that employees are properly classified and that the work performed conforms to the appropriate job family descriptor describing the position. Employees shall be classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal work assignment and job family descriptor. An employee has the right and responsibility to file a classification ~~grievance~~ complaint, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the job family descriptor. An employee is entitled to the compensation assigned to the job family level for which duties were performed on a regular and consistent basis. This provision does not entitle the employee to a higher job family level. Agency classification and reclassification decisions shall not be subject to appeal ~~to the Oklahoma Merit Protection Commission~~. However, the involuntary removal of a permanent employee in permanent status in a job family level to a lower level in the same job family or to another job

family level assigned a lower pay band shall be considered a demotion. Such action may be appealed by the employee ~~to the Oklahoma Merit Protection Commission~~ in accordance with the provisions of Section 48 of this act. Any reclassification of a career service employee to a different job with the same or lower pay band assignment that does not result in a loss of compensation is a "classification adjustment". Classification adjustments may be voluntary or involuntary and may not be appealed in accordance with the provisions of Section 48 of this act. The Director of the Office of Management and Enterprise Services shall adopt rules pursuant to subsection A of this section which shall include a process for review by the Office of Management and Enterprise Services of internal classification ~~grievances~~ complaints of job family level assignments which cannot be resolved at the agency level.

C. Job family descriptors shall be used for the purpose of distinguishing one job family from another as clearly and definitively as possible in order that positions may be properly allocated and employees may be properly classified in accordance with this section. Job family descriptors shall be applied in accordance with the following:

1. The position description questionnaire and job family descriptors shall be interpreted and applied as a composite picture of the job requirements. An employee is not required to perform all

of the work operations described in a job family descriptor in order to be eligible for classification thereunder. An employee is not eligible or entitled to classification by reason of performing isolated or singular duties incidental to the job but which are described in another job family descriptor. Employees are entitled to the job family level they are currently assigned.

2. An employee normally performs some of the work of higher-rated jobs and some of the work of lower-rated jobs when required. The normal duties of an employee may include assistance to others.

3. An employee is required to perform the work operations and duties described or appraised as being covered by a job family descriptor pursuant to that degree or amount of guidance or instruction which is considered regular and consistent in order to qualify for the classification.

SECTION 35. AMENDATORY 74 O.S. 2011, Section 840-4.9, is amended to read as follows:

Section 840-4.9 Certified teachers employed to serve as administrators, counselors, librarians or to teach by the state, under the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration, shall be entitled to all benefits granted other state employees of the agency, board, commission, department or institution by which they are employed. Such teachers shall also be entitled to all benefits and privileges of their profession, including the right to participate in the Public Employees'

Retirement System, or the Oklahoma Teachers' Retirement System at the option of the teacher and the right of membership and participation in the Oklahoma Education Association and all other professional associations and organizations of their choice.

SECTION 36. AMENDATORY 74 O.S. 2011, Section 840-4.11, as amended by Section 906, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.11), is amended to read as follows:

Section 840-4.11 The Director may promulgate rules to provide for the establishment of noncompetitive appointments including, but not limited to, the positions of unskilled labor, attendants, aides, food service helpers, or custodial or similar types of employment when the character of the work makes it impracticable to supply the needs of the service effectively by ~~competitive examination~~ assessment. All such persons appointed shall serve a probationary period in accordance with the rules adopted by the Office of Management and Enterprise Services and the provisions of the laws of the State of Oklahoma and shall acquire permanent status and be subject to the same rules as other ~~classified~~ career service employees.

SECTION 37. AMENDATORY 74 O.S. 2011, Section 840-4.12, as amended by Section 907, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.12), is amended to read as follows:

Section 840-4.12 A. The Director of the Office of Management and Enterprise Services shall be responsible for conducting

promotional ~~examinations~~ assessments and entrance ~~examinations~~ assessments as required under the Oklahoma ~~Personnel~~ Career Service Act. Such ~~examinations~~ assessments shall be of such character as to determine the qualifications, fitness and ability of the persons ~~tested~~ to perform the duties of the job family or job family level for which such ~~tests or examinations~~ assessments are given. Provided, however, ~~tests and examinations~~ assessments of persons with severe disabilities who have satisfactorily completed vocational and technical education courses in vocational training units or divisions approved by the State Department of Rehabilitation Services shall be limited in scope so as to relate to the skill and physical capability required for a particular position. Adequate public notice shall be given of all ~~examinations~~ assessments except for promotion within a department or agency. Notwithstanding any other provision of law, the Director may keep confidential all promotional ~~examinations~~ assessments, entrance ~~examinations~~ assessments, and any other ~~testing~~ assessment materials, but the Director shall be required to disclose them pursuant to a valid order from a court of competent jurisdiction and establishment of a protective order prohibiting public disclosure of the ~~examinations~~ assessments and materials.

B. No person shall be required to take an entrance ~~examination~~ assessment for an appointment to a job family level requiring

licensing by a state agency if that person has been previously ~~tested~~ assessed and is currently licensed by the State of Oklahoma.

C. Promotional ~~examinations~~ assessments for promotion within an agency, unless requested by the agency, shall not be required; provided that the promotion is in accordance with a plan adopted by the Director and is in accordance with a plan adopted by the promoting agency. Every employee promoted within an agency or following an intra-agency lateral transfer shall serve a six-month trial period in the job level to which the employee is promoted or transferred, unless the trial period is waived, in writing, by the appointing authority. At any time during a trial period, the appointing authority may return the employee to the level from which the employee was promoted upon written notification by the appointing authority to the employee as to such action and the reason therefor, and the employee shall not have the right to appeal.

D. ~~The Director shall accept Certificates of Proficiency issued by accredited private or public schools, colleges or the Oklahoma Employment Security Commission in lieu of typing and shorthand tests.~~

~~E.~~ The Office of Management and Enterprise Services shall certify that a candidate meets the necessary job qualifications for a job family level in the ~~classified~~ career and executive service for the purpose of allowing that candidate to be appointed to a job.

The Director of the Office of Management and Enterprise Services may delegate the certification function provided by this section to an agency ~~pursuant to subsection E of Section 840-1.15 of this title~~. Any statute which creates any position or qualifications for any position in the ~~classified~~ career service shall not be construed to limit the power of the Director to interpret or add to those qualifications in a reasonable manner consistent with the intent of the Legislature and the duties of that position. Any statute which empowers any agency head or other employer to hire or nominate persons for employment within the ~~classified~~ career service shall not be construed to empower that agency head or other employer to waive or modify any qualification or rule for employment established by the Director. The Director shall not be construed to have the authority to limit or reduce any qualification established by statute for any position. The constructions established herein shall apply to any statutes or positions heretofore or hereafter created unless that statute clearly and specifically states that such constructions do not apply.

~~F.~~ E. Subsections A through ~~E~~ D of this section shall not apply to special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes. Provided, said veterans may elect instead to be considered for employment according to the procedures set out in subsections A through ~~E~~ D of this section.

~~G.~~ F. Subsections A through ~~E~~ D of this section shall not apply to persons with severe disabilities who are considered for employment under the provisions of this subsection. Provided, said persons may elect instead to be considered for employment according to the procedures set out in subsections A through ~~E~~ D of this section.

1. As used in this subsection "persons with severe disabilities" means persons certified as having disabilities according to standards and procedures established by the Director. Said standards and procedures shall be developed by the Director of the Office of Management and Enterprise Services with the assistance of the Office of ~~Handicapped~~ Disability Concerns, and the State Department of Rehabilitation Services.

2. Agencies of this state may employ persons with severe disabilities who are legal residents of the state in competitive and noncompetitive jobs. Except for the requirement of minimum qualifications specified in applicable job specifications, such persons with disabilities shall be exempt from entrance ~~examinations~~ assessments and hiring procedures administered by the Office of Management and Enterprise Services pursuant to this section and Section 840-4.13 of this title.

3. Persons with severe disabilities hired pursuant to this subsection shall be appointed for a probationary period pursuant to Section 840-4.13 of this title.

4. Persons with severe disabilities hired pursuant to this subsection shall be subject to the rules of the Director of the Office of Management and Enterprise Services.

5. The Office of Management and Enterprise Services shall maintain records regarding the employment of persons with severe disabilities by state agencies and shall report the number of persons so employed in its annual report for the Office of Management and Enterprise Services required by Section 840-1.6A of this title.

~~H. 1. This subsection shall be known and may be cited as the "Fair Employment Practices Act".~~

~~2. Agencies of this state may use the optional hiring procedure provided in this subsection to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives, as defined by the Equal Employment Opportunity Commission, who are legal residents of the state in competitive and noncompetitive jobs. Individuals must meet the minimum qualifications and pass any required examinations established by the Office of Management and Enterprise Services or by statute. Except for any required examinations and minimum qualifications specified in applicable job specifications, such persons shall be exempt from the hiring procedures administered by the Office of Management and Enterprise Services. Persons may only be employed under this subsection in a job family level, group or category which has been identified as~~

~~underutilized and in which an appropriate hiring goal has been set in the state agency's affirmative action plan approved by the Office of Management and Enterprise Services pursuant to the provisions of Section 840-2.1 of this title. In addition, the appointing authority of the employing agency must determine that a manifest imbalance exists which justifies remedial action pursuant to this subsection in order to reach the affirmative action hiring goal. Provided further, that eligible war veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who are members of the group for which a hiring goal has been set shall be considered by the employing agency before a nonveteran is appointed pursuant to this subsection.~~

~~3. To be eligible for appointment, the persons who are members of the group for which a hiring goal has been set must score within the top ten scores of other available members of said group based on any examination or rating of education and experience.~~

~~4. Persons hired pursuant to this subsection shall be appointed for a probationary period pursuant to Section 840-4.13 of this title.~~

~~5. Upon acquiring permanent status, the employee shall be subject to the rules and regulations of the Office of Management and Enterprise Services and to full rights and entitlements of state employees in the classified service.~~

~~6. The authority for an agency to make appointments pursuant to this subsection shall be temporary and shall cease when the appointing authority of an agency can no longer justify remedial action pursuant to this subsection.~~

~~7. The Office of Management and Enterprise Services shall maintain records regarding the employment of persons by state agencies pursuant to this subsection and shall report the number of persons so employed in its annual report for the Office of Management and Enterprise Services required by Section 840-1.6A of this title.~~

SECTION 38. AMENDATORY 74 O.S. 2011, Section 840-4.13, as amended by Section 908, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.13), is amended to read as follows:

Section 840-4.13 A. Based upon the results of competitive entrance ~~examinations~~ assessments and ~~registers~~ lists, as provided by the Oklahoma ~~Personnel~~ Career Service Act, the Director of the Office of Management and Enterprise Services shall certify to the appointing authority the names of the ten persons receiving the highest grade or score in said ~~examinations~~ assessments plus all eligible applicants whose grade or score is tied with the lowest ranking of those so eligible.

B. In addition to establishing statewide ~~registers~~ lists pursuant to subsection A of this section, the Director is hereby authorized to promulgate rules creating ~~a local register~~ additional

lists to fill a vacancy in ~~a local office of~~ an agency ~~by providing a certificate of available names of eligible persons who are residents of the county where the local office is located or said county and adjacent counties or a group of contiguous counties comprising a service area of an agency. Available eligible residents shall be certified ahead of other available eligible persons who reside outside the area of the local register. In filling vacant positions, the appointing authority shall select any one of the persons whose names have been so certified and may give preference in all cases to persons who have resided in this state for at least one (1) year prior to the date of the examination. Provided, however, that any appointing authority authorized to employ persons who are not citizens of the United States, pursuant to Section 255 of this title, may request the Office to certify only the names of persons who are citizens of the United States in carrying out the provisions of this section; and such appointing authority may select any person so certified to the Director to fill such vacant positions even though a noncitizen may have received a higher grade on the examination. Provided, further, that any appointing authority may select special disabled veterans considered for employment pursuant to Sections 401 through 404 of Title 72 of the Oklahoma Statutes. The Department of Public Safety, in filling vacancies for Highway Patrol Cadets, may disqualify any eligible whose name has been certified for Highway Patrol Cadet pursuant to

~~subsection A of this section, if the Department of Public Safety considers the eligible in connection with the hiring of three other eligibles pursuant to subsection A of this section from that certificate. The name of such disqualified eligible shall be omitted from further certification to, and consideration by, the Department of Public Safety for appointment as a Highway Patrol Cadet to the Highway Patrol Academy for which vacancies are being filled. Such disqualification shall neither deprive any person of any preference pursuant to paragraph 3 of subsection A of Section 840-4.14 of this title nor deprive any person from certification to, and consideration by, the Department of Public Safety for appointment as a Highway Patrol Cadet to a subsequent Highway Patrol Academy. The Department of Public Safety shall provide written notice of the disqualification to the Office of Management and Enterprise Services. The Department of Corrections, in filling vacancies for Correctional Officer Cadets and Probation and Parole Officers, may disqualify any eligible whose name has been certified for Correctional Officer Cadet or Probation and Parole Officer, pursuant to subsection A of this section, if the Department of Corrections considers the eligible in connection with the hiring of three other eligibles pursuant to subsection A of this section from that or any other certificate. The name of such disqualified eligible shall be omitted from future certification to, and consideration by, the Department of Corrections for appointment as a~~

~~Correctional Officer Cadet or Probation and Parole Officer for a period of six (6) months, at which time the eligible may request restoration to the register by the Office of Management and Enterprise Services. Such disqualification shall not deprive any person of any preference pursuant to paragraph 3 of subsection A of Section 840-4.14 of this title. The Department of Corrections shall provide written notice of the disqualification to the Office of Management and Enterprise Services~~ and any additional guidelines concerning recruitment, selection, placement and disqualifications.

C. Agencies may fill positions requiring professional practice licensure and hard-to-fill positions pursuant to authorization by the Director without regard to subsections A and B of this section. The Director shall promulgate rules to authorize agencies to fill positions directly, pursuant to this subsection. Such rules shall include criteria for identifying professional practice licensure positions and hard-to-fill positions which shall not require establishment of an employment list of eligible persons or the application of veterans preference. ~~The Director shall monitor appointments made by agencies pursuant to this subsection and shall establish recordkeeping and reporting procedures and the conditions under which the Director may withdraw authorization for agencies to directly hire persons into hard-to-fill positions. Nothing in this subsection shall be construed to waive any requirement for any job or position established by statute or the Director.~~

D. Every person, except as provided in subsection E of this section, upon initial appointment under the ~~classified~~ career service, shall be appointed for a probationary period of one (1) year, except that the appointing authority may waive in writing the remainder of the probationary period at any time after a probationary employee has served six (6) months; provided, however, that the employee and the Director of the Office of Management and Enterprise Services shall be notified in writing as to such action and the reason therefor. The probationary appointment of any person may be terminated at any time during the probationary period without the right of appeal. At the close of the probationary period, as herein provided, said person shall acquire a permanent status under the conditions prescribed in the Oklahoma ~~Personnel~~ Career Service Act.

E. Every person initially appointed under the ~~classified~~ career service as an agent of the Alcoholic Beverage Laws Enforcement Commission shall be appointed for a probationary period of one (1) year.

F. In working with appointing authorities in determining minimum qualifications for a position, the Director of the Office of Management and Enterprise Services shall require an appointing authority to justify in writing any reasons for excluding from consideration relevant public or private sector experience applicable to the position.

SECTION 39. AMENDATORY 74 O.S. 2011, Section 840-4.14, as last amended by Section 109, Chapter 15, O.S.L. 2013 (74 O.S. Supp. 2013, Section 840-4.14), is amended to read as follows:

Section 840-4.14 A. ~~In establishing employment lists of eligible persons for competitive and noncompetitive appointment, certain preferences shall be allowed for honorably discharged veterans as defined by Section 67.13a and Section 67.13b of Title 72 of the Oklahoma Statutes. In determination of the register rank:~~

~~1. Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a veteran or unremarried surviving spouse of a veteran;~~

~~2. Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a spouse of a veteran who is unemployable due to a service-connected disability as certified by the Department of Veterans Affairs or agency of the Defense Department within six (6) months of date of application; and~~

~~3. Ten points shall be added to the final grade of any veteran who has passed the examination and has submitted proof of having a service-connected disability as certified by the Department of Veterans Affairs or agency of the Defense Department within six (6) months of date of application. Such veterans' names shall be placed at the top of the register in accordance with their numerical rating if in receipt of benefits payable at the rate of thirty percent~~

~~(30%) or more and such veterans shall not be denied employment and passed over for other veterans or nonveterans, without showing cause. Acceptable cause shall include a reasonable expectation of the inability of the preferenced applicant to satisfactorily perform at the required level of the position and shall be reviewed in each instance by the Director of the Office of Management and Enterprise Services. If the Director finds that acceptable cause for the denial of employment to the preferenced applicant does not exist, the appointing authority shall be required to hire the preferenced applicant. The position shall not be permanently filled until the Director has issued his findings~~ The Office of Management and Enterprise Services shall create and promulgate rules for the Office of Veterans Placement for the purpose of attracting, recruiting, hiring, and retaining qualified veterans into the career service.

B. ~~War veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who have been awarded the Purple Heart or have a service-incurred disability rated by the Department of Veterans Affairs or a branch of the Armed Forces of the United States and who have been a resident of Oklahoma for at least one (1) year prior to the date of the examination, shall be authorized to open any closed register established by the Merit System of Personnel Administration~~ Services of the Office of Veterans shall include employment counseling, assistance in identifying transferable military skills, qualifications and career assessment,

assistance in drafting competitive resumes, instruction in developing comprehensive job search strategies, and job placement assistance.

C. ~~Subsection A of this~~ Veterans who utilize the Office of Veterans Placement shall be guaranteed an interview for qualifying career service positions.

D. This section shall not apply to special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes. Provided, said veterans may elect instead to be considered for employment according to the procedures set out in this section.

~~D. In addition to the points added to the final grade of any eligible veteran pursuant to subsection A of this section, any veteran who meets the basic qualifications for a position shall be interviewed in person in order to allow the veteran to demonstrate any transferable skills acquired in military service.~~

SECTION 40. AMENDATORY 74 O.S. 2011, Section 840-5.1, as amended by Section 912, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-5.1), is amended to read as follows:

Section 840-5.1 Unless otherwise provided, offices and positions in the ~~unclassified~~ executive service are in no way subject to any of the provisions of this act or of the rules and regulations promulgated hereunder except leave regulations. Provided, offices and positions of the State Senate and House of

Representatives shall not be subject to regulations of the Office of Management and Enterprise Services on involuntary leave without pay or furlough but shall be subject to any involuntary leave without pay or furlough plan adopted by the President Pro Tempore of the Senate or the Speaker of the House of Representatives. No person chosen by election or appointment to fill an elective office shall be subject to any leave plan or regulation or shall such person be eligible for accrual of any leave benefits.

SECTION 41. AMENDATORY 74 O.S. 2011, Section 840-5.1A, as amended by Section 913, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-5.1A), is amended to read as follows:

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

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

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

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

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

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

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

SECTION 42. AMENDATORY 74 O.S. 2011, Section 840-5.2A, as amended by Section 914, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-5.2A), is amended to read as follows:

Section 840-5.2A All persons employed by the Ethics Commission prior to March 18, 1998, shall be in and shall have been in such

status in the ~~classified or unclassified~~ career and executive service as shown on their individual records on file in the Office of Management and Enterprise Services. The employment records of such persons on file in the Office of Management and Enterprise Services shall be controlling as to the status of such persons and the positions they occupy or occupied.

SECTION 43. AMENDATORY 74 O.S. 2011, Section 840-5.5, as last amended by Section 30, Chapter 214, O.S.L. 2013 (74 O.S. Supp. 2013, Section 840-5.5), is amended to read as follows:

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

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

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

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

~~4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not~~

~~exceed the period of time for which that specific federal funding is provided;~~

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

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

~~7. Election officials and employees;~~

~~8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period, and seasonal employees employed by the Oklahoma Tourism and Recreation Department pursuant to Section 2241 of this title who work less than one thousand six hundred (1,600) hours in any twelve-month period;~~

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

~~a. administrative aides to the Commissioner,~~

~~b. executive secretaries to the Commissioner,~~

~~c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,~~

~~d. Highway Patrol Colonel,~~

~~e. Highway Patrol Lieutenant Colonel,~~

~~f. Director of Finance,~~

~~g. noncommissioned pilots,~~

~~h. Information Systems Administrator,~~

~~i. Law Enforcement Telecommunications System Specialist,~~

~~j. Director of Driver Compliance,~~

~~k. Director of Transportation Division,~~

~~l. Director of the Oklahoma Highway Safety Office,~~

~~m. Civil Rights Administrator,~~

~~n. Budget Analyst,~~

~~o. Comptroller,~~

~~p. Chaplain,~~

~~q. Helicopter Mechanic,~~

~~r. Director of Safety Compliance,~~

~~s. Human Resources Director,~~

~~t. Administrator of Department Services, and~~

~~u. a maximum of seven (7) positions for the purpose of administering programs in the Oklahoma Highway Safety Office, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The~~

~~authorization for such positions shall be terminated if the federal funding for positions is discontinued; provided, any person appointed to a position prescribed in subparagraph d or e of this paragraph shall have a right of return to the classified commissioned position without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;~~

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

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

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

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

~~(10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or~~

~~c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;~~

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

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

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

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

~~a. Administrative aides, and executive secretaries to the Commissioners,~~

~~b. Directors of all the divisions, personnel managers and comptrollers,~~

~~c. General Counsel,~~

~~d. Public Utility Division Chief Engineer,~~

~~e. Public Utility Division Chief Accountant,~~

~~f. Public Utility Division Chief Economist,~~

~~g. Public Utility Division Deputy Director,~~

~~h. Secretary of the Commission,~~

~~i. Deputy Conservation Director,~~

~~j. Manager of Pollution Abatement,~~

~~k. Manager of Field Operations,~~

~~l. Manager of Technical Services,~~

~~m. Public Utility Division Chief of Telecommunications,~~

~~n. Director of Information Services,~~

~~o. All Data Processing employees hired on or after September 1, 2005,~~

~~p. All Public Utilities employees hired on or after September 1, 2007,~~

~~q. All Regulatory Program Managers hired on or after September 1, 2007, and~~

~~r. All Pipeline Safety Department employees hired on or after September 1, 2008;~~

~~16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency~~

~~having a primary responsibility to coordinate educational programs operated for children in state institutions;~~

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

~~a. Director of Facility,~~

~~b. Deputy Director for Administration,~~

~~c. Clinical Services Director,~~

~~d. Executive Secretary to Director, and~~

~~e. Directors or Heads of Departments or Services;~~

~~18. Office of Management and Enterprise Services personnel occupying the following offices and positions:~~

~~a. State Comptroller,~~

~~b. Administrative Officers,~~

~~c. Alternator Claims Auditor,~~

~~d. Employees hired to fulfill state compliance agency requirements under Model Tribal Gaming Compacts,~~

~~e. Employees of the Budget Division,~~

~~f. Employees of the Fiscal and Research Division,~~

~~g. Employees hired to work on the CORE Systems Project; and~~

~~h. The following employees of the Information Services Division:~~

~~(1) Information Services Division Manager,~~

~~(2) Network Manager,~~

~~(3) Network Technicians,~~

~~(4) Security Manager,~~

~~(5) Contracts/Purchasing Manager,~~

~~(6) Operating and Applications Manager,~~

~~(7) Project Manager,~~

~~(8) Help Desk Manager,~~

~~(9) Help Desk Technicians,~~

~~(10) Quality Assurance Manager,~~

~~(11) ISD Analysts,~~

~~(12) CORE Manager,~~

~~(13) Enterprise System/Database Software Manager,~~

~~(14) Data Center Operations and Production Manager,~~

~~(15) Voice Communications Manager,~~

~~(16) Applications Development Manager,~~

~~(17) Projects Manager,~~

~~(18) PC's Manager,~~

~~(19) Servers Manager,~~

~~(20) Portal Manager,~~

~~(21) Procurement Specialists,~~

~~(22) Security Technicians,~~

~~(23) Enterprise Communications and Network Administrator,~~

~~(24) Server Support Specialists,~~

~~(25) Senior Server Support Specialists,~~

~~(26) Systems Support Specialists,~~

~~(27) Senior Systems Support Specialists,~~

~~(28) Chief Technology Officer,~~

~~(29) Facility Manager,~~

~~(30) Application Development Specialists,~~

~~(31) Senior Application Development Specialists,~~

~~(32) Workstation Specialists,~~

~~(33) Senior Workstation Specialists,~~

~~(34) Cabling Infrastructure Administration,~~

~~(35) Planning Specialists,~~

~~(36) Senior Planning Specialists,~~

~~(37) Network Specialists,~~

~~(38) Senior Network Specialists,~~

~~(39) Voice Communication Specialists, and~~

~~(40) Senior Voice Communication Specialists;~~

~~19. Employees of the Oklahoma Industrial Finance Authority;~~

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

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

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

~~a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars ($24,193.00) or more, as determined by the Office of Management and Enterprise Services, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,~~

~~b. positions requiring certification by the State Department of Education, and~~

~~c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;~~

~~23. Office of Management and Enterprise Services employees occupying the following positions:~~

~~a. the Carl Albert Internship Program Coordinator,~~

~~b. one Administrative Assistant,~~

~~c. one Workforce Planning Manager,~~

~~d. Assistant Administrators,~~

~~e. one Associate Administrator, and~~

~~f. Division Directors;~~

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

~~a. two Deputy Commissioners,~~

~~b. two Executive Secretaries to the Commissioner,~~

~~c. Chief of Staff,~~

~~d. two Administrative Assistants,~~

~~e. Information Systems Administrator,~~

~~f. three Safety and Health Directors,~~

~~g. Research Director,~~

~~h. Employment Standards Director,~~

~~i. Asbestos Director,~~

~~j. General Counsel,~~

~~k. one Legal Secretary,~~

~~l. one Docket Clerk, and~~

~~m. two Information Systems Application Specialists;~~

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

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

~~a. Associate Director,~~

~~b. Secretary to the Associate Director, and~~

~~c. Assistant to the Executive Director;~~

~~27. Officers and employees of the State Banking Department;~~

~~28. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;~~

~~29. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:~~

~~a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on June 4, 2003, may make an election to be in the classified service without a loss in salary by September 1, 2003, and~~

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

~~30. The Oklahoma State Bureau of Investigation employees occupying the following positions:~~

~~a. five assistant directors,~~

~~b. six special investigators,~~

~~c. one information representative,~~

~~d. one federally funded physical evidence technician,~~

~~e. four federally funded laboratory analysts,~~

~~f. a maximum of fourteen positions employed for the purpose of managing the automated information systems of the agency,~~

~~g. one executive secretary in addition to the one executive secretary authorized pursuant to paragraph 2 of this subsection,~~

~~h. Child Abuse Response Team (CART) investigator,~~

~~i. Child Abuse Response Team (CART) forensic interviewer, and~~

~~j. nine administration and research positions and five data processing and information technology positions transferred from the Criminal Justice Resource Center pursuant to Section 150.17a of this title;~~

~~31. The Department of Transportation, the following positions:~~

~~a. Director of the Oklahoma Aeronautics Commission,~~

~~b. five Department of Transportation Assistant Director positions,~~

~~c. eight field division engineer positions,~~

~~d. one pilot position,~~

~~e. five Project Manager Positions, and~~

~~f. five Transportation Coordinators;~~

~~32. Commissioners of the Land Office employees occupying the following positions:~~

~~a. Director of the Investments Division,~~

~~b. Assistant Director of the Investments Division,~~

~~c. one Administrative Assistant,~~

~~d. one Audit Tech position,~~

~~e. one Auditor I position,~~

~~f. two Accounting Tech I positions,~~

~~g. two Administrative Assistant I positions,~~

~~h. two Imaging Specialist positions,~~

~~i. one Information Systems Specialist position,~~

~~j. Director of Communications,~~

~~k. Director of Royalty Compliance,~~

~~l. Director of Mineral Management,~~

~~m. Director of Accounting,~~

~~n. Chief of Staff,~~

~~o. First Assistant Secretary,~~

~~p. Director of Real Estate Management,~~

~~q. one executive secretary,~~

~~r. one legal secretary, and~~

~~s. one legal assistant;~~

~~33. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:~~

~~a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,~~

~~b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,~~

~~c. one fiscal officer,~~

~~d. one full-time Programmer, and~~

~~e. one full-time Network Engineer;~~

~~34. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;~~

~~35. Within the Oklahoma Commission on Children and Youth the following unclassified positions:~~

~~a. one Oversight Specialist and one Community Development Planner,~~

~~b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued,~~

~~c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection, and~~

~~d. one Programs Manager;~~

~~36. The following positions and employees of the Office of Management and Enterprise Services:~~

~~a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,~~

~~b. the Director of Central Purchasing,~~

~~c. one Alternate Fuels Administrator,~~

~~d. one Director of Special Projects,~~

~~e. three postauditors,~~

~~f. four high-technology contracting officers,~~

~~g. one Executive Assistant to the Purchasing Director,~~

~~h. four Contracts Managers,~~

~~i. one Associate Director,~~

~~j. one specialized HiTech/Food Contracting Officer,~~

~~k. one State Use Contracting Officer,~~

~~l. one Property Distribution Administrator,~~

~~m. three licensed architects assigned to the Construction and Properties Division,~~

~~n. three licensed engineers assigned to the Construction and Properties Division,~~

~~o. eight construction consultants assigned to the Construction and Properties Division,~~

~~p. one attorney assigned to the Construction and Properties Division,~~

~~q. three positions assigned to the Information Services Division, which shall include one Information Technology Manager, one Applications Specialist and one Data Planning Specialist,~~

~~r. four positions assigned to Fleet Management, which shall include one Deputy Fleet Manager and three Management Analysts,~~

~~s. one Chief Auditor,~~

~~t. one Assistant Director of Central Purchasing Division,~~

~~u. one Professional Errors and Omissions Liability Adjuster,~~

~~v. three Strategic Sourcing Managers,~~

~~w. three Strategic Sourcing Assistant Managers, and~~

~~x. two Printing Services Brokers;~~

~~37. Oklahoma Water Resources Board personnel occupying the following offices and positions:~~

~~a. four Water Quality Assistant Division Chiefs,~~

~~b. four Water Resources Division Chiefs, and~~

~~c. Director of Water Planning;~~

~~38. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:~~

~~a. Physical Therapists,~~

~~b. Physical Therapist Assistants,~~

~~c. Occupational Therapists,~~

~~d. Certified Occupational Therapist Aides, and~~

~~e. Speech Pathologists;~~

~~39. The Development Officer, the Director of the State Museum of History and the Cherokee Strip Regional Heritage Center Director within the Oklahoma Historical Society;~~

~~40. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:~~

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

~~b. nineteen Agricultural Marketing Coordinator III positions,~~

~~c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,~~

~~d. one Information Technology Specialist,~~

~~e. one Director of Administrative Services,~~

~~f. one Water Quality Consumer Complaint Coordinator,~~

~~g. one hydrologist position,~~

~~h. Public Information Office Director,~~

~~i. one Information Technology Technician,~~

~~j. Legal Services Director,~~

~~k. Animal Industry Services Director,~~

~~l. Agricultural Environmental Management Services Director,~~

~~m. Forestry Services Director,~~

~~n. Plant Industry and Consumer Services Director,~~

~~o. one Grants Administrator position,~~

~~p. Director of Laboratory Services,~~

~~q. Chief of Communications,~~

~~r. Public Information Manager,~~

~~s. Inventory/Supply Officer,~~

~~t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture, Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,~~

~~u. Rural Fire Coordinator,~~

~~v. one Agricultural Marketing Coordinator I,~~

~~w. Food Safety Division Director,~~

~~x. two Environmental Program Specialists,~~

~~y. two Scale Technicians,~~

~~z. two Plant Protection Specialists, and~~

~~aa. Chief Agent;~~

~~41. The Contracts Administrator within the Oklahoma State Employees Benefits Council;~~

~~42. The Development Officer within the Oklahoma Department of Libraries;~~

~~43. Oklahoma Real Estate Commission personnel occupying the following offices and positions:~~

~~a. Educational Program Director, and~~

~~b. Data Processing Manager;~~

~~44. A Chief Consumer Credit Examiner for the Department of Consumer Credit;~~

~~45. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;~~

~~46. All officers and employees of the Oklahoma Motor Vehicle Commission;~~

~~47. One Museum Archivist of The Will Rogers Memorial Commission;~~

~~48. One Fire Protection Engineer of the Office of the State Fire Marshal;~~

~~49. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence;~~

~~50. The Oklahoma Homeland Security Director and all other positions assigned the responsibilities of working in the Oklahoma Office of Homeland Security;~~

~~51. The following eighteen (18) positions in the State Department of Health:~~

~~a. one surveillance supervisor,~~

~~b. one surveillance project monitor,~~

~~c. two bilingual interviewers,~~

~~d. eight senior interviewers, and~~

~~e. six interviewers;~~

~~52. State Board of Licensure for Professional Engineers and Land Surveyors personnel occupying the following offices and positions:~~

~~a. one Director of Enforcement, and~~

~~b. two Board Investigators;~~

~~53. One Information Systems Data Management Analyst of the State and Education Employees Group Insurance Board;~~

~~54. Two Management Information Systems positions of the Office of Juvenile Affairs; and~~

~~55. Heads of agencies, principal assistants or deputies and executive secretaries of an agency that is consolidated into another agency.~~

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

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

~~2. Certified public accountants;~~

~~3. Licensed attorneys;~~

~~4. Licensed veterinarians; and~~

~~5. Licensed pharmacists.~~

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

~~D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than December 31, 2007, and all unclassified positions established~~

~~to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2007. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.~~

1. Any officer or employee appointed by the Governor and all positions in the Governor's and Lieutenant Governor's offices;

2. Any person chosen by popular vote or appointed to fill an executive branch elective office in the executive branch of government;

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

4. All officers and employees of The Oklahoma State System of Higher Education;

5. Any legislators, employees of the Legislature, and the Legislative Service Bureau;

6. Members of boards and commissions and one principal assistant or their equivalent authority;

7. Agency directors or their equivalent authority in each state agency;

8. Deputy directors or their equivalent authority in each state agency;

9. Any division director or equivalent authority with statewide responsibility for operational administration, policy development or implementation as defined by the mission of that agency, or the primary legislative function in each board, commission, or that state;

10. Executive assistants directly reporting to executive directors or their deputies;

11. Licensed medical physicians, licensed osteopathic physicians, licensed dentists, licensed veterinarians, licensed pharmacists, physician's assistants, advanced nurse practitioners, and licensed mental health professionals, actively utilizing their licenses in their primary job functions;

12. Licensed attorneys engaged in the practice of law and representing the state in such capacity;

13. Certified Public Accountants utilizing their certification in their primary job duty;

14. Head of Public Information Division;

15. Wardens and directors of state-operated correctional facilities, or mental health or developmental centers, and veterans, juvenile, and state-operated facilities that provide twenty-four-hour direct care; and

16. Time-limited positions including but not limited to temporary employees, grant employees, or interns.

B. All other full-time positions in state services shall be in the career service.

C. An employee shall become a member of the career service upon successful completion of the probationary period.

D. An employee in the executive service is an employee at will and serves at the pleasure of the employee's appointment authority.

E. Employees shall have a combined twelve (12) months of executive branch state service upon conversion to the career service or they shall serve the remainder of the time period as a probationary employee.

F. The Administrator of the Human Capital Management Division of the Office of Management and Enterprise Services shall determine equivalent levels for the purpose of assigning positions not specifically addressed in subsection A of this section to the career or executive service. Such determinations may be based on duties,

responsibilities and reporting relationships and may be subject to review through any procedure determined by the Administrator of the Human Capital Management Division of the Office of Management and Enterprise Services; provided, that within any department implementation of this subsection shall not jeopardize federal funding resources.

SECTION 44. AMENDATORY 74 O.S. 2011, Section 840-5.16, as amended by Section 918, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-5.16), is amended to read as follows:

Section 840-5.16 A. There is hereby created the State Work Incentive Program aimed at employing participants in the Temporary Assistance for Needy Families Program in Oklahoma and vocational rehabilitation clients of the State Department of Rehabilitation Services in the state service. The program shall focus on placement of persons in entry-level positions. The Department of Human Services and the State Department of Rehabilitation Services shall notify agencies in all branches of state government of this program and shall certify to appointing authorities and the Director of the Office of Management and Enterprise Services that a person is a participant in the Temporary Assistance for Needy Families Program or is a vocational rehabilitation client of the State Department of Rehabilitation Services before the person is eligible to be employed under the State Work Incentive Program by a state agency. Agencies shall cooperate with the Department of Human Services and the State

Department of Rehabilitation Services in seeking to provide employment opportunities to persons who are participants in the Temporary Assistance for Needy Families Program or who are vocational rehabilitation clients of the State Department of Rehabilitation Services. The Department of Human Services, the State Department of Rehabilitation Services and the Office of Management and Enterprise Services shall coordinate with agencies to facilitate the transition of participants in the Temporary Assistance for Needy Families Program and vocational rehabilitation clients of the State Department of Rehabilitation Services into the State Work Incentive Program.

B. ~~Agencies employing eligible persons in the State Work Incentive Program shall employ them in unclassified status for up to two (2) years in full-time or part-time capacity. State Work Incentive Program positions shall not be included within any limitation on full-time-equivalent employee positions for any agency. The service of participants shall be rated pursuant to Section 840-4.17 of this title.~~

~~C. Employees hired under the State Work Incentive Program are eligible for leave benefits and other benefits available to state employees, subject to other eligibility requirements, and may be reassigned or promoted while they are participating in the program.~~

~~D. Employees hired under the State Work Incentive Program shall be eligible for conversion to permanent classified status after two~~

~~(2) years of continuous participation in the program. Such employee shall be exempt from probationary hiring procedures including, but not limited to, placement on hiring lists and certification from registers, provided the employee:~~

~~1. Has had satisfactory performance as evidenced by service ratings conducted pursuant to Section 840-4.17 of this title; and~~

~~2. Possesses the minimum requirements specified for an applicable job.~~

The Director of the Office of Management and Enterprise Services shall promulgate such rules as are necessary for the implementation of the State Work Incentive Program.

SECTION 45. AMENDATORY 74 O.S. 2011, Section 840-6.1, is amended to read as follows:

Section 840-6.1 A. The ~~Oklahoma Merit Protection Commission~~ Office of Management and Enterprise Services shall establish and maintain ~~a mandatory~~ an Alternative Dispute Resolution Program and shall adopt and promulgate such rules as may be necessary for the implementation and management of the program.

B. A purpose of the Alternative Dispute Resolution Program is to provide an efficient and economical means ~~and access~~ to ~~effective alternative dispute resolution services to all state agencies and employees~~ resolve employee complaints and appeals. The Alternative Dispute Resolution Program is not subject to Article II of the Administrative Procedures Act.

~~C. The Oklahoma Merit Protection Commission may require employees and agencies to utilize the Alternative Dispute Resolution Program to resolve disputes brought before the Commission pursuant to Sections 841.13 and 841.15 of Title 74 of the Oklahoma Statutes.~~

~~D. Alternative dispute resolution programs established and utilized by the Commission are not subject to Article II of the Administrative Procedures Act. The decision in such cases may be appealed by any party to the Oklahoma Merit Protection Commission and thereafter to district court.~~

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-6.1A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Career Service Commission. The Career Service Commission shall be responsible for administering, rendering final decisions, and acting as the appeals body for appeals filed pursuant to the provisions of Section 840-2.5 of Title 74 of the Oklahoma Statutes and Section 49 of this act. The appeals process shall be established pursuant to the rules promulgated by the Office of Management and Enterprise Services.

B. The Commission shall consist of the following:

1. Three members appointed by the Governor;

2. Two members appointed by the Speaker of the House of Representatives;

3. Two members appointed by the President Pro Tempore of the Senate;

4. One member appointed by the Minority Leader of the Senate; and

5. One member appointed by the Minority Leader of the House of Representatives.

C. The members of the Commission shall have demonstrated professional experience in human resources or employment law and shall serve four-year terms.

D. No member of the Career Service Commission shall be a lobbyist registered in this state as provided by law.

E. Any vacancy that occurs on the Career Service Commission shall be filled for the unexpired term in the same manner as the office was previously filled.

F. Any person serving as an appointed member of the Career Service Commission on July 1, 2015, shall be eligible for reappointment when the term of office of the member expires.

G. The Office of Management and Enterprise Services shall provide the personnel and administrative support to the Commission.

H. Appeals before the Commission, including final decisions, shall be subject to the Oklahoma Administrative Procedures Act and the provisions thereof for judicial review of agency decisions by the district court.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-6.2A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Office of Management and Enterprise Services shall promulgate rules and establish internal agency complaint procedures for career service employees.

B. Each agency shall make the internal agency complaint process known to employees.

C. No employee shall be disciplined or otherwise prejudiced in his or her employment for filing or participating in a complaint.

D. Executive service employees shall only file an internal agency complaint regarding discrimination, retaliation, or loss of base pay.

E. Internal agency complaint issues for career service employees include, but are not limited to, informal discipline, withholding of work, classification, reclassification, promotion, leave, performance appraisal, length of service, overtime, compensatory time, change in work location in excess of twenty-five (25) miles, suspension without pay for three (3) days or less, counseling, or any alleged violation of the Oklahoma Career Service Act or Career Service rules. A complaint must demonstrate a negative impact on an employee's employment. The complaint process shall not include a change of work location of less than twenty-five (25) miles, work assignments, shift changes, time and place of

employment, mandatory overtime, or hours of employment, as such shall be within the sole and final discretion of the employing state agency.

F. An employee who files a complaint under this section shall file the complaint as soon as possible after the occurrence of the act or condition complained of and not later than fifteen (15) business days after the date the employee became aware, or by the exercise of reasonable diligence should have become aware, of the occurrence giving rise to the complaint. If the employee fails to file the complaint within the fifteen (15) business days, the rights under this section lapse and are deemed to have been waived in their entirety by the employee. Internal complaint procedures established by the Office of Management and Enterprise Services shall have the following minimum requirements:

1. Informal resolution at the lowest possible level;

2. Established time periods; and

3. The employee's right to be represented, except the initial informal discussion with the immediate supervisor.

G. The appointing authority shall designate complaint managers. Complaint managers shall meet the training requirements established by the Office of Management and Enterprise Services.

H. Each agency shall maintain complaint records as determined by the Office of Management and Enterprise Services. Agencies shall keep records of complaints separate and apart from employee

personnel files. An employee or former employee shall have a right to his or her complaint files.

I. All final decisions shall be rendered no later than one hundred sixty (160) days after the date of the filing of the complaint. The Office of Management and Enterprise Services shall have the authority to grant extensions in the case of extenuating circumstances.

SECTION 48. AMENDATORY 74 O.S. 2011, Section 840-6.3, is amended to read as follows:

Section 840-6.3 A. Each appointing authority shall establish written policies and procedures for ~~progressive~~ discipline of employees according to the rules established by the ~~Oklahoma Merit Protection Commission~~ Office of Management and Enterprise Services.

B. ~~Progressive discipline~~ Discipline is a system designed to ensure ~~not only~~ the consistency, impartiality and predictability of discipline, ~~but also~~ and to provide for the flexibility to vary penalties if justified by aggravating or mitigating conditions. ~~Typically, penalties range~~ Discipline ranges from verbal warning to discharge~~, with intermediate levels of a written warning, suspension or demotion. Absent mitigating circumstances, repetition of an offense is accompanied by a generally automatic progression to the next higher level of discipline~~.

C. Each supervisor shall be responsible for applying discipline when necessary that is ~~progressive in nature,~~ appropriate for the

offense, and equitable. Each supervisor shall consider aggravating or mitigating circumstances when determining the proper disciplinary action. Each supervisor shall use prompt, positive action to avoid more serious disciplinary actions. The ~~Oklahoma Merit Protection Commission~~ Office of Management and Enterprise Services shall promulgate rules to establish the requirements and guidelines for discipline.

D. The rules shall prohibit supervisors from considering incidents that occurred longer than ~~four (4)~~ three (3) years prior to an offense in order to move to a higher level of discipline. The prohibition shall not apply to incidents involving the following types of conduct:

1. Criminal activity;

2. Sexual misconduct and/or harassment;

3. Racially discriminatory behavior and/or harassment;

4. Threats or acts of violence against employees in the workplace; ~~and~~

5. Drug and/or alcohol use or abuse on the job or violating the agency's drug and alcohol program;

6. Consumer, client, citizen abuse, neglect or mistreatment; and

7. Abuse, neglect, or mistreatment of anyone in the care or custody of the state.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-6.4A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The purpose of this section is to establish the discipline process for discharge, suspension without pay for more than three (3) days, or demotion of career service employees.

B. Any career service employee may be discharged, suspended without pay for not to exceed twenty (20) working days per incident, or demoted by the agency, department, institution, or officer, for misconduct, insubordination, inefficiency, inability to perform the duties of the position in which employed, dereliction of duty, leave abuse, unsatisfactory attendance, poor performance, violations of the Oklahoma Career Service Act, the Career Service Rules for Employment, conduct unbecoming a public employee, or any other reasonable cause. Employees in the career service, upon final conviction of, or pleading guilty or nolo contendere to, a felony shall be discharged if the felony is job-related pursuant to Section 24.1 of Title 51 of the Oklahoma Statutes. Before any action is taken against a career service employee, the employing agency, department, institution or officer shall provide the employee with a written statement of the specific acts or omissions that are causes or reasons for the proposed action, an explanation of the agency's evidence, and an opportunity to present reasons why the proposed action is improper either in writing or verbally at the appointing

authority's discretion. The employee shall have five (5) business days to respond to proposed disciplinary action. An extension may be granted under reasonable circumstances. Any verbal response will be recorded. The appointing authority shall have ten (10) business days from receipt of the employee's verbal or written response to make a final disciplinary decision. The final disciplinary decision shall be personally served upon the employee or sent by certified mail, return receipt requested, to the employee's home address of record.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-6.5A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. An employee in the career service who has successfully completed the required probationary period may file a complaint concerning the dismissal, demotion or the suspension of the employee for more than three (3) days.

B. An executive service employee shall not have standing to file a complaint pursuant to this section.

C. Within fifteen (15) business days after the occurrence of the action or after the date the employee became aware of the action, the employee may file a written request for review with the Office of Management and Enterprise Services.

D. All written requests for review shall be resolved pursuant to the rules promulgated by the Office of Management and Enterprise Services.

E. Decisions rendered pursuant to subsection D of this section may be appealed to the Career Service Commission. Unless otherwise provided for by statute, an appeal to the Commission under this section shall be filed within fifteen (15) business days of receiving the decision of the Office of Management and Enterprise Services.

F. The Career Service Commission may order payment of reasonable attorney fees and costs to the prevailing party if the position of the nonprevailing party was without reasonable basis or was frivolous.

G. The Office of Management and Enterprise Services shall promulgate rules establishing an appeals process and implementing the provisions within this section.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-6.6A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Any employee in the career service who has successfully completed the required probationary period or in the executive service shall only file an appeal under this section involving complaints of discrimination, retaliation, loss of base pay or alleged violation of Section 840-2.5 of this title.

B. Prior to filing an appeal under this section the filing party must have exhausted its remedies under Sections 45 and 48 of this act.

C. Unless otherwise provided for by statute, an appeal pursuant to this section shall be filed within fifteen (15) business days after the occurrence of the action or after the date the employee became aware of the action.

D. All appeals shall be resolved within one hundred sixty (160) days after the date of the filing of the appeal pursuant to Section 45 of this act and rules promulgated by the Office of Management and Enterprise Services. The Office of Management and Enterprise Services shall have the authority to grant extensions in the case of extenuating circumstances.

E. The Career Service Commission may order payment of reasonable attorney fees and costs to the prevailing party if the position of the nonprevailing party was without reasonable basis or was frivolous.

F. The Office of Management and Enterprise Services shall promulgate rules establishing and implementing the provisions of this section.

SECTION 52. AMENDATORY 74 O.S. 2011, Section 840-6.9, as amended by Section 921, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-6.9), is amended to read as follows:

Section 840-6.9 A. The ~~Oklahoma Merit Protection Commission or~~ Director of the Office of Management and Enterprise Services or the Career Service Commission may levy an administrative fine not to exceed Five Thousand Dollars ($5,000.00) against any person~~, whether subject to the provisions of the merit system or in unclassified service,~~ who after proper notice fails or refuses, within a reasonable period of time, to implement a written order of the ~~Oklahoma Merit Protection Commission or the Director of the~~ Office of Management and Enterprise Services or the Commission. Such fine shall be assessed against the person who violates the order and shall not be paid by any monies of the employing entity in which the person is employed or serves.

B. Any person against whom an administrative fine is levied who continues the violation for an unreasonable period of time, as determined by the ~~Oklahoma Merit Protection Commission or Director of the~~ Office of Management and Enterprise Services, shall forfeit his or her position and shall be ineligible for appointment to or employment in state government for a period of five (5) years.

C. Any fines collected pursuant to this section shall be deposited to the revolving fund of the respective entity which levies the fine.

SECTION 53. AMENDATORY 74 O.S. 2011, Section 150.17, is amended to read as follows:

Section 150.17 A. Effective July 1, 1980, the Statistical Analysis Division of the present Oklahoma Crime Commission shall be transferred to the Oklahoma State Bureau of Investigation. All unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances of the Crime Commission which relate to the Statistical Analysis Division are hereby transferred to the Oklahoma State Bureau of Investigation.

B. Effective July 1, 1988, the personnel transferred from the Oklahoma Crime Commission to the Oklahoma State Bureau of Investigation and persons occupying the position of any such personnel on July 1, 1988, shall become subject to the provisions of the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration. All incumbent employees subject to this subsection shall be classified without regard to status or ~~examinations~~ assessments. Such employees shall be granted status in the class of positions to which the employee's position is allocated by the Office of ~~Personnel~~ Management and Enterprise Services.

C. It is the intent of the Legislature that the mission of the Statistical Analysis Division not be changed by this transfer, and that the Oklahoma State Bureau of Investigation continue prior cooperative agreements made with the Criminal Justice Agencies of the state.

SECTION 54. AMENDATORY 74 O.S. 2011, Section 5003.5, is amended to read as follows:

Section 5003.5 A. The Director of the Department of Commerce shall be appointed by the Governor with the advice and consent of the Senate. The Director shall serve at the pleasure of the Governor and shall continue to serve until a successor is duly appointed and qualified. The salary of the Director shall be set by law.

B. The Director shall be qualified for such position by character, personality, ability, education, training and successful administrative experience in the public or private sector.

C. The Director shall employ such persons as are necessary to implement the powers and duties of the Department. Because many of the powers and duties of the Department involve working closely with the private sector, certain employee positions of the Department must be governed, classified and compensated in a manner that compares equally to similar positions in the private sector. Therefore, in the annual business plan, the Director shall list, describe and justify all such positions and their compensation and shall designate and place them in ~~unclassified~~ executive service status, exempt from the provisions of the Oklahoma ~~Personnel~~ Career Service Act. All other employees and positions shall be ~~classified~~ career service and subject to the provisions of the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration as provided in the Oklahoma ~~Personnel~~ Career Service Act. Provided, nothing in this section shall be construed to limit the authority of

the Legislature to specify the status of positions otherwise by law. Neither shall the Director have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Department.

D. The Director shall serve on the board of:

1. The Oklahoma Industrial Finance Authority;

2. The Oklahoma Science and Technology Research and Development Board;

3. The Oklahoma Development Finance Authority;

4. The Executive Bond Oversight Commission; and

5. The Oklahoma Ordnance Works Authority.

E. The Director may serve as administrator of any interlocal agreement or compact to pursue economic development and to assign any employees of the Department or employee personnel to carry out duties or obligations pursuant to any interlocal agreement or compact for economic development.

F. The Director, at his or her discretion, may approve payment for affiliations or memberships of the Department or, if necessary, associate memberships for individual employees in international, national, or state economic development councils, professional organizations, or governmental associations.

SECTION 55. REPEALER 74 O.S. 2011, Sections 840-1.7, 840-1.8, 840-1.12, 840-1.13, 840-1.21, 840-2.6, 840-2.7, as amended by Section 872, Chapter 304, O.S.L. 2012, 840-2.27F, as amended by

Section 887, Chapter 304, O.S.L. 2012, 840-3.4, as last amended by Section 4, Chapter 237, O.S.L. 2013, 840-4.19, 840-5.2, 840-5.2B, as amended by Section 915, Chapter 304, O.S.L. 2012, 840-5.4, 840-5.6, 840-5.7, 840-5.8, 840-5.9, 840-5.12, 840-5.13, 840-5.15, 840-5.18, 840-5.19, 840-5.20, 840-5.21, 840-5.23, 840-5.24, 840-6.2, 840-6.4, 840-6.5, as amended by Section 920, Chapter 304, O.S.L. 2012, 840-6.6, 840-6.7, 840-6.8 and 661.1 (74 O.S. Supp. 2013, Sections 840-2.7, 840-2.27F, 840-3.4, 840-5.2B and 840-6.5), are hereby repealed.

SECTION 56. AMENDATORY 3 O.S. 2011, Section 84.2, is amended to read as follows:

Section 84.2 A. Beginning July 1, 2002, the Oklahoma Aeronautics Commission shall cease to be part of or a division of the Department of Transportation and shall be deemed to be a separate and distinct agency, to be known as the Oklahoma Aeronautics Commission~~, and not under the Merit System of Personnel Administration~~. The Oklahoma Aeronautics Commission and the Director of Aeronautics shall continue to exercise their statutory powers, duties, and responsibilities. All records, property, equipment, assets, monies, matters pending, and funds of the division shall be transferred to the Oklahoma Aeronautics Commission.

B. 1. The number of full-time-equivalent employees for the Oklahoma Aeronautics Commission shall not be less than ten, nor more than the number of employees currently allowed by law for the

Oklahoma Aeronautics Commission division of the Department of Transportation and who transfer to the Oklahoma Aeronautics Commission pursuant to this section. In no event shall the total full-time-equivalent employees of the Oklahoma Aeronautics Commission transferring or electing to remain with the Department of Transportation exceed eighteen full-time-equivalent positions.

2. ~~All full-time-equivalent employee positions for the Oklahoma Aeronautics Commission shall not be under the Merit System of Personnel Administration and shall be considered unclassified service. All employees shall serve at the pleasure of the Director of the Oklahoma Aeronautics Commission.~~

~~3.~~ The Oklahoma Aeronautics Commission and the Department of Transportation may enter into an agreement for the transfer of personnel from the Department of Transportation to the Oklahoma Aeronautics Commission. No employee shall be transferred to the Oklahoma Aeronautics Commission except on the freely given written consent of the employee. ~~All classified employees under the Merit System of Personnel Administration who are not transferred to the Oklahoma Aeronautics Commission shall retain the status in the class to which the position occupied by the employee on July 1, 2002, is allocated by the Office of Personnel Management. The salary of such an employee shall not be reduced as a result of such position allocation. All employees who are transferred to the Oklahoma Aeronautics Commission shall not be required to accept a lesser~~

~~grade or salary than presently received.~~ All employees shall retain leave, sick and annual time earned, and any retirement and longevity benefits which have accrued during their tenure with the Department of Transportation. The transfer of personnel between the state agencies shall be coordinated with the Office of Personnel Management.

C. The Oklahoma Aeronautics Commission shall be authorized to rent, lease, or own the appropriate office space and property in order to conduct its business. The Oklahoma Aeronautics Commission is authorized to accept gifts, bequests, devises, contributions, and grants, public or private, including federal funds or funds from any other source for use in furthering the purpose of the Oklahoma Aeronautics Commission.

D. Funding for the Oklahoma Aeronautics Commission shall be provided for in the appropriation process of the Legislature, in addition to any other funding provided by law. The expenses incurred by the Oklahoma Aeronautics Commission as a result of the transfer required by this section shall be paid by the Oklahoma Aeronautics Commission.

E. The division within the Department of Transportation known as the Oklahoma Aeronautics Commission shall be abolished by the Transportation Commission after the transfer has been completed.

F. The Director of ~~State Finance~~ the Office of Management and Enterprise Services is directed to coordinate the transfer of

assets, funds, allotments, purchase orders, liabilities, outstanding financial obligations or encumbrances provided for in this section. The ~~Department of Central Services~~ Office shall coordinate the transfer of property and records provided for in this section.

SECTION 57. AMENDATORY 3A O.S. 2011, Section 712, is amended to read as follows:

Section 712. A. The executive director of the Oklahoma Lottery Commission, with the approval of the board of trustees, shall employ such personnel as may be necessary to carry out the provisions of this act and shall set the compensation and terms of compensation of such employees. ~~All offices, positions, and personnel of the Oklahoma Lottery Commission shall be in the unclassified service.~~

B. No employee of the Commission shall have a financial interest in any vendor doing business or proposing to do business with the Commission.

C. No employee of the Commission shall participate in any decision involving a retailer with whom the employee has a financial interest.

D. No employee of the Commission who leaves the employment of the Commission may represent any vendor or lottery retailer before the Commission for a period of two (2) years following termination of employment with the Commission.

E. A background investigation shall be conducted on each applicant who has reached the final selection process prior to

employment by the Commission at the level of division director and above and at any level within any division of security and as otherwise required by the board of trustees of the Oklahoma Lottery Commission. The Commission shall pay for the actual cost of the investigations and shall contract with the Oklahoma State Bureau of Investigation for the performance of the investigations. The results of a background investigation shall not be considered a record open to the public pursuant to the Oklahoma Open Records Act.

F. No person who has been convicted of any felony or a misdemeanor involving illegal gambling or involving moral turpitude shall be employed by the Commission, nor shall the Commission employ a person who is awaiting sentencing on a plea of guilt or nolo contendere to such a felony or misdemeanor.

G. The Commission shall bond Commission employees with access to Commission funds or lottery revenue in an amount specified by the board and may bond other employees as deemed necessary.

SECTION 58. AMENDATORY 53 O.S. 2011, Section 168, is amended to read as follows:

Section 168. The Council may make expenditures for its operation within the limits of funds made available to the Council by appropriation or otherwise and may also employ and fix the compensation of the personnel that the Council deems essential to the discharge of its duties as provided by the Oklahoma ~~Personnel~~ Career Service Act.

SECTION 59. AMENDATORY 56 O.S. 2011, Section 26.17, as amended by Section 230, Chapter 304, O.S.L. 2012 (56 O.S. Supp. 2013, Section 26.17), is amended to read as follows:

Section 26.17 A. The Director of Human Services, subject to the approval of the Commission for Human Services, shall have the power to employ and fix the qualifications, duties and compensation of employees necessary to the fulfillment of the provisions of this act, and shall have the power to approve any legal claim for payment.

B. The Department of Human Services shall be a ~~Merit~~ Career Service System agency. The provisions of this section shall supersede and revoke any and all Executive Orders placing the Department of Human Services or its predecessors under the provisions of the ~~Merit~~ Career Service System of ~~Personnel~~ Human Resources Administration.

~~C. In addition to offices, positions, and personnel in the unclassified service pursuant to Sections 840-5.3 and 840-5.5 of Title 74 of the Oklahoma Statutes, the following offices, positions, and personnel shall be in the unclassified service:~~

~~1. Campus police appointed pursuant to Section 162.2 of this title;~~

~~2. The legal division or unit established pursuant to Section 236 of this title;~~

~~3. The Construction Unit and the Architectural and Engineering Unit or their successor units; and~~

~~4. A maximum of five percent (5%) of the maximum number of full-time-equivalent positions authorized by law to the Department of Human Services and selected at the discretion of the Director of the Department of Human Services. Employees retained in the unclassified service under the provisions of this section shall be employees at will. Any classified employee occupying a position selected by the Director pursuant to this paragraph to become an unclassified position may elect to retain classified status. All future appointees to such position shall be in the unclassified service. The Director shall submit a list of such positions to the Office of Management and Enterprise Services by September 1, 2004, and annually thereafter.~~

~~D. All other offices, positions and personnel of the Department of Human Services shall be classified and subject to the provisions of the Merit System of Personnel Administration, as provided in the Oklahoma Personnel Act and rules promulgated thereunder.~~

SECTION 60. AMENDATORY 63 O.S. 2011, Section 5006, is amended to read as follows:

Section 5006. ~~A.~~ There is hereby created the Oklahoma Health Care Authority. The Authority shall have the power and duty to:

1. Purchase health care benefits for Medicaid recipients, and others who are dependent on the state for necessary medical care, as specifically authorized by law;

2. Enter into contracts for the delivery of state-purchased health care and establish standards and criteria which must be met by entities to be eligible to contract with the Authority for the delivery of state-purchased health care;

3. Develop a proposed standard basic health care benefits package or packages to be offered by health services providers, for Medicaid recipients;

4. Study all matters connected with the provision of state-purchased and state-subsidized health care coverage;

5. Develop and submit plans, reports and proposals, provide information and analyze areas of public and private health care interaction pursuant to the provisions of the Oklahoma Health Care Authority Act;

6. Serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues;

7. Administer programs and enforce laws placed under the jurisdiction of the Authority pursuant to the Oklahoma Health Care Authority Act, and such other duties prescribed by law;

8. Collaborate with and assist the Insurance Commissioner in the development of a Uniform Claim Processing System for use by third-party payors and health care providers;

9. Collaborate with and assist the State Department of Health with the development of licensure standards and criteria for pre-paid health plans; and

10. Exercise all incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Health Care Authority Act.

~~B. All positions within the Authority shall be unclassified until approval of the annual business and personnel plan submitted by January 1, 1995, by the Governor and the Legislature. In the annual business plan submitted January 1, 1995, the Board shall include a personnel plan which shall list, describe and justify all unclassified positions within the Authority and their compensation. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act.~~

SECTION 61. AMENDATORY 70 O.S. 2011, Section 17-103, is amended to read as follows:

Section 17-103. Except as provided in the Alternate Retirement Plan for Comprehensive Universities Act, the membership of the retirement system shall consist of the following:

(1) All ~~classified~~ career service personnel shall become members of the retirement system as a condition of their employment;

(2) All full-time ~~nonclassified optional~~ executive service personnel regularly employed for more than one (1) year may join the Teachers' Retirement System subject to the rules and regulations adopted pursuant to this act. Subject to the outcome of the private letter ruling request (2003) submitted by the Board to the Internal Revenue Service (2001), the System shall permit eligible nonclassified optional personnel who have ceased to make otherwise required employee contributions after having made an election to become a member of the retirement system to resume employee contributions. No service shall be credited to any such member for any period of time during which employee contributions were not made;

(3) All persons who shall become ~~classified~~ career service personnel or who are regularly employed in any school system as new ~~classified~~ career service personnel after July 1, 1943, hereof, shall become members of the retirement system as a condition of their employment;

(4) All other regular school employees may join the Teachers' Retirement System subject to the rules and regulations as may be adopted by the Board of Trustees of the Teachers' Retirement System;

(5) The Board of Trustees may, in its discretion, deny the right to become members to any class of members whose compensation

is only partly paid by the state, or who is serving on a temporary or other than per annum basis, and it also may, in its discretion, make optional with members in any such class their individual entrance into the retirement system; and

(6) Should any member, with less than ten (10) years of teaching service in Oklahoma, in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) years, withdraw his contributions, retire or die, he shall thereupon cease to be a member. The provisions of this paragraph shall not apply to any member of the Teachers' Retirement System who has been a member of such classes of military services as may be approved by the Board of Trustees, until a period of one and one-half (1 1/2) years from date of termination of such service shall have elapsed.

SECTION 62. REPEALER 37 O.S. 2011, Section 510A, is hereby repealed.

SECTION 63. REPEALER 43A O.S. 2011, Section 2-203, is hereby repealed.

SECTION 64. REPEALER 44 O.S. 2011, Section 21.1, is hereby repealed.

SECTION 65. REPEALER 63 O.S. 2011, Section 2-103a, is hereby repealed.

SECTION 66. REPEALER 72 O.S. 2011, Section 63.7A, is hereby repealed.

SECTION 67. This act shall become effective November 1, 2014.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
April 9, 2014 - DO PASS AS AMENDED