

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 3420

By: Osburn

COMMITTEE SUBSTITUTE

An Act relating to state employees; amending 62 O.S. 2021, Section 34.301, which relates to the Civil Service and Human Capital Modernization Act; modifying powers and duties; authorizing legal counsel; modifying exemptions; amending 74 O.S. 2021, Sections 840-1.3, 840-1.6, 840-1.6A, 840-1.7, 840-1.18, 840-1.20, 840-2.9, 840-2.10, 840-2.10a, 840-2.13, 840-2.14, 840-2.16, 840-2.17, 840-2.18, 840-2.19, 840-2.20, 840-2.21, 840-2.23, 840-2.25, 840-2.27C, 840-2.27D, 840-4.19, 840-5.3 and 840-7.1, which relate to the Oklahoma Personnel Act; modifying definitions; removing definitions; abolishing the Oklahoma Merit Protection Commission; transferring powers, duties, and assets to the Civil Service Division of the Office of Management and Enterprise Services; removing obsolete language; updating references; modifying definition; modifying days of scheduled reduction-in-force; modifying reduction-in-force implementation plan; modifying severance benefit packages; providing exception; authorizing Civil Service Director to delegate authority to issue certain final agency orders; repealing 74 O.S. 2021, Sections 840-1.2, 840-1.6B, 840-1.8, 840-1.9, 840-1.10, 840-1.12, 840-1.13, 840-1.15, 840-1.19, 840-1.21, 840-2.5, 840-2.6, 840-2.27A, 840-2.27B, 840-2.27F, 840-2.27G, 840-2.27I, 840-2.29, 840-3.2, 840-3.4, 840-3.5, 840-3.6, 840-3.7, 840-3.9, 840-3.10, 840-3.11, 840-3.12, 840-3.13, 840-3.14, 840-3.15, 840-3.16, 840-3.17, 840-4.1, 840-4.2, 840-4.3, 840-4.4, 840-4.6, 840-4.8, 840-4.9, 840-4.10, 840-4.11, 840-4.12, 840-4.13, 840-4.14, 840-4.15, 840-4.16, 840-5.1, 840-5.1A, 840-5.2, 840-5.2A, 840-5.2B, 840-5.4, 840-5.5, 840-5.6, 840-5.7, 840-5.8, 840-5.9,

840-5.11, 840-5.12, 840-5.13, 840-5.13A, 840-5.15,  
840-5.16, 840-5.18, 840-5.19, 840-5.20, 840-5.21,  
840-5.23, 840-5.24, 840-5.25, 840-5.26, 840-5.27,  
840-6.1, 840-6.2, 840-6.3, 840-6.4, 840-6.5, 840-6.6,  
840-6.7, 840-6.8, and 840-6.9, which relate to the  
Oklahoma Personnel Act; providing for codification;  
and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S. 2021, Section 34.301, is  
amended to read as follows:

Section 34.301 A. This act shall be known and may be cited as  
the "Civil Service and Human Capital Modernization Act".

B. The ~~Human Capital Management~~ Civil Service Division of the  
Office of Management and Enterprise Services shall:

1. Establish and maintain a State Employee Dispute Resolution  
Program, which may include mediation, to provide dispute resolution  
services for state agencies and state employees. Actions agreed to  
through the State Employee Dispute Resolution Program 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;

2. Establish rules pursuant to the Administrative Procedures  
Act as may be necessary to perform the duties and functions of this  
act, including creating an Office of Veterans Placement to offer

1 counseling, assessment and assistance to veterans seeking state  
2 employment;

3 3. Receive and only act on complaints by state employees  
4 arising from disciplinary action;

5 4. Use administrative law judges as independent contractors or  
6 administrative law judges provided by the Office of Attorney General  
7 to exercise the provisions of this act;

8 5. Submit quarterly reports on workload statistics to the  
9 Governor, the Speaker of the Oklahoma House of Representatives and  
10 the President Pro Tempore of the Oklahoma State Senate containing  
11 the following information:

12 a. the number of cases, complaints and requests for  
13 hearings filed, disposed of and pending with the  
14 Division for each month of the quarter, and

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

17 Quarterly reports shall be submitted within thirty (30) days  
18 following the last day of the month of the appropriate quarter; and

19 6. Create a confidential whistleblower program and serve as the  
20 chief administrator of such program whereby a state employee may  
21 confidentially report claims of agency or employee mismanagement as  
22 well as criminal misuse of state funds or property. Mismanagement  
23 includes fraudulent activity or abuse or violation of a well-  
24 established, articulated, clear, and compelling public policy. The

1 Office of the Attorney General shall have the authority to  
2 investigate and determine whether to prosecute such whistleblower  
3 claims. The Attorney General shall also have the power to refer  
4 such claims to the appropriate district attorney.

5 C. Complaints shall be filed with the ~~Human Capital Management~~  
6 Civil Service Division within ~~five (5)~~ ten (10) business days of the  
7 date of when such action occurred and hearings shall take place  
8 within ~~twenty-five (25)~~ thirty (30) business days ~~of~~ from the action  
9 filing of the complaint.

10 D. Employees filing a complaint with the ~~Human Capital~~  
11 ~~Management~~ Civil Service Division shall prove that there was no  
12 reasonable basis for the disciplinary action by the state agency.  
13 The review of the merits of the complaint shall be limited to the  
14 employee disciplinary file directly at issue. Complaints relating  
15 to punitive transfers or written reprimands shall be administered  
16 through mediation first and shall only proceed to a hearing if  
17 mediation is unsuccessful. Employees who were offered a relocation  
18 incentive as set forth in administrative rule shall not be deemed as  
19 being subject to a punitive transfer. Complaints relating to  
20 written reprimands shall be administered through mediation  
21 exclusively. Mediation may also be available for other disciplinary  
22 actions.

23 E. Claimants shall be permitted to secure and utilize  
24 representation during the adverse action process.

1 F. The presiding officer of any proceeding before the ~~Human~~  
2 ~~Capital Management~~ Civil Service Division may require payment of  
3 reasonable attorney fees and costs to the prevailing party if the  
4 position of the nonprevailing party was without reasonable basis or  
5 was frivolous.

6 G. For purposes of this section, "disciplinary actions" means  
7 termination, suspension without pay, involuntary demotion, punitive  
8 transfers or written reprimand.

9 H. Nothing in this section shall apply to:

10 1. Persons employed by the Governor, Lieutenant Governor,  
11 Oklahoma House of Representatives, Oklahoma State Senate,  
12 Legislative Service Bureau, or the Legislative Office of Fiscal  
13 Transparency;

14 2. Elected officials;

15 3. Political appointees;

16 4. District attorneys, assistant district attorneys or other  
17 employees of the district attorney's office;

18 5. The state judiciary or persons employed by the state  
19 judiciary; ~~or~~

20 6. Not more than five percent (5%) of an agency's employees  
21 designated as executive management as determined by the agency  
22 director;

23 7. Temporary employees employed to work less than one thousand  
24 (1,000) hours in any twelve-month period;

1        8. Seasonal employees employed to work less than one thousand  
2 six hundred (1,600) hours in any twelve-month period;

3        9. Employees in a trial period; or

4        10. State employees whose employment status is otherwise  
5 provided by law.

6        I. Except as provided by subsection H of this section,  
7 effective January 1, 2022, all state employee positions shall be  
8 administered by the ~~Human Capital Management~~ Civil Service Division  
9 of the Office of Management and Enterprise Services, without  
10 reference to prior classified or unclassified status.

11       J. Under the administration and oversight of the ~~Human Capital~~  
12 ~~Management~~ Civil Service Division as set forth in subsection I of  
13 this section, state agencies shall continue to be responsible for  
14 developing and conducting policies and procedures for human resource  
15 activities, including, but not limited to, recruitment, retention,  
16 promotion, market-based pay analysis, training and development. In  
17 addition, state agencies shall develop procedures for screening,  
18 hiring and disciplinary actions of state employees subject to  
19 guidance and approval by the Division.

20       K. The Civil Service Division is authorized to employ attorneys  
21 or contract with private attorneys to serve as legal counsel to the  
22 Civil Service Division. The attorneys shall be authorized to appear  
23 for and represent the Civil Service Division in all litigation that  
24 may arise from the discharge of its duties, including the

1 representation the Civil Service Division when its decisions are  
2 appealed to higher courts. Attorneys employed by the Office of  
3 Management and Enterprise Services to represent the Civil Service  
4 Division shall represent the Civil Service Division notwithstanding  
5 its representation of the Office of Management and Enterprise  
6 Services in the same or related matters pending before the Civil  
7 Service Division or before any court. The Office of Management and  
8 Enterprise Services shall establish internal administrative  
9 procedures to ensure that all departments within the Office of  
10 Management and Enterprise Services are provided independent legal  
11 representation, and such simultaneous representation shall not, of  
12 itself, be deemed to constitute a conflict of interest.

13 L. The Civil Service Division shall be exempt from the  
14 requirements set forth in Section 20i of Title 74 of the Oklahoma  
15 statutes when carrying out the duties and functions of this act.

16 SECTION 2. AMENDATORY 74 O.S. 2021, Section 840-1.3, is  
17 amended to read as follows:

18 Section 840-1.3 As used in the Oklahoma Personnel Act, unless  
19 otherwise provided in Sections 840-1.1 through 840-6.9 of this  
20 title:

21 1. "Agency" means any office, department, board, commission or  
22 institution of the executive branch of state government;

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

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

3        4. ~~"Classification" means:~~

- 4            a. ~~the process of placing an employee into an appropriate~~  
5                ~~job family and level within the job family, consistent~~  
6                ~~with the allocation of the position to which the~~  
7                ~~employee is assigned, or~~  
8            b. ~~an employee's job family and the level at which work~~  
9                ~~is assigned;~~

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

14       6. ~~"Classified service" means state employees and positions~~  
15 ~~under the jurisdiction of the Oklahoma Merit System of Personnel~~  
16 ~~Administration;~~

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

21       8. ~~"Entrance examination" means any employment test used by the~~  
22 ~~Office of Management and Enterprise Services to rank the names of~~  
23 ~~applicants who possess the minimum requirements of education,~~  
24 ~~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;~~

~~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;~~

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

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

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

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

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

1       ~~18. "Merit Rules" or "Merit Rules for Employment" or "Merit~~  
2 ~~System of Personnel Administration Rules" means rules adopted by the~~  
3 ~~Director of the Office of Management and Enterprise Services or the~~  
4 ~~Oklahoma Merit Protection Commission pursuant to the Oklahoma~~  
5 ~~Personnel Act;~~

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

8       ~~20. "Noncompetitive job" means an unskilled or semiskilled job~~  
9 ~~designated by the Office of Management and Enterprise Services as~~  
10 ~~noncompetitive. Noncompetitive jobs do not require written~~  
11 ~~examinations for placement on registers of eligibles;~~

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

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

21       ~~23.~~ 5. "Progressive discipline" means a system designed to  
22 ensure the consistency, impartiality and predictability of  
23 discipline and the flexibility to vary penalties if justified by  
24 aggravating or mitigating conditions;

1       ~~24. "Reclassification" means the process of changing a~~  
2 ~~classified employee from one job family to another job family or~~  
3 ~~from one job family level to another job family level in the same~~  
4 ~~job family, resulting in a change in the employee's assigned job~~  
5 ~~code;~~

6       ~~25. "Regular and consistent" means, in connection with the work~~  
7 ~~assignments of an employee, the usual and normal work assignments of~~  
8 ~~the employee, excluding incidental, casual, or occasional tasks and~~  
9 ~~activities the employee assumes without direction to do so.~~  
10 ~~Temporary work assignments of less than sixty (60) days in any~~  
11 ~~twelve (12) consecutive months period shall not be considered~~  
12 ~~regular and consistent;~~

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

16       ~~27. 6. "Supervisor" means a classified or unclassified an~~  
17 ~~officer or employee who has been assigned authority and~~  
18 ~~responsibility for evaluating the performance of subordinates;~~

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

22       ~~29. "Merit System" means the Oklahoma Merit System of Personnel~~  
23 ~~Administration;~~

1       ~~30.~~ 7. "Director" means the appointing authority of the Office  
2 of Management and Enterprise Services;

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

5       ~~32.~~ 8. "Office" means the Office of Management and Enterprise  
6 Services; and

7       ~~33. "Commission" means the Oklahoma Merit Protection~~  
8 ~~Commission;~~

9       ~~34.~~ 9. "Veteran" means a person who has been honorably  
10 discharged from the Armed Forces of the United States ~~and has been a~~  
11 ~~resident of Oklahoma for at least one (1) year prior to the date of~~  
12 ~~the examination; and~~

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

17       SECTION 3.       AMENDATORY       74 O.S. 2021, Section 840-1.6, is  
18 amended to read as follows:

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

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

5 ~~C. Employees of the Office shall be subject to the Merit System~~  
6 ~~of Personnel Administration, unless otherwise exempted by Section~~  
7 ~~840-5.5 of this title.~~

8 SECTION 4. AMENDATORY 74 O.S. 2021, Section 840-1.6A, is  
9 amended to read as follows:

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

18 1. Be responsible for the development of an efficient and  
19 effective system of personnel administration that meets the  
20 management needs of the various agencies;

21 2. Organize the Office to provide both service and regulatory  
22 functions that are effective and efficient in meeting the management  
23 needs of various state agencies. The Director is directed to  
24 establish an agency service function to assist agencies with human

1 resource needs based upon the administrative capacity and resources  
2 of the various agencies;

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

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

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

21 ~~6. Develop a program for the recruitment of qualified persons,~~  
22 ~~including the administration of valid job-related nondiscriminatory~~  
23 ~~selection procedures providing for competitive examinations and~~  
24 ~~other job-related assessments. 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 Act and provide standard forms to the agencies if necessary;~~

~~9. 7. Develop, in cooperation with appointing authorities, employee training programs, management training programs, a certified public manager program, a recruiting program, and a system~~



1 of performance appraisals, and assist appointing authorities in the  
2 setting of productivity goals. The Director may establish and  
3 collect fees for participation in training programs. The Director  
4 is authorized to purchase awards for presentation to state employees  
5 as part of employee recognition activities sponsored by the Office  
6 of Management and Enterprise Services;

7 ~~10.~~ 8. Establish rules for leave and pay including, but not  
8 limited to, rules for leave, furloughs, ~~performance pay increases,~~  
9 ~~rates for pay differentials, on-call pay, and other types of pay~~  
10 ~~incentives and salary adjustments consistent with the Oklahoma~~  
11 ~~Personnel Act~~ and reduction-in-force;

12 ~~11. Assist the Oklahoma Merit Protection Commission and the~~  
13 ~~Executive Director in effectuating their duties, enforcement of the~~  
14 ~~rules of the Merit System of Personnel Administration, and~~  
15 ~~implementation of corrective action issued by the Commission;~~

16 ~~12.~~ 9. Be responsible for the development and maintenance of a  
17 uniform occupation code system, grouped by job titles or duties, for  
18 all ~~classified and unclassified~~ state positions. The responsibility  
19 shall include the establishment of rules governing the  
20 identification, tracking, and reporting of all state positions as  
21 provided in Section 840-2.13 of this title;

22 ~~13.~~ 10. Be responsible for advising state agencies on personnel  
23 policy and administration;

1       ~~14.~~ 11. Establish standards for continuing training,~~including~~  
2 ~~affirmative action,~~ and certification of personnel professionals in  
3 the executive branch of state government, excluding institutions  
4 within The Oklahoma State System of Higher Education. Employees  
5 appointed to professional personnel positions shall complete an  
6 initial training program within one (1) year after assuming the  
7 professional personnel position. Thereafter, they shall complete  
8 annual training requirements. Each appointing authority shall  
9 ensure that all professional personnel employees are notified of,  
10 and scheduled to attend, required training programs and shall make  
11 time available for employees to complete the programs. The Director  
12 shall be authorized to bill agencies for the training of personnel  
13 professionals pursuant to this paragraph to recover reasonable costs  
14 associated with the training. Monies received for such training  
15 shall be deposited in the Human Capital Management Revolving Fund.  
16 Expenditure of such funds collected for the training shall be exempt  
17 from any expenditure limit on the Office of Management and  
18 Enterprise Services established by law;

19       ~~15.~~ 12. Not less than once during each two-year period, conduct  
20 a study identifying the following, by job family descriptors:

- 21           a.     selected ~~job family levels~~ jobs with a turnover rate  
22                   in excess of ten percent (10%),
- 23           b.     selected ~~job family levels~~ jobs identified by the  
24                   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~~ jobs 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 Act, the Merit Rules of Personnel Administration, and all memoranda or other written communications issued to agencies explaining the Oklahoma Personnel Act, the Rules, and any other matter relating to the Merit System of Personnel 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.~~ 13. 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.~~ 14. Establish a quality management function within the Office of Management and Enterprise Services and shall assist state

1 agencies in fully integrating quality management concepts and models  
2 into their business practices for the purpose of improving the  
3 overall efficiency and effectiveness of state government.

4 SECTION 5. AMENDATORY 74 O.S. 2021, Section 840-1.7, is  
5 amended to read as follows:

6 Section 840-1.7 A. ~~There is hereby created the~~ The Oklahoma  
7 Merit Protection Commission, ~~to continue until December 31, 2022 is~~  
8 hereby abolished. Whenever the terms "Ethics and Merit Commission",  
9 ~~or "Special Counsel of the Ethics and Merit Commission", or the~~  
10 "Oklahoma Merit Protection Commission" appear in the Oklahoma  
11 Statutes, they shall mean the ~~Oklahoma Merit Protection Commission~~  
12 ~~or the Executive Director of the Oklahoma Merit Protection~~  
13 ~~Commission as may be appropriate to the context in which they~~  
14 ~~appear. The Oklahoma Merit Protection Commission shall consist of~~  
15 ~~nine (9) members who shall be appointed for a term of three (3)~~  
16 ~~years. The members shall be removable only for cause, as provided~~  
17 ~~by law for the removal of officers not subject to impeachment. Two~~  
18 ~~members of the Commission shall be appointed by the President Pro~~  
19 ~~Tempore of the Senate. Two members of the Commission shall be~~  
20 ~~appointed by the Speaker of the House of Representatives. Five~~  
21 ~~members of the Commission shall be appointed by the Governor. No~~  
22 ~~more than four of the appointments made by the Governor shall be~~  
23 ~~from the same political party. Of the initial appointments made to~~  
24 ~~the Commission, one member appointed by the President Pro Tempore,~~

~~one member appointed by the Speaker and one member appointed by the Governor shall be for a term of three (3) years; and one member appointed by the President Pro Tempore, one member appointed by the Speaker and one member appointed by the Governor shall be for a term of two (2) years. The remaining three initial appointments by the Governor shall be designated to serve a term of one (1) year. At the expiration of the initial term, each new appointee shall serve a three-year term. All initial appointments shall be made prior to July 1, 1982.~~

~~B. Members of the Commission shall be entitled to reimbursement for expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.~~

~~C. The Commission shall elect a chairman to serve a two-year term and such other officers as deemed necessary for the performance of their duties. The Commission shall hold regular meetings not less than once a month and such additional meetings as called by the chairman as may be required for the proper discharge of its duties~~  
Civil Service Division of the Office of Management and Enterprise Services.

B. Any funds appropriated to, in the possession of, or allocated to the Commission shall be deemed to be funds of the Office of Management and Enterprise Services.

C. Upon request of the Director of the Office of Management and Enterprise Services, the personnel of the Commission shall deliver

1 to the Office of Management and Enterprise Services all books,  
2 papers, records, and property of the Commission.

3 D. All functions, powers, duties, and obligations previously  
4 assigned to Commission are hereby transferred to the Office of  
5 Management and Enterprise Services.

6 E. All rules, regulations, acts, orders, determinations, and  
7 decisions of the Commission pertaining to the functions and powers  
8 herein transferred and assigned to the Office of Management and  
9 Enterprise Services in force at the time of such transfer,  
10 assignment, assumption, or devolution shall continue in force and  
11 effect as rules, regulations, acts, orders, determinations, and  
12 decisions of the Commission until duly modified or abrogated by the  
13 appropriate body or until otherwise provided by law.

14 SECTION 6. AMENDATORY 74 O.S. 2021, Section 840-1.18, is  
15 amended to read as follows:

16 Section 840-1.18 A. ~~The administrative expenses and costs of~~  
17 ~~operating the Merit System shall be paid by the various divisions of~~  
18 ~~the state government included within the Merit System, and each such~~  
19 ~~agency shall be authorized to include in its budget estimates its~~  
20 ~~pro rata share of such costs, and shall remit such shares quarterly~~  
21 ~~from departmental or agency funds to the Office of Management and~~  
22 ~~Enterprise Services who shall deposit such shares to the credit of~~  
23 ~~the General Revenue Fund of the State Treasury.~~  
24

1       ~~B. The Director shall maintain accurate records reflecting the~~  
2 ~~costs of administering its provisions, and at the close of each~~  
3 ~~quarter year period shall summarize said costs, and shall bill each~~  
4 ~~department or agency included within the terms of the Oklahoma~~  
5 ~~Personnel Act with a pro rata share of the administrative costs~~  
6 ~~based on the relationship between the quarterly average number of~~  
7 ~~employees in the classified service of such department or agency,~~  
8 ~~and the quarterly average number of employees in the classified~~  
9 ~~service of the state.~~

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

13       ~~D.~~ Any state agency for which the Director provides payroll  
14 services shall pay for such services at a rate established by the  
15 Director, which shall be based upon the cost to the Director of  
16 providing such services. Each agency shall remit payment for such  
17 services quarterly from departmental or agency funds to the Director  
18 who shall deposit such payments into the ~~Office of~~ Human Capital  
19 ~~Management and Enterprise Services~~ Revolving Fund created in Section  
20 840-1.20 of this title.

21       ~~E.~~ B. No state disbursing or auditing officer shall make or  
22 approve or take any part in making or approving any payment for  
23 personal service to any person holding a position in the state  
24 ~~classified~~ service, brought under the ~~Oklahoma Personnel Act~~ law

1 unless the payroll voucher or account of such pay bears the  
2 certification of the appointing authority or designee, that the  
3 persons named therein have been appointed and employed in accordance  
4 with the provisions of ~~the Oklahoma Personnel Act~~ law and the rules  
5 promulgated hereunder. The appointing authority or designee may for  
6 proper cause withhold certification from an entire payroll or from  
7 any specific item or items thereon.

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

18 Any person appointed or employed in contravention of any  
19 provision of ~~the Oklahoma Personnel Act~~ law or any rules or orders  
20 promulgated hereunder, whose employment is brought within the terms  
21 of ~~the Oklahoma Personnel Act~~ law, who performs service for which he  
22 or she is not paid, may maintain an action against the officer or  
23 officers who purported to appoint or employ the person to recover  
24 the agreed pay for such services, or the reasonable value thereof if



1 no pay was agreed upon. No officer shall be reimbursed by the state  
2 at any time for any sum paid to such person on account of such  
3 services.

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

9 SECTION 7. AMENDATORY 74 O.S. 2021, Section 840-1.20, is  
10 amended to read as follows:

11 Section 840-1.20 A. There is hereby created in the State  
12 Treasury a revolving fund for the Office of Management and  
13 Enterprise Services to be designated the "Human Capital Management  
14 Revolving Fund". The fund shall be a continuing fund, not subject  
15 to fiscal year limitations, and shall consist of fees received by  
16 the Office of Management and Enterprise Services for providing  
17 training for a certified public managers program and all other  
18 monies received by the Office of Management and Enterprise Services,  
19 ~~except for appropriated monies and monies received as payment for~~  
20 ~~administrative expenses under Section 840-1.18 of this title.~~ All  
21 monies accruing to the credit of the fund are hereby appropriated  
22 and may be budgeted and expended by the Office of Management and  
23 Enterprise Services for defraying the costs incurred in performing  
24 the duties and functions of the Office. Expenditures from the fund

1 shall be made upon warrants issued by the State Treasurer against  
2 claims filed as prescribed by law with the Director of the Office of  
3 Management and Enterprise Services for approval and payment.

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

9 C. Any monies in or obligations against the Employee Benefits  
10 Revolving Fund and the Benefits Council Administration Revolving  
11 Fund shall be transferred to the Human Capital Management Revolving  
12 Fund. Funds previously designated for deposit into the Employee  
13 Benefits Revolving Fund and the Benefits Council Administration  
14 Revolving Fund shall be deposited into the Human Capital Management  
15 Revolving Fund.

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

1       SECTION 8.       AMENDATORY       74 O.S. 2021, Section 840-2.9, is  
2 amended to read as follows:

3       Section 840-2.9 A. No person in the state service, ~~whether~~  
4 ~~subject to the provisions of the Merit System or in unclassified~~  
5 ~~service,~~ shall be appointed to or demoted or dismissed from any  
6 position in the state service, or in any way favored or  
7 discriminated against with respect to employment in the state  
8 service because of political or religious opinions or affiliations,  
9 race, creed, gender, color or national origin or by reason of any  
10 physical handicap so long as the physical handicap does not render  
11 the employee unable to do the work for which he or she is employed.  
12 The hiring of special disabled veterans pursuant to Sections 401  
13 through 404 of Title 72 of the Oklahoma Statutes shall not  
14 constitute favoritism as herein prohibited.

15       B. No person shall use or promise to use, directly or  
16 indirectly, any official authority or influence, whether possessed  
17 or anticipated, to secure or attempt to secure for any person an  
18 appointment or advantage in appointment to a position ~~in the~~  
19 ~~classified service,~~ or an increase in pay or other advantage in  
20 employment in any such position, for the purpose of influencing the  
21 vote or political action of any person, or for any consideration.  
22 Letters of inquiry, recommendation and reference for public  
23 employees by public officials shall not be considered official  
24

1 authority or influence unless such letter contains a threat,  
2 intimidation, or irrelevant, derogatory or false information.

3 C. No person shall make any false statement, certificate,  
4 score, rating or report with regard to any test, certification or  
5 appointment ~~made under any provision of the Oklahoma Personnel Act~~  
6 to state service or in any manner commit any fraud related to  
7 employment in state service preventing the implementation of the  
8 provisions of ~~the Oklahoma Personnel Act~~ law and rules made pursuant  
9 thereto.

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

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

21 F. Alleged violation of this section shall be reported to the  
22 Oklahoma ~~Merit Protection Commission~~ Attorney General.

23 SECTION 9. AMENDATORY 74 O.S. 2021, Section 840-2.10, is  
24 amended to read as follows:

1       Section 840-2.10 A. There is hereby created a State Employee  
2 Assistance Program within the ~~Department of Mental Health and~~  
3 ~~Substance Abuse Services~~ Office of Management and Enterprise  
4 Services. ~~All functions, powers, duties, funds and obligations of~~  
5 ~~the Office of Management and Enterprise Services in administration~~  
6 ~~of the State Employee Assistance Program shall be transferred to the~~  
7 ~~Department~~. The program ~~may~~ shall provide assistance to state  
8 agencies in their management of employees whose personal problems  
9 may have a negative impact on job performance. The program may also  
10 provide for assessment, referral, consultation, and problem  
11 resolution assistance to state employees and their family members  
12 seeking corrective help with medical or mental health problems,  
13 including alcohol or drug abuse and emotional, marital, familial,  
14 financial or other personal problems. Participation in the State  
15 Employee Assistance Program shall be on a voluntary basis.

16       B. The ~~Department~~ Office may enter into contracts which are  
17 necessary and proper to carry out the purposes and functions of the  
18 State Employee Assistance Program and establish standards and  
19 criteria which shall be met by entities to be eligible to contract  
20 with the ~~Department~~ Office.

21       C. The ~~Commissioner~~ Director of the ~~Department~~ Office is hereby  
22 directed to:

1       ~~1. Promulgate~~ promulgate rules necessary for the administration  
2 of the State Employee Assistance Program and the maintenance and  
3 release of participant records; ~~and~~

4       ~~2. Establish evaluation methods to assess the effectiveness of~~  
5 ~~the State Employee Assistance Program.~~

6       D. Nothing in this act is intended to nullify any agency's  
7 existing employee assistance program or to prohibit any state agency  
8 from establishing its own employee assistance program; provided,  
9 however, such programs established by state agencies shall be  
10 subject to compliance with rules promulgated by the ~~Commissioner~~  
11 Director of the ~~Department~~ Office to ensure equitable treatment of  
12 employees.

13       E. Records that relate to participation by an individual in the  
14 State Employee Assistance Program or an employee assistance program  
15 established by a state agency shall be maintained separate and apart  
16 from regular personnel records and shall not become part of an  
17 employee's personnel file. Such records relating to an individual's  
18 participation in an employee assistance program shall be  
19 confidential and neither the records nor the testimony of an  
20 Employee Assistance Program professional shall be subject to  
21 subpoena unless a participant poses a threat to deliberately harm  
22 the participant or others. Such determination shall be made by an  
23 Employee Assistance Program professional. A participant in an  
24

1 employee assistance program shall have a right of access to his or  
2 her own employee assistance program records.

3 F. No provision of this section or the rules promulgated  
4 pursuant to this section shall be construed to conflict with an  
5 appointing authority's responsibility and authority to maintain  
6 discipline or to take disciplinary measures against employees for  
7 misconduct or unacceptable performance. Further, participation or  
8 nonparticipation in any state employee assistance program shall not  
9 excuse an employee from discipline or otherwise affect the terms and  
10 conditions of such employee's employment status or opportunities for  
11 advancement with the state.

12 G. The Legislature and the judicial branch of state government  
13 may utilize the services of the State Employee Assistance Program at  
14 their discretion.

15 SECTION 10. AMENDATORY 74 O.S. 2021, Section 840-2.10a,  
16 is amended to read as follows:

17 Section 840-2.10a A. State agencies shall provide or contract  
18 to provide, through the State Employee Assistance Program,  
19 debriefing and counseling services for state employees who are  
20 involved in, witness or are otherwise exposed to a violent or  
21 traumatic event in the workplace.

22 B. State employees who are affected by such events shall be  
23 encouraged to participate in debriefing or counseling services and  
24

1 paid administrative leave shall be provided. However, employees  
2 shall have the option to refuse services offered.

3 C. The Director of the ~~Department of Mental Health and~~  
4 ~~Substance Abuse Services~~ Office of Management and Enterprise  
5 Services shall promulgate rules to implement the provisions of this  
6 section which, at a minimum, shall specify the types of events which  
7 shall qualify state employees for debriefing and counseling  
8 services.

9 SECTION 11. AMENDATORY 74 O.S. 2021, Section 840-2.13,  
10 is amended to read as follows:

11 Section 840-2.13 A. The Director of the Office of Management  
12 and Enterprise Services shall establish a Personnel Management  
13 Information System to provide various management reports to  
14 facilitate decision making within agencies, and to promote the  
15 efficient utilization of personnel resources by providing a method  
16 for tracking, monitoring and reporting positions and employee  
17 transactions. The System shall include information on ~~both the~~  
18 ~~classified and unclassified services~~ state service positions within  
19 the executive branch of government, but shall not require  
20 institutions within The Oklahoma State System of Higher Education to  
21 participate.

22 B. The Director of the Office of Management and Enterprise  
23 Services shall promulgate rules regarding the Personnel Management  
24 Information System as necessary to implement the provisions of this



1 section. Such rules shall establish a schedule to ensure the  
2 orderly implementation of such Personnel Management Information  
3 System.

4 ~~C. The Personnel Management Information System shall be~~  
5 ~~implemented for all state agencies under the Merit System by July 1,~~  
6 ~~1993, and for all other executive branch state agencies by July 1,~~  
7 ~~1994.~~

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

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

14 SECTION 12. AMENDATORY 74 O.S. 2021, Section 840-2.14,  
15 is amended to read as follows:

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

22 B. The Office of Management and Enterprise Services shall  
23 produce an electronic report on an annual basis of all reallocation  
24 decisions for career service positions.

1 C. The Office of Management and Enterprise Services shall  
2 produce an electronic report on an annual basis of all transactions  
3 in the ~~career service and executive~~ state service involving the  
4 establishment of new positions.

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

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

22 SECTION 13. AMENDATORY 74 O.S. 2021, Section 840-2.16,  
23 is amended to read as follows:  
24

1       Section 840-2.16 Except as otherwise provided by law, any  
2 ~~classified, unclassified or exempt~~ employee of the state, excluding  
3 members of boards and commissions, institutions under the  
4 administrative authority of the Oklahoma State Regents for Higher  
5 Education, employees of public school districts and elected  
6 officials, on July 1 of each year, earning less than the amount  
7 established in the Federal Poverty Guidelines for a three-person  
8 household, issued each year in the Federal Register by the United  
9 States Department of Health and Human Services, shall receive the  
10 necessary grade or salary adjustment to provide for a minimum  
11 annualized salary equal to the amount established in the Federal  
12 Poverty Guidelines for a three-person household, issued each year in  
13 the Federal Register by the United States Department of Health and  
14 Human Services. Any ~~classified, unclassified or exempt~~ employee of  
15 the state, excluding members of boards and commissions, institutions  
16 under the administrative authority of the Oklahoma State Regents for  
17 Higher Education, employees of public school districts and elected  
18 officials, employed after July 1, 2007, shall receive a minimum  
19 annualized salary equal to the amount established in the Federal  
20 Poverty Guidelines for a three-person household, issued each year in  
21 the Federal Register by the United States Department of Health and  
22 Human Services. This section shall not apply to those persons  
23 employed pursuant to ~~paragraph 8 and paragraph 12 of subsection A of~~  
24 ~~Section 840-5.5 and~~ Section 2241 of this title or those persons

1 employed pursuant to Section 1.6a of Title 53 of the Oklahoma  
2 Statutes.

3 SECTION 14. AMENDATORY 74 O.S. 2021, Section 840-2.17,  
4 is amended to read as follows:

5 Section 840-2.17 A. Unless otherwise provided by the Oklahoma  
6 Constitution, statutory authority to set or fix compensation, pay or  
7 salary of state officers and employees shall not be construed to  
8 authorize any agency, board, commission, department, institution,  
9 bureau, executive officer or other entity of the executive branch of  
10 state government to award, grant, give, authorize, or promise any  
11 officer or employee of the State of Oklahoma a raise that is  
12 inconsistent with the compensation schedules established by the  
13 Office of Management and Enterprise Services for all state officers  
14 and employees in the executive branch ~~pursuant to Section 840-4.6 of~~  
15 ~~this title~~, including, but not limited to, a cost-of-living raise or  
16 any other type of raise that would be given to state employees on an  
17 across-the-board basis, except as herein provided. Such raises are  
18 prohibited unless authorized by the Legislature and by ~~Career~~  
19 ~~Service Rules for Employment~~ rules promulgated by the Director.  
20 This prohibition applies to all ~~career and executive service~~  
21 officers and employees in the executive branch of state government,  
22 excluding institutions under the administrative authority of the  
23 Oklahoma State Regents for Higher Education.

1       B. However, nothing in this section shall be construed to  
2 prohibit the following actions if the action is made in good faith  
3 and not for the purpose of circumventing subsection A of this  
4 section, and if the appointing authority certifies that the action  
5 can be implemented for the current fiscal year and the subsequent  
6 fiscal year without the need for additional funding to increase the  
7 personal services budget of the agency, and if the Office of  
8 Management and Enterprise Services certifies that the action is  
9 consistent with the compensation schedules established pursuant to  
10 the provisions of ~~Section 840-4.6~~ of this title act:

11       1. Salary advancements on promotion ~~or direct reclassification~~  
12 ~~to a job family level or class with a higher salary band;~~

13       2. Salary adjustments resulting from a pay ~~band~~ change for a  
14 job ~~family level or class~~ adopted by the Office of Management and  
15 Enterprise Services;

16       3. Increases in longevity payments pursuant to Section 840-2.18  
17 of this title;

18       4. Payment of overtime, special entrance rates, pay  
19 differentials;

20       5. Payment of wages, salaries, or rates of pay established and  
21 mandated by law;

22       6. Market adjustments for ~~job family levels~~ jobs tied to market  
23 competitiveness;

24

1       7. ~~Intra-agency lateral transfers, provided that the adjustment~~  
2 ~~does not exceed five percent (5%) and the adjustment is based on the~~  
3 ~~needs of the agency;~~

4       ~~8. Skill-based adjustments. Such adjustments, which are~~  
5 ~~implemented before November 1, 2006, other than lump-sum payments,~~  
6 ~~shall become permanent after twenty-four (24) months from the date~~  
7 ~~such salary adjustment is implemented and may not later be removed~~  
8 ~~from an employee's base salary if a furlough or reduction in force~~  
9 ~~is implemented by the appointing authority granting such salary~~  
10 ~~adjustment. Skill-based pay adjustments, which are implemented on~~  
11 ~~or after November 1, 2006, and which are paid to an employee, shall~~  
12 ~~be paid as long as the employee remains employed in the position and~~  
13 ~~performs the skills for which the differential is due, but shall not~~  
14 ~~be included as a part of the employee's base salary;~~

15       ~~9.~~ 8. Equity-based adjustments;

16       ~~10.~~ 9. Performance-based adjustments for employees who received  
17 at least a "meets standards" rating on their most current  
18 performance rating; or

19       ~~11.~~ 10. Career progression increases as an employee advances  
20 through job family levels; ~~or~~

21       ~~12. Salary adjustments not to exceed five percent (5%) for~~  
22 ~~probationary career employees achieving permanent status following~~  
23 ~~the initial probationary period and permanent career employees~~  
24 ~~successfully completing trial periods after intra-agency lateral~~

~~transfer or promotion to a different job family level or following career progression to a different job family level.~~

C. Provided, however, any ~~reclassification~~ salary increase for one of the purposes provided in subsection B of this section that would require additional funding by the Legislature shall not be implemented without approval of the Legislature.

~~D. The pay movement mechanisms described in paragraphs 6 through 11 in subsection B of this section shall be implemented pursuant to rules promulgated by the Director of the Office of Management and Enterprise Services for the career service.~~

~~E.~~ Appointing authorities may implement the pay movement mechanisms ~~in paragraphs 6 through 12 in subsection B of this section~~ subject to the availability of funds within the agency's budget for the current fiscal year and subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency. Failure by the appointing authority to follow the provisions of this subsection may cause the withdrawal of the use of the pay movement mechanisms ~~provided in paragraphs 6, 7, 9, 10 and 11 of subsection B of this section~~ within the agency during the next appropriations cycle.

~~F. The provisions in subsection B of this section shall not apply to chief executive officers of any agency, board, commission, department or program except for paragraphs 3 and 5 of subsection B of this section.~~

1        ~~G.~~ E. The Office of Management and Enterprise Services shall  
2 file a quarterly report with the Offices of the Governor, President  
3 Pro Tempore of the Senate and Speaker of the House of  
4 Representatives listing, by agency, all increases in wages, salaries  
5 or rates of pay and any changes to title or classification of each  
6 employee.

7        SECTION 15.        AMENDATORY        74 O.S. 2021, Section 840-2.18,  
8 is amended to read as follows:

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

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



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

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

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

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

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

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

18       The total amount of the annual longevity payment made to an  
19 employee by any and all state agencies in any year shall not exceed  
20 the amount shown on the table corresponding to that employee's years  
21 of service with the state, except as otherwise provided by ~~Sections~~  
22 ~~840-2.27D and~~ Section 840-2.28 of this title. Further, no employee  
23 shall receive duplicating longevity payments for the same periods of  
24

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

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

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

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

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

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

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

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

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

21 Eligible employees who would not otherwise receive annual  
22 longevity payments because their employment includes regular periods  
23 of leave without pay in excess of thirty (30) calendar days shall  
24

1 receive one (1) lump-sum annual payment, based on the formula in  
2 subsection L of this section, during:

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

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

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

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

22 1. Not be used in calculating total months of service for  
23 longevity pay purposes; and  
24

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

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

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

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

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

4 N. The Director of the Office of Management and Enterprise  
5 Services is authorized to promulgate such Longevity Pay Plan Rules  
6 as he or she finds necessary to carry out the provisions of this  
7 section.

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

16 P. As of July 1, 2003, years of service with a local  
17 conservation district shall be included in years of service for  
18 purposes of determining longevity pay for local conservation  
19 district employees transferred to the Oklahoma Conservation  
20 Commission pursuant to the provisions of this section.

21 SECTION 16. AMENDATORY 74 O.S. 2021, Section 840-2.19,  
22 is amended to read as follows:

23 Section 840-2.19 A. The Director of the Office of Management  
24 and Enterprise Services shall not approve any payroll claim for

1 payment for any agency unless said claim contains or is accompanied  
2 by the certification by the administrative head of said agency or an  
3 authorized employee of said agency that the persons named in said  
4 claim have been appointed and employed in accordance with the  
5 ~~provisions of the Oklahoma Personnel Act~~ law and the rules and  
6 orders promulgated ~~pursuant to the provisions of the Oklahoma~~  
7 ~~Personnel Act~~ thereunder. For purposes of this section, "payroll  
8 claim" shall also include longevity payments made pursuant to  
9 Section 840-2.18 of this title.

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

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

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

22 3. If underpayments or overpayments made by said agency are  
23 deemed to be the result of administrative error, the agency which  
24 certified the payroll claim or claims in error shall refund to the



1 employee the balance of the actual amounts due and owing to the  
2 payee or shall seek repayment from the payee of any amount paid in  
3 excess of the actual amount due and owing the payee;

4 4. If an agency neglects or refuses to seek repayment after a  
5 determination that an error in payroll amount or amounts has been  
6 made, or to properly adjust a then current salary or wage, the  
7 Director of the Office of Management and Enterprise Services shall  
8 note an unresolved audit exception stating the agency involved and  
9 the person to whom said exception refers;

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

18 6. The provisions of this section regarding collections of any  
19 overpayment of salaries or wages by any agency to any state employee  
20 or officer shall not include any such overpayment made prior to July  
21 1, 1983;

22 7. Recovery of overpayments from an employee shall include all  
23 overpayments occurring within one (1) year prior to the  
24 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

1 then current employing agency. Payment of amounts deducted or  
2 charged against annual leave shall be paid to the agency seeking  
3 repayment by an appropriate miscellaneous claim for interagency  
4 payment. If a payroll deduction is elected pursuant to the  
5 provisions of this paragraph and employment is subsequently  
6 terminated, any balance remaining shall be deducted from any final  
7 payment otherwise due to the employee;

8 4. ~~If a payee who is, at the time of said notification, a~~  
9 ~~permanent classified officer or employee of any agency of this state~~  
10 ~~protests the determination of the error or the amount of said~~  
11 ~~determination, the agency seeking repayment shall present, within~~  
12 ~~five (5) days of the return of said protest, the facts in writing,~~  
13 ~~the notice, and the protest of the payee, to the Oklahoma Merit~~  
14 ~~Protection Commission. The Oklahoma Merit Protection Commission~~  
15 ~~shall treat any such protest as a complaint pursuant to Section 840-~~  
16 ~~1.9 of this title. The Commission and Executive Director, after~~  
17 ~~investigation and hearing, shall make a determination which shall be~~  
18 ~~binding on the agency. The salary or wages of any payee exercising~~  
19 ~~the right to the protest shall not be suspended or reduced until a~~  
20 ~~determination has been issued by the Oklahoma Merit Protection~~  
21 ~~Commission and Executive Director;~~

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

1           a.    by lump-sum cash repayment, or

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

4       ~~6.~~ 5. If the payee is no longer an employee of the state, and  
5 does not respond or cannot be located within ten (10) days after  
6 mailing of the determination of error, or refuses repayment, the  
7 agency seeking repayment shall present the facts in writing to the  
8 Attorney General and shall send a copy to the Office of Management  
9 and Enterprise Services. The Attorney General shall determine what  
10 action may be taken to recover said amount; and

11       ~~7.~~ 6. Repayments other than by reduction in present salary or  
12 reduction in accrued annual leave for a payee currently employed by  
13 the agency seeking repayment shall be deposited in the General  
14 Revenue Fund unless the fund to which the amount in error was  
15 originally charged can be identified and was other than a General  
16 Revenue Fund appropriation. Said deposits shall be treated as  
17 nonrevenue receipts.

18       SECTION 17.       AMENDATORY       74 O.S. 2021, Section 840-2.20,  
19 is amended to read as follows:

20       Section 840-2.20 A. The Director of the Office of Management  
21 and Enterprise Services shall promulgate such emergency and  
22 permanent rules regarding leave and holiday leave as are necessary  
23 to assist the state and its agencies.  
24

1       The Director of the Office of Management and Enterprise  
2 Services, in adopting new rules, amending rules and repealing rules,  
3 shall ensure that the following provisions are incorporated:

4       1. Eligible employees who enter on duty or who are reinstated  
5 after a break in service shall receive leave benefits in accordance  
6 with the schedule outlined below. Leave shall be accrued based upon  
7 hours worked, paid leave, and holidays, but excluding overtime, not  
8 to exceed the total possible work hours for the pay period. Years  
9 of service shall be based on cumulative periods of employment  
10 calculated in the manner that cumulative service is determined for  
11 longevity purposes pursuant to Section 840-2.18 of this title.

12 Employees may accumulate more than the maximum annual leave  
13 accumulation limits shown in the schedule below provided that such  
14 excess is used during the same calendar year in which it accrues or  
15 within twelve (12) months of the date on which it accrues, at the  
16 discretion of the appointing authority. If an employee whose job  
17 duties include providing fire protection services, law enforcement  
18 services or services with the Department of Corrections is unable to  
19 use excess leave as provided for in this paragraph because the  
20 employee's request for leave is denied by the employee's appointing  
21 authority and the denial of leave is due to extraordinary  
22 circumstances such that taking leave could pose a threat to public  
23 safety, health or welfare, the employee shall receive compensation  
24 at the employee's regular rate of pay for the amount of excess leave

1 the employee is unable to use. Such compensation shall be paid at  
2 the end of the time period during which the excess leave was  
3 required to have been used;

4 2. From November 1, 2001, the following accrual rates and  
5 accumulation limits apply to eligible employees as follows:

ACCRUAL RATES			ACCUMULATION
			LIMITS
Cumulative			
Years of	Annual	Sick	Annual
Service	Leave	Leave	Leave
Persons employed 0-5 yrs	= 15 day/yr	15 days/yr	30 days
5-10 yrs	= 18 day/yr	15 days/yr	60 days
10-20 yrs	= 20 day/yr	15 days/yr	60 days
over 20 yrs	= 25 day/yr	15 days/yr	60 days

15 Following an emergency declaration as described in Section 683.8  
16 of Title 63 of the Oklahoma Statutes, the accumulation limits for  
17 annual leave shall temporarily increase and shall carryover to the  
18 end of the fiscal year following the year in which the emergency  
19 declaration ended.

20 All annual leave that accrued or expired during the period of  
21 the emergency declarations issued by the Governor in 2020 and 2021  
22 in response to the novel coronavirus (COVID-19) shall carry over to  
23 the end of the fiscal year following the year in which the emergency  
24 declaration ended regardless of regulatory provisions that establish

1 a maximum amount of annual leave that may be accumulated by an  
2 employee of the State of Oklahoma. Expired annual leave governed by  
3 this subsection shall be reinstated as of the effective date of this  
4 act, and accumulation limits for annual leave shall not apply to  
5 amounts accrued or reinstated pursuant to this subsection.

6 Eligibility for reinstatement of annual leave is limited to  
7 employees currently employed by the State of Oklahoma on the  
8 effective date of this act;

9 3. Temporary employees and other limited term employees are  
10 ineligible to accrue, use, or be paid for sick leave and annual  
11 leave. Such employees shall be eligible for paid holiday leave at  
12 the discretion of the appointing authority;

13 4. Except as provided in paragraph 2 of this subsection,  
14 employees shall not be entitled to retroactive accumulation of leave  
15 as a result of amendments to this section;

16 5. The Director of the Office of Management and Enterprise  
17 Services ~~and the Executive Director of the Oklahoma Merit Protection~~  
18 ~~Commission~~ shall ~~cooperate to~~ assist agencies in developing policies  
19 to prevent violence in state government workplaces without abridging  
20 the rights of state employees. Such ~~policy~~ policies shall include a  
21 paid administrative leave provision as a cooling-off period which  
22 the Director of the Office of Management and Enterprise Services is  
23 authorized to provide pursuant to the Administrative Procedures Act.



1 Such leave shall not be charged to annual or sick leave  
2 accumulations;

3 6. State employees who terminated their employment in the state  
4 service on or after October 1, 1992, may be eligible to have sick  
5 leave accrued at the time of termination of employment restored if  
6 they return to state employment provided that the state employees'  
7 enter-on-duty dates for reemployment occur on or before two (2)  
8 years after their termination of employment and they are eligible to  
9 accrue sick leave before the two (2) years expire;

10 7. Employees who are volunteer firefighters pursuant to the  
11 Oklahoma Volunteer Firefighters Act and who are called to fight a  
12 fire shall not have to use any accrued leave or need to make up any  
13 time due to the performance of their volunteer firefighter duties;

14 8. Employees who are reserve municipal police officers pursuant  
15 to Section 34-101 of Title 11 of the Oklahoma Statutes and who miss  
16 work in performing their duties in cases of emergency shall not have  
17 to use any accrued leave or need to make up any time due to the  
18 performance of their reserve municipal police officer duties; and

19 9. Employees who are reserve deputy sheriffs pursuant to  
20 Section 547 of Title 19 of the Oklahoma Statutes and who miss work  
21 in performing their duties in case of emergency shall not have to  
22 use any accrued leave or need to make up any time due to the  
23 performance of their reserve deputy sheriff duties.

24

1 B. Nothing in ~~the Oklahoma Personnel Act~~ law is intended to  
2 prevent or discourage an appointing authority from disciplining or  
3 terminating an employee due to abuse of leave benefits or  
4 absenteeism. Appointing authorities are encouraged to consider  
5 attendance of employees in making decisions regarding promotions,  
6 pay increases, and discipline.

7 C. Upon the transfer of a function in state government to an  
8 entity outside state government, employees may, with the agreement  
9 of the outside entity, waive any payment for leave accumulations to  
10 which the employee is entitled and authorize the transfer of the  
11 leave accumulations or a portion thereof to the outside entity.

12 SECTION 18. AMENDATORY 74 O.S. 2021, Section 840-2.21,  
13 is amended to read as follows:

14 Section 840-2.21 A. If a state employee, ~~whether in the~~  
15 ~~classified or unclassified service,~~ is absent because of an illness  
16 or injury arising out of and sustained in the course of his or her  
17 employment with the state, and for which workers' compensation  
18 benefits have been filed, the employing agency shall place the  
19 employee on leave without pay if the employee so requests; provided,  
20 leave without pay pursuant to this section shall not for any purpose  
21 be considered a break in service.

22 B. An employee who sustains an illness or injury arising out of  
23 and sustained in the course of employment with the State of Oklahoma  
24 shall not be required to use either accumulated sick or annual leave

1 during such period prior to being placed on leave without pay  
2 pursuant to this section.

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

9 D. An employee on leave without pay pursuant to the provisions  
10 of this section shall have the right to be returned to his or her  
11 original position in accordance with rules promulgated by the Office  
12 of Management and Enterprise Services. If it is found necessary for  
13 the good of the state to fill the position during the period the  
14 employee is on leave without pay the employee filling the position  
15 shall vacate the position upon the return of the employee on leave  
16 without pay, subject to layoff, transfer or demotion rights earned  
17 under ~~the Oklahoma Personnel Act~~ law and rules of the Office of  
18 Management and Enterprise Services. The right to return to the  
19 original position shall expire one (1) year from the date of the  
20 start of leave without pay. The employee may be separated in  
21 accordance with the Oklahoma Personnel Act and Office of Management  
22 and Enterprise Services Rules if the employee has not returned to  
23 the original position of the employee or some other position within  
24

1 the agency within one (1) year from the date of the start of leave  
2 without pay.

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

7 F. If the employee becomes medically able with reasonable  
8 accommodation to perform the duties of his or her original position,  
9 the employee shall be returned to such position. If the employee is  
10 unable to perform the duties of the original position with  
11 reasonable accommodation, but is medically able with reasonable  
12 accommodation to perform the duties of any other position within the  
13 agency for which the employee is qualified, and appointment to such  
14 other position does not constitute a promotion, the employee shall  
15 have first preference for any such position which becomes vacant  
16 within the agency, notwithstanding any other preference provisions  
17 ~~of the Oklahoma Personnel Act or of other~~ laws of the State of  
18 Oklahoma. An employee accepting another position pursuant to this  
19 subsection shall not forfeit his or her right to be returned to the  
20 original position within twelve (12) months after the start of leave  
21 without pay pursuant to the provisions of subsection D of this  
22 section.

23 G. An ill or injured employee shall be eligible to participate  
24 in the Disability Insurance Program established pursuant to the

1 provisions of Section 1331 et seq. of this title in accordance with  
2 rules promulgated by the Office of Management and Enterprise  
3 Services.

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

11 I. ~~A classified~~ A state employee who is separated pursuant to  
12 subsection D of this section shall be eligible for reinstatement to  
13 employment with any state agency for twelve (12) months after the  
14 date of separation ~~whether in the classified or unclassified service~~  
15 ~~in accordance with rules adopted by the Director of the Office of~~  
16 ~~Management and Enterprise Services provided the employee is~~  
17 ~~qualified for the position to which reinstated. An unclassified~~  
18 ~~employee who is separated pursuant to subsection D of this section~~  
19 ~~shall be eligible for reinstatement to unclassified employment with~~  
20 ~~any state agency for twelve (12) months after the date of separation~~  
21 ~~in accordance with rules promulgated by the Director of the Office~~  
22 ~~of Management and Enterprise Services provided the employee is~~  
23 ~~qualified for the position to which reinstated. Nothing in this~~  
24 subsection shall be construed to compel or require any agency of the

1 state to reinstate a former employee who is separated pursuant to  
2 subsection D of this section. Further, nothing in this subsection  
3 shall be construed as limiting or reducing a former employee's  
4 eligibility for reinstatement pursuant to other general  
5 reinstatement or reemployment provisions in rules promulgated by the  
6 Director.

7 SECTION 19. AMENDATORY 74 O.S. 2021, Section 840-2.23,  
8 is amended to read as follows:

9 Section 840-2.23 A. There is hereby created the state leave  
10 sharing program. The purpose of the state leave sharing program is  
11 to permit state employees to donate annual or sick leave to a fellow  
12 state employee who has exhausted, or will exhaust, all types of paid  
13 leave and:

14 1. Who is eligible for and requires family leave pursuant to  
15 the provisions of the Family and Medical Leave Act ~~of 1993~~, 29  
16 U.S.C., 2601 et seq.; or

17 2. Who is suffering from or has a relative or household member  
18 suffering from an extraordinary or severe illness, injury,  
19 impairment, or physical or mental condition which has caused or is  
20 likely to cause the employee to take leave without pay or terminate  
21 employment; or

22 3. Immediately after the death of a relative or household  
23 member~~;~~ ; provided that the total leave received for this purpose  
24 shall not exceed five (5) days in any calendar year~~;~~ or

1       ~~4. Who is affected by a presidentially declared national~~  
2 ~~disaster in Oklahoma after May 1, 1999, for a period of eighteen~~  
3 ~~(18) months after the date of the presidentially declared national~~  
4 ~~disaster if:~~

5           ~~a. the employee suffered a physical injury as a result of~~  
6           ~~the disaster,~~

7           ~~b. the spouse, relative, or household member of the~~  
8           ~~employee suffered a physical injury or died as a~~  
9           ~~result of the disaster, or~~

10          ~~c. the domicile of the employee or the home of a relative~~  
11          ~~of the employee was damaged or destroyed as a result~~  
12          ~~of the disaster.~~

13       B. As used in this section:

14       1. "Relative of the employee" shall be limited to the spouse,  
15 child, stepchild, grandchild, grandparent, stepparent, or parent of  
16 the employee;

17       2. "Household members" means those persons who reside in the  
18 same home, who have reciprocal duties to and do provide financial  
19 support for one another. This term shall include foster children  
20 and legal wards even if they do not live in the household. The term  
21 does not include persons sharing the same general house, when the  
22 living style is primarily that of a dormitory or commune;

23       3. "Severe" or "extraordinary" means extreme or life-  
24 threatening;

1        4. "State employee" and "executive employee" ~~means mean~~ a  
2 ~~permanent classified an employee or a regular unclassified employee~~  
3 with one (1) year or more continuous service with the state.—~~The~~  
4 ~~term "state employee" does not include classified employees in~~  
5 ~~probationary status or unclassified employees on temporary or other~~  
6 ~~limited term appointments, except that those employees are eligible~~  
7 ~~to receive shared leave as provided in paragraph 4 of subsection A~~  
8 ~~of this section and the leave with pay authorized by Section 840-~~  
9 ~~2.23A of this title related to a presidentially declared national~~  
10 ~~disaster~~ For the purposes of the state leave sharing program,  
11 employees who are afforded protections under the Civil Service and  
12 Human Capital Modernization Act and administrative rules and  
13 exempted employees are eligible to participate; and

14        5. "Terminal" means likely to result in death within two (2)  
15 calendar years.

16        C. An employee may be eligible to receive shared leave pursuant  
17 to the following conditions:

18        1. The chief administrative officer of the employee determines  
19 that the employee meets the criteria described in this section; and

20        2. The employee has abided by state policies regarding the use  
21 of leave.

22        D. An employee may not donate annual or sick leave to an  
23 eligible employee without the permission of the chief administrative  
24 officer of the donating employee's agency.



1       E. An employee may donate annual or sick leave to another  
2 employee provided the donation does not cause the annual leave  
3 balance of the employee to fall below eighty (80) hours and provided  
4 the donation does not cause the sick leave balance of the employee  
5 to fall below eighty (80) hours.

6       F. Except as otherwise provided for in this subsection, the  
7 chief administrative officer of the employee shall determine the  
8 amount of donated leave an employee may receive and may authorize an  
9 employee to use up to a maximum of two hundred sixty-one (261) days  
10 of donated leave during total state employment. If the employee is  
11 suffering from an illness which has been certified in writing by a  
12 licensed physician or health care practitioner as being terminal and  
13 the employee who either has reached or shall reach in the near  
14 future the maximum amount as set out in this subsection, the chief  
15 administrative officer of the employee may approve additional  
16 donated leave upon written request of the employee.

17       G. The chief administrative officer of the employee shall  
18 require the employee to submit, prior to approval or disapproval of  
19 shared leave pursuant to paragraph 1 of subsection A of this  
20 section, a medical certificate from a licensed physician or health  
21 care practitioner verifying the need for the leave and expected  
22 duration of the illness, injury, impairment, or physical or mental  
23 condition for which the leave is donated.

1       H. Donated annual or sick leave shall be transferable between  
2 employees in different state entities. State entities shall allow  
3 employees to receive donated annual or sick leave from employees  
4 within their employing entity and different state entities;  
5 provided, that the employee shall first exhaust all available leave  
6 options within the state entity of the employee.

7       I. Donated annual or sick leave is transferable between  
8 employees on an hour-to-hour basis irrespective of the hourly wage  
9 of the donating or receiving employee.

10       J. Any donated leave may only be used by the recipient for the  
11 purposes specified in this section.

12       K. All forms of paid leave available for use by the recipient  
13 must be used prior to using donated leave.

14       L. Any donated leave not used by the recipient during each  
15 occurrence as determined by the chief administrative officer of the  
16 employee shall be returned to the donor. The donated leave  
17 remaining will be divided among the donors on a prorated basis based  
18 on the original donated value and returned at its original donor  
19 value and reinstated to the original leave balance of each donor.

20       M. All donated leave must be given voluntarily. No employee  
21 shall be coerced, threatened, intimidated, or financially induced  
22 into donating annual or sick leave for purposes of the leave sharing  
23 program.

1 N. Except as provided by subsection P of this section,  
2 employees may not donate annual or sick leave that the donor would  
3 not be able to otherwise take.

4 O. The ~~Human Capital Management~~ Civil Service Division of the  
5 Office of Management and Enterprise Services shall designate an  
6 employee to serve as the shared leave liaison. If a qualifying  
7 employee is unable to obtain the necessary number of donated leave  
8 hours from his or her employing entity, he or she may contact the  
9 shared leave liaison. The shared leave liaison shall have the  
10 following responsibilities:

11 1. To inform all state agencies of the requirements of this  
12 section;

13 2. To inform all state employees of the rights afforded under  
14 this section;

15 3. To ensure an employee requesting shared leave from other  
16 state entities meets the criteria set forth in this section;

17 4. To coordinate outreach efforts within the employing agency  
18 and to other state entities to obtain all necessary hours of shared  
19 leave for the employee;

20 5. To ensure an employee has exhausted all sources of shared  
21 leave both within his or her employing entity and other state  
22 entities before requesting leave from the Leave of Last Resort Bank;  
23 and  
24

1        6. To coordinate leave requested from the Leave of Last Resort  
2 Bank.

3        P. There is hereby created a Leave of Last Resort Bank. In the  
4 event a qualifying employee is unable to secure shared leave from  
5 employees within his or her employing entity or within a different  
6 entity, an employee may request leave from the Leave of Last Resort  
7 Bank. The Leave of Last Resort Bank shall be administered by the  
8 ~~Human Capital Management~~ Civil Service Division of the Office of  
9 Management and Enterprise Services.

10       1. The Leave of Last Resort Bank shall be funded by voluntary  
11 donations of annual and sick leave from employees retiring from or  
12 leaving state service.

13       2. Upon retirement or the final day of state service, an  
14 employee shall elect, in writing, whether any of his or her annual  
15 or sick leave shall be deposited into the Leave of Last Resort Bank.

16       Q. The Office of Management and Enterprise Services shall  
17 promulgate rules and regulations as necessary to carry out the  
18 provisions of this section.

19       SECTION 20.        AMENDATORY        74 O.S. 2021, Section 840-2.25,  
20 is amended to read as follows:

21       Section 840-2.25 A. ~~A permanent classified employee or a~~  
22 ~~regular unclassified~~ An employee shall be entitled to take leave  
23 with pay ~~for~~ not to exceed three (3) days a year to attend meetings  
24 of job-related professional organizations of which the employee is a

1 member upon receiving permission from the appointing authority. The  
2 denial by an appointing authority or organizational leave shall be  
3 in writing and state the reasons for denying said leave.

4 B. The leave authorized by this section shall not be used for  
5 lobbying activities which include the lobbying of legislative or  
6 executive branch elected officials within state-owned or leased  
7 buildings.

8 SECTION 21. AMENDATORY 74 O.S. 2021, Section 840-2.27C,  
9 is amended to read as follows:

10 Section 840-2.27C A. At least ~~sixty (60)~~ thirty (30) days  
11 before the scheduled beginning of reduction-in-force separations or  
12 as otherwise provided by law, the appointing authority shall post in  
13 each office of executive branch agencies affected by the proposed  
14 reduction-in-force notice that a reduction-in-force will be  
15 conducted ~~in accordance with the Oklahoma Personnel Act and Merit~~  
16 ~~rules~~. The reduction-in-force implementation plan shall be provided  
17 to the Director of the Office of Management and Enterprise Services  
18 and any state employee association representing state employees at  
19 such time. The notice shall not be posted unless approved by the  
20 cabinet secretary for the agency conducting the reduction-in-force.  
21 If there is no incumbent cabinet secretary for the agency, the  
22 cabinet-secretary-notice-approval requirement shall not be  
23 applicable. If the appointing authority is governed by an elected  
24 official, the cabinet-secretary-notice-approval requirement shall

1 not be applicable. The approved notice shall be posted in each  
2 office affected by the proposed plan for five (5) days. The  
3 appointing authority shall provide a copy of the notice to the  
4 Administrator. A reduction-in-force shall not be used as a  
5 disciplinary action.

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

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

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

21 3. ~~Require the separation of probationary classified affected~~  
22 ~~employees in affected job family levels, except those affected~~  
23 ~~employees on probationary status after reinstatement from permanent~~  
24 ~~classified status without a break in service, prior to the~~

~~separation or displacement of any permanent classified affected employee in an affected job family level;~~

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

~~5. Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified 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-~~

1 force implementation plan and within five (5) business days of  
2 receipt reject any plan that does not:

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

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

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

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

15 ~~E. The appointing authority may limit displacement of affected~~  
16 ~~employees at the time of a reduction-in-force. Displacement limits~~  
17 ~~shall not be subject to the approval of the Administrator. Any~~  
18 ~~limitation shall be based upon reasonable, written, articulated~~  
19 ~~criteria as certified by the appointing authority. If displacement~~  
20 ~~is limited, the appointing authority shall take action to avoid or~~  
21 ~~minimize any adverse impact on minorities or women.~~

22 ~~1. The appointing authority may protect from displacement~~  
23 ~~action up to twenty percent (20%) of projected post-reduction-in-~~  
24 ~~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 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~~

1 ~~and Enterprise Services, acknowledging that the~~  
2 ~~employee had an opportunity to receive severance~~  
3 ~~benefits and affirmatively elected to exercise a~~  
4 ~~displacement privilege and to forego such benefits.~~  
5 ~~An affected employee who signs the agreement required~~  
6 ~~by this subparagraph waives any privilege which might~~  
7 ~~otherwise have been available to the affected employee~~  
8 ~~pursuant to the agreement for the provision of~~  
9 ~~severance benefits, and~~

10 ~~b. not have the right to exercise any subsequent right to~~  
11 ~~receive severance benefits from the agency for which~~  
12 ~~the affected employee performs services on the date~~  
13 ~~that the employee exercises a displacement privilege.~~  
14 ~~The provisions of this section shall not prohibit any~~  
15 ~~person from exercising a displacement privilege in, or~~  
16 ~~accepting severance benefits from, more than one~~  
17 ~~agency during employment with the State of Oklahoma or~~  
18 ~~from the agency which the affected employee exercised~~  
19 ~~a displacement privilege in any future reduction in-~~  
20 ~~force.~~

21 ~~F. An affected employee who does not agree pursuant to Section~~  
22 ~~840-2.27E of this title to accept severance benefits and who does~~  
23 ~~not have a displacement opportunity or does not accept a~~  
24 ~~displacement opportunity shall be separated by the reduction in-~~

1 ~~force and shall not receive any severance benefits that would have~~  
2 ~~otherwise been provided pursuant to Section 840-2.27D of this title.~~

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

17 ~~H. The names of permanent classified affected employees and~~  
18 ~~those affected employees on probationary status after reinstatement~~  
19 ~~from permanent classified status without a break in service who have~~  
20 ~~been separated pursuant to the State Government Reduction in Force~~  
21 ~~and Severance Benefits Act, who apply and meet all requirements for~~  
22 ~~state jobs in the classified service shall be placed on Priority~~  
23 ~~Reemployment Consideration Rosters for a maximum of eighteen (18)~~  
24 ~~months after the date of separation. Before any vacant position is~~

~~filled by any individual eligible for initial appointment from the employment register, 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~~

1 ~~authority of the agency shall be eligible for Priority Reemployment~~  
2 ~~Consideration beginning with the date the schedule is posted, not to~~  
3 ~~exceed twelve (12) months before the scheduled date of separation.~~

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

10 ~~K.~~ E. 1. When the Legislature is not in session, the  
11 Contingency Review Board may, upon the request of the Governor,  
12 direct and require mandatory furloughs for all state employees  
13 whenever it is deemed necessary and proper. The Contingency Review  
14 Board shall specify the effective dates for furloughs and shall note  
15 any exceptions to state employees affected by same. All ~~classified,~~  
16 ~~unclassified, exempt or nonmerit~~ employees, including those  
17 employees of agencies or offices established by statute or the  
18 Constitution, shall be affected by such actions.

19 2. Mandatory furlough means the involuntary temporary reduction  
20 of work hours or the placement of an employee on involuntary leave  
21 without pay. Rules governing leave, longevity pay and participation  
22 in the State Employees Group Health, Dental, Disability, and Life  
23 Insurance program shall not be affected by mandatory furloughs.  
24 Furlough, as provided for in this section or by rules adopted by the

1 Director of the Office of Management and Enterprise Services, shall  
2 not be appealable under the provisions of the Oklahoma Personnel  
3 Act.

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

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

19 ~~M.~~ G. The appointing authority of an agency which has an  
20 approved reduction-in-force plan pursuant to the State Government  
21 Reduction-in-Force and Severance Benefits Act may request the  
22 Director of the Office of Management and Enterprise Services to  
23 appoint an interagency advisory task force for the purpose of  
24 assisting the agency and its employees with the implementation of

1 the reduction-in-force. The appointing authority of state agencies  
2 requested by the Administrator to participate on a task force shall  
3 assign appropriate administrative personnel necessary to facilitate  
4 the necessary assistance required for the efficient implementation  
5 of the approved reduction-in-force.

6 SECTION 22. AMENDATORY 74 O.S. 2021, Section 840-2.27D,  
7 is amended to read as follows:

8 Section 840-2.27D A. Agencies shall provide severance benefits  
9 to affected state employees who are separated from the state service  
10 as a result of a reduction-in-force due to a reorganization or any  
11 other action by an agency which results in affected positions being  
12 abolished and affected employees being severed from the state  
13 service. Severance benefits shall be given to ~~the following~~  
14 ~~categories of affected employees:~~ permanent ~~classified~~ affected  
15 employees ~~and affected employees on probationary status after~~  
16 ~~reinstatement from permanent classified status without a break in~~  
17 ~~service;~~ provided, however, affected employees of the University  
18 Hospitals Authority must have been continuously employed in the  
19 state service since on or before January 1, 1995, to receive  
20 severance benefits. ~~Pursuant to this section and Section 840-5.1A~~  
21 ~~of this title, state agencies may provide severance benefits~~  
22 ~~provided by this subsection to regular unclassified employees with~~  
23 ~~one (1) year or more continuous state service who are separated from~~  
24 ~~the state service for budgetary reasons; however, state agencies~~

1 ~~shall offer regular unclassified state employees with one (1) year~~  
2 ~~or more continuous state service who are separated from the state~~  
3 ~~service the same severance benefit as the affected employees in a~~  
4 ~~reduction-in-force if the unclassified employees' separation is as a~~  
5 ~~result of the conditions causing the agency to implement a~~  
6 ~~reduction-in-force.~~ Affected employees who qualify for severance  
7 benefits pursuant to this section, in addition to the payment of any  
8 compensable accrued leave or other benefits an affected employee is  
9 eligible to receive upon separation from the state service, shall  
10 receive severance benefits consisting of the following elements:

11 1. All agency severance benefits shall provide the following:

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

23 b. a longevity payment, as prescribed by Section 840-2.18  
24 of this title, in the amount which would otherwise be



1 paid to the affected employee on the affected  
2 employee's next anniversary date. ~~For the purposes of~~  
3 ~~this subparagraph, the University Hospitals Authority~~  
4 ~~shall calculate longevity for affected employees who~~  
5 ~~were members of the University Hospitals Authority~~  
6 ~~Model Personnel System pursuant to Section 3211 of~~  
7 ~~Title 63 of the Oklahoma Statutes for all state~~  
8 ~~service as would otherwise be determined by Section~~  
9 ~~840-2.18 of this title, and;~~

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

16 2. In addition to the severance benefits provided by paragraph  
17 1 of this subsection, agencies ~~may~~ shall give affected employees,  
18 ~~except as otherwise provided by paragraph 3 of this subsection,~~  
19 severance benefit packages based on ~~any combination of~~ the following  
20 options; provided that all affected employees who receive severance  
21 ~~benefits in the reduction-in-force shall be~~ are accorded uniform  
22 treatment ~~pursuant to the State Government Reduction-in-Force and~~  
23 ~~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 or~~ or
- 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~~

1 ~~from the educational institution which shall be~~  
2 ~~credited to the affected employee's account, and~~  
3 ~~e. the Director of the Office of Management and~~  
4 ~~Enterprise Services shall distribute to the affected~~  
5 ~~employee and the agency any monies remaining in the~~  
6 ~~affected employee's account after the voucher credit~~  
7 ~~has expired. The distribution shall be based on the~~  
8 ~~proportional share of contributions made by the~~  
9 ~~affected employee and the agency~~

10 Agencies shall also be allowed to provide the severance benefits  
11 to separating employees not subject to the Civil Service and Human  
12 Capital Modernization Act and rules promulgated thereunder and whose  
13 position is not subject to an imminent reduction-in-force in  
14 exchange for executing a release of all claims against the agency  
15 and the State of Oklahoma as required by Section 840-2.27E of this  
16 title.

17 ~~B. Each affected employee who is separated from state service~~  
18 ~~as a result of a reduction in force after July 1, 1998, besides~~  
19 ~~being eligible for the eighteen (18) months of continuation~~  
20 ~~coverages provided by the Public Health Service Act, 42 U.S.C.,~~  
21 ~~Section 30066-1 et seq., i.e., health, dental, vision and healthcare~~  
22 ~~reimbursement account options, under this severance benefit, shall~~  
23 ~~also be eligible to elect additional continuation coverage for any~~  
24 ~~life insurance, in twenty thousand dollar units, on self or five-~~

1 ~~thousand-dollar units, on dependents, and to continue participation~~  
2 ~~in the dependent care reimbursement account provided that these~~  
3 ~~additional coverages were in effect immediately prior to the~~  
4 ~~effective date of the reduction-in-force, the date of which shall~~  
5 ~~serve as the qualifying event date. Provided, that no coverage~~  
6 ~~elected for continuation through the Public Health Service Act for~~  
7 ~~the full eighteen-month period is allowed to lapse, then that~~  
8 ~~affected employee may elect to continue those same coverages for an~~  
9 ~~additional eighteen (18) months at whatever rate is then in effect.~~  
10 ~~This additional eighteen-month continuation period of coverage shall~~  
11 ~~be administered by the Oklahoma State Employees Benefits Council~~  
12 ~~following the initial eighteen-month period of continuation which~~  
13 ~~shall be administered by the COBRA office at the State and Education~~  
14 ~~Employees Group Insurance Board.~~

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

21 ~~D.~~ No appointing authority shall grant affected employees in a  
22 ~~reduction-in-force severance benefits except as provided in this~~  
23 ~~section.~~  
24

SECTION 23. AMENDATORY 74 O.S. 2021, Section 840-4.19,

is amended to read as follows:

Section 840-4.19 A state agency shall have sole and final authority to designate the place or places where its employees shall perform their duties except where the action was for disciplinary reasons. Such punitive transfers shall be subject to the Civil Service and Human Capital Modernization Act. ~~The Oklahoma Merit Protection Commission shall not have jurisdiction to accept an appeal of an employee resulting from the employing agency transfer of an employee from one county or locality to another, changing the assigned duties of an employee, or relieving the employee from performance of duty at a particular place and reassigning to an employee duties to be performed at another place, unless an employee asserts that:~~

~~1. The action resulted in a change in job classification or reduction of the base salary of the employee;~~

~~2. A violation of the provisions of Section 840-2.5 or 840-2.9 of this title may have occurred; or~~

~~3. The action was taken clearly for disciplinary reasons and to deny the employee the right of appeal.~~

SECTION 24. AMENDATORY 74 O.S. 2021, Section 840-5.3, is

amended to read as follows:

1       Section 840-5.3 A. The following offices, positions and  
2 personnel shall not be considered state employees except as  
3 otherwise provided by law:

4       1. Patient and inmate help in the state charitable, mental and  
5 correctional institutions;

6       2. Persons engaged in public work for the state, but employed  
7 by contractors when the performance of such contract is authorized  
8 by the Legislature or other competent authority;

9       3. All employees of all public school districts; and

10      4. Officers and members of the Oklahoma National Guard, as  
11 such.

12      B. ~~1. Instructional and administrative personnel, except for~~  
13 ~~superintendents, of the State Department of Rehabilitation Services~~  
14 ~~at the Oklahoma School for the Blind and the Oklahoma School for the~~  
15 ~~Deaf pursuant to Section 1419 of Title 10 of the Oklahoma Statutes~~  
16 ~~shall be considered state employees, except they shall not be~~  
17 ~~considered state employees for the purposes of the Oklahoma~~  
18 ~~Personnel Act, unless otherwise provided by law. However, the~~  
19 ~~Office of Management and Enterprise Services may categorize such~~  
20 ~~employees as unclassified solely for the purpose of entering and~~  
21 ~~maintaining employment data in the state Personnel Management~~  
22 ~~Information System established pursuant to Section 840-2.13 of this~~  
23 ~~title.~~

1        ~~2.~~ The superintendents and teachers at the Oklahoma School for  
2 the Blind and the Oklahoma School for the Deaf shall be state  
3 employees ~~in the unclassified service~~, subject to the ~~Oklahoma~~  
4 ~~Personnel Act~~ Civil Service and Human Capital Modernization Act.

5        SECTION 25.        AMENDATORY        74 O.S. 2021, Section 840-7.1, is  
6 amended to read as follows:

7        Section 840-7.1 A. A state agency may enter into a contract  
8 with any federally recognized tribe or Indian Nation for the purpose  
9 of leasing one or more of its employees as follows:

10        1. The Indian Tribe or Nation has purchased real property from  
11 the state; and

12        2. The employee or employees were employed by the agency at the  
13 site of the purchased real property.

14        B. The Indian Tribe or Nation shall pay to the agency in a  
15 manner specified in the contract an amount equal to the salary,  
16 employer retirement contributions and flexible benefit allowance  
17 attributed to such leased employee or employees and any other  
18 expenses as agreed by the parties in the contract.

19        ~~C. Leased employees pursuant to this section shall not lose any~~  
20 ~~rights or benefits of being a state employee and shall retain their~~  
21 ~~classification status.~~

22        SECTION 26.        NEW LAW        A new section of law to be codified  
23 in the Oklahoma Statutes as Section 311.2 of Title 75, unless there  
24 is created a duplication in numbering, reads as follows:



1       A. The Civil Service Director of the Office of Management and  
2 Enterprise Services may delegate the authority to issue a final  
3 agency order adverse to a party to an agency administrative law  
4 judge if:

5       1. The administrative law judge has a general knowledge of the  
6 Civil Service and Human Capital Modernization Act, the Oklahoma  
7 Personnel Act, and rules promulgated thereto;

8       2. The administrative law judge:

9           a. is currently licensed to practice law by the Supreme  
10           Court of this state,

11          b. has a working knowledge of the Administrative  
12           Procedures Act and administrative rules of the Office  
13           of Management and Enterprise Services,

14          c. is not an owner, stockholder, employee, or officer of,  
15           nor has any other business relationship with, any  
16           corporation, partnership, or other business or entity  
17           that is subject to regulation by the Office of  
18           Management and Enterprise Services,

19          d. is separate and apart from the legal division or  
20           office of general counsel of the Office of Management  
21           and Enterprise Services,

22          e. is not responsible to or subject to the supervision or  
23           direction of an employee or agent engaged in the  
24           performance of investigative or prosecuting functions

1                   for the Office of Management and Enterprise Services,  
2                   and

3           f.    has not been engaged in the performance of  
4                   investigative or prosecuting functions for the Office  
5                   of Management and Enterprise Services regarding the  
6                   party receiving the final agency order; and

7           3.   The Civil Service Director in delegating the authority to  
8   issue final agency orders adverse to a party pursuant to this  
9   section specifically designates by written agency policy and  
10   procedure the type or category of final agency order which may be  
11   issued by the administrative law judge.

12          B.   The provisions of this section shall not be construed to  
13   authorize or allow restraints on the authority of the Civil Service  
14   Director to adopt, reject, review, modify, or correct the findings  
15   of fact and conclusions of law or any proposed order issued by the  
16   administrative law judge.

17          C.   When the administrative law judge issues a final agency  
18   order, that order becomes the final order of the Office of  
19   Management and Enterprise Services, Civil Service Division without  
20   further proceeding unless there is a request for rehearing,  
21   reopening, or reconsideration pursuant to Section 317 of Title 75 of  
22   the Oklahoma Statutes or a filing for judicial review pursuant to  
23   Section 318 of Title 75 of the Oklahoma Statutes.

1       SECTION 27.       REPEALER       74 O.S. 2021, Sections 840-1.2,  
2 840-1.6B, 840-1.8, 840-1.9, 840-1.10, 840-1.12, 840-1.13, 840-1.15,  
3 840-1.19, 840-1.21, 840-2.5, 840-2.6, 840-2.27A, 840-2.27B, 840-  
4 2.27F, 840-2.27G, 840-2.27I, 840-2.29, 840-3.2, 840-3.4, 840-3.5,  
5 840-3.6, 840-3.7, 840-3.9, 840-3.10, 840-3.11, 840-3.12, 840-3.13,  
6 840-3.14, 840-3.15, 840-3.16, 840-3.17, 840-4.1, 840-4.2, 840-4.3,  
7 840-4.4, 840-4.6, 840-4.8, 840-4.9, 840-4.10, 840-4.11, 840-4.12,  
8 840-4.13, 840-4.14, 840-4.15, 840-4.16, 840-5.1, 840-5.1A, 840-5.2,  
9 840-5.2A, 840-5.2B, 840-5.4, 840-5.5, 840-5.6, 840-5.7, 840-5.8,  
10 840-5.9, 840-5.11, 840-5.12, 840-5.13, 840-5.13A, 840-5.15, 840-  
11 5.16, 840-5.18, 840-5.19, 840-5.20, 840-5.21, 840-5.23, 840-5.24,  
12 840-5.25, 840-5.26, 840-5.27, 840-6.1, 840-6.2, 840-6.3, 840-6.4,  
13 840-6.5, 840-6.6, 840-6.7, 840-6.8, and 840-6.9, are hereby  
14 repealed.

15       SECTION 28. It being immediately necessary for the preservation  
16 of the public peace, health or safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

19

20       58-2-10853       LRB       03/01/22

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