

An Act

ENROLLED HOUSE
BILL NO. 3420

By: Osburn of the House

and

Pugh of the Senate

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, 840-2.10a, 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; transferring powers, duties, and assets to the Human Capital Management 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; amending 74 O.S. 2021, Section 5003.5, which relates to the Department of Commerce; modifying powers and duties of the Department; removing obsolete provisions; authorizing delegation of authority to issue final order; 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.

SUBJECT: State employees

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 Division and the 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 counseling, assessment and assistance to veterans seeking state employment;

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

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

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

- a. the number of cases, complaints and requests for hearings filed, disposed of and pending with the Division for each month of the quarter, and
- b. a numerical breakdown of the methods of disposition of such cases, complaints and requests for hearing.

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

6. Create a confidential whistleblower program and serve as the chief administrator of such program whereby a state employee may confidentially report claims of agency or employee mismanagement as well as criminal misuse of state funds or property. Mismanagement includes fraudulent activity or abuse or violation of a well-established, articulated, clear, and compelling public policy. The Office of the Attorney General shall have the authority to investigate and determine whether to prosecute such whistleblower claims. The Attorney General shall also have the power to refer such claims to the appropriate district attorney.

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

D. Employees filing a complaint with the ~~Human Capital Management~~ Civil Service Division shall prove that there was no reasonable basis for the disciplinary action by the state agency. The review of the merits of the complaint shall be limited to the employee disciplinary file directly at issue. Complaints relating to punitive transfers ~~or written reprimands~~ shall be administrated through mediation first and shall only proceed to a hearing if mediation is unsuccessful. Employees who were offered a relocation incentive as set forth in administrative rule shall not be deemed as

being subject to a punitive transfer. Complaints relating to written reprimands shall be administered through mediation exclusively. Mediation may also be available for other disciplinary actions.

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

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

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

H. Nothing in this section shall apply to:

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

2. Elected officials;

3. Political appointees;

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

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

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

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

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

9. Employees in a trial period; or

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

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

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

K. The Civil Service Division is authorized to employ attorneys or contract with private attorneys to serve as legal counsel to the Civil Service Division. The attorneys shall be authorized to appear for and represent the Civil Service Division in all litigation that may arise from the discharge of its duties, including the representation of the Civil Service Division when its decisions are appealed to higher courts. Attorneys employed by the Office of Management and Enterprise Services to represent the Civil Service Division shall represent the Civil Service Division notwithstanding its representation of the Office of Management and Enterprise Services in the same or related matters pending before the Civil Service Division or before any court. The Office of Management and Enterprise Services shall establish internal administrative procedures to ensure that all departments within the Office of Management and Enterprise Services are provided independent legal representation, and such simultaneous representation shall not, of itself, be deemed to constitute a conflict of interest.

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

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

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

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

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

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

4. ~~"Classification" means:~~

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

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

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

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

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

8. ~~"Entrance examination" means any employment test used by the Office of Management and Enterprise Services to rank the names of applicants who possess the minimum requirements of education, experience, or licensure for a job or group of similar jobs on a register of eligibles established by the Office of Management and Enterprise Services;~~

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

~~10. "Job family" means:~~

- ~~a. jobs which require similar core skills and involve similar work, and~~
- ~~b. a logical progression of roles in a specific type of occupation in which the differences between roles are related to the depth and breadth of experience at various levels within the job family and which are sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills and abilities required, and education and experience requirements;~~

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

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

- ~~a. describes a job family, including, but not limited to, the basic purpose, typical functions performed, various levels within the job family, and the knowledge, skills, abilities, education, and experience required for each level, and~~
- ~~b. identifies the pay band assigned for each level;~~

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

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

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

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

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

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

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

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

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

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

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

~~24.~~ "Reclassification" means the process of changing a classified employee from one job family to another job family or

~~from one job family level to another job family level in the same job family, resulting in a change in the employee's assigned job code;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~6. Develop a program for the recruitment of qualified persons, including the administration of valid job-related nondiscriminatory selection procedures providing for competitive examinations and 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 of performance appraisals, and assist appointing authorities in the setting of productivity goals. The Director may establish and collect fees for participation in training programs. The Director is authorized to purchase awards for presentation to state employees as part of employee recognition activities sponsored by the Office of Management and Enterprise Services;

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

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

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

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

~~14.~~ 11. Establish standards for continuing training, ~~including affirmative action~~, and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education. Employees appointed to professional personnel positions shall complete an initial training program within one (1) year after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of,

and scheduled to attend, required training programs and shall make time available for employees to complete the programs. The Director shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Human Capital Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of Management and Enterprise Services established by law;

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

- a. selected ~~job family levels~~ jobs with a turnover rate in excess of ten percent (10%),
- b. selected ~~job family levels~~ jobs identified by the Director of the Office of Management and Enterprise Services with salaries and benefits that are ten percent (10%) or more below the market for such positions, and
- c. selected ~~job family levels~~ 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 agencies in fully integrating quality management concepts and models into their business practices for the purpose of improving the overall efficiency and effectiveness of state government.

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

Section 840-1.7 A. ~~There is hereby created the The Oklahoma Merit Protection Commission, to shall~~ continue until December 31, 2022. Whenever the terms "Ethics and Merit Commission" ~~or~~, "Special Counsel of the Ethics and Merit Commission", or the "Oklahoma Merit Protection Commission" appear in the Oklahoma Statutes, they shall mean the ~~Oklahoma Merit Protection Commission or the Executive Director of the Oklahoma Merit Protection Commission as may be~~ appropriate to the context in which they appear. ~~The Oklahoma Merit Protection Commission shall consist of nine (9) members who shall be appointed for a term of three (3) years. The members shall be removable only for cause, as provided by law for the removal of officers not subject to impeachment. Two members of the Commission shall be appointed by the President Pro Tempore of the Senate. Two members of the Commission shall be appointed by the Speaker of the House of Representatives. Five members of the Commission shall be appointed by the Governor. No more than four of the appointments made by the Governor shall be from the same political party. Of the initial appointments made to 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~~
Human Capital Management 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 to the Office of Management and Enterprise Services all books, papers, records, and property of the Commission.

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

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

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

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

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

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

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

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

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

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

Any person appointed or employed in contravention of any provision of ~~the Oklahoma Personnel Act law~~ or any rules or orders promulgated hereunder, whose employment is brought within the terms of ~~the Oklahoma Personnel Act law~~, who performs service for which he or she is not paid, may maintain an action against the officer or

officers who purported to appoint or employ the person to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services.

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

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

Section 840-1.20 A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Human Capital Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees received by the Office of Management and Enterprise Services for providing training for a certified public managers program and all other monies received by the Office of Management and Enterprise Services, ~~except for appropriated monies and monies received as payment for administrative expenses under Section 840-1.18 of this title.~~ All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for defraying the costs incurred in performing the duties and functions of the Office. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

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

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

Revolving Fund shall be deposited into the Human Capital Management Revolving Fund.

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

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

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

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

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

employment in state service preventing the implementation of the provisions of ~~the Oklahoma Personnel Act~~ law and rules made pursuant thereto.

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

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

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

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

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

B. State employees who are affected by such events shall be encouraged to participate in debriefing or counseling services and paid administrative leave shall be provided. However, employees shall have the option to refuse services offered.

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

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

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

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

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

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

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

SECTION 11. AMENDATORY 74 O.S. 2021, Section 840-2.14, is amended to read as follows:

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

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

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

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

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

SECTION 12. AMENDATORY 74 O.S. 2021, Section 840-2.16, is amended to read as follows:

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

officials, employed after July 1, 2007, shall receive a minimum annualized salary equal to the amount established in the Federal Poverty Guidelines for a three-person household, issued each year in the Federal Register by the United States Department of Health and Human Services. This section shall not apply to those persons employed pursuant to ~~paragraph 8 and paragraph 12 of subsection A of Section 840-5.5 and~~ Section 2241 of this title or those persons employed pursuant to Section 1.6a of Title 53 of the Oklahoma Statutes.

SECTION 13. AMENDATORY 74 O.S. 2021, Section 840-2.17, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~12. Salary adjustments not to exceed five percent (5%) for probationary career employees achieving permanent status following the initial probationary period and permanent career employees 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.~~

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

SECTION 14. AMENDATORY 74 O.S. 2021, Section 840-2.18, is amended to read as follows:

Section 840-2.18 A. A longevity pay plan is hereby adopted. This plan applies to all state ~~classified, unclassified, and exempt~~

employees, excluding members of boards and commissions, institutions under the administrative authority of the State Regents for Higher Education, employees of public school districts, and elected officials. The plan shall also apply to those employees of the Oklahoma School for the Blind and the Oklahoma School for the Deaf who qualify for longevity pay in accordance with subsection G of Section 1419 of Title 10 of the Oklahoma Statutes.

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

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

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

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

Years of Service	Annual Longevity Payment
At least 2 years but less than 4 years	\$250.00
At least 4 years but less than 6 years	\$426.00

At least 6 years but less than 8 years	\$626.00
At least 8 years but less than 10 years	\$850.00
At least 10 years but less than 12 years	\$1,062.00
At least 12 years but less than 14 years	\$1,250.00
At least 14 years but less than 16 years	\$1,500.00
At least 16 years but less than 18 years	\$1,688.00
At least 18 years but less than 20 years	\$1,900.00
At least 20 years	\$2,000.00

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

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

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

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

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

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

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

G. Years of service shall be certified through the current employing agency by the appointing authority on a form approved by the Office of Management and Enterprise Services. The form shall be completed and posted as directed by the Director of the Office of Management and Enterprise Services by the current employing agency when the employee initially enters on duty with the agency and thereafter whenever the employee's anniversary date is changed.

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

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

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

1. The month of August if the employee is in pay status on July 1; or
2. During the month following the employee's first return to duty that fiscal year if the employee is not in pay status on July 1.

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

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

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

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

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

K. A break in service with the state in excess of thirty (30) days but which does not exceed two (2) years which was caused by a reduction-in-force shall be treated as if it were a period of nonpaid leave status as provided for in subsection I of this section for the purpose of calculating total months of service for longevity

pay. This subsection shall only apply to state employees laid off after June 30, 1982.

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

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

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

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

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

SECTION 15. AMENDATORY 74 O.S. 2021, Section 840-2.19, is amended to read as follows:

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

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

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

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

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

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

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

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

6. The provisions of this section regarding collections of any overpayment of salaries or wages by any agency to any state employee

or officer shall not include any such overpayment made prior to July 1, 1983;

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

8. If an agency discovers overpayment or underpayment errors through an internal audit, the agency shall recover overpayments from the employee or disburse underpayment amounts in accordance with this section. Prior to initiation of recovery of overpayments from an employee, the agency shall provide the employee with adequate notice and an opportunity to respond.

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

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

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

- a. the amounts paid in error,
- b. the dates of said payments,
- c. the options available for repayment, and
- d. the right of the payee to protest the findings.

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

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

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

- a. lump-sum cash repayment,
- b. reduction of the corrected current salary or miscellaneous payroll deduction in a lump sum or in installments over a term not to exceed the term in which the erroneous payments were made,
- c. reduction in accrued annual leave by an amount of time at the then current correct salary level equal in value to the total of the amount or amounts to be repaid, or
- d. any combination thereof;

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

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

~~determination has been issued by the Oklahoma Merit Protection Commission and Executive Director;~~

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

- a. by lump-sum cash repayment, or
- b. in installments over a period not to exceed twelve (12) months;

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

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

SECTION 16. AMENDATORY 74 O.S. 2021, Section 840-2.20, is amended to read as follows:

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

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

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave shall be accrued based upon hours worked, paid leave, and holidays, but excluding overtime, not to exceed the total possible work hours for the pay period. Years

of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 840-2.18 of this title. Employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule below provided that such excess is used during the same calendar year in which it accrues or within twelve (12) months of the date on which it accrues, at the discretion of the appointing authority. If an employee whose job duties include providing fire protection services, law enforcement services or services with the Department of Corrections is unable to use excess leave as provided for in this paragraph because the employee's request for leave is denied by the employee's appointing authority and the denial of leave is due to extraordinary circumstances such that taking leave could pose a threat to public safety, health or welfare, the employee shall receive compensation at the employee's regular rate of pay for the amount of excess leave the employee is unable to use. Such compensation shall be paid at the end of the time period during which the excess leave was required to have been used;

2. From November 1, 2001, the following accrual rates and 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

Following an emergency declaration as described in Section 683.8 of Title 63 of the Oklahoma Statutes, the accumulation limits for annual leave shall temporarily increase and shall carryover to the

end of the fiscal year following the year in which the emergency declaration ended.

All annual leave that accrued or expired during the period of the emergency declarations issued by the Governor in 2020 and 2021 in response to the novel coronavirus (COVID-19) shall carry over to the end of the fiscal year following the year in which the emergency declaration ended regardless of regulatory provisions that establish a maximum amount of annual leave that may be accumulated by an employee of the State of Oklahoma. Expired annual leave governed by this subsection shall be reinstated as of the effective date of this act, and accumulation limits for annual leave shall not apply to amounts accrued or reinstated pursuant to this subsection. Eligibility for reinstatement of annual leave is limited to employees currently employed by the State of Oklahoma on the effective date of this act;

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

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

5. The Director of the Office of Management and Enterprise Services ~~and the Executive Director of the Oklahoma Merit Protection Commission~~ shall ~~cooperate to~~ assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such ~~policy~~ policies shall include a paid administrative leave provision as a cooling-off period which the Director of the Office of Management and Enterprise Services is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations;

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

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

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

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

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

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

SECTION 17. AMENDATORY 74 O.S. 2021, Section 840-2.21, is amended to read as follows:

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

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

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

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

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

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

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

subsection shall not forfeit his or her right to be returned to the original position within twelve (12) months after the start of leave without pay pursuant to the provisions of subsection D of this section.

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

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

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

SECTION 18. AMENDATORY 74 O.S. 2021, Section 840-2.23, is amended to read as follows:

Section 840-2.23 A. There is hereby created the state leave sharing program. The purpose of the state leave sharing program is

to permit state employees to donate annual or sick leave to a fellow state employee who has exhausted, or will exhaust, all types of paid leave and:

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

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

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

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

- ~~a. the employee suffered a physical injury as a result of the disaster,~~
- ~~b. the spouse, relative, or household member of the employee suffered a physical injury or died as a result of the disaster, or~~
- ~~c. the domicile of the employee or the home of a relative of the employee was damaged or destroyed as a result of the disaster.~~

B. As used in this section:

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

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term

does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

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

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

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

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

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

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

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

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

F. Except as otherwise provided for in this subsection, the chief administrative officer of the employee shall determine the amount of donated leave an employee may receive and may authorize an

employee to use up to a maximum of two hundred sixty-one (261) days of donated leave during total state employment. If the employee is suffering from an illness which has been certified in writing by a licensed physician or health care practitioner as being terminal and the employee who either has reached or shall reach in the near future the maximum amount as set out in this subsection, the chief administrative officer of the employee may approve additional donated leave upon written request of the employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 20. AMENDATORY 74 O.S. 2021, Section 840-2.27C, is amended to read as follows:

Section 840-2.27C A. At least ~~sixty (60)~~ thirty (30) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force notice that a reduction-in-force will be conducted ~~in accordance with the Oklahoma Personnel Act and Merit rules~~. The reduction-in-force implementation plan shall be provided to the Director of the Office of Management and Enterprise Services and any state employee association representing state employees at such time. The notice shall not be posted unless approved by the cabinet secretary for the agency conducting the reduction-in-force. If there is no incumbent cabinet secretary for the agency, the cabinet-secretary-notice-approval requirement shall not be applicable. If the appointing authority is governed by an elected official, the cabinet-secretary-notice-approval requirement shall not be applicable. The approved notice shall be posted in each office affected by the proposed plan for five (5) days. The

appointing authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action.

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

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

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

~~3. Require the separation of probationary classified affected employees in affected job family levels, except those affected employees on probationary status after reinstatement from permanent 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-force implementation plan and within five (5) business days of receipt reject any plan that does not:

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

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

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

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

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

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

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

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

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

- ~~a. be required, as a condition of continued employment by the agency, to sign an agreement, in a form to be prescribed by the Director of the Office of Management and Enterprise Services, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. An affected employee who signs the agreement required by this subparagraph waives any privilege which might otherwise have been available to the affected employee pursuant to the agreement for the provision of severance benefits, and~~
- ~~b. not have the right to exercise any subsequent right to receive severance benefits from the agency for which the affected employee performs services on the date that the employee exercises a displacement privilege. The provisions of this section shall not prohibit any person from exercising a displacement privilege in, or accepting severance benefits from, more than one agency during employment with the State of Oklahoma or from the agency which the affected employee exercised a displacement privilege in any future reduction-in-force.~~

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

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

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

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

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

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

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

3. Notwithstanding existing laws or provisions to the contrary, members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough. The Contingency Review Board shall additionally call upon elected officials, members

of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

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

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

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

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

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

1. All agency severance benefits shall provide the following:

- a. payment equal to the affected employee's current health insurance premium for the affected employee only for eighteen (18) months based on the cost of the premium at the time of the reduction-in-force. The appointing authority of the agency can ask the Director of the Office of Management and Enterprise Services to waive the severance benefit provision in this subparagraph or to reduce the length of coverage or subsequent severance benefit payment upon demonstration of the agency's inability to fund the full benefit,
- b. a longevity payment, as prescribed by Section 840-2.18 of this title, in the amount which would otherwise be paid to the affected employee on the affected employee's next anniversary date. ~~For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for affected employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of this title, and~~
- c. outplacement assistance and employment counseling prior to and after the reduction-in-force from the Oklahoma Employment Security Commission and other state or private entities that the entity may contract with to assist individuals who may be impacted by a reduction-in-force;

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

- a. up to one (1) week of pay, calculated by dividing the affected employee's current annual salary by the whole number fifty-two (52), for each year of service,
- b. a ~~maximum~~ lump-sum payment of Five Thousand Dollars (\$5,000.00), ~~and 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,~~

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

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

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

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

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

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

~~B. Each affected employee who is separated from state service as a result of a reduction-in-force after July 1, 1998, besides being eligible for the eighteen (18) months of continuation coverages provided by the Public Health Service Act, 42 U.S.C., Section 30066-1 et seq., i.e., health, dental, vision and healthcare reimbursement account options, under this severance benefit, shall~~

~~also be eligible to elect additional continuation coverage for any life insurance, in twenty-thousand-dollar units, on self or five-thousand-dollar units, on dependents, and to continue participation in the dependent care reimbursement account provided that these additional coverages were in effect immediately prior to the effective date of the reduction-in-force, the date of which shall serve as the qualifying event date. Provided, that no coverage elected for continuation through the Public Health Service Act for the full eighteen-month period is allowed to lapse, then that affected employee may elect to continue those same coverages for an additional eighteen (18) months at whatever rate is then in effect. This additional eighteen-month continuation period of coverage shall be administered by the Oklahoma State Employees Benefits Council following the initial eighteen-month period of continuation which shall be administered by the COBRA office at the State and Education Employees Group Insurance Board.~~

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

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

SECTION 22. 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. For transfers not deemed punitive, a partial payment by the State of Oklahoma shall be paid to a certified carrier for the cost of moving any employee permanently transferred at the request of a state agency. A minimum cost shall be Two Thousand Five Hundred Dollars (\$2,500.00) up to a maximum of twenty percent (20%) of the employee's current salary. ~~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 23. AMENDATORY 74 O.S. 2021, Section 840-5.3, is amended to read as follows:

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

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

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

3. All employees of all public school districts; and

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

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

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

SECTION 24. AMENDATORY 74 O.S. 2021, Section 840-7.1, is amended to read as follows:

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

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

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

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

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

SECTION 25. AMENDATORY 74 O.S. 2021, Section 5003.5, is amended to read as follows:

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

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

C. The Director shall employ such persons as are necessary to implement the powers and duties of the Department. Because many of the powers and duties of the Department involve working closely with

the private sector, certain employee positions of the Department ~~must shall~~ be ~~governed, classified~~ employed and compensated in a manner that compares equally to similar positions in the private sector. ~~Therefore, in the annual business plan, the Director shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, and shall~~ be exempt from the provisions of the Oklahoma Personnel Act Civil Service and Human Capital Modernization Act. All other employees and positions shall be ~~classified~~ and subject to the provisions of the ~~Merit System of Personnel Administration as provided in the Oklahoma Personnel Act~~ Civil Service and Human Capital Modernization Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the status of positions otherwise by law. Neither shall the Director have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Department.

D. The Director shall serve on the board of:

1. The Oklahoma Industrial Finance Authority;
2. The Oklahoma Science and Technology Research and Development Board;
3. The Oklahoma Development Finance Authority;
4. The Executive Bond Oversight Commission; and
5. The Oklahoma Ordnance Works Authority.

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

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

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

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

1. The administrative law judge has a general knowledge of the Civil Service and Human Capital Modernization Act and rules promulgated thereto;

2. The administrative law judge:

- a. is currently licensed to practice law by the Supreme Court of this state,
- b. has a working knowledge of the Administrative Procedures Act and administrative rules of the Office of Management and Enterprise Services,
- c. is not an owner, stockholder, employee, or officer of, nor has any other business relationship with, any corporation, partnership, or other business or entity that is subject to regulation by the Office of Management and Enterprise Services,
- d. is separate and apart from the legal division or office of general counsel of the Office of Management and Enterprise Services,
- e. is not responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for the Office of Management and Enterprise Services, and
- f. has not been engaged in the performance of investigative or prosecuting functions for the Office of Management and Enterprise Services regarding the party receiving the final agency order; and

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

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

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

SECTION 27. REPEALER 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, are hereby repealed.

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

Passed the House of Representatives the 9th day of May, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2022.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____