STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1634 By: Myers

COMMITTEE SUBSTITUTE

[labor - amending Title 40 - Employment Security Act of 1980 - effective date -

emergency]

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

SECTION 1. AMENDATORY 40 O.S. 2001, Section 1-208, as amended by Section 1, Chapter 182, O.S.L. 2005 (40 O.S. Supp. 2005, Section 1-208), is amended to read as follows:

Section 1-208. EMPLOYER.

"Employer" means:

1. Any employing unit, except as provided under paragraphs 10 and 11 of this section, which:

a. for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different calendar weeks, whether or not such weeks are or were consecutive, within either the calendar year or the preceding calendar year, and for the purpose of this definition if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one (1) calendar week and the days beginning January 1 another such week, has or had in employment one or more individuals, irrespective of whether the same individuals are or were employed in each such day, or

b. in any calendar quarter, in either the calendar year or preceding calendar year paid for service in

employment wages of One Thousand Five Hundred Dollars ($1,500.00) or more;

2. Any individual or employing unit, whether or not an employing unit at the time of the acquisition, which acquired substantially all of the organization, employees, trade, business, or assets thereof, of another which at the time of such acquisition was an employer subject to the Employment Security Act of 1980; or which acquired a part of the organization, employees, trade, or business of another employing unit which at the time of such acquisition was an employer subject to the Employment Security Act of 1980;

3. Any individual or employing unit, whether or not an employing unit at the time of acquisition, which acquired substantially all of the organization, employees, trade, business, or assets thereof, of another employing unit, if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit and employer subject to the Employment Security ~~act~~ Act of 1980 under paragraph 1 of this section; or any individual or employing unit which acquired substantially all of the organization, employees, trade, business, or assets of another employing unit if such employing unit subsequent to such acquisition, and such acquired unit prior to such acquisition, both within the same calendar quarter, together paid for service in employment wages totaling One Thousand Five Hundred Dollars ($1,500.00) or more;

4. Any employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly by the same interest, or which owns or controls one or more other employing units, by legally enforceable means or otherwise, and which, if treated as a single unit with such

other employing unit, would be an employer under paragraph (1) of this section;

5. Any employing unit which, having become an employer under paragraphs 1, 2, 3, 4, 8, 10 or 11 of this section has not, under Section 3-202 of this title, ceased to be an employer subject to the Employment Security Act of 1980;

6. For the effective period of its election pursuant to Section 3-203 of this title any other employing unit which has elected to become subject to the Employment Security Act of 1980;

7. Any department of this state, any other state, and all instrumentalities thereof, including any political subdivisions and their instrumentalities, for which service in employment, as defined in paragraph (3) of Section 1-210 of this title, is performed, except as provided under paragraphs 10 and 11 of this section;

8. Any employing unit for which service in employment, as defined in paragraph (4) of Section 1-210 of this title, is performed, except as provided under paragraphs 10 and 11 of this section;

9. For purposes of paragraphs 1, 8, 10 and 11 of this section, employment shall include service which would constitute employment but for the fact that ~~such~~ the service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into in accordance with Section 4-702 of this title by the Oklahoma Employment Security Commission and an agency charged with the administration of any other state or federal unemployment compensation law;

10. Any employing unit for which agricultural labor as defined in paragraph (5) of Section 1-210 of this title is performed. In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under paragraph 1, 7, 8 or 11 of this section, the wages earned or the

employment of an employee performing service in agricultural labor shall not be taken into account;

11. Any employing unit for which domestic service in employment as defined in paragraph (6) of Section 1-210 of this title is performed. In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under paragraph 1, 7, 8 or 10 of this section, the wages earned or the employment of an employee performing domestic service shall not be taken into account;

12. Any employing unit which is not an employer by reason of any other provisions of the Employment Security Act of 1980 shall nevertheless be an "employer" if either:

a. within the calendar year or preceding calendar year, service is or was performed, with respect to which ~~such~~ the employing unit is liable for any federal tax against which credit may be taken by ~~such~~ the employing unit for contributions required to be paid by it into a state unemployment fund, or

b. ~~such~~ the employing unit is required to be an "employer" as a condition for approval of the Employment Security Act of 1980 for full tax credit to be allowed against the tax imposed by the Federal Unemployment Tax Act, 26 U.S.C., Section 3301 et seq.; or

13. If two or more employers share common ownership, management, or control, the Commission may combine their merit rating accounts, including their actual contribution and benefit experience, annual payrolls, and contribution rates into one account.

SECTION 2. AMENDATORY 40 O.S. 2001, Section 1-210, as last amended by Section 1, Chapter 102, O.S.L. 2004 (40 O.S. Supp. 2005, Section 1-210), is amended to read as follows:

Section 1-210. EMPLOYMENT.

"Employment" means:

(1) Any service, including service in interstate commerce, performed by:

(a) any officer of a corporation; or

(b) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee.

(2) (a) any service, including service in interstate commerce, performed by any individual other than an individual who is an employee under paragraph (1) of this section who performs services for remuneration for any person:

(i) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or dry cleaning services, for his or her principal; or

(ii) as a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal, except for sideline sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations;

(b) provided, the term "employment" shall include services described in divisions (i) and (ii) of subparagraph (a) of this paragraph if:

(i) the contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(ii) the individual does not have a substantial investment in facilities used in connection with the performance of the services, other than in facilities for transportation; and

(iii) the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(3) Service performed in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions; provided, that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act, 26 U.S.C., Section 3306(c)(7), and is not excluded from "employment" under paragraph (7) of this section.

(4) Service performed by an individual in the employ of a community chest, fund, foundation or corporation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in, including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office; provided that such organization had four or more individuals in employment for some portion of a day in each of twenty (20)

different weeks, whether or not such weeks were consecutive, within either the calendar year or preceding calendar year, regardless of whether they were employed at the same moment of time.

(5) Service performed by an individual in agricultural labor as defined in subparagraph (a) of paragraph (15) of this section when:

(a) ~~such~~ the service is performed for a person who:

(i) during any calendar quarter in either the calendar year or the preceding calendar year, paid remuneration in cash of Twenty Thousand Dollars ($20,000.00) or more to individuals employed in agricultural labor; or

(ii) for some portion of a day in each of twenty (20) different calendar weeks, whether or not ~~such~~ the weeks were consecutive, in either the calendar year or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time.

(b) for the purposes of this paragraph any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of ~~such~~ the crew leader:

(i) if ~~such~~ the crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, Public Law 95-562, 29 U.S.C., Sections 1801 through 1872; or substantially all the members of ~~such~~ the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by ~~such~~ the crew leader; and

(ii) if ~~such~~ the individual is not an employee of ~~such~~ the other person within the meaning of paragraph (1) of this section or subparagraph (d) of this paragraph.

(c) for the purposes of this paragraph, in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of ~~such~~ the crew leader under subparagraph (b) of this paragraph:

(i) ~~such~~ the other person and not the crew leader shall be treated as the employer of ~~such~~ the individual; and

(ii) ~~such~~ the other person shall be treated as having paid cash remuneration to ~~such~~ the individual in an amount equal to the amount of cash remuneration paid to ~~such~~ the individual by the crew leader, either on his or her own behalf or on behalf of ~~such~~ the other person, for the service in agricultural labor performed for ~~such~~ the other person.

(d) for the purposes of this paragraph, the term "crew leader" means an individual who:

(i) furnishes individuals to perform service in agricultural labor for any other person;

(ii) pays, either on his or her own behalf or on behalf of ~~such other~~ another person, the individuals so furnished by the crew leader for the service in agricultural labor performed by them; and

(iii) has not entered into a written agreement with ~~such~~ the other person (farm operator) under which

~~such~~ the individual is designated as an employee of ~~such~~ the other person.

(6) The term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of One Thousand Dollars ($1,000.00) or more in the calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter.

(7) For the purposes of paragraphs (3) and (4) of this section the term "employment" does not apply to service performed:

(a) in the employ of:

(i) a church or convention or association of churches; or

(ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(b) by a duly ordained, commissioned or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by ~~such~~ the order;

(c) in the employ of a governmental entity referred to in paragraph (3) of this section if ~~such~~ the service is performed by an individual in the exercise of duties:

(i) as an elected official;

(ii) as a member of a legislative body, or a member of the judiciary of a state or political subdivision;

(iii) as a member of the State National Guard or Air National Guard;

(iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) in a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week;

(vi) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than One Thousand Dollars ($1,000.00);

(d) by an individual receiving rehabilitation or remunerative work while participating or enrolled in a program in a facility that:

(i) conducts a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury; or

(ii) conducts a program that provides remunerative work for individuals who, because of their impaired mental or physical capacity cannot be readily absorbed into the competitive labor market;

(e) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; or

(f) by an inmate of a custodial or penal institution.

(8) The term “employment” shall include the service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, in the employ of an American employer other than service which is deemed “employment” under the provisions of paragraphs (11) or (12) of this section or the parallel provisions of another state’s law, if:

(a) the employer’s principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but:

(i) the employer is an individual who is a resident of this state;

(ii) the employer is a corporation which is organized under the laws of this state; or

(iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state;

(c) none of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state;

(d) an “American employer”, for purposes of this subsection, means a person who is:

(i) an individual who is a resident of the United States;

(ii) a partnership if two-thirds or more of the partners are residents of the United States;

(iii) a trust, if all of the trustees are residents of the United States; or

(iv) a corporation organized under the laws of the United States or of any state; and

(e) the term "United States", for the purposes of this subsection, includes the states, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

(9) Notwithstanding paragraph (11) of this section, all service performed by an officer or member of the crew of an American vessel on or in connection with ~~such~~ the vessel, if the operating office, from which the operations of ~~such~~ the vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state.

(10) Notwithstanding any other provisions of the Employment Security Act of 1980, "employment":

(a) includes any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; and

(b) includes any service which is required to be "employment" for full tax credit to be allowed against the tax imposed by the Federal Unemployment Tax Act of 1954, Public Law 591, Chapter 736, as amended, 26 U.S.C., Section 3301 et seq.

(11) The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

(a) the service is localized in this state; or

(b) the service is not localized in any state but some of the service is performed in this state and:

(i) the individual's base of operations, or, if there is no base of operations, then the place from

which the individual's employment is directed or controlled is in this state; or

(ii) the individual's base of operations or place from which ~~such~~ the service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

(12) (a) Services covered by an election pursuant to Section 3-203 of this title; and

(b) services covered by an arrangement pursuant to Section 4-701 et seq. of this title between the Oklahoma Employment Security Commission and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment if the Commission has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(13) Service shall be deemed to be localized within a state if:

(a) the service is performed entirely within such state; or

(b) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(14) Notwithstanding any other provision of this subsection, services performed by an individual for wages or under any contract

of hire shall be deemed to be employment subject to the Employment Security Act of 1980 unless and until it is shown to the satisfaction of the Commission that:

(a) such individual has been and will continue to be free from control or direction over the performance of ~~such~~ the services, both under the contract of hire and in fact; and

(b) such individual is customarily engaged in an independently established ~~trade, occupation, profession, or~~ business; or

(c) such service is outside the usual course of the business for which ~~such~~ the service is performed and that ~~such~~ the service is performed outside of all the places of business of the enterprise for which ~~such~~ the service is performed.

(15) The term "employment" shall not include:

(a) services performed by an individual in agricultural labor, except as provided under paragraph (5) of this section. Services performed by an individual who is a nonresident alien admitted to the United States to perform agricultural labor, pursuant to 8 U.S.C. Sections 1101(a), 1184(c) and 1188. For purposes of this subparagraph, the term "agricultural labor" means remunerated service performed in agricultural labor as defined in the Federal Unemployment Tax Act, 26 U.S.C., Section 3306(k);

(b) domestic service, except as provided under paragraph (6) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority;

(c) service performed by an individual in the employ of his or her son, daughter, or spouse, and service

performed by a child under the age of twenty-one (21) in the employ of his or her father or mother, or both father and mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the Employment Security Act of 1980, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of the Employment Security Act of 1980 shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the Secretary of Labor of the United States under the Federal Internal Revenue Code, 26 U.S.C., Section 3304(c), the payments required of such instrumentalities with respect to ~~such~~ the year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in Section 3-304 of this title with respect to contributions erroneously collected;

(e) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;

(f) service performed in the employ of a foreign government, including service as a consul or other officer or employee or a nondiplomatic representative;

(g) service performed in the employ of an instrumentality wholly owned by a foreign government:

(i) if the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof, and

(ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

(h) service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within the jurisdiction of such other state or federal agency;

(i) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed

as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(j) service performed by an individual for a person, firm, association, trust, partnership or corporation as an insurance agent, or as an insurance solicitor or as a licensed real estate agent, if all such service performed by such individual for such person is performed for remuneration solely by way of commissions or fees;

(k) service performed by an individual under the age of eighteen (18) in the delivery and distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, and services performed by an individual eighteen (18) years of age or older who meets the definition of a "direct seller" as defined in 26 U.S.C., Section 3508(b)(2), that states in pertinent part:

(i) the individual must be engaged in the delivery or distribution of newspapers or shopping news, including any services directly related to such trade or business,

(ii) substantially all the remuneration, whether or not paid in cash, for the performance of the services described in clause (i) of this subdivision is directly related to sales or other output, including the performance of services, rather than the number of hours worked, and

(iii) the services performed by the individual are performed pursuant to a written contract between

~~such~~ the person and the person for whom the services are performed and ~~such~~ the contract provides that the person will not be treated as an employee with respect to ~~such~~ the services;

(l) service performed in the employ of a school, college or university, if the service is performed:

(i) by a student who is enrolled and is regularly attending classes at the school, college, or university, or

(ii) by the spouse of the student, if the spouse is advised, at the time the spouse commences to perform the service, that:

(I) the employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school, college, or university, and

(II) the employment will not be covered by any program of unemployment insurance;

(m) service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, except that this provision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(n) service performed in the employ of a hospital, if the service is performed by a patient of the hospital;

(o) services performed by cooperative extension personnel holding federal appointments employed by state institutions of higher learning;

(p) earnings of employees being paid by state warrants who are presently covered by the Federal Unemployment Compensation Act, 5 U.S.C., Section 8501 et seq., by virtue of their federal status;

(q) cosmetology services performed by an individual in a beauty shop, as defined by Section 199.1 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the beauty shop leases or rents facilities for cosmetology to such individual;

(r) barbering services performed by an individual in a barber shop, as defined by Section 61.5 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the barber shop leases or rents facilities for barbering to such individual;

(s) in-home services performed in a medical care program such as the nontechnical medical care program, or social services program, as certified and approved by the Department of Human Services or the Federal Health Care Financing Administration or as a participant in a work or training program administered by the Department of Human Services;

(t) riding services performed by a jockey and services performed by a trainer of race horses in an approved race licensed by the Oklahoma Horse Racing Commission;

(u) service performed by an individual whose remuneration consists solely of commissions, overrides, bonuses, and differentials related to sales or other output

derived from in-person sales to, or solicitation of orders from, ultimate consumers primarily in the home, or otherwise than in a permanent retail establishment;

(v) service performed by a person, commonly referred to as "owner-operator", who owns or leases a truck-tractor or truck for hire, provided the owner-operator actually operates the truck-tractor or truck and, further, that the entity contracting with the owner-operator is not the lessor of the truck-tractor or truck;

(w) services performed as a chopper of cotton who weeds or thins cotton crops by hand or hoe. This subsection shall be interpreted and applied consistently with the Federal Unemployment Tax Act, 26 U.S.C., Sections 3304(a)(6)(A) and 3306(k); or

(x) services performed for a private for-profit person or entity by an individual as a landman:

(i) if the individual is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or negotiating business agreements that provide for the exploration for or development of minerals,

(ii) if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual, and

(iii) if the services performed by the individual are performed under a written contract between the individual and the person for whom the services are performed; provided that the individual is to

be treated as an independent contractor and not as an employee with respect to the services provided under the contract.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-227 of Title 40, unless there is created a duplication in numbering, reads as follows:

"Interested party" means the Oklahoma Employment Security Commission, a claimant who files a claim for unemployment benefits with the Commission, and any employer who properly files a written objection to the claim pursuant to subsection E of Section 2-503 of Title 40 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-228 of Title 40, unless there is created a duplication in numbering, reads as follows:

"Experience Period" means:

1. For any tax year occurring before January 1, 2007, the most recent three (3) consecutive completed calendar years occurring before the calendar year for which a tax rate is being calculated.

2. For any tax year occurring after December 31, 2006, the most recent twelve (12) consecutive completed calendar quarters occurring before July 1 of the year immediately preceding the year for which the employer's contribution rate is being calculated.

SECTION 5. AMENDATORY 40 O.S. 2001, Section 2-103, is amended to read as follows:

Section 2-103. BENEFITS PAID FROM FUND.

All benefits provided herein shall be payable from the fund. All benefits shall be paid ~~through employment offices~~ in accordance with ~~such~~ the rules as the Oklahoma Employment Security Commission may prescribe.

SECTION 6. AMENDATORY 40 O.S. 2001, Section 2-405, as last amended by Section 4, Chapter 182, O.S.L. 2005 (40 O.S. Supp. 2005, Section 2-405), is amended to read as follows:

Section 2-405. DETERMINING GOOD CAUSE.

Good cause for voluntarily leaving work under Section 2-404 of this title may include, among other factors, the following:

1. A job working condition that had changed to such a degree it was so harmful, detrimental, or adverse to the individual's health, safety, or morals, that leaving ~~such~~ the work was justified;

2. If the claimant, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits waiver of his or her right to retain the employment when there is a layoff, has elected to be separated and the employer has consented thereto;

3. If the claimant was separated from employment with the employer because a physician diagnosed or treated a medically verifiable illness or medical condition of the claimant or the minor child of the claimant, and ~~the physician found~~ based on available information, the Oklahoma Employment Security Commission finds that it was medically necessary for the claimant to stop working or change occupations;

4. If the spouse of the claimant was transferred or obtained employment in another city or state, and the family is required to move to the location of that job that is outside of commuting distance from the prior employment of the claimant, and the claimant separates from employment in order to move to the new employment location of the spouse. As used in this paragraph, "commuting distance" means a radius of fifty (50) miles from the prior work location of the claimant; or

5. If the claimant separated from employment as part of a plan to escape domestic violence or abuse.

SECTION 7. AMENDATORY 40 O.S. 2001, Section 2-406A, is amended to read as follows:

Section 2-406A. An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a confirmed positive

drug or alcohol test conducted in accordance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be considered to have been discharged for misconduct and shall be disqualified for benefits pursuant to the provisions of Section 2-406 of ~~Title 40 of the Oklahoma Statutes~~ this title.

SECTION 8. AMENDATORY 40 O.S. 2001, Section 2-416, is amended to read as follows:

Section 2-416. PROHIBITION AGAINST DISQUALIFICATION OF INDIVIDUALS TAKING APPROVED TRAINING UNDER TRADE ACT.

No individual shall be denied benefits for any week because such individual is in training approved under Section 236(a)(1) of the Trade Act of 1974. An individual shall not be denied benefits by reason of leaving work to ~~enter~~ begin or continue such training, provided the work left is not suitable employment, or because of the application, to any such week in training, of the provisions of the Employment Security Act of 1980 or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this section, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the adversely affected past employment of the individual, as defined for purposes of the Trade Act of 1974, and wages for such work at not less than eighty percent (80%) of the average weekly wage of the individual as determined for the purposes of the Trade Act of 1974.

SECTION 9. AMENDATORY 40 O.S. 2001, Section 2-417, is amended to read as follows:

Section 2-417. SEEK AND ACCEPT WORK - WEEK OF OCCURRENCE DISQUALIFICATION.

A. An individual shall be disqualified to receive benefits for each week in which the individual shall have failed to do any of the following:

1. Diligently search for suitable employment at a pay rate generally available in that area of the state in keeping with his or her prior experience, education and training;

2. Make application for work with employers who could reasonably be expected to have work available ~~within that general geographic area of the state~~;

3. Present oneself as an applicant for employment in a manner designed to encourage favorable employment consideration; or

4. Participate in reemployment services, such as job search assistance services, if the individual has been determined likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the Oklahoma Employment Security Commission. An individual will not be disqualified under this paragraph for failure to participate in reemployment services, if:

a. the individual has previously completed reemployment services, or

b. there is justifiable cause for the individual's failure to participate in reemployment services.

B. The requirements of subsection A of this section shall be waived if the individual has been summoned to appear for jury duty before any court of the United States or of any state. The waiver will continue for as long as the individual remains on jury duty pursuant to the original summons.

SECTION 10. AMENDATORY 40 O.S. 2001, Section 2-503, as amended by Section 4, Chapter 102, O.S.L. 2004 (40 O.S. Supp. 2005, Section 2-503), is amended to read as follows:

Section 2-503. CLAIMS, NOTICES AND OBJECTIONS.

A. Claims for benefits shall be made in accordance with such rule as the Oklahoma Employment Security Commission may prescribe.

B. Promptly after the initial claim or the additional initial claim is filed the Commission shall give written notice of the claim

to the last employer of the claimant for whom he or she worked at least fifteen (15) working days.

C. Promptly after the claim is paid for the fifth week of benefits the Commission shall give written notice of the claim to all other employers of the claimant during the claimant's base period. The notice will be given pursuant to Section 3-106 of this title.

D. Notices shall be deemed given when the Commission deposits the same in the United States mail addressed to the employer's last-known address. Notice shall be presumed prima facie to have been given to the employer to whom addressed on the date stated in the written notice.

E. Within ten (10) days after the date on the notice or the date of the postmark on the envelope in which the notice was sent, whichever is later, an employer may file with the Commission at the address prescribed in the notice written objections to the claim setting forth specifically the facts which:

1. Make the claimant ineligible for benefits under Sections 2-201 through 2-209 of this title;

2. Disqualify the claimant from benefits under Sections 2-401 through 2-418 of this title; or

3. Relieve such employer from being charged for the benefits wages of such claimant.

F. If an employer fails to give specific facts required by subsection E of this section, the employer will not be an interested party to the claim. In order to meet this requirement the employer must submit the following information at a minimum, within the time allowed by this statute:

1. The date on which employment of the individual began and ended;

2. Details leading to the claimant no longer being employed, specifically the final event leading to separation;

3. Documentation regarding warnings and violations of company policies, if applicable; and

4. Such other information as called for by the notice.

SECTION 11. AMENDATORY 40 O.S. 2001, Section 2-610, is amended to read as follows:

Section 2-610 JUDICIAL REVIEW.

(1) Within the ten (10) days after the day a notice of decision of the Board of Review is mailed to the parties, the Oklahoma Employment Security Commission, or any party to the proceedings before the Board of Review, may obtain judicial review thereof by filing in the district court of the county in which the claimant resides, or if the claimant is not a resident of the State of Oklahoma then in the district court of Oklahoma County, a petition for review of such decision, against the Board of Review. In such petition for review all other parties to the proceeding before the Board of Review and the Commission shall be made codefendants. Such petition for review need not be verified but shall state specifically the grounds upon which such review is sought. A copy of the petition for review shall be served upon a member of the Board of Review or upon such persons as the Board of Review may designate and the petitioner shall also deliver to the person so served as many copies of the petition as there are defendants. The Board of Review shall forthwith send by mail to each other party to the proceeding a copy of such petition, and such mailing shall be deemed to be service upon all such parties. In any proceeding under this section the findings of the Board of Review as to the facts, if supported by evidence, shall be conclusive and the jurisdiction of ~~said~~ the court shall be confined to questions of law. No additional evidence shall be received by the court, but the court may remand the case and order additional evidence to be taken before the Board of Review, and the Board may, after hearing ~~such~~ the additional evidence, modify its findings of fact or conclusions, and file ~~such~~

the additional or modified findings and conclusions, together with the transcript of the additional record, with the court.

(2) ~~With its answer to the petition~~ Within sixty (60) days of the filing of the petition, the Board of Review shall certify and file with the court a certified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the Board of Review's findings, conclusions, and decision therein.

(3) Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases. An appeal may be taken from the decision of the district court to the Supreme Court of this state in the same manner as is provided in other civil cases. It shall not be necessary as a condition precedent to judicial review of any decision of the Board of Review to enter exceptions to the rulings of such Board, and no bond shall be required as a condition of initiating a proceeding for judicial review or entering an appeal from the decision of the court upon such review. Upon the final termination of such judicial proceeding, the Board of Review shall enter an order in accordance with the mandate of the court.

SECTION 12. AMENDATORY 40 O.S. 2001, Section 3-101, is amended to read as follows:

Section 3-101. APPLICABILITY.

(1) The provisions of this Article 3 apply to the payment of contributions by employers.

(2) The provisions of this Part 1 apply to employers other than employers who are subject to Part 7, or employers who have elected to reimburse under Part 8 of this article, or employers who have elected to reimburse under paragraph 2 of subsection E of Section 1-108 of this title.

SECTION 13. AMENDATORY 40 O.S. 2001, Section 3-102, is amended to read as follows:

Section 3-102. CONTRIBUTIONS.

A. Contributions shall accrue and become payable by each employer for each calendar year in which the employer is subject to this act, with respect to wages for employment. Such contributions shall become due and be paid by each employer to the Oklahoma Employment Security Commission for the Unemployment Compensation Fund in accordance with such rules as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in ~~such~~ the employer's employ.

B. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent ($0.005) or more, in which case it shall be increased to one cent ($0.01).

C. Each employer shall be notified of its contribution rate for ~~the~~ a given calendar year on or before ~~March 31 of such~~ September 30 of the previous calendar year. ~~Such~~ The rate shall become conclusive and binding upon the employer unless within twenty (20) days after the mailing of the notice of the contribution rate, to the employer's last-known address, the employer files a written request for a review and redetermination setting forth the employer's reasons ~~therefor~~ for the review. The Commission shall provide for ~~such~~ a review and issue a determination to the employer.

D. Within fourteen (14) days after the date of mailing of the notice of the determination, the employer may file with the Commission at the address prescribed in the notice the employer's specific written objections to the contribution rate so determined. The matter will be heard upon those specific written objections by a representative appointed by the Commission. The decision ~~thereon~~ shall be made in writing and notice ~~thereof~~ shall be mailed to the employer. The employer may appeal ~~therefrom~~ to the district court by filing a petition for review with the clerk of that court within

thirty (30) days after the date of mailing stated upon ~~that~~ the notice of decision.

SECTION 14. AMENDATORY 40 O.S. 2001, Section 3-106, as last amended by Section 6, Chapter 182, O.S.L. 2005 (40 O.S. Supp. 2005, Section 3-106), is amended to read as follows:

Section 3-106. BENEFIT WAGES CHARGED AND RELIEF THEREFROM.

A. The Oklahoma Employment Security Commission shall give notice to each base period employer of a claimant promptly after the claimant is paid his or her fifth week of benefits by the Commission or promptly after the Commission receives notice of the amounts paid as benefits by another state under a reciprocal arrangement. Notice shall be deemed given under this subsection when the Commission deposits the same with the United States Postal Service addressed to the employer at an address designated by the employer to receive ~~such~~ the notice or at the employer's last-known address. Notice shall be presumed prima facie to have been given to the employer to whom addressed on the date stated in the written notice. This notice shall give the name and Social Security Number of the claimant, the date the claim was filed, and the amount of benefit wages charged to the employer in each quarter of the base period.

B. Within ~~fourteen (14)~~ twenty (20) days from the date stated upon the notice provided for in subsection A of this section, the employer may file with the Commission written objections to being charged with ~~such~~ the benefit wages upon one or more of the grounds for objection set forth in subsection G of this section. The employer's written objection must set forth specifically:

1. The date on which the employment was terminated;

2. Full particulars as to the circumstances of the termination including the reason given by the individual for voluntarily leaving the employment, or the nature of the misconduct for which discharged, as the case may be;

3. Full particulars as to the regular scheduled part-time or full-time employment of the employee including the starting date, and ending date if any, of the continuous period of such part-time or full-time employment; and

4. Such other information as called for by the notice.

C. Upon receipt of the employer's written objections, the Commission shall make a determination as to whether or not the employer is entitled to be relieved from the charging of benefit wages. The Commission shall promptly notify the employer of that determination. Provided further, the ~~fourteen-day~~ twenty-day time period for filing written objections with the Commission as provided for in subsection B of this section may be waived for good cause shown.

D. Within ~~twenty (20)~~ fourteen (14) days after the mailing of the determination provided for in subsection C of this section, the employer may file with the Commission or its representative a written protest to the determination and request an oral hearing de novo to present evidence in support of its protest. The Commission or its representative shall, by written notice, advise the employer of the date of the hearing, which shall not be less than ten (10) days from the date of mailing of the written notice. At the discretion of the Commission, this hearing shall be conducted by the Commission or its representative appointed by the Commission for this purpose. Pursuant to the hearing, the Commission or its representative shall, as soon as practicable, make a written order setting forth its findings of fact and conclusions of law, and shall send it to the employer.

E. If any employer fails to file a written protest within the period of ~~twenty (20)~~ fourteen (14) days, as provided by subsection D of this section, then the determination shall be final, and no appeal shall thereafter be allowed.

F. The employer or the Commission may appeal the order of the Commission or its representative to the district court by filing a petition for review with the clerk of that court within thirty (30) days after the date the order was mailed to all parties. The mailing date shall be specifically stated in the order.

G. The benefit wages charged to an employer for a given calendar year shall be the total of the benefit wages stated in the notices given to the employer by the Commission. Provided, that an employer shall be relieved of a benefit wage charge if the employer proves to the satisfaction of the Commission that the benefit wage charge includes wages paid by the employer to any employee or former employee, who:

1. Left employment with that employer, or with his or her last employer, voluntarily without good cause connected to the work;

2. Was discharged from such employment for misconduct connected with his or her work;

3. Was a regular scheduled employee of that employer prior to the week the employee separated from other employment, and continued to work for ~~said~~ the employer through the fifth compensable week of unemployment in his or her established benefit year;

4. Was separated from his or her employment as a direct result of a major natural disaster, declared as such by the President pursuant to the Disaster Relief Act of 1974, P.L. 93-288, and such employee would have been entitled to disaster unemployment assistance if he or she had not received unemployment insurance benefits;

5. Was separated from employment with that employer due to a medically verifiable illness or medical condition of the employee or the minor child of the employee;

6. Was discharged by an employer for unsatisfactory performance during an initial employment probationary period. As used in this paragraph, "probationary period" means a period of time set forth in

an established probationary plan which applies to all employees or a specific group of employees and does not exceed ninety (90) calendar days from the first day a new employee begins work. The employee must be informed of the probationary period within the first seven (7) work days. There must be conclusive evidence to establish that the individual was separated due to unsatisfactory work performance and not separated because of lack of work due to temporary, seasonal, casual, or other similar employment not of regular, permanent, and year-round nature;

7. Was separated from employment because the spouse of the employee was transferred or obtained employment in another city or state that required the family of the employee to move, and the employee quit current employment to move with the spouse; ~~or~~

8. Left employment with that employer as part of a plan to escape domestic violence or abuse~~.~~; or

9. Left employment to attend training approved under the Trade Act of 1974 and is allowed unemployment benefits pursuant to Section 2-416 of this title.

H. If an employer recalls ~~a laid-off or separated employee~~ an employee deemed unemployed as defined by this act and ~~said~~ the employee continues to be employed or ~~said~~ the employee voluntarily terminates employment or is discharged for misconduct within the benefit year, the employer shall be entitled to have the benefit wage charged against the employer's experience rating for ~~said~~ the employee reduced by the ratio of the number of weeks of remaining eligibility of ~~said~~ the employee to the total number of weeks of entitlement.

I. An employer shall not be charged with benefit wages of a laid-off employee if the employer lists as an objection in a statement filed in accordance with subsection B of this section that said employee collecting benefits was hired to replace a United States serviceman or servicewoman called into active duty and laid-

off upon the return to work by that serviceman or servicewoman. The Unemployment Compensation Fund shall be charged with the benefit wages of the laid-off employee.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-106.2 of Title 40, unless there is created a duplication in numbering, reads as follows:

Separating employers - relief from benefit wage charges

A separating employer will not be charged with benefit wages, or will be relieved of the charge upon notification of the Oklahoma Employment Security Commission, if the former employee who is the subject of the charge was separated from employment under one of the circumstances listed in subsection G of Section 3-106 of Title 40 of the Oklahoma Statutes.

SECTION 16. AMENDATORY 40 O.S. 2001, Section 3-107, is amended to read as follows:

Section 3-107. BENEFIT WAGE RATIO.

~~The~~ A. For any tax year occurring before January 1, 2007, the benefit wage ratio of each employer shall be a percentage equal to the total of ~~his~~ the employer's benefit wages ~~for the most recent three (3) consecutive completed calendar years~~ in the experience period divided by ~~his~~ the employer's total taxable payroll for the ~~same three (3) years~~ experience period on which contributions have been paid to the Oklahoma Employment Security Commission on or before January 31 of the calendar year with respect to which ~~his~~ the employer's benefit wage ratio is determined.

B. For any tax year occurring after December 21, 2006, the benefit wage ratio of each employer shall be a percentage equal to the total of the employer's benefit wages in the experience period divided by the employer's total taxable payroll for the experience period on which contributions have been paid to the Commission on or before July 31 of the calendar year immediately preceding the year for which the contribution rate is being calculated.

SECTION 17. AMENDATORY 40 O.S. 2001, Section 3-108, is amended to read as follows:

Section 3-108. STATE EXPERIENCE FACTOR.

The total benefits paid from the Unemployment Compensation Fund ~~for the most recent three (3) consecutive completed calendar years~~ during the experience period, less all amounts credited to the Fund other than employers' contributions, interest, penalties, fees and interest earned on the Fund, divided by the statewide total of benefit wages of all employers for the ~~same three (3) calendar years~~ experience period, after adjustments to the nearest multiple of one percent (1%) shall be termed the "state experience factor." The state experience factor for any year shall be determined prior to the due date of the first contribution payment on wages for employment in that year.

SECTION 18. AMENDATORY 40 O.S. 2001, Section 3-111, as last amended by Section 7, Chapter 182 , O.S.L. 2005 (40 O.S. Supp. 2005, Section 3-111), is amended to read as follows:

Section 3-111. SUCCESSOR AND PREDECESSOR EMPLOYERS.

A. Any employing unit, whether or not an employing unit at the time of the acquisition, which acquires substantially all of the trade, organization, employees, business, or assets of any employer (excepting in such case any assets retained by that employer incident to the liquidation of the employer’s obligations) and who continues the operations of the predecessor employer as a going business, shall be determined to be a successor employer. The successor employer shall acquire the merit rating account of the predecessor employer, including the predecessor’s actual contribution and benefit experience, annual payrolls, and contribution rate. The successor employer shall also become jointly and severally liable with the predecessor employer for all current or delinquent contributions, interest, penalties and fees owed to

the Oklahoma Employment Security Commission by the predecessor employer.

Written notice of all current or delinquent contributions, interest, penalties and fees owed to the Commission by the predecessor employer shall be provided to the successor employer by the predecessor employer prior to the sale of the business. Failure to give such notice may subject the predecessor employer to a penalty as specified by the rules of the Commission.

Any remuneration for services covered by the Employment Security Act of 1980 or other state unemployment compensation acts paid by the predecessor employer shall be considered as having been paid by the successor employer. The initial determination regarding whether or not an acquiring employer will become a successor to a predecessor account shall be made by the Commission or its duly authorized representative and notice of this determination shall be delivered to the acquiring employer or mailed to his or her last-known address.

B. ~~Within twenty (20) days after the mailing of the notice of initial determination provided for in subsection A of this section, the employer may file with the Commission or its representative a written protest to the initial determination and request an oral hearing to present evidence in support of its protest. The Commission or its representative shall, by written notice, advise the employer of the date of the hearing, which shall not be less than ten (10) days from the date of the mailing of the written notice. At the discretion of the Commission, the hearing shall be conducted by the Commission, or by a representative appointed by the Commission for this purpose. Pursuant to the hearing, the Commission or its representative shall, as soon as practicable:~~

~~1. Make an order affirming, modifying or reversing the initial determination;~~

~~2. Immediately send to the employer a written notice thereof; and~~

~~3. In accordance with the order, notify the employer of any additional contributions, interest, penalties or fees then due or owing by the employer and the employer's contribution rate.~~

~~If any employer fails to file its written protest to the initial determination within the period of twenty (20) days, as provided by this subsection, then the initial determination shall be final, and no appeal shall thereafter be allowed.~~

~~C.~~ Any employing unit, whether or not an employing unit at the time of the acquisition, which acquires substantially all of the trade, employees, organization, business, or assets of an employer, at one or more separate and distinct establishments and who continues the acquired operations of the predecessor as a going business, shall acquire that portion of the experience rating account of the predecessor employer that is applicable to the establishment or establishments, if the employing unit, immediately after the acquisition, is an employer; provided, however, that the employing unit shall not acquire a portion of the experience rating account unless written application therefor is received by the Commission within one hundred twenty (120) days after the date of the acquisition together with evidence sufficient for the Commission to determine which portion of the experience rating account of the predecessor is applicable to the acquired operations, and the Commission finds that the transfer will not tend to defeat or obstruct the object and purpose of the Employment Security Act of 1980; and provided further, that the portion of the experience rating account so transferred, including the taxable payrolls and benefit wages, shall not thereafter be used in computing an experience rating contribution rate for the transferring employer. For the purpose of this subsection a separate and distinct establishment means all operations conducted by an employer at one

business location which is readily ~~segregable and~~ identifiable as a separate business organization.

~~D.~~ C. If the Commission finds that any report required to complete a determination of contribution rate has not been filed or if filed is incorrect or insufficient, and any such fact or information has not already been established or found in connection with some other proceeding pursuant to the provisions of the Employment Security Act of 1980, an estimate may be made of the information required on the basis of the best evidence reasonably available to it at the time. Notice shall be given of ~~such~~ the determination as provided for contribution rate in subsection C of Section 3-102 of this title and the employer may appeal therefrom as provided in subsection D of Section 3-102 of this title.

D. A determination made under this section may be appealed pursuant to the provisions of Section 3-115 of this title.

SECTION 19. AMENDATORY 40 O.S. 2001, Section 3-113, is amended to read as follows:

Section 3-113. CONDITIONAL FACTORS.

For each calendar year commencing after ~~December 31, 1977~~ December 31, 2006, except for those employers with a benefit wage ratio of zero (0) and as otherwise provided in this section, the contribution rate for each employer for ~~such~~ the calendar year shall be increased, in the circumstances and in the amounts as follows:

(1) - Condition "a" - If ~~at the beginning of each such year~~ the balance of the unemployment compensation fund is less than three and one-half (3 1/2) times, but not less than three (3) times, the net benefits paid for the most recent ~~five (5)~~ twenty (20) consecutive completed calendar ~~years~~ quarters divided by five (5), on July 1 of any given year, the contribution rate for the next calendar year for each employer whose benefit wage ratio with respect to ~~such~~ that year is zero percent (0%) shall be increased by one-tenth of one percent (1/10 of 1%) of wages paid by the employer during ~~such~~ the

year; ~~such~~ the contribution rate for each employer whose benefit rate wage ratio with respect to ~~such~~ that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by two-tenths of one percent (2/10 of 1%) of wages paid by the employer during ~~such~~ the year and ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during ~~such~~ that year.

(2) - Condition "b" - If ~~at the beginning of each such year~~ the balance of the unemployment compensation fund is less than three (3) times, but not less than two and one-half (2 1/2) times, the net benefits paid for the most recent ~~five (5)~~ twenty (20) consecutive completed calendar ~~years~~ quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by thirty-three and one-third percent (33 1/3%) of ~~such~~ the rate; provided that ~~such~~ the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%), shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during ~~such~~ that year; provided, further, that ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is zero percent (0%) shall be increased by two-tenths of one percent (2/10 of 1%) of wages paid by the employer during ~~such~~ that year; ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during ~~such~~ that year; and ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is more than one-tenth of one percent (1/10 of 1%), shall

be increased by at least four-tenths of one percent (4/10 of 1%) of wages paid by the employer during ~~such~~ that year.

(3) - Condition "c" - If ~~at the beginning of each such year~~ the balance of the unemployment compensation fund is less than two and one-half (2 1/2) times, but not less than two (2) times, the net benefits paid for the most recent ~~five (5)~~ twenty (20) consecutive completed calendar ~~years~~ quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by one-half (1/2) of ~~such~~ that rate; provided that ~~such~~ the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%), shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during ~~such~~ that year; provided, further, that ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is zero percent (0%) shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during ~~such~~ that year; ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by four-tenths of one percent (4/10 of 1%) of wages paid by the employer during ~~such~~ that year; and ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least five-tenths of one percent (5/10 of 1%) of wages paid by the employer during ~~such~~ that year.

(4) - Condition "d" - If ~~at the beginning of each such year~~ the balance of the unemployment compensation fund is less than two (2) times the net benefits paid for the most recent ~~five (5)~~ twenty (20) consecutive completed calendar ~~years~~ quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by sixty-six and

two-thirds percent (66 2/3 %) of ~~such~~ the rate; provided that ~~such~~ the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%) shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during ~~such~~ that year; provided, further, that ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is zero percent (0%) shall be increased by four-tenths of one percent (4/10 of 1%) of wages paid by the employer during ~~such~~ that year; ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by five-tenths of one percent (5/10 of 1%) of wages paid by the employer during ~~such~~ that year; ~~such~~ the contribution rate for each employer whose benefit wage ratio with respect to ~~such~~ that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least six-tenths of one percent (6/10 of 1%) of wages paid by the employer during ~~such~~ that year.

(5) The contribution rate, excluding any surcharge, for an employer whose contribution rate is three and four-tenths percent (3.4%) or more shall not be increased by more than two (2) percentage points in any one (1) year. The contribution rate, excluding any surcharge, for an employer whose contribution rate is less than three and four-tenths percent (3.4%) shall not be increased to more than five and four-tenths percent (5.4%) in one (1) year.

For the purposes of this section "net benefits paid for the most recent ~~five (5)~~ twenty (20) consecutive completed calendar ~~years~~ quarters" means the total amount of monies withdrawn from this state's account in the unemployment trust fund in the United States Treasury for each of the most recent ~~five (5)~~ twenty (20) consecutive completed calendar ~~years~~ quarters, plus the balance ~~of such monies~~ in the benefit account at the start of ~~such~~ the period,

less the balance ~~of such monies~~ in the benefit account at the end of ~~such~~ the period. The contribution rate for those employers with a benefit wage ratio of zero (0) shall be two-tenths of one percent (2/10 of 1%) during those years when the fund is in conditions "a", "b", and "c", and shall be three-tenths of one percent (3/10 of 1%) during those years when the fund is in condition "d".

(6) ~~There is hereby created a Special Surtax Fund. All money collected from the surtax imposed pursuant to this paragraph shall be transferred from the clearing account to the Special Surtax Fund. Funds in the Special Surtax Fund shall be used for repayments to the state's account in the unemployment trust fund for amounts previously withdrawn for refunds of employer contributions made pursuant to the requirements of paragraph (5) of this section. After Three Million Nine Hundred Sixty-nine Thousand Two Hundred Seventy-three Dollars and twenty-eight cents ($3,969,273.28) has been deposited in the state's account in the unemployment trust fund any remaining balance in the Special Surtax Fund shall also be transferred to the fund. When all such transfers have been made the Special Surtax Fund shall cease to exist.~~

~~Notwithstanding any other provision, for the first calendar quarter of 1987, the maximum assignable contribution rate shall be five and four-tenths percent (5.4%). A special surtax shall be assigned to employers who would, in the absence of the preceding sentence, be assigned a rate in excess of five and four-tenths percent (5.4%). The Commission shall determine the rate of surtax to be assigned to each employer to whom this provision applies in the same manner used to assign contribution rates pursuant to this article. The provisions for collecting past-due contributions shall apply to collection of the surtax. The surtax collected shall after deposit in the clearing account be transferred to the Special Surtax Fund.~~

~~(7)~~ Beginning January 1, 1996, except for this paragraph and paragraph ~~(8)~~ (7) of this section, the provisions of this section shall be suspended until the Unemployment Trust Fund reaches a High Cost Multiple of one and one-fourth (1.25). The Oklahoma Employment Security Commission shall determine the High Cost Multiple at the end of each calendar year and shall include the result of its computation in a regularly published periodical together with other employment-related data. As used in this section, "High Cost Multiple" shall be a figure computed as follows:

(a) first, net fund reserves in the Unemployment Compensation Fund as of the date of each computation required by this section shall be divided by total wages earned in insured employment for the twelve (12) months preceding the date of the quarterly High Cost Multiple computation,

(b) second, the result of the computation from subparagraph (a) of this paragraph shall be divided by a figure which is a quotient derived from the computation of the High-Cost Rate contained in subparagraph (c) of this paragraph, and

(c) third, the highest ratio of total state benefit payments experienced previously in any twelve (12) consecutive months to total wages earned in insured employment for the same period shall be the High-Cost Rate.

The result of all computations contained in subparagraphs (a) through (c) of this paragraph, performed in the sequence as specified in this section, shall be known as the High Cost Multiple;

~~(8)~~ (7) Prior to the beginning of each calendar year, the Commission shall prepare an estimate of the financial condition of the trust fund. If the estimate for the year shows the balance, at any time during the year, will fall below the High Cost Multiple as

defined in paragraph ~~(7)~~ (6) of this section, then the Commission shall reinstate the suspended provisions of this section.

SECTION 20. AMENDATORY 40 O.S. 2001, Section 3-115, is amended to read as follows:

Section 3-115. ~~PROTEST~~ APPEAL OF DETERMINATIONS.

A. If a determination is made by the Oklahoma Employment Security Commission on any aspect of an employer's account, and a method of ~~protest~~ appeal of the determination is not set out in the statute or rule under which the determination was made, ~~then~~ the employer may ~~protest~~ appeal the determination under the procedure set forth in subsection B of this section.

B. 1. All determinations affecting an employer account must be made by the Commission in writing in a Notice of Determination and mailed to the employer at the employer's last-known address with the mailing date and appeal rights set out in the document.

2. Within twenty (20) days after the mailing of the Notice of Determination as provided for in paragraph 1 of this subsection, the employer may file with the Commission, or its representative, a written ~~protest to the determination and a request for an oral hearing de novo to present evidence in support of the protest~~ request for a review and redetermination setting forth the employer's reasons therefor.

~~3.~~ If any employer fails to file a written ~~protest~~ request for review and redetermination within twenty (20) days ~~as provided by this subsection~~, then the initial determination of the Commission shall be final, and no further appeal shall be allowed.

3. If a written request for review and redetermination is filed, the Commission shall provide for a review and issue a Notice of Redetermination in the matter. The employer may appeal the redetermination by filing a written protest within fourteen (14) days of the date of the mailing of the Notice of Redetermination. If the employer fails to file a written protest within the time

allowed, the redetermination of the Commission shall be final and no further appeal shall be allowed.

4. Upon the timely filing of a written protest, the Commission shall provide for an oral hearing de novo to allow the employer to present evidence in support of the protest. The Commission or its representatives shall, by written notice, advise the employer of the date of the hearing, which shall not be less than ten (10) days from the date of the mailing of the written notice. At the discretion of the Commission, this hearing shall be conducted by the Commission, or by a representative appointed by the Commission for this purpose.

5. Pursuant to the hearing, the Commission or its representative shall, as soon as practicable, make a written order setting forth its findings of fact and conclusions of law, and shall mail it to the employer at the employer's last-known address with the mailing date and appeal rights set out in the document.

6. The employer or the Commission may appeal the order to the district court of the county in which the employer has its principal place of business by filing a Petition for Review with the clerk of the court within thirty (30) days after the date the order was mailed to all parties. ~~The mailing date shall be specifically stated in the order~~ If the employer does not have a principal place of business in any county in Oklahoma, then the Petition for Review shall be filed with the Oklahoma County District Court. All appeals shall be governed by Part ~~IV~~ 4 of Article III of the Employment Security Act of 1980.

SECTION 21. AMENDATORY 40 O.S. 2001, Section 3-203, is amended to read as follows:

Section 3-203. ELECTION BY EMPLOYER.

A. An employing unit, not otherwise subject to the Employment Security Act of 1980, which files with the Oklahoma Employment Security Commission its written election to become an employer subject hereto for not less than two (2) calendar years shall, with

the written approval of the election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in the approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to the two (2) required calendar years, only if during January of that year it has filed with the Commission a written application for termination of coverage as provided in this section.

B. Any employing unit for which services that do not constitute employment as defined in the Employment Security Act of 1980 are performed may file with the Commission a written election that all such services with respect to which payments are not required under an employment security law of any other state or of the federal government and which are performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of the Employment Security Act of 1980 for not less than two (2) calendar years. Upon the written approval of the election by the Commission, ~~such~~ the services shall be deemed to constitute employment subject to the Employment Security Act of 1980 from and after the date stated in the approval. ~~Such~~ The services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to the two (2) required calendar years, only if during January of that year the employing unit has filed with the Commission a written application for termination of the coverage.

C. The Commission may terminate the election of an employer or employing unit made pursuant to subsection A or B of this section at any time the Commission determines that the employer or employing unit is not abiding by all requirements of the Employment Security Act of 1980 and the rules for the administration of that act, or if the employer or employing unit that has made an election for

coverage becomes delinquent in the payment of its unemployment tax contributions, interest, penalties or fees.

D. If the Commission makes a determination that an application of an employer or employing unit submitted under subsections A or B of this section should be denied, or that a voluntary election should be terminated under subsection C of this section, the Commission shall notify the affected employer or employing unit in writing. The notification of the determination shall be delivered to the employer, or mailed to the employer's last-known address.

E. ~~Within twenty (20) days after the mailing of the notice of determination provided for in subsection D of this section, the employer may file with the Commission or its representative a written protest to the initial determination and request an oral hearing to present evidence in support of its protest. The Commission or its representative shall, by written notice, advise the employer of the date of hearing, which shall not be less than ten (10) days from the date of the mailing of the written notice. At the discretion of the Commission, the hearing shall be conducted by the Commission, or by a representative appointed by the Commission for this purpose. Pursuant to the hearing, the Commission or its representative shall, as soon as practicable:~~

~~1. Make an order affirming, modifying or reversing the initial determination;~~

~~2. Immediately send to the employer a written notice thereof; and~~

~~3. In accordance with the order, notify the employer of any changes in the status of his or her account.~~

~~If any employer fails to file its written protest to the initial determination within the period of twenty (20) days, as provided by this subsection, then the initial determination shall be final, and no appeals shall thereafter be allowed~~ A determination made under

this section may be appealed pursuant to the provisions of Section 3-115 of this title.

SECTION 22. AMENDATORY 40 O.S. 2001, Section 3-301, is amended to read as follows:

Section 3-301. PENALTY AND INTEREST ON PAST-DUE CONTRIBUTIONS.

A. If contributions are not paid on the date on which they are due and payable as prescribed by the Oklahoma Employment Security Commission, the whole or part thereafter remaining unpaid shall bear interest at the rate of one percent (1%) per month for each month or fraction thereof from and after such date until payment is received by the Commission. The date on which payment of contributions is deemed to have been received may be determined by such rules as the Commission may prescribe.

B. If any employer fails or refuses to file contribution and wage reports required under the provisions of this act within fifteen (15) days after written notice has been mailed to the employer by the Commission or its representative regardless whether or not any wages or taxable wages were paid, there shall accrue a penalty of One Hundred Dollars ($100.00) and in addition to such penalty, there shall be a penalty of ten percent (10%) added to the total contributions due, collected and paid. Such penalties shall be in addition to any interest due. The provisions of this subsection shall not apply to employers ~~as provided in~~ that are subject to subsection B of Section 3-806 of this title.

SECTION 23. AMENDATORY 40 O.S. 2001, Section 3-305, is amended to read as follows:

Section 3-305. ASSESSMENTS.

A. If any employer shall fail to make any report or return as required by the Employment Security Act of 1980, the Oklahoma Employment Security Commission or its duly authorized representative, from any information in the possession of or obtainable by the Commission, may determine the amount of

contribution due from such employer, and shall mail a copy of the assessment to the last-known address of the delinquent employer. The assessment so made shall not preclude the Commission or its representative from making field audits of the books and records, wherever located, of the employer and from making further adjustments, corrections or assessments. The assessments provided for herein must be made, and a copy thereof delivered to the employer or mailed to the last-known address of the employer, within three (3) years after the date on which the report or return was required to be filed.

B. ~~Within twenty (20) days after the mailing of the assessment provided for above, the employer may file with the Commission or its representative a written protest to the assessment and a request for an oral hearing de novo to present evidence in support of the protest. The Commission or its representative shall by written notice, advise the employer of the date of the hearing, which shall not be less than ten (10) days from the date of mailing of the written notice. At the discretion of the Commission, this hearing shall be conducted by the Commission, or by a representative appointed by the Commission for this purpose. Pursuant to the hearing, the Commission or its representative shall, as soon as practicable, make a written order setting forth its findings of fact and conclusions of law, and shall send it to the employer and shall in accordance with the order make an assessment of any contribution found to be due and not assessed.~~

~~C. If any employer fails to file a written protest within twenty (20) days, as provided by this section, then the assessment shall be final, and no appeal shall be allowed.~~

~~D. The employer or the Commission may appeal the order to the district court by filing a petition for review with the clerk of that court within thirty (30) days after the date the order was mailed to all parties. The mailing date shall be specifically~~

~~stated in the order~~ Assessments under this section may be appealed pursuant to the provisions of Section 3-115 of this title.

SECTION 24. AMENDATORY 40 O.S. 2001, Section 3-310, is amended to read as follows:

Section 3-310. A. Any penalty or interest, or any portion thereof, assessed because an employer or employee fails to file a report or remit payment as required by Section 1-101 et seq. of ~~Title 40 of the Oklahoma Statutes~~ this title may be waived by the Oklahoma Employment Security Commission provided the failure of the employer or employee to file a report or remit payment:

1. Is satisfactorily explained to the Commission;

2. Has resulted from a mistake by the employer or employee of either the law or the facts subjecting the employer or employee to file the report or remit payment; or

3. Results from insolvency.

B. Provided, no waiver of penalty or interest assessed for failure to file a report or remit payment as required by this act shall be granted unless the request for waiver is filed with the Commission within a three-year period from the date the penalty or interest was assessed or accrued.

~~C. Any penalty and interest assessed prior to April 1, 1995, against an employer which is a federally recognized Indian tribe or nation, shall be waived by the Commission upon full payment of all outstanding contributions owed by any such Indian tribe or nation pursuant to the Employment Security Act of 1980, provided that full payment is received by the Commission prior to April 1, 1995. Any such Indian tribe or nation who has fully complied with the provisions of this subsection shall be eligible to elect coverage and thereafter be subject to termination of any such election of such coverage pursuant to Section 3-203 of this title.~~

SECTION 25. AMENDATORY 40 O.S. 2001, Section 4-310A, is amended to read as follows:

Section 4-310A. ADOPTION AND PROMULGATION OF RULES.

The adoption and promulgation of all rules by the Oklahoma Employment Security Commission shall be in accordance with the procedures set forth in Article I of the Administrative Procedures Act~~, Section 250 et seq. of Title 75 of the Oklahoma Statutes~~.

SECTION 26. AMENDATORY Section 25, Chapter 452, O.S.L. 2002 (40 O.S. Supp. 2005, Section 4-317), is amended to read as follows:

Section 4-317. Employee recognition program.

In order to establish a public employee benefit program to encourage outstanding performance in the workplace, the Oklahoma Employment Security Commission is hereby directed to establish an on-the-job employee performance recognition program which encourages outstanding job performance and productivity. ~~In order to promote excellence in job performance and provide recognition for work units with exceptional performance, the~~ The Commission is authorized to expend from monies available to it so much thereof as may be necessary for the purchase of recognition awards for presentation to the members of work units or individual employees with exceptional job performance records or for other significant contributions to the operation of the Commission. Recognition awards shall consist of ~~distinctive wearing apparel, service pins, plaques, U.S. Savings Bonds, or other distinguished awards, the value of which shall not exceed One Hundred Dollars ($100.00) per employee, which recognize the achievement of the work unit or individual employee~~ any type of award authorized by the provisions of Section 4121 of Title 74 of the Oklahoma Statutes.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-318 of Title 40, unless there is created a duplication in numbering, reads as follows:

In order to encourage the improvement and modernization of employment, training, and placement services for veterans, and to

recognize eligible employees for excellence in the provision of services to veterans, or for having made demonstrable improvements in the provision of services to veterans the Veterans Service Division of the Oklahoma Employment Security Commission is directed to establish an employee performance recognition program. The Commission is hereby authorized to grant cash awards of up to Five Thousand Dollars ($5,000.00) to the eligible employees meeting criteria established by the Veterans Service Division of the Oklahoma Employment Security Commission; provided, funds exist from United States Department of Labor grants for the payment of the awards. For the purposes of this act, "eligible employees" means any of the following:

1. A disabled veterans outreach program specialist;

2. A local veterans employment representative; or

3. An individual providing employment, training and placement services to veterans under the Workforce Investment Act of 1998 or through an Employment Service delivery system.

SECTION 28. AMENDATORY 40 O.S. 2001, Section 4-508, as last amended by Section 12, Chapter 182, O.S.L. 2005 (40 O.S. Supp. 2005, Section 4-508), is amended to read as follows:

Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL - DISCLOSURE.

A. Except as otherwise provided by law, information obtained from any employing unit or individual pursuant to the administration of the Employment Security Act of 1980, and determinations as to the benefit rights of any individual shall be kept confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or employer or agent of such person as authorized in writing shall be supplied with information from the records of the Oklahoma Employment Security Commission, to the extent necessary for

the proper presentation of the claim or complaint in any proceeding under the Employment Security Act of 1980, with respect thereto.

B. Upon receipt of written request by any employer who maintains a Supplemental Unemployment Benefit (SUB) Plan, the Commission or its designated representative may release to such employer information regarding weekly benefit amounts paid its workers during a specified temporary layoff period, provided such Supplemental Unemployment Benefit (SUB) Plan requires benefit payment information before Supplemental Unemployment Benefits can be paid to such workers. Any information disclosed under this provision shall be utilized solely for the purpose outlined herein and shall be held strictly confidential by the employer.

C. The provisions of this section shall not prevent the Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to taxpayer or claimant a copy of any report or other paper filed by the taxpayer or claimant pursuant to the Employment Security Act of 1980;

2. The disclosure of information to any person for a purpose as authorized by the taxpayer or claimant pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be notarized;

3. The Oklahoma Department of Commerce may have access to data obtained pursuant to the Employment Security Act of 1980 pursuant to rules promulgated by the Commission. The information obtained shall be held confidential by the Department and any of its agents and shall not be disclosed or be open to public inspection. The Oklahoma Department of Commerce, however, may release aggregated data, either by industry or county, provided that such aggregation meets disclosure requirements of the Commission;

4. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

5. The disclosing of information or evidence to the Attorney General or any district attorney when the information or evidence is to be used by the officials or other parties to the proceedings to prosecute or defend allegations of violations of the Employment Security Act of 1980. The information disclosed to the Attorney General or any district attorney shall be kept confidential by them and not be disclosed except when presented to a court in a prosecution of a violation of Section 1-101 et seq. of this title, and a violation by the Attorney General or district attorney by otherwise releasing the information shall be a felony;

6. The furnishing, at the discretion of the Commission, of any information disclosed by the records or files to any official person or body of this state, any other state or of the United States who is concerned with the administration of assessment of any similar tax in this state, any other state or the United States;

7. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to the requesting agencies;

8. The release to employees of the Department of Transportation of information required for use in federally mandated regional transportation planning, which is performed as a part of its official duties;

9. The release to employees of the State Treasurer's office of information required to verify or evaluate the effectiveness of the Oklahoma Small Business Linked Deposit Program on job creation;

10. The release to employees of the Attorney General, the State Insurance Fund, the Department of Labor, the Workers' Compensation Court, and the Insurance Department for use in investigation of workers' compensation fraud;

11. The release to employees of the Oklahoma State Bureau of Investigation or release to employees of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for use in criminal investigations and the location of missing persons or fugitives from justice;

12. The release to employees of the Center of International Trade, Oklahoma State University, of information required for the development of International Trade for employers doing business in the State of Oklahoma;

13. The release to employees of the Oklahoma State Regents for Higher Education of information required for use in the default prevention efforts and/or collection of defaulted student loans guaranteed by the Oklahoma Guaranteed Student Loan Program. Any information disclosed under this provision shall be utilized solely for the purpose outlined herein and shall be held strictly confidential by the Oklahoma State Regents for Higher Education;

14. The release to employees of the Center for Economic and Management Research of the University of Oklahoma, of information required to identify economic trends. The information obtained shall be kept confidential by the University and shall not be disclosed or be open to public inspection. The University of Oklahoma may release aggregated data, provided that such aggregation meets disclosure requirements of the Commission;

15. The release to employees of the Office of State Finance of information required to identify economic trends. The information obtained shall be kept confidential by the Office of State Finance and shall not be disclosed or be open to public inspection. The Office of State Finance may release aggregate data, provided that such aggregation meets disclosure requirements of the Commission;

16. The release to employees of the Department of Mental Health and Substance Abuse Services of information required to evaluate the effectiveness of mental health and substance abuse treatment and

state or local programs utilized to divert persons from inpatient treatment. The information obtained shall be kept confidential by the Department and shall not be disclosed or be open to public inspection. The Department of Mental Health and Substance Abuse Services, however, may release aggregated data, either by treatment facility, program or larger aggregate units, provided that such aggregation meets disclosure requirements of the Oklahoma Employment Security Commission;

17. The release to employees of the Attorney General, the Oklahoma State Bureau of Investigation, and the Insurance Department for use in the investigation of insurance fraud;

18. The release to employees of public housing agencies for purposes of determining eligibility pursuant to 42 U.S.C. Section 503(i);

19. The release of wage and benefit claim information, at the discretion of the Commission, to an agency of this state or its political subdivisions, or any nonprofit corporation that operates a program or activity designated as a partner in the Workforce Investment Act One-Stop delivery system pursuant to 29 U.S.C.A., Section 2481 (b), based on a showing of need made to the Commission and after an agreement concerning the release of information is entered into with the entity receiving the information;

20. The release of information to the wage record interchange system, at the discretion of the Commission;

21. The release of information to the Bureau of the Census of the U.S. Department of Commerce for the purpose of economic and statistical research; ~~or~~

22. The release of employer tax information and benefit claim information to the Oklahoma Health Care Authority for use in determining eligibility for a program that will provide subsidies for health insurance premiums for qualified employers, employees, self-employed persons, and unemployed persons; or

23. The release of employer tax information and benefit claim information to the Oklahoma Department of Rehabilitation Services for use in assessing results and outcomes of clients served.

D. Subpoenas to compel disclosure of information made confidential by this statute shall not be valid, except for administrative subpoenas issued by federal, state, or local governmental agencies that have been granted subpoena power by statute or ordinance. Confidential information maintained by the Commission can be obtained by order of a court of record that authorizes the release of the records in writing. All administrative subpoenas or court orders for production of documents must provide a minimum of twenty (20) days from the date it is served for the Commission to produce the documents. If the date on which production of the documents is required is less than twenty (20) days from the date of service, the subpoena or order shall be considered void on its face as an undue burden or hardship on the Commission.

E. Should any of the disclosures provided for in this section require more than casual or incidental staff time, the Commission may charge the cost of such staff time to the party requesting the information.

F. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Commission.

SECTION 29. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

There is hereby appropriated to the Employment Security Administration Fund, out of funds made available to this state by the federal Reed Act Distribution made on March 13, 2002, pursuant to 903(d) of the Social Security Act, 42 U.S.C., 1103(d), as amended, the amount of Six Million Nine Hundred Forty-four Thousand

Three Hundred Eighty-three Dollars and thirty-nine cents ($6,944,383.39) to be used by the Oklahoma Employment Security Commission for the purpose of paying the administration expenses of the following programs in the following amounts:

1. The Employment Service program in the amount of Three Million Nine Hundred Thirty Thousand Five Hundred Seventy-one Dollars and eighty-eight cents ($3,930,571.88);

2. The One-Stop Career Center expenses attributable to the Employment Service and the Unemployment Insurance program in the amount of Three Hundred Thousand Dollars ($300,000.00); and

3. The Unemployment Insurance program in the amount of Two Million Seven Hundred Thirteen Thousand Eight Hundred Eleven Dollars and fifty-one cents ($2,713,811.51).

The funds appropriated by this section shall be expended on or before December 31, 2007. Expenditures from this appropriation shall be accounted for in accordance with standards established by the United States Secretary of Labor. The Oklahoma Employment Security Commission shall utilize the appropriation made by this section in accordance with the provisions and requirements contained in the Social Security Act, Title 42, of the United States Code.

SECTION 30. RECODIFICATION 40 O.S. 2001, Section 1-202A, shall be recodified as Section 1-202.1 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 2 Chapter 452, O.S.L. 2002 (40 O.S. Supp. 2005, Section 1-202B), shall be recodified as Section 1-202.2 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. 40 O.S. 2001, Section 1-208A, as amended by Section 3, Chapter 452, O.S.L. 2002 (40 O.S. Supp. 2005, Section 1-208A), shall be recodified as Section 1-208.1 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. 40 O.S. 2001, Section 1-209A, shall be recodified as Section 1-209.1 of Title 40 of the Oklahoma Statutes, unless there is created a

duplication in numbering. 40 O.S. 2001, Section 2-205A, shall be recodified as Section 2-205.1 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. 40 O.S. 2001, Section 2-404A, shall be recodified as Section 2-404.1 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 2, Chapter 177, O.S.L. 2003 (40 O.S. Supp. 2005, Section 2-404B, shall be recodified as Section 2-404.2 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. 40 O.S. 2001, Section 2-406A, shall be recodified as Section 2-406.1 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. 40 O.S. 2001, Section 2-610A, shall be recodified as Section 2-610.1 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering. 40 O.S. 2001, Section 4-310A, as amended by Section 26 of this act, shall be recodified as Section 4-310.1 of Title 40 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 31. This act shall become effective July 1, 2006.

SECTION 32. It being immediately necessary for the preservation of the public peace, health and 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.

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