

1 assessments relating to payment of in-lieu contributions;
2 providing for certain service of process; providing
3 exceptions; providing statute is not to be construed to
4 waive certain immunity; providing certain powers relating to
5 oaths, depositions, certifications and subpoenas will apply
6 to certain program for certain purpose; providing for
7 disclosure of certain information for use in certain
8 investigations; providing certain information is
9 confidential unless required for use in court for certain
10 purposes; increasing amount of certain surety required;
11 repealing 40 O.S. 2001, Sections 4-401, 4-402, 4-403, 4-404
12 and 4-405, which relate to the Employment Security Act of
13 1980 and the prohibition of certain disqualification or
14 recoupment relating to receipt of supplemental unemployment
15 benefits and the creation, appointment, duties and
16 compensation of the State Advisory Council; providing for
17 codification and providing an effective date.

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

19 SECTION 1. AMENDATORY 40 O.S. 2001, Section 1-218, as
20 last amended by Section 2, Chapter 182, O.S.L. 2005 (40 O.S. Supp.
21 2006, Section 1-218), is amended to read as follows:

22 Section 1-218. "Wages" means all remuneration for services from
23 whatever source, including commissions and bonuses and the cash
24 value of all remuneration in any medium other than cash, and
25 includes dismissal payments which the employer is required by law or
26 contract to make. Gratuities customarily received by an individual
27 in the course of work from persons other than the employing unit
28 shall be treated as wages received from the employing unit. The
29 reasonable cash value of remuneration in any medium other than cash,
30 and the reasonable amount of gratuities, shall be estimated and

1 determined in accordance with rules prescribed by the Oklahoma
2 Employment Security Commission. The term wages shall not include:

3 1. The amount of any payment, with respect to services
4 performed to or on behalf of an individual in its employ under a
5 plan or system established by an employing unit which makes
6 provision for individuals in its employ generally, or for a class or
7 classes of such individuals, including any amount paid by an
8 employing unit for insurance or annuities, or into a fund to provide
9 for any such payment, on account of:

- 10 a. retirement, other than employee contributions or
11 deferrals after December 31, 2002, under a qualified
12 plan as described in 26 U.S.C. Section 401(k) and,
13 after December 31, 2005, under a qualified plan as
14 described in 26 U.S.C. Sections ~~401(k)~~, 403b, 408(k),
15 457 and 7701(j),
- 16 b. sickness or accident disability,
- 17 c. medical and hospitalization expenses in connection
18 with sickness or accident disability,
- 19 d. death, provided the individual in its employ:
- 20 (1) has not the option to receive, instead of
21 provision for such death benefit, any part of
22 such payment, or if such death benefit is

1 insured, any part of the premium or contributions
2 to premiums paid by the employing unit, and
3 (2) has not the right, under the provisions of the
4 plan or system or policy of insurance providing
5 for such death benefit, to assign such benefit,
6 or to receive cash consideration in lieu of such
7 benefit either upon withdrawal from the plan or
8 system providing for such benefit or upon
9 termination of such plan or system or policy of
10 insurance or of the individual's services with
11 such employing unit, or

12 e. a bona fide thrift or savings fund, providing:

- 13 (1) such payment is conditioned upon a payment of a
14 substantial sum by such individuals in its
15 employ, and
16 (2) that such sum paid by the employing unit cannot
17 under the provisions of such plan be withdrawn by
18 an individual more frequently than once in any
19 twelve-month period, except upon an individual's
20 separation from that employment;

21 2. Any payment made to, or on behalf of, an employee or his or
22 her beneficiary under a cafeteria plan of the type described in 26

1 U.S.C., Section 125 and referred to in 26 U.S.C., Section
2 3306(b)(5)(G);

3 3. Any payment made, or benefit furnished, to or for the
4 benefit of an employee if at the time of such payment or such
5 furnishing it is reasonable to believe that the employee will be
6 able to exclude such payment or benefit from income under an
7 educational assistance program as described in 26 U.S.C., Section
8 127 or a dependent care assistance program as described in 26
9 U.S.C., Section 129 and as referred to in 26 U.S.C., Section
10 3306(b)(13);

11 4. The payment by an employing unit, without deduction from the
12 remuneration of the individual in its employ, of the tax imposed
13 upon such individual in its employ under 26 U.S.C., Section 3101
14 with respect to domestic services in a private home of the employer
15 or for agricultural labor;

16 5. Dismissal payments which the employer is not required by law
17 or contract to make;

18 6. The value of any meals and lodging furnished by or on behalf
19 of an employer to an individual in its employ; provided the meals
20 and lodging are furnished on the business premises of the employer
21 for the convenience of the employer; or

22 7. Payments made under an approved supplemental unemployment
23 benefit plan.

1 SECTION 2. AMENDATORY 40 O.S. 2001, Section 1-224, as
2 amended by Section 3, Chapter 182, O.S.L. 2005 (40 O.S. Supp. 2006,
3 Section 1-224), is amended to read as follows:

4 Section 1-224. ~~For the purposes of Sections 2-503, 2-505, 2-~~
5 ~~603, 2-606, 3-102, 3-106, 3-111, 3-202, 3-203, 3-301, 3-305, 3-310,~~
6 ~~3-805, 3-806, and 3-809 of this title, A. When any document is~~
7 required to be filed by the provisions of the Employment Security
8 Act of 1980 or the rules promulgated under the authority of the
9 Employment Security Act of 1980 with the Oklahoma Employment
10 Security Commission, any or its representatives, or the Board of
11 Review for the Oklahoma Employment Security Commission, the term
12 "file", "files", or "filed" shall be defined as follows:

13 1. Hand-delivered to an office of the Oklahoma Employment
14 Security Commission by the close of business on or before the date
15 due;

16 2. Telefaxed to an office of the Oklahoma Employment Security
17 Commission by midnight on or before the date due. Timely telefaxing
18 shall be determined by the date and time printed by the Commission's
19 telefax machine on the document received or the date and time on the
20 sender's transmittal sheet;

21 3. Mailed with sufficient postage and properly addressed to an
22 office of the Oklahoma Employment Security Commission on or before

1 the date due. Timely mailing shall be determined by the postmark;
2 or

3 4. Electronically transmitted via data lines to the Commission
4 by midnight on or before the date due. Timely transmission shall be
5 determined by the Commission's transmission log file.

6 B. If the Employment Security Act of 1980 or the rules
7 promulgated under the Employment Security Act of 1980 require that a
8 document be filed with a court or any other agency of this state,
9 the term "file", "files" or "filed" shall be defined by the
10 statutes, rules or practice governing that court or agency.

11 SECTION 3. AMENDATORY 40 O.S. 2001, Section 2-109, is
12 amended to read as follows:

13 Section 2-109. No individual may receive benefits in a benefit
14 year unless, subsequent to the beginning of the ~~next~~ immediately
15 preceding benefit year during which ~~he~~ the individual received
16 benefits, ~~he~~ the individual performed service and earned
17 remuneration for such service in an amount equal to at least ten
18 (10) times ~~his~~ the individual's weekly benefit amount in his current
19 benefit year.

20 SECTION 4. AMENDATORY 40 O.S. 2001, Section 2-416, as
21 amended by Section 8, Chapter 176, O.S.L. 2006 (40 O.S. Supp. 2006,
22 Section 2-416), is amended to read as follows:

1 Section 2-416. No individual shall be denied benefits for any
2 week because such individual is in training approved under ~~Section~~
3 ~~236(a)(1)~~ 19 U.S.C. Section 2296 (a)(1) of the Trade Act of 1974.
4 An individual shall not be denied benefits by reason of leaving work
5 to begin or continue such training, provided the work left is not
6 suitable employment, or because of the application, to any such week
7 in training, of the provisions of the Employment Security Act of
8 1980 or any applicable federal unemployment compensation law,
9 relating to availability for work, active search for work, or
10 refusal to accept work. For purposes of this section, the term
11 "suitable employment" means with respect to an individual, work of a
12 substantially equal or higher skill level than the adversely
13 affected past employment of the individual, as defined for purposes
14 of the Trade Act of 1974, and wages for such work at not less than
15 eighty percent (80%) of the average weekly wage of the individual as
16 determined for the purposes of the Trade Act of 1974.

17 SECTION 5. AMENDATORY 40 O.S. 2001, Section 2-417, as
18 amended by Section 9, Chapter 176, O.S.L. 2006 (40 O.S. Supp. 2006,
19 Section 2-417), is amended to read as follows:

20 Section 2-417. A. An individual shall be disqualified to
21 receive benefits for each week in which the individual shall have
22 failed to do any of the following:

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

4 2. Make application for work with employers who could
5 reasonably be expected to have work available;

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

8 4. Participate in reemployment services, such as job search
9 assistance services, if the individual has been determined likely to
10 exhaust regular benefits and needs reemployment services pursuant to
11 a profiling system established by the Oklahoma Employment Security
12 Commission. An individual will not be disqualified under this
13 paragraph for failure to participate in reemployment services, if:
14 a. the individual has previously completed reemployment
15 services, or
16 b. there is justifiable cause for the individual's
17 failure to participate in reemployment services.

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

1 C. The requirements of subsection A of this section shall be
2 waived if the individual is on a temporary layoff of ten (10) weeks
3 or less and the individual remains in contact with the employer.

4 SECTION 6. AMENDATORY 40 O.S. 2001, Section 2-506, is
5 amended to read as follows:

6 Section 2-506. The Oklahoma Employment Security Commission may
7 reconsider a determination only when it finds that an error in
8 computation or identity has occurred in connection therewith, or
9 that wages of the claimant pertinent to such determination, but not
10 considered in connection therewith, have been newly determined, or
11 that benefits have been allowed or denied or the amount of benefits
12 fixed on the basis of misrepresentation or mistake of material
13 facts, but no such redetermination shall be made after the
14 expiration of the benefit year established by the initial
15 determination, except that a determination made because of a false
16 statement or representation or failure to disclose a material fact
17 in violation of Section 5-102 or 5-103 of this title may be
18 redetermined within two (2) years from the date of such false
19 statement or representation or failure to disclose. Notice of any
20 such redetermination shall be promptly given to the parties entitled
21 to notice of the original determination, in the manner prescribed in
22 ~~this act~~ the Employment Security Act of 1980 with respect to notice
23 of an original determination. If the amount of benefits is increased

1 upon such redetermination, an appeal therefrom solely with respect
2 to the matters involved in such increase may be filed in the manner
3 and subject to the limitations provided in ~~this~~ Part 5 of Article 2
4 of the Employment Security Act of 1980. If the amount of benefits
5 is decreased upon such redetermination, the matters involved in such
6 decrease shall be subject to review in connection with an appeal by
7 claimant from any determination upon a subsequent claim for benefits
8 which may be affected in amount or duration by such redetermination.
9 Subject to the same limitations and for the same reasons, the
10 Commission may reconsider the determination in any case in which the
11 final decision has been rendered by an appeal tribunal, the Board of
12 Review or a court, and may apply to the body or court which rendered
13 such final decision to issue a revised decision. In the event that
14 an appeal involving an original determination is pending as of the
15 date a redetermination thereof is issued, such appeal, unless
16 withdrawn, shall be treated as an appeal from such redetermination.

17 SECTION 7. AMENDATORY 40 O.S. 2001, Section 3-106, as
18 last amended by Section 13, Chapter 176, O.S.L. 2006 (40 O.S. Supp.
19 2006, Section 3-106), is amended to read as follows:

20 Section 3-106. A. The Oklahoma Employment Security Commission
21 shall give notice to each base period employer of a claimant
22 promptly after the claimant is ~~paid~~ issued his or her fifth week of
23 benefits by the Commission or promptly after the Commission receives

1 notice of the amounts paid as benefits by another state under a
2 reciprocal arrangement. Notice shall be deemed given under this
3 subsection when the Commission deposits the same with the United
4 States Postal Service addressed to the employer at an address
5 designated by the employer to receive the notice or at the
6 employer's last-known address. Notice shall be presumed prima facie
7 to have been given to the employer to whom addressed on the date
8 stated in the written notice. This notice shall give the name and
9 Social Security Number of the claimant, the date the claim was
10 filed, and the amount of benefit wages charged to the employer in
11 each quarter of the base period.

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

- 18 1. The date on which the employment was terminated;
- 19 2. Full particulars as to the circumstances of the termination
20 including the reason given by the individual for voluntarily leaving
21 the employment, or the nature of the misconduct for which
22 discharged, as the case may be;

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

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

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

13 D. Within fourteen (14) days after the mailing of the
14 determination provided for in subsection C of this section, the
15 employer may file with the Commission or its representative a
16 written protest to the determination and request an oral hearing de
17 novo to present evidence in support of its protest. The Commission
18 or its representative shall, by written notice, advise the employer
19 of the date of the hearing, which shall not be less than ten (10)
20 days from the date of mailing of the written notice. At the
21 discretion of the Commission, this hearing shall be conducted by the
22 Commission or its representative appointed by the Commission for
23 this purpose. Pursuant to the hearing, the Commission or its

1 representative shall, as soon as practicable, make a written order
2 setting forth its findings of fact and conclusions of law, and shall
3 send it to the employer.

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

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

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

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

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

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

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

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

14 6. Was discharged by an employer for unsatisfactory performance
15 during an initial employment probationary period. As used in this
16 paragraph, "probationary period" means a period of time set forth in
17 an established probationary plan which applies to all employees or a
18 specific group of employees and does not exceed ninety (90) calendar
19 days from the first day a new employee begins work. The employee
20 must be informed of the probationary period within the first seven
21 (7) work days. There must be conclusive evidence to establish that
22 the individual was separated due to unsatisfactory work performance
23 and not separated because of lack of work due to temporary,

1 seasonal, casual, or other similar employment not of regular,
2 permanent, and year-round nature;

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

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

9 9. Left employment to attend training approved under the Trade
10 Act of 1974 and is allowed unemployment benefits pursuant to Section
11 2-416 of this title.

12 H. If an employer recalls an employee deemed unemployed as
13 defined by ~~this act~~ the Employment Security Act of 1980 and the
14 employee continues to be employed or the employee voluntarily
15 terminates employment or is discharged for misconduct within the
16 benefit year, the employer shall be entitled to have the benefit
17 wage charged against the employer's experience rating for the
18 employee reduced by the ratio of the number of weeks of remaining
19 eligibility of the employee to the total number of weeks of
20 entitlement.

21 I. An employer shall not be charged with benefit wages of a
22 laid-off employee if the employer lists as an objection in a
23 statement filed in accordance with subsection B of this section that

1 said employee collecting benefits was hired to replace a United
2 States serviceman or servicewoman called into active duty and laid-
3 off upon the return to work by that serviceman or servicewoman. The
4 Unemployment Compensation Fund shall be charged with the benefit
5 wages of the laid-off employee.

6 J. If the Commission receives a notice of amounts paid as
7 benefits by another state under a reciprocal agreement, and the
8 notice is received after three (3) years from the effective date of
9 the underlying benefit claim, no benefit wage charge will be made
10 against the employer identified in the notice, or if a benefit wage
11 charge is made based on such a notice, the employer will be relieved
12 of the charge when the facts are brought to the attention of the
13 Commission.

14 SECTION 8. AMENDATORY 40 O.S. 2001, Section 3-115, as
15 amended by Section 19, Chapter 176, O.S.L. 2006 (40 O.S. Supp. 2006,
16 Section 3-115), is amended to read as follows:

17 Section 3-115. A. If a determination is made by the Oklahoma
18 Employment Security Commission on any aspect of an employer's
19 account, and a method of appeal or protest of the determination is
20 not set out in the statute or rule under which the determination was
21 made, the employer may appeal or protest the determination under the
22 procedure set forth in subsection B of this section.

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

5 2. Within twenty (20) days after the mailing of the Notice of
6 Determination as provided for in paragraph 1 of this subsection, the
7 employer may file with the Commission, or its representative, a
8 written request for a review and redetermination setting forth the
9 employer's reasons therefor. If any employer fails to file a
10 written request for review and redetermination within twenty (20)
11 days, then the initial determination of the Commission shall be
12 final, and no further appeal or protest shall be allowed.

13 3. If a written request for review and redetermination is
14 filed, the Commission shall provide for a review and issue a Notice
15 of Redetermination in the matter. The employer may appeal the
16 redetermination by filing a written protest within fourteen (14)
17 days of the date of the mailing of the Notice of Redetermination.
18 If the employer fails to file a written protest within the time
19 allowed, the redetermination of the Commission shall be final and no
20 further appeal or protest shall be allowed.

21 4. Upon the timely filing of a written protest, the Commission
22 shall provide for an oral hearing de novo to allow the employer to
23 present evidence in support of the protest. The Commission or its

1 representatives shall, by written notice, advise the employer of the
2 date of the hearing, which shall not be less than ten (10) days from
3 the date of the mailing of the written notice. At the discretion of
4 the Commission, this hearing shall be conducted by the Commission,
5 or by a representative appointed by the Commission for this purpose.

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

11 6. The employer or the Commission may appeal the order to the
12 district court of the county in which the employer has its principal
13 place of business by filing a Petition for Review with the clerk of
14 the court within thirty (30) days after the date the order was
15 mailed to all parties. If the employer does not have a principal
16 place of business in any county in Oklahoma, then the Petition for
17 Review shall be filed with the Oklahoma County District Court. All
18 appeals shall be governed by Part 4 of Article ~~III~~ 3 of the
19 Employment Security Act of 1980. If the employer fails to file an
20 appeal to the district court within the time allowed, the order
21 shall be final and no further appeal shall be allowed.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-116 of Title 40, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Employment Security Commission may reconsider a
5 determination of the basis of:

- 6 1. An error in computation;
- 7 2. An error in identity;
- 8 3. Misrepresentation of material facts;
- 9 4. Mistake of material facts;
- 10 5. An error in interpretation or application of the law; or
- 11 6. A timely request made pursuant to paragraph 2 of subsection
12 B of Section 3-115 of this title.

13 B. A redetermination shall be made within three (3) years of
14 the last day of the month following the calendar quarter that is
15 subject to the redetermination.

16 C. Notice and appeal of a redetermination shall be governed by
17 the provisions of Section 3-115 of this title.

18 SECTION 10. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3-117 of Title 40, unless there
20 is created a duplication in numbering, reads as follows:

21 Any findings of fact or law, judgment, conclusion or final order
22 made by the Oklahoma Employment Security Commission or its
23 representatives under Article ~~III~~ 3 of the Employment Security Act

1 of 1980 shall be conclusive and binding for all purposes concerning
2 this act. The findings of fact or law, judgment, conclusion or
3 final order of the Oklahoma Employment Security Commission or its
4 representatives shall not be conclusive or binding in any separate
5 or subsequent action or proceeding that does not involve the
6 Oklahoma Employment Security Commission and shall not be used as
7 evidence in any separate or subsequent action or proceeding in any
8 other forum regardless of whether or not the prior action was
9 between the same or related parties or involved the same facts.

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

12 Section 3-403. Within thirty (30) days after the date of
13 mailing of the order, ruling, or finding complained of, the party
14 desiring to appeal shall file in the office of the clerk of the
15 district court of the county that has the proper jurisdiction, a
16 Petition for Review specifying the grounds upon which ~~such~~ the
17 appeal is based. If a Petition for Review is not filed within the
18 time allowed by this section, the administrative order, ruling or
19 finding will become final and the district court will not have
20 jurisdiction to consider the appeal. The appealing party shall
21 serve a file-stamped copy of the Petition for Review on the opposing
22 party or its attorney and the designated hearing officer of the
23 Oklahoma Employment Security Commission before whom the original

1 hearing was held. The hearing officer of the Commission shall then
2 cause a certified transcript of the hearing to be made which shall
3 consist of all testimony of the parties, all documentary evidence
4 and other evidence introduced at the hearing, and all decisions,
5 judgments, or orders rendered as a result of the hearing. The
6 hearing officer shall then cause the certified transcript to be
7 filed in the appropriate district court within sixty (60) days of
8 receipt of the Petition for Review. Copies of the transcript shall
9 be mailed by the hearing officer to the Commission's attorney and
10 the employer or the employer's attorney.

11 SECTION 12. AMENDATORY 40 O.S. 2001, Section 3-806, is
12 amended to read as follows:

13 Section 3-806. A. At the end of each calendar quarter the
14 Oklahoma Employment Security Commission shall notify in writing each
15 nonprofit organization, or the agent of a group of such
16 organizations, which has elected to make payments in lieu of
17 contributions, the amount, if any, equal to the full amount of
18 regular benefits plus one-half (1/2) of the amount of extended
19 benefits paid by the Commission during such quarter that is
20 attributable to service in the employ of such organization or the
21 members of a group of such organizations. Such full amount shall
22 include all amounts so paid to its former employees as benefits,
23 including amounts paid in error. Such notification shall be deemed

1 and treated as an assessment of contributions and the payment of the
2 amount owing shall be collected as contributions, interest, penalty
3 and fees, if any, are collected, in accordance with the provisions
4 of ~~this act~~ the Employment Security Act of 1980. The employer, or
5 group of employers, shall have the rights and remedies provided by
6 ~~this act~~ the Employment Security Act of 1980 with respect to
7 assessments of contributions, including the right of protest,
8 hearing and appeal. The Commission shall make its assessment or
9 amend its assessment within three (3) years of the ending date of
10 the calendar quarter to which the assessment or amendment applies.
11 If no protest is filed or if filed and confirmed by the Commission
12 or its authorized representatives, said assessment shall be
13 immediately due and payable and shall bear interest after forty-five
14 (45) days at the rate of one percent (1%) per month until paid. If
15 any nonprofit organization or group of organizations fails or
16 refuses to pay said assessment after same has become delinquent
17 within forty-five (45) days after written request has been mailed to
18 such organization or the agent of such group by the Commission or
19 its representative, a penalty of five percent (5%) of the amount due
20 shall be added thereto, collected and paid. In the case of group
21 accounts, assessments and penalty and interest provided in this
22 subsection may be prorated in accordance with Section 3-809 of this

1 title. All collections made shall be deposited in the Unemployment
2 Compensation Fund.

3 B. Such electing organization, or group of organizations, shall
4 file reports of wages paid, in the same time and manner as required
5 of said nongovernmental employers for profit. If any such electing
6 organization, or group of organizations, fails or refuses to file
7 said wage report within fifteen (15) days after written notice a
8 penalty of Ten Dollars (\$10.00) for each day until such report is
9 filed with a maximum of One Hundred Dollars (\$100.00) is hereby
10 imposed against such organization or group and shall be collected
11 and paid.

12 C. Payments made by any nonprofit organization under the
13 provisions of this section shall not be deducted or deductible, in
14 whole or in part, from the remuneration of individuals in the employ
15 of the organization.

16 SECTION 13. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4-109 of Title 40, unless there
18 is created a duplication in numbering, reads as follows:

19 If the Oklahoma Employment Security Commission is sued, or if
20 its officers or employees are sued in their official capacities, the
21 service of all legal process and of all notices which may be
22 required in writing, whether legal proceedings or otherwise, shall
23 be made on the Executive Director at the official office of the

1 Commission as set out in Administrative Rule 240:1-1-5. This
2 section shall not apply to appeals brought under Article ~~II~~ 2, Part
3 6 and Article ~~III~~ 3, Part 4 of the Employment Security Act of 1980.
4 Service of process in Article ~~II~~ 2, Part 6 and Article ~~III~~ 3, Part
5 4, shall be made pursuant to the procedures set out by the statutes
6 in those parts and the administrative rules implementing those
7 statutes. This section shall not be construed to waive any immunity
8 created by constitution or statute that applies to the Oklahoma
9 Employment Security Commission, its officers or employees or this
10 state.

11 SECTION 14. AMENDATORY 40 O.S. 2001, Section 4-504, is
12 amended to read as follows:

13 Section 4-504. In the discharge of the duties imposed by ~~this~~
14 ~~act~~ the Employment Security Act of 1980, the Oklahoma Employment
15 Security Commission, the chairman of an appeal tribunal, the members
16 of the Board of Review, and any duly authorized representative of
17 any of them shall have power to administer oaths and affirmations,
18 take depositions, certify to official acts, and issue subpoenas to
19 compel the attendance of witnesses and the production of books,
20 papers, correspondence, memoranda, and other records deemed
21 necessary as evidence in connection with a disputed claim or the
22 administration of ~~this act~~ the Employment Security Act of 1980 or

1 for purposes of monitoring a program under the Workforce Investment
2 Act, 29 U.S.C. Section 2934.

3 SECTION 15. AMENDATORY 40 O.S. 2001, Section 4-508, as
4 last amended by Section 27, Chapter 176, O.S.L. 2006 (40 O.S. Supp.
5 2006, Section 4-508), is amended to read as follows:

6 Section 4-508. A. Except as otherwise provided by law,
7 information obtained from any employing unit or individual pursuant
8 to the administration of the Employment Security Act of 1980, and
9 determinations as to the benefit rights of any individual shall be
10 kept confidential and shall not be disclosed or be open to public
11 inspection in any manner revealing the individual's or employing
12 unit's identity. Any claimant or employer or agent of such person
13 as authorized in writing shall be supplied with information from the
14 records of the Oklahoma Employment Security Commission, to the
15 extent necessary for the proper presentation of the claim or
16 complaint in any proceeding under the Employment Security Act of
17 1980, with respect thereto.

18 B. Upon receipt of written request by any employer who
19 maintains a Supplemental Unemployment Benefit (SUB) Plan, the
20 Commission or its designated representative may release to such
21 employer information regarding weekly benefit amounts paid its
22 workers during a specified temporary layoff period, provided such
23 Supplemental Unemployment Benefit (SUB) Plan requires benefit

1 payment information before Supplemental Unemployment Benefits can be
2 paid to such workers. Any information disclosed under this
3 provision shall be utilized solely for the purpose outlined herein
4 and shall be held strictly confidential by the employer.

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

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

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

17 3. The Oklahoma Department of Commerce may have access to data
18 obtained pursuant to the Employment Security Act of 1980 pursuant to
19 rules promulgated by the Commission. The information obtained shall
20 be held confidential by the Department and any of its agents and
21 shall not be disclosed or be open to public inspection. The
22 Oklahoma Department of Commerce, however, may release aggregated

1 data, either by industry or county, provided that such aggregation
2 meets disclosure requirements of the Commission;

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

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

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

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

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

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

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

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

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

21 13. The release to employees of the Oklahoma State Regents for
22 Higher Education of information required for use in the default
23 prevention efforts and/or collection of defaulted student loans

1 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
2 information disclosed under this provision shall be utilized solely
3 for the purpose outlined herein and shall be held strictly
4 confidential by the Oklahoma State Regents for Higher Education;

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

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

18 16. The release to employees of the Department of Mental Health
19 and Substance Abuse Services of information required to evaluate the
20 effectiveness of mental health and substance abuse treatment and
21 state or local programs utilized to divert persons from inpatient
22 treatment. The information obtained shall be kept confidential by
23 the Department and shall not be disclosed or be open to public

1 inspection. The Department of Mental Health and Substance Abuse
2 Services, however, may release aggregated data, either by treatment
3 facility, program or larger aggregate units, provided that such
4 aggregation meets disclosure requirements of the Oklahoma Employment
5 Security Commission;

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

10 18. The release to employees of public housing agencies for
11 purposes of determining eligibility pursuant to 42 U.S.C. Section
12 503(i);

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

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

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

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

9 23. The release of employer tax information and benefit claim
10 information to the State Department of Rehabilitation Services for
11 use in assessing results and outcomes of clients served; or

12 24. The release of information to any state or federal law
13 enforcement authority when necessary in the investigation of any
14 crime in which the Commission is a victim. Information that is
15 confidential under this section shall be held confidential by the
16 law enforcement authority unless and until it is required for use in
17 court in the prosecution of a defendant in a criminal prosecution.

18 D. Subpoenas to compel disclosure of information made
19 confidential by this statute shall not be valid, except for
20 administrative subpoenas issued by federal, state, or local
21 governmental agencies that have been granted subpoena power by
22 statute or ordinance. Confidential information maintained by the
23 Commission can be obtained by order of a court of record that

1 authorizes the release of the records in writing. All
2 administrative subpoenas or court orders for production of documents
3 must provide a minimum of twenty (20) days from the date it is
4 served for the Commission to produce the documents. If the date on
5 which production of the documents is required is less than twenty
6 (20) days from the date of service, the subpoena or order shall be
7 considered void on its face as an undue burden or hardship on the
8 Commission.

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

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

17 SECTION 16. AMENDATORY 74 O.S. 2001, Section 85.29, as
18 amended by Section 5, Chapter 50, O.S.L. 2002 (74 O.S. Supp. 2006,
19 Section 85.29), is amended to read as follows:

20 Section 85.29. The amount of surety required for each state
21 officer or employee pursuant to Sections 85.26 through 85.31 of this
22 title is as follows:

23 DEPARTMENT AMOUNT OF BOND

1	Office of the State Treasurer	\$300,000.00
2	<u>Oklahoma Employment Security Commission</u>	<u>\$150,000.00</u>
3	Office of Public Affairs	100,000.00
4	Insurance Commission	100,000.00
5	Office of the State Auditor and Inspector	50,000.00
6	Office of State Finance	50,000.00
7	Bank Commissioner	50,000.00
8	CompSource Oklahoma President and	
9	Chief Executive Officer	50,000.00
10	Commissioners of the Land Office	50,000.00
11	Oklahoma Securities Commission	50,000.00
12	Oklahoma Tax Commission	50,000.00
13	Department of Human Services	50,000.00
14	Oklahoma Public Employees Retirement System	50,000.00
15	Oklahoma Corporation Commission	50,000.00
16	State Board of Education	50,000.00
17	Finance Division	150,000.00
18	All Others	25,000.00
19	Department of Transportation	25,000.00
20	Boards of Regents of Oklahoma	
21	Universities and Colleges	50,000.00
22	Office of Attorney General	10,000.00
23	The University Hospitals	50,000.00

1 All Other State Departments, Agencies,
2 Institutions, Commissions, Authorities,
3 and other bodies of state government 10,000.00

4 Provided, however, that nothing in the Oklahoma Central
5 Purchasing Act shall prohibit any head of a department, institution,
6 agency, commission, authority or other body of state government from
7 requiring the Central Purchasing Division to purchase increased
8 amounts of blanket bond coverage for his or her employees up to a
9 total maximum coverage of Fifty Thousand Dollars (\$50,000.00) when
10 the listed amount is deemed inadequate. The cost of increased
11 coverage shall be borne by the department, institution, agency,
12 commission, authority or other body of state government requesting
13 the increased coverage.

14 SECTION 17. REPEALER 40 O.S. 2001, Sections 4-401, 4-
15 402, 4-403, 4-404 and 4-405, are hereby repealed.

16 SECTION 18. This act shall become effective November 1, 2007.

17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-12-07 -
18 DO PASS, As Coauthored.