

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1384 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Randy McDaniel _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1384

By: McDaniel (Randy)

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to labor; amending 40 O.S. 2001,
9 Sections 2-207, as amended by Section 9, Chapter 452,
10 O.S.L. 2002, 2-405, as last amended by Section 6,
11 Chapter 176, O.S.L. 2006, 2-408, 2-418, 2-606, as
12 amended by Section 5, Chapter 102, O.S.L. 2004, 2-
13 723, 3-106, as last amended by Section 7, Chapter
14 354, O.S.L. 2007, 3-806, as amended by Section 12,
15 Chapter 354, O.S.L. 2007 and 4-508, as last amended
16 by Section 15, Chapter 354, O.S.L. 2007 (40 O.S.
17 Supp. 2008, Sections 2-207, 2-405, 2-606, 3-106, 3-
18 806 and 4-508), which relate to the Employee Security
19 Act of 1980; modifying wage requirement during base
20 period; modifying good cause for voluntarily leaving
21 work; modifying disqualification to receive benefits;
22 modifying determination of suitable work; modifying
23 the duties of the Board of Review on appeal;
24 modifying overpayments, restitution, offset, and
recoupment; modifying relief from benefit wages
charged; modifying payment in lieu of contributions;
modifying information to be kept confidential;
providing for codification; and providing an
effective date.

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

1 SECTION 1. AMENDATORY 40 O.S. 2001, Section 2-207, as
2 amended by Section 9, Chapter 452, O.S.L. 2002 (40 O.S. Supp. 2008,
3 Section 2-207), is amended to read as follows:

4 Section 2-207. WAGE REQUIREMENT DURING BASE PERIOD.

5 A. The unemployed individual, during the individual's base
6 period, shall have been paid wages for insured work of not less
7 than:

- 8 1. One Thousand Five Hundred Dollars (\$1,500.00); and
- 9 2. One and one-half (1 1/2) times the amount of wages during
10 that quarter of the individual's base period in which such wages
11 were highest.

12 Notwithstanding the preceding provision, an individual with base
13 period wages equal to or more than the highest annual amount of
14 taxable wages that applies to any calendar year in which the claim
15 for unemployment benefits was filed shall be eligible for benefits.

16 B. 1. If an individual lacks sufficient base period wages
17 under subsection A of this section to establish a claim for
18 benefits, any wages paid in the individual's alternative base period
19 shall be considered as the individual's base period wages.

20 2. If the Commission has not received wage information from the
21 individual's employer for the most recent calendar quarter of the
22 alternative base period, the Commission shall accept an affidavit
23 from the individual supported by wage information such as check
24

1 stubs, deposit slips, or other supporting documentation to determine
2 wages paid.

3 3. A determination of benefits based on an alternative base
4 period shall be adjusted when the quarterly wage report is received
5 from the employer, if the wage information in the report differs
6 from that reported by the individual.

7 4. If alternative base period wages are established by
8 affidavit of the individual, the employer to which the wages are
9 attributed will have the right to protest the wages reported. If a
10 protest is made, the employer must provide documentary evidence of
11 wages paid to the individual. The Commission will determine the
12 wages paid based on the preponderance of the evidence presented by
13 each party.

14 5. Provided, no wages used to establish a claim under an
15 alternative base period shall be subsequently used to establish a
16 second benefit year.

17 ~~6. Provided, in any calendar year in which the balance in the~~
18 ~~Unemployment Compensation Fund is below the amount required to~~
19 ~~initiate conditional factors pursuant to the provisions of Section~~
20 ~~3-113 of this title, this subsection shall not apply and no~~
21 ~~alternative base period shall be available.~~

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-210 of Title 40, unless there
24 is created a duplication in numbering, reads as follows:

1 In addition to the eligibility provisions provided by this act,
2 an individual shall be eligible to receive unemployment benefits, if
3 monetarily and otherwise eligible, if the claimant was separated
4 from work due to compelling family circumstances. For purposes of
5 this section "compelling family circumstances" means:

6 1. If the claimant was separated from employment with the
7 employer because of the illness or disability of the claimant and,
8 based on available information, the Oklahoma Employment Security
9 Commission finds that it was medically necessary for the claimant to
10 stop working or change occupations;

11 2. The claimant was separated from work due to the illness or
12 disability of an immediate family member. The terms "immediate
13 family" and "illness or disability", as used in this paragraph, will
14 have the same meaning as that set out in U.S. Department of Labor
15 regulations;

16 3. If the spouse of the claimant was transferred or obtained
17 employment in another city or state, and the family is required to
18 move to the location of that job that is outside of commuting
19 distance from the prior employment of the claimant, and the claimant
20 separates from employment in order to move to the new employment
21 location of the spouse;

22 4. If the claimant separated from employment due to domestic
23 violence or abuse, verified by any reasonable or confidential
24 documentation, which causes the individual to reasonably believe

1 that the individual's continued employment would jeopardize the
2 safety of the individual or of any member of the individual's
3 immediate family. The term "immediate family", as used in this
4 paragraph, will have the same meaning as that set out in U.S.
5 Department of Labor regulations; or

6 5. If the claimant separated from employment to move with the
7 claimant's spouse to a new location, and if the spouse of the
8 claimant:

9 a. was a member of the U.S. Military, the U.S. Military
10 Reserve, or the National Guard,

11 b. was on active duty within ninety (90) days of the date
12 of discharge,

13 c. has a service-connected disability,

14 d. was discharged under honorable conditions from the
15 military service, and

16 e. takes up residence at a location more than fifty (50)
17 miles away from the claimant's former employer for the
18 purpose of reentering civilian life.

19 SECTION 3. AMENDATORY 40 O.S. 2001, Section 2-405, as
20 last amended by Section 6, Chapter 176, O.S.L. 2006 (40 O.S. Supp.
21 2008, Section 2-405), is amended to read as follows:

22 Section 2-405. DETERMINING GOOD CAUSE.

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

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

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

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

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

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

1 SECTION 4. AMENDATORY 40 O.S. 2001, Section 2-408, is
2 amended to read as follows:

3 Section 2-408. SUITABLE WORK. (1) In determining whether or
4 not any work is suitable for an individual, there shall be
5 considered among other factors and in addition to those enumerated
6 in Section 2-409 the length of his unemployment, his prospects for
7 obtaining work in his customary occupation, the distance of
8 available work from his residence and prospects for obtaining local
9 work.

10 (2) Suitable work shall be defined as employment in an
11 occupation in keeping with the individual's prior work experience,
12 education or training, or having no prior work experience, special
13 education or training for occupations available in the general area
14 then, employment for which the individual would have the physical
15 and mental ability to perform.

16 (3) Upon receipt of fifty percent (50%) of his benefits,
17 suitable work shall not be limited to his customary or registered
18 occupation.

19 (4) If the majority of the weeks of work in an individual's
20 base period include part-time work, the individual shall not be
21 denied unemployment benefits under any provisions of this act
22 relating to availability for work, active search for work, or
23 failure to accept work, solely because the individual is seeking
24 only part-time work. The term "part-time work", as used in this

1 subsection, will have the same meaning as that set out in U.S.
2 Department of Labor regulations.

3 SECTION 5. AMENDATORY 40 O.S. 2001, Section 2-418, is
4 amended to read as follows:

5 Section 2-418. SEEK AND ACCEPT WORK - INDEFINITE

6 DISQUALIFICATION. A. An individual shall be disqualified to
7 receive benefits for the full period of unemployment next ensuing
8 after the individual shall have failed to do any of the following:

- 9 1. Accept an offer of work from an employer including any
10 former employer;
- 11 2. Apply for or accept work when so directed by the Employment
12 Office of the Commission; or
- 13 3. Accept employment pursuant to a hiring hall agreement when
14 so offered.

15 Such disqualification shall continue until the individual has become
16 reemployed and has earned wages equal to or in excess of ten (10)
17 times his or her weekly benefit amount.

18 B. Any individual who shall have failed in any of the
19 requirements of subsection A of this section due to illness, death
20 of a family member or other extenuating circumstance beyond his or
21 her control shall be disqualified for regular benefits under this
22 section only for the week of the occurrence of such circumstance
23 beyond his or her control. ~~Any individual who is disqualified under~~
24 ~~this subsection only for the week of the occurrence of such~~

1 ~~circumstance beyond his or her control shall not thereafter be or~~
2 ~~become eligible for extended benefits for the purposes of Sections~~
3 ~~2-701 through 2-724 of Title 40 of the Oklahoma Statutes until such~~
4 ~~individual has become reemployed and has earned wages equal to at~~
5 ~~least ten times his or her weekly benefit amount.~~

6 SECTION 6. AMENDATORY 40 O.S. 2001, Section 2-606, as
7 amended by Section 5, Chapter 102, O.S.L. 2004 (40 O.S. Supp. 2008,
8 Section 2-606), is amended to read as follows:

9 Section 2-606. APPEALS FROM TRIBUNAL REFEREE DECISIONS TO BOARD
10 OF REVIEW.

11 The Board of Review shall review the record of an appeal filed
12 by any of the parties entitled to notice on a determination of an
13 appeal tribunal referee. An appeal to the Board of Review may be
14 filed in any manner allowed by Section 1-224 of this title. On ~~such~~
15 ~~further~~ appeal, the Board of Review may affirm, modify ~~or~~, reverse,
16 or remand any decision of an appeal tribunal referee on the basis of
17 evidence previously submitted, or on the basis of additional
18 evidence as it may adduce, or, at its direction, received by an
19 appeal tribunal referee. The Board of Review may conduct a formal
20 hearing upon a request of a party or on its own motion. Any formal
21 hearing shall be conducted by one or more members of the Board of
22 Review as it may determine or by a hearing officer designated by the
23 Board of Review. The Board of Review shall promptly notify the
24 parties of its findings and decision, and such decision shall be

1 final unless within ten (10) days after the mailing of notice
2 thereof to the parties' last-known addresses, a proceeding for
3 judicial review is initiated.

4 SECTION 7. AMENDATORY 40 O.S. 2001, Section 2-723, is
5 amended to read as follows:

6 Section 2-723. OVERPAYMENTS - RESTITUTION, OFFSET AND
7 RECOUPMENT. The provisions of this act applicable to recovery of
8 overpayments, including restitution ~~and~~, offset, and recoupment
9 shall apply to overpayments of extended benefits. If there is
10 recovery of extended benefits, that proportion of the amount
11 restored or offset which represents the federal share of the
12 original payments shall be restored to the appropriate federal
13 account.

14 SECTION 8. AMENDATORY 40 O.S. 2001, Section 3-106, as
15 last amended by Section 7, Chapter 354, O.S.L. 2007 (40 O.S. Supp.
16 2008, Section 3-106), is amended to read as follows:

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

18 A. The Oklahoma Employment Security Commission shall give
19 notice to each base period employer of a claimant promptly after the
20 claimant is issued his or her fifth week of benefits by the
21 Commission or promptly after the Commission receives notice of the
22 amounts paid as benefits by another state under a reciprocal
23 arrangement. Notice shall be deemed given under this subsection
24 when the Commission deposits the same with the United States Postal

1 Service addressed to the employer at an address designated by the
2 employer to receive the notice or at the employer's last-known
3 address. Notice shall be presumed prima facie to have been given to
4 the employer to whom addressed on the date stated in the written
5 notice. This notice shall give the name and Social Security Number
6 of the claimant, the date the claim was filed, and the amount of
7 benefit wages charged to the employer in each quarter of the base
8 period.

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

15 1. The date on which the employment was terminated;

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

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

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

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

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

22 E. If any employer fails to file a written protest within the
23 period of fourteen (14) days, as provided by subsection D of this
24

1 section, then the determination shall be final, and no appeal shall
2 thereafter be allowed.

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

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

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

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

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

23 4. Was separated from his or her employment as a direct result
24 of a major natural disaster, declared as such by the President

1 pursuant to the Disaster Relief Act of 1974, P.L. 93-288, and such
2 employee would have been entitled to disaster unemployment
3 assistance if he or she had not received unemployment insurance
4 benefits;

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

8 ~~6.~~ Was discharged by an employer for unsatisfactory performance
9 during an initial employment probationary period. As used in this
10 paragraph, "probationary period" means a period of time set forth in
11 an established probationary plan which applies to all employees or a
12 specific group of employees and does not exceed ninety (90) calendar
13 days from the first day a new employee begins work. The employee
14 must be informed of the probationary period within the first seven
15 (7) work days. There must be conclusive evidence to establish that
16 the individual was separated due to unsatisfactory work performance
17 and not separated because of lack of work due to temporary,
18 seasonal, casual, or other similar employment not of regular,
19 permanent, and year-round nature;

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

24

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

3 ~~9.~~ 6. Left employment to attend training approved under the
4 Trade Act of 1974 and is allowed unemployment benefits pursuant to
5 Section 2-416 of this title;

6 7. Was separated from employment for compelling family
7 circumstances as defined in Section 2 of this act; or

8 8. Was separated from employment because the employee was
9 arrested by a law enforcement official and held, detained, or
10 incarcerated at the order or direction of a law enforcement official
11 or agency and the employee is ultimately found guilty or pleads
12 guilty or nolo contendere to the criminal charges made against the
13 employee as a result of the arrest.

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

22 I. An employer shall not be charged with benefit wages of a
23 laid-off employee if the employer lists as an objection in a
24 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 9. AMENDATORY 40 O.S. 2001, Section 3-806, as
15 amended by Section 12, Chapter 354, O.S.L. 2007 (40 O.S. Supp. 2008,
16 Section 3-806), is amended to read as follows:

17 Section 3-806. PAYMENT OF IN-LIEU CONTRIBUTIONS.

18 A. At the end of each calendar quarter the Oklahoma Employment
19 Security Commission shall notify in writing each nonprofit
20 organization, or the agent of a group of ~~such~~ nonprofit
21 organizations, which has elected to make payments in lieu of
22 contributions, the amount, if any, equal to the full amount of
23 regular benefits plus one-half (1/2) of the amount of extended
24 benefits paid by the Commission during ~~such~~ the quarter that is

1 attributable to service in the employ of ~~such~~ the organization or
2 the members of a group of ~~such~~ organizations. ~~Such~~ The full amount
3 shall include all amounts ~~so~~ paid ~~to its former employees~~ as
4 benefits that are attributable to base period wages paid by the
5 organization, including any benefit amounts paid in error. ~~Such~~ The
6 notification shall be deemed and treated as an assessment of
7 contributions and the payment of the amount owing shall be collected
8 as contributions, interest, penalty and fees, if any, are collected,
9 in accordance with the provisions of the Employment Security Act of
10 1980. The employer, or group of employers, shall have the rights
11 and remedies provided by the Employment Security Act of 1980 with
12 respect to assessments of contributions, including the right of
13 protest, hearing and appeal. The Commission shall make its
14 assessment or amend its assessment within three (3) years of the
15 ending date of the calendar quarter to which the assessment or
16 amendment applies. If no protest is filed or if filed and confirmed
17 by the Commission or its authorized representatives, said assessment
18 shall be immediately due and payable and shall bear interest after
19 forty-five (45) days at the rate of one percent (1%) per month until
20 paid. If any nonprofit organization or group of organizations fails
21 or refuses to pay said assessment after same has become delinquent
22 within forty-five (45) days after written request has been mailed to
23 ~~such~~ the organization or the agent of ~~such~~ the group by the
24 Commission or its representative, a penalty of five percent (5%) of

1 the amount due shall be added thereto, collected and paid. In the
2 case of group accounts, assessments and penalty and interest
3 provided in this subsection may be prorated in accordance with
4 Section 3-809 of this title. All collections made shall be
5 deposited in the Unemployment Compensation Fund.

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

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

19 SECTION 10. AMENDATORY 40 O.S. 2001, Section 4-508, as
20 last amended by Section 15, Chapter 354, O.S.L. 2007 (40 O.S. Supp.
21 2008, Section 4-508), is amended to read as follows:

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

24

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

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

22 C. The provisions of this section shall not prevent the
23 Commission from disclosing the following information and no
24 liability whatsoever, civil or criminal, shall attach to any member

1 of the Commission or any employee thereof for any error or omission
2 in the disclosure of such information:

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

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

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

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

20 5. The disclosing of information or evidence to the Attorney
21 General or any district attorney when the information or evidence is
22 to be used by the officials or other parties to the proceedings to
23 prosecute or defend allegations of violations of the Employment
24 Security Act of 1980. The information disclosed to the Attorney

1 General or any district attorney shall be kept confidential by them
2 and not be disclosed except when presented to a court in a
3 prosecution of a violation of Section 1-101 et seq. of this title,
4 and a violation by the Attorney General or district attorney by
5 otherwise releasing the information shall be a felony;

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

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

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

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

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

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

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

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

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

24

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

7 16. The release to employees of the Department of Mental Health
8 and Substance Abuse Services of information required to evaluate the
9 effectiveness of mental health and substance abuse treatment and
10 state or local programs utilized to divert persons from inpatient
11 treatment. The information obtained shall be kept confidential by
12 the Department and shall not be disclosed or be open to public
13 inspection. The Department of Mental Health and Substance Abuse
14 Services, however, may release aggregated data, either by treatment
15 facility, program or larger aggregate units, provided that such
16 aggregation meets disclosure requirements of the Oklahoma Employment
17 Security Commission;

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

22 18. The release to employees of public housing agencies for
23 purposes of determining eligibility pursuant to 42 U.S.C., Section
24 503(i);

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

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

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

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

19 23. The release of employer tax information and benefit claim
20 information to the State Department of Rehabilitation Services for
21 use in assessing results and outcomes of clients served; ~~or~~

22 24. The release of information to any state or federal law
23 enforcement authority when necessary in the investigation of any
24 crime in which the Commission is a victim. Information that is

1 confidential under this section shall be held confidential by the
2 law enforcement authority unless and until it is required for use in
3 court in the prosecution of a defendant in a criminal prosecution;

4 25. The release of information to employees of the Southwestern
5 Oklahoma State University School of Business pursuant to an
6 agreement entered into between the University and the Commission.
7 The information released shall be kept confidential by the
8 University and shall not be disclosed or be opened to public
9 inspection. Southwestern Oklahoma State University may release
10 aggregated data, provided that the aggregation meets disclosure
11 requirements of the Commission; or

12 26. The release of information to any financial institution the
13 Commission contracts with to provide for the issuance of debit cards
14 or to conduct automatic or electronic deposits of funds, for the
15 purpose of paying unemployment insurance benefits or for the refund
16 of tax payments.

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

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

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

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

15 SECTION 11. This act shall become effective November 1, 2009.

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