

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 794 By: Leewright of the Senate
3 and
4 Wallace of the House
5
6

7 An Act relating to the Oklahoma Employment Security
8 Commission; amending 40 O.S. 2011, Section 1-210, as
9 last amended by Section 2, Chapter 342, O.S.L. 2019
10 (40 O.S. Supp. 2020, Section 1-210), which relates to
11 employment; modifying statutory language; deleting
12 gender references; amending 40 O.S. 2011, Section 1-
13 224, as amended by Section 2, Chapter 71, O.S.L. 2013
14 (40 O.S. Supp. 2020, Section 1-224), which relates to
15 filing; making e-file preference for filing;
16 requiring notice for other filing methods; deleting
17 statutory language; amending 40 O.S. 2011, Section 2-
18 203, as last amended by Section 3, Chapter 251,
19 O.S.L. 2019 (40 O.S. Supp. 2020, Section 2-203),
20 which relates to claims; providing digital portal for
21 claims; amending 40 O.S. 2011, Section 2-209, as last
22 amended by Section 2, Chapter 14, O.S.L. 2018 (40
23 O.S. Supp. 2020, Section 2-209), which relates to
24 benefits for nonprofit employers; exempting certain
persons from certain benefits; amending 40 O.S. 2011,
Section 2-406, as last amended by Section 3, Chapter
220, O.S.L. 2014 (40 O.S. Supp. 2020, Section 2-406),
which relates to discharge for misconduct; modifying
statutory language; amending Section 1, Chapter 338,
O.S.L. 2016 (40 O.S. Supp. 2020, Section 2-422),
which relates to seasonal workers; providing certain
benefits between seasonal and nonseasonal periods;
providing for claims on terminated seasonal
employees; amending 40 O.S. 2011, Section 2-503, as
last amended by Section 5, Chapter 251, O.S.L. 2019
(40 O.S. Supp. 2020, Section 2-503), which relates to
notice and objections; construing certain notices;
providing certain notices by e-filing; stating time
for notices; permitting objections by e-filing;
listing reasons for objection; amending 40 O.S. 2011,
Section 2-610, which relates to judicial review;
modifying language; amending 40 O.S. 2011, Section 2-

616, as amended by Section 7, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2020, Section 2-616), which relates to overpayment; distinguishing fraud and claimant error in overpayment; providing appeal process; stating time for appeal; making determination final without appeal; amending 40 O.S. 2011, Section 2-801, as amended by Section 9, Chapter 14, O.S.L. 2018 (40 O.S. Supp. 2020, Section 2-801), which relates to child support collection; modifying methods for notification of child support; deleting statutory language; amending 40 O.S. 2011, Section 3-106.1, which relates to benefit wages charged; exempting certain benefit wages for pandemic; amending 40 O.S. 2011, Section 3-307, which relates to remittances; providing for automatic clearinghouse (ACH) payments; authorizing certain payments set by Commission; establishing a fiduciary duty to return overpayments to employers; allowing for forfeiture after certain time; construing when fiduciary duty is complete; prohibiting employer request for overpayment return after certain time; directing deposit of certain returns to certain account; amending 40 O.S. 2011, Section 4-108, which relates to executive director; deleting authority to appoint certain persons; deleting authority to reinstate personnel; amending 40 O.S. 2011, Section 4-311, which relates to published rules; requiring reports be published on website; amending 40 O.S. 2011, Section 4-312, as amended by Section 130, Chapter 304, O.S.L. 2012 (40 O.S. Supp. 2020, Section 4-312), which relates to personnel compensation; deleting authority to delegate powers; amending 40 O.S. 2011, Section 4-508, as last amended by Section 10, Chapter 251, O.S.L. 2019 (40 O.S. Supp. 2020, Section 4-508), which relates to confidential information; deleting Metropolitan Planning Organization for receipt of certain information; adding Oklahoma Department of Career and Technology Education and Oklahoma State Regents for Higher Education for receipt of certain information; authorizing certain partners of the Workforce Innovation and Opportunity Act to receive certain information; amending 40 O.S. 2011, Section 5-107, which relates to wrongful disclosure of information; expanding wrongful disclosure of information; providing for codification; and providing an effective date.

1 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
2 and replace with:
3

4 "An Act relating to the Oklahoma Employment Security
5 Commission; amending 40 O.S. 2011, Section 1-210, as
6 last amended by Section 2, Chapter 342, O.S.L. 2019
7 (40 O.S. Supp. 2020, Section 1-210), which relates to
8 employment; modifying statutory language; deleting
9 gender references; amending 40 O.S. 2011, Section 1-
10 224, as amended by Section 2, Chapter 71, O.S.L. 2013
11 (40 O.S. Supp. 2020, Section 1-224), which relates to
12 filing; making e-file preference for filing;
13 requiring notice for other filing methods; deleting
14 statutory language; amending 40 O.S. 2011, Section 2-
15 203, as last amended by Section 3, Chapter 251,
16 O.S.L. 2019 (40 O.S. Supp. 2020, Section 2-203),
17 which relates to claims; providing digital portal for
18 claims; amending 40 O.S. 2011, Section 2-209, as last
19 amended by Section 2, Chapter 14, O.S.L. 2018 (40
20 O.S. Supp. 2020, Section 2-209), which relates to
21 benefits for nonprofit employers; exempting certain
22 persons from certain benefits; amending 40 O.S. 2011,
23 Section 2-406, as last amended by Section 3, Chapter
24 220, O.S.L. 2014 (40 O.S. Supp. 2020, Section 2-406),
which relates to discharge for misconduct; modifying
statutory language; amending Section 1, Chapter 338,
O.S.L. 2016 (40 O.S. Supp. 2020, Section 2-422),
which relates to seasonal workers; providing certain
benefits between seasonal and nonseasonal periods;
providing for claims on terminated seasonal
employees; amending 40 O.S. 2011, Section 2-503, as
last amended by Section 5, Chapter 251, O.S.L. 2019
(40 O.S. Supp. 2020, Section 2-503), which relates to
notice and objections; construing certain notices;
providing certain notices by e-filing; stating time
for notices; permitting objections by e-filing;
listing reasons for objection; amending 40 O.S. 2011,
Section 2-610, which relates to judicial review;
modifying language; amending 40 O.S. 2011, Section 2-
616, as amended by Section 7, Chapter 71, O.S.L. 2013
(40 O.S. Supp. 2020, Section 2-616), which relates to
overpayment; distinguishing fraud and claimant error
in overpayment; providing appeal process; stating
time for appeal; making determination final without

1 appeal; amending 40 O.S. 2011, Section 2-801, as
2 amended by Section 9, Chapter 14, O.S.L. 2018 (40
3 O.S. Supp. 2020, Section 2-801), which relates to
4 child support collection; modifying methods for
5 notification of child support; deleting statutory
6 language; amending 40 O.S. 2011, Section 3-106.1,
7 which relates to benefit wages charged; exempting
8 certain benefit wages for pandemic; amending 40 O.S.
9 2011, Section 3-307, which relates to remittances;
10 providing for automatic clearinghouse payments;
11 authorizing certain payment methods; establishing a
12 fiduciary duty to return overpayments to employers;
13 allowing for forfeiture after certain time;
14 construing when fiduciary duty is complete;
15 prohibiting employer request for overpayment return
16 after certain time; directing deposit of certain
17 returns to certain account; amending 40 O.S. 2011,
18 Section 4-108, which relates to executive director;
19 deleting authority to appoint certain persons;
20 deleting authority to reinstate personnel; amending
21 40 O.S. 2011, Section 4-311, which relates to
22 published rules; requiring reports be published on
23 website; amending 40 O.S. 2011, Section 4-312, as
24 amended by Section 130, Chapter 304, O.S.L. 2012 (40
O.S. Supp. 2020, Section 4-312), which relates to
personnel compensation; deleting authority to
delegate powers; amending 40 O.S. 2011, Section 4-
508, as last amended by Section 10, Chapter 251,
O.S.L. 2019 (40 O.S. Supp. 2020, Section 4-508),
which relates to confidential information; deleting
Metropolitan Planning Organization for receipt of
certain information; adding Oklahoma Department of
Career and Technology Education and Oklahoma State
Regents for Higher Education for receipt of certain
information; authorizing certain partners of the
Workforce Innovation and Opportunity Act to receive
certain information; amending 40 O.S. 2011, Section
5-107, which relates to wrongful disclosure of
information; expanding wrongful disclosure of
information; 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. 2011, Section 1-210, as
2 last amended by Section 2, Chapter 342, O.S.L. 2019 (40 O.S. Supp.
3 2020, Section 1-210), is amended to read as follows:

4 Section 1-210. EMPLOYMENT.

5 "Employment" means:

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

8 (a) any officer of a corporation; or

9 (b) any individual who, under the usual common-law rules
10 applicable in determining the employer-employee
11 relationship, as provided in paragraph (14) of this
12 section, has the status of an employee.

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

17 (i) as an agent-driver or commission-driver engaged
18 in distributing meat products, vegetable
19 products, fruit products, bakery products,
20 beverages other than milk, or laundry or dry
21 cleaning services, for ~~his or her~~ the
22 individual's principal; or

23 (ii) as a traveling or city salesperson, other than as
24 an agent-driver or commission-driver, engaged

1 upon a full-time basis in the solicitation on
2 behalf of, and the transmission to, ~~his or her~~ an
3 individual's principal, except for sideline sales
4 activities on behalf of some other person, of
5 orders from wholesalers, retailers, contractors,
6 or operators of hotels, restaurants or other
7 similar establishments for merchandise for resale
8 or supplies for use in their business operations;

9 (b) provided, the term "employment" shall include services
10 described in divisions (i) and (ii) of subparagraph

11 (a) of this paragraph if:

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

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

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

23 (3) Service performed in the employ of this state or any of its
24 instrumentalities or any political subdivision thereof or any of its

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

7 (4) Service performed by an individual in the employ of a
8 community chest, fund, foundation or corporation, organized and
9 operated exclusively for religious, charitable, scientific, testing
10 for public safety, literary or educational purposes, or for the
11 prevention of cruelty to children or animals, no part of the net
12 earnings of which inures to the benefit of any private shareholder
13 or individual, no substantial part of the activities of which is
14 carrying on propaganda, or otherwise attempting to influence
15 legislation and which does not participate in, or intervene in,
16 including the publishing or distributing of statements, any
17 political campaign on behalf of any candidate for public office;
18 provided that such organization had four or more individuals in
19 employment for some portion of a day in each of twenty (20)
20 different weeks, whether or not such weeks were consecutive, within
21 either the calendar year or preceding calendar year, regardless of
22 whether they were employed at the same moment of time.

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

1 (a) the service is performed for a person who:

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

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

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

19 (i) if the crew leader holds a valid certificate of
20 registration under the Farm Labor Contractor
21 Registration Act of 1963, Public Law 95-562, 29
22 U.S.C., Sections 1801 through 1872; or
23 substantially all the members of the crew operate
24 or maintain tractors, mechanized harvesting or

1 crop-dusting equipment, or any other mechanized
2 equipment, which is provided by the crew leader;
3 and

4 (ii) if the individual is not an employee of the other
5 person within the meaning of paragraph (1) of
6 this section or subparagraph (d) of this
7 paragraph.

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

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

15 (ii) the other person shall be treated as having paid
16 cash remuneration to the individual in an amount
17 equal to the amount of cash remuneration paid to
18 the individual by the crew leader, either on ~~his~~
19 ~~or her~~ the individual's own behalf or on behalf
20 of the other person, for the service in
21 agricultural labor performed for the other
22 person.

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

- 1 (i) furnishes individuals to perform service in
2 agricultural labor for any other person;
3 (ii) pays, either on ~~his or her~~ the individual's own
4 behalf or on behalf of another person, the
5 individuals so furnished by the crew leader for
6 the service in agricultural labor performed by
7 them; and
8 (iii) has not entered into a written agreement with the
9 other person (farm operator) under which the
10 individual is designated as an employee of the
11 other person.

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

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

20 (a) in the employ of:

- 21 (i) a church or convention or association of
22 churches;
23 (ii) an organization which is operated primarily for
24 religious purposes and which is operated,

1 supervised, controlled, or principally supported
2 by a church or convention or association of
3 churches; or

4 (iii) an elementary or secondary school which is
5 operated primarily for religious purposes, which
6 is described in 26 U.S.C., Section 501(c)(3), and
7 which is exempt from tax under 26 U.S.C., Section
8 501(a);

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

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

16 (i) as an elected official;

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

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

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

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

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

13 (d) by an individual who is participating or enrolled in a
14 program of an organization that provides
15 rehabilitation through work for individuals whose
16 earning capacity is impaired by age, physical or
17 mental deficiency, or injury, or a program of an
18 organization that provides work for individuals who,
19 because of their impaired mental or physical capacity
20 cannot be readily absorbed into the competitive labor
21 market; provided that the services are performed by a
22 program participant on real property owned or leased
23 directly by the organization or by a program
24 participant working under a special certificate issued

1 by the U.S. Secretary of Labor pursuant to 29 U.S.C.,
2 Section 214(c) and 29 C.F.R., Section 525.1 et seq.;

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

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

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

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

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

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

22 (ii) the employer is a corporation which is organized
23 under the laws of this state; or
24

- (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 laws 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 (2/3) 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.

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

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

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

15 (b) includes any service which is required to be
16 "employment" for full tax credit to be allowed against
17 the tax imposed by the Federal Unemployment Tax Act of
18 1954, Public Law 591, Chapter 736, as amended, 26
19 U.S.C., Section 3301 et seq.

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

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

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

1 (i) the individual's base of operations, or, if there
2 is no base of operations, then the place from
3 which the individual's employment is directed or
4 controlled is in this state; or

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

10 (12) (a) Services covered by an election pursuant to Section 3-
11 203 of this title; and

12 (b) services covered by an arrangement pursuant to Section
13 4-701 et seq. of this title between the Oklahoma
14 Employment Security Commission and the agency charged
15 with the administration of any other state or federal
16 unemployment compensation law, pursuant to which all
17 services performed by an individual for an employing
18 unit are deemed to be performed entirely within this
19 state,

20 shall be deemed to be employment if the Commission has approved an
21 election of the employing unit for whom such services are performed,
22 pursuant to which the entire service of such individual during the
23 period covered by such election is deemed to be insured work.

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

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

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

8 (14) Notwithstanding any other provision of this subsection,
9 services performed by an individual for wages shall be deemed to be
10 employment subject to the Employment Security Act of 1980 if the
11 services are performed by the individual in an employer-employee
12 relationship with the employer using the 20-factor test used by the
13 Internal Revenue Service of the United States Department of Treasury
14 in Revenue Ruling 87-41, 1987-1 C.B. 296. The Oklahoma Employment
15 Security Commission shall have the ~~exclusive~~ exclusive authority to
16 make a determination of whether an individual is an independent
17 contractor or employee.

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

19 (a) services performed by an individual in agricultural
20 labor, except as provided under paragraph (5) of this
21 section. Services performed by an individual who is a
22 nonresident alien admitted to the United States to
23 perform agricultural labor, pursuant to 8 U.S.C.,
24 Sections 1101(a), 1184(c) and 1188. For purposes of

1 this subparagraph, the term "agricultural labor" means
2 remunerated service performed in agricultural labor as
3 defined in the Federal Unemployment Tax Act, 26
4 U.S.C., Section 3306(k);

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

9 (c) service performed by an individual in the employ of
10 his or her son, daughter, or spouse, and service
11 performed by a child under the age of twenty-one (21)
12 in the employ of his or her father or mother, or both
13 father and mother;

14 (d) service performed in the employ of the United States
15 government or an instrumentality of the United States
16 exempt under the Constitution of the United States
17 from the contributions imposed by the Employment
18 Security Act of 1980, except that to the extent that
19 the Congress of the United States shall permit states
20 to require any instrumentalities of the United States
21 to make payments into an unemployment fund under a
22 state unemployment compensation law, all of the
23 provisions of the Employment Security Act of 1980
24 shall be applicable to such instrumentalities, and to

1 services performed for such instrumentalities, in the
2 same manner, to the same extent, and on the same terms
3 as to all other employers, employing units,
4 individuals and services; provided that if this state
5 shall not be certified for any year by the Secretary
6 of Labor of the United States under the Federal
7 Internal Revenue Code, 26 U.S.C., Section 3304(c), the
8 payments required of such instrumentalities with
9 respect to the year shall be refunded by the
10 Commission from the fund in the same manner and within
11 the same period as is provided in Section 3-304 of
12 this title with respect to contributions erroneously
13 collected;

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

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

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

22 (i) if the service is of a character similar to that
23 performed in foreign countries by employees of
24

1 the United States government or of an
2 instrumentality thereof, and

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

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

21 (i) service performed as a student nurse in the employ of
22 a hospital or a nurses' training school by an
23 individual who is enrolled and is regularly attending
24 classes in a nurses' training school chartered or

1 approved pursuant to state law; and service performed
2 as an intern in the employ of a hospital by an
3 individual who has completed a four-year course in a
4 medical school chartered or approved pursuant to state
5 law;

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

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

22 (i) the individual must be engaged in the delivery or
23 distribution of newspapers or shopping news,
24

1 including any services directly related to such
2 trade or business,

3 (ii) substantially all the remuneration, whether or
4 not paid in cash, for the performance of the
5 services described in division (i) of this
6 subparagraph is directly related to sales or
7 other output, including the performance of
8 services, rather than the number of hours worked,
9 and

10 (iii) the services performed by the individual are
11 performed pursuant to a written contract between
12 the person and the person for whom the services
13 are performed and the contract provides that the
14 person will not be treated as an employee with
15 respect to the services;

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

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

21 (ii) by the spouse of the student, if the spouse is
22 advised, at the time the spouse commences to
23 perform the service, that:
24

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

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

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

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

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

- 1 (p) earnings of employees being paid by state warrants who
2 are presently covered by the Federal Unemployment
3 Compensation Act, 5 U.S.C., Section 8501 et seq., by
4 virtue of their federal status;
- 5 (q) cosmetology services performed by an individual in a
6 beauty shop, as defined by Section 199.1 of Title 59
7 of the Oklahoma Statutes, pursuant to an agreement
8 whereby the owner of the beauty shop leases or rents
9 facilities for cosmetology to such individual;
- 10 (r) barbering services performed by an individual in a
11 barber shop, as defined by Section 61.5 of Title 59 of
12 the Oklahoma Statutes, pursuant to an agreement
13 whereby the owner of the barber shop leases or rents
14 facilities for barbering to such individual;
- 15 (s) services performed as a participant in a work or
16 training program administered by the Department of
17 Human Services;
- 18 (t) riding services performed by a jockey and services
19 performed by a trainer of ~~race-horses~~ racehorses in
20 preparation for and during an approved race meeting
21 licensed by the Oklahoma Horse Racing Commission;
- 22 (u) service performed by an individual whose remuneration
23 consists solely of commissions, overrides, bonuses,
24 and differentials related to sales or other output

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

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

11 (w) services performed as a chopper of cotton who weeds or
12 thins cotton crops by hand or hoe. This subsection
13 shall be interpreted and applied consistently with the
14 Federal Unemployment Tax Act, 26 U.S.C., Sections
15 3304(a)(6)(A) and 3306(k);

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

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

23 (ii) if substantially all remuneration paid in cash or
24 otherwise for the performance of the services is

1 directly related to the completion by the
2 individual of the specific tasks contracted for
3 rather than to the number of hours worked by the
4 individual, and

5 (iii) if the services performed by the individual are
6 performed under a written contract between the
7 individual and the person for whom the services
8 are performed; provided that the individual is to
9 be treated as an independent contractor and not
10 as an employee with respect to the services
11 provided under the contract; or

12 (y) services performed by persons working under an
13 AmeriCorps grant from the Corporation for National
14 Service made pursuant to the National and Community
15 Service Act of 1990 (NCSA) codified at 42 U.S.C.,
16 Section 12501 et seq.

17 SECTION 2. AMENDATORY 40 O.S. 2011, Section 1-224, as
18 amended by Section 2, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2020,
19 Section 1-224), is amended to read as follows:

20 Section 1-224. FILE.

21 A. For purposes of this section, "OESC 2020-21 business process
22 transformation" means a change from paper process to integrated
23 digital technology. Upon completion of the OESC 2020-21 business
24 process transformation, electronic e-filing will be the Commission's

1 preferred filing method for tendering and receiving documents. All
2 claimants and employers tendering documents to the Commission will
3 be expected to tender the documents electronically. If the claimant
4 or employer has elected to utilize other means of transmittal, it
5 will be the responsibility of the claimant or employer to notify the
6 Commission of this preference.

7 B. When any document is required to be filed by the provisions
8 of the Employment Security Act of 1980 or the rules promulgated
9 under the authority of the Employment Security Act of 1980 with the
10 Oklahoma Employment Security Commission, any of its representatives,
11 or the Board of Review for the Oklahoma Employment Security
12 Commission, the term "file", "files", or "filed" shall be defined as
13 follows:

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

17 2. Telefaxed to the telefax number indicated on the
18 determination letter, order or other document issued by the Oklahoma
19 Employment Security Commission by midnight on or before the date
20 due. Timely telefaxing shall be determined by the date and time
21 recorded by the Commission's telefax equipment;

22 3. Mailed with sufficient postage and properly addressed to the
23 address indicated on the determination letter, order or other
24 document issued by the Oklahoma Employment Security Commission on or

1 before the date due. Timely mailing shall be determined by the
2 postmark. If there is no proof from the post office of the date of
3 mailing, the date of receipt by the Commission shall constitute the
4 date of filing; or

5 4. ~~Electronically transmitted via data lines~~ Electronic e-
6 filing to the Oklahoma Employment Security Commission, as directed
7 by the instructions on the determination letter, order or other
8 document issued by the Commission, by midnight on or before the date
9 due. Timely transmission shall be determined by the Commission's
10 transmission log file.

11 ~~B.~~ C. If the Employment Security Act of 1980 or the rules
12 promulgated under the Employment Security Act of 1980 require that a
13 document be filed with a court or any other agency of this state,
14 the term "file", "files" or "filed" shall be defined by the
15 statutes, rules or practice governing that court or agency.

16 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-203, as
17 last amended by Section 3, Chapter 251, O.S.L. 2019 (40 O.S. Supp.
18 2020, Section 2-203), is amended to read as follows:

19 Section 2-203. CLAIM.

20 A. An unemployed individual must file an initial claim for
21 unemployment benefits ~~by calling an Oklahoma Employment Security~~
22 ~~Commission claims representative in a Commission Call Center,~~ by
23 completing the required forms through the Internet Claims service
24 provided by the Commission, or by completing all forms necessary to

1 process an initial claim in a local office of the Commission or any
2 alternate site designated by the Commission to take unemployment
3 benefit claims. The Commission may obtain additional information
4 regarding an individual's claim through any form of
5 telecommunication, writing, or interview. An unemployed individual
6 must file a claim ~~in writing or~~ by telecommunication ~~for~~ or by
7 Internet utilizing the digital services portal to create an account
8 to access benefits with respect to each week in accordance with such
9 rule as the Commission may prescribe.

10 B. 1. During the process of filing an initial claim for
11 unemployment benefits, the claimant shall be made aware of the
12 definition of misconduct set out in Section 2-406 of this title, and
13 the claimant shall affirmatively certify that the answers given to
14 all questions in the initial claim process are true and correct to
15 the best of the claimant's knowledge and that no information has
16 been intentionally withheld or misrepresented in an attempt by the
17 claimant to receive benefits to which ~~he or she~~ the claimant is not
18 entitled.

19 2. The certification statement required in paragraph 1 of this
20 subsection shall be available through the Internet Claims service
21 provided by the Commission and by a form to be completed by the
22 claimant in a local office of the Commission or at any alternate
23 site designated by the Commission to take unemployment benefit
24 claims.

1 C. With respect to each week, ~~he or she~~ the claimant must
2 provide the Commission with a true and correct statement of all
3 material facts relating to: ~~his or her~~ unemployment; ability to
4 work; availability for work; activities or conditions which could
5 restrict the individual from seeking or immediately accepting full-
6 time employment or part-time work if subsection 4 (4) of Section 2-
7 408 of this title applies; applications for or receipt of workers'
8 compensation benefits; employment and earnings; and the reporting of
9 other income from retirement, pension, disability, self-employment,
10 education or training allowances.

11 D. No claim will be allowed or paid unless the claimant resides
12 within a state or foreign country with which the State of Oklahoma
13 has entered into a reciprocal or cooperative arrangement pursuant to
14 Part 7 of Article IV of the Employment Security Act of 1980.

15 E. The Commission may require the individual to produce
16 documents or information relevant to the claim for benefits. If the
17 individual fails to produce it, the individual's claim for
18 unemployment benefits may be disqualified indefinitely by the
19 Commission until the information is produced. An individual that
20 has been disqualified indefinitely by the provisions of this
21 subsection may receive payment for any week between the initial
22 failure and the compliance with this subsection if the claimant is
23 otherwise eligible and has made a timely filing for each intervening
24 week.

1 SECTION 4. AMENDATORY 40 O.S. 2011, Section 2-209, as
2 last amended by Section 2, Chapter 14, O.S.L. 2018 (40 O.S. Supp.
3 2020, Section 2-209), is amended to read as follows:

4 Section 2-209. BENEFITS FOR EMPLOYEES OF GOVERNMENTAL OR
5 NONPROFIT EMPLOYERS.

6 Benefits based on service in employment defined in paragraph (3)
7 or (4) of Section 1-210 of this title, including any federally
8 operated educational institutions, shall be payable in the same
9 amount, on the same terms and subject to the same conditions as
10 benefits payable on the basis of other service subject to the
11 Employment Security Act of 1980, except that:

12 (1) With respect to service performed in an instructional,
13 research or principal administrative capacity for an educational
14 institution, benefits shall not be paid based on services for any
15 week of unemployment commencing during the period between two (2)
16 successive academic years, or during a similar period between two
17 regular but not successive terms, or during a period of paid
18 sabbatical leave provided for in the individual's contract, to any
19 individual if the individual performs services in the first academic
20 year or term and if there is a contract or a reasonable assurance
21 that the individual will perform services in any such capacity for
22 any educational institution in the second academic year or term;

23 (2) With respect to services performed in any other capacity
24 for an educational institution, benefits shall not be paid on the

1 basis of services to any individual for any week which commences
2 during a period between two (2) successive academic years or terms
3 if the individual performs services in the first academic year or
4 term and there is a reasonable assurance that the individual will
5 perform services in any such capacity in the second academic year or
6 term, except that if compensation is denied to any individual
7 pursuant to this paragraph and the individual was not offered an
8 opportunity to perform services for the educational institution for
9 the second academic year or term, the individual shall be entitled
10 to a retroactive payment of compensation for each week for which the
11 individual filed a timely claim for compensation and for which
12 compensation was denied solely by reason of this clause;

13 (3) With respect to any services described in paragraphs (1)
14 and (2) of this section, benefits shall not be payable on the basis
15 of services in any capacities to any individual for any week which
16 commences during an established and customary vacation period or
17 holiday recess if the individual performs services in the period
18 immediately before the vacation period or holiday recess, and there
19 is a reasonable assurance that the individual will perform services
20 in any such capacity in the period immediately following the
21 vacation period or holiday recess;

22 (4) With respect to any services described in paragraphs (1)
23 and (2) of this section, benefits shall not be payable on the basis
24 of services in any capacities as specified in paragraphs (1), (2)

1 and (3) of this section to any individual who performed services in
2 an educational institution while in the employ of an educational
3 service agency. For purposes of this paragraph, the term
4 "educational service agency" means a governmental agency or
5 governmental entity which is established and operated exclusively
6 for the purpose of providing services to one or more educational
7 institutions; ~~and~~

8 (5) If services are provided to or on behalf of an educational
9 institution by a private for-profit entity or an entity described in
10 paragraph (3) or (4) of Section 1-210 of this title that is not an
11 educational institution or an educational service agency, the
12 employees providing these services shall not be subject to the terms
13 and conditions as described in paragraphs (1), (2), (3) and (4) of
14 this section; and

15 (6) If an individual has employment with an educational
16 institution and has employment with a noneducational employer or
17 employers during the base period of the individual's benefit year,
18 the individual may become eligible for benefits during the between-
19 term denial period, based only on the noneducational employment.

20 SECTION 5. AMENDATORY 40 O.S. 2011, Section 2-406, as
21 last amended by Section 3, Chapter 220, O.S.L. 2014 (40 O.S. Supp.
22 2020, Section 2-406), is amended to read as follows:

23 Section 2-406. DISCHARGE FOR MISCONDUCT.
24

1 A. An individual shall be disqualified for benefits if ~~he or~~
2 ~~she~~ the individual has been discharged for misconduct connected with
3 ~~his or her~~ the individual's last work. If discharged for
4 misconduct, the employer shall have the burden to prove that the
5 employee engaged in misconduct as defined by this section. Such
6 burden of proof is satisfied by the employer, or its designated
7 representative, providing a signed affidavit, or presenting such
8 other evidence which properly demonstrates the misconduct which
9 resulted in the discharge. Once this burden is met, the burden then
10 shifts to the discharged employee to prove that the facts are
11 inaccurate or that the facts as stated do not constitute misconduct
12 as defined by this section. Disqualification under this section
13 shall continue for the full period of unemployment next ensuing
14 after ~~he or she~~ the employee has been discharged for misconduct
15 connected with ~~his or her~~ the employee's work and until such
16 individual has become reemployed and has earned wages equal to or in
17 excess of ten (10) times the weekly benefit amount.

18 B. Acts which constitute misconduct under this section shall be
19 limited to the following:

20 1. Any intentional act or omission by an employee which
21 constitutes a material or substantial ~~breech~~ breach of the
22 employee's job duties or responsibilities or obligations pursuant to
23 ~~his or her~~ the employee's employment or contract of employment;

24 2. Unapproved or excessive absenteeism or tardiness;

1 3. Indifference to, breach of, or neglect of the duties
2 required which result in a material or substantial breach of the
3 employee's job duties or responsibilities;

4 4. ~~Actions~~ Acts or omissions that place in jeopardy the health,
5 life, or property of self or others;

6 5. Dishonesty;

7 6. Wrongdoing;

8 7. Violation of a law; or

9 8. A violation of a policy or rule enacted to ensure orderly
10 and proper job performance or for the safety of self or others.

11 C. Any misconduct violation as defined in subsection B of this
12 section shall not require a prior warning from the employer. As
13 long as the employee knew, or should have reasonably known, that a
14 rule or policy of the employer was violated, the employee shall not
15 be eligible for benefits.

16 D. Any finding by a state or federal agency of any failure by
17 the employee to meet the applicable civil, criminal or professional
18 standards of the employee's profession shall create a rebuttable
19 presumption of such misconduct, and benefits shall be denied, unless
20 the employee can show, with clear and convincing evidence, that such
21 misconduct did not occur, or the Commission determines that such
22 failure did not constitute misconduct as defined herein.

1 SECTION 6. AMENDATORY Section 1, Chapter 338, O.S.L.
2 2016 (40 O.S. Supp. 2020, Section 2-422), is amended to read as
3 follows:

4 Section 2-422. A. Unemployment benefits based on services by a
5 seasonal worker performed in seasonal employment are payable only
6 for weeks of unemployment that occur during the normal seasonal work
7 period. Benefits shall not be paid based on services performed in
8 seasonal employment for any week of unemployment that begins during
9 the period between two (2) successive normal seasonal work periods
10 to any individual if that individual performs the service in the
11 first of the normal seasonal work periods and if there is a
12 reasonable assurance that the individual will perform the service
13 for a seasonal employer in the second of the normal seasonal work
14 periods. The notice of reasonable assurance shall be given by the
15 employer to the employee in writing on or before the last day of
16 work in the season. If benefits are denied to an individual for any
17 week solely as a result of this section and the individual is not
18 offered an opportunity to perform in the second normal seasonal work
19 period for which reasonable assurance of employment had been given,
20 the individual is entitled to a retroactive payment of benefits
21 under this section for each week that the individual previously
22 filed a timely claim for benefits. An individual may apply for any
23 retroactive benefits under this section in accordance with the
24 provisions of Article 2 of the Employment Security Act of 1980.

1 B. If an individual has been employed by a nonseasonal employer
2 during the base period of the individual's benefit year, the
3 individual may become eligible for benefits during that between-
4 season denial period based only on the wages of the nonseasonal
5 employment.

6 C. Not less than twenty (20) days before the estimated
7 beginning date of a normal seasonal work period, an employer may
8 apply to the Commission in writing for designation as a seasonal
9 employer. At the time of application, the employer shall
10 conspicuously display a copy of the application on the employer's
11 premises. Within ninety (90) days after receipt of the application,
12 the Commission shall determine if the employer is a seasonal
13 employer. The employer may appeal this decision pursuant to the
14 provisions of Section 3-115 of ~~Title 40 of the Oklahoma Statutes~~
15 this title. A determination of the Commission concerning the status
16 of an employer as a seasonal employer, or the decision of the
17 Assessment Board or a court of this state through the administrative
18 appeal process, which has become final, may be introduced in any
19 proceeding involving a claim for benefits, and the facts found and
20 decision issued in the determination or decision shall be conclusive
21 unless substantial evidence to the contrary is introduced by or on
22 behalf of the claimant.

23 ~~C.~~ D. If the employer is determined to be a seasonal employer,
24 the employer shall give notice to each employee of the employer's

1 status as a seasonal employer and the beginning and ending dates of
2 the employer's normal seasonal work periods, and this notice shall
3 be given to the employee within the first seven (7) days of
4 employment. On or before the last day of work in the season, if the
5 employer intends to issue a notice of reasonable assurance of
6 employment for the next season, the employer shall also give notice
7 to each employee advising that the employee shall timely file an
8 initial application for unemployment benefits at the end of the
9 current seasonal work period and file timely weekly continued claims
10 thereafter to preserve ~~his or her~~ the employee's right to receive
11 retroactive unemployment benefits if ~~he or she~~ such employee is not
12 reemployed by the seasonal employer in the subsequent normal
13 seasonal work period. The ~~notices~~ notice must be on a separate
14 document written in clear and concise language that states these
15 provisions. Failure of the employer to give adequate notice as
16 required by this subsection will result in the termination of the
17 employer as a seasonal employer under subsection ~~D~~ E of this section
18 and the allowance of any claim in which the claimant did not receive
19 the required notice.

20 ~~D.~~ E. The Commission may issue a determination terminating an
21 employer's status as a seasonal employer on the Commission's own
22 motion for good cause, or upon the written request of the employer.
23 The effective date of a termination determination under this
24 subsection shall be set by the Commission. A determination under

1 this subsection may be appealed pursuant to the provisions of
2 Section 3-115 of ~~Title 40 of the Oklahoma Statutes~~ this title.

3 ~~E.~~ F. An employer whose status as a seasonal employer is
4 terminated under subsection ~~D~~ E of this section shall not reapply
5 for a seasonal employer status determination until after a regularly
6 recurring normal seasonal work period has begun and ended.

7 ~~F.~~ G. If a seasonal employer informs an employee who received
8 assurance of being rehired that, despite the assurance, the employee
9 will not be rehired at the beginning of the employer's next normal
10 seasonal work period, this section does not prevent the employee
11 from receiving unemployment benefits in the same manner and to the
12 same extent he or she would receive benefits under the Employment
13 Security Act of 1980 from an employer who has not been determined to
14 be a seasonal employer.

15 ~~G.~~ H. A successor of a seasonal employer is considered to be a
16 seasonal employer unless the successor provides the Commission,
17 within one hundred twenty (120) days after the transfer, with a
18 written request for termination of its status as a seasonal employer
19 in accordance with subsection ~~D~~ E of this section.

20 ~~H.~~ I. At the time an employee is hired by a seasonal employer,
21 the employer shall notify the employee in writing if the employee
22 will be a seasonal worker. The employer shall provide the worker
23 with written notice of any subsequent change in the employee's
24 status as a seasonal worker. If an employee of a seasonal employer

1 is denied benefits because that employee is a seasonal worker, the
2 employee may contest that designation by filing an appeal pursuant
3 to the provisions of Part 6 of Article 2 of the Employment Security
4 Act of 1980.

5 ~~I.~~ J. As used in this section:

6 1. "Construction industry" means the work activity designated
7 in Sector Group 23 - Construction of the North American Industrial
8 Classification System (NAICS) published by the Executive Office of
9 the President, Office of Management and Budget, ~~2012~~ 2017 edition;

10 2. "Normal seasonal work period" means that period, or those
11 periods, of time during which an individual is employed in seasonal
12 employment, as determined by the Commission;

13 3. "Seasonal employment" means the employment of one or more
14 individuals primarily hired to perform services during regularly
15 recurring periods of twenty-six (26) weeks or less in any fifty-two-
16 week period other than services in the construction industry;

17 4. "Seasonal employer" means an employer, other than an
18 employer in the construction industry, who applies to the Commission
19 for designation as a seasonal employer and whom the Commission
20 determines to be an employer whose operations and business require
21 employees engaged in seasonal employment; and

22 5. "Seasonal worker" means a worker who has been paid wages by
23 a seasonal employer for work performed only during the normal
24 seasonal work period.

1 SECTION 7. AMENDATORY 40 O.S. 2011, Section 2-503, as
2 last amended by Section 5, Chapter 251, O.S.L. 2019 (40 O.S. Supp.
3 2020, Section 2-503), is amended to read as follows:

4 Section 2-503. CLAIMS, NOTICES AND OBJECTIONS.

5 A. Claims for benefits shall be made in accordance with all
6 rules that the Oklahoma Employment Security Commission may
7 prescribe.

8 B. Promptly after an initial claim or an additional initial
9 claim is filed, the Commission shall give ~~written~~ notice of the
10 claim to the last employer of the claimant for whom ~~he or she~~ the
11 claimant worked at least fifteen (15) working days. The required
12 fifteen (15) working days are not required to be consecutive.
13 Provided, that promptly after the Commission is notified of the
14 claimant's separation from an employment obtained by a claimant
15 during a continued claim series, the Commission shall give ~~written~~
16 notice of the claim to the last separating employer. Notices to
17 separating employers during a continued claim series will be given
18 to the last employer in the claim week without regard to length of
19 employment. Each notice shall contain an admonition that failure to
20 respond to the notice could affect the employer's tax rate.

21 C. Promptly after the claim is paid for the fifth week of
22 benefits the Commission shall give written notice of the claim to
23 all other employers of the claimant during the claimant's base
24

1 period. The notice will be given pursuant to Section 3-106 of this
2 title.

3 D. Notices shall be deemed to have been given ~~when the~~
4 ~~Commission deposits the same in the United States mail addressed to~~
5 ~~the employer's last-known address. Notice shall be presumed prima~~
6 ~~facie to have been given to the employer to whom addressed on the~~
7 ~~date stated in the written notice~~ at the last-known address and by
8 the date of the postmark on the envelope in which the notice was
9 sent. If the employer has elected to be notified by electronic
10 means according to procedures set out in Oklahoma Employment
11 Security Commission rules, notice shall be deemed to be given when
12 the Commission transmits the ~~notification~~ notice by electronic
13 means.

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

19 1. Make the claimant ineligible for benefits under Sections 2-
20 201 through 2-210 of this title;

21 2. Disqualify the claimant from benefits under Sections 2-401
22 through 2-417 and 2-419 of this title; or

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

1 F. An untimely employer objection to a claim for unemployment
2 benefits made pursuant to subsection E of this section may be
3 allowed for good cause shown.

4 SECTION 8. AMENDATORY 40 O.S. 2011, Section 2-610, is
5 amended to read as follows:

6 Section 2-610. JUDICIAL REVIEW.

7 A. Within the thirty (30) days after the day a notice of
8 decision of the Board of Review is mailed to the parties, the
9 Oklahoma Employment Security Commission, or any party to the
10 proceedings before the Board of Review, may obtain judicial review
11 by filing in the district court of the county in which the claimant
12 resides, or if the claimant is not a resident of the State of
13 Oklahoma then in the District Court of Oklahoma County, a petition
14 for review of the decision of the Board of Review. The petition for
15 review shall set out the names of all codefendants in the style of
16 the case, which shall include:

- 17 1. The Board of Review;
- 18 2. The Oklahoma Employment Security Commission; and
- 19 3. All other parties to the proceeding before the Board of
20 Review.

21 The petition for review need not be verified but shall state
22 specifically the grounds upon which the review is sought. A copy of
23 the petition for review shall be served upon the Board of Review at
24 its official address and the petitioner shall also deliver to the

1 Board of Review as many copies of the petition as there are
2 defendants. The Board of Review shall ~~send~~ issue to each party to
3 the proceeding a copy of the petition ~~by mail~~, and the ~~mailing~~
4 issuance shall be deemed to be service upon all the parties. In any
5 proceeding under this section the findings of the Board of Review as
6 to the facts, if supported by evidence, shall be conclusive and the
7 jurisdiction of the court shall be confined to questions of law. No
8 additional evidence shall be received by the court, but the court
9 may remand the case and order additional evidence to be taken by the
10 Appeal Tribunal of the Oklahoma Employment Security Commission.

11 B. Within sixty (60) days of the date of service of the
12 petition on the Board of Review, the Board of Review shall file with
13 the court a certified copy of the record of the case, including all
14 documents and papers properly admitted into evidence and a
15 transcript of all testimony taken in the matter, together with the
16 Board of Review's findings, conclusions~~r~~ and decision.

17 C. The proceedings shall be heard in a summary manner and shall
18 be given precedence over all other civil cases. An appeal may be
19 taken from the decision of the district court to the Supreme Court
20 of this state in the same manner as is provided in other civil
21 cases. It shall not be necessary as a condition precedent to
22 judicial review of any decision of the Board of Review to enter
23 exceptions to the rulings of the Board, and no bond shall be
24 required as a condition of initiating a proceeding for judicial

1 review or entering an appeal from the decision of the court. Upon
2 the final termination of the judicial proceeding, the Board of
3 Review shall enter an order in accordance with the mandate of the
4 district or appellate court.

5 SECTION 9. AMENDATORY 40 O.S. 2011, Section 2-616, as
6 amended by Section 7, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2020,
7 Section 2-616), is amended to read as follows:

8 Section 2-616. NOTICE OF OVERPAYMENT DETERMINATION.

9 A. If the Oklahoma Employment Security Commission or its
10 representative determines that an individual has been overpaid
11 unemployment benefits pursuant to Section 2-613 of this title for
12 fraud overpayment or claimant error overpayment, the individual
13 shall be sent a notice of overpayment determination. If the
14 individual disagrees with this determination, the individual may
15 file an appeal of the determination with the Appeal Tribunal within
16 twenty (20) days after the date of the mailing of the notice to the
17 individual's last-known address or, if the notice is not mailed,
18 within twenty (20) days after the date of the delivery of the
19 notice. If the individual fails to appeal the determination within
20 the time provided, without good cause, then the determination will
21 be deemed final and no further appeal shall be allowed.

22 B. If the Oklahoma Employment Security Commission or its
23 representative determines that an individual has been overpaid
24 unemployment benefits pursuant to paragraph 3 of Section 2-613 of

1 this title relating to administrative overpayment, the individual
2 shall be sent a notice of overpayment determination. If the
3 individual disagrees with this determination, the individual may
4 file an appeal of the determination with the Appeal Tribunal within
5 ten (10) days after the date of mailing of the notice to the
6 individual's last-known address or, if the notice is not mailed,
7 within ten (10) days after the date of the delivery of the notice.
8 If the individual fails to appeal the determination within the time
9 provided, without good cause, the determination will be deemed final
10 and no further appeal shall be allowed.

11 SECTION 10. AMENDATORY 40 O.S. 2011, Section 2-801, as
12 amended by Section 9, Chapter 14, O.S.L. 2018 (40 O.S. Supp. 2020,
13 Section 2-801), is amended to read as follows:

14 Section 2-801. CHILD SUPPORT OBLIGATIONS.

15 A. ~~Beginning October 1, 1982, any individual filing a new claim~~
16 ~~for unemployment compensation shall, at the time of filing such~~
17 ~~claim, disclose whether or not the individual owes child support~~
18 ~~obligations. If any such individual discloses that he or she owes~~
19 ~~child support obligations, and is determined to be eligible for~~
20 ~~unemployment compensation, the Commission shall notify the state or~~
21 ~~local child support enforcement agency enforcing such obligation~~
22 ~~that the individual has been determined to be eligible for~~
23 ~~unemployment compensation~~ The Commission may enter into an agreement
24 with the Department of Human Services for information required

1 pursuant to Section 240.12 of Title 56 of the Oklahoma Statutes to
2 identify persons that owe child support obligations.

3 B. The Commission shall deduct and withhold from any
4 unemployment compensation payable to an individual that owes child
5 support obligations:

6 ~~(1) the amount specified by the individual to the Commission to~~
7 ~~be deducted and withheld under this subsection, if neither~~
8 ~~paragraphs (2) or (3) of this subsection are applicable, or~~

9 ~~(2) the amount, if any, determined by the Department of Human~~
10 ~~Services pursuant to an agreement submitted to the Commission under~~
11 ~~42 U.S.C., Section 654(19)(B)(i) by the state or local child support~~
12 ~~enforcement agency, unless paragraph (3) of this subsection is~~
13 ~~applicable, or~~

14 ~~(3) any amount otherwise required to be so deducted and~~
15 ~~withheld from such unemployment compensation pursuant to legal~~
16 ~~process, which shall mean any writ, order, summons or other similar~~
17 ~~process in the nature of garnishment, which:~~

18 ~~(a) is issued by:~~

19 ~~(i) a court of competent jurisdiction within any~~
20 ~~state, territory or possession of the United~~
21 ~~States,~~

22 ~~(ii) a court of competent jurisdiction in any foreign~~
23 ~~country with which the United States has entered~~
24

1 ~~into an agreement which requires the United~~
2 ~~States to honor such process, or~~
3 ~~(iii) an authorized official pursuant to an order of~~
4 ~~such a court of competent jurisdiction or~~
5 ~~pursuant to state or local law, and~~
6 ~~(b) is directed to, and the purpose of which is to compel,~~
7 ~~a governmental entity, which holds monies which are~~
8 ~~otherwise payable to an individual, to make a payment~~
9 ~~from such monies to another party in order to satisfy~~
10 ~~a legal obligation of such individual to provide child~~
11 ~~support.~~

12 C. ~~All income withholding orders or other legal process issued~~
13 ~~to collect child support through a deduction from unemployment~~
14 ~~benefits and all other documents necessary to complete the deduction~~
15 ~~shall be served on the appropriate state or local child support~~
16 ~~enforcement agency and on the Oklahoma Employment Security~~
17 ~~Commission.~~

18 ~~D.~~ D. Any amount deducted and withheld under subsection B of this
19 section shall be paid by the Commission to the ~~appropriate state or~~
20 ~~local child support enforcement agency~~ Centralized Support Registry
21 pursuant to Section 413 of Title 43 of the Oklahoma Statutes.

22 E. D. Any amount deducted and withheld under subsection B of
23 this section shall for all purposes be treated as if it were paid to
24 the individual as unemployment compensation and paid by such

1 individual to the state ~~or local~~ child support enforcement agency in
2 satisfaction of the individual's child support obligations.

3 ~~F.~~ E. For purposes of subsections A through ~~E~~ D of this
4 section, the term "unemployment compensation" means any compensation
5 payable under the Employment Security Act of 1980, Section 1-101 of
6 this title, including amounts payable by the Commission pursuant to
7 an agreement under any federal law providing for compensation,
8 assistance or allowances with respect to unemployment.

9 ~~G.~~ F. This section applies only if appropriate arrangements
10 have been made for reimbursement by the state ~~or local~~ child support
11 enforcement agency for the administrative costs, as determined by
12 the Commission, incurred by the Commission under this section which
13 are attributable to child support obligations being enforced by the
14 state ~~or local~~ child support enforcement agency.

15 ~~H.~~ G. For purposes of this section:

16 (1) "Child support obligations" means only obligations which
17 are being enforced pursuant to a plan described in 42 U.S.C.,
18 Section 654, which has been approved by the Secretary of Health and
19 Human Services under 42 U.S.C., Section 651 et seq.

20 (2) "State ~~or local~~ child support enforcement agency" means ~~any~~
21 ~~agency of a state or a political subdivision thereof,~~ the Oklahoma
22 Department of Human Services, which pursuant to Section 237 of Title
23 56 of the Oklahoma Statutes is the single state agency in Oklahoma
24 operating pursuant to a plan described in 42 U.S.C., Section 654,

1 which has been approved by the Secretary of Health and Human
2 Services under 42 U.S.C., Section 651 et seq.

3 (3) Deductions from unemployment insurance authorized by
4 subsection B of this section in satisfaction of child support
5 obligations are only those obligations defined in paragraph (1) of
6 this subsection, and the recipient of ~~said~~ the deductions shall be
7 defined as only a state ~~or local~~ child support enforcement agency
8 operating pursuant to an approved plan described in 42 U.S.C.,
9 Section 654 and referenced in paragraph (2) of this subsection.

10 SECTION 11. AMENDATORY 40 O.S. 2011, Section 3-106.1, is
11 amended to read as follows:

12 Section 3-106.1 RELIEF FROM BENEFIT WAGES CHARGED - ADDENDUM.

13 A. For purposes of this section, "pandemic" means a health
14 state of emergency declared by the Governor.

15 B. The benefit wages charged to an employer for a given
16 calendar year shall be the total of the benefit wages stated in the
17 notices given to the employer by the Commission. ~~Provided, that on~~
18 ~~and after April 19, 1995,~~ an employer's benefit wages shall not
19 include wages paid by the employer to any employee who was separated
20 from ~~his or her~~ employment as a direct result of a natural disaster,
21 pandemic, fire, flood, or explosion that causes employees to be
22 separated from one employer's employment. ~~The Commission shall~~
23 ~~adopt emergency rules for immediate implementation of this section~~

1 ~~and subsequently adopt permanent rules for review by the 1996~~
2 ~~Legislature.~~

3 SECTION 12. AMENDATORY 40 O.S. 2011, Section 3-307, is
4 amended to read as follows:

5 Section 3-307. A. All remittance~~r~~ under Section 1-101 et seq.
6 of this title~~r~~ shall be made payable to the Oklahoma Employment
7 Security Commission~~r~~ at Oklahoma City, Oklahoma, by ~~bank~~ automatic
8 clearinghouse (ACH) debit/credit, financial institution, draft,
9 check, cashier's check, electronic fund transfer, credit card, money
10 order~~r~~ or money, and the Commission shall issue its receipt, for
11 cash or money payment, to the payor. No remittance other than cash
12 shall be in final discharge of liability due the Commission unless
13 and until it shall have been paid in cash. All monies collected
14 shall be deposited with the State Treasurer. There shall be
15 assessed, in addition to any other penalties provided for by law, an
16 administrative service fee of Twenty-five Dollars (\$25.00) on each
17 check returned to the Commission or any agent thereof by reason of
18 the refusal of the ~~bank~~ financial institution upon which such check
19 was drawn to honor the same. There shall be assessed, in addition
20 to any other penalties provided for by law, an administrative
21 service fee of Twenty-five Dollars (\$25.00) on each electronic fund
22 transfer that fails due to insufficient funds in the payor's
23 account.

1 B. Upon the return of any check by reason of the refusal of the
2 ~~bank~~ financial institution upon which such check was drawn to honor
3 the same, the Commission may file a bogus check complaint with the
4 appropriate district attorney who shall refer the complaint to the
5 Bogus Check Restitution Program established by Section 111 of Title
6 22 of the Oklahoma Statutes. Funds collected through the program
7 after collection of the fee authorized by Section 114 of Title 22 of
8 the Oklahoma Statutes for deposit in the Bogus Check Restitution
9 Program Fund in the county treasury shall be transmitted to the
10 Commission and credited to the liability for which the returned
11 check was drawn ~~and to~~ along with the administrative service fee
12 provided by this section.

13 SECTION 13. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3-311 of Title 40, unless there
15 is created a duplication in numbering, reads as follows:

16 FORFEITURE OF TERMINATED EMPLOYER UNEMPLOYMENT TAX ACCOUNT
17 OVERPAYMENTS.

18 A. It is the fiduciary duty of the Oklahoma Employment Security
19 Commission to return overpayments received in the employer's
20 unemployment tax account. Upon the termination of the employer's
21 unemployment tax account, the Commission will issue a refund of any
22 remaining credit balance by mailing it to the last address provided
23 by the employer. If an employer's unemployment tax account has been
24 terminated and has a credit balance that has been at that level for

1 a period of one hundred eighty (180) days or more without a refund
2 being requested from the employer, the Commission will reduce the
3 balance of that unemployment tax account to zero (0) and consider
4 the credit to be forfeited after the Commission has exercised its
5 fiduciary duty.

6 B. Once the Commission has completed its fiduciary duty in
7 facilitating the return of the credit to the employer, based upon
8 the most current mailing address provided by the employer, the
9 Commission can assume its fiduciary duty is completed. If the
10 refund of the overpayment is returned to the Commission, the
11 employer shall consider the funds forfeited and will be prohibited
12 from requesting the credit balance in the future. All returns of
13 overpayment shall be returned to the clearing account as set forth
14 in Section 3-604 of Title 40 of the Oklahoma Statutes.

15 SECTION 14. AMENDATORY 40 O.S. 2011, Section 4-108, is
16 amended to read as follows:

17 Section 4-108. EXECUTIVE DIRECTOR.

18 ~~A.~~ The chief executive officer of the Commission shall be the
19 Executive Director who shall be appointed by and serve at the
20 pleasure of the Commission. The Executive Director shall have such
21 compensation and further duties as the Commission may establish.
22 The Executive Director may ~~appoint in the unclassified service a~~
23 ~~Deputy Director and an Associate Director~~ hire, promote and
24 terminate personnel, and shall fix the qualifications and duties of

1 such position. ~~The Executive Director may also appoint in the~~
2 ~~unclassified service secretaries to the Executive Director, Deputy~~
3 ~~Director, and Associate Director personnel.~~

4 B. ~~If a person has acquired grade, rank and career status under~~
5 ~~the merit system of personnel administration within the Oklahoma~~
6 ~~Employment Security Commission before being appointed as Executive~~
7 ~~Director, Deputy Director, Associate Director, or unclassified~~
8 ~~secretary, that person shall:~~

9 1. ~~Upon termination from the unclassified position, have the~~
10 ~~right to be reinstated to the position within the Oklahoma~~
11 ~~Employment Security Commission which was held prior to such~~
12 ~~appointment, or to an equivalent position, unless the person was~~
13 ~~terminated for a reason that would justify termination of a~~
14 ~~classified employee or disqualify the person for reinstatement under~~
15 ~~the Oklahoma Personnel Act or the rules implementing it; and~~

16 2. ~~Be entitled during the unclassified appointment to continue~~
17 ~~to participate without interruption in any fringe benefit programs~~
18 ~~available to career employees including, but not limited to,~~
19 ~~retirement and insurance programs.~~

20 SECTION 15. AMENDATORY 40 O.S. 2011, Section 4-311, is
21 amended to read as follows:

22 Section 4-311. COMMISSION SHALL PUBLISH RULES.

23 The Oklahoma Employment Security Commission shall cause ~~to be~~
24 ~~printed for distribution to the public the text of this act~~ Section

1 1-101 et seq. of this title, the Commission's rules, its annual
2 reports to the Governor, and any other material the Commission deems
3 relevant and suitable ~~and shall furnish the same to any person upon~~
4 ~~application therefor~~ to be published on the Commission website in a
5 manner that can be accessed by the general public.

6 SECTION 16. AMENDATORY 40 O.S. 2011, Section 4-312, as
7 amended by Section 130, Chapter 304, O.S.L. 2012 (40 O.S. Supp.
8 2020, Section 4-312), is amended to read as follows:

9 Section 4-312. PERSONNEL AND COMPENSATION.

10 Subject to other provisions of ~~this act~~ Section 1-101 et seq. of
11 this title, the Oklahoma Employment Security Commission is
12 authorized to appoint, fix the compensation and prescribe the duties
13 and powers of such officers, accountants, attorneys, experts, and
14 other persons as may be necessary in the performance of its duties
15 under ~~this act~~ Section 1-101 et seq. of this title. ~~The Commission~~
16 ~~may delegate to any such persons such power and authority as it~~
17 ~~deems reasonable and proper for the effective administration of this~~
18 ~~act, and may in its discretion bond any person handling moneys or~~
19 ~~signing checks hereunder.~~ The Commission is authorized and directed
20 to maintain the existing merit system covering all persons employed
21 in the administration of this act and shall have authority, by rule,
22 to provide for all matters which are appropriate to the
23 establishment and maintenance of ~~such~~ a merit system on the basis of
24 efficiency and fitness. The Commission is authorized to adopt ~~such~~

1 rules as may be necessary to meet personnel standards ~~promulgated by~~
2 ~~the Office of Management and Enterprise Services~~ pursuant to the
3 Social Security Act, as amended, and the Act of Congress entitled
4 "An Act to provide for the establishment of a national employment
5 system, and for other purposes", approved June 6, 1933, as amended,
6 ~~and to provide for the maintenance of the merit system required~~
7 ~~under this section in conjunction with any merit system applicable~~
8 ~~to any other state agency or agencies which meets the personnel~~
9 ~~standards promulgated by the Office of Management and Enterprise~~
10 ~~Services.~~

11 SECTION 17. AMENDATORY 40 O.S. 2011, Section 4-508, as
12 last amended by Section 10, Chapter 251, O.S.L. 2019 (40 O.S. Supp.
13 2020, Section 4-508), is amended to read as follows:

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

16 A. Except as otherwise provided by law, information obtained
17 from any employing unit or individual pursuant to the administration
18 of the Employment Security Act of 1980, any workforce system program
19 administered or monitored by the Oklahoma Employment Security
20 Commission, and determinations as to the benefit rights of any
21 individual shall be kept confidential and shall not be disclosed or
22 be open to public inspection in any manner revealing the
23 individual's or employing unit's identity. Any claimant, ~~or~~
24 employer, or agent of either as authorized in writing, shall be

1 supplied with information from the records of the Oklahoma
2 Employment Security Commission, to the extent necessary for the
3 proper presentation of the claim or complaint in any proceeding
4 under the Employment Security Act of 1980, with respect thereto.

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

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

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

23 2. The disclosure of information to any person for a purpose as
24 authorized by the taxpayer or claimant pursuant to a waiver of

1 confidentiality. The waiver shall be in writing and shall be
2 notarized;

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

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

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

23 6. The furnishing, at the discretion of the Commission, of any
24 information disclosed by the records or files to any official person

1 or body of this state, any other state or of the United States who
2 is concerned with the administration of assessment of any similar
3 tax in this state, any other state or the United States;

4 7. The furnishing of information to other state agencies for
5 the limited purpose of aiding in the collection of debts owed by
6 individuals to the requesting agencies or the Oklahoma Employment
7 Security Commission;

8 8. The release of information to employees of the Oklahoma
9 Department of Transportation ~~or any Metropolitan Planning~~
10 ~~Organization as defined in 23 U.S.C., Section 134 and 49 U.S.C.,~~
11 ~~Section 5303 of information~~ required for use in federally mandated
12 regional transportation planning, which is performed as a part of
13 its official duties;

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

18 10. The release of information to employees of the Attorney
19 General, the Department of Labor, the Workers' Compensation
20 Commission, and the Insurance Department for use in investigation of
21 workers' compensation fraud;

22 11. The release of information to employees of any Oklahoma
23 state, Oklahoma county, Oklahoma municipal or Oklahoma tribal law
24

1 enforcement agency for use in criminal investigations and the
2 location of missing persons or fugitives from justice;

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

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

15 14. The release of information to employees of the Oklahoma
16 Department of Career and Technology Education, the Oklahoma State
17 Regents for Higher Education, the Center for Economic and Management
18 Research of the University of Oklahoma, the Center for Economic and
19 Business Development at Southwestern Oklahoma State University, or a
20 center of economic and business research or development at a
21 comprehensive or regional higher education institution within The
22 Oklahoma State System of Higher Education ~~of information~~ required to
23 identify economic trends or educational outcomes. The information
24 obtained shall be kept confidential by the Oklahoma Department of

1 Career and Technology Education, the Oklahoma State Regents for
2 Higher Education and the higher education institution and shall not
3 be disclosed or be open to public inspection. The Oklahoma
4 Department of Career and Technology Education, the Oklahoma State
5 Regents for Higher Education and the higher education institution
6 may release aggregated data, provided that the aggregation meets
7 disclosure requirements of the Commission;

8 15. The release of information to employees of the Office of
9 Management and Enterprise Services ~~of information~~ required to
10 identify economic trends. The information obtained shall be kept
11 confidential by the Office of Management and Enterprise Services and
12 shall not be disclosed or be open to public inspection. The Office
13 of Management and Enterprise Services may release aggregate data,
14 provided that the aggregation meets disclosure requirements of the
15 Oklahoma Employment Security Commission;

16 16. The release of information to employees of the Department
17 of Mental Health and Substance Abuse Services ~~of information~~
18 required to evaluate the effectiveness of mental health and
19 substance abuse treatment and state or local programs utilized to
20 divert persons from inpatient treatment. The information obtained
21 shall be kept confidential by the Department and shall not be
22 disclosed or be open to public inspection. The Department of Mental
23 Health and Substance Abuse Services, however, may release aggregated
24 data, either by treatment facility, program or larger aggregate

1 units, provided that the aggregation meets disclosure requirements
2 of the Oklahoma Employment Security Commission;

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

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

10 19. The release of wage and benefit claim information, at the
11 discretion of the Commission, to an agency of this state or its
12 political subdivisions that operate a program or activity designated
13 as a required partner in the Workforce Innovation and Opportunity
14 Act One-Stop delivery system pursuant to 29 U.S.C.A., Section
15 3151(b)(1), based on a showing of need made to the Commission and
16 after an agreement concerning the release of information is entered
17 into with the entity receiving the information. For the limited
18 purpose of completing performance accountability reports required by
19 the Workforce Innovation and Opportunity Act, only those designated
20 required partners that meet the 20 CFR Section 603.2(d) definition
21 of public official may contract with a private agent or contractor
22 pursuant to 20 CFR Section 603.5(f) for the purpose of the private
23 agent or contractor receiving confidential unemployment compensation
24

1 information to the extent necessary to complete the performance
2 accountability reports;

3 20. The release of information to the State Wage Interchange
4 System, at the discretion of the Commission;

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

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

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

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

22 25. The release of information to vendors that contract with
23 the Oklahoma Employment Security Commission to provide for the
24 issuance of debit cards, to conduct electronic fund transfers, to

1 perform computer programming operations, or to perform computer
2 maintenance or replacement operations; provided the vendor agrees to
3 protect and safeguard the information it receives and to destroy the
4 information when no longer needed for the purposes set out in the
5 contract;

6 26. The release of information to employees of the Office of
7 Juvenile Affairs ~~of information~~ for use in assessing results and
8 outcomes of clients served as well as the effectiveness of state and
9 local juvenile and justice programs including prevention and
10 treatment programs. The information obtained shall be kept
11 confidential by the Office of Juvenile Affairs and shall not be
12 disclosed or be open to public inspection. The Office of Juvenile
13 Affairs may release aggregated data for programs or larger aggregate
14 units, provided that the aggregation meets disclosure requirements
15 of the Oklahoma Employment Security Commission;

16 27. The release of information to vendors that contract with
17 the State of Oklahoma for the purpose of providing a public
18 electronic labor exchange system that will support the Oklahoma
19 Employment Security Commission's operation of an employment service
20 system to connect employers with job seekers and military veterans.
21 This labor exchange system would enhance the stability and security
22 of Oklahoma's economy as well as support the provision of veterans'
23 priority of service. The vendors may perform computer programming
24 operations, perform computer maintenance or replacement operations,

1 or host the electronic solution; provided each vendor agrees to
2 protect and safeguard all information received, that no information
3 shall be disclosed to any third party, that the use of the
4 information shall be restricted to the scope of the contract, and
5 that the vendor shall properly dispose of all information when no
6 longer needed for the purposes set out in the contract; or

7 28. The release of employer tax information and benefit claim
8 information to employees of a county public defender's office in the
9 State of Oklahoma and the Oklahoma Indigent Defense System for the
10 purpose of determining financial eligibility for the services
11 provided by such entities.

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

1 Commission. All administrative subpoenas, court orders or notarized
2 waivers of confidentiality authorized by paragraph 2 of subsection C
3 of this section shall be presented with a request for records within
4 ninety (90) days of the date the document is issued or signed, and
5 the document can only be used one time to obtain records.

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

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

14 SECTION 18. AMENDATORY 40 O.S. 2011, Section 5-107, is
15 amended to read as follows:

16 Section 5-107. WRONGFUL DISCLOSURE OF INFORMATION.

17 If any employee or member of the Board of Review or the Oklahoma
18 Employment Security Commission or any employee of the Commission, ~~in~~
19 ~~violation of~~ or any employee of a governmental unit, private
20 business or nonprofit entity that is allowed access to information
21 under Section 4-508 of this title, makes any disclosure of
22 confidential information ~~obtained from any employing unit or~~
23 ~~individual in the administration of this act~~ or otherwise violates
24 Section 4-508 of this title, or if any person who has obtained any

1 list of applicants for work, or of claimants or recipients of
2 benefits, under ~~this act~~ Section 5-101 et seq. of this title shall
3 use or permit the use of such list for any political purpose, ~~he~~
4 such individual shall be guilty of a misdemeanor and shall be
5 punished by a fine of not less than Fifty Dollars (\$50.00) nor more
6 than Five Hundred Dollars (\$500.00), or imprisoned for not longer
7 than ninety (90) days, or both.

8 SECTION 19. This act shall become effective November 1, 2021."

9 Passed the House of Representatives the 13th day of April, 2021.

10
11
12 _____
Presiding Officer of the House of
Representatives

13
14 Passed the Senate the ____ day of _____, 2021.

15
16
17 _____
Presiding Officer of the Senate

3 and

4 Wallace of the House

5
6 An Act relating to the Oklahoma Employment Security
7 Commission; amending 40 O.S. 2011, Section 1-210, as
8 last amended by Section 2, Chapter 342, O.S.L. 2019
9 (40 O.S. Supp. 2020, Section 1-210), which relates to
10 employment; modifying statutory language; deleting
11 gender references; amending 40 O.S. 2011, Section 1-
12 224, as amended by Section 2, Chapter 71, O.S.L. 2013
13 (40 O.S. Supp. 2020, Section 1-224), which relates to
14 filing; making e-file preference for filing;
15 requiring notice for other filing methods; deleting
16 statutory language; amending 40 O.S. 2011, Section 2-
17 203, as last amended by Section 3, Chapter 251,
18 O.S.L. 2019 (40 O.S. Supp. 2020, Section 2-203),
19 which relates to claims; providing digital portal for
20 claims; amending 40 O.S. 2011, Section 2-209, as last
21 amended by Section 2, Chapter 14, O.S.L. 2018 (40
22 O.S. Supp. 2020, Section 2-209), which relates to
23 benefits for nonprofit employers; exempting certain
24 persons from certain benefits; amending 40 O.S. 2011,
Section 2-406, as last amended by Section 3, Chapter
220, O.S.L. 2014 (40 O.S. Supp. 2020, Section 2-406),
which relates to discharge for misconduct; modifying
statutory language; amending Section 1, Chapter 338,
O.S.L. 2016 (40 O.S. Supp. 2020, Section 2-422),
which relates to seasonal workers; providing certain
benefits between seasonal and nonseasonal periods;
providing for claims on terminated seasonal
employees; amending 40 O.S. 2011, Section 2-503, as
last amended by Section 5, Chapter 251, O.S.L. 2019
(40 O.S. Supp. 2020, Section 2-503), which relates to
notice and objections; construing certain notices;
providing certain notices by e-filing; stating time
for notices; permitting objections by e-filing;
listing reasons for objection; amending 40 O.S. 2011,
Section 2-610, which relates to judicial review;
modifying language; amending 40 O.S. 2011, Section 2-
616, as amended by Section 7, Chapter 71, O.S.L. 2013

(40 O.S. Supp. 2020, Section 2-616), which relates to overpayment; distinguishing fraud and claimant error in overpayment; providing appeal process; stating time for appeal; making determination final without appeal; amending 40 O.S. 2011, Section 2-801, as amended by Section 9, Chapter 14, O.S.L. 2018 (40 O.S. Supp. 2020, Section 2-801), which relates to child support collection; modifying methods for notification of child support; deleting statutory language; amending 40 O.S. 2011, Section 3-106.1, which relates to benefit wages charged; exempting certain benefit wages for pandemic; amending 40 O.S. 2011, Section 3-307, which relates to remittances; providing for automatic clearinghouse (ACH) payments; authorizing certain payments set by Commission; establishing a fiduciary duty to return overpayments to employers; allowing for forfeiture after certain time; construing when fiduciary duty is complete; prohibiting employer request for overpayment return after certain time; directing deposit of certain returns to certain account; amending 40 O.S. 2011, Section 4-108, which relates to executive director; deleting authority to appoint certain persons; deleting authority to reinstate personnel; amending 40 O.S. 2011, Section 4-311, which relates to published rules; requiring reports be published on website; amending 40 O.S. 2011, Section 4-312, as amended by Section 130, Chapter 304, O.S.L. 2012 (40 O.S. Supp. 2020, Section 4-312), which relates to personnel compensation; deleting authority to delegate powers; amending 40 O.S. 2011, Section 4-508, as last amended by Section 10, Chapter 251, O.S.L. 2019 (40 O.S. Supp. 2020, Section 4-508), which relates to confidential information; deleting Metropolitan Planning Organization for receipt of certain information; adding Oklahoma Department of Career and Technology Education and Oklahoma State Regents for Higher Education for receipt of certain information; authorizing certain partners of the Workforce Innovation and Opportunity Act to receive certain information; amending 40 O.S. 2011, Section 5-107, which relates to wrongful disclosure of information; expanding wrongful disclosure of information; providing for codification; and providing an effective date.

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

2 SECTION 20. AMENDATORY 40 O.S. 2011, Section 1-210, as
3 last amended by Section 2, Chapter 342, O.S.L. 2019 (40 O.S. Supp.
4 2020, Section 1-210), is amended to read as follows:

5 Section 1-210. EMPLOYMENT. "Employment" means:

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

8 (a) any officer of a corporation; or

9 (b) any individual who, under the usual common-law rules
10 applicable in determining the employer-employee
11 relationship, as provided in paragraph (14) of this
12 section, has the status of an employee.

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

17 (i) as an agent-driver or commission-driver engaged
18 in distributing meat products, vegetable
19 products, fruit products, bakery products,
20 beverages other than milk, or laundry or dry
21 cleaning services, for ~~his or her~~ the
22 individual's principal; or

23 (ii) as a traveling or city salesperson, other than as
24 an agent-driver or commission-driver, engaged

1 upon a full-time basis in the solicitation on
2 behalf of, and the transmission to, ~~his or her~~ an
3 individual's principal, except for sideline sales
4 activities on behalf of some other person, of
5 orders from wholesalers, retailers, contractors,
6 or operators of hotels, restaurants or other
7 similar establishments for merchandise for resale
8 or supplies for use in their business operations;

9 (b) provided, the term "employment" shall include services
10 described in divisions (i) and (ii) of subparagraph

11 (a) of this paragraph if:

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

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

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

23 (3) Service performed in the employ of this state or any of its
24 instrumentalities or any political subdivision thereof or any of its

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

7 (4) Service performed by an individual in the employ of a
8 community chest, fund, foundation or corporation, organized and
9 operated exclusively for religious, charitable, scientific, testing
10 for public safety, literary or educational purposes, or for the
11 prevention of cruelty to children or animals, no part of the net
12 earnings of which inures to the benefit of any private shareholder
13 or individual, no substantial part of the activities of which is
14 carrying on propaganda, or otherwise attempting to influence
15 legislation and which does not participate in, or intervene in,
16 including the publishing or distributing of statements, any
17 political campaign on behalf of any candidate for public office;
18 provided that such organization had four or more individuals in
19 employment for some portion of a day in each of twenty (20)
20 different weeks, whether or not such weeks were consecutive, within
21 either the calendar year or preceding calendar year, regardless of
22 whether they were employed at the same moment of time.

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

1 (a) the service is performed for a person who:

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

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

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

19 (i) if the crew leader holds a valid certificate of
20 registration under the Farm Labor Contractor
21 Registration Act of 1963, Public Law 95-562, 29
22 U.S.C., Sections 1801 through 1872; or
23 substantially all the members of the crew operate
24 or maintain tractors, mechanized harvesting or

1 crop-dusting equipment, or any other mechanized
2 equipment, which is provided by the crew leader;
3 and

4 (ii) if the individual is not an employee of the other
5 person within the meaning of paragraph (1) of
6 this section or subparagraph (d) of this
7 paragraph.

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

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

15 (ii) the other person shall be treated as having paid
16 cash remuneration to the individual in an amount
17 equal to the amount of cash remuneration paid to
18 the individual by the crew leader, either on ~~his~~
19 ~~or her~~ the individual's own behalf or on behalf
20 of the other person, for the service in
21 agricultural labor performed for the other
22 person.

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

- 1 (i) furnishes individuals to perform service in
2 agricultural labor for any other person;
3 (ii) pays, either on ~~his or her~~ the individual's own
4 behalf or on behalf of another person, the
5 individuals so furnished by the crew leader for
6 the service in agricultural labor performed by
7 them; and
8 (iii) has not entered into a written agreement with the
9 other person (farm operator) under which the
10 individual is designated as an employee of the
11 other person.

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

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

20 (a) in the employ of:

- 21 (i) a church or convention or association of
22 churches;
23 (ii) an organization which is operated primarily for
24 religious purposes and which is operated,

1 supervised, controlled, or principally supported
2 by a church or convention or association of
3 churches; or

4 (iii) an elementary or secondary school which is
5 operated primarily for religious purposes, which
6 is described in 26 U.S.C., Section 501(c)(3), and
7 which is exempt from tax under 26 U.S.C., Section
8 501(a);

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

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

16 (i) as an elected official;

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

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

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

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

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

13 (d) by an individual who is participating or enrolled in a
14 program of an organization that provides
15 rehabilitation through work for individuals whose
16 earning capacity is impaired by age, physical or
17 mental deficiency, or injury, or a program of an
18 organization that provides work for individuals who,
19 because of their impaired mental or physical capacity
20 cannot be readily absorbed into the competitive labor
21 market; provided that the services are performed by a
22 program participant on real property owned or leased
23 directly by the organization or by a program
24 participant working under a special certificate issued

1 by the U.S. Secretary of Labor pursuant to 29 U.S.C.,
2 Section 214(c) and 29 C.F.R., Section 525.1 et seq.;

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

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

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

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

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

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

22 (ii) the employer is a corporation which is organized
23 under the laws of this state; or
24

- (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 laws 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 (2/3) 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.

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

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

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

15 (b) includes any service which is required to be
16 "employment" for full tax credit to be allowed against
17 the tax imposed by the Federal Unemployment Tax Act of
18 1954, Public Law 591, Chapter 736, as amended, 26
19 U.S.C., Section 3301 et seq.

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

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

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

1 (i) the individual's base of operations, or, if there
2 is no base of operations, then the place from
3 which the individual's employment is directed or
4 controlled is in this state; or

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

10 (12) (a) Services covered by an election pursuant to Section 3-
11 203 of this title; and

12 (b) services covered by an arrangement pursuant to Section
13 4-701 et seq. of this title between the Oklahoma
14 Employment Security Commission and the agency charged
15 with the administration of any other state or federal
16 unemployment compensation law, pursuant to which all
17 services performed by an individual for an employing
18 unit are deemed to be performed entirely within this
19 state,

20 shall be deemed to be employment if the Commission has approved an
21 election of the employing unit for whom such services are performed,
22 pursuant to which the entire service of such individual during the
23 period covered by such election is deemed to be insured work.

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

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

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

8 (14) Notwithstanding any other provision of this subsection,
9 services performed by an individual for wages shall be deemed to be
10 employment subject to the Employment Security Act of 1980 if the
11 services are performed by the individual in an employer-employee
12 relationship with the employer using the 20-factor test used by the
13 Internal Revenue Service of the United States Department of Treasury
14 in Revenue Ruling 87-41, 1987-1 C.B. 296. The Oklahoma Employment
15 Security Commission shall have the ~~exclusive~~ exclusive authority to
16 make a determination of whether an individual is an independent
17 contractor or employee.

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

19 (a) services performed by an individual in agricultural
20 labor, except as provided under paragraph (5) of this
21 section. Services performed by an individual who is a
22 nonresident alien admitted to the United States to
23 perform agricultural labor, pursuant to 8 U.S.C.,
24 Sections 1101(a), 1184(c) and 1188. For purposes of

1 this subparagraph, the term "agricultural labor" means
2 remunerated service performed in agricultural labor as
3 defined in the Federal Unemployment Tax Act, 26
4 U.S.C., Section 3306(k);

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

9 (c) service performed by an individual in the employ of
10 his or her son, daughter, or spouse, and service
11 performed by a child under the age of twenty-one (21)
12 in the employ of his or her father or mother, or both
13 father and mother;

14 (d) service performed in the employ of the United States
15 government or an instrumentality of the United States
16 exempt under the Constitution of the United States
17 from the contributions imposed by the Employment
18 Security Act of 1980, except that to the extent that
19 the Congress of the United States shall permit states
20 to require any instrumentalities of the United States
21 to make payments into an unemployment fund under a
22 state unemployment compensation law, all of the
23 provisions of the Employment Security Act of 1980
24 shall be applicable to such instrumentalities, and to

1 services performed for such instrumentalities, in the
2 same manner, to the same extent, and on the same terms
3 as to all other employers, employing units,
4 individuals and services; provided that if this state
5 shall not be certified for any year by the Secretary
6 of Labor of the United States under the Federal
7 Internal Revenue Code, 26 U.S.C., Section 3304(c), the
8 payments required of such instrumentalities with
9 respect to the year shall be refunded by the
10 Commission from the fund in the same manner and within
11 the same period as is provided in Section 3-304 of
12 this title with respect to contributions erroneously
13 collected;

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

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

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

22 (i) if the service is of a character similar to that
23 performed in foreign countries by employees of
24

1 the United States government or of an
2 instrumentality thereof, and
3 (ii) if the Commission finds that the United States
4 Secretary of State has certified to the United
5 States Secretary of the Treasury that the foreign
6 government, with respect to whose instrumentality
7 exemption is claimed, grants an equivalent
8 exemption with respect to similar service
9 performed in the foreign country by employees of
10 the United States government and of
11 instrumentalities thereof;

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

21 (i) service performed as a student nurse in the employ of
22 a hospital or a nurses' training school by an
23 individual who is enrolled and is regularly attending
24 classes in a nurses' training school chartered or

1 approved pursuant to state law; and service performed
2 as an intern in the employ of a hospital by an
3 individual who has completed a four-year course in a
4 medical school chartered or approved pursuant to state
5 law;

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

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

22 (i) the individual must be engaged in the delivery or
23 distribution of newspapers or shopping news,
24

1 including any services directly related to such
2 trade or business,

3 (ii) substantially all the remuneration, whether or
4 not paid in cash, for the performance of the
5 services described in division (i) of this
6 subparagraph is directly related to sales or
7 other output, including the performance of
8 services, rather than the number of hours worked,
9 and

10 (iii) the services performed by the individual are
11 performed pursuant to a written contract between
12 the person and the person for whom the services
13 are performed and the contract provides that the
14 person will not be treated as an employee with
15 respect to the services;

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

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

21 (ii) by the spouse of the student, if the spouse is
22 advised, at the time the spouse commences to
23 perform the service, that:
24

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

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

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

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

22 (o) services performed by cooperative extension personnel
23 holding federal appointments employed by state
24 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) services performed 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~~ racehorses in preparation for and during an approved race meeting 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

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

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

11 (w) services performed as a chopper of cotton who weeds or
12 thins cotton crops by hand or hoe. This subsection
13 shall be interpreted and applied consistently with the
14 Federal Unemployment Tax Act, 26 U.S.C., Sections
15 3304(a)(6)(A) and 3306(k);

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

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

23 (ii) if substantially all remuneration paid in cash or
24 otherwise for the performance of the services is

1 directly related to the completion by the
2 individual of the specific tasks contracted for
3 rather than to the number of hours worked by the
4 individual, and

5 (iii) if the services performed by the individual are
6 performed under a written contract between the
7 individual and the person for whom the services
8 are performed; provided that the individual is to
9 be treated as an independent contractor and not
10 as an employee with respect to the services
11 provided under the contract; or

12 (y) services performed by persons working under an
13 AmeriCorps grant from the Corporation for National
14 Service made pursuant to the National and Community
15 Service Act of 1990 (NCSA) codified at 42 U.S.C.,
16 Section 12501 et seq.

17 SECTION 21. AMENDATORY 40 O.S. 2011, Section 1-224, as
18 amended by Section 2, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2020,
19 Section 1-224), is amended to read as follows:

20 Section 1-224. FILE.

21 A. For purposes of this section "OESC 2020-21 business process
22 transformation" means a change from paper process to integrated
23 digital technology. Upon completion of the OESC 2020-21 business
24 process transformation, electronic e-filing will be the Commission's

1 preferred filing method for tendering and receiving documents. All
2 claimants and employers tendering documents to the Commission will
3 be expected to tender the documents electronically. If the claimant
4 or employer has elected to utilize other means of transmittal it
5 will be the responsibility of the claimant or employer to notify the
6 Commission of this preference.

7 B. When any document is required to be filed by the provisions
8 of the Employment Security Act of 1980 or the rules promulgated
9 under the authority of the Employment Security Act of 1980 with the
10 Oklahoma Employment Security Commission, any of its representatives,
11 or the Board of Review for the Oklahoma Employment Security
12 Commission, the term "file", "files", or "filed" shall be defined as
13 follows:

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

17 2. Telefaxed to the telefax number indicated on the
18 determination letter, order or other document issued by the Oklahoma
19 Employment Security Commission by midnight on or before the date
20 due. Timely telefaxing shall be determined by the date and time
21 recorded by the Commission's telefax equipment;

22 3. Mailed with sufficient postage and properly addressed to the
23 address indicated on the determination letter, order or other
24 document issued by the Oklahoma Employment Security Commission on or

1 before the date due. Timely mailing shall be determined by the
2 postmark. If there is no proof from the post office of the date of
3 mailing, the date of receipt by the Commission shall constitute the
4 date of filing; or

5 4. ~~Electronically transmitted via data lines~~ Electronic e-
6 filing to the Oklahoma Employment Security Commission, as directed
7 by the instructions on the determination letter, order or other
8 document issued by the Commission, by midnight on or before the date
9 due. Timely transmission shall be determined by the Commission's
10 transmission log file.

11 ~~B.~~ C. If the Employment Security Act of 1980 or the rules
12 promulgated under the Employment Security Act of 1980 require that a
13 document be filed with a court or any other agency of this state,
14 the term "file", "files" or "filed" shall be defined by the
15 statutes, rules or practice governing that court or agency.

16 SECTION 22. AMENDATORY 40 O.S. 2011, Section 2-203, as
17 last amended by Section 3, Chapter 251, O.S.L. 2019 (40 O.S. Supp.
18 2020, Section 2-203), is amended to read as follows:

19 Section 2-203. CLAIM.

20 A. An unemployed individual must file an initial claim for
21 unemployment benefits ~~by calling an Oklahoma Employment Security~~
22 ~~Commission claims representative in a Commission Call Center,~~ by
23 completing the required forms through the Internet Claims service
24 provided by the Commission, or by completing all forms necessary to

1 process an initial claim in a local office of the Commission or any
2 alternate site designated by the Commission to take unemployment
3 benefit claims. The Commission may obtain additional information
4 regarding an individual's claim through any form of
5 telecommunication, writing, or interview. An unemployed individual
6 must file a claim ~~in writing or~~ by telecommunication ~~for~~ or by
7 Internet utilizing the digital services portal to create an account
8 to access benefits with respect to each week in accordance with such
9 rule as the Commission may prescribe.

10 B. 1. During the process of filing an initial claim for
11 unemployment benefits, the claimant shall be made aware of the
12 definition of misconduct set out in Section 2-406 of this title, and
13 the claimant shall affirmatively certify that the answers given to
14 all questions in the initial claim process are true and correct to
15 the best of the claimant's knowledge and that no information has
16 been intentionally withheld or misrepresented in an attempt by the
17 claimant to receive benefits to which ~~he or she~~ the claimant is not
18 entitled.

19 2. The certification statement required in paragraph 1 of this
20 subsection shall be available through the Internet Claims service
21 provided by the Commission and by a form to be completed by the
22 claimant in a local office of the Commission or at any alternate
23 site designated by the Commission to take unemployment benefit
24 claims.

1 C. With respect to each week, ~~he or she~~ the claimant must
2 provide the Commission with a true and correct statement of all
3 material facts relating to: ~~his or her~~ unemployment; ability to
4 work; availability for work; activities or conditions which could
5 restrict the individual from seeking or immediately accepting full-
6 time employment or part-time work if subsection 4 (4) of Section 2-
7 408 of this title applies; applications for or receipt of workers'
8 compensation benefits; employment and earnings; and the reporting of
9 other income from retirement, pension, disability, self-employment,
10 education or training allowances.

11 D. No claim will be allowed or paid unless the claimant resides
12 within a state or foreign country with which the State of Oklahoma
13 has entered into a reciprocal or cooperative arrangement pursuant to
14 Part 7 of Article IV of the Employment Security Act of 1980.

15 E. The Commission may require the individual to produce
16 documents or information relevant to the claim for benefits. If the
17 individual fails to produce it, the individual's claim for
18 unemployment benefits may be disqualified indefinitely by the
19 Commission until the information is produced. An individual that
20 has been disqualified indefinitely by the provisions of this
21 subsection may receive payment for any week between the initial
22 failure and the compliance with this subsection if the claimant is
23 otherwise eligible and has made a timely filing for each intervening
24 week.

1 SECTION 23. AMENDATORY 40 O.S. 2011, Section 2-209, as
2 last amended by Section 2, Chapter 14, O.S.L. 2018 (40 O.S. Supp.
3 2020, Section 2-209), is amended to read as follows:

4 Section 2-209. BENEFITS FOR EMPLOYEES OF GOVERNMENTAL OR
5 NONPROFIT EMPLOYERS.

6 Benefits based on service in employment defined in paragraph (3)
7 or (4) of Section 1-210 of this title, including any federally
8 operated educational institutions, shall be payable in the same
9 amount, on the same terms and subject to the same conditions as
10 benefits payable on the basis of other service subject to the
11 Employment Security Act of 1980, except that:

12 (1) With respect to service performed in an instructional,
13 research or principal administrative capacity for an educational
14 institution, benefits shall not be paid based on services for any
15 week of unemployment commencing during the period between two (2)
16 successive academic years, or during a similar period between two
17 regular but not successive terms, or during a period of paid
18 sabbatical leave provided for in the individual's contract, to any
19 individual if the individual performs services in the first academic
20 year or term and if there is a contract or a reasonable assurance
21 that the individual will perform services in any such capacity for
22 any educational institution in the second academic year or term;

23 (2) With respect to services performed in any other capacity
24 for an educational institution, benefits shall not be paid on the

1 basis of services to any individual for any week which commences
2 during a period between two (2) successive academic years or terms
3 if the individual performs services in the first academic year or
4 term and there is a reasonable assurance that the individual will
5 perform services in any such capacity in the second academic year or
6 term, except that if compensation is denied to any individual
7 pursuant to this paragraph and the individual was not offered an
8 opportunity to perform services for the educational institution for
9 the second academic year or term, the individual shall be entitled
10 to a retroactive payment of compensation for each week for which the
11 individual filed a timely claim for compensation and for which
12 compensation was denied solely by reason of this clause;

13 (3) With respect to any services described in paragraphs (1)
14 and (2) of this section, benefits shall not be payable on the basis
15 of services in any capacities to any individual for any week which
16 commences during an established and customary vacation period or
17 holiday recess if the individual performs services in the period
18 immediately before the vacation period or holiday recess, and there
19 is a reasonable assurance that the individual will perform services
20 in any such capacity in the period immediately following the
21 vacation period or holiday recess;

22 (4) With respect to any services described in paragraphs (1)
23 and (2) of this section, benefits shall not be payable on the basis
24 of services in any capacities as specified in paragraphs (1), (2)

1 and (3) of this section to any individual who performed services in
2 an educational institution while in the employ of an educational
3 service agency. For purposes of this paragraph, the term
4 "educational service agency" means a governmental agency or
5 governmental entity which is established and operated exclusively
6 for the purpose of providing services to one or more educational
7 institutions; and

8 (5) If services are provided to or on behalf of an educational
9 institution by a private for-profit entity or an entity described in
10 paragraph (3) or (4) of Section 1-210 of this title that is not an
11 educational institution or an educational service agency, the
12 employees providing these services shall not be subject to the terms
13 and conditions as described in paragraphs (1), (2), (3) and (4) of
14 this section.

15 (6) If an individual has employment with an educational
16 institution and has employment with a noneducational employer or
17 employers during the base period of the individual's benefit year,
18 the individual may become eligible for benefits during the between-
19 term denial period, based only on the noneducational employment.

20 SECTION 24. AMENDATORY 40 O.S. 2011, Section 2-406, as
21 last amended by Section 3, Chapter 220, O.S.L. 2014 (40 O.S. Supp.
22 2020, Section 2-406), is amended to read as follows:

23 Section 2-406. DISCHARGE FOR MISCONDUCT.
24

1 A. An individual shall be disqualified for benefits if ~~he or~~
2 ~~she~~ the individual has been discharged for misconduct connected with
3 ~~his or her~~ the individual's last work. If discharged for
4 misconduct, the employer shall have the burden to prove that the
5 employee engaged in misconduct as defined by this section. Such
6 burden of proof is satisfied by the employer, or its designated
7 representative, providing a signed affidavit, or presenting such
8 other evidence which properly demonstrates the misconduct which
9 resulted in the discharge. Once this burden is met, the burden then
10 shifts to the discharged employee to prove that the facts are
11 inaccurate or that the facts as stated do not constitute misconduct
12 as defined by this section. Disqualification under this section
13 shall continue for the full period of unemployment next ensuing
14 after ~~he or she~~ the employee has been discharged for misconduct
15 connected with ~~his or her~~ the employee's work and until such
16 individual has become reemployed and has earned wages equal to or in
17 excess of ten (10) times the weekly benefit amount.

18 B. Acts which constitute misconduct under this section shall be
19 limited to the following:

20 1. Any intentional act or omission by an employee which
21 constitutes a material or substantial ~~breech~~ breach of the
22 employee's job duties or responsibilities or obligations pursuant to
23 ~~his or her~~ the employee's employment or contract of employment;

24 2. Unapproved or excessive absenteeism or tardiness;

1 3. Indifference to, breach of, or neglect of the duties
2 required which result in a material or substantial breach of the
3 employee's job duties or responsibilities;

4 4. ~~Actions~~ Acts or omissions that place in jeopardy the health,
5 life, or property of self or others;

6 5. Dishonesty;

7 6. Wrongdoing;

8 7. Violation of a law; or

9 8. A violation of a policy or rule enacted to ensure orderly
10 and proper job performance or for the safety of self or others.

11 C. Any misconduct violation as defined in subsection B of this
12 section shall not require a prior warning from the employer. As
13 long as the employee knew, or should have reasonably known, that a
14 rule or policy of the employer was violated, the employee shall not
15 be eligible for benefits.

16 D. Any finding by a state or federal agency of any failure by
17 the employee to meet the applicable civil, criminal or professional
18 standards of the employee's profession shall create a rebuttable
19 presumption of such misconduct, and benefits shall be denied, unless
20 the employee can show, with clear and convincing evidence, that such
21 misconduct did not occur, or the Commission determines that such
22 failure did not constitute misconduct as defined herein.

SECTION 25. AMENDATORY Section 1, Chapter 338, O.S.L.

2016 (40 O.S. Supp. 2020, Section 2-422), is amended to read as follows:

Section 2-422. A. Unemployment benefits based on services by a seasonal worker performed in seasonal employment are payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits shall not be paid based on services performed in seasonal employment for any week of unemployment that begins during the period between two (2) successive normal seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. The notice of reasonable assurance shall be given by the employer to the employee in writing on or before the last day of work in the season. If benefits are denied to an individual for any week solely as a result of this section and the individual is not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the individual is entitled to a retroactive payment of benefits under this section for each week that the individual previously filed a timely claim for benefits. An individual may apply for any retroactive benefits under this section in accordance with the provisions of Article 2 of the Employment Security Act of 1980.

1 B. If an individual has been employed by a nonseasonal employer
2 during the base period of the individual's benefit year, the
3 individual may become eligible for benefits during that between-
4 season denial period based only on the wages of the nonseasonal
5 employment.

6 C. Not less than twenty (20) days before the estimated
7 beginning date of a normal seasonal work period, an employer may
8 apply to the Commission in writing for designation as a seasonal
9 employer. At the time of application, the employer shall
10 conspicuously display a copy of the application on the employer's
11 premises. Within ninety (90) days after receipt of the application,
12 the Commission shall determine if the employer is a seasonal
13 employer. The employer may appeal this decision pursuant to the
14 provisions of Section 3-115 of ~~Title 40 of the Oklahoma Statutes~~
15 this title. A determination of the Commission concerning the status
16 of an employer as a seasonal employer, or the decision of the
17 Assessment Board or a court of this state through the administrative
18 appeal process, which has become final, may be introduced in any
19 proceeding involving a claim for benefits, and the facts found and
20 decision issued in the determination or decision shall be conclusive
21 unless substantial evidence to the contrary is introduced by or on
22 behalf of the claimant.

23 ~~C.~~ D. If the employer is determined to be a seasonal employer,
24 the employer shall give notice to each employee of the employer's

1 status as a seasonal employer and the beginning and ending dates of
2 the employer's normal seasonal work periods, and this notice shall
3 be given to the employee within the first seven (7) days of
4 employment. On or before the last day of work in the season, if the
5 employer intends to issue a notice of reasonable assurance of
6 employment for the next season, the employer shall also give notice
7 to each employee advising that the employee shall timely file an
8 initial application for unemployment benefits at the end of the
9 current seasonal work period and file timely weekly continued claims
10 thereafter to preserve ~~his or her~~ the employee's right to receive
11 retroactive unemployment benefits if ~~he or she~~ such employee is not
12 reemployed by the seasonal employer in the subsequent normal
13 seasonal work period. The ~~notices~~ notice must be on a separate
14 document written in clear and concise language that states these
15 provisions. Failure of the employer to give adequate notice as
16 required by this subsection will result in the termination of the
17 employer as a seasonal employer under subsection ~~D~~ E of this section
18 and the allowance of any claim in which the claimant did not receive
19 the required notice.

20 ~~D.~~ E. The Commission may issue a determination terminating an
21 employer's status as a seasonal employer on the Commission's own
22 motion for good cause, or upon the written request of the employer.
23 The effective date of a termination determination under this
24 subsection shall be set by the Commission. A determination under

1 this subsection may be appealed pursuant to the provisions of
2 Section 3-115 of ~~Title 40 of the Oklahoma Statutes~~ this title.

3 ~~E.~~ F. An employer whose status as a seasonal employer is
4 terminated under subsection ~~D~~ E of this section shall not reapply
5 for a seasonal employer status determination until after a regularly
6 recurring normal seasonal work period has begun and ended.

7 ~~F.~~ G. If a seasonal employer informs an employee who received
8 assurance of being rehired that, despite the assurance, the employee
9 will not be rehired at the beginning of the employer's next normal
10 seasonal work period, this section does not prevent the employee
11 from receiving unemployment benefits in the same manner and to the
12 same extent he or she would receive benefits under the Employment
13 Security Act of 1980 from an employer who has not been determined to
14 be a seasonal employer.

15 ~~G.~~ H. A successor of a seasonal employer is considered to be a
16 seasonal employer unless the successor provides the Commission,
17 within one hundred twenty (120) days after the transfer, with a
18 written request for termination of its status as a seasonal employer
19 in accordance with subsection D of this section.

20 ~~H.~~ I. At the time an employee is hired by a seasonal employer,
21 the employer shall notify the employee in writing if the employee
22 will be a seasonal worker. The employer shall provide the worker
23 with written notice of any subsequent change in the employee's
24 status as a seasonal worker. If an employee of a seasonal employer

1 is denied benefits because that employee is a seasonal worker, the
2 employee may contest that designation by filing an appeal pursuant
3 to the provisions of Part 6 of Article 2 of the Employment Security
4 Act of 1980.

5 ~~I.~~ J. As used in this section:

6 1. "Construction industry" means the work activity designated
7 in Sector Group 23 - Construction of the North American Industrial
8 Classification System (NAICS) published by the Executive Office of
9 the President, Office of Management and Budget, ~~2012~~ 2017 edition;

10 2. "Normal seasonal work period" means that period, or those
11 periods, of time during which an individual is employed in seasonal
12 employment, as determined by the Commission;

13 3. "Seasonal employment" means the employment of one or more
14 individuals primarily hired to perform services during regularly
15 recurring periods of twenty-six (26) weeks or less in any fifty-two-
16 week period other than services in the construction industry;

17 4. "Seasonal employer" means an employer, other than an
18 employer in the construction industry, who applies to the Commission
19 for designation as a seasonal employer and whom the Commission
20 determines to be an employer whose operations and business require
21 employees engaged in seasonal employment; and

22 5. "Seasonal worker" means a worker who has been paid wages by
23 a seasonal employer for work performed only during the normal
24 seasonal work period.

1 SECTION 26. AMENDATORY 40 O.S. 2011, Section 2-503, as
2 last amended by Section 5, Chapter 251, O.S.L. 2019 (40 O.S. Supp.
3 2020, Section 2-503), is amended to read as follows:

4 Section 2-503. CLAIMS, NOTICES AND OBJECTIONS.

5 A. Claims for benefits shall be made in accordance with all
6 rules that the Oklahoma Employment Security Commission may
7 prescribe.

8 B. Promptly after an initial claim or an additional initial
9 claim is filed, the Commission shall give ~~written~~ notice of the
10 claim to the last employer of the claimant for whom ~~he or she~~ the
11 claimant worked at least fifteen (15) working days. The required
12 fifteen (15) working days are not required to be consecutive.
13 Provided, that promptly after the Commission is notified of the
14 claimant's separation from an employment obtained by a claimant
15 during a continued claim series, the Commission shall give ~~written~~
16 notice of the claim to the last separating employer. Notices to
17 separating employers during a continued claim series will be given
18 to the last employer in the claim week without regard to length of
19 employment. Each notice shall contain an admonition that failure to
20 respond to the notice could affect the employer's tax rate.

21 C. Promptly after the claim is paid for the fifth week of
22 benefits the Commission shall give written notice of the claim to
23 all other employers of the claimant during the claimant's base
24

1 period. The notice will be given pursuant to Section 3-106 of this
2 title.

3 D. Notices shall be deemed to have been given ~~when the~~
4 ~~Commission deposits the same in the United States mail addressed to~~
5 ~~the employer's last-known address. Notice shall be presumed prima~~
6 ~~facie to have been given to the employer to whom addressed on the~~
7 ~~date stated in the written notice~~ at the last known address and by
8 the date of the postmark on the envelope in which the notice was
9 sent. If the employer has elected to be notified by electronic
10 means according to procedures set out in Oklahoma Employment
11 Security Commission rules, notice shall be deemed to be given when
12 the Commission transmits the ~~notification~~ notice by electronic
13 means.

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

19 1. Make the claimant ineligible for benefits under Sections 2-
20 201 through 2-210 of this title;

21 2. Disqualify the claimant from benefits under Sections 2-401
22 through 2-417 and 2-419 of this title; or

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

1 F. An untimely employer objection to a claim for unemployment
2 benefits made pursuant to subsection E of this section may be
3 allowed for good cause shown.

4 SECTION 27. AMENDATORY 40 O.S. 2011, Section 2-610, is
5 amended to read as follows:

6 Section 2-610. JUDICIAL REVIEW.

7 A. Within the thirty (30) days after the day a notice of
8 decision of the Board of Review is mailed to the parties, the
9 Oklahoma Employment Security Commission, or any party to the
10 proceedings before the Board of Review, may obtain judicial review
11 by filing in the district court of the county in which the claimant
12 resides, or if the claimant is not a resident of the State of
13 Oklahoma then in the District Court of Oklahoma County, a petition
14 for review of the decision of the Board of Review. The petition for
15 review shall set out the names of all codefendants in the style of
16 the case, which shall include:

- 17 1. The Board of Review;
- 18 2. The Oklahoma Employment Security Commission; and
- 19 3. All other parties to the proceeding before the Board of
20 Review.

21 The petition for review need not be verified but shall state
22 specifically the grounds upon which the review is sought. A copy of
23 the petition for review shall be served upon the Board of Review at
24 its official address and the petitioner shall also deliver to the

1 Board of Review as many copies of the petition as there are
2 defendants. The Board of Review shall ~~send~~ issue to each party to
3 the proceeding a copy of the petition ~~by mail~~, and the ~~mailing~~
4 issuance shall be deemed to be service upon all the parties. In any
5 proceeding under this section the findings of the Board of Review as
6 to the facts, if supported by evidence, shall be conclusive and the
7 jurisdiction of the court shall be confined to questions of law. No
8 additional evidence shall be received by the court, but the court
9 may remand the case and order additional evidence to be taken by the
10 Appeal Tribunal of the Oklahoma Employment Security Commission.

11 B. Within sixty (60) days of the date of service of the
12 petition on the Board of Review, the Board of Review shall file with
13 the court a certified copy of the record of the case, including all
14 documents and papers properly admitted into evidence and a
15 transcript of all testimony taken in the matter, together with the
16 Board of Review's findings, conclusions~~r~~ and decision.

17 C. The proceedings shall be heard in a summary manner and shall
18 be given precedence over all other civil cases. An appeal may be
19 taken from the decision of the district court to the Supreme Court
20 of this state in the same manner as is provided in other civil
21 cases. It shall not be necessary as a condition precedent to
22 judicial review of any decision of the Board of Review to enter
23 exceptions to the rulings of the Board, and no bond shall be
24 required as a condition of initiating a proceeding for judicial

1 review or entering an appeal from the decision of the court. Upon
2 the final termination of the judicial proceeding, the Board of
3 Review shall enter an order in accordance with the mandate of the
4 district or appellate court.

5 SECTION 28. AMENDATORY 40 O.S. 2011, Section 2-616, as
6 amended by Section 7, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2020,
7 Section 2-616), is amended to read as follows:

8 Section 2-616. NOTICE OF OVERPAYMENT DETERMINATION.

9 A. If the Oklahoma Employment Security Commission or its
10 representative determines that an individual has been overpaid
11 unemployment benefits pursuant to Section 2-613 of this title for
12 fraud overpayment or claimant error overpayment, the individual
13 shall be sent a notice of overpayment determination. If the
14 individual disagrees with this determination, the individual may
15 file an appeal of the determination with the Appeal Tribunal within
16 twenty (20) days after the date of the mailing of the notice to the
17 individual's last-known address or, if the notice is not mailed,
18 within twenty (20) days after the date of the delivery of the
19 notice. If the individual fails to appeal the determination within
20 the time provided, without good cause, then the determination will
21 be deemed final and no further appeal shall be allowed.

22 B. If the Oklahoma Employment Security Commission or its
23 representative determines that an individual has been overpaid
24 unemployment benefits pursuant to paragraph 3 of Section 2-613 of

1 this title relating to administrative overpayment, the individual
2 shall be sent a notice of overpayment determination. If the
3 individual disagrees with this determination, the individual may
4 file an appeal of the determination with the Appeal Tribunal within
5 ten (10) days after the date of mailing of the notice to the
6 individual's last-known address or, if the notice is not mailed,
7 within ten (10) days after the date of the delivery of the notice.
8 If the individual fails to appeal the determination within the time
9 provided, without good cause, the determination will be deemed final
10 and no further appeal shall be allowed.

11 SECTION 29. AMENDATORY 40 O.S. 2011, Section 2-801, as
12 amended by Section 9, Chapter 14, O.S.L. 2018 (40 O.S. Supp. 2020,
13 Section 2-801), is amended to read as follows:

14 Section 2-801. CHILD SUPPORT OBLIGATIONS.

15 ~~A. Beginning October 1, 1982, any individual filing a new claim~~
16 ~~for unemployment compensation shall, at the time of filing such~~
17 ~~claim, disclose whether or not the individual owes child support~~
18 ~~obligations. If any such individual discloses that he or she owes~~
19 ~~child support obligations, and is determined to be eligible for~~
20 ~~unemployment compensation, the Commission shall notify the state or~~
21 ~~local child support enforcement agency enforcing such obligation~~
22 ~~that the individual has been determined to be eligible for~~
23 ~~unemployment compensation~~ The Commission may enter into an agreement
24 with the Department of Human Services for information required

1 pursuant to Section 240.12 of Title 56 of the Oklahoma Statutes to
2 identify persons that owe child support obligations.

3 B. The Commission shall deduct and withhold from any
4 unemployment compensation payable to an individual that owes child
5 support obligations:

6 ~~(1) the amount specified by the individual to the Commission to~~
7 ~~be deducted and withheld under this subsection, if neither~~
8 ~~paragraphs (2) or (3) of this subsection are applicable, or~~

9 ~~(2) the amount, if any, determined by the Department of Human~~
10 ~~Services pursuant to an agreement submitted to the Commission under~~
11 ~~42 U.S.C., Section 654(19)(B)(i) by the state or local child support~~
12 ~~enforcement agency, unless paragraph (3) of this subsection is~~
13 ~~applicable, or~~

14 ~~(3) any amount otherwise required to be so deducted and~~
15 ~~withheld from such unemployment compensation pursuant to legal~~
16 ~~process, which shall mean any writ, order, summons or other similar~~
17 ~~process in the nature of garnishment, which:~~

18 ~~(a) is issued by:~~

19 ~~(i) a court of competent jurisdiction within any~~
20 ~~state, territory or possession of the United~~
21 ~~States,~~

22 ~~(ii) a court of competent jurisdiction in any foreign~~
23 ~~country with which the United States has entered~~
24

1 ~~into an agreement which requires the United~~
2 ~~States to honor such process, or~~
3 ~~(iii) an authorized official pursuant to an order of~~
4 ~~such a court of competent jurisdiction or~~
5 ~~pursuant to state or local law, and~~
6 ~~(b) is directed to, and the purpose of which is to compel,~~
7 ~~a governmental entity, which holds monies which are~~
8 ~~otherwise payable to an individual, to make a payment~~
9 ~~from such monies to another party in order to satisfy~~
10 ~~a legal obligation of such individual to provide child~~
11 ~~support.~~

12 C. ~~All income withholding orders or other legal process issued~~
13 ~~to collect child support through a deduction from unemployment~~
14 ~~benefits and all other documents necessary to complete the deduction~~
15 ~~shall be served on the appropriate state or local child support~~
16 ~~enforcement agency and on the Oklahoma Employment Security~~
17 ~~Commission.~~

18 ~~D.~~ D. Any amount deducted and withheld under subsection B of this
19 section shall be paid by the Commission to the ~~appropriate state or~~
20 ~~local child support enforcement agency~~ Centralized Support Registry
21 pursuant to Section 413 of Title 43 of the Oklahoma Statutes.

22 ~~E.~~ D. Any amount deducted and withheld under subsection B of
23 this section shall for all purposes be treated as if it were paid to
24 the individual as unemployment compensation and paid by such

1 individual to the state ~~or local~~ child support enforcement agency in
2 satisfaction of the individual's child support obligations.

3 ~~F.~~ E. For purposes of subsections A through ~~E~~ D of this
4 section, the term "unemployment compensation" means any compensation
5 payable under the Employment Security Act of 1980, Section 1-101 of
6 this title, including amounts payable by the Commission pursuant to
7 an agreement under any federal law providing for compensation,
8 assistance or allowances with respect to unemployment.

9 ~~G.~~ F. This section applies only if appropriate arrangements
10 have been made for reimbursement by the state ~~or local~~ child support
11 enforcement agency for the administrative costs, as determined by
12 the Commission, incurred by the Commission under this section which
13 are attributable to child support obligations being enforced by the
14 state ~~or local~~ child support enforcement agency.

15 ~~H.~~ G. For purposes of this section:

16 (1) "Child support obligations" means only obligations which
17 are being enforced pursuant to a plan described in 42 U.S.C.,
18 Section 654, which has been approved by the Secretary of Health and
19 Human Services under 42 U.S.C., Section 651 et seq.

20 (2) "State ~~or local~~ child support enforcement agency" means ~~any~~
21 ~~agency of a state or a political subdivision thereof,~~ the Oklahoma
22 Department of Human Services, which pursuant to Section 237 of Title
23 56 of the Oklahoma Statutes is the single state agency in Oklahoma
24 operating pursuant to a plan described in 42 U.S.C., Section 654,

1 which has been approved by the Secretary of Health and Human
2 Services under 42 U.S.C., Section 651 et seq.

3 (3) Deductions from unemployment insurance authorized by
4 subsection B of this section in satisfaction of child support
5 obligations are only those obligations defined in paragraph (1) of
6 this subsection, and the recipient of ~~said~~ the deductions shall be
7 defined as only a state ~~or local~~ child support enforcement agency
8 operating pursuant to an approved plan described in 42 U.S.C.,
9 Section 654 and referenced in paragraph (2) of this subsection.

10 SECTION 30. AMENDATORY 40 O.S. 2011, Section 3-106.1, is
11 amended to read as follows:

12 Section 3-106.1. RELIEF FROM BENEFIT WAGES CHARGED - ADDENDUM.

13 A. For purposes of this section, "pandemic" means a health
14 state of emergency declared by the Governor.

15 B. The benefit wages charged to an employer for a given
16 calendar year shall be the total of the benefit wages stated in the
17 notices given to the employer by the Commission. ~~Provided, that on~~
18 ~~and after April 19, 1995,~~ an employer's benefit wages shall not
19 include wages paid by the employer to any employee who was separated
20 from ~~his or her~~ employment as a direct result of a natural disaster,
21 pandemic, fire, flood, or explosion that causes employees to be
22 separated from one employer's employment. ~~The Commission shall~~
23 ~~adopt emergency rules for immediate implementation of this section~~

24

1 ~~and subsequently adopt permanent rules for review by the 1996~~
2 ~~Legislature.~~

3 SECTION 31. AMENDATORY 40 O.S. 2011, Section 3-307, is
4 amended to read as follows:

5 Section 3-307. A. All remittance~~r~~ under Section 1-101 et seq.
6 of this title~~r~~ shall be made payable to the Oklahoma Employment
7 Security Commission~~r~~ at Oklahoma City, Oklahoma, by ~~bank~~ Automatic
8 Clearing House (ACH) debit/credit, financial institution, draft,
9 check, cashier's check, electronic fund transfer, credit card, money
10 order~~r~~ or money, and the Commission shall issue its receipt, for
11 cash or money payment, to the payor. No remittance other than cash
12 shall be in final discharge of liability due the Commission unless
13 and until it shall have been paid in cash. All monies collected
14 shall be deposited with the State Treasurer. There shall be
15 assessed, in addition to any other penalties provided for by law, an
16 administrative service fee of Twenty-five Dollars (\$25.00) on each
17 check returned to the Commission or any agent thereof by reason of
18 the refusal of the ~~bank~~ financial institution upon which such check
19 was drawn to honor the same. There shall be assessed, in addition
20 to any other penalties provided for by law, an administrative
21 service fee of Twenty-five Dollars (\$25.00) on each electronic fund
22 transfer that fails due to insufficient funds in the payor's
23 account.

1 B. Upon the return of any check by reason of the refusal of the
2 ~~bank~~ financial institution upon which such check was drawn to honor
3 the same, the Commission may file a bogus check complaint with the
4 appropriate district attorney who shall refer the complaint to the
5 Bogus Check Restitution Program established by Section 111 of Title
6 22 of the Oklahoma Statutes. Funds collected through the program
7 after collection of the fee authorized by Section 114 of Title 22 of
8 the Oklahoma Statutes for deposit in the Bogus Check Restitution
9 Program Fund in the county treasury shall be transmitted to the
10 Commission and credited to the liability for which the returned
11 check was drawn ~~and to~~ along with the administrative service fee
12 provided by this section.

13 C. The deadlines for payment of unemployment taxes and the
14 method of payment shall be set by Commission rules as provided for
15 in Title 240 of the Oklahoma Administrative Code, Chapter 10
16 Subchapter 5.

17 SECTION 32. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3-311 of Title 40, unless there
19 is created a duplication in numbering, reads as follows:

20 FORFEITURE OF TERMINATED EMPLOYER UNEMPLOYMENT TAX ACCOUNT
21 OVERPAYMENTS

22 A. It is the fiduciary duty of the Oklahoma Employment Security
23 Commission to return overpayments received in the Employer's
24 Unemployment Tax Account. Upon the termination of the employer's

1 unemployment tax account, the Commission will issue a refund of any
2 remaining credit balance by mailing it to the last address provided
3 by the employer. If an employer's unemployment tax account has been
4 terminated and has a credit balance that has been at that level for
5 a period of one hundred eighty (180) days or more without a refund
6 being requested from the employer, the Commission will reduce the
7 balance of that unemployment tax account to zero and consider the
8 credit to be forfeited after the Commission has exercised its
9 fiduciary duty.

10 B. Once the Commission has completed its fiduciary duty in
11 facilitating the return of the credit to the employer, based upon
12 the most current mailing address provided by the employer, the
13 Commission can assume its fiduciary duty is completed. If the
14 refund of the overpayment is returned to the Commission, the
15 employer shall consider the funds forfeited and will be prohibited
16 from requesting the credit balance in the future. All returns of
17 overpayment shall be returned to the clearing account as set forth
18 in Section 3-604 of Title 40 of the Oklahoma Statutes.

19 SECTION 33. AMENDATORY 40 O.S. 2011, Section 4-108, is
20 amended to read as follows:

21 Section 4-108. EXECUTIVE DIRECTOR.

22 ~~A.~~ The chief executive officer of the Commission shall be the
23 Executive Director who shall be appointed by and serve at the
24 pleasure of the Commission. The Executive Director shall have such

1 compensation and further duties as the Commission may establish.
2 The Executive Director may ~~appoint in the unclassified service a~~
3 ~~Deputy Director and an Associate Director,~~ hire, promote and
4 terminate personnel, and shall fix the qualifications and duties of
5 such position. ~~The Executive Director may also appoint in the~~
6 ~~unclassified service secretaries to the Executive Director, Deputy~~
7 ~~Director, and Associate Director~~ personnel.

8 B. ~~If a person has acquired grade, rank and career status under~~
9 ~~the merit system of personnel administration within the Oklahoma~~
10 ~~Employment Security Commission before being appointed as Executive~~
11 ~~Director, Deputy Director, Associate Director, or unclassified~~
12 ~~secretary, that person shall:~~

13 1. ~~Upon termination from the unclassified position, have the~~
14 ~~right to be reinstated to the position within the Oklahoma~~
15 ~~Employment Security Commission which was held prior to such~~
16 ~~appointment, or to an equivalent position, unless the person was~~
17 ~~terminated for a reason that would justify termination of a~~
18 ~~classified employee or disqualify the person for reinstatement under~~
19 ~~the Oklahoma Personnel Act or the rules implementing it; and~~

20 2. ~~Be entitled during the unclassified appointment to continue~~
21 ~~to participate without interruption in any fringe benefit programs~~
22 ~~available to career employees including, but not limited to,~~
23 ~~retirement and insurance programs.~~

1 SECTION 34. AMENDATORY 40 O.S. 2011, Section 4-311, is
2 amended to read as follows:

3 Section 4-311. COMMISSION SHALL PUBLISH RULES.

4 The Oklahoma Employment Security Commission shall cause ~~to be~~
5 ~~printed for distribution to the public~~ the text of ~~this act~~ Section
6 1-101 et seq. of this title, the Commission's rules, its annual
7 reports to the Governor~~7~~ and any other material the Commission deems
8 relevant and suitable ~~and shall furnish the same to any person upon~~
9 ~~application therefor~~ to be published on the Commission website in a
10 manner that can be accessed by the general public.

11 SECTION 35. AMENDATORY 40 O.S. 2011, Section 4-312, as
12 amended by Section 130, Chapter 304, O.S.L. 2012 (40 O.S. Supp.
13 2020, Section 4-312), is amended to read as follows:

14 Section 4-312. PERSONNEL AND COMPENSATION.

15 Subject to other provisions of ~~this act~~ Section 1-101 et seq. of
16 this title, the Oklahoma Employment Security Commission is
17 authorized to appoint, fix the compensation and prescribe the duties
18 and powers of such officers, accountants, attorneys, experts~~7~~ and
19 other persons as may be necessary in the performance of its duties
20 under ~~this act~~ Section 1-101 et seq. of this title. The Commission
21 ~~may delegate to any such persons such power and authority as it~~
22 ~~deems reasonable and proper for the effective administration of this~~
23 ~~act, and may in its discretion bond any person handling moneys or~~
24 ~~signing checks hereunder. The Commission~~ is authorized and directed

1 to maintain the existing merit system covering all persons employed
2 in the administration of this act and shall have authority, by rule,
3 to provide for all matters which are appropriate to the
4 establishment and maintenance of ~~such~~ a merit system on the basis of
5 efficiency and fitness. The Commission is authorized to adopt ~~such~~
6 rules as may be necessary to meet personnel standards ~~promulgated by~~
7 ~~the Office of Management and Enterprise Services~~ pursuant to the
8 Social Security Act, as amended, and the Act of Congress entitled
9 "An Act to provide for the establishment of a national employment
10 system, and for other purposes", approved June 6, 1933, as amended,
11 ~~and to provide for the maintenance of the merit system required~~
12 ~~under this section in conjunction with any merit system applicable~~
13 ~~to any other state agency or agencies which meets the personnel~~
14 ~~standards promulgated by the Office of Management and Enterprise~~
15 ~~Services.~~

16 SECTION 36. AMENDATORY 40 O.S. 2011, Section 4-508, as
17 last amended by Section 10, Chapter 251, O.S.L. 2019 (40 O.S. Supp.
18 2020, Section 4-508), is amended to read as follows:

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

21 A. Except as otherwise provided by law, information obtained
22 from any employing unit or individual pursuant to the administration
23 of the Employment Security Act of 1980, any workforce system program
24 administered or monitored by the Oklahoma Employment Security

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

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

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

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

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

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

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

18 5. The disclosing of information or evidence to the Attorney
19 General or any district attorney when the information or evidence is
20 to be used by the officials or other parties to the proceedings to
21 prosecute or defend allegations of violations of the Employment
22 Security Act of 1980. The information disclosed to the Attorney
23 General or any district attorney shall be kept confidential by them
24 and not be disclosed except when presented to a court in a

1 prosecution of a violation of Section 1-101 et seq. of this title,
2 and a violation by the Attorney General or district attorney by
3 otherwise releasing the information shall be a felony;

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

9 7. The furnishing of information to other state agencies for
10 the limited purpose of aiding in the collection of debts owed by
11 individuals to the requesting agencies or the Oklahoma Employment
12 Security Commission;

13 8. The release of information to employees of the Oklahoma
14 Department of Transportation ~~or any Metropolitan Planning~~
15 ~~Organization as defined in 23 U.S.C., Section 134 and 49 U.S.C.,~~
16 ~~Section 5303 of information~~ required for use in federally mandated
17 regional transportation planning, which is performed as a part of
18 its official duties;

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

23 10. The release of information to employees of the Attorney
24 General, the Department of Labor, the Workers' Compensation

1 Commission, and the Insurance Department for use in investigation of
2 workers' compensation fraud;

3 11. The release of information to employees of any Oklahoma
4 state, Oklahoma county, Oklahoma municipal or Oklahoma tribal law
5 enforcement agency for use in criminal investigations and the
6 location of missing persons or fugitives from justice;

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

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

19 14. The release of information to employees of the Oklahoma
20 Department of Career and Technology Education, the Oklahoma State
21 Regents for Higher Education, the Center for Economic and Management
22 Research of the University of Oklahoma, the Center for Economic and
23 Business Development at Southwestern Oklahoma State University, or a
24 center of economic and business research or development at a

1 comprehensive or regional higher education institution within The
2 Oklahoma State System of Higher Education ~~of information~~ required to
3 identify economic trends or educational outcomes. The information
4 obtained shall be kept confidential by the Oklahoma Department of
5 Career and Technology Education, the Oklahoma State Regents for
6 Higher Education and the higher education institution and shall not
7 be disclosed or be open to public inspection. The Oklahoma
8 Department of Career and Technology Education, Oklahoma State
9 Regents for Higher Education and the higher education institution
10 may release aggregated data, provided that the aggregation meets
11 disclosure requirements of the Commission;

12 15. The release of information to employees of the Office of
13 Management and Enterprise Services ~~of information~~ required to
14 identify economic trends. The information obtained shall be kept
15 confidential by the Office of Management and Enterprise Services and
16 shall not be disclosed or be open to public inspection. The Office
17 of Management and Enterprise Services may release aggregate data,
18 provided that the aggregation meets disclosure requirements of the
19 Oklahoma Employment Security Commission;

20 16. The release of information to employees of the Department
21 of Mental Health and Substance Abuse Services ~~of information~~
22 required to evaluate the effectiveness of mental health and
23 substance abuse treatment and state or local programs utilized to
24 divert persons from inpatient treatment. The information obtained

1 shall be kept confidential by the Department and shall not be
2 disclosed or be open to public inspection. The Department of Mental
3 Health and Substance Abuse Services, however, may release aggregated
4 data, either by treatment facility, program or larger aggregate
5 units, provided that the aggregation meets disclosure requirements
6 of the Oklahoma Employment Security Commission;

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

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

14 19. The release of wage and benefit claim information, at the
15 discretion of the Commission, to an agency of this state or its
16 political subdivisions that operate a program or activity designated
17 as a required partner in the Workforce Innovation and Opportunity
18 Act One-Stop delivery system pursuant to 29 U.S.C.A., Section
19 3151(b)(1), based on a showing of need made to the Commission and
20 after an agreement concerning the release of information is entered
21 into with the entity receiving the information. For the limited
22 purpose of completing performance accountability reports required by
23 the Workforce Innovation and Opportunity Act, only those designated
24 required partners that meet the 20 CFR §603.2(d) definition of

public official may contract with a private agent or contractor
pursuant to 20 CFR §603.5(f) for the purpose of the private agent or
contractor receiving confidential unemployment compensation
information to the extent necessary to complete the performance
accountability reports;

20. The release of information to the State Wage 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;

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;

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

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

1 25. The release of information to vendors that contract with
2 the Oklahoma Employment Security Commission to provide for the
3 issuance of debit cards, to conduct electronic fund transfers, to
4 perform computer programming operations, or to perform computer
5 maintenance or replacement operations; provided the vendor agrees to
6 protect and safeguard the information it receives and to destroy the
7 information when no longer needed for the purposes set out in the
8 contract;

9 26. The release of information to employees of the Office of
10 Juvenile Affairs ~~of information~~ for use in assessing results and
11 outcomes of clients served as well as the effectiveness of state and
12 local juvenile and justice programs including prevention and
13 treatment programs. The information obtained shall be kept
14 confidential by the Office of Juvenile Affairs and shall not be
15 disclosed or be open to public inspection. The Office of Juvenile
16 Affairs may release aggregated data for programs or larger aggregate
17 units, provided that the aggregation meets disclosure requirements
18 of the Oklahoma Employment Security Commission;

19 27. The release of information to vendors that contract with
20 the State of Oklahoma for the purpose of providing a public
21 electronic labor exchange system that will support the Oklahoma
22 Employment Security Commission's operation of an employment service
23 system to connect employers with job seekers and military veterans.
24 This labor exchange system would enhance the stability and security

1 of Oklahoma's economy as well as support the provision of veterans'
2 priority of service. The vendors may perform computer programming
3 operations, perform computer maintenance or replacement operations,
4 or host the electronic solution; provided each vendor agrees to
5 protect and safeguard all information received, that no information
6 shall be disclosed to any third party, that the use of the
7 information shall be restricted to the scope of the contract, and
8 that the vendor shall properly dispose of all information when no
9 longer needed for the purposes set out in the contract; or

10 28. The release of employer tax information and benefit claim
11 information to employees of a county public defender's office in the
12 State of Oklahoma and the Oklahoma Indigent Defense System for the
13 purpose of determining financial eligibility for the services
14 provided by such entities.

15 D. Subpoenas to compel disclosure of information made
16 confidential by this statute shall not be valid, except for
17 administrative subpoenas issued by federal, state, or local
18 governmental agencies that have been granted subpoena power by
19 statute or ordinance. Confidential information maintained by the
20 Commission can be obtained by order of a court of record that
21 authorizes the release of the records in writing. All
22 administrative subpoenas or court orders for production of documents
23 must provide a minimum of twenty (20) days from the date it is
24 served for the Commission to produce the documents. If the date on

1 which production of the documents is required is less than twenty
2 (20) days from the date of service, the subpoena or order shall be
3 considered void on its face as an undue burden or hardship on the
4 Commission. All administrative subpoenas, court orders or notarized
5 waivers of confidentiality authorized by paragraph 2 of subsection C
6 of this section shall be presented with a request for records within
7 ninety (90) days of the date the document is issued or signed, and
8 the document can only be used one time to obtain records.

9 E. Should any of the disclosures provided for in this section
10 require more than casual or incidental staff time, the Commission
11 shall charge the cost of the 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 37. AMENDATORY 40 O.S. 2011, Section 5-107, is
18 amended to read as follows:

19 Section 5-107. WRONGFUL DISCLOSURE OF INFORMATION.

20 If any employee or member of the Board of Review or the Oklahoma
21 Employment Security Commission or any employee of the Commission, ~~in~~
22 ~~violation of~~ or any employee of a governmental unit, private
23 business or nonprofit entity that is allowed access to information
24 under Section 4-508 of this title, makes any disclosure of

1 confidential information ~~obtained from any employing unit or~~
2 ~~individual in the administration of this act~~ or otherwise violates
3 Section 4-508 of this title, or if any person who has obtained any
4 list of applicants for work, or of claimants or recipients of
5 benefits, under ~~this act~~ Section 5-101 et seq. of this title shall
6 use or permit the use of such list for any political purpose, ~~he~~
7 such individual shall be guilty of a misdemeanor and shall be
8 punished by a fine of not less than Fifty Dollars (\$50.00) nor more
9 than Five Hundred Dollars (\$500.00), or imprisoned for not longer
10 than ninety (90) days, or both.

11 SECTION 38. This act shall become effective November 1, 2021.

12 Passed the Senate the 9th day of March, 2021.

13

14

Presiding Officer of the Senate

15

16 Passed the House of Representatives the ____ day of _____,
17 2021.

18

19

Presiding Officer of the House
of Representatives

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