

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 794

By: Leewright of the Senate

and

Wallace of the House

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10                                   COMMITTEE SUBSTITUTE

11           An Act relating to the Oklahoma Employment Security  
12           Commission; amending 40 O.S. 2011, Section 1-210, as  
13           last amended by Section 2, Chapter 342, O.S.L. 2019  
14           (40 O.S. Supp. 2020, Section 1-210), which relates to  
15           employment; modifying statutory language; deleting  
16           gender references; amending 40 O.S. 2011, Section 1-  
17           224, as amended by Section 2, Chapter 71, O.S.L. 2013  
18           (40 O.S. Supp. 2020, Section 1-224), which relates to  
19           filing; making e-file preference for filing;  
20           requiring notice for other filing methods; deleting  
21           statutory language; amending 40 O.S. 2011, Section 2-  
22           203, as last amended by Section 3, Chapter 251,  
23           O.S.L. 2019 (40 O.S. Supp. 2020, Section 2-203),  
24           which relates to claims; providing digital portal for  
          claims; amending 40 O.S. 2011, Section 2-209, as last  
          amended by Section 2, Chapter 14, O.S.L. 2018 (40  
          O.S. Supp. 2020, Section 2-209), which relates to  
          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



1 employees; amending 40 O.S. 2011, Section 2-503, as  
2 last amended by Section 5, Chapter 251, O.S.L. 2019  
3 (40 O.S. Supp. 2020, Section 2-503), which relates to  
4 notice and objections; construing certain notices;  
5 providing certain notices by e-filing; stating time  
6 for notices; permitting objections by e-filing;  
7 listing reasons for objection; amending 40 O.S. 2011,  
8 Section 2-610, which relates to judicial review;  
9 modifying language; amending 40 O.S. 2011, Section 2-  
10 616, as amended by Section 7, Chapter 71, O.S.L. 2013  
11 (40 O.S. Supp. 2020, Section 2-616), which relates to  
12 overpayment; distinguishing fraud and claimant error  
13 in overpayment; providing appeal process; stating  
14 time for appeal; making determination final without  
15 appeal; amending 40 O.S. 2011, Section 2-801, as  
16 amended by Section 9, Chapter 14, O.S.L. 2018 (40  
17 O.S. Supp. 2020, Section 2-801), which relates to  
18 child support collection; modifying methods for  
19 notification of child support; deleting statutory  
20 language; amending 40 O.S. 2011, Section 3-106.1,  
21 which relates to benefit wages charged; exempting  
22 certain benefit wages for pandemic; amending 40 O.S.  
23 2011, Section 3-307, which relates to remittances;  
24 providing for automatic clearinghouse payments;  
authorizing certain payment methods; 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



1 Regents for Higher Education for receipt of certain  
2 information; authorizing certain partners of the  
3 Workforce Innovation and Opportunity Act to receive  
4 certain information; amending 40 O.S. 2011, Section  
5 5-107, which relates to wrongful disclosure of  
6 information; expanding wrongful disclosure of  
7 information; providing for codification; and  
8 providing an effective date.

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

10 SECTION 1. AMENDATORY 40 O.S. 2011, Section 1-210, as  
11 last amended by Section 2, Chapter 342, O.S.L. 2019 (40 O.S. Supp.  
12 2020, Section 1-210), is amended to read as follows:

13 Section 1-210. EMPLOYMENT.

14 "Employment" means:

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

17 (a) any officer of a corporation; or

18 (b) any individual who, under the usual common-law rules  
19 applicable in determining the employer-employee  
20 relationship, as provided in paragraph (14) of this  
21 section, has the status of an employee.

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



1 (i) as an agent-driver or commission-driver engaged  
2 in distributing meat products, vegetable  
3 products, fruit products, bakery products,  
4 beverages other than milk, or laundry or dry  
5 cleaning services, for ~~his or her~~ the  
6 individual's principal; or

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

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

19 (a) of this paragraph if:

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

23 (ii) the individual does not have a substantial  
24 investment in facilities used in connection with



1 the performance of the services, other than in  
2 facilities for transportation; and

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

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

15 (4) Service performed by an individual in the employ of a  
16 community chest, fund, foundation or corporation, organized and  
17 operated exclusively for religious, charitable, scientific, testing  
18 for public safety, literary or educational purposes, or for the  
19 prevention of cruelty to children or animals, no part of the net  
20 earnings of which inures to the benefit of any private shareholder  
21 or individual, no substantial part of the activities of which is  
22 carrying on propaganda, or otherwise attempting to influence  
23 legislation and which does not participate in, or intervene in,  
24 including the publishing or distributing of statements, any



1 political campaign on behalf of any candidate for public office;  
2 provided that such organization had four or more individuals in  
3 employment for some portion of a day in each of twenty (20)  
4 different weeks, whether or not such weeks were consecutive, within  
5 either the calendar year or preceding calendar year, regardless of  
6 whether they were employed at the same moment of time.

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

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

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

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

22 (b) for the purposes of this paragraph any individual who  
23 is a member of a crew furnished by a crew leader to  
24 perform service in agricultural labor for any other



1 person shall be treated as an employee of the crew  
2 leader:

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

12 (ii) if the individual is not an employee of the other  
13 person within the meaning of paragraph (1) of  
14 this section or subparagraph (d) of this  
15 paragraph.

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

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

23 (ii) the other person shall be treated as having paid  
24 cash remuneration to the individual in an amount



1 equal to the amount of cash remuneration paid to  
2 the individual by the crew leader, either on ~~his~~  
3 ~~or her~~ the individual's own behalf or on behalf  
4 of the other person, for the service in  
5 agricultural labor performed for the other  
6 person.

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

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

11 (ii) pays, either on ~~his or her~~ the individual's own  
12 behalf or on behalf of another person, the  
13 individuals so furnished by the crew leader for  
14 the service in agricultural labor performed by  
15 them; and

16 (iii) has not entered into a written agreement with the  
17 other person (farm operator) under which the  
18 individual is designated as an employee of the  
19 other person.

20 (6) The term "employment" shall include domestic service in a  
21 private home, local college club or local chapter of a college  
22 fraternity or sorority performed for a person or entity who paid  
23 cash remuneration of One Thousand Dollars (\$1,000.00) or more to  
24



1 individuals employed in domestic service in any calendar quarter in  
2 the calendar year or the preceding calendar year.

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

5 (a) in the employ of:

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

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

13 (iii) an elementary or secondary school which is  
14 operated primarily for religious purposes, which  
15 is described in 26 U.S.C., Section 501(c)(3), and  
16 which is exempt from tax under 26 U.S.C., Section  
17 501(a);

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

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



- 1 (i) as an elected official;
- 2 (ii) as a member of a legislative body, or a member of
- 3 the judiciary of a state or political
- 4 subdivision;
- 5 (iii) as a member of the State National Guard or Air
- 6 National Guard;
- 7 (iv) as an employee serving on a temporary basis in
- 8 case of fire, storm, snow, earthquake, flood or
- 9 similar emergency;
- 10 (v) in a position which, under or pursuant to the
- 11 laws of this state, is designated as a major
- 12 nontenured policymaking or advisory position, or
- 13 a policymaking or advisory position the
- 14 performance of the duties of which ordinarily
- 15 does not require more than eight (8) hours per
- 16 week;
- 17 (vi) as an election official or election worker if the
- 18 amount of remuneration received by the individual
- 19 during the calendar year for services as an
- 20 election official or election worker is less than
- 21 One Thousand Dollars (\$1,000.00);
- 22 (d) by an individual who is participating or enrolled in a
- 23 program of an organization that provides
- 24 rehabilitation through work for individuals whose



1           earning capacity is impaired by age, physical or  
2           mental deficiency, or injury, or a program of an  
3           organization that provides work for individuals who,  
4           because of their impaired mental or physical capacity  
5           cannot be readily absorbed into the competitive labor  
6           market; provided that the services are performed by a  
7           program participant on real property owned or leased  
8           directly by the organization or by a program  
9           participant working under a special certificate issued  
10          by the U.S. Secretary of Labor pursuant to 29 U.S.C.,  
11          Section 214(c) and 29 C.F.R., Section 525.1 et seq.;

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

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

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



- 1 (a) the employer's principal place of business in the  
2 United States is located in this state;
- 3 (b) the employer has no place of business in the United  
4 States, but:
- 5 (i) the employer is an individual who is a resident  
6 of this state;
- 7 (ii) the employer is a corporation which is organized  
8 under the laws of this state; or
- 9 (iii) the employer is a partnership or a trust and the  
10 number of the partners or trustees who are  
11 residents of this state is greater than the  
12 number who are residents of any one other state;
- 13 (c) none of the criteria of subparagraphs (a) and (b) of  
14 this paragraph are met but the employer has elected  
15 coverage in this state or, the employer having failed  
16 to elect coverage in any state, the individual has  
17 filed a claim for benefits, based on such service,  
18 under the laws of this state;
- 19 (d) an "American employer", for purposes of this  
20 subsection, means a person who is:
- 21 (i) an individual who is a resident of the United  
22 States;
- 23 (ii) a partnership if two-thirds (2/3) or more of the  
24 partners are residents of the United States;



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

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

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

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

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

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

23 (b) includes any service which is required to be  
24 "employment" for full tax credit to be allowed against



1 the tax imposed by the Federal Unemployment Tax Act of  
2 1954, Public Law 591, Chapter 736, as amended, 26  
3 U.S.C., Section 3301 et seq.

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

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

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

9 (i) the individual's base of operations, or, if there  
10 is no base of operations, then the place from  
11 which the individual's employment is directed or  
12 controlled is in this state; or

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

18 (12) (a) Services covered by an election pursuant to Section 3-  
19 203 of this title; and

20 (b) services covered by an arrangement pursuant to Section  
21 4-701 et seq. of this title between the Oklahoma  
22 Employment Security Commission and the agency charged  
23 with the administration of any other state or federal  
24 unemployment compensation law, pursuant to which all



1 services performed by an individual for an employing  
2 unit are deemed to be performed entirely within this  
3 state,

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

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

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

10 or

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

16 (14) Notwithstanding any other provision of this subsection,  
17 services performed by an individual for wages shall be deemed to be  
18 employment subject to the Employment Security Act of 1980 if the  
19 services are performed by the individual in an employer-employee  
20 relationship with the employer using the 20-factor test used by the  
21 Internal Revenue Service of the United States Department of Treasury  
22 in Revenue Ruling 87-41, 1987-1 C.B. 296. The Oklahoma Employment  
23 Security Commission shall have the ~~exclusive~~ exclusive authority to  
24



1 make a determination of whether an individual is an independent  
2 contractor or employee.

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

- 4 (a) services performed by an individual in agricultural  
5 labor, except as provided under paragraph (5) of this  
6 section. Services performed by an individual who is a  
7 nonresident alien admitted to the United States to  
8 perform agricultural labor, pursuant to 8 U.S.C.,  
9 Sections 1101(a), 1184(c) and 1188. For purposes of  
10 this subparagraph, the term "agricultural labor" means  
11 remunerated service performed in agricultural labor as  
12 defined in the Federal Unemployment Tax Act, 26  
13 U.S.C., Section 3306(k);
- 14 (b) domestic service, except as provided under paragraph  
15 (6) of this section, in a private home, local college  
16 club, or local chapter of a college fraternity or  
17 sorority;
- 18 (c) service performed by an individual in the employ of  
19 his or her son, daughter, or spouse, and service  
20 performed by a child under the age of twenty-one (21)  
21 in the employ of his or her father or mother, or both  
22 father and mother;
- 23 (d) service performed in the employ of the United States  
24 government or an instrumentality of the United States



1 exempt under the Constitution of the United States  
2 from the contributions imposed by the Employment  
3 Security Act of 1980, except that to the extent that  
4 the Congress of the United States shall permit states  
5 to require any instrumentalities of the United States  
6 to make payments into an unemployment fund under a  
7 state unemployment compensation law, all of the  
8 provisions of the Employment Security Act of 1980  
9 shall be applicable to such instrumentalities, and to  
10 services performed for such instrumentalities, in the  
11 same manner, to the same extent, and on the same terms  
12 as to all other employers, employing units,  
13 individuals and services; provided that if this state  
14 shall not be certified for any year by the Secretary  
15 of Labor of the United States under the Federal  
16 Internal Revenue Code, 26 U.S.C., Section 3304(c), the  
17 payments required of such instrumentalities with  
18 respect to the year shall be refunded by the  
19 Commission from the fund in the same manner and within  
20 the same period as is provided in Section 3-304 of  
21 this title with respect to contributions erroneously  
22 collected;



- 1 (e) service with respect to which unemployment  
2 compensation is payable under an unemployment  
3 compensation system established by an act of Congress;
- 4 (f) service performed in the employ of a foreign  
5 government, including service as a consul or other  
6 officer or employee or a nondiplomatic representative;
- 7 (g) service performed in the employ of an instrumentality  
8 wholly owned by a foreign government:
- 9 (i) if the service is of a character similar to that  
10 performed in foreign countries by employees of  
11 the United States government or of an  
12 instrumentality thereof, and
- 13 (ii) if the Commission finds that the United States  
14 Secretary of State has certified to the United  
15 States Secretary of the Treasury that the foreign  
16 government, with respect to whose instrumentality  
17 exemption is claimed, grants an equivalent  
18 exemption with respect to similar service  
19 performed in the foreign country by employees of  
20 the United States government and of  
21 instrumentalities thereof;
- 22 (h) service covered by an arrangement between the  
23 Commission and the agency charged with the  
24 administration of any other state or federal



1 unemployment compensation law pursuant to which all  
2 services performed by an individual for an employing  
3 unit during the period covered by such employing  
4 unit's duly approved election, are deemed to be  
5 performed entirely within the jurisdiction of such  
6 other state or federal agency;

7 (i) service performed as a student nurse in the employ of  
8 a hospital or a nurses' training school by an  
9 individual who is enrolled and is regularly attending  
10 classes in a nurses' training school chartered or  
11 approved pursuant to state law; and service performed  
12 as an intern in the employ of a hospital by an  
13 individual who has completed a four-year course in a  
14 medical school chartered or approved pursuant to state  
15 law;

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

23 (k) service performed by an individual under the age of  
24 eighteen (18) in the delivery and distribution of



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

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

12 (ii) substantially all the remuneration, whether or  
13 not paid in cash, for the performance of the  
14 services described in division (i) of this  
15 subparagraph is directly related to sales or  
16 other output, including the performance of  
17 services, rather than the number of hours worked,  
18 and

19 (iii) the services performed by the individual are  
20 performed pursuant to a written contract between  
21 the person and the person for whom the services  
22 are performed and the contract provides that the  
23 person will not be treated as an employee with  
24 respect to the services;



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

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

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

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

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

15 (m) service performed by an individual who is enrolled at  
16 a nonprofit or public educational institution which  
17 normally maintains a regular faculty and curriculum  
18 and normally has a regularly organized body of  
19 students in attendance at the place where its  
20 educational activities are carried on as a student in  
21 a full-time program, taken for credit at the  
22 institution, which combines academic instruction with  
23 work experience, if the service is an integral part of  
24 the program, and the institution has so certified to



1 the employer, except that this provision shall not  
2 apply to service performed in a program established  
3 for or on behalf of an employer or group of employers;

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

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

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

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

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



- 1 (s) services performed as a participant in a work or  
2 training program administered by the Department of  
3 Human Services;
- 4 (t) riding services performed by a jockey and services  
5 performed by a trainer of ~~race-horses~~ racehorses in  
6 preparation for and during an approved race meeting  
7 licensed by the Oklahoma Horse Racing Commission;
- 8 (u) service performed by an individual whose remuneration  
9 consists solely of commissions, overrides, bonuses,  
10 and differentials related to sales or other output  
11 derived from in-person sales to, or solicitation of  
12 orders from, ultimate consumers primarily in the home,  
13 or otherwise than in a permanent retail establishment;
- 14 (v) service performed by a person, commonly referred to as  
15 "owner-operator", who owns or leases a truck-tractor  
16 or truck for hire, provided the owner-operator  
17 actually operates the truck-tractor or truck and,  
18 further, that the entity contracting with the owner-  
19 operator is not the lessor of the truck-tractor or  
20 truck;
- 21 (w) services performed as a chopper of cotton who weeds or  
22 thins cotton crops by hand or hoe. This subsection  
23 shall be interpreted and applied consistently with the  
24



Federal Unemployment Tax Act, 26 U.S.C., Sections  
3304(a)(6)(A) and 3306(k);

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

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

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

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

(y) services performed by persons working under an  
AmeriCorps grant from the Corporation for National



1 Service made pursuant to the National and Community  
2 Service Act of 1990 (NCSA) codified at 42 U.S.C.,  
3 Section 12501 et seq.

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

7 Section 1-224. FILE.

8 A. For purposes of this section "OESC 2020-21 business process  
9 transformation" means a change from paper process to integrated  
10 digital technology. Upon completion of the OESC 2020-21 business  
11 process transformation, electronic e-filing will be the Commission's  
12 preferred filing method for tendering and receiving documents. All  
13 claimants and employers tendering documents to the Commission will  
14 be expected to tender the documents electronically. If the claimant  
15 or employer has elected to utilize other means of transmittal it  
16 will be the responsibility of the claimant or employer to notify the  
17 Commission of this preference.

18 B. When any document is required to be filed by the provisions  
19 of the Employment Security Act of 1980 or the rules promulgated  
20 under the authority of the Employment Security Act of 1980 with the  
21 Oklahoma Employment Security Commission, any of its representatives,  
22 or the Board of Review for the Oklahoma Employment Security  
23 Commission, the term "file", "files", or "filed" shall be defined as  
24 follows:



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

4        2. Telefaxed to the telefax number indicated on the  
5 determination letter, order or other document issued by the Oklahoma  
6 Employment Security Commission by midnight on or before the date  
7 due. Timely telefaxing shall be determined by the date and time  
8 recorded by the Commission's telefax equipment;

9        3. Mailed with sufficient postage and properly addressed to the  
10 address indicated on the determination letter, order or other  
11 document issued by the Oklahoma Employment Security Commission on or  
12 before the date due. Timely mailing shall be determined by the  
13 postmark. If there is no proof from the post office of the date of  
14 mailing, the date of receipt by the Commission shall constitute the  
15 date of filing; or

16        4. ~~Electronically transmitted via data lines~~ Electronic e-  
17 filing to the Oklahoma Employment Security Commission, as directed  
18 by the instructions on the determination letter, order or other  
19 document issued by the Commission, by midnight on or before the date  
20 due. Timely transmission shall be determined by the Commission's  
21 transmission log file.

22        ~~B.~~ C. If the Employment Security Act of 1980 or the rules  
23 promulgated under the Employment Security Act of 1980 require that a  
24 document be filed with a court or any other agency of this state,



1 the term "file", "files" or "filed" shall be defined by the  
2 statutes, rules or practice governing that court or agency.

3 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-203, as  
4 last amended by Section 3, Chapter 251, O.S.L. 2019 (40 O.S. Supp.  
5 2020, Section 2-203), is amended to read as follows:

6 Section 2-203. CLAIM.

7 A. An unemployed individual must file an initial claim for  
8 unemployment benefits ~~by calling an Oklahoma Employment Security~~  
9 ~~Commission claims representative in a Commission Call Center,~~ by  
10 completing the required forms through the Internet Claims service  
11 provided by the Commission, or by completing all forms necessary to  
12 process an initial claim in a local office of the Commission or any  
13 alternate site designated by the Commission to take unemployment  
14 benefit claims. The Commission may obtain additional information  
15 regarding an individual's claim through any form of  
16 telecommunication, writing, or interview. An unemployed individual  
17 must file a claim ~~in writing or~~ by telecommunication ~~for or by~~  
18 Internet utilizing the digital services portal to create an account  
19 to access benefits with respect to each week in accordance with such  
20 rule as the Commission may prescribe.

21 B. 1. During the process of filing an initial claim for  
22 unemployment benefits, the claimant shall be made aware of the  
23 definition of misconduct set out in Section 2-406 of this title, and  
24 the claimant shall affirmatively certify that the answers given to



1 all questions in the initial claim process are true and correct to  
2 the best of the claimant's knowledge and that no information has  
3 been intentionally withheld or misrepresented in an attempt by the  
4 claimant to receive benefits to which ~~he or she~~ the claimant is not  
5 entitled.

6 2. The certification statement required in paragraph 1 of this  
7 subsection shall be available through the Internet Claims service  
8 provided by the Commission and by a form to be completed by the  
9 claimant in a local office of the Commission or at any alternate  
10 site designated by the Commission to take unemployment benefit  
11 claims.

12 C. With respect to each week, ~~he or she~~ the claimant must  
13 provide the Commission with a true and correct statement of all  
14 material facts relating to: ~~his or her~~ unemployment; ability to  
15 work; availability for work; activities or conditions which could  
16 restrict the individual from seeking or immediately accepting full-  
17 time employment or part-time work if subsection 4 (4) of Section 2-  
18 408 of this title applies; applications for or receipt of workers'  
19 compensation benefits; employment and earnings; and the reporting of  
20 other income from retirement, pension, disability, self-employment,  
21 education or training allowances.

22 D. No claim will be allowed or paid unless the claimant resides  
23 within a state or foreign country with which the State of Oklahoma  
24



1 has entered into a reciprocal or cooperative arrangement pursuant to  
2 Part 7 of Article IV of the Employment Security Act of 1980.

3 E. The Commission may require the individual to produce  
4 documents or information relevant to the claim for benefits. If the  
5 individual fails to produce it, the individual's claim for  
6 unemployment benefits may be disqualified indefinitely by the  
7 Commission until the information is produced. An individual that  
8 has been disqualified indefinitely by the provisions of this  
9 subsection may receive payment for any week between the initial  
10 failure and the compliance with this subsection if the claimant is  
11 otherwise eligible and has made a timely filing for each intervening  
12 week.

13 SECTION 4. AMENDATORY 40 O.S. 2011, Section 2-209, as  
14 last amended by Section 2, Chapter 14, O.S.L. 2018 (40 O.S. Supp.  
15 2020, Section 2-209), is amended to read as follows:

16 Section 2-209. BENEFITS FOR EMPLOYEES OF GOVERNMENTAL OR  
17 NONPROFIT EMPLOYERS.

18 Benefits based on service in employment defined in paragraph (3)  
19 or (4) of Section 1-210 of this title, including any federally  
20 operated educational institutions, shall be payable in the same  
21 amount, on the same terms and subject to the same conditions as  
22 benefits payable on the basis of other service subject to the  
23 Employment Security Act of 1980, except that:  
24



1       (1) With respect to service performed in an instructional,  
2 research or principal administrative capacity for an educational  
3 institution, benefits shall not be paid based on services for any  
4 week of unemployment commencing during the period between two (2)  
5 successive academic years, or during a similar period between two  
6 regular but not successive terms, or during a period of paid  
7 sabbatical leave provided for in the individual's contract, to any  
8 individual if the individual performs services in the first academic  
9 year or term and if there is a contract or a reasonable assurance  
10 that the individual will perform services in any such capacity for  
11 any educational institution in the second academic year or term;

12       (2) With respect to services performed in any other capacity  
13 for an educational institution, benefits shall not be paid on the  
14 basis of services to any individual for any week which commences  
15 during a period between two (2) successive academic years or terms  
16 if the individual performs services in the first academic year or  
17 term and there is a reasonable assurance that the individual will  
18 perform services in any such capacity in the second academic year or  
19 term, except that if compensation is denied to any individual  
20 pursuant to this paragraph and the individual was not offered an  
21 opportunity to perform services for the educational institution for  
22 the second academic year or term, the individual shall be entitled  
23 to a retroactive payment of compensation for each week for which the  
24



1 individual filed a timely claim for compensation and for which  
2 compensation was denied solely by reason of this clause;

3 (3) With respect to any services described in paragraphs (1)  
4 and (2) of this section, benefits shall not be payable on the basis  
5 of services in any capacities to any individual for any week which  
6 commences during an established and customary vacation period or  
7 holiday recess if the individual performs services in the period  
8 immediately before the vacation period or holiday recess, and there  
9 is a reasonable assurance that the individual will perform services  
10 in any such capacity in the period immediately following the  
11 vacation period or holiday recess;

12 (4) With respect to any services described in paragraphs (1)  
13 and (2) of this section, benefits shall not be payable on the basis  
14 of services in any capacities as specified in paragraphs (1), (2)  
15 and (3) of this section to any individual who performed services in  
16 an educational institution while in the employ of an educational  
17 service agency. For purposes of this paragraph, the term  
18 "educational service agency" means a governmental agency or  
19 governmental entity which is established and operated exclusively  
20 for the purpose of providing services to one or more educational  
21 institutions; and

22 (5) If services are provided to or on behalf of an educational  
23 institution by a private for-profit entity or an entity described in  
24 paragraph (3) or (4) of Section 1-210 of this title that is not an



1 educational institution or an educational service agency, the  
2 employees providing these services shall not be subject to the terms  
3 and conditions as described in paragraphs (1), (2), (3) and (4) of  
4 this section.

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

10 SECTION 5. AMENDATORY 40 O.S. 2011, Section 2-406, as  
11 last amended by Section 3, Chapter 220, O.S.L. 2014 (40 O.S. Supp.  
12 2020, Section 2-406), is amended to read as follows:

13 Section 2-406. DISCHARGE FOR MISCONDUCT.

14 A. An individual shall be disqualified for benefits if ~~he or~~  
15 ~~she~~ the individual has been discharged for misconduct connected with  
16 ~~his or her~~ the individual's last work. If discharged for  
17 misconduct, the employer shall have the burden to prove that the  
18 employee engaged in misconduct as defined by this section. Such  
19 burden of proof is satisfied by the employer, or its designated  
20 representative, providing a signed affidavit, or presenting such  
21 other evidence which properly demonstrates the misconduct which  
22 resulted in the discharge. Once this burden is met, the burden then  
23 shifts to the discharged employee to prove that the facts are  
24 inaccurate or that the facts as stated do not constitute misconduct



1 as defined by this section. Disqualification under this section  
2 shall continue for the full period of unemployment next ensuing  
3 after ~~he or she~~ the employee has been discharged for misconduct  
4 connected with ~~his or her~~ the employee's work and until such  
5 individual has become reemployed and has earned wages equal to or in  
6 excess of ten (10) times the weekly benefit amount.

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

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

13 2. Unapproved or excessive absenteeism or tardiness;

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

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

19 5. Dishonesty;

20 6. Wrongdoing;

21 7. Violation of a law; or

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



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

6 D. Any finding by a state or federal agency of any failure by  
7 the employee to meet the applicable civil, criminal or professional  
8 standards of the employee's profession shall create a rebuttable  
9 presumption of such misconduct, and benefits shall be denied, unless  
10 the employee can show, with clear and convincing evidence, that such  
11 misconduct did not occur, or the Commission determines that such  
12 failure did not constitute misconduct as defined herein.

13 SECTION 6. AMENDATORY Section 1, Chapter 338, O.S.L.  
14 2016 (40 O.S. Supp. 2020, Section 2-422), is amended to read as  
15 follows:

16 Section 2-422. A. Unemployment benefits based on services by a  
17 seasonal worker performed in seasonal employment are payable only  
18 for weeks of unemployment that occur during the normal seasonal work  
19 period. Benefits shall not be paid based on services performed in  
20 seasonal employment for any week of unemployment that begins during  
21 the period between two (2) successive normal seasonal work periods  
22 to any individual if that individual performs the service in the  
23 first of the normal seasonal work periods and if there is a  
24 reasonable assurance that the individual will perform the service



1 for a seasonal employer in the second of the normal seasonal work  
2 periods. The notice of reasonable assurance shall be given by the  
3 employer to the employee in writing on or before the last day of  
4 work in the season. If benefits are denied to an individual for any  
5 week solely as a result of this section and the individual is not  
6 offered an opportunity to perform in the second normal seasonal work  
7 period for which reasonable assurance of employment had been given,  
8 the individual is entitled to a retroactive payment of benefits  
9 under this section for each week that the individual previously  
10 filed a timely claim for benefits. An individual may apply for any  
11 retroactive benefits under this section in accordance with the  
12 provisions of Article 2 of the Employment Security Act of 1980.

13 B. If an individual has been employed by a nonseasonal employer  
14 during the base period of the individual's benefit year, the  
15 individual may become eligible for benefits during that between-  
16 season denial period based only on the wages of the nonseasonal  
17 employment.

18 C. Not less than twenty (20) days before the estimated  
19 beginning date of a normal seasonal work period, an employer may  
20 apply to the Commission in writing for designation as a seasonal  
21 employer. At the time of application, the employer shall  
22 conspicuously display a copy of the application on the employer's  
23 premises. Within ninety (90) days after receipt of the application,  
24 the Commission shall determine if the employer is a seasonal



1 employer. The employer may appeal this decision pursuant to the  
2 provisions of Section 3-115 of ~~Title 40 of the Oklahoma Statutes~~  
3 this title. A determination of the Commission concerning the status  
4 of an employer as a seasonal employer, or the decision of the  
5 Assessment Board or a court of this state through the administrative  
6 appeal process, which has become final, may be introduced in any  
7 proceeding involving a claim for benefits, and the facts found and  
8 decision issued in the determination or decision shall be conclusive  
9 unless substantial evidence to the contrary is introduced by or on  
10 behalf of the claimant.

11 ~~C.~~ D. If the employer is determined to be a seasonal employer,  
12 the employer shall give notice to each employee of the employer's  
13 status as a seasonal employer and the beginning and ending dates of  
14 the employer's normal seasonal work periods, and this notice shall  
15 be given to the employee within the first seven (7) days of  
16 employment. On or before the last day of work in the season, if the  
17 employer intends to issue a notice of reasonable assurance of  
18 employment for the next season, the employer shall also give notice  
19 to each employee advising that the employee shall timely file an  
20 initial application for unemployment benefits at the end of the  
21 current seasonal work period and file timely weekly continued claims  
22 thereafter to preserve ~~his or her~~ the employee's right to receive  
23 retroactive unemployment benefits if ~~he or she~~ such employee is not  
24 reemployed by the seasonal employer in the subsequent normal



1 seasonal work period. The ~~notices~~ notice must be on a separate  
2 document written in clear and concise language that states these  
3 provisions. Failure of the employer to give adequate notice as  
4 required by this subsection will result in the termination of the  
5 employer as a seasonal employer under subsection ~~D~~ E of this section  
6 and the allowance of any claim in which the claimant did not receive  
7 the required notice.

8 ~~D.~~ E. The Commission may issue a determination terminating an  
9 employer's status as a seasonal employer on the Commission's own  
10 motion for good cause, or upon the written request of the employer.  
11 The effective date of a termination determination under this  
12 subsection shall be set by the Commission. A determination under  
13 this subsection may be appealed pursuant to the provisions of  
14 Section 3-115 of ~~Title 40 of the Oklahoma Statutes~~ this title.

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

19 ~~F.~~ G. If a seasonal employer informs an employee who received  
20 assurance of being rehired that, despite the assurance, the employee  
21 will not be rehired at the beginning of the employer's next normal  
22 seasonal work period, this section does not prevent the employee  
23 from receiving unemployment benefits in the same manner and to the  
24 same extent he or she would receive benefits under the Employment



1 Security Act of 1980 from an employer who has not been determined to  
2 be a seasonal employer.

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

8 ~~H.~~ I. At the time an employee is hired by a seasonal employer,  
9 the employer shall notify the employee in writing if the employee  
10 will be a seasonal worker. The employer shall provide the worker  
11 with written notice of any subsequent change in the employee's  
12 status as a seasonal worker. If an employee of a seasonal employer  
13 is denied benefits because that employee is a seasonal worker, the  
14 employee may contest that designation by filing an appeal pursuant  
15 to the provisions of Part 6 of Article 2 of the Employment Security  
16 Act of 1980.

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

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

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



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

5        4. "Seasonal employer" means an employer, other than an  
6 employer in the construction industry, who applies to the Commission  
7 for designation as a seasonal employer and whom the Commission  
8 determines to be an employer whose operations and business require  
9 employees engaged in seasonal employment; and

10       5. "Seasonal worker" means a worker who has been paid wages by  
11 a seasonal employer for work performed only during the normal  
12 seasonal work period.

13       SECTION 7.        AMENDATORY        40 O.S. 2011, Section 2-503, as  
14 last amended by Section 5, Chapter 251, O.S.L. 2019 (40 O.S. Supp.  
15 2020, Section 2-503), is amended to read as follows:

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

17       A. Claims for benefits shall be made in accordance with all  
18 rules that the Oklahoma Employment Security Commission may  
19 prescribe.

20       B. Promptly after an initial claim or an additional initial  
21 claim is filed, the Commission shall give ~~written~~ notice of the  
22 claim to the last employer of the claimant for whom ~~he or she~~ the  
23 claimant worked at least fifteen (15) working days. The required  
24 fifteen (15) working days are not required to be consecutive.



1 Provided, that promptly after the Commission is notified of the  
2 claimant's separation from an employment obtained by a claimant  
3 during a continued claim series, the Commission shall give ~~written~~  
4 notice of the claim to the last separating employer. Notices to  
5 separating employers during a continued claim series will be given  
6 to the last employer in the claim week without regard to length of  
7 employment. Each notice shall contain an admonition that failure to  
8 respond to the notice could affect the employer's tax rate.

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

14 D. Notices shall be deemed to have been given ~~when the~~  
15 ~~Commission deposits the same in the United States mail addressed to~~  
16 ~~the employer's last-known address. Notice shall be presumed prima~~  
17 ~~facie to have been given to the employer to whom addressed on the~~  
18 ~~date stated in the written notice~~ at the last known address and by  
19 the date of the postmark on the envelope in which the notice was  
20 sent. If the employer has elected to be notified by electronic  
21 means according to procedures set out in Oklahoma Employment  
22 Security Commission rules, notice shall be deemed to be given when  
23 the Commission transmits the ~~notification~~ notice by electronic  
24 means.



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

6 1. Make the claimant ineligible for benefits under Sections 2-  
7 201 through 2-210 of this title;

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

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

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

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

17 Section 2-610. JUDICIAL REVIEW.

18 A. Within the thirty (30) days after the day a notice of  
19 decision of the Board of Review is mailed to the parties, the  
20 Oklahoma Employment Security Commission, or any party to the  
21 proceedings before the Board of Review, may obtain judicial review  
22 by filing in the district court of the county in which the claimant  
23 resides, or if the claimant is not a resident of the State of  
24 Oklahoma then in the District Court of Oklahoma County, a petition



1 for review of the decision of the Board of Review. The petition for  
2 review shall set out the names of all codefendants in the style of  
3 the case, which shall include:

- 4 1. The Board of Review;
- 5 2. The Oklahoma Employment Security Commission; and
- 6 3. All other parties to the proceeding before the Board of  
7 Review.

8 The petition for review need not be verified but shall state  
9 specifically the grounds upon which the review is sought. A copy of  
10 the petition for review shall be served upon the Board of Review at  
11 its official address and the petitioner shall also deliver to the  
12 Board of Review as many copies of the petition as there are  
13 defendants. The Board of Review shall ~~send~~ issue to each party to  
14 the proceeding a copy of the petition ~~by mail,~~ and the ~~mailing~~  
15 issuance shall be deemed to be service upon all the parties. In any  
16 proceeding under this section the findings of the Board of Review as  
17 to the facts, if supported by evidence, shall be conclusive and the  
18 jurisdiction of the court shall be confined to questions of law. No  
19 additional evidence shall be received by the court, but the court  
20 may remand the case and order additional evidence to be taken by the  
21 Appeal Tribunal of the Oklahoma Employment Security Commission.

22 B. Within sixty (60) days of the date of service of the  
23 petition on the Board of Review, the Board of Review shall file with  
24 the court a certified copy of the record of the case, including all



1 documents and papers properly admitted into evidence and a  
2 transcript of all testimony taken in the matter, together with the  
3 Board of Review's findings, conclusions~~7~~ and decision.

4 C. The proceedings shall be heard in a summary manner and shall  
5 be given precedence over all other civil cases. An appeal may be  
6 taken from the decision of the district court to the Supreme Court  
7 of this state in the same manner as is provided in other civil  
8 cases. It shall not be necessary as a condition precedent to  
9 judicial review of any decision of the Board of Review to enter  
10 exceptions to the rulings of the Board, and no bond shall be  
11 required as a condition of initiating a proceeding for judicial  
12 review or entering an appeal from the decision of the court. Upon  
13 the final termination of the judicial proceeding, the Board of  
14 Review shall enter an order in accordance with the mandate of the  
15 district or appellate court.

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

19 Section 2-616. NOTICE OF OVERPAYMENT DETERMINATION.

20 A. If the Oklahoma Employment Security Commission or its  
21 representative determines that an individual has been overpaid  
22 unemployment benefits pursuant to Section 2-613 of this title for  
23 fraud overpayment or claimant error overpayment, the individual  
24 shall be sent a notice of overpayment determination. If the



1 individual disagrees with this determination, the individual may  
2 file an appeal of the determination with the Appeal Tribunal within  
3 twenty (20) days after the date of the mailing of the notice to the  
4 individual's last-known address or, if the notice is not mailed,  
5 within twenty (20) days after the date of the delivery of the  
6 notice. If the individual fails to appeal the determination within  
7 the time provided, without good cause, then the determination will  
8 be deemed final and no further appeal shall be allowed.

9 B. If the Oklahoma Employment Security Commission or its  
10 representative determines that an individual has been overpaid  
11 unemployment benefits pursuant to paragraph 3 of Section 2-613 of  
12 this title relating to administrative 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 ten (10) days after the date of mailing of the notice to the  
17 individual's last-known address or, if the notice is not mailed,  
18 within ten (10) days after the date of the delivery of the notice.  
19 If the individual fails to appeal the determination within the time  
20 provided, without good cause, the determination will be deemed final  
21 and no further appeal shall be allowed.

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



1       Section 2-801. CHILD SUPPORT OBLIGATIONS.

2       A. ~~Beginning October 1, 1982, any individual filing a new claim~~  
3 ~~for unemployment compensation shall, at the time of filing such~~  
4 ~~claim, disclose whether or not the individual owes child support~~  
5 ~~obligations. If any such individual discloses that he or she owes~~  
6 ~~child support obligations, and is determined to be eligible for~~  
7 ~~unemployment compensation, the Commission shall notify the state or~~  
8 ~~local child support enforcement agency enforcing such obligation~~  
9 ~~that the individual has been determined to be eligible for~~  
10 ~~unemployment compensation~~ The Commission may enter into an agreement  
11 with the Department of Human Services for information required  
12 pursuant to Section 240.12 of Title 56 of the Oklahoma Statutes to  
13 identify persons that owe child support obligations.

14       B. The Commission shall deduct and withhold from any  
15 unemployment compensation payable to an individual that owes child  
16 support obligations÷

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

20       ~~(2) the amount, if any, determined by the Department of Human~~  
21 Services pursuant to an agreement submitted to the Commission under  
22 42 U.S.C., Section 654(19)(B)(i) by the state or local child support  
23 enforcement agency, unless paragraph (3) of this subsection is  
24 applicable, or



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

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

6 ~~(i) a court of competent jurisdiction within any~~  
7 ~~state, territory or possession of the United~~  
8 ~~States,~~

9 ~~(ii) a court of competent jurisdiction in any foreign~~  
10 ~~country with which the United States has entered~~  
11 ~~into an agreement which requires the United~~  
12 ~~States to honor such process, or~~

13 ~~(iii) an authorized official pursuant to an order of~~  
14 ~~such a court of competent jurisdiction or~~  
15 ~~pursuant to state or local law, and~~

16 ~~(b) is directed to, and the purpose of which is to compel,~~  
17 ~~a governmental entity, which holds monies which are~~  
18 ~~otherwise payable to an individual, to make a payment~~  
19 ~~from such monies to another party in order to satisfy~~  
20 ~~a legal obligation of such individual to provide child~~  
21 ~~support.~~

22 ~~C. All income withholding orders or other legal process issued~~  
23 ~~to collect child support through a deduction from unemployment~~  
24 ~~benefits and all other documents necessary to complete the deduction~~



1 ~~shall be served on the appropriate state or local child support~~  
2 ~~enforcement agency and on the Oklahoma Employment Security~~  
3 ~~Commission.~~

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

8 ~~E.~~ D. Any amount deducted and withheld under subsection B of  
9 this section shall for all purposes be treated as if it were paid to  
10 the individual as unemployment compensation and paid by such  
11 individual to the state ~~or local~~ child support enforcement agency in  
12 satisfaction of the individual's child support obligations.

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

19 ~~G.~~ F. This section applies only if appropriate arrangements  
20 have been made for reimbursement by the state ~~or local~~ child support  
21 enforcement agency for the administrative costs, as determined by  
22 the Commission, incurred by the Commission under this section which  
23 are attributable to child support obligations being enforced by the  
24 state ~~or local~~ child support enforcement agency.



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

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

6        (2) "State ~~or local~~ child support enforcement agency" means ~~any~~  
7 ~~agency of a state or a political subdivision thereof,~~ the Oklahoma  
8 Department of Human Services, which pursuant to Section 237 of Title  
9 56 of the Oklahoma Statutes is the single state agency in Oklahoma  
10 operating pursuant to a plan described in 42 U.S.C., Section 654,  
11 which has been approved by the Secretary of Health and Human  
12 Services under 42 U.S.C., Section 651 et seq.

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

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

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

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



1        B. The benefit wages charged to an employer for a given  
2 calendar year shall be the total of the benefit wages stated in the  
3 notices given to the employer by the Commission. ~~Provided, that on~~  
4 ~~and after April 19, 1995,~~ an employer's benefit wages shall not  
5 include wages paid by the employer to any employee who was separated  
6 from ~~his or her~~ employment as a direct result of a natural disaster,  
7 pandemic, fire, flood, or explosion that causes employees to be  
8 separated from one employer's employment. ~~The Commission shall~~  
9 ~~adopt emergency rules for immediate implementation of this section~~  
10 ~~and subsequently adopt permanent rules for review by the 1996~~  
11 ~~Legislature.~~

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

14        Section 3-307. A. All remittance, under Section 1-101 et seq.  
15 of this title, shall be made payable to the Oklahoma Employment  
16 Security Commission, at Oklahoma City, Oklahoma, by ~~bank~~ automatic  
17 clearinghouse (ACH) debit/credit, financial institution, draft,  
18 check, cashier's check, electronic fund transfer, credit card, money  
19 order, or money, and the Commission shall issue its receipt, for  
20 cash or money payment, to the payor. No remittance other than cash  
21 shall be in final discharge of liability due the Commission unless  
22 and until it shall have been paid in cash. All monies collected  
23 shall be deposited with the State Treasurer. There shall be  
24 assessed, in addition to any other penalties provided for by law, an



1 administrative service fee of Twenty-five Dollars (\$25.00) on each  
2 check returned to the Commission or any agent thereof by reason of  
3 the refusal of the ~~bank~~ financial institution upon which such check  
4 was drawn to honor the same. There shall be assessed, in addition  
5 to any other penalties provided for by law, an administrative  
6 service fee of Twenty-five Dollars (\$25.00) on each electronic fund  
7 transfer that fails due to insufficient funds in the payor's  
8 account.

9 B. Upon the return of any check by reason of the refusal of the  
10 ~~bank~~ financial institution upon which such check was drawn to honor  
11 the same, the Commission may file a bogus check complaint with the  
12 appropriate district attorney who shall refer the complaint to the  
13 Bogus Check Restitution Program established by Section 111 of Title  
14 22 of the Oklahoma Statutes. Funds collected through the program  
15 after collection of the fee authorized by Section 114 of Title 22 of  
16 the Oklahoma Statutes for deposit in the Bogus Check Restitution  
17 Program Fund in the county treasury shall be transmitted to the  
18 Commission and credited to the liability for which the returned  
19 check was drawn ~~and to~~ along with the administrative service fee  
20 provided by this section.

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

24



1           FORFEITURE OF TERMINATED EMPLOYER UNEMPLOYMENT TAX ACCOUNT

2                           OVERPAYMENTS

3           A. It is the fiduciary duty of the Oklahoma Employment Security  
4 Commission to return overpayments received in the Employer's  
5 Unemployment Tax Account. Upon the termination of the employer's  
6 unemployment tax account, the Commission will issue a refund of any  
7 remaining credit balance by mailing it to the last address provided  
8 by the employer. If an employer's unemployment tax account has been  
9 terminated and has a credit balance that has been at that level for  
10 a period of one hundred eighty (180) days or more without a refund  
11 being requested from the employer, the Commission will reduce the  
12 balance of that unemployment tax account to zero and consider the  
13 credit to be forfeited after the Commission has exercised its  
14 fiduciary duty.

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



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

3       Section 4-108.   EXECUTIVE DIRECTOR.

4       ~~A. The chief executive officer of the Commission shall be the~~  
5 ~~Executive Director who shall be appointed by and serve at the~~  
6 ~~pleasure of the Commission. The Executive Director shall have such~~  
7 ~~compensation and further duties as the Commission may establish.~~  
8 ~~The Executive Director may appoint in the unclassified service a~~  
9 ~~Deputy Director and an Associate Director, hire, promote and~~  
10 ~~terminate personnel, and shall fix the qualifications and duties of~~  
11 ~~such position. The Executive Director may also appoint in the~~  
12 ~~unclassified service secretaries to the Executive Director, Deputy~~  
13 ~~Director, and Associate Director personnel.~~

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

19       ~~1. Upon termination from the unclassified position, have the~~  
20 ~~right to be reinstated to the position within the Oklahoma~~  
21 ~~Employment Security Commission which was held prior to such~~  
22 ~~appointment, or to an equivalent position, unless the person was~~  
23 ~~terminated for a reason that would justify termination of a~~  
24



1 ~~classified employee or disqualify the person for reinstatement under~~  
2 ~~the Oklahoma Personnel Act or the rules implementing it; and~~

3 ~~2. Be entitled during the unclassified appointment to continue~~  
4 ~~to participate without interruption in any fringe benefit programs~~  
5 ~~available to career employees including, but not limited to,~~  
6 ~~retirement and insurance programs.~~

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

9 Section 4-311. COMMISSION SHALL PUBLISH RULES.

10 The Oklahoma Employment Security Commission shall cause ~~to be~~  
11 ~~printed for distribution to the public~~ the text of ~~this act~~ Section  
12 1-101 et seq. of this title, the Commission's rules, its annual  
13 reports to the Governor, and any other material the Commission deems  
14 relevant and suitable ~~and shall furnish the same to any person upon~~  
15 ~~application therefor~~ to be published on the Commission website in a  
16 manner that can be accessed by the general public.

17 SECTION 16. AMENDATORY 40 O.S. 2011, Section 4-312, as  
18 amended by Section 130, Chapter 304, O.S.L. 2012 (40 O.S. Supp.  
19 2020, Section 4-312), is amended to read as follows:

20 Section 4-312. PERSONNEL AND COMPENSATION.

21 Subject to other provisions of ~~this act~~ Section 1-101 et seq. of  
22 this title, the Oklahoma Employment Security Commission is  
23 authorized to appoint, fix the compensation and prescribe the duties  
24 and powers of such officers, accountants, attorneys, experts, and



1 other persons as may be necessary in the performance of its duties  
2 under ~~this act~~ Section 1-101 et seq. of this title. The Commission  
3 ~~may delegate to any such persons such power and authority as it~~  
4 ~~deems reasonable and proper for the effective administration of this~~  
5 ~~act, and may in its discretion bond any person handling moneys or~~  
6 ~~signing checks hereunder.~~ The Commission is authorized and directed  
7 to maintain the existing merit system covering all persons employed  
8 in the administration of this act and shall have authority, by rule,  
9 to provide for all matters which are appropriate to the  
10 establishment and maintenance of ~~such~~ a merit system on the basis of  
11 efficiency and fitness. The Commission is authorized to adopt ~~such~~  
12 rules as may be necessary to meet personnel standards ~~promulgated by~~  
13 ~~the Office of Management and Enterprise Services~~ pursuant to the  
14 Social Security Act, as amended, and the Act of Congress entitled  
15 "An Act to provide for the establishment of a national employment  
16 system, and for other purposes", approved June 6, 1933, as amended,  
17 ~~and to provide for the maintenance of the merit system required~~  
18 ~~under this section in conjunction with any merit system applicable~~  
19 ~~to any other state agency or agencies which meets the personnel~~  
20 ~~standards promulgated by the Office of Management and Enterprise~~  
21 ~~Services.~~

22 SECTION 17. AMENDATORY 40 O.S. 2011, Section 4-508, as  
23 last amended by Section 10, Chapter 251, O.S.L. 2019 (40 O.S. Supp.  
24 2020, Section 4-508), is amended to read as follows:



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

2   DISCLOSURE.

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

16       B.   Upon receipt of written request by any employer who  
17  maintains a Supplemental Unemployment Benefit (SUB) Plan, the  
18  Commission or its designated representative may release to that  
19  employer information regarding weekly benefit amounts paid its  
20  workers during a specified temporary layoff period, provided the  
21  Supplemental Unemployment Benefit (SUB) Plan requires benefit  
22  payment information before Supplemental Unemployment Benefits can be  
23  paid to the workers.   Any information disclosed under this provision



1 shall be utilized solely for the purpose outlined herein and shall  
2 be held strictly confidential by the employer.

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

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

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

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

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



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

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

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

20        8. The release of information to employees of the Oklahoma  
21 Department of Transportation ~~or any Metropolitan Planning~~  
22 ~~Organization as defined in 23 U.S.C., Section 134 and 49 U.S.C.,~~  
23 ~~Section 5303 of information~~ required for use in federally mandated  
24



1 regional transportation planning, which is performed as a part of  
2 its official duties;

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

7 10. The release of information to employees of the Attorney  
8 General, the Department of Labor, the Workers' Compensation  
9 Commission<sup>7</sup> and the Insurance Department for use in investigation of  
10 workers' compensation fraud;

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

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

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



1 strictly confidential by the Oklahoma State Regents for Higher  
2 Education;

3 14. The release of information to employees of the Oklahoma  
4 Department of Career and Technology Education, the Oklahoma State  
5 Regents for Higher Education, the Center for Economic and Management  
6 Research of the University of Oklahoma, the Center for Economic and  
7 Business Development at Southwestern Oklahoma State University, or a  
8 center of economic and business research or development at a  
9 comprehensive or regional higher education institution within The  
10 Oklahoma State System of Higher Education ~~of information~~ required to  
11 identify economic trends or educational outcomes. The information  
12 obtained shall be kept confidential by the Oklahoma Department of  
13 Career and Technology Education, the Oklahoma State Regents for  
14 Higher Education and the higher education institution and shall not  
15 be disclosed or be open to public inspection. The Oklahoma  
16 Department of Career and Technology Education, Oklahoma State  
17 Regents for Higher Education and the higher education institution  
18 may release aggregated data, provided that the aggregation meets  
19 disclosure requirements of the Commission;

20 15. The release of information to employees of the Office of  
21 Management and Enterprise Services ~~of information~~ required to  
22 identify economic trends. The information obtained shall be kept  
23 confidential by the Office of Management and Enterprise Services and  
24 shall not be disclosed or be open to public inspection. The Office



1 of Management and Enterprise Services may release aggregate data,  
2 provided that the aggregation meets disclosure requirements of the  
3 Oklahoma Employment Security Commission;

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

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

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

22 19. The release of wage and benefit claim information, at the  
23 discretion of the Commission, to an agency of this state or its  
24 political subdivisions that operate a program or activity designated



1 as a required partner in the Workforce Innovation and Opportunity  
2 Act One-Stop delivery system pursuant to 29 U.S.C.A., Section  
3 3151(b) (1), based on a showing of need made to the Commission and  
4 after an agreement concerning the release of information is entered  
5 into with the entity receiving the information. For the limited  
6 purpose of completing performance accountability reports required by  
7 the Workforce Innovation and Opportunity Act, only those designated  
8 required partners that meet the 20 CFR §603.2(d) definition of  
9 public official may contract with a private agent or contractor  
10 pursuant to 20 CFR §603.5(f) for the purpose of the private agent or  
11 contractor receiving confidential unemployment compensation  
12 information to the extent necessary to complete the performance  
13 accountability reports;

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

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

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



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

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

10       25. The release of information to vendors that contract with  
11 the Oklahoma Employment Security Commission to provide for the  
12 issuance of debit cards, to conduct electronic fund transfers, to  
13 perform computer programming operations, or to perform computer  
14 maintenance or replacement operations; provided the vendor agrees to  
15 protect and safeguard the information it receives and to destroy the  
16 information when no longer needed for the purposes set out in the  
17 contract;

18       26. The release of information to employees of the Office of  
19 Juvenile Affairs ~~of information~~ for use in assessing results and  
20 outcomes of clients served as well as the effectiveness of state and  
21 local juvenile and justice programs including prevention and  
22 treatment programs. The information obtained shall be kept  
23 confidential by the Office of Juvenile Affairs and shall not be  
24 disclosed or be open to public inspection. The Office of Juvenile



1 Affairs may release aggregated data for programs or larger aggregate  
2 units, provided that the aggregation meets disclosure requirements  
3 of the Oklahoma Employment Security Commission;

4 27. The release of information to vendors that contract with  
5 the State of Oklahoma for the purpose of providing a public  
6 electronic labor exchange system that will support the Oklahoma  
7 Employment Security Commission's operation of an employment service  
8 system to connect employers with job seekers and military veterans.  
9 This labor exchange system would enhance the stability and security  
10 of Oklahoma's economy as well as support the provision of veterans'  
11 priority of service. The vendors may perform computer programming  
12 operations, perform computer maintenance or replacement operations,  
13 or host the electronic solution; provided each vendor agrees to  
14 protect and safeguard all information received, that no information  
15 shall be disclosed to any third party, that the use of the  
16 information shall be restricted to the scope of the contract, and  
17 that the vendor shall properly dispose of all information when no  
18 longer needed for the purposes set out in the contract; or

19 28. The release of employer tax information and benefit claim  
20 information to employees of a county public defender's office in the  
21 State of Oklahoma and the Oklahoma Indigent Defense System for the  
22 purpose of determining financial eligibility for the services  
23 provided by such entities.



1 D. Subpoenas to compel disclosure of information made  
2 confidential by this statute shall not be valid, except for  
3 administrative subpoenas issued by federal, state, or local  
4 governmental agencies that have been granted subpoena power by  
5 statute or ordinance. Confidential information maintained by the  
6 Commission can be obtained by order of a court of record that  
7 authorizes the release of the records in writing. All  
8 administrative subpoenas or court orders for production of documents  
9 must provide a minimum of twenty (20) days from the date it is  
10 served for the Commission to produce the documents. If the date on  
11 which production of the documents is required is less than twenty  
12 (20) days from the date of service, the subpoena or order shall be  
13 considered void on its face as an undue burden or hardship on the  
14 Commission. All administrative subpoenas, court orders or notarized  
15 waivers of confidentiality authorized by paragraph 2 of subsection C  
16 of this section shall be presented with a request for records within  
17 ninety (90) days of the date the document is issued or signed, and  
18 the document can only be used one time to obtain records.

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

23 F. It is further provided that the provisions of this section  
24 shall be strictly interpreted and shall not be construed as



1 permitting the disclosure of any other information contained in the  
2 records and files of the Commission.

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

5 Section 5-107. WRONGFUL DISCLOSURE OF INFORMATION.

6 If any employee or member of the Board of Review or the Oklahoma  
7 Employment Security Commission or any employee of the Commission, ~~in~~  
8 ~~violation of~~ or any employee of a governmental unit, private  
9 business or nonprofit entity that is allowed access to information  
10 under Section 4-508 of this title, makes any disclosure of  
11 confidential information ~~obtained from any employing unit or~~  
12 ~~individual in the administration of this act~~ or otherwise violates  
13 Section 4-508 of this title, or if any person who has obtained any  
14 list of applicants for work, or of claimants or recipients of  
15 benefits, under ~~this act~~ Section 5-101 et seq. of this title shall  
16 use or permit the use of such list for any political purpose, ~~he~~  
17 such individual shall be guilty of a misdemeanor and shall be  
18 punished by a fine of not less than Fifty Dollars (\$50.00) nor more  
19 than Five Hundred Dollars (\$500.00), or imprisoned for not longer  
20 than ninety (90) days, or both.

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

22  
23 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND  
24 EFFICIENCY, dated 03/31/2021 - DO PASS, As Amended.