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February 11, 2021  
**AS AMENDED**

BILL NO. 794

By: Leewright

An Act relating to the Oklahoma Employment Security Commission; amending 40 O.S. 2011, Section 1-210, as last amended by Section 2, Chapter 342, O.S.L. 2019 (40 O.S. Supp. 2020, Section 1-210), which relates to employment; modifying statutory language; deleting gender references; amending 40 O.S. 2011, Section 1-224, as amended by Section 2, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2020, Section 1-224), which relates to filing; making e-file preference for filing; requiring notice for other filing methods; deleting statutory language; amending 40 O.S. 2011, Section 2-203, as last amended by Section 3, Chapter 251, O.S.L. 2019 (40 O.S. Supp. 2020, Section 2-203), 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 employees; amending 40 O.S. 2011, Section 2-503, as last amended by Section 5, Chapter 251, O.S.L. 2019 (40 O.S. Supp. 2020, Section 2-503), which relates to notice and objections; construing certain notices; providing certain notices by e-filing; stating time for notices; permitting objections by e-filing; listing reasons for objection; amending 40 O.S. 2011, Section 2-610, which relates to judicial review; modifying language; amending 40 O.S. 2011, Section 2-616, as amended by Section 7, Chapter 71, O.S.L. 2013

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

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

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

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

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

(a) any officer of a corporation; or

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

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

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

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

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

13       (a) of this paragraph if:

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

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

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

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

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

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

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

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

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

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

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

1 substantially all the members of the crew operate  
2 or maintain tractors, mechanized harvesting or  
3 crop-dusting equipment, or any other mechanized  
4 equipment, which is provided by the crew leader;  
5 and

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

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

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

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

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

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

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

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

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

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

(a) in the employ of:

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

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

6           (iii) an elementary or secondary school which is  
7           operated primarily for religious purposes, which  
8           is described in 26 U.S.C., Section 501(c)(3), and  
9           which is exempt from tax under 26 U.S.C., Section  
10          501(a);

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

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

18           (i) as an elected official;

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

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

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

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

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

16 (d) by an individual who is participating or enrolled in a  
17 program of an organization that provides  
18 rehabilitation through work for individuals whose  
19 earning capacity is impaired by age, physical or  
20 mental deficiency, or injury, or a program of an  
21 organization that provides work for individuals who,  
22 because of their impaired mental or physical capacity  
23 cannot be readily absorbed into the competitive labor  
24 market; provided that the services are performed by a

1 program participant on real property owned or leased  
2 directly by the organization or by a program  
3 participant working under a special certificate issued  
4 by the U.S. Secretary of Labor pursuant to 29 U.S.C.,  
5 Section 214(c) and 29 C.F.R., Section 525.1 et seq.;

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

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

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

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

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

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

- (ii) the employer is a corporation which is organized under the laws of this state; or
- (iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state;
- (c) none of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state;
- (d) an "American employer", for purposes of this subsection, means a person who is:
- (i) an individual who is a resident of the United States;
- (ii) a partnership if two-thirds (2/3) or more of the partners are residents of the United States;
- (iii) a trust, if all of the trustees are residents of the United States; or
- (iv) a corporation organized under the laws of the United States or of any state; and
- (e) the term "United States", for the purposes of this subsection, includes the states, the District of

1 Columbia, the Commonwealth of Puerto Rico and the  
2 Virgin Islands.

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

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

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

17 (b) includes any service which is required to be  
18 "employment" for full tax credit to be allowed against  
19 the tax imposed by the Federal Unemployment Tax Act of  
20 1954, Public Law 591, Chapter 736, as amended, 26  
21 U.S.C., Section 3301 et seq.

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

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

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

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

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

12 (12) (a) Services covered by an election pursuant to Section 3-  
13 203 of this title; and

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

22 shall be deemed to be employment if the Commission has approved an  
23 election of the employing unit for whom such services are performed,  
24

1 pursuant to which the entire service of such individual during the  
2 period covered by such election is deemed to be insured work.

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

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

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

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

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

22 (a) services performed by an individual in agricultural  
23 labor, except as provided under paragraph (5) of this  
24 section. Services performed by an individual who is a

1 nonresident alien admitted to the United States to  
2 perform agricultural labor, pursuant to 8 U.S.C.,  
3 Sections 1101(a), 1184(c) and 1188. For purposes of  
4 this subparagraph, the term "agricultural labor" means  
5 remunerated service performed in agricultural labor as  
6 defined in the Federal Unemployment Tax Act, 26  
7 U.S.C., Section 3306(k);

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

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

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

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

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

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

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

- 1 (i) if the service is of a character similar to that  
2 performed in foreign countries by employees of  
3 the United States government or of an  
4 instrumentality thereof, and
- 5 (ii) if the Commission finds that the United States  
6 Secretary of State has certified to the United  
7 States Secretary of the Treasury that the foreign  
8 government, with respect to whose instrumentality  
9 exemption is claimed, grants an equivalent  
10 exemption with respect to similar service  
11 performed in the foreign country by employees of  
12 the United States government and of  
13 instrumentalities thereof;
- 14 (h) service covered by an arrangement between the  
15 Commission and the agency charged with the  
16 administration of any other state or federal  
17 unemployment compensation law pursuant to which all  
18 services performed by an individual for an employing  
19 unit during the period covered by such employing  
20 unit's duly approved election, are deemed to be  
21 performed entirely within the jurisdiction of such  
22 other state or federal agency;
- 23 (i) service performed as a student nurse in the employ of  
24 a hospital or a nurses' training school by an

1 individual who is enrolled and is regularly attending  
2 classes in a nurses' training school chartered or  
3 approved pursuant to state law; and service performed  
4 as an intern in the employ of a hospital by an  
5 individual who has completed a four-year course in a  
6 medical school chartered or approved pursuant to state  
7 law;

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

15 (k) service performed by an individual under the age of  
16 eighteen (18) in the delivery and distribution of  
17 newspapers or shopping news, not including delivery or  
18 distribution to any point for subsequent delivery or  
19 distribution, and services performed by an individual  
20 eighteen (18) years of age or older who meets the  
21 definition of a "direct seller" as defined in 26  
22 U.S.C., Section 3508(b)(2), that states in pertinent  
23 part:  
24

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

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

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

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

20 (i) by a student who is enrolled and is regularly  
21 attending classes at the school, college, or  
22 university, or  
23  
24

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

- 4 (I) the employment of the spouse to perform the  
5 service is provided under a program to  
6 provide financial assistance to the student  
7 by the school, college, or university, and  
8 (II) the employment will not be covered by any  
9 program of unemployment insurance;

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

- (o) services performed by cooperative extension personnel holding federal appointments employed by state institutions of higher learning;
- (p) earnings of employees being paid by state warrants who are presently covered by the Federal Unemployment Compensation Act, 5 U.S.C., Section 8501 et seq., by virtue of their federal status;
- (q) cosmetology services performed by an individual in a beauty shop, as defined by Section 199.1 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the beauty shop leases or rents facilities for cosmetology to such individual;
- (r) barbering services performed by an individual in a barber shop, as defined by Section 61.5 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the barber shop leases or rents facilities for barbering to such individual;
- (s) services performed as a participant in a work or training program administered by the Department of Human Services;
- (t) riding services performed by a jockey and services performed by a trainer of ~~race horses~~ racehorses in preparation for and during an approved race meeting licensed by the Oklahoma Horse Racing Commission;

1 (u) service performed by an individual whose remuneration  
2 consists solely of commissions, overrides, bonuses,  
3 and differentials related to sales or other output  
4 derived from in-person sales to, or solicitation of  
5 orders from, ultimate consumers primarily in the home,  
6 or otherwise than in a permanent retail establishment;

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

14 (w) services performed as a chopper of cotton who weeds or  
15 thins cotton crops by hand or hoe. This subsection  
16 shall be interpreted and applied consistently with the  
17 Federal Unemployment Tax Act, 26 U.S.C., Sections  
18 3304(a)(6)(A) and 3306(k);

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

21 (i) if the individual is engaged primarily in  
22 negotiating for the acquisition or divestiture of  
23 mineral rights or negotiating business agreements  
24

1                   that provide for the exploration for or  
2                   development of minerals,

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

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

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

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

24       Section 1-224.   FILE.

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

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

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

21       2. Telefaxed to the telefax number indicated on the  
22 determination letter, order or other document issued by the Oklahoma  
23 Employment Security Commission by midnight on or before the date  
24

1 due. Timely telefaxing shall be determined by the date and time  
2 recorded by the Commission's telefax equipment;

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

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

16 ~~B.~~ C. If the Employment Security Act of 1980 or the rules  
17 promulgated under the Employment Security Act of 1980 require that a  
18 document be filed with a court or any other agency of this state,  
19 the term "file", "files" or "filed" shall be defined by the  
20 statutes, rules or practice governing that court or agency.

21 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-203, as  
22 last amended by Section 3, Chapter 251, O.S.L. 2019 (40 O.S. Supp.  
23 2020, Section 2-203), is amended to read as follows:

24 Section 2-203. CLAIM.

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

15       B. 1. During the process of filing an initial claim for  
16 unemployment benefits, the claimant shall be made aware of the  
17 definition of misconduct set out in Section 2-406 of this title, and  
18 the claimant shall affirmatively certify that the answers given to  
19 all questions in the initial claim process are true and correct to  
20 the best of the claimant's knowledge and that no information has  
21 been intentionally withheld or misrepresented in an attempt by the  
22 claimant to receive benefits to which ~~he or she~~ the claimant is not  
23 entitled.  
24

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

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

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

21        E. The Commission may require the individual to produce  
22 documents or information relevant to the claim for benefits. If the  
23 individual fails to produce it, the individual's claim for  
24 unemployment benefits may be disqualified indefinitely by the

1 Commission until the information is produced. An individual that  
2 has been disqualified indefinitely by the provisions of this  
3 subsection may receive payment for any week between the initial  
4 failure and the compliance with this subsection if the claimant is  
5 otherwise eligible and has made a timely filing for each intervening  
6 week.

7 SECTION 4. AMENDATORY 40 O.S. 2011, Section 2-209, as  
8 last amended by Section 2, Chapter 14, O.S.L. 2018 (40 O.S. Supp.  
9 2020, Section 2-209), is amended to read as follows:

10 Section 2-209. BENEFITS FOR EMPLOYEES OF GOVERNMENTAL OR  
11 NONPROFIT EMPLOYERS.

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

18 (1) With respect to service performed in an instructional,  
19 research or principal administrative capacity for an educational  
20 institution, benefits shall not be paid based on services for any  
21 week of unemployment commencing during the period between two (2)  
22 successive academic years, or during a similar period between two  
23 regular but not successive terms, or during a period of paid  
24 sabbatical leave provided for in the individual's contract, to any

1 individual if the individual performs services in the first academic  
2 year or term and if there is a contract or a reasonable assurance  
3 that the individual will perform services in any such capacity for  
4 any educational institution in the second academic year or term;

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

19 (3) With respect to any services described in paragraphs (1)  
20 and (2) of this section, benefits shall not be payable on the basis  
21 of services in any capacities to any individual for any week which  
22 commences during an established and customary vacation period or  
23 holiday recess if the individual performs services in the period  
24 immediately before the vacation period or holiday recess, and there

1 is a reasonable assurance that the individual will perform services  
2 in any such capacity in the period immediately following the  
3 vacation period or holiday recess;

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

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

21 (6) If an individual has employment with an educational  
22 institution and has employment with a noneducational employer or  
23 employers during the base period of the individual's benefit year,  
24

1 the individual may become eligible for benefits during the between-  
2 term denial period, based only on the noneducational employment.

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

6 Section 2-406. DISCHARGE FOR MISCONDUCT.

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

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

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

7 2. Unapproved or excessive absenteeism or tardiness;

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

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

13 5. Dishonesty;

14 6. Wrongdoing;

15 7. Violation of a law; or

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

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

23 D. Any finding by a state or federal agency of any failure by  
24 the employee to meet the applicable civil, criminal or professional

1 standards of the employee's profession shall create a rebuttable  
2 presumption of such misconduct, and benefits shall be denied, unless  
3 the employee can show, with clear and convincing evidence, that such  
4 misconduct did not occur, or the Commission determines that such  
5 failure did not constitute misconduct as defined herein.

6 SECTION 6. AMENDATORY Section 1, Chapter 338, O.S.L.  
7 2016 (40 O.S. Supp. 2020, Section 2-422), is amended to read as  
8 follows:

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

1 the individual is entitled to a retroactive payment of benefits  
2 under this section for each week that the individual previously  
3 filed a timely claim for benefits. An individual may apply for any  
4 retroactive benefits under this section in accordance with the  
5 provisions of Article 2 of the Employment Security Act of 1980.

6 B. If an individual has been employed by a nonseasonal employer  
7 during the base period of the individual's benefit year, the  
8 individual may become eligible for benefits during that between-  
9 season denial period based only on the wages of the nonseasonal  
10 employment.

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

1 decision issued in the determination or decision shall be conclusive  
2 unless substantial evidence to the contrary is introduced by or on  
3 behalf of the claimant.

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

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

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

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

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

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

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

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

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

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

22       4. "Seasonal employer" means an employer, other than an  
23 employer in the construction industry, who applies to the Commission  
24 for designation as a seasonal employer and whom the Commission

1 determines to be an employer whose operations and business require  
2 employees engaged in seasonal employment; and

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

6 SECTION 7. AMENDATORY 40 O.S. 2011, Section 2-503, as  
7 last amended by Section 5, Chapter 251, O.S.L. 2019 (40 O.S. Supp.  
8 2020, Section 2-503), is amended to read as follows:

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

10 A. Claims for benefits shall be made in accordance with all  
11 rules that the Oklahoma Employment Security Commission may  
12 prescribe.

13 B. Promptly after an initial claim or an additional initial  
14 claim is filed, the Commission shall give ~~written~~ notice of the  
15 claim to the last employer of the claimant for whom ~~he or she~~ the  
16 claimant worked at least fifteen (15) working days. The required  
17 fifteen (15) working days are not required to be consecutive.  
18 Provided, that promptly after the Commission is notified of the  
19 claimant's separation from an employment obtained by a claimant  
20 during a continued claim series, the Commission shall give ~~written~~  
21 notice of the claim to the last separating employer. Notices to  
22 separating employers during a continued claim series will be given  
23 to the last employer in the claim week without regard to length of  
24

1 employment. Each notice shall contain an admonition that failure to  
2 respond to the notice could affect the employer's tax rate.

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

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

19 E. Within ten (10) days after the date on the notice or the  
20 date of the postmark on the envelope in which the notice was sent,  
21 whichever is later, an employer may file with the Commission at the  
22 address prescribed in the notice written objections to the claim  
23 setting forth specifically the facts which:  
24

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

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

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

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

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

12       Section 2-610.    JUDICIAL REVIEW.

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

23       1. The Board of Review;

24       2. The Oklahoma Employment Security Commission; and

1        3. All other parties to the proceeding before the Board of  
2 Review.

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

17        B. Within sixty (60) days of the date of service of the  
18 petition on the Board of Review, the Board of Review shall file with  
19 the court a certified copy of the record of the case, including all  
20 documents and papers properly admitted into evidence and a  
21 transcript of all testimony taken in the matter, together with the  
22 Board of Review's findings, conclusions, and decision.

23        C. The proceedings shall be heard in a summary manner and shall  
24 be given precedence over all other civil cases. An appeal may be

1 taken from the decision of the district court to the Supreme Court  
2 of this state in the same manner as is provided in other civil  
3 cases. It shall not be necessary as a condition precedent to  
4 judicial review of any decision of the Board of Review to enter  
5 exceptions to the rulings of the Board, and no bond shall be  
6 required as a condition of initiating a proceeding for judicial  
7 review or entering an appeal from the decision of the court. Upon  
8 the final termination of the judicial proceeding, the Board of  
9 Review shall enter an order in accordance with the mandate of the  
10 district or appellate court.

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

14 Section 2-616. NOTICE OF OVERPAYMENT DETERMINATION.

15 A. If the Oklahoma Employment Security Commission or its  
16 representative determines that an individual has been overpaid  
17 unemployment benefits pursuant to Section 2-613 of this title for  
18 fraud overpayment or claimant error overpayment, the individual  
19 shall be sent a notice of overpayment determination. If the  
20 individual disagrees with this determination, the individual may  
21 file an appeal of the determination with the Appeal Tribunal within  
22 twenty (20) days after the date of the mailing of the notice to the  
23 individual's last-known address or, if the notice is not mailed,  
24 within twenty (20) days after the date of the delivery of the

1 notice. If the individual fails to appeal the determination within  
2 the time provided, without good cause, then the determination will  
3 be deemed final and no further appeal shall be allowed.

4 B. If the Oklahoma Employment Security Commission or its  
5 representative determines that an individual has been overpaid  
6 unemployment benefits pursuant to paragraph 3 of Section 2-613 of  
7 this title relating to administrative overpayment, the individual  
8 shall be sent a notice of overpayment determination. If the  
9 individual disagrees with this determination, the individual may  
10 file an appeal of the determination with the Appeal Tribunal within  
11 ten (10) days after the date of mailing of the notice to the  
12 individual's last-known address or, if the notice is not mailed,  
13 within ten (10) days after the date of the delivery of the notice.  
14 If the individual fails to appeal the determination within the time  
15 provided, without good cause, the determination will be deemed final  
16 and no further appeal shall be allowed.

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

20 Section 2-801. CHILD SUPPORT OBLIGATIONS.

21 ~~A. Beginning October 1, 1982, any individual filing a new claim~~  
22 ~~for unemployment compensation shall, at the time of filing such~~  
23 ~~claim, disclose whether or not the individual owes child support~~  
24 ~~obligations. If any such individual discloses that he or she owes~~

1 ~~child support obligations, and is determined to be eligible for~~  
2 ~~unemployment compensation, the Commission shall notify the state or~~  
3 ~~local child support enforcement agency enforcing such obligation~~  
4 ~~that the individual has been determined to be eligible for~~  
5 ~~unemployment compensation~~ The Commission may enter into an agreement  
6 with the Department of Human Services for information required  
7 pursuant to Section 240.12 of Title 56 of the Oklahoma Statutes to  
8 identify persons that owe child support obligations.

9 B. The Commission shall deduct and withhold from any  
10 unemployment compensation payable to an individual that owes child  
11 support obligations:

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

15 ~~(2) the amount, if any, determined by the Department of Human~~  
16 ~~Services pursuant to an agreement submitted to the Commission under~~  
17 ~~42 U.S.C., Section 654(19)(B)(i) by the state or local child support~~  
18 ~~enforcement agency, unless paragraph (3) of this subsection is~~  
19 ~~applicable, or~~

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

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

1                   ~~(i) a court of competent jurisdiction within any~~  
2                   ~~state, territory or possession of the United~~  
3                   ~~States,~~

4                   ~~(ii) a court of competent jurisdiction in any foreign~~  
5                   ~~country with which the United States has entered~~  
6                   ~~into an agreement which requires the United~~  
7                   ~~States to honor such process, or~~

8                   ~~(iii) an authorized official pursuant to an order of~~  
9                   ~~such a court of competent jurisdiction or~~  
10                  ~~pursuant to state or local law, and~~

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

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

23                 D. Any amount deducted and withheld under subsection B of this  
24                 section shall be paid by the Commission to the ~~appropriate state or~~

1 ~~local child support enforcement agency~~ Centralized Support Registry  
2 pursuant to Section 413 of **Title 43 of the Oklahoma Statutes.**

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

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

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

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

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

1 (2) "State ~~or local~~ child support enforcement agency" means ~~any~~  
2 ~~agency of a state or a political subdivision thereof,~~ the Oklahoma  
3 Department of Human Services, which pursuant to Section 237 of Title  
4 56 of the Oklahoma Statutes is the single state agency in Oklahoma  
5 operating pursuant to a plan described in 42 U.S.C., Section 654,  
6 which has been approved by the Secretary of Health and Human  
7 Services under 42 U.S.C., Section 651 et seq.

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

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

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

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

20 B. The benefit wages charged to an employer for a given  
21 calendar year shall be the total of the benefit wages stated in the  
22 notices given to the employer by the Commission. ~~Provided, that on~~  
23 ~~and after April 19, 1995,~~ an employer's benefit wages shall not  
24 include wages paid by the employer to any employee who was separated

1 from ~~his or her~~ employment as a direct result of a natural disaster,  
2 pandemic, fire, flood, or explosion that causes employees to be  
3 separated from one employer's employment. ~~The Commission shall~~  
4 ~~adopt emergency rules for immediate implementation of this section~~  
5 ~~and subsequently adopt permanent rules for review by the 1996~~  
6 ~~Legislature.~~

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

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

1 service fee of Twenty-five Dollars (\$25.00) on each electronic fund  
2 transfer that fails due to insufficient funds in the payor's  
3 account.

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

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

20 SECTION 13. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 3-311 of Title 40, unless there  
22 is created a duplication in numbering, reads as follows:  
23 FORFEITURE OF TERMINATED EMPLOYER UNEMPLOYMENT TAX ACCOUNT  
24 OVERPAYMENTS

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

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

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

24       Section 4-108.   EXECUTIVE DIRECTOR.

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

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

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

23       ~~2.~~ ~~Be entitled during the unclassified appointment to continue~~  
24 ~~to participate without interruption in any fringe benefit programs~~

~~available to career employees including, but not limited to,  
retirement and insurance programs.~~

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

Section 4-311. COMMISSION SHALL PUBLISH RULES.

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

SECTION 16. AMENDATORY 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), is amended to read as follows:

Section 4-312. PERSONNEL AND COMPENSATION.

Subject to other provisions of ~~this act~~ Section 1-101 et seq. of this title, the Oklahoma Employment Security Commission is authorized to appoint, fix the compensation and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under ~~this act~~ Section 1-101 et seq. of this title. The Commission ~~may delegate to any such persons such power and authority as it deems reasonable and proper for the effective administration of this~~

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

18 SECTION 17. AMENDATORY 40 O.S. 2011, Section 4-508, as  
19 last amended by Section 10, Chapter 251, O.S.L. 2019 (40 O.S. Supp.  
20 2020, Section 4-508), is amended to read as follows:

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

23 A. Except as otherwise provided by law, information obtained  
24 from any employing unit or individual pursuant to the administration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1        10. The release of information to employees of the Attorney  
2 General, the Department of Labor, the Workers' Compensation  
3 Commission, and the Insurance Department for use in investigation of  
4 workers' compensation fraud;

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

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

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

21        14. The release of information to employees of the Oklahoma  
22 Department of Career and Technology Education, the Oklahoma State  
23 Regents for Higher Education, the Center for Economic and Management  
24 Research of the University of Oklahoma, the Center for Economic and

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

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

22 16. The release of information to employees of the Department  
23 of Mental Health and Substance Abuse Services ~~of information~~  
24 required to evaluate the effectiveness of mental health and

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

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

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

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

1 the Workforce Innovation and Opportunity Act, only those designated  
2 required partners that meet the 20 CFR §603.2(d) definition of  
3 public official may contract with a private agent or contractor  
4 pursuant to 20 CFR §603.5(f) for the purpose of the private agent or  
5 contractor receiving confidential unemployment compensation  
6 information to the extent necessary to complete the performance  
7 accountability reports;

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

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

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

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

21 24. The release of information to any state or federal law  
22 enforcement authority when necessary in the investigation of any  
23 crime in which the Commission is a victim. Information that is  
24 confidential under this section shall be held confidential by the

1 law enforcement authority unless and until it is required for use in  
2 court in the prosecution of a defendant in a criminal prosecution;

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

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

21 27. The release of information to vendors that contract with  
22 the State of Oklahoma for the purpose of providing a public  
23 electronic labor exchange system that will support the Oklahoma  
24 Employment Security Commission's operation of an employment service

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

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

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

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

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

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

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

21 Section 5-107. WRONGFUL DISCLOSURE OF INFORMATION.

22 If any employee or member of the Board of Review or the Oklahoma  
23 Employment Security Commission or any employee of the Commission, ~~in~~  
24 ~~violation of~~ or any employee of a governmental unit, private

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
15 February 11, 2021 - DO PASS AS AMENDED  
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