

1 collect unemployment benefit overpayments;
2 authorizing Commission to utilize the United States
3 Treasury Offset Program to collect benefit
4 overpayment indebtedness; modifying references to the
5 Workforce Investment Act programs; modifying employer
6 contribution rate; prohibiting eligibility of certain
7 employers to be relieved of benefit wage charge;
8 providing certain contribution rate for certain
9 employers; authorizing levy for the collection of
10 delinquent unemployment taxes; authorizing Commission
11 to utilize the United States Treasury Offset Program
12 to collect delinquent employer taxes; clarifying
13 references to certain programs; repealing 40 O.S.
14 2011, Sections 3-110 and 3-112, as amended by Section
15 11, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2014,
16 Section 3-112), which relate to contribution rates;
17 providing for codification; and providing an
18 effective date.

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

20 SECTION 1. AMENDATORY 40 O.S. 2011, Section 1-210, is
21 amended to read as follows:

22 Section 1-210. EMPLOYMENT.

23 "Employment" means:

24 (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, has the status of an employee.

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

5 (i) as an agent-driver or commission-driver engaged
6 in distributing meat products, vegetable
7 products, fruit products, bakery products,
8 beverages other than milk, or laundry or dry
9 cleaning services, for his or her principal; or

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

20 (b) provided, the term "employment" shall include services
21 described in divisions (i) and (ii) of subparagraph
22 (a) of this paragraph if:
23
24

- 1 (i) the contract of service contemplates that
2 substantially all of the services are to be
3 performed personally by such individual;
- 4 (ii) the individual does not have a substantial
5 investment in facilities used in connection with
6 the performance of the services, other than in
7 facilities for transportation; and
- 8 (iii) the services are not in the nature of a single
9 transaction that is not part of a continuing
10 relationship with the person for whom the
11 services are performed.

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

20 (4) Service performed by an individual in the employ of a
21 community chest, fund, foundation or corporation, organized and
22 operated exclusively for religious, charitable, scientific, testing
23 for public safety, literary or educational purposes, or for the
24 prevention of cruelty to children or animals, no part of the net

1 earnings of which inures to the benefit of any private shareholder
2 or individual, no substantial part of the activities of which is
3 carrying on propaganda, or otherwise attempting to influence
4 legislation and which does not participate in, or intervene in,
5 including the publishing or distributing of statements, any
6 political campaign on behalf of any candidate for public office;
7 provided that such organization had four or more individuals in
8 employment for some portion of a day in each of twenty (20)
9 different weeks, whether or not such weeks were consecutive, within
10 either the calendar year or preceding calendar year, regardless of
11 whether they were employed at the same moment of time.

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

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

15 (i) during any calendar quarter in either the
16 calendar year or the preceding calendar year,
17 paid remuneration in cash of Twenty Thousand
18 Dollars (\$20,000.00) or more to individuals
19 employed in agricultural labor; or

20 (ii) for some portion of a day in each of twenty (20)
21 different calendar weeks, whether or not the
22 weeks were consecutive, in either the calendar
23 year or the preceding calendar year, employed in
24 agricultural labor ten or more individuals,

1 regardless of whether they were employed at the
2 same moment of time.

3 (b) for the purposes of this paragraph any individual who
4 is a member of a crew furnished by a crew leader to
5 perform service in agricultural labor for any other
6 person shall be treated as an employee of the crew
7 leader:

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

17 (ii) if the individual is not an employee of the other
18 person within the meaning of paragraph (1) of
19 this section or subparagraph (d) of this
20 paragraph.

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

1 person and who is not treated as an employee of the
2 crew leader under subparagraph (b) of this paragraph:

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

5 (ii) the other person shall be treated as having paid
6 cash remuneration to the individual in an amount
7 equal to the amount of cash remuneration paid to
8 the individual by the crew leader, either on his
9 or her own behalf or on behalf of the other
10 person, for the service in agricultural labor
11 performed for the other person.

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

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

16 (ii) pays, either on his or her own behalf or on
17 behalf of another person, the individuals so
18 furnished by the crew leader for the service in
19 agricultural labor performed by them; and

20 (iii) has not entered into a written agreement with the
21 other person (farm operator) under which the
22 individual is designated as an employee of the
23 other person.
24

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

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

10 (a) in the employ of:

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

13 (ii) an organization which is operated primarily for
14 religious purposes and which is operated,
15 supervised, controlled, or principally supported
16 by a church or convention or association of
17 churches; or

18 (iii) an elementary or secondary school which is
19 operated primarily for religious purposes, which
20 is described in 26 U.S.C., Section 501(c)(3), and
21 which is exempt from tax under 26 U.S.C., Section
22 501(a);

23 (b) by a duly ordained, commissioned or licensed minister
24 of a church in the exercise of his or her ministry or

1 by a member of a religious order in the exercise of
2 duties required by the order;

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

6 (i) as an elected official;

7 (ii) as a member of a legislative body, or a member of
8 the judiciary of a state or political
9 subdivision;

10 (iii) as a member of the State National Guard or Air
11 National Guard;

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

15 (v) in a position which, under or pursuant to the
16 laws of this state, is designated as a major
17 nontenured policymaking or advisory position, or
18 a policymaking or advisory position the
19 performance of the duties of which ordinarily
20 does not require more than eight (8) hours per
21 week;

22 (vi) as an election official or election worker if the
23 amount of remuneration received by the individual
24 during the calendar year for services as an

1 election official or election worker is less than
2 One Thousand Dollars (\$1,000.00);

- 3 (d) by an individual who is participating or enrolled in a
4 program of an organization that provides
5 rehabilitation through work for individuals whose
6 earning capacity is impaired by age, physical or
7 mental deficiency, or injury, or a program of an
8 organization that provides work for individuals who,
9 because of their impaired mental or physical capacity
10 cannot be readily absorbed into the competitive labor
11 market; provided that the services are performed by a
12 program participant on real property owned or leased
13 directly by the organization or by a program
14 participant working under a special certificate issued
15 by the U.S. Secretary of Labor pursuant to 29 U.S.C.,
16 Section 214(c) and 29 C.F.R., Section 525.1 et seq.;
- 17 (e) as part of an unemployment work-relief or work-
18 training program assisted or financed in whole or in
19 part by any federal agency or an agency of a state or
20 political subdivision thereof or of an Indian tribe,
21 by an individual receiving such work-relief or work-
22 training; or
- 23 (f) by an inmate of a custodial or penal institution.
24

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

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

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

11 (i) the employer is an individual who is a resident
12 of this state;

13 (ii) the employer is a corporation which is organized
14 under the laws of this state; or

15 (iii) the employer is a partnership or a trust and the
16 number of the partners or trustees who are
17 residents of this state is greater than the
18 number who are residents of any one other state;

19 (c) none of the criteria of subparagraphs (a) and (b) of
20 this paragraph are met but the employer has elected
21 coverage in this state or, the employer having failed
22 to elect coverage in any state, the individual has
23 filed a claim for benefits, based on such service,
24 under the law of this state;

- 1 (d) an "American employer", for purposes of this
2 subsection, means a person who is:
3 (i) an individual who is a resident of the United
4 States;
5 (ii) a partnership if two-thirds or more of the
6 partners are residents of the United States;
7 (iii) a trust, if all of the trustees are residents of
8 the United States; or
9 (iv) a corporation organized under the laws of the
10 United States or of any state; and
11 (e) the term "United States", for the purposes of this
12 subsection, includes the states, the District of
13 Columbia, the Commonwealth of Puerto Rico and the
14 Virgin Islands.

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

22 (10) Notwithstanding any other provisions of the Employment
23 Security Act of 1980, "employment":
24

1 (a) includes any service with respect to which a tax is
2 required to be paid under any federal law imposing a
3 tax against which credit may be taken for
4 contributions required to be paid into a state
5 unemployment fund; and

6 (b) includes any service which is required to be
7 "employment" for full tax credit to be allowed against
8 the tax imposed by the Federal Unemployment Tax Act of
9 1954, Public Law 591, Chapter 736, as amended, 26
10 U.S.C., Section 3301 et seq.

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

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

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

16 (i) the individual's base of operations, or, if there
17 is no base of operations, then the place from
18 which the individual's employment is directed or
19 controlled is in this state; or

20 (ii) the individual's base of operations or place from
21 which the service is directed or controlled is
22 not in any state in which some part of the
23 service is performed but the individual's
24 residence is in this state.

1 (12) (a) Services covered by an election pursuant to Section 3-
2 203 of this title; and

3 (b) services covered by an arrangement pursuant to Section
4 4-701 et seq. of this title between the Oklahoma
5 Employment Security Commission and the agency charged
6 with the administration of any other state or federal
7 unemployment compensation law, pursuant to which all
8 services performed by an individual for an employing
9 unit are deemed to be performed entirely within this
10 state,

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

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

16 (a) the service is performed entirely within such state;
17 or

18 (b) the service is performed both within and without such
19 state, but the service performed without such state is
20 incidental to the individual's service within the
21 state; for example, is temporary or transitory in
22 nature or consists of isolated transactions.

23 (14) Notwithstanding any other provision of this subsection,
24 services performed by an individual for wages or under any contract

1 of hire shall be deemed to be employment subject to the Employment
2 Security Act of 1980 unless and until it is shown to the
3 satisfaction of the Commission that:

4 (a) such individual has been and will continue to be free
5 from control or direction over the performance of the
6 services, both under the contract of hire and in fact;
7 and

8 (b) such individual is customarily engaged in an
9 independently established business; or

10 (c) such service is outside the usual course of the
11 business for which the service is performed and that
12 the service is performed outside of all the places of
13 business of the enterprise for which the service is
14 performed.

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

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

1 defined in the Federal Unemployment Tax Act, 26
2 U.S.C., Section 3306(k);

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

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

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

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

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

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

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

20 (i) if the service is of a character similar to that
21 performed in foreign countries by employees of
22 the United States government or of an
23 instrumentality thereof, and
24

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

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

19 (i) service performed as a student nurse in the employ of
20 a hospital or a nurses' training school by an
21 individual who is enrolled and is regularly attending
22 classes in a nurses' training school chartered or
23 approved pursuant to state law; and service performed
24 as an intern in the employ of a hospital by an

1 individual who has completed a four-year course in a
2 medical school chartered or approved pursuant to state
3 law;

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

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

20 (i) the individual must be engaged in the delivery or
21 distribution of newspapers or shopping news,
22 including any services directly related to such
23 trade or business,
24

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

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

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

15 (i) by a student who is enrolled and is regularly
16 attending classes at the school, college, or
17 university, or

18 (ii) by the spouse of the student, if the spouse is
19 advised, at the time the spouse commences to
20 perform the service, that:

21 (I) the employment of the spouse to perform the
22 service is provided under a program to
23 provide financial assistance to the student
24 by the school, college, or university, and

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

- 3 (m) service performed by an individual who is enrolled at
4 a nonprofit or public educational institution which
5 normally maintains a regular faculty and curriculum
6 and normally has a regularly organized body of
7 students in attendance at the place where its
8 educational activities are carried on as a student in
9 a full-time program, taken for credit at the
10 institution, which combines academic instruction with
11 work experience, if the service is an integral part of
12 the program, and the institution has so certified to
13 the employer, except that this provision shall not
14 apply to service performed in a program established
15 for or on behalf of an employer or group of employers;
- 16 (n) service performed in the employ of a hospital, if the
17 service is performed by a patient of the hospital;
- 18 (o) services performed by cooperative extension personnel
19 holding federal appointments employed by state
20 institutions of higher learning;
- 21 (p) earnings of employees being paid by state warrants who
22 are presently covered by the Federal Unemployment
23 Compensation Act, 5 U.S.C., Section 8501 et seq., by
24 virtue of their federal status;

- 1 (q) cosmetology services performed by an individual in a
2 beauty shop, as defined by Section 199.1 of Title 59
3 of the Oklahoma Statutes, pursuant to an agreement
4 whereby the owner of the beauty shop leases or rents
5 facilities for cosmetology to such individual;
- 6 (r) barbering services performed by an individual in a
7 barber shop, as defined by Section 61.5 of Title 59 of
8 the Oklahoma Statutes, pursuant to an agreement
9 whereby the owner of the barber shop leases or rents
10 facilities for barbering to such individual;
- 11 (s) services performed as a participant in a work or
12 training program administered by the Department of
13 Human Services;
- 14 (t) riding services performed by a jockey and services
15 performed by a trainer of race horses in preparation
16 for and during an approved race meeting licensed by
17 the Oklahoma Horse Racing Commission;
- 18 (u) service performed by an individual whose remuneration
19 consists solely of commissions, overrides, bonuses,
20 and differentials related to sales or other output
21 derived from in-person sales to, or solicitation of
22 orders from, ultimate consumers primarily in the home,
23 or otherwise than in a permanent retail establishment;
- 24

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

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

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

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

20 (ii) if substantially all remuneration paid in cash or
21 otherwise for the performance of the services is
22 directly related to the completion by the
23 individual of the specific tasks contracted for
24

1 rather than to the number of hours worked by the
2 individual, and

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

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

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1-228 of Title 40, unless there
17 is created a duplication in numbering, reads as follows:

18 LIMITED LIABILITY COMPANIES.

19 A. For purposes of the Employment Security Act of 1980, a
20 "limited liability company" and a "foreign limited liability
21 company" shall be defined by the provisions of the Oklahoma Limited
22 Liability Company Act.

23 B. For unemployment tax purposes, wages, salaries, or draws
24 paid to limited liability company members, relatives of the members,

1 and employees shall be taxed in the same manner as required by the
2 Federal Unemployment Tax Act, Title 26 U.S.C., Chapter 23, and the
3 Internal Revenue Code, Title 26 U.S.C., Chapters 1 through 99.

4 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-108, is
5 amended to read as follows:

6 Section 2-108. BENEFITS - APPROVED TRAINING.

7 A. Notwithstanding any other provisions of law, no otherwise
8 eligible individual shall be denied benefits for any week because
9 the individual is in training with the approval of the Oklahoma
10 Employment Security Commission, nor shall such individual be denied
11 benefits with respect to any week in which the individual is in
12 training with the approval of the Commission by reason of the
13 application of provisions of law relating to availability for work,
14 active search for work, failure to apply for, or a refusal to
15 accept, suitable work. Such approval for training shall be
16 determined by consideration of all the following factors:

- 17 1. The individual's skills are obsolete or such that there are
18 minimal opportunities for employment;
- 19 2. Training is for an occupation for which there is a
20 substantial and recurring demand; and
- 21 3. The individual possesses aptitudes or skills which can be
22 supplemented by retraining within a reasonable time.

23 B. Any individual in training approved by the Commission will
24 produce satisfactory evidence of continued attendance and

1 satisfactory progress, when requested by the Commission. Failure to
2 comply shall result in a disqualification of benefits for each week
3 of occurrence.

4 SECTION 4. AMENDATORY 40 O.S. 2011, Section 2-203, as
5 last amended by Section 1, Chapter 220, O.S.L. 2014 (40 O.S. Supp.
6 2014, Section 2-203), is amended to read as follows:

7 Section 2-203. CLAIM.

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

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

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

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

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

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

24

1 E. The Commission may require the individual to produce
2 documents or information relevant to the claim for benefits. If the
3 individual fails to produce it, the individual's claim for
4 unemployment benefits may be disqualified indefinitely by the
5 Commission until the information is produced. ~~The Commission may~~
6 ~~require the individual to personally appear at a location for a~~
7 ~~purpose relevant to the individual's unemployment claim or job~~
8 ~~search. If the individual fails to appear, the individual's claim~~
9 ~~for unemployment benefits may be disqualified indefinitely by the~~
10 ~~Commission until the individual makes a personal appearance as~~
11 ~~directed.~~ An individual that has been disqualified indefinitely by
12 the provisions of this subsection may receive payment for any week
13 between the initial failure and the compliance with this subsection
14 if the claimant is otherwise eligible and has made a timely filing
15 for each intervening week.

16 SECTION 5. AMENDATORY 40 O.S. 2011, Section 2-417, is
17 amended to read as follows:

18 Section 2-417. SEEK AND ACCEPT WORK - WEEK OF OCCURRENCE
19 DISQUALIFICATION.

20 A. An individual shall be disqualified to receive benefits for
21 each week in which the individual shall have failed to do any of the
22 following:
23
24

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

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

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

8 ~~4. Participate in reemployment services, such as job search
9 assistance services, if the individual has been determined likely to
10 exhaust regular benefits and needs reemployment services pursuant to
11 a profiling system established by the Oklahoma Employment Security
12 Commission. An individual will not be disqualified under this
13 paragraph for failure to participate in reemployment services, if:~~

14 a. ~~the individual has previously completed reemployment
15 services, or~~

16 b. ~~there is justifiable cause for the individual's
17 failure to participate in reemployment services.~~

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

23
24

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-420 of Title 40, unless there
3 is created a duplication in numbering, reads as follows:

4 FAILURE TO PERSONALLY APPEAR AS DIRECTED.

5 The Oklahoma Employment Security Commission may require the
6 individual to personally appear at a location for a purpose relevant
7 to the individual's unemployment claim, job search, or reemployment
8 services. If the individual fails to appear, the individual's claim
9 for unemployment benefits will be disqualified indefinitely by the
10 Commission until the individual makes a personal appearance as
11 directed. An individual who has been disqualified indefinitely by
12 the provisions of this section shall be disqualified for all weeks
13 between the initial failure and the compliance with this section.

14 SECTION 7. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2-421 of Title 40, unless there
16 is created a duplication in numbering, reads as follows:

17 FAILURE TO PARTICIPATE IN REEMPLOYMENT SERVICES THROUGH
18 PROFILING.

19 The Oklahoma Employment Security Commission shall establish and
20 utilize a system of profiling for all unemployment benefit claimants
21 that will identify claimants who will be likely to exhaust
22 unemployment benefits and who will need job-search assistance
23 services to make a successful transition to new employment. Any
24 claimant who has been referred to reemployment services pursuant to

1 the profiling system and who fails to participate in the
2 reemployment services made available to the claimant, shall be
3 disqualified to receive benefits for each week in which the failure
4 occurs; unless the Commission determines that:

- 5 1. The claimant has completed the reemployment services; or
- 6 2. There is justifiable cause for the claimant's failure to
7 participate in reemployment services.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-503.1 of Title 40, unless
10 there is created a duplication in numbering, reads as follows:

11 FILING OF EMPLOYER PROTEST AND DOCUMENTS BY TELEFAX OR EMAIL.

12 A. The procedure set out in this section for the filing of a
13 statement of objection by telefax or email is an optional procedure
14 for the employer. If the employer chooses not to utilize this
15 procedure, the employer must file its protest in accordance with
16 subsection E of Section 2-503 of Title 40 of the Oklahoma Statutes.

17 B. An employer may file a statement of objections to the claim
18 of a former employee at any time from the moment of discharge or
19 separation from employment of the employee until the expiration of
20 the ten-day time period set out in subsection E of Section 2-503 of
21 Title 40 of the Oklahoma Statutes. The statement of objection must
22 be filed by telefax or email and must contain a statement of
23 specific facts and documentation which:

24

1 1. Disclose the name and social security number of the
2 employee;

3 2. Make the claimant ineligible for benefits under Sections 2-
4 201 through 2-210 of Title 40 of the Oklahoma Statutes;

5 3. Disqualify the claimant for benefits under Sections 2-401
6 through 2-419 of Title 40 of the Oklahoma Statutes; or

7 4. Relieve the employer from being charged for the benefits
8 wages of this claimant.

9 C. Any statement of objection filed within the time period set
10 out in subsection B of this section shall be considered a valid
11 protest to a claim for unemployment benefits filed by the former
12 employee and the employer shall be considered an interested party to
13 the claim. A statement of objection filed outside the time period
14 set out in subsection B of this section shall not be considered a
15 valid protest to a claim for unemployment of the former employee,
16 and the employer shall not be considered an interested party to the
17 claim.

18 SECTION 9. AMENDATORY 40 O.S. 2011, Section 2-618, is
19 amended to read as follows:

20 Section 2-618. LEVY ON INCOME AND MONETARY ASSETS.

21 A. As used in this section, the following words have the
22 following meanings:

23

24

1 1. "Bank" means any state bank or banking association, national
2 bank or banking association, savings and loan company, credit union,
3 or any other financial institution;

4 2. "Bank account" means any checking or savings account the
5 debtor has with any bank;

6 3. "Debtor" means any person that is the subject of a warrant
7 of levy and lien issued pursuant to Section 2-617 of this title;

8 4. "Earnings" means any form of payment to an individual
9 including, but not limited to, salary, wages, commission, or other
10 compensation; and

11 5. "Employer" means any type of business or organization that
12 owes earnings to a debtor.

13 B. If any debtor shall fail to pay his or her indebtedness to
14 the Oklahoma Employment Security Commission and after the debtor has
15 been notified of the amount due and demand for payment has been
16 made, it shall be lawful for the Commission to collect the amount
17 owed by levy upon the debtor's employer or any bank account of the
18 debtor.

19 C. To levy upon an employer of the debtor, the Commission must
20 serve a Notice of Levy on the employer along with the warrant of
21 levy and lien that sets out the amount owing on the benefit
22 overpayment of the debtor, with interest. The levy will have the
23 same priority, and be subject to the same exceptions, as a
24 continuing earnings garnishment provided for in Section 1173.4 of

1 Title 12 of the Oklahoma Statutes. The following procedures will
2 apply to a Notice of Levy served on an employer:

3 1. The employer shall answer the Notice of Levy on a form
4 provided by the Commission. The employer shall follow the procedure
5 for answering a continuing earnings garnishment as set out in
6 subsection F of Section 1173.4 of Title 12 of the Oklahoma Statutes;
7 and

8 2. The Notice of Levy shall be a lien on the debtor's property
9 in the same manner as provided for in subsection G of Section 1173.4
10 of Title 12 of the Oklahoma Statutes. The Notice of Levy shall also
11 be subject to the procedures and time limits set out in subsections
12 H, I, J and K of Section 1173.4 of Title 12 of the Oklahoma
13 Statutes, except that when a document is required to be filed with
14 the clerk of the court, the document will instead be filed with the
15 Commission as directed on the forms provided;

16 3. Any employer that fails or refuses to surrender money or
17 rights to money belonging to its employee in the employer's
18 possession, or that fails or refuses to make the appropriate
19 deduction from wages pursuant to a levy provided for by this statute
20 upon being served with a Notice of Levy and supporting warrant of
21 levy and lien of the Commission, shall be liable to the Commission
22 in a sum equal to the amount of money, rights to money, or wage
23 deduction not so surrendered, but not exceeding the amount of the
24 debtor's indebtedness for the collection of which the levy has been

1 made, together with accrued interest pursuant to Section 2-613 of
2 this title, and the cost of service of the Notice of Levy. Any
3 amount recovered in this manner shall be credited against the
4 liability of the debtor for the benefit overpayment indebtedness,
5 for which the levy was made; and

6 4. Any employer in possession of money or rights to money
7 subject to levy upon which a levy has been made that surrenders the
8 money or rights to money to the Commission shall be discharged from
9 any obligation or liability to the debtor and any other person or
10 entity with respect to such money or rights to money arising from
11 the surrender or payment.

12 D. To levy upon a debtor's bank account, the Commission must
13 serve a Notice of Levy on the bank in which the debtor has an
14 account, along with the warrant of levy and lien issued against the
15 debtor. The following procedures will apply to a Notice of Levy
16 served on a bank:

17 1. Upon receiving the Notice of Levy and the warrant of levy
18 and lien issued against the debtor, the bank shall deliver all of
19 the debtor's interest in the money in the debtor's bank account at
20 the time of service of the levy, subject to the banker's lien or
21 right of set off or any other priority claim of the bank, up to the
22 amount of indebtedness indicated on the warrant of levy and lien
23 plus accrued interest pursuant to Section 2-613 of this title and
24

1 any fees for service of process, to the Commission office indicated
2 in the Notice of Levy;

3 2. The delivery of this money shall occur within ten (10) days
4 of the date of service of the Notice of Levy;

5 3. If there is no money in the debtor's bank account at the
6 time the Notice of Levy is served, or if the bank account has been
7 closed, an officer of the bank on which the Notice of Levy is served
8 shall make a statement to that effect on the Notice of Levy. The
9 statement shall be notarized and returned to the office of the
10 Commission that is indicated in the Notice of Levy;

11 4. Any bank that fails or refuses to surrender money or rights
12 to money in a bank account subject to levy, upon being served with a
13 Notice of Levy and supporting warrant of levy and lien of the
14 Commission, shall be liable to the Commission in a sum equal to the
15 amount of money or rights to money not so surrendered, but not
16 exceeding the amount of the debtor's indebtedness for the collection
17 of which the levy has been made, together with accrued interest
18 pursuant to Section 2-613 of this title, and the cost of service of
19 the Notice of Levy. Any amount recovered in this manner shall be
20 credited against the liability of the debtor for the benefit
21 overpayment indebtedness, for which the levy was made; and

22 5. Any bank in possession of money or rights to money subject
23 to levy, upon which a levy has been made, that surrenders the money
24 or rights to money to the Commission shall be discharged from any

1 obligation or liability to the debtor and any other person or entity
2 with respect to such money or rights to money arising from the
3 surrender or payment.

4 E. Service of the Notice of Levy and the warrant of levy and
5 lien shall be made in the same manner as provided in Section 2004 of
6 Title 12 of the Oklahoma Statutes for service of process in civil
7 actions.

8 F. If a sheriff's department is enlisted to serve the Notice of
9 Levy, that sheriff's department shall be entitled to a service fee
10 of Fifty Dollars (\$50.00) that is to be paid by the Commission and
11 added to the debtor's indebtedness.

12 G. Claims for exemptions and any other matter relating to the
13 levy shall be filed with the Appeal Tribunal of the Oklahoma
14 Employment Security Commission. An order of exemption may relate
15 back no more than thirty (30) days before the filing of the claim
16 for exemption and shall extend no further than the expiration date
17 or termination of the levy. Appeal from the Appeal Tribunal
18 decision shall be governed by the appeal procedures set out in Part
19 6 of Article 2 of the Employment Security Act of 1980, and the
20 Administrative Rules of the Oklahoma Employment Security Commission
21 pertaining thereto.

22 SECTION 10. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-619 of Title 40, unless there
24 is created a duplication in numbering, reads as follows:

1 TREASURY OFFSET PROGRAM - BENEFIT OVERPAYMENT COLLECTIONS.

2 A. The Oklahoma Employment Security Commission shall be
3 authorized to collect unemployment benefit overpayment indebtedness
4 through the Tax Offset Program of the U.S. Department of the
5 Treasury pursuant to 26 U.S.C. §6402 (f) and 31 CFR §285.8. The
6 Commission may submit overpayment indebtedness due to fraud that was
7 established pursuant to paragraph 1 of Section 2-613 of Title 40 of
8 the Oklahoma Statutes and overpayment indebtedness due to claimant
9 error that was established under paragraph 2 of Section 2-613 of
10 Title 40 of the Oklahoma Statutes, if the claimant error overpayment
11 was due to a failure to report earnings.

12 B. Before submitting an indebtedness to the U.S. Department of
13 the Treasury for collection through the Tax Offset Program, the
14 Oklahoma Employment Security Commission shall notify the debtor in
15 writing of the amount of the debt and the date the indebtedness was
16 established. The notification shall give the debtor sixty (60) days
17 from the date of mailing of the notice to present evidence to the
18 Commission that all or a part of the indebtedness is not legally
19 enforceable or is otherwise invalid.

20 C. If the debtor responds to the notice by presenting evidence,
21 the Commission shall evaluate the evidence and review its records of
22 the indebtedness. Based on this evaluation and review, the
23 Commission may modify the amount of the indebtedness. Once the
24 evaluation and review process is complete, the indebtedness shall be

1 submitted to the U.S. Department of the Treasury for collection
2 through the Tax Offset Program.

3 D. If no evidence is presented by the debtor within the sixty-
4 day time period allowed by the notice, the amount of the
5 indebtedness will be submitted to the U.S. Department of the
6 Treasury for collection through the Tax Offset Program.

7 E. If the Oklahoma Employment Security Commission receives an
8 erroneous payment from the U.S. Department of the Treasury, the
9 Oklahoma Employment Security Commission shall return the payment to
10 the U.S. Department of the Treasury. If the money that was
11 erroneously paid to the Oklahoma Employment Security Commission had
12 been credited to an unemployment benefit overpayment indebtedness,
13 that indebtedness shall be reinstated to the amount that existed
14 before the payment was credited.

15 SECTION 11. AMENDATORY 40 O.S. 2011, Section 2-802, is
16 amended to read as follows:

17 Section 2-802. REPORTS BY EMPLOYERS TO EMPLOYMENT SECURITY
18 COMMISSION - NEW HIRE REGISTRY.

19 A. Employers doing business in the State of Oklahoma shall
20 report to the Oklahoma Employment Security Commission, the hiring or
21 employment of any person who resides or works in this state to whom
22 the employer anticipates paying earnings.

23 B. Such report shall contain the employee's name, address,
24 social security number, date of employment, state of employment,

1 along with the employer's name, address, and federal identification
2 number.

3 C. The report must be made within twenty (20) days of hiring,
4 or twice monthly, not less than twelve (12) nor more than sixteen
5 (16) days apart if reported electronically or magnetically. The
6 report may be made by mailing a copy of the employee's W-4 form, by
7 submitting a fax transmission of the employee's W-4 form, by
8 submitting electronic media in a format that can be used by the
9 Commission, or by any other means authorized by the Commission.

10 D. The Child Support Enforcement Division shall be the official
11 New Hire Registry for the State of Oklahoma and will obtain the new
12 hire information from the Oklahoma Employment Security Commission.

13 E. The Child Support Enforcement Division shall enter into
14 agreements with state agencies administering unemployment,
15 employment services, ~~Workforce Investment Act~~ workforce system
16 programs, workers' compensation, public assistance, Medicaid, food
17 stamps, vocational rehabilitation, and other programs specified by
18 federal law or regulation, to provide such information upon request.

19 F. Used in this section:

20 1. "Employee" means an individual who is an employee as defined
21 by the Internal Revenue Code of 1986, 26 U.S.C., Section 3401 et
22 seq. "Employee" does not mean an employee of a federal or state
23 agency performing intelligence or counterintelligence functions if
24 the head of such agency has determined that reporting with respect

1 to that employee could endanger the safety of the employee or
2 compromise an ongoing investigation or intelligence mission;

3 2. "Employer" means an individual or other entity who is an
4 employer as defined by the Internal Revenue Code of 1986, 26 U.S.C.,
5 Section 3401(d) and includes any governmental entity and any labor
6 organization; and

7 3. "Labor organization" means an entity as defined by the
8 National Labor Relations Act, 29 U.S.C., Section 152(5) including,
9 but not limited to, any entity known as a "hiring hall" which is
10 used by the organization and an employer to carry out requirements
11 described in Section 8(f)(3) of the National Labor Relations Act, 29
12 U.S.C., Section 158(f)(3), of an agreement between the organization
13 and the employer.

14 SECTION 12. AMENDATORY 40 O.S. 2011, Section 3-103, as
15 amended by Section 8, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2014,
16 Section 3-103), is amended to read as follows:

17 Section 3-103. COMPUTATION - PERCENTAGE OF WAGES PAYABLE.

18 Beginning January 1, ~~1996~~ 2016, each employer, unless otherwise
19 prescribed in Sections 3-111, 3-111.1, ~~3-112~~, 3-701 or 3-801 of this
20 title or Section 14 of this act, shall pay contributions equal to a
21 one and one-half percent (1.5%) of taxable wages paid by the
22 employer with respect to employment ~~which shall be the greater of~~
23 ~~one percent (1%) or the average contribution rate paid by all~~
24 ~~employers during the second year preceding the current calendar~~

1 ~~year. The average contribution rate shall be calculated by dividing~~
2 ~~annual net contributions received by total annual taxable wages.~~

3 SECTION 13. AMENDATORY 40 O.S. 2011, Section 3-106, as
4 amended by Section 8, Chapter 196, O.S.L. 2012 (40 O.S. Supp. 2014,
5 Section 3-106), is amended to read as follows:

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

7 A. The Oklahoma Employment Security Commission shall give
8 notice to each base period employer of a claimant promptly after the
9 claimant is issued his or her fifth week of benefits by the
10 Commission or promptly after the Commission receives notice of the
11 amounts paid as benefits by another state under a reciprocal
12 arrangement. Notice shall be deemed given under this subsection
13 when the Commission deposits the same with the United States Postal
14 Service addressed to the employer at an address designated by the
15 employer to receive the notice or at the employer's last-known
16 address. If the employer has elected to be notified by electronic
17 means according to procedures set out in Oklahoma Employment
18 Security Commission rules, notice shall be deemed to be given when
19 the Commission transmits the notification by electronic means.
20 Notice shall be presumed prima facie to have been given to the
21 employer to whom addressed on the date stated in the written notice.
22 This notice shall give the name and social security number of the
23 claimant, the date the claim was filed, and the amount of benefit
24 wages charged to the employer in each quarter of the base period.

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

- 7 1. The date on which the employment was terminated;
- 8 2. Full particulars as to the circumstances of the termination
9 including the reason given by the individual for voluntarily leaving
10 the employment, or the nature of the misconduct for which
11 discharged, as the case may be;
- 12 3. Full particulars as to the regular scheduled part-time or
13 full-time employment of the employee including the starting date,
14 and ending date if any, of the continuous period of such part-time
15 or full-time employment; and
- 16 4. Such other information as called for by the notice.

17 C. Upon receipt of the employer's written objections, the
18 Commission shall make a determination as to whether or not the
19 employer is entitled to be relieved from the charging of benefit
20 wages. The Commission shall promptly notify the employer of that
21 determination. Provided further, the twenty-day time period for
22 filing written objections with the Commission as provided for in
23 subsection B of this section may be waived for good cause shown.

24

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

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

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

24

1 G. The benefit wages charged to an employer for a given
2 calendar year shall be the total of the benefit wages stated in the
3 notices given to the employer by the Commission. Provided, that an
4 employer shall be relieved of a benefit wage charge if the employer
5 proves to the satisfaction of the Commission that the benefit wage
6 charge includes wages paid by the employer to any employee or former
7 employee, who:

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

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

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

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

22 5. Was discharged by an employer for unsatisfactory performance
23 during an initial employment probationary period. As used in this
24 paragraph, "probationary period" means a period of time set forth in

1 an established probationary plan which applies to all employees or a
2 specific group of employees and does not exceed ninety (90) calendar
3 days from the first day a new employee begins work. The employee
4 must be informed of the probationary period within the first seven
5 (7) work days. There must be conclusive evidence to establish that
6 the individual was separated due to unsatisfactory work performance;

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

10 7. Was separated from employment for compelling family
11 circumstances as defined in Section 2-210 of this title.

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

20 I. An employer shall not be charged with benefit wages of a
21 laid-off employee if the employer lists as an objection in a
22 statement filed in accordance with subsection B of this section that
23 the employee collecting benefits was hired to replace a United
24 States serviceman or servicewoman called into active duty and laid-

1 off upon the return to work by that serviceman or servicewoman. The
2 Unemployment Compensation Fund shall be charged with the benefit
3 wages of the laid-off employee.

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

12 K. An employer shall not be eligible to be relieved of a
13 benefit wage charge under paragraphs 1 and 2 of subsection G of this
14 section if the employer was sent a notice of benefit claim, pursuant
15 to Section 2-503 of this title, and failed to timely file protest to
16 the benefit claim.

17 SECTION 14. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3-110.1 of Title 40, unless
19 there is created a duplication in numbering, reads as follows:

20 MINIMUM CONTRIBUTIONS.

21 A. All employers shall have a rate of one and one-half percent
22 (1.5%) until the calendar year following the eighth consecutive
23 calendar quarter in which the employer employed at least one
24 individual in covered employment, at which time the employer shall

1 qualify for an earned rate calculated pursuant to the provisions of
2 Part 1 of Article III of the Employment Security Act of 1980.

3 B. If an employer qualifies for an earned rate under subsection
4 A of this section and subsequently ceases to employ at least one
5 person, the employer shall revert to the minimum contribution rate
6 of one and one-half percent (1.5%) if, throughout the one calendar
7 year immediately preceding the calculation of the employer's
8 contribution rate, there was no individual who could have filed a
9 claim in each quarter of that year establishing a base period, as
10 defined by Section 1-202 of Title 40 of the Oklahoma Statutes, which
11 would include wages from that employer. The employer shall pay at
12 the minimum contribution rate until the provisions of subsection A
13 of this section are met.

14 SECTION 15. AMENDATORY Section 13, Chapter 196, O.S.L.
15 2012 (40 O.S. Supp. 2014, Section 3-511), is amended to read as
16 follows:

17 LEVY UPON EARNINGS OF TAX DEBTOR

18 Section 3-511. A. If any tax debtor shall fail to pay his or
19 her indebtedness to the Oklahoma Employment Security Commission
20 after the tax debtor has been notified of the amount due and demand
21 for payment has been made, it shall be lawful for the Oklahoma
22 Employment Security Commission to collect the amount owed by levy
23 upon any earnings or contract proceeds of the tax debtor.

24

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 B. To levy upon the earnings of a tax debtor or contract
2 proceeds owed to a tax debtor, the Oklahoma Employment Security
3 Commission must serve a Notice of Levy on the employer who employs
4 the tax debtor or the contracting entity that owes money under
5 contract to the tax debtor, along with the tax warrants covering all
6 quarters in which the tax debtor owes unemployment taxes, interest,
7 penalties, fees or surcharge. The levy will have the same priority,
8 and be subject to the same exceptions, as a continuing earnings
9 garnishment provided for in Section 1173.4 of Title 12 of the
10 Oklahoma Statutes. The following procedures will apply to a Notice
11 of Levy served on an employer or contracting entity:

12 1. The employer or contracting entity shall answer the Notice
13 of Levy on a form provided by the Commission. The employer or
14 contracting entity shall follow the procedure for answering a
15 continuing earnings garnishment as set out in subsection F of
16 Section 1173.4 of Title 12 of the Oklahoma Statutes;

17 2. The Notice of Levy shall be a lien on the debtor's property
18 in the same manner as provided for in subsection G of Section 1173.4
19 of Title 12 of the Oklahoma Statutes. The Notice of Levy shall also
20 be subject to the procedures and time limits set out in subsections
21 H, I, J and K of Section 1173.4 of Title 12 of the Oklahoma
22 Statutes, except that when a document is required to be filed with
23 the clerk of the court, the document will instead be filed with the
24 Commission as directed on the forms provided; ~~and~~

1 3. The employer or contracting entity shall deliver all funds
2 subject to the levy up to the amount of indebtedness indicated on
3 the tax warrants plus accrued interest pursuant to subsection A of
4 Section 3-301 of ~~Title 40 of the Oklahoma Statutes~~ this title and
5 any fees for service of process to the representative of the
6 Commission indicated on the Notice of Levy. The delivery of this
7 money shall occur within ten (10) days of the date the earnings or
8 contract proceeds are due to be paid to the tax debtor;

9 4. Any employer that fails or refuses to surrender money or
10 rights to money belonging to its employee in the employer's
11 possession, or that fails or refuses to make the appropriate
12 deduction from wages pursuant to a levy provided for by this statute
13 upon being served with a Notice of Levy and supporting warrant of
14 levy and lien of the Commission, shall be liable to the Commission
15 in a sum equal to the amount of money, rights to money, or wage
16 deduction not so surrendered, but not exceeding the amount of the
17 debtor's indebtedness for the collection of which the levy has been
18 made, together with accrued interest and penalty pursuant to Section
19 3-301 of this title, and the cost of service of the Notice of Levy.
20 Any amount recovered in this manner shall be credited against the
21 liability of the debtor for which the levy was made; and

22 5. Any employer in possession of money or rights to money
23 subject to levy upon which a levy has been made that surrenders the
24 money or rights to money to the Commission shall be discharged from

1 any obligation or liability to the debtor and any other person or
2 entity with respect to such money or rights to money arising from
3 the surrender or payment.

4 C. Service of the Notice of Levy and tax warrants shall be made
5 on the employer or contracting entity in the same manner as provided
6 in Section 2004 of Title 12 of the Oklahoma Statutes for service of
7 process in civil actions.

8 D. The sheriff's department that serves the Notice of Levy on
9 the employer or contracting entity shall be entitled to a service
10 fee of Fifty Dollars (\$50.00) that is to be paid by the Oklahoma
11 Employment Security Commission and added to the tax debtor's
12 indebtedness as a fee in the latest calendar quarter for which the
13 tax debtor has any type of indebtedness.

14 E. Claims for Exemption and any other matter related to the
15 levy shall be filed with the Assessment Board of the Oklahoma
16 Employment Security Commission. An Order of Exemption may relate
17 back no more than thirty (30) days before the filing of the Claim
18 for Exemption and shall extend no further than the expiration date
19 or termination of the levy. Appeal from the Assessment Board shall
20 be governed by the appeal procedures set out in Part 4 of Article
21 III of the Employment Security Act of 1980, and the Administrative
22 Rules of the Oklahoma Employment Security Commission pertaining
23 thereto.

24

1 SECTION 16. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-512 of Title 40, unless there
3 is created a duplication in numbering, reads as follows:

4 TREASURY OFFSET PROGRAM - DELINQUENT UNEMPLOYMENT TAXES.

5 A. The Oklahoma Employment Security Commission shall be
6 authorized to collect state unemployment tax indebtedness
7 established pursuant to Article 3 of the Employment Security Act of
8 1980, through the Tax Offset Program of the U.S. Department of the
9 Treasury pursuant to 26 U.S.C., Section 6402(f) and 31 CFR, Section
10 285.8.

11 B. Before submitting an indebtedness to the U.S. Department of
12 the Treasury for collection through the Tax Offset Program, the
13 Oklahoma Employment Security Commission shall notify the debtor in
14 writing of the amount of the debt and the time period the
15 indebtedness accrued. The notification shall give the debtor sixty
16 (60) days from the date of mailing of the notice to present evidence
17 to the Commission that all or a part of the indebtedness is not
18 legally enforceable or is otherwise invalid.

19 C. If the debtor responds to the notice by presenting evidence,
20 the Commission shall evaluate the evidence and review its records of
21 the indebtedness. Based on this evaluation and review, the
22 Commission may modify the amount of the indebtedness. Once the
23 evaluation and review process is complete, the indebtedness shall be
24

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 submitted to the U.S. Department of Treasury for collection through
2 the Tax Offset Program.

3 D. If no evidence is presented by the debtor within the sixty-
4 day time period allowed by the notice, the amount of the
5 indebtedness will be submitted to the U.S. Department of the
6 Treasury for collection through the Tax Offset Program.

7 E. If the Oklahoma Employment Security Commission receives an
8 erroneous payment from the U.S. Department of the Treasury, the
9 Oklahoma Employment Security Commission shall return the payment to
10 the U.S. Department of the Treasury. If the money that was
11 erroneously paid to the Oklahoma Employment Security Commission had
12 been credited to a state unemployment tax indebtedness, that
13 indebtedness shall be reinstated to the amount that existed before
14 the payment was credited.

15 SECTION 17. AMENDATORY 40 O.S. 2011, Section 4-318, is
16 amended to read as follows:

17 Section 4-318. In order to encourage the improvement and
18 modernization of employment, training, and placement services for
19 veterans, and to recognize eligible employees for excellence in the
20 provision of services to veterans, or for having made demonstrable
21 improvements in the provision of services to veterans, the Veterans
22 Service Division of the Oklahoma Employment Security Commission is
23 directed to establish an employee performance recognition program.
24 The Commission is hereby authorized to grant cash awards of up to

1 Five Thousand Dollars (\$5,000.00) to the eligible employees meeting
2 criteria established by the Veterans Service Division of the
3 Oklahoma Employment Security Commission~~7~~, provided~~7~~ funds exist from
4 United States Department of Labor grants for the payment of the
5 awards. For the purposes of this act, "eligible employees" means
6 any of the following:

- 7 1. A disabled veterans outreach program specialist;
- 8 2. A local veterans employment representative; or
- 9 3. An individual providing employment, training and placement
10 services to veterans under the ~~Workforce Investment Act of 1998~~
11 workforce system programs or through an Employment Service delivery
12 system.

13 SECTION 18. AMENDATORY 40 O.S. 2011, Section 4-504, is
14 amended to read as follows:

15 Section 4-504. OATHS, DEPOSITIONS, CERTIFICATIONS OF OFFICIAL
16 ACTS AND SUBPOENAS.

17 In the discharge of the duties imposed by the Employment
18 Security Act of 1980, the Oklahoma Employment Security Commission,
19 the chairman of an appeal tribunal, the members of the Board of
20 Review, and any duly authorized representative of any of them shall
21 have power to administer oaths and affirmations, take depositions,
22 certify to official acts, and issue subpoenas to compel the
23 attendance of witnesses and the production of books, papers,
24 correspondence, memoranda, and other records deemed necessary as

1 evidence in connection with a disputed claim or the administration
2 of the Employment Security Act of 1980 or for purposes of monitoring
3 a workforce system program ~~under the Workforce Investment Act, 29~~
4 ~~U.S.C., Section 2934.~~

5 SECTION 19. AMENDATORY 40 O.S. 2011, Section 4-508, as
6 last amended by Section 1, Chapter 282, O.S.L. 2014 (40 O.S. Supp.
7 2014, Section 4-508), is amended to read as follows:

8 Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL -
9 DISCLOSURE.

10 A. Except as otherwise provided by law, information obtained
11 from any employing unit or individual pursuant to the administration
12 of the Employment Security Act of 1980, ~~the Workforce Investment Act~~
13 ~~of 1998~~ any workforce system program administered or monitored by
14 the Oklahoma Employment Security Commission, and determinations as
15 to the benefit rights of any individual shall be kept confidential
16 and shall not be disclosed or be open to public inspection in any
17 manner revealing the individual's or employing unit's identity. Any
18 claimant or employer or agent of such person as authorized in
19 writing shall be supplied with information from the records of the
20 Oklahoma Employment Security Commission, to the extent necessary for
21 the proper presentation of the claim or complaint in any proceeding
22 under the Employment Security Act of 1980, with respect thereto.

23 B. Upon receipt of written request by any employer who
24 maintains a Supplemental Unemployment Benefit (SUB) Plan, the

1 Commission or its designated representative may release to such
2 employer information regarding weekly benefit amounts paid its
3 workers during a specified temporary layoff period, provided such
4 Supplemental Unemployment Benefit (SUB) Plan requires benefit
5 payment information before Supplemental Unemployment Benefits can be
6 paid to such workers. Any information disclosed under this
7 provision shall be utilized solely for the purpose outlined herein
8 and shall be held strictly confidential by the employer.

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

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

17 2. The disclosure of information to any person for a purpose as
18 authorized by the taxpayer or claimant pursuant to a waiver of
19 confidentiality. The waiver shall be in writing and shall be
20 notarized;

21 3. The Oklahoma Department of Commerce may have access to data
22 obtained pursuant to the Employment Security Act of 1980 pursuant to
23 rules promulgated by the Commission. The information obtained shall
24 be held confidential by the Department and any of its agents and

1 shall not be disclosed or be open to public inspection. The
2 Oklahoma Department of Commerce, however, may release aggregated
3 data, either by industry or county, provided that such aggregation
4 meets disclosure requirements of the Commission;

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

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

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

22 7. The furnishing of information to other state agencies for
23 the limited purpose of aiding in the collection of debts owed by
24

1 individuals to the requesting agencies or the Oklahoma Employment
2 Security Commission;

3 8. The release to employees of the Department of Transportation
4 or any Metropolitan Planning Organization as defined in 23 U.S.C.,
5 Section 134 and 49 U.S.C., Section 5303 of information required for
6 use in federally mandated regional transportation planning, which is
7 performed as a part of its official duties;

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

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

15 11. The release to employees of any Oklahoma state, Oklahoma
16 county or Oklahoma municipal law enforcement agency for use in
17 criminal investigations and the location of missing persons or
18 fugitives from justice;

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

23 13. The release to employees of the Oklahoma State Regents for
24 Higher Education of information required for use in the default

1 prevention efforts and/or collection of defaulted student loans
2 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
3 information disclosed under this provision shall be utilized solely
4 for the purpose outlined herein and shall be held strictly
5 confidential by the Oklahoma State Regents for Higher Education;

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

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

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

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

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

19 19. The release of wage and benefit claim information, at the
20 discretion of the Commission, to an agency of this state or its
21 political subdivisions, or any nonprofit corporation that operates a
22 program or activity designated as a partner in the Workforce
23 Investment Act One-Stop delivery system pursuant to 29 U.S.C.A.,
24 Section 2481(b), based on a showing of need made to the Commission

1 and after an agreement concerning the release of information is
2 entered into with the entity receiving the information;

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

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

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

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

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

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

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

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

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

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

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

1 E. Should any of the disclosures provided for in this section
2 require more than casual or incidental staff time, the Commission
3 shall charge the cost of such staff time to the party requesting the
4 information.

5 F. It is further provided that the provisions of this section
6 shall be strictly interpreted and shall not be construed as
7 permitting the disclosure of any other information contained in the
8 records and files of the Commission.

9 SECTION 20. REPEALER 40 O.S. 2011, Sections 3-110 and 3-
10 112, as amended by Section 11, Chapter 71, O.S.L. 2013 (40 O.S.
11 Supp. 2014, Section 3-112), are hereby repealed.

12 SECTION 21. This act shall become effective November 1, 2015.

13
14 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, LABOR, AND RETIREMENT
15 LAWS, dated 02/11/2015 - DO PASS, As Amended and Coauthored.

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