

1 **SENATE FLOOR VERSION**

2 April 2, 2012

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 2204

6 By: McDaniel (Randy), McNiell  
7 and Russ of the House

8 and

9 Newberry of the Senate

10 [ labor - amending 10 sections in Title 40 -  
11 Employment Security Act of 1980 - Oklahoma Employment  
12 Security Commission - codification - effective date ]

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

14 SECTION 1. AMENDATORY 40 O.S. 2011, Section 2-204, is  
15 amended to read as follows:

16 Section 2-204. REGISTRATION FOR EMPLOYMENT. The unemployed  
17 individual must register for work ~~at and thereafter continue to~~  
18 ~~report at an employment office~~ within seven (7) days of filing his  
19 or her initial claim for unemployment benefits in accordance with  
20 such rules as the Commission may prescribe, except that the  
21 Commission may, ~~by rule, waive or alter either or both~~ the  
22 requirements of this section as to individuals attached to regular  
23 jobs ~~and as to such other cases or,~~ situations involving mass  
24 layoffs, or individuals in areas not served by an established

1 employment office, ~~with respect to which~~ or Internet service when it  
2 finds that compliance with ~~such~~ these requirements would be  
3 oppressive, or would be inconsistent with the purpose of this act.

4 SECTION 2. AMENDATORY 40 O.S. 2011, Section 2-207, is  
5 amended to read as follows:

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

7 A. The unemployed individual, during the individual's base  
8 period, shall have been paid:

9 1. Taxable wages of not less than One Thousand Five Hundred  
10 Dollars (\$1,500.00); and

11 2. Total wages of not less than one and one-half (1 1/2) times  
12 the amount of wages during that quarter of the individual's base  
13 period in which the wages were highest.

14 B. Notwithstanding the ~~preceding provision, an individual with~~  
15 ~~base period wages equal to or more than the highest annual amount of~~  
16 ~~taxable wages that applies to any calendar year in which the claim~~  
17 ~~for unemployment benefits was filed~~ provisions in subsection A of  
18 this section, an unemployed individual shall be eligible for  
19 benefits if, during the individual's base period, he or she shall  
20 have been paid:

21 1. Taxable wages of any amount; and

22 2. Total wages equal to or more than the annual amount of  
23 taxable wages that applies to any calendar year in which the claim  
24 for unemployment benefits was filed.

1        C. 1. If an individual lacks sufficient base period wages  
2 under subsection A or B of this section to establish a claim for  
3 benefits, any wages paid in the individual's alternative base period  
4 shall be considered as the individual's base period wages.

5        2. If the Commission has not received wage information from the  
6 individual's employer for the most recent calendar quarter of the  
7 alternative base period, the Commission shall accept an affidavit  
8 from the individual supported by wage information such as check  
9 stubs, deposit slips, or other supporting documentation to determine  
10 wages paid.

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

15        4. If alternative base period wages are established by  
16 affidavit of the individual, the employer to which the wages are  
17 attributed will have the right to protest the wages reported. If a  
18 protest is made, the employer must provide documentary evidence of  
19 wages paid to the individual. The Commission will determine the  
20 wages paid based on the preponderance of the evidence presented by  
21 each party.

22        5. Provided, no wages used to establish a claim under an  
23 alternative base period shall be subsequently used to establish a  
24 second benefit year.

1 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-503, is  
2 amended to read as follows:

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

4 A. Claims for benefits shall be made in accordance with ~~such~~  
5 ~~rule as~~ all rules that the Oklahoma Employment Security Commission  
6 may prescribe.

7 B. Promptly after an initial claim or an additional initial  
8 claim is filed, the Commission shall give written notice of the  
9 claim to the last employer of the claimant for whom he or she worked  
10 at least fifteen (15) working days. Promptly after the Commission  
11 is notified of the claimant's separation from an employment obtained  
12 by a claimant during a continued claim series, the Commission shall  
13 give written notice of the claim to the last separating employer.  
14 Notices to separating employers during a continued claim series will  
15 be given to the last employer in the claim week without regard to  
16 length of employment.

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

22 D. Notices shall be deemed given when the Commission deposits  
23 the same in the United States mail addressed to the employer's last-  
24 known address. Notice shall be presumed prima facie to have been

1 given to the employer to whom addressed on the date stated in the  
2 written notice. If the employer has elected to be notified by  
3 electronic means according to procedures set out in Oklahoma  
4 Employment Security Commission rules, notice shall be deemed to be  
5 given when the Commission transmits the notification by electronic  
6 means.

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

12 1. Make the claimant ineligible for benefits under Sections 2-  
13 201 through ~~2-209~~ 2-210 of this title;

14 2. Disqualify the claimant from benefits under Sections 2-401  
15 through 2-418 of this title; or

16 3. Relieve such employer from being charged for the benefits  
17 wages of such claimant.

18 SECTION 4. AMENDATORY 40 O.S. 2011, Section 2-507, is  
19 amended to read as follows:

20 Section 2-507. NOTICE OF DETERMINATIONS.

21 Notice of a determination upon a claim shall be given promptly  
22 to the claimant by delivery thereof or by mailing ~~such~~ the notice to  
23 the claimant's last-known address or by electronic means if the  
24 claimant elected this form of notification through procedures set

1 out by Oklahoma Employment Security Commission rules. Notice of a  
2 determination shall also be given promptly to the last employer of  
3 the claimant, for whom the claimant worked at least fifteen (15)  
4 working days, that objected to the claim in accordance with the  
5 provisions of subsection E of Section 2-503 of this title and to  
6 each other employer who timely filed a written objection to the  
7 claim. If the employer has elected to be notified by electronic  
8 means according to procedures set out in Oklahoma Employment  
9 Security Commission rules, notice shall be deemed to be given when  
10 the Commission transmits the notification by electronic means.

11 SECTION 5. AMENDATORY 40 O.S. 2011, Section 2-613, is  
12 amended to read as follows:

13 Section 2-613. BENEFIT OVERPAYMENTS.

14 An overpayment of unemployment benefits shall be classified in  
15 one of three ways with recovery and recoupment to be conducted as  
16 follows:

17 1. Fraud overpayment: in which an individual intentionally  
18 makes a false statement or representation or fails to disclose a  
19 material fact, and has received any sum as benefits to which the  
20 individual was not entitled. The individual shall be liable to  
21 repay this sum, plus a penalty of twenty-five percent (25%) of the  
22 amount of the original overpayment and interest at the rate of one  
23 percent (1%) per month on the unpaid balance of the overpayment, to  
24 the Oklahoma Employment Security Commission. Three-fifths (3/5) of

1 the penalty amount collected shall be deposited in the Unemployment  
2 Trust Fund for the State of Oklahoma and the remaining two-fifths  
3 (2/5) shall be deposited in the Oklahoma Employment Security  
4 Commission Revolving Fund. The interest shall cease to accrue when  
5 the total accrued interest equals the amount of the overpayment. If  
6 an overpayment is modified, the interest shall cease to accrue when  
7 the total accrued interest equals the amount of the modified  
8 overpayment. The Commission shall deduct the principal sum from any  
9 future benefits payable to the individual;

10 2. Claimant error overpayment: in which an individual, by  
11 mistake of law or fact, makes a false statement or representation or  
12 fails to disclose a material fact and has received any sum as  
13 benefits to which the individual was not entitled. The individual  
14 shall be liable to repay this sum, plus interest at the rate of one  
15 percent (1%) per month on the unpaid balance of the overpayment, to  
16 the Commission. The interest shall cease to accrue when the total  
17 accrued interest equals the amount of the overpayment. If an  
18 overpayment is modified, the interest shall cease to accrue when the  
19 total accrued interest equals the amount of the modified  
20 overpayment. The Commission shall deduct the principal sum from any  
21 future benefits payable to the individual; or

22 3. Administrative overpayment - in which:  
23  
24

1 a. an individual has received any sum as benefits under  
2 this act due to an error by the Commission or an  
3 employer, or

4 b. an individual has received benefits and, under a  
5 redetermination or a reversal of a decision on appeal,  
6 the individual has been found to be not entitled to  
7 benefits.

8 The individual shall be liable to have this sum deducted from any  
9 future benefits payable to the individual with respect to the  
10 benefit year current at the time of the receipt and the next  
11 subsequent benefit year that begins within one (1) year after the  
12 expiration of the benefit year current at the time of the receipt.  
13 No interest shall accrue on administrative overpayments.

14 SECTION 6. AMENDATORY 40 O.S. 2011, Section 3-102, is  
15 amended to read as follows:

16 Section 3-102. CONTRIBUTIONS.

17 A. Contributions shall accrue and become payable by each  
18 employer for each calendar year in which the employer is subject to  
19 this act, with respect to wages for employment. Such contributions  
20 shall become due and be paid by each employer to the Oklahoma  
21 Employment Security Commission for the Unemployment Compensation  
22 Fund in accordance with such rules as the Commission may prescribe,  
23 and shall not be deducted, in whole or in part, from the wages of  
24 individuals in the employer's employ.



1 B. In the payment of any contributions, a fractional part of a  
2 cent shall be disregarded unless it amounts to one-half cent  
3 (\$0.005) or more, in which case it shall be increased to one cent  
4 (\$0.01).

5 C. Each employer shall be notified of its contribution rate for  
6 a given calendar year on or before September 30 of the previous  
7 calendar year. ~~The rate notice shall become conclusive and binding~~  
8 ~~upon be mailed to the employer unless within twenty (20) days after~~  
9 ~~the mailing of the notice of the contribution rate, to at the~~  
10 ~~employer's last-known address, .~~ If the employer files a written  
11 request for a review and redetermination setting forth the  
12 employer's reasons for the review has elected to be notified by  
13 electronic means according to procedures set out in Oklahoma  
14 Employment Security Commission rules, notice shall be deemed to be  
15 given when the Commission transmits the notification by electronic  
16 means. The employer shall file an appeal to the rate notice within  
17 twenty (20) days after the mailing of the notice of the contribution  
18 rate, or the date of transmission by electronic means. The Upon the  
19 filing of a timely appeal, the Commission shall provide for a review  
20 and issue a determination to the employer. If the employer does not  
21 file a timely appeal, the contribution rate of the employer shall  
22 become conclusive and binding.

23 D. Within fourteen (14) days after the date of mailing of the  
24 notice of the determination, the employer may file with the

1 Commission at the address prescribed in the notice the employer's  
2 specific written objections to the contribution rate so determined.  
3 The matter will be heard upon those specific written objections by a  
4 representative appointed by the Commission. The decision shall be  
5 made in writing and notice shall be mailed to the employer. The  
6 employer may appeal to the district court by filing a petition for  
7 review with the clerk of that court within thirty (30) days after  
8 the date of mailing stated upon the notice of decision.

9 SECTION 7. AMENDATORY 40 O.S. 2011, Section 3-106, is  
10 amended to read as follows:

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

12 A. The Oklahoma Employment Security Commission shall give  
13 notice to each base period employer of a claimant promptly after the  
14 claimant is issued his or her fifth week of benefits by the  
15 Commission or promptly after the Commission receives notice of the  
16 amounts paid as benefits by another state under a reciprocal  
17 arrangement. Notice shall be deemed given under this subsection  
18 when the Commission deposits the same with the United States Postal  
19 Service addressed to the employer at an address designated by the  
20 employer to receive the notice or at the employer's last-known  
21 address. If the employer has elected to be notified by electronic  
22 means according to procedures set out in Oklahoma Employment  
23 Security Commission rules, notice shall be deemed to be given when  
24 the Commission transmits the notification by electronic means.

1 Notice shall be presumed prima facie to have been given to the  
2 employer to whom addressed on the date stated in the written notice.  
3 This notice shall give the name and Social Security Number of the  
4 claimant, the date the claim was filed, and the amount of benefit  
5 wages charged to the employer in each quarter of the base period.

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

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

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

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

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

22 C. Upon receipt of the employer's written objections, the  
23 Commission shall make a determination as to whether or not the  
24 employer is entitled to be relieved from the charging of benefit

1 wages. The Commission shall promptly notify the employer of that  
2 determination. Provided further, the twenty-day time period for  
3 filing written objections with the Commission as provided for in  
4 subsection B of this section may be waived for good cause shown.

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

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

23 F. The employer or the Commission may appeal the order of the  
24 Commission or its representative to the district court by filing a

1 petition for review with the clerk of that court within thirty (30)  
2 days after the date the order was mailed to all parties. The  
3 mailing date shall be specifically stated in the order.

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

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

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

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

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

1           5. Was discharged by an employer for unsatisfactory performance  
2 during an initial employment probationary period. As used in this  
3 paragraph, "probationary period" means a period of time set forth in  
4 an established probationary plan which applies to all employees or a  
5 specific group of employees and does not exceed ninety (90) calendar  
6 days from the first day a new employee begins work. The employee  
7 must be informed of the probationary period within the first seven  
8 (7) work days. There must be conclusive evidence to establish that  
9 the individual was separated due to unsatisfactory work performance;

10           6. Left employment to attend training approved under the Trade  
11 Act of 1974 and is allowed unemployment benefits pursuant to Section  
12 2-416 of this title; or

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

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

23           I. An employer shall not be charged with benefit wages of a  
24 laid-off employee if the employer lists as an objection in a

1 statement filed in accordance with subsection B of this section that  
2 said employee collecting benefits was hired to replace a United  
3 States serviceman or servicewoman called into active duty and laid-  
4 off upon the return to work by that serviceman or servicewoman. The  
5 Unemployment Compensation Fund shall be charged with the benefit  
6 wages of the laid-off employee.

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

15 SECTION 8. AMENDATORY 40 O.S. 2011, Section 3-115, is  
16 amended to read as follows:

17 Section 3-115. APPEAL OF DETERMINATIONS.

18 A. If a determination is made by the Oklahoma Employment  
19 Security Commission on any aspect of an employer's account, and a  
20 method of appeal or protest of the determination is not set out in  
21 the statute or rule under which the determination was made, the  
22 employer may appeal or protest the determination under the procedure  
23 set forth in subsection B of this section.

24

1 B. 1. All determinations affecting an employer account must be  
2 made by the Commission in writing in a Notice of Determination and  
3 mailed to the employer at the employer's last-known address with the  
4 mailing date and appeal rights set out in the document. If the  
5 employer has elected to be notified by electronic means according to  
6 procedures set out in Oklahoma Employment Security Commission rules,  
7 notice shall be deemed to be given when the Commission transmits the  
8 notification by electronic means.

9 2. Within twenty (20) days after the mailing or transmission of  
10 the Notice of Determination as provided for in paragraph 1 of this  
11 subsection, the employer may file with the Commission, or its  
12 representative, a written request for a review and redetermination  
13 setting forth the employer's reasons therefor. If any employer  
14 fails to file a written request for review and redetermination  
15 within twenty (20) days, then the initial determination of the  
16 Commission shall be final, and no further appeal or protest shall be  
17 allowed.

18 3. If a written request for review and redetermination is  
19 filed, the Commission shall provide for a review and issue a Notice  
20 of Redetermination in the matter. The employer may appeal the  
21 redetermination by filing a written protest within fourteen (14)  
22 days of the date of the mailing of the Notice of Redetermination.  
23 If the employer fails to file a written protest within the time  
24



1 allowed, the redetermination of the Commission shall be final and no  
2 further appeal or protest shall be allowed.

3 4. Upon the timely filing of a written protest, the Commission  
4 shall provide for an oral hearing de novo to allow the employer to  
5 present evidence in support of the protest. The Commission or its  
6 representatives shall, by written notice, advise the employer of the  
7 date of the hearing, which shall not be less than ten (10) days from  
8 the date of the mailing of the written notice. At the discretion of  
9 the Commission, this hearing shall be conducted by the Commission,  
10 or by a representative appointed by the Commission for this purpose.

11 5. 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 mail it to the employer at the employer's last-known address with  
15 the mailing date and appeal rights set out in the document.

16 6. The employer or the Commission may appeal the order to the  
17 district court of the county in which the employer has its principal  
18 place of business by filing a Petition for Review with the clerk of  
19 the court within thirty (30) days after the date the order was  
20 mailed to all parties. If the employer does not have a principal  
21 place of business in any county in Oklahoma, then the Petition for  
22 Review shall be filed with the Oklahoma County District Court. All  
23 appeals shall be governed by Part 4 of Article 3 of the Employment  
24 Security Act of 1980. If the employer fails to file an appeal to

1 the district court within the time allowed, the order shall be final  
2 and no further appeal shall be allowed.

3 SECTION 9. AMENDATORY 40 O.S. 2011, Section 3-309, is  
4 amended to read as follows:

5 Section 3-309. COLLECTION OF DELINQUENT CONTRIBUTIONS,  
6 PENALTIES ~~OR,~~ INTEREST OR FEES. ~~Upon a hearing with notice~~ When a  
7 determination that an employer owes delinquent contributions,  
8 penalties, interest or fees becomes final, the Oklahoma Employment  
9 Security Commission shall be entitled to proceed by ~~garnishment~~ levy  
10 to collect any delinquent contribution and to collect any penalty,  
11 interest or fees due and owing as a result of the delinquency.  
12 Provided, that upon proper application under the procedures outlined  
13 herein, the ~~court~~ Assessment Board of the Oklahoma Employment  
14 Security Commission may issue an order continuing or modifying the  
15 ~~garnishment~~ levy for the collection of delinquent contributions,  
16 penalties, interest or fees.

17 SECTION 10. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 3-511 of Title 40, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. As used in the Employment Security Act of 1980, Sections 3-  
21 501 through 3-510 of Title 40 of the Oklahoma Statutes:

22 1. "Earnings" means any form of payment to any individual  
23 including, but not limited to, salary, wages, commissions, or other  
24 compensation;

1           2. "Employer" means any person, partnership, corporation,  
2 limited liability company or legal entity of any kind that owes  
3 earnings to a tax debtor;

4           3. "Contract proceeds" means any payment or exchange of assets  
5 due to a tax debtor from any contract the tax debtor is a party to  
6 or a beneficiary of;

7           4. "Contracting entity" means any person, partnership,  
8 corporation, limited liability company or legal entity of any kind  
9 that owes money to a tax debtor due to the provisions of a contract  
10 the entity is bound by; and

11           5. "Tax debtor" means any person, partnership, corporation,  
12 limited liability company or legal entity of any kind that owes the  
13 Oklahoma Employment Security Commission any amount for delinquent  
14 state unemployment taxes, interest, penalties, fees or surcharge.

15           B. If any tax debtor shall fail to pay his or her indebtedness  
16 to the Oklahoma Employment Security Commission after the tax debtor  
17 has been notified of the amount due and demand for payment has been  
18 made, it shall be lawful for the Oklahoma Employment Security  
19 Commission to collect the amount owed by levy upon any earnings or  
20 contract proceeds of the tax debtor.

21           C. To levy upon the earnings of a tax debtor or contract  
22 proceeds owed to a tax debtor, the Oklahoma Employment Security  
23 Commission must serve a Notice of Levy on the employer who employs  
24 the tax debtor or the contracting entity that owes money under

1 contract to the tax debtor, along with the tax warrants covering all  
2 quarters in which the tax debtor owes unemployment taxes, interest,  
3 penalties, fees or surcharge. The levy will have the same priority,  
4 and be subject to the same exceptions, as a continuing earnings  
5 garnishment provided for in Section 1173.4 of Title 12 of the  
6 Oklahoma Statutes. The following procedures will apply to a Notice  
7 of Levy served on an employer or contracting entity:

8 1. The employer or contracting entity shall answer the Notice  
9 of Levy on a form provided by the Commission. The employer or  
10 contracting entity shall follow the procedure for answering a  
11 Continuing Earnings Garnishment as set out in subsection F of  
12 Section 1173.4 of Title 12 of the Oklahoma Statutes;

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

21 3. The employer or contracting entity shall deliver all funds  
22 subject to the levy up to the amount of indebtedness indicated on  
23 the tax warrants plus accrued interest pursuant to subsection A of  
24 Section 3-301 of Title 40 of the Oklahoma Statutes and any fees for

1 service of process to the representative of the Commission indicated  
2 on the Notice of Levy. The delivery of this money shall occur  
3 within ten (10) days of the date the earnings or contract proceeds  
4 are due to be paid to the tax debtor.

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

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

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

1           SECTION 11.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 4-319 of Title 40, unless there  
3 is created a duplication in numbering, reads as follows:

4           In order to encourage the improvement and modernization of  
5 employment, training, and placement services for veterans, and to  
6 recognize local offices, divisions, or units of the Oklahoma  
7 Employment Security Commission for excellence in the provision of  
8 services to veterans, or for having made demonstrable improvements  
9 in the provision of services to veterans, the Veterans Services  
10 Division of the Oklahoma Employment Security Commission is directed  
11 to establish a recognition program for these entities. The Oklahoma  
12 Employment Security Commission is hereby authorized to award funds  
13 to a local office, division, or unit meeting criteria established by  
14 the Veterans Services Division of the Oklahoma Employment Security  
15 Commission, provided funds exist from United States Department of  
16 Labor grants for the payment of the awards. The funds awarded under  
17 this section shall be held by the Finance and Administrative  
18 Services Division on behalf of the local office, division, or unit,  
19 and can be utilized to purchase supplies, equipment, furniture, or  
20 other goods that would assist the employees of the local office,  
21 division, or unit. The money shall be drawn using purchase orders  
22 through the normal requisition system at the discretion of the  
23 supervisor of the local office, division, or unit.

24

1 SECTION 12. AMENDATORY 40 O.S. 2011, Section 4-508, is  
2 amended to read as follows:

3 Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL -  
4 DISCLOSURE.

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

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

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

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

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

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

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

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



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

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

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

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

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

4           10. The release to employees of the Attorney General, the State  
5 Insurance Fund, the Department of Labor, the Workers' Compensation  
6 Court, and the Insurance Department for use in investigation of  
7 workers' compensation fraud;

8           11. The release to employees of the Oklahoma State Bureau of  
9 Investigation or release to employees of the Oklahoma State Bureau  
10 of Narcotics and Dangerous Drugs Control for use in criminal  
11 investigations and the location of missing persons or fugitives from  
12 justice;

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

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

24

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

13           15. The release to employees of the Office of State Finance of  
14 information required to identify economic trends. The information  
15 obtained shall be kept confidential by the Office of State Finance  
16 and shall not be disclosed or be open to public inspection. The  
17 Office of State Finance may release aggregate data, provided that  
18 such aggregation meets disclosure requirements of the Commission;

19           16. The release to employees of the Department of Mental Health  
20 and Substance Abuse Services of information required to evaluate the  
21 effectiveness of mental health and substance abuse treatment and  
22 state or local programs utilized to divert persons from inpatient  
23 treatment. The information obtained shall be kept confidential by  
24 the Department and shall not be disclosed or be open to public

1 inspection. The Department of Mental Health and Substance Abuse  
2 Services, however, may release aggregated data, either by treatment  
3 facility, program or larger aggregate units, provided that such  
4 aggregation meets disclosure requirements of the Oklahoma Employment  
5 Security Commission;

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

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

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

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

23  
24

1 21. The release of information to the Bureau of the Census of  
2 the U.S. Department of Commerce for the purpose of economic and  
3 statistical research;

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

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

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

18 ~~or~~

19 25. The release of information to vendors that contract with  
20 the Oklahoma Employment Security Commission to provide for the  
21 issuance of debit cards, to conduct electronic fund transfers, to  
22 perform computer programming operations, or to perform computer  
23 maintenance or replacement operations; provided the vendor agrees to  
24 protect and safeguard the information it receives and to destroy the

1 information when no longer needed for the purposes set out in the  
2 contract;

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

13 **27. The release of information to vendors that contract with**  
14 **the State of Oklahoma for the purpose of providing a public**  
15 **electronic labor exchange system that will support the Oklahoma**  
16 **Employment Security Commission's operation of an employment service**  
17 **system to connect employers with job seekers and military veterans.**  
18 **This labor exchange system would enhance the stability and security**  
19 **of Oklahoma's economy as well as support the provision of veterans'**  
20 **priority of service. The vendors may perform computer programming**  
21 **operations, perform computer maintenance or replacement operations,**  
22 **or host the electronic solution; provided each vendor agrees to**  
23 **protect and safeguard all information received, that no information**  
24 **shall be disclosed to any third party, that the use of the**

1 information shall be restricted to the scope of the contract, and  
2 that the vendor shall properly dispose of all information when no  
3 longer needed for the purposes set out in the contract.

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

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

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

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

3 SECTION 13. AMENDATORY 40 O.S. 2011, Section 5-108, is  
4 amended to read as follows:

5 Section 5-108. OTHER PENALTIES IN THIS ACT.

6 Other penalties are provided in the following sections of this  
7 title:

8 Employer violations of employee rights - Section 2-301

9 Impermissible charges to claimants - Section 2-302

10 Disqualification of benefit claims for fraud - Section 2-402

11 Recovery of benefits paid upon false statement - Section 2-613

12 SUTA dumping prohibition - Section 3-111.1

13 Fraud overpayment penalty - Section 2-613

14 SECTION 14. This act shall become effective November 1, 2012.

15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & COMMERCE, dated 3-29-12  
16 - DO PASS, As Amended.

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