An Act

ENROLLED HOUSE
BILL NO. 1001

By: McDaniel (Randy) of the House

and

Newberry of the Senate

An Act relating to labor; amending 40 O.S. 2011, Sections 1-210, 2-108, 2-203, as last amended by Section 1, Chapter 220, O.S.L. 2014, 2-417, 2-618, 2-802, 3-103, as amended by Section 8, Chapter 71, O.S.L. 2013, 3-106, as amended by Section 8, Chapter 196, O.S.L. 2012, Section 13, Chapter 196, O.S.L. 2012, 4-318, 4-504 and 4-508, as last amended by Section 1, Chapter 282, O.S.L. 2014 (40 O.S. Supp. 2014, Sections 2-203, 3-103, 3-106, 3-511 and 4-508), which relate to the Employment Security Act of 1980; modifying definition; exempting certain persons from coverage; defining terms; requiring limited liability companies be taxed in the same manner as under the Federal Unemployment Tax Act and Internal Revenue Code; modifying when certain individuals produce certain evidence; modifying requirements for filing claim for unemployment benefits; modifying disqualification to receive benefits; authorizing Oklahoma Employment Security Commission to require individual to personally appear at workforce center; providing for disqualification of benefits for failure to appear; requiring Commission to establish system to identify certain claimants; allowing employers to file a specific statement of the objection to a claim through employer portal; authorizing Commission to levy employer wages or bank accounts to collect unemployment benefit overpayments; authorizing Commission to utilize the United States Treasury Offset Program to collect benefit overpayment indebtedness; modifying references to the Workforce Investment Act programs; modifying employer contribution rate; prohibiting eligibility of certain employers to be relieved of

benefit wage charge; providing certain contribution rate for certain employers; authorizing levy for the collection of delinquent unemployment taxes; authorizing Commission to utilize the United States Treasury Offset Program to collect delinquent employer taxes; clarifying references to certain programs; repealing 40 O.S. 2011, Sections 3-110 and 3-112, as amended by Section 11, Chapter 71, O.S.L. 2013 (40 O.S. Supp. 2014, Section 3-112), which relate to contribution rates; providing for codification; and providing effective dates.

SUBJECT: Employment Security Act of 1980

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

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

Section 1-210. EMPLOYMENT.

"Employment" means:

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

(a) any officer of a corporation; or

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

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

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

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

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

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

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

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

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

(4) Service performed by an individual in the employ of a community chest, fund, foundation or corporation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is

carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in, including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office; provided that such organization had four or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within either the calendar year or preceding calendar year, regardless of whether they were employed at the same moment of time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) in the employ of:

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

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

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

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

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

(i) as an elected official;

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

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

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

(v) in a position which, under or pursuant to the laws of this state, is designated as a major

nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week;

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

(d) by an individual who is participating or enrolled in a program of an organization that provides rehabilitation through work for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury, or a program of an organization that provides work for individuals who, because of their impaired mental or physical capacity cannot be readily absorbed into the competitive labor market; provided that the services are performed by a program participant on real property owned or leased directly by the organization or by a program participant working under a special certificate issued by the U.S. Secretary of Labor pursuant to 29 U.S.C., Section 214(c) and 29 C.F.R., Section 525.1 et seq.;

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

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

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

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

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

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

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

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

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

(d) an "American employer", for purposes of this subsection, means a person who is:

(i) an individual who is a resident of the United States;

(ii) a partnership if two-thirds (2/3) or more of the partners are residents of the United States;

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

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

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

(9) Notwithstanding paragraph (11) of this section, all service performed by an officer or member of the crew of an American vessel on or in connection with the vessel, if the operating office, from

which the operations of the vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state.

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

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

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

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

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

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

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

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

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

(b) services covered by an arrangement pursuant to Section 4-701 et seq. of this title between the Oklahoma Employment Security Commission and the agency charged

with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state,

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

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

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

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

(14) Notwithstanding any other provision of this subsection, services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to the Employment Security Act of 1980 unless and until it is shown to the satisfaction of the Commission that:

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

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

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

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

(a) services performed by an individual in agricultural labor, except as provided under paragraph (5) of this section. Services performed by an individual who is a nonresident alien admitted to the United States to perform agricultural labor, pursuant to 8 U.S.C., Sections 1101(a), 1184(c) and 1188. For purposes of this subparagraph, the term "agricultural labor" means remunerated service performed in agricultural labor as defined in the Federal Unemployment Tax Act, 26 U.S.C., Section 3306(k);

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

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

(d) service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the Employment Security Act of 1980, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of the Employment Security Act of 1980 shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the Secretary of Labor of the United States under the Federal Internal Revenue Code, 26 U.S.C., Section 3304(c), the payments required of such instrumentalities with respect to the year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in Section 3-304 of

this title with respect to contributions erroneously collected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) cosmetology services performed by an individual in a beauty shop, as defined by Section 199.1 of Title 59 of the Oklahoma Statutes, pursuant to an agreement

whereby the owner of the beauty shop leases or rents facilities for cosmetology to such individual;

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

(s) services performed as a participant in a work or training program administered by the Department of Human Services;

(t) riding services performed by a jockey and services performed by a trainer of race horses in preparation for and during an approved race meeting licensed by the Oklahoma Horse Racing Commission;

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

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

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

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

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

that provide for the exploration for or development of minerals,

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

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

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

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

LIMITED LIABILITY COMPANIES.

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

B. For unemployment tax purposes, wages, salaries, or draws paid to limited liability company members, relatives of the members, and employees shall be taxed in the same manner as required by the Federal Unemployment Tax Act, Title 26 U.S.C., Chapter 23, and the Internal Revenue Code, Title 26 U.S.C., Chapters 1 through 99.

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

Section 2-108. BENEFITS - APPROVED TRAINING.

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

1. The individual's skills are obsolete or such that there are minimal opportunities for employment;

2. Training is for an occupation for which there is a substantial and recurring demand; and

3. The individual possesses aptitudes or skills which can be supplemented by retraining within a reasonable time.

B. Any individual in training approved by the Commission will produce satisfactory evidence of continued attendance and satisfactory progress, when requested by the Commission. Failure to comply shall result in a disqualification of benefits for each week of occurrence.

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

Section 2-203. CLAIM.

A. An unemployed individual must file an initial claim for unemployment benefits by calling an Oklahoma Employment Security Commission claims representative in a Commission Call Center, by completing the required forms through the Internet Claims service provided by the Commission, or by completing all forms necessary to process an initial claim in a local office of the Commission or any alternate site designated by the Commission to take unemployment benefit claims. The Commission may obtain additional information regarding an individual's claim through any form of telecommunication, writing, or interview. An unemployed individual must file a claim in writing or by telecommunication for benefits

with respect to each week in accordance with such rule as the Commission may prescribe.

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

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

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

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

E. The Commission may require the individual to produce documents or information relevant to the claim for benefits. If the individual fails to produce it, the individual's claim for unemployment benefits may be disqualified indefinitely by the Commission until the information is produced. ~~The Commission may require the individual to personally appear at a location for a purpose relevant to the individual's unemployment claim or job search. If the individual fails to appear, the individual's claim for unemployment benefits may be disqualified indefinitely by the Commission until the individual makes a personal appearance as directed.~~ An individual that has been disqualified indefinitely by

the provisions of this subsection may receive payment for any week between the initial failure and the compliance with this subsection if the claimant is otherwise eligible and has made a timely filing for each intervening week.

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

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

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

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

2. Make application for work with employers who could reasonably be expected to have work available; <u>or</u>

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

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

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

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

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

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

FAILURE TO PERSONALLY APPEAR AS DIRECTED.

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

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

FAILURE TO PARTICIPATE IN REEMPLOYMENT SERVICES THROUGH PROFILING.

The Oklahoma Employment Security Commission shall establish and utilize a system of profiling for all unemployment benefit claimants that will identify claimants who will be likely to exhaust unemployment benefits and who will need job-search assistance services to make a successful transition to new employment. Any claimant who has been referred to reemployment services pursuant to the profiling system and who fails to participate in the reemployment services made available to the claimant, shall be disqualified to receive benefits for each week in which the failure occurs; unless the Commission determines that:

1. The claimant has completed the reemployment services; or

2. There is justifiable cause for the claimant's failure to participate in reemployment services.

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

FILING OF EMPLOYER PROTEST AND DOCUMENTS THROUGH EMPLOYER PORTAL.

A. The procedure set out in this section for the filing of a statement of objection through the employer portal is an optional procedure for the employer. If the employer chooses not to utilize this procedure, the employer must file its protest in accordance with subsection E of Section 2-503 of Title 40 of the Oklahoma Statutes.

B. An employer may file a statement of objections to the claim of a former employee at any time from the moment of discharge or separation from employment of the employee until the expiration of the ten-day time period set out in subsection E of Section 2-503 of Title 40 of the Oklahoma Statutes. The statement of objection must be filed through the employer portal on the Oklahoma Employment Security Commission's Internet website and must contain a statement of specific facts and documentation which:

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

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

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

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

C. Any statement of objection filed pursuant to this section within the time period and in the manner set out in subsection B of this section shall be considered a valid protest to a claim for unemployment benefits filed by the former employee and the employer shall be considered an interested party to the claim. A statement of objection filed pursuant to this section outside the time period or in any manner other than as set out in subsection B of this section shall not be considered a valid protest to a claim for unemployment of the former employee, and the employer shall not be considered an interested party to the claim.

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

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

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

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

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

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

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

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

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

C. To levy upon an employer of the debtor, the Commission must serve a Notice of Levy on the employer along with the warrant of levy and lien that sets out the amount owing on the benefit overpayment of the debtor, with interest. The levy will have the same priority, and be subject to the same exceptions, as a continuing earnings garnishment provided for in Section 1173.4 of Title 12 of the Oklahoma Statutes. The following procedures will apply to a Notice of Levy served on an employer:

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

2. The Notice of Levy shall be a lien on the debtor's property in the same manner as provided for in subsection G of Section 1173.4 of Title 12 of the Oklahoma Statutes. The Notice of Levy shall also

be subject to the procedures and time limits set out in subsections H, I, J and K of Section 1173.4 of Title 12 of the Oklahoma Statutes, except that when a document is required to be filed with the clerk of the court, the document will instead be filed with the Commission as directed on the forms provided;

3. Any employer that fails or refuses to surrender money or rights to money belonging to its employee in the employer's possession, or that fails or refuses to make the appropriate deduction from wages pursuant to a levy provided for by this statute upon being served with a Notice of Levy and supporting warrant of levy and lien of the Commission, shall be liable to the Commission in a sum equal to the amount of money, rights to money, or wage deduction not so surrendered, but not exceeding the amount of the debtor's indebtedness for the collection of which the levy has been made, together with accrued interest pursuant to Section 2-613 of this title, and the cost of service of the Notice of Levy. Any amount recovered in this manner shall be credited against the liability of the debtor for the benefit overpayment indebtedness, for which the levy was made; and

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

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

1. Upon receiving the Notice of Levy and the warrant of levy and lien issued against the debtor, the bank shall deliver all of the debtor's interest in the money in the debtor's bank account at the time of service of the levy, subject to the banker's lien or right of set off or any other priority claim of the bank, up to the amount of indebtedness indicated on the warrant of levy and lien plus accrued interest pursuant to Section 2-613 of this title and any fees for service of process, to the Commission office indicated in the Notice of Levy;

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

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

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

5. Any bank in possession of money or rights to money subject to levy, upon which a levy has been made, that surrenders the money or rights to money to the Commission shall be discharged from any obligation or liability to the debtor and any other person or entity with respect to such money or rights to money arising from the surrender or payment.

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

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

G. Claims for exemptions and any other matter relating to the levy shall be filed with the Appeal Tribunal of the Oklahoma Employment Security Commission. An order of exemption may relate back no more than thirty (30) days before the filing of the claim for exemption and shall extend no further than the expiration date or termination of the levy. Appeal from the Appeal Tribunal

decision shall be governed by the appeal procedures set out in Part 6 of Article 2 of the Employment Security Act of 1980, and the Administrative Rules of the Oklahoma Employment Security Commission pertaining thereto.

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

TREASURY OFFSET PROGRAM - BENEFIT OVERPAYMENT COLLECTIONS.

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

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

C. If the debtor responds to the notice by presenting evidence, the Commission shall evaluate the evidence and review its records of the indebtedness. Based on this evaluation and review, the Commission may modify the amount of the indebtedness. Once the evaluation and review process is complete, the indebtedness shall be submitted to the U.S. Department of the Treasury for collection through the Tax Offset Program.

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

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

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

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

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

B. Such report shall contain the employee's name, address, social security number, date of employment, state of employment, along with the employer's name, address, and federal identification number.

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

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

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

F. Used in this section:

1. "Employee" means an individual who is an employee as defined by the Internal Revenue Code of 1986, 26 U.S.C., Section 3401 et seq. "Employee" does not mean an employee of a federal or state agency performing intelligence or counterintelligence functions if the head of such agency has determined that reporting with respect to that employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission;

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

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

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

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

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

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

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

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

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

1. The date on which the employment was terminated;

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

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

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

C. Upon receipt of the employer's written objections, the Commission shall make a determination as to whether or not the employer is entitled to be relieved from the charging of benefit wages. The Commission shall promptly notify the employer of that determination. Provided further, the twenty-day time period for

filing written objections with the Commission as provided for in subsection B of this section may be waived for good cause shown.

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

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

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

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

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

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

3. Was a regular scheduled employee of that employer prior to the week the employee separated from other employment, and continued

to work for the employer through the fifth compensable week of unemployment in his or her established benefit year;

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

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

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

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

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

I. An employer shall not be charged with benefit wages of a laid-off employee if the employer lists as an objection in a statement filed in accordance with subsection B of this section that the employee collecting benefits was hired to replace a United States serviceman or servicewoman called into active duty and laid-off upon the return to work by that serviceman or servicewoman. The Unemployment Compensation Fund shall be charged with the benefit wages of the laid-off employee.

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

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

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

MINIMUM CONTRIBUTIONS.

A. All employers shall have a rate of one and one-half percent (1.5%) until the calendar year following the eighth consecutive calendar quarter in which the employer employed at least one individual in covered employment, at which time the employer shall qualify for an earned rate calculated pursuant to the provisions of Part 1 of Article III of the Employment Security Act of 1980.

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

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

Section 3-511. LEVY UPON EARNINGS OF TAX DEBTOR.

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

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

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

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

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

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

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

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

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

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

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

TREASURY OFFSET PROGRAM - DELINQUENT UNEMPLOYMENT TAXES.

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

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

C. If the debtor responds to the notice by presenting evidence, the Commission shall evaluate the evidence and review its records of the indebtedness. Based on this evaluation and review, the Commission may modify the amount of the indebtedness. Once the evaluation and review process is complete, the indebtedness shall be submitted to the U.S. Department of Treasury for collection through the Tax Offset Program.

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

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

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

Section 4-318. In order to encourage the improvement and modernization of employment, training, and placement services for veterans, and to recognize eligible employees for excellence in the provision of services to veterans, or for having made demonstrable improvements in the provision of services to veterans, the Veterans Service Division of the Oklahoma Employment Security Commission is directed to establish an employee performance recognition program. The Commission is hereby authorized to grant cash awards of up to Five Thousand Dollars ($5,000.00) to the eligible employees meeting criteria established by the Veterans Service Division of the Oklahoma Employment Security Commission~~,~~, provided~~,~~ funds exist from United States Department of Labor grants for the payment of the awards. For the purposes of this act, "eligible employees" means any of the following:

1. A disabled veterans outreach program specialist;

2. A local veterans employment representative; or

3. An individual providing employment, training and placement services to veterans under the ~~Workforce Investment Act of 1998~~ workforce system programs or through an Employment Service delivery system.

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

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

In the discharge of the duties imposed by the Employment Security Act of 1980, the Oklahoma Employment Security Commission, the chairman of an appeal tribunal, the members of the Board of Review, and any duly authorized representative of any of them shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of the Employment Security Act of 1980 or for purposes of monitoring a workforce system program ~~under the Workforce Investment Act, 29 U.S.C., Section 2934~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and Enterprise Services may release aggregate data, provided that such aggregation meets disclosure requirements of the Commission;

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

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

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

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

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

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

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

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

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

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

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

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

that the vendor shall properly dispose of all information when no longer needed for the purposes set out in the contract.

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

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

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

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

SECTION 21. Section 8 of this act shall become effective April 30, 2016.

SECTION 22. Sections 1 through 7 and Sections 9 through 20 of this act shall become effective November 1, 2015.

Passed the House of Representatives the 29th day of April, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of April, 2015.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 30th
day of April, 20 15, at 2:45 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 6th
day of May, 20 15, at 9:21 o'clock A M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 6th
day of May, 20 15, at 5:23 o'clock P. M.
By: C. Benge