

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 ENGROSSED SENATE
5 BILL NO. 1800

By: Leewright of the Senate

and

McDugle of the House

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9 An Act relating to the Employment Security Act of
10 1980; amending 40 O.S. 2021, Section 1-201, which
11 relates to definitions; defining terms; amending 40
12 O.S. 2021, Section 1-202.1, which relates to extended
13 base period; removing definition; amending 40 O.S.
14 2021, Section 1-209, which relates to employing unit;
15 removing definition; amending 40 O.S. 2021, Section
16 1-209.1, which relates to lessor employing unit;
17 removing definitions; updating statutory reference;
18 amending 40 O.S. 2021, Section 1-209.2, which relates
19 to professional employer organization; removing
20 definitions; amending 40 O.S. 2021, Section 1-217,
21 which relates to unemployed individuals; removing
22 definition; providing conditions of unemployment;
23 specifying conditions for filing during a continued
24 claim series; providing for investigating even when
individual satisfies threshold requirements; making
language gender neutral; amending 40 O.S. 2021,
Section 1-223, which relates to taxable wages;
removing definition; updating statutory language;
amending 40 O.S. 2021, Section 1-224, which relates
to filing; removing definitions related to
telefaxing; modifying requirements for mailing;
updating definitions to include digital filing
through the Oklahoma Employment Security Commission's
portal; amending 40 O.S. 2021, Section 1-225, which
relates to supplemental unemployment benefit plan;
removing definition; amending 40 O.S 2021, Section 1-
228, which relates to limited liability companies;
removing definition; specifying methods of notice by
the Commission; providing Commission's preferred

1 method; allowing for opt-out of delivery; amending 40
2 O.S. 2021, Section 2-203, which relates to claims;
3 removing provision for Commission to inform claimants
4 filing for unemployment benefits and require
5 certification statement during process; amending 40
6 O.S. 2021, Section 2-503, which relates to claims,
7 notices, and objections; providing for electronic
8 notice; allowing for opt-out of certain method;
9 removing provisions for notice by mail; amending 40
10 O.S. 2021, Section 2-503.1, which relates to filing
11 of employer protest; removing optional use of portal;
12 allowing for opt-out of certain method; updating
13 statutory language; amending 40 O.S. 2021, Section 2-
14 605, which relates to notice of decision; providing
15 for notice by electronic means; allowing for opt-out
16 of certain method; removing criteria for mail notice;
17 amending 40 O.S. 2021, Section 2-606, which relates
18 to appeals; removing provision for notice by mail;
19 amending 40 O.S. 2021, Section 3-106, which relates
20 to benefit wages charged; removing conditions for
21 mail and electronic notice; adding reference for
22 filings and hearings by the Assessment Board;
23 removing provision for written protest; updating
24 statutory language; amending 40 O.S. 2021, Section 3-
115, which relates to appeal of determination;
updating statutory language; providing standard of
review; amending 40 O.S. 2021, Section 3-307, which
relates to remittances; providing for Commission to
promulgate rules for payment of unemployment taxes;
amending 40 O.S. 2021, Section 4-205, which relates
to temporary members; providing for appointment of an
additional temporary member by the Governor in the
event of disqualification of a member of the Board of
Review; updating statutory language; amending 40 O.S.
2021, Section 4-508, which relates to information to
be kept confidential; updating statutory language;
permitting disclosure of information to additional
agencies by Commission; repealing 40 O.S. 2021,
Sections 1-202, 1-202.2, 1-203, 1-204, 1-205, 1-206,
1-207, 1-211, 1-212, 1-213, 1-215, 1-216, 1-219, 1-
220, 1-221, 1-226, 1-301, 2-406.2, 2-709, 2-711, 2-
713, and 3-118, which relate to the Employment
Security Act of 1980; providing for codification; and
providing an effective date.

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

2 SECTION 1. AMENDATORY 40 O.S. 2021, Section 1-201, is
3 amended to read as follows:

4 Section 1-201. GENERAL DEFINITIONS. ~~The words and phrases As~~
5 ~~used in this act shall, unless the context clearly requires~~
6 ~~otherwise, have the meanings prescribed in Part 2 of this Article~~
7 the Employment Security Act of 1980:

8 1. "Additional initial claim" means a claim application which
9 reactivates a claim during an existing benefit year and certifies to
10 a period of employment which occurred subsequent to the date of the
11 filing of the last initial, additional, or reopened claim;

12 2. "Alternative base period" means the most recent four (4)
13 completed calendar quarters immediately preceding the first day of
14 an individual's benefit year. In the event that an individual's
15 claim uses an alternative base period to meet the wage requirement
16 under Section 2-207 of this title, this alternative base period
17 shall be substituted for base period for all other purposes under
18 the Employment Security Act of 1980;

19 3. "Assigned tax rate" means the tax rate assigned to an
20 employer pursuant to Section 3-110.1 of this title when the employer
21 does not have sufficient experience history to meet the At-Risk Rule
22 set out in paragraph 3 of Section 3-110.1 of this title;

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1 4. "Base period" means the first four (4) of the last five (5)
2 completed calendar quarters immediately preceding the first day of
3 an individual's benefit year;

4 5. "Benefit year" with respect to any individual means the one-
5 year period beginning with the first day of the first week with
6 respect to which the individual first files a valid claim for
7 benefits and thereafter the one-year period beginning with the first
8 day of the first week with respect to which the individual next
9 files a valid claim for benefits after the termination of his or her
10 last preceding benefit year. Any claim for benefits shall be deemed
11 a valid claim for the purpose of this section if the individual has
12 been paid the wages for insured work required under the Employment
13 Security Act of 1980;

14 6. "Benefit wages" means the taxable wages earned by a claimant
15 during the claimant's base period which are not in excess of the
16 current maximum weekly benefit amount, as determined under Section
17 2-104 of this title, multiplied by the maximum number of weeks for
18 which benefits could be paid to any individual (now twenty-six (26)
19 weeks) multiplied by three (3); provided, however, no wages shall be
20 included as benefit wages unless and until the claimant has been
21 paid benefits for five (5) weeks in one (1) benefit year;

22 7. "Benefits" mean the money payments payable to an individual
23 as provided in the Employment Security Act of 1980 with respect to
24 his or her unemployment including extended benefits. The federal

1 share of such extended benefits shall not be construed as benefits
2 for the purposes of computing contribution rates under the
3 Employment Security Act of 1980;

4 8. "Calendar quarter" means the period of three (3) consecutive
5 calendar months ending on March 31, June 30, September 30, or
6 December 31, or the equivalent thereof as the Commission may by
7 regulation prescribe;

8 9. "Client" shall have the same meaning as provided in
9 paragraph 1 of Section 600.2 of this title;

10 10. "Coemployer" shall have the same meaning as provided in
11 paragraph 2 of Section 600.2 of this title;

12 11. "Coemployment relationship" shall have the same meaning as
13 provided in paragraph 3 of Section 600.2 of this title;

14 12. "Commission" means the Oklahoma Employment Security
15 Commission;

16 13. "Commissioner" means a member of the Commission;

17 14. "Continued claim series" means an uninterrupted series of
18 weekly claims filed by a claimant during the benefit year;

19 15. "Contributions" mean the money payments including taxes and
20 reimbursements, required by the Employment Security Act of 1980 to
21 be paid into the Unemployment Compensation Fund by an employer;

22 16. "Covered employee" shall have the same meaning as provided
23 in paragraph 5 of Section 600.2 of this title;

1 17. "Digital portal filing" means electronic communication
2 through the agency digital portal;

3 18. "Earned tax rate" means the tax rate calculated for an
4 employer with sufficient experience history to meet the At-Risk Rule
5 set out in paragraph 3 of Section 3-110.1 of this title, with the
6 tax rate calculated pursuant to the provisions of Section 3-101 et
7 seq. of this title;

8 19. "Electronic e-filing" means filing by email or fax to
9 email;

10 20. "Eligibility period" of an individual for extended benefits
11 means the period consisting of the weeks in his or her benefit year
12 as defined by the Employment Security Act of 1980, which begin in an
13 extended benefit period and, if his or her benefit year ends within
14 such extended benefit period, any weeks thereafter which begin in
15 such extended benefit period;

16 21. "Employer" shall have the same meaning as provided in
17 Section 1-208 of this title;

18 22. "Employing unit" means any individual or type of
19 organization including any partnership, association, trust, estate,
20 joint stock company, insurance company, limited liability company or
21 corporation, whether domestic or foreign, or the receiver, trustee
22 in bankruptcy, trustee or successor thereof, or the legal
23 representative of a deceased person, which has or subsequent to
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1 January 1, 1936, had in its employ one or more individuals
2 performing services for it within this state;

3 23. "Employment" shall have the same meaning as provided in
4 Section 1-210 of this title;

5 24. "Employment office" means a free public employment office
6 or branch thereof operated by this or any other state as a part of a
7 state-controlled system of public employment offices or by a federal
8 agency charged with the administration of an unemployment
9 compensation program or free public employment offices;

10 25. "Employment Security Administration Fund" means the fund
11 established in Section 4-602 of this title from which administration
12 expenses under the Employment Security Act of 1980 shall be paid;

13 26. "Exhaustee" shall have the same meaning as provided in
14 Section 2-712 of this title;

15 27. "Experience period" means the most recent twelve (12)
16 consecutive completed calendar quarters occurring before July 1 of
17 the year immediately preceding the year for which the employer's
18 contribution rate is being calculated;

19 28. "Extended base period" means the four (4) quarters prior to
20 the claimant's base period. These four (4) quarters may be
21 substituted for base period quarters on a quarter-by-quarter basis
22 to establish a valid claim regardless of whether the wages have been
23 used to establish a prior claim, except any wages earned that would

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1 render the Commission out of compliance with applicable federal law
2 shall be excluded if used in a prior claim;

3 29. "Extended benefit period" shall have the same meaning as
4 provided in Section 2-703 of this title;

5 30. "File", "files", or "filed" shall have the same meaning as
6 provided in Section 1-224 of this title;

7 31. "Foreign limited liability company" shall be defined by the
8 provisions of the Oklahoma Limited Liability Company Act;

9 32. "Fund" means the Unemployment Compensation Fund established
10 in Section 3-601 of this title;

11 33. "Hospital" means any hospital required to be licensed under
12 the Oklahoma Public Health Code, Section 1-101 et seq. of Title 63
13 of the Oklahoma Statutes, and includes state mental hospitals and
14 any other mental hospital or institution;

15 34. "Initial claim" means a new claim application submitted by
16 a claimant to establish a benefit year for unemployment insurance
17 benefits;

18 35. "Institution of higher education" shall have the same
19 meaning as provided in Section 1-214 of this title;

20 36. "Insured work" means employment for employers as defined by
21 the Employment Security Act of 1980;

22 37. "Lessor employing unit" means any independently established
23 business entity which engages in the business of providing leased
24 employees to any other employer, individual, organization,

1 partnership, corporation, or other legal entity, referred to herein
2 as a client lessee;

3 38. "Limited liability company" shall be defined by the
4 provisions of the Oklahoma Limited Liability Company Act;

5 39. "Mail", "mails", "mailed", or "mailing" means communication
6 sent by a postal service with sufficient postage;

7 40. "Probationary period" means a period of time set forth in
8 an established probationary plan, which applies to all employees or
9 a specific group of employees, and does not exceed ninety (90)
10 calendar days from the first day a new employee begins work;

11 41. "Professional Employer Organization" or "PEO" means an
12 organization that is subject to the Oklahoma Professional Employer
13 Organization Recognition and Registration Act and which meets the
14 definition set out in paragraph 9 of Section 600.2 of this title;

15 42. "Rate of insured employment" shall have the same meaning as
16 provided in Section 2-708 of this title;

17 43. "Regular benefits" means benefits payable to an individual
18 under the Employment Security Act of 1980, or under any other state
19 law including dependents' allowances and benefits payable to federal
20 civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter
21 85, other than extended benefits;

22 44. "Reopened claim" means a claim application which
23 reactivates a claim during an existing benefit year when a claimant
24 stopped filing for benefits before his or her claim was exhausted,

1 but in which there occurred no intervening employment from the date
2 of the filing of the last initial, additional, or reopened claim;

3 45. "State" includes, in addition to the state of the United
4 States of America, the District of Columbia, the Commonwealth of
5 Puerto Rico, and the Virgin Islands;

6 46. "State law" means the unemployment insurance law of any
7 state, approved by the Secretary of Labor of the United States under
8 Section 3304 of the Internal Revenue Code of 1954;

9 47. "Supplemental unemployment benefit plan" means a plan that
10 provides for an employer to make payments to its employees during a
11 permanent or temporary layoff that will supplement unemployment
12 benefits received by the employees. The purpose of a supplemental
13 unemployment benefit plan is to allow an employer to sustain the
14 purchasing power of its employees or former employees during a
15 layoff;

16 48. "Taxable wages" means the wages paid to an individual with
17 respect to employment during a calendar year for services covered by
18 the Employment Security Act of 1980 or other state unemployment
19 compensation acts which shall equal the applicable percentage of the
20 state's average annual wage for the second preceding calendar year
21 as determined by the Commission, rounded to the nearest multiple of
22 One Hundred Dollars (\$100.00);

23 49. "Wages" shall have the same meaning as provided in Section
24 1-218 of this title;

1 50. "Wages paid" means wages actually paid to the worker;
2 provided, however, that in the event of any distribution of an
3 employer's assets through insolvency, receivership, composition,
4 assignment for the benefit of creditors, or termination of business,
5 wages earned but not actually paid shall be considered as paid; and

6 51. "Week" means such period of seven (7) consecutive days, as
7 the Commission may by regulation prescribe.

8 SECTION 2. AMENDATORY 40 O.S. 2021, Section 1-202.1, is
9 amended to read as follows:

10 Section 1-202.1. EXTENDED BASE PERIOD. If an individual lacks
11 sufficient base period wages because of a job-related injury for
12 which the individual received total temporary disability payments
13 awarded by the Workers' Compensation Court, upon written application
14 by the claimant, an extended base period will be substituted for the
15 current base period on a quarter-by-quarter basis as needed to
16 establish a valid claim. ~~"Extended base period" means the four~~
17 ~~quarters prior to the claimant's base period. These four quarters~~
18 ~~may be substituted for base period quarters on a quarter-by-quarter~~
19 ~~basis to establish a valid claim regardless of whether the wages~~
20 ~~have been used to establish a prior claim, except any wages earned~~
21 ~~that would render the Commission out of compliance with applicable~~
22 ~~federal law will be excluded if used in a prior claim. Benefits~~
23 paid on the basis of an extended base period, which would not
24 otherwise be payable, shall be noncharged.

1 SECTION 3. AMENDATORY 40 O.S. 2021, Section 1-209, is
2 amended to read as follows:

3 Section 1-209. EMPLOYING UNIT. ~~"Employing unit" means any~~
4 ~~individual or type of organization, including any partnership,~~
5 ~~association, trust, estate, joint stock company, insurance company,~~
6 ~~limited liability company or corporation, whether domestic or~~
7 ~~foreign, or the receiver, trustee in bankruptcy, trustee or~~
8 ~~successor thereof, or the legal representative of a deceased person,~~
9 ~~which has or subsequent to January 1, 1936, had in its employ one or~~
10 ~~more individuals performing services for it within this state.~~

11 All individuals performing services within this state for any
12 employing unit which maintains two or more separate establishments
13 within this state shall be deemed to be employed by a single
14 employing unit for all the purposes of the Employment Security Act
15 of 1980, except as provided under paragraphs 10 and 11 of Section 1-
16 208 of this title.

17 Whenever any employing unit contracts with or has under it any
18 contractor or subcontractor for any employment, which is part of its
19 usual trade, occupation, profession, or business, unless the
20 employing unit as well as each such contractor or subcontractor is
21 an employer by reason of Section 1-208 or Section 3-203 of this
22 title, the employing unit shall for all the purposes of the
23 Employment Security Act of 1980 be deemed to employ each individual
24 in the employ of each such contractor or subcontractor for each day

1 during which such individual is engaged in performing such
2 employment; except that each such contractor or subcontractor who is
3 an employer by reason of Section 1-208 or Section 3-203 of this
4 title shall alone be liable for the contributions measured by wages
5 paid to individuals employed by the contractor or subcontractor, and
6 except that any employing unit which shall become liable for and pay
7 contributions with respect to individuals in the employ of any such
8 contractor or subcontractor who is not an employer by reason of
9 Section 1-208 or Section 3-203 of this title may recover the same
10 from such contractor or subcontractor.

11 Each individual employed to perform or to assist in performing
12 the work of any agent or employee of an employing unit shall be
13 deemed to be employed by such employing unit for all the purposes of
14 the Employment Security Act of 1980, whether such individual was
15 hired or paid directly by such employing unit or by such agent or
16 employee of an employing unit, provided the employing unit had
17 actual or constructive knowledge of the employment.

18 SECTION 4. AMENDATORY 40 O.S. 2021, Section 1-209.1, is
19 amended to read as follows:

20 Section 1-209.1. LESSOR EMPLOYING UNIT. A. ~~"Lessor employing~~
21 ~~unit" means any independently established business entity which~~
22 ~~engages in the business of providing leased employees to any other~~
23 ~~employer, individual, organization, partnership, corporation or~~
24 ~~other legal entity, referred to herein as a client lessee.~~

1 ~~B.~~ Any employer or any individual, organization, partnership,
2 corporation or other legal entity which meets the definition of
3 lessor employing unit shall be liable for contribution on wages paid
4 by the lessor employing unit to individuals performing services for
5 client lessees of the lessor employing unit.

6 ~~C.~~ B. Unless the lessor employing unit has timely complied with
7 the provisions of this section, any employer, individual,
8 organization, partnership, corporation or other legal entity leasing
9 employees from any lessor employing unit shall be jointly and
10 severally liable for any unpaid contributions, interest, penalties
11 and fees due under this section from any lessor employing unit
12 attributable to wages for services performed for the client lessee
13 entity by the employees leased to the client lessee entity.

14 ~~D.~~ C. In order to relieve client lessees from joint and several
15 liability imposed under this section, any lessor employing unit as
16 defined herein may post and maintain a surety bond issued by a
17 corporate surety authorized to do business in this state in an
18 amount equivalent to the contributions for which the lessor
19 employing unit was liable in the last calendar year in which it
20 accrued contributions, or One Hundred Thousand Dollars
21 (\$100,000.00), whichever amount is the greater, to ensure prompt
22 payment of contributions, interest, penalties and fees for which the
23 lessor employing unit may be or may become liable under this
24 section.

1 ~~E.~~ D. Any lessor employing unit as defined herein which is
2 currently engaged in the business of leasing employees to client
3 lessees shall comply with the provisions of this section by January
4 1, 1991.

5 ~~F.~~ E. Any lessor employing unit not engaged in the business of
6 leasing employees to client lessees on or before ~~the effective date~~
7 ~~of this act~~ May 31, 1990, shall comply with the requirements herein
8 before entering into lease agreements with client lessees.

9 SECTION 5. AMENDATORY 40 O.S. 2021, Section 1-209.2, is
10 amended to read as follows:

11 Section 1-209.2. A. 1. ~~A "Professional Employer Organization"~~
12 ~~or "PEO" is an organization that is subject to the Oklahoma~~
13 ~~Professional Employer Organization Recognition and Registration Act~~
14 ~~and which meets the definition set out in paragraph 9 of Section~~
15 ~~600.2 of Title 40 of the Oklahoma Statutes.~~

16 2. ~~"Client" shall have the same meaning as provided by~~
17 ~~paragraph 1 of Section 600.2 of Title 40 of the Oklahoma Statutes.~~

18 3. ~~"Coemployer" shall have the same meaning as provided by~~
19 ~~paragraph 2 of Section 600.2 of Title 40 of the Oklahoma Statutes.~~

20 4. ~~"Coemployment relationship" shall have the same meaning as~~
21 ~~provided by paragraph 3 of Section 600.2 of Title 40 of the Oklahoma~~
22 ~~Statutes.~~

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1 5. ~~“Covered employee” shall have the same meaning as provided~~
2 ~~by paragraph 5 of Section 600.2 of Title 40 of the Oklahoma~~
3 ~~Statutes.~~

4 ~~B.~~ For purposes of the Employment Security Act of 1980, the PEO
5 and its client shall be considered coemployers of the covered
6 employees that are under the direction and control of the client.

7 ~~C.~~ B. If a PEO fails to become or remain registered under the
8 Oklahoma Professional Employer Organization Recognition and
9 Registration Act, the entity shall be considered a third-party
10 administrator of the client account. As a third-party
11 administrator, a power of attorney will be required to obtain
12 information from the client’s account.

13 SECTION 6. AMENDATORY 40 O.S. 2021, Section 1-217, is
14 amended to read as follows:

15 Section 1-217. UNEMPLOYED. ~~An individual shall be deemed~~
16 ~~“unemployed” with respect to any week during which he performed no~~
17 ~~services and with respect to which no wages are payable to him, or~~
18 ~~with respect to any week of less than full-time work if the wages~~
19 ~~payable to him with respect to such week are less than his weekly~~
20 ~~benefit amount plus One Hundred Dollars (\$100.00); provided that for~~

21 A. An individual shall be deemed unemployed with respect to any
22 week during which:

- 23 1. The individual performed no services; and
24 2. No wages are payable to the individual.

1 B. For an initial or additional initial claim filing, an
2 individual shall be deemed unemployed:

3 1. With respect to any week of less than full-time work, if the
4 wages payable to the individual are less than his or her weekly
5 benefit amount plus One Hundred Dollars (\$100.00); and

6 2. If the individual has incurred a loss of wages or reductions
7 in hours based on his or her customary work experience or contract
8 of hire.

9 C. For filing made during a continued claim series, an
10 individual shall be deemed unemployed with respect to any week of
11 less than full-time work if the wages payable to the individual are
12 less than his or her weekly benefit amount plus One Hundred Dollars
13 (\$100.00).

14 D. For the purpose of this section only, any vacation leave
15 payments or sick leave payments, which such individual may receive
16 or be entitled to from his or her employer or former employer,
17 arising by reason of separation from employment, shall be deemed not
18 to be wages as the term wages is used in this section.

19 E. A finding that an individual has satisfied the hour and wage
20 threshold as defined in this section shall not preclude a potential
21 investigation or disqualification for benefits as provided in
22 Section 2-101 et seq. of this title if the employer files a timely
23 protest to the initial or additional initial claim.

1 SECTION 7. AMENDATORY 40 O.S. 2021, Section 1-223, is
2 amended to read as follows:

3 Section 1-223. TAXABLE WAGES - CONDITIONAL FACTORS AND
4 PERCENTAGES.

5 ~~"Taxable wages" means the wages paid to an individual with~~
6 ~~respect to employment during a calendar year for services covered by~~
7 ~~the Employment Security Act of 1980 or other state unemployment~~
8 ~~compensation acts which shall equal the applicable percentage of the~~
9 ~~state's average annual wage for the second preceding calendar year~~
10 ~~as determined by the Commission, rounded to the nearest multiple of~~
11 ~~One Hundred Dollars (\$100.00).~~ The applicable percentage of the
12 state's average annual wage is determined by the conditional factor
13 in place during the calendar year for which the taxable wage is
14 being calculated. The conditional factor is determined pursuant to
15 the provisions of Section 3-113 of this title. The applicable
16 percentages are as follows:

17 1. Forty percent (40%) during any calendar year in which the
18 balance in the Unemployment Compensation Fund is in excess of the
19 amount required to initiate conditional contribution rates, pursuant
20 to the provisions of Section 3-113 of this title;

21 2. Forty-two and one-half percent (42.5%) during calendar years
22 in which condition "a" exists;

23 3. Forty-five percent (45%) during calendar years in which
24 condition "b" exists;

1 4. Forty-seven and one-half percent (47.5%) during calendar
2 years in which condition "c" exists; and

3 5. Fifty percent (50%) during calendar years in which condition
4 "d" exists.

5 SECTION 8. AMENDATORY 40 O.S. 2021, Section 1-224, is
6 amended to read as follows:

7 Section 1-224. FILE. A. For purposes of this section, "OESC
8 2020-21 business process transformation" means a change from paper
9 process to integrated digital technology. Upon completion of the
10 OESC 2020-21 business process transformation, electronic e-filing
11 will be the Commission's preferred filing method for tendering and
12 receiving documents. All claimants and employers tendering
13 documents to the Commission will be expected to tender the documents
14 electronically. If the claimant or employer has elected to utilize
15 other means of transmittal, it will be the responsibility of the
16 claimant or employer to notify the Commission of this preference.

17 B. ~~When any document is required to be filed by the provisions~~
18 ~~of the Employment Security Act of 1980 or the rules promulgated~~
19 ~~under the authority of the Employment Security Act of 1980 with the~~
20 ~~Oklahoma Employment Security Commission, any of its representatives,~~
21 ~~or the Board of Review for the Oklahoma Employment Security~~
22 ~~Commission~~ the provisions of the Employment Security Act of 1980 or
23 the rules promulgated under the authority of the act require any
24 document to be filed with the Oklahoma Employment Security

1 Commission or its affiliate entities, the term "file", "files", or
2 "filed" shall ~~be defined as follows~~ mean:

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

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

11 3. ~~Mailed with sufficient postage and properly addressed to the~~
12 ~~address indicated on the determination letter, order or other~~
13 ~~document issued~~ Mailing by means calculated to ensure receipt by the
14 Oklahoma Employment Security Commission on or before the date due.
15 Timely mailing shall be determined by the United States Postal
16 Service postmark. If there is no ~~proof from the post office of the~~
17 ~~date of mailing~~ such legible postmark, the date of receipt by the
18 Commission shall constitute the date of filing; ~~or~~

19 4. 3. Electronic e-filing to the Oklahoma Employment Security
20 Commission, as directed by the instructions on the determination
21 letter, order or other document issued by the Commission, by
22 midnight on or before the date due. Timely transmission shall be
23 determined by the Commission's transmission log file; or

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1 4. Digital portal filing by midnight on or before the date due.
2 Timely transmission shall be determined by the Commission's
3 transmission log file.

4 C. If the Employment Security Act of 1980 or the rules
5 promulgated under the Employment Security Act of 1980 require that a
6 document be filed with a court or any other agency of this state,
7 the term "file", "files" or "filed" shall be defined by the
8 statutes, rules or practice governing that court or agency.

9 SECTION 9. AMENDATORY 40 O.S. 2021, Section 1-225, is
10 amended to read as follows:

11 Section 1-225. SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN. A.
12 ~~"Supplemental unemployment benefit plan" means a plan that provides~~
13 ~~for an employer to make payments to its employees during a permanent~~
14 ~~or temporary layoff that will supplement unemployment benefits~~
15 ~~received by the employees. The purpose of a supplemental~~
16 ~~unemployment benefit plan is to allow an employer to sustain the~~
17 ~~purchasing power of its employees or former employees during a~~
18 ~~layoff.~~

19 ~~B.~~ A supplemental unemployment benefit plan for a temporary
20 layoff must meet the following requirements:

21 1. The plan shall provide for a payment from the employer to
22 the employee each week during the temporary layoff to supplement
23 unemployment benefits received by the employee;

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1 2. The plan must be part of an agreement entered into between
2 the employer and employee, or between the employer and a collective
3 bargaining agent on behalf of the employee, before the date the
4 layoff is effective;

5 3. The employer must be able to give a reasonable assurance
6 that the separated employees will be able to return to work at the
7 end of the temporary layoff;

8 4. The employer must inform the Commission of the beginning and
9 ending dates of the layoff and keep the Commission informed of any
10 changes in circumstances while any claims for unemployment benefits
11 are in existence; and

12 5. The plan must provide for equal treatment of all employees
13 covered by the plan who are included in the layoff.

14 The requirements of Sections 2-417 and 2-418 of this title shall be
15 waived for any claimant of unemployment benefits who is receiving
16 supplemental benefits under this subsection.

17 ~~C.~~ B. A supplemental unemployment benefit plan for a permanent
18 layoff must meet the following requirements:

19 1. The plan shall provide for a payment from the employer to
20 the former employee during each week unemployment benefits are paid
21 to the former employee, in order to supplement the unemployment
22 benefits received by the former employee;

23 2. The plan must be part of an agreement entered into between
24 the employer and former employee, or between the employer and a

1 collective bargaining agent on behalf of the former employee, before
2 the date the layoff is effective; and

3 3. The plan must provide for equal treatment of all former
4 employees covered by the plan who are included in the layoff.

5 The requirements of Sections 2-417 and 2-418 of this title shall
6 be applicable to any claimant of unemployment benefits who is
7 receiving supplemental benefits under this subsection.

8 ~~D.~~ C. The amount of supplemental unemployment benefit plan
9 payments will not be deducted from the weekly benefit amount of an
10 unemployment benefit claim.

11 ~~E.~~ D. All supplemental unemployment benefit plans must be
12 approved by the Director of the Unemployment Insurance Division of
13 the Oklahoma Employment Security Commission. The Director's
14 determination will be in writing and mailed to the employer and the
15 collective bargaining agent of the employees, if any exists, at
16 their last-known addresses, within twenty (20) days of the receipt
17 of the employer's plan. If an employer or collective bargaining
18 agent disagrees with the determination, an appeal can be taken
19 pursuant to Section 3-115 of this title.

20 SECTION 10. AMENDATORY 40 O.S. 2021, Section 1-228, is
21 amended to read as follows:

22 Section 1-228. LIMITED LIABILITY COMPANIES. ~~A. For purposes~~
23 ~~of the Employment Security Act of 1980, a "limited liability~~

24

1 ~~company" and a "foreign limited liability company" shall be defined~~
2 ~~by the provisions of the Oklahoma Limited Liability Company Act.~~

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

8 SECTION 11. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-230 of Title 40, unless there
10 is created a duplication in numbering, reads as follows:

11 NOTICE GIVEN.

12 A. Notice shall be deemed given when the Oklahoma Employment
13 Security Commission notifies by one of the following means:

- 14 1. Mail;
- 15 2. E-mail or fax to e-mail;
- 16 3. Upload to the agency digital portal;
- 17 4. Publication on the Commission's website; or
- 18 5. Hand delivered to the central administrative office of the
19 Commission.

20 There is a rebuttable presumption that notice has been given on
21 the date stated in the communication.

22 B. The Commission's preferred method of notification shall be
23 electronic delivery through the agency digital portal or e-mail. If
24 claimants or employers wish to opt out of delivery by the agency

1 digital portal or e-mail, they may notify the Commission by one of
2 the methods listed in subsection A of this section.

3 SECTION 12. AMENDATORY 40 O.S. 2021, Section 2-203, is
4 amended to read as follows:

5 Section 2-203. CLAIM. A. An unemployed individual must file
6 an initial claim for unemployment benefits by completing the
7 required forms through the Internet Claims service provided by the
8 Commission, or by completing all forms necessary to process an
9 initial claim in a local office of the Commission or any alternate
10 site designated by the Commission to take unemployment benefit
11 claims. The Commission may obtain additional information regarding
12 an individual's claim through any form of telecommunication,
13 writing, or interview. An unemployed individual must file a claim
14 by telecommunication or by Internet utilizing the digital services
15 portal to create an account to access benefits with respect to each
16 week in accordance with such rule as the Commission may prescribe.

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

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

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

17 ~~D.~~ C. No claim will be allowed or paid unless the claimant
18 resides within a state or foreign country with which the State of
19 Oklahoma has entered into a reciprocal or cooperative arrangement
20 pursuant to ~~Part 7 of Article IV of the Employment Security Act of~~
21 ~~1980~~ Section 4-701 et seq. of this title.

22 ~~E.~~ D. The Commission may require the individual to produce
23 documents or information relevant to the claim for benefits. If the
24 individual fails to produce it, the individual's claim for

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

8 SECTION 13. AMENDATORY 40 O.S. 2021, Section 2-503, is
9 amended to read as follows:

10 Section 2-503. CLAIMS, NOTICES AND OBJECTIONS. A. Claims for
11 benefits shall be made in accordance with all rules that the
12 Oklahoma Employment Security Commission may prescribe.

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

24

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

3 C. Promptly after the claim is paid for the fifth week of
4 benefits the Commission shall give written notice of the claim to
5 all other employers of the claimant during the claimant's base
6 period. The notice will be given ~~pursuant to Section 3-106 of this~~
7 title by e-mail unless the employer provides appropriate
8 notification that they opted out of this method of communication
9 pursuant to Section 11 of this act.

10 D. ~~Notices~~ Notice shall be deemed to have been given ~~to the~~
11 ~~employer at the last-known address and by the date of the postmark~~
12 ~~on the envelope in which the notice was sent. If the employer has~~
13 ~~elected to be notified by electronic means according to procedures~~
14 ~~set out in Oklahoma Employment Security Commission rules, notice~~
15 ~~shall be deemed to be given when the Commission transmits the notice~~
16 ~~by electronic means~~ or, if the employer has opted out of electronic
17 communications, the notice is placed in the mail.

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

- 1 1. Make the claimant ineligible for benefits under Sections 2-
2 201 through 2-210 of this title;
- 3 2. Disqualify the claimant from benefits under Sections 2-401
4 through 2-417 and 2-419 of this title; or
- 5 3. Relieve ~~such~~ employer from being charged for the ~~benefits~~
6 benefit wages of such claimant.

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

10 SECTION 14. AMENDATORY 40 O.S. 2021, Section 2-503.1, is
11 amended to read as follows:

12 Section 2-503.1. FILING OF EMPLOYER PROTEST AND DOCUMENTS
13 THROUGH EMPLOYER PORTAL.

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

20 B. An employer may file a statement of objections to the claim
21 of a former employee at any time from the moment of discharge or
22 separation from employment ~~of the employee~~ until the expiration of
23 the ten-day time period set out in subsection E of Section 2-503 of
24 ~~Title 40 of the Oklahoma Statutes.~~ The this title. Unless the

1 employer has opted out of receiving electronic communications and
2 may file their statement of objection through any method listed in
3 Section 1-224 of this title, the statement of objection must be
4 filed through the employer portal ~~on the Oklahoma Employment~~
5 ~~Security Commission's Internet website~~ and must contain a statement
6 of specific facts and documentation which:

- 7 1. Disclose the name and social security number of the
8 employee;
- 9 2. Make the claimant ineligible for benefits under Sections 2-
10 201 through 2-210 of ~~Title 40 of the Oklahoma Statutes~~ this title;
- 11 3. Disqualify the claimant for benefits under Sections 2-401
12 through 2-419 of ~~Title 40 of the Oklahoma Statutes~~ this title; or
- 13 4. Relieve the employer from being charged for the ~~benefits~~
14 benefit wages of this claimant.

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

1 SECTION 15. AMENDATORY 40 O.S. 2021, Section 2-605, is
2 amended to read as follows:

3 Section 2-605. NOTICE OF REFEREE DECISION. The parties shall
4 be promptly notified of such referee's decision and shall be
5 furnished with a copy of the decision, including the findings and
6 conclusions in support thereof. The decision shall be provided to
7 the party by the agency's digital portal or e-mail unless the party
8 notifies the agency that they opted out from receiving notices by e-
9 mail pursuant to Section 11 of this act. Such decision shall be
10 final unless, within ten (10) days after the date ~~of mailing of~~
11 ~~notice thereof to the parties' last-known addresses, or, in the~~
12 ~~absence of such mailing, within ten (10) days after the delivery of~~
13 ~~such notice~~ is deemed given, further review before the Board of
14 Review is initiated pursuant to Section 2-606 of this title.

15 SECTION 16. AMENDATORY 40 O.S. 2021, Section 2-606, is
16 amended to read as follows:

17 Section 2-606. APPEALS FROM TRIBUNAL REFEREE DECISIONS TO BOARD
18 OF REVIEW.

19 The Board of Review shall review the record of an appeal filed
20 by any of the parties entitled to notice on a determination of an
21 appeal tribunal referee. ~~An appeal to the Board of Review may be~~
22 ~~filed in any manner allowed by Section 1-224 of this title.~~ On
23 appeal, the Board of Review may affirm, modify, reverse, or remand
24 any decision of an appeal tribunal referee on the basis of evidence

1 previously submitted, or on the basis of additional evidence
2 received by an appeal tribunal referee on remand. The Board of
3 Review shall promptly notify the parties of its decision in writing,
4 and the decision shall be final unless within thirty (30) days after
5 ~~the mailing of the decision to the parties' last known addresses~~
6 notice is deemed given, a proceeding for judicial review is
7 initiated pursuant to Section 2-610 of this title.

8 SECTION 17. AMENDATORY 40 O.S. 2021, Section 3-106, is
9 amended to read as follows:

10 Section 3-106. BENEFIT WAGES CHARGED AND RELIEF THEREFROM. A.
11 The Oklahoma Employment Security Commission shall give notice to
12 each base period employer ~~of a claimant promptly~~ after the claimant
13 ~~is~~ has been issued his or her fifth week of benefits by the
14 Commission or ~~promptly~~ after the Commission receives notice of the
15 amounts paid as benefits by another state under a reciprocal
16 arrangement. ~~Notice shall be deemed given under this subsection~~
17 ~~when the Commission deposits the same with the United States Postal~~
18 ~~Service addressed to the employer at an address designated by the~~
19 ~~employer to receive the notice or at the employer's last known~~
20 ~~address. If the employer has elected to be notified by electronic~~
21 ~~means according to procedures set out in Oklahoma Employment~~
22 ~~Security Commission rules, notice shall be deemed to be given when~~
23 ~~the Commission transmits the notification by electronic means.~~
24 ~~Notice shall be presumed prima facie to have been given to the~~

1 ~~employer to whom addressed on the date stated in the written notice.~~

2 This notice shall give the name and social security number of the
3 claimant, the date the claim was filed, and the amount of benefit
4 wages charged to the employer in each quarter of the base period.

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

11 1. The date ~~on which the~~ employment was terminated;

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

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

20 4. ~~Such other~~ Other information as called for by the notice.

21 C. Upon receipt of the employer's ~~written objections~~ objection,
22 the Commission shall make a determination and notify the employer as
23 to whether or not the employer is entitled to be relieved from ~~the~~
24 ~~charging of benefit wages~~ wage charges. ~~The Commission shall~~

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

5 D. Within twenty (20) days after the ~~mailing~~ issuing of the
6 determination provided for in subsection C of this section, the
7 employer may file with the ~~Commission or its representative~~
8 Assessment Board a ~~written~~ protest to the determination and request
9 an oral hearing de novo to present evidence in support of its
10 protest. The ~~Commission or its representative~~ Assessment Board
11 shall, ~~by written notice,~~ advise the employer of the date of the
12 hearing, which shall not be less than ten (10) days from the date of
13 ~~mailing of the written notice.~~ At the discretion of the Commission,
14 this hearing shall be conducted by the ~~Commission or its~~
15 ~~representative appointed by the Commission for this purpose.~~
16 ~~Pursuant to~~ Assessment Board. After the hearing, the ~~Commission or~~
17 ~~its representative~~ Assessment Board shall, ~~as soon as practicable,~~
18 ~~make a written order setting forth its findings of fact and~~
19 ~~conclusions of law, and shall send it to the employer~~ notify the
20 employer of its findings.

21 E. If any employer ~~fails to file a written protest within the~~
22 ~~period of twenty (20) days, as provided by subsection D of this~~
23 ~~section, then the determination shall be final, and no appeal shall~~
24 ~~thereafter be allowed~~ does not file a timely appeal of the

1 determination to the Assessment Board, the determination shall be
2 final.

3 F. The employer or the Commission may appeal the Assessment
4 Board's order of the Commission or its representative to the
5 district court by filing a petition for review with the district
6 court clerk ~~of that court~~ within thirty (30) days after the date the
7 order was ~~mailed~~ issued to all parties. ~~The mailing date shall be~~
8 ~~specifically stated in the order.~~

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

16 1. ~~Left employment with that employer, or with his or her last~~
17 ~~employer, voluntarily~~ Voluntarily left employment without good cause
18 connected to the work;

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

21 3. Was a regular scheduled employee of ~~that~~ the separating
22 employer prior to the week the employee separated from other
23 employment, and continued to work for the employer through the fifth
24

1 compensable week of unemployment ~~in his or her~~ of the established
2 benefit year;

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

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

18 6. Left employment to attend training approved under the Trade
19 Act of 1974 and is allowed unemployment benefits pursuant to Section
20 2-416 of this title; or

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

23 H. If an employer recalls an employee deemed unemployed as
24 defined by the Employment Security Act of 1980 and the employee

1 continues to be employed or the employee voluntarily terminates
2 employment or is discharged for misconduct within the benefit year,
3 the employer shall be entitled to have the benefit wage charged
4 against the employer's experience rating for the employee reduced by
5 the ratio of the number of weeks of remaining eligibility of the
6 employee to the total number of weeks of entitlement.

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

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

23 K. An employer shall not be eligible to be relieved of a
24 benefit wage charge under paragraphs 1 and 2 of subsection G of this

1 section if the employer was sent a notice of benefit claim, pursuant
2 to Section 2-503 of this title, and failed to timely file protest to
3 the benefit claim.

4 SECTION 18. AMENDATORY 40 O.S. 2021, Section 3-115, is
5 amended to read as follows:

6 Section 3-115. APPEAL OF DETERMINATIONS. A. If a
7 determination is made by the Oklahoma Employment Security Commission
8 on any aspect of an employer's account, and a method of appeal or
9 protest of the determination is not set out in the statute or rule
10 under which the determination was made, the employer may appeal or
11 protest the determination under the procedure set forth in
12 subsection B of this section.

13 B. 1. All determinations affecting an employer account must be
14 made by the Commission in writing in a Notice of Determination and
15 mailed to the employer at the employer's last-known address with the
16 mailing date and appeal rights set out in the document. If the
17 employer has elected to be notified by electronic means according to
18 procedures set out in Oklahoma Employment Security Commission rules,
19 notice shall be deemed to be given when the Commission transmits the
20 notification by electronic means.

21 2. Within twenty (20) days after the mailing or transmission of
22 the Notice of Determination as provided for in paragraph 1 of this
23 subsection, the employer may file with the Commission, or its
24 representative, a written request for a review and redetermination

1 setting forth the employer's reasons therefor. If any employer
2 fails to file a written request for review and redetermination
3 within twenty (20) days without good cause, then the initial
4 determination of the Commission shall be final, and no further
5 appeal or protest shall be allowed.

6 3. If a written request for review and redetermination is
7 filed, the Commission shall provide for a review and issue a Notice
8 of Redetermination in the matter. The employer may appeal the
9 redetermination by filing a written ~~protest~~ appeal within twenty
10 (20) days of the date of the mailing of the Notice of
11 Redetermination. If the employer fails to file a written ~~protest~~
12 appeal within twenty (20) days without good cause, the
13 redetermination of the Commission shall be final and no further
14 appeal ~~or protest~~ shall be allowed.

15 4. Upon the timely filing of a written ~~protest~~ appeal, the
16 Commission shall provide for an oral hearing ~~de novo~~ to allow the
17 employer to present evidence in support of the ~~protest~~ appeal. The
18 standard of review on appeal shall be de novo. The Commission or
19 its representatives shall, by written notice, advise the employer of
20 the date of the hearing, which shall not be less than ten (10) days
21 from the date of the mailing of the written notice. At the
22 discretion of the Commission, this hearing shall be conducted by the
23 Commission, or by a representative appointed by the Commission for
24

1 this purpose. The appealing party shall bear the initial burden of
2 proof at the hearing.

3 5. Pursuant to the hearing, the Commission or its
4 representative shall, as soon as practicable, make a written order
5 setting forth its findings of fact and conclusions of law, and shall
6 mail it to the employer at the employer's last-known address with
7 the mailing date and appeal rights set out in the document.

8 6. The employer or the Commission may appeal the order to the
9 district court of the county in which the employer has its principal
10 place of business by filing a Petition for Review with the clerk of
11 the court within thirty (30) days after the date the order was
12 mailed to all parties. If the employer does not have a principal
13 place of business in any county in ~~Oklahoma~~ this state, then the
14 Petition for Review shall be filed with the Oklahoma County District
15 Court. All appeals shall be governed by Part 4 of Article 3 of the
16 Employment Security Act of 1980. If the employer fails to file an
17 appeal to the district court within the time allowed, the order
18 shall be final and no further appeal shall be allowed.

19 C. Untimely requests for review and redetermination pursuant to
20 paragraph 2 of subsection B of this section and written protests for
21 appeals filed pursuant to paragraph 3 of subsection B of this
22 section may be allowed for good cause shown, if the request for good
23 cause is filed in writing with the Commission within one (1) year of
24

1 the date of the determination or redetermination that is the basis
2 of the request for untimely filing.

3 SECTION 19. AMENDATORY 40 O.S. 2021, Section 3-307, is
4 amended to read as follows:

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

23 B. Upon the return of any check by reason of the refusal of the
24 financial institution upon which such check was drawn to honor the

1 same, the Commission may file a bogus check complaint with the
2 appropriate district attorney who shall refer the complaint to the
3 Bogus Check Restitution Program established by Section 111 of Title
4 22 of the Oklahoma Statutes. Funds collected through the program
5 after collection of the fee authorized by Section 114 of Title 22 of
6 the Oklahoma Statutes for deposit in the Bogus Check Restitution
7 Program Fund in the county treasury shall be transmitted to the
8 Commission and credited to the liability for which the returned
9 check was drawn along with the administrative service fee provided
10 by this section.

11 C. The Commission shall promulgate rules for the deadlines of
12 payment of unemployment taxes and the method of payment.

13 SECTION 20. AMENDATORY 40 O.S. 2021, Section 4-205, is
14 amended to read as follows:

15 Section 4-205. TEMPORARY MEMBERS. In the event of the
16 disqualification of one member of the Board of Review from the
17 hearing and determination of a claim for benefits, the Governor
18 shall designate a fourth, temporary member to serve as an
19 alternative member. In the event of the disqualification of two or
20 more members of the Board of Review from the hearing and
21 determination on a claim for benefits, the Governor shall designate
22 by appointment temporary members to serve as alternate members,
23 ~~such.~~ Such alternates ~~to~~ shall be paid traveling expenses incurred
24 in the performance of their duties as provided in the State Travel

1 Reimbursement Act. The Governor may at any time, after notice and
2 hearing, remove any member for cause.

3 SECTION 21. AMENDATORY 40 O.S. 2021, Section 4-508, is
4 amended to read as follows:

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

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

20 B. Upon receipt of written request by any employer who
21 maintains a Supplemental Unemployment Benefit (SUB) Plan, the
22 Commission or its designated representative may release to that
23 employer information regarding weekly benefit amounts paid its
24 workers during a specified temporary layoff period, provided the

1 Supplemental Unemployment Benefit (SUB) Plan requires benefit
2 payment information before Supplemental Unemployment Benefits can be
3 paid to the workers. Any information disclosed under this provision
4 shall be utilized solely for the purpose outlined herein and shall
5 be held strictly confidential by the employer.

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

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

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

18 3. The Oklahoma Department of Commerce may have access to data
19 obtained pursuant to the Employment Security Act of 1980 pursuant to
20 rules promulgated by the Commission. The information obtained shall
21 be held confidential by the Department and any of its agents and
22 shall not be disclosed or be open to public inspection. The
23 Oklahoma Department of Commerce, however, may release aggregated
24

1 data, either by industry or county, provided that the aggregation
2 meets disclosure requirements of the Commission;

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

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

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

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

24

1 8. The release of information to employees of the ~~Oklahoma~~
2 Department of Transportation required for use in federally mandated
3 regional transportation planning, which is performed as a part of
4 its official duties;

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

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

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

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

21 13. The release of information to employees of the Oklahoma
22 State Regents for Higher Education required for use in the default
23 prevention efforts and/or collection of defaulted student loans
24 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any

1 information disclosed under this provision shall be utilized solely
2 for the purpose outlined herein and shall be held strictly
3 confidential by the Oklahoma State Regents for Higher Education;

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

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

1 disclosed or be open to public inspection. The Office of Management
2 and Enterprise Services may release aggregate data, provided that
3 the aggregation meets disclosure requirements of the Oklahoma
4 Employment Security Commission;

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

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

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

23 19. The release of wage and benefit claim information, at the
24 discretion of the Commission, to an agency of this state or its

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

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

17 21. The release of information to the Bureau of the Census of
18 the U.S. Department of Commerce, the Bureau of Labor Statistics of
19 the U.S. Department of Labor, and its agents employed by the
20 Department of Labor for the purpose of economic and statistical
21 research;

22 22. The release of employer tax information and benefit claim
23 information to the Oklahoma Health Care Authority for use in
24 determining eligibility for a program that will provide subsidies

1 for health insurance premiums for qualified employers, employees,
2 self-employed persons and unemployed persons;

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

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

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

20 26. The release of information to employees of the Office of
21 Juvenile Affairs for use in assessing results and outcomes of
22 clients served as well as the effectiveness of state and local
23 juvenile and justice programs including prevention and treatment
24 programs. The information obtained shall be kept confidential by

1 the Office of Juvenile Affairs and shall not be disclosed or be open
2 to public inspection. The Office of Juvenile Affairs may release
3 aggregated data for programs or larger aggregate units, provided
4 that the aggregation meets disclosure requirements of the Oklahoma
5 Employment Security Commission;

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

21 28. The release of employer tax information and benefit claim
22 information to employees of a county public defender's office in ~~the~~
23 ~~State of Oklahoma~~ this state and the Oklahoma Indigent Defense
24

1 System for the purpose of determining financial eligibility for the
2 services provided by such entities.

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

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

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

5 SECTION 22. REPEALER 40 O.S. 2021, Sections 1-202, 1-
6 202.2, 1-203, 1-204, 1-205, 1-206, 1-207, 1-211, 1-212, 1-213, 1-
7 215, 1-216, 1-219, 1-220, 1-221, 1-226, 1-301, 2-406.2, 2-709, 2-
8 711, 2-713, and 3-118, are hereby repealed.

9 SECTION 23. This act shall become effective November 1, 2022.

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11 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/18/2022 - DO PASS.

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