

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 1800

By: Leewright

COMMITTEE SUBSTITUTE

An Act relating to the Employment Security Act of 1980; amending 40 O.S. 2021, Section 1-201, which relates to definitions; adding definitions; amending 40 O.S. 2021, Section 1-202.1, which relates to extended base period; removing definition; amending 40 O.S. 2021, Section 1-209, which relates to employing unit; removing definition; amending 40 O.S. 2021, Section 1-209.1, which relates to lessor employing unit; removing definitions; updating statutory reference; amending 40 O.S. 2021, Section 1-209.2, which relates to professional employer organization; removing definitions; amending 40 O.S. 2021, Section 1-217, which relates to unemployed individuals; removing definition; providing conditions of unemployment; specifying conditions for filing during a continued 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 method; allowing for opt-out of delivery; amending 40

1 O.S. 2021, Section 2-203, which relates to claims;  
2 removing provision for Commission to inform claimants  
3 filing for unemployment benefits and require  
4 certification statement during process; amending 40  
5 O.S. 2021, Section 2-503, which relates to claims,  
6 notices, and objections; providing for electronic  
7 notice; allowing for opt-out of certain method;  
8 removing provisions for notice by mail; amending 40  
9 O.S. 2021, Section 2-503.1, which relates to filing  
10 of employer protest; removing optional use of portal;  
11 allowing for opt-out of certain method; updating  
12 statutory language; amending 40 O.S. 2021, Section 2-  
13 605, which relates to notice of decision; providing  
14 for notice by electronic means; allowing for opt-out  
15 of certain method; removing criteria for mail notice;  
16 amending 40 O.S. 2021, Section 2-606, which relates  
17 to appeals; removing provision for notice by mail;  
18 amending 40 O.S. 2021, Section 3-106, which relates  
19 to benefit wages charged; removing conditions for  
20 mail and electronic notice; adding reference for  
21 filings and hearings by the Assessment Board;  
22 removing provision for written protest; updating  
23 statutory language; amending 40 O.S. 2021, Section 3-  
24 115, 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;

23

24

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  
24

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  
24

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, Sections 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.~~

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.

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

Section 1-223. TAXABLE WAGES - CONDITIONAL FACTORS AND PRECENTAGES.

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

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

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

3. Forty-five percent (45%) during calendar years in which 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

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

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

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

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

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

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;

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;

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 Oklahoma Department of Labor for the purpose of economic and  
21 statistical 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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