Oklahoma Employment Security Act

40 Oklahoma Statutes, Chapter 1 as Last Amended

JUNE 2020

STATE OF OKLAHOMA

J. Kevin Stitt, Governor

Shelley Zumwalt, Interim Executive Director

OES-1000 (Rev. 6-20)

N O T E

The Oklahoma Employment Security Act was originally enacted as the Oklahoma Unemployment Compensation Law by the 16th Legislature, 1936 Special Session (HB 1) effective December 12, 1936, and published as Chapter 52, Oklahoma Session Laws 1936-37. The Act was amended by the 17th Legislature (HB 470). In 1941 the 18th Legislature (HB 209) amended the Oklahoma Unemployment Compensation Law extensively, changing the name to the Oklahoma Employment Security Act and removed the administration of the Act from the Commissioner of Labor to the Oklahoma Employment Security Commission. The Oklahoma Employment Security Act has been further amended by the: 19th Legislature (HB 205 and 323); 20th Legislature (HB 304); 21th Legislature (HB 200); 22nd Legislature (HB 463); 24th Legislature (HB 855); 25th Legislature (SB 92 and 355); 26th Legislature (HB 754 and 940); 27th Legislature (HB 592, 694, and 830); 28th Legislature (HB 578 and 918); 29th Legislature (SB 99); 30th Legislature (HB 631); 1st Session of the 31st Legislature (HB 766); 2nd Session of the 32nd Legislature (SB 281); 1st Session of the 33rd Legislature (HB 1414); 2nd Session of the 33rd Legislature (SB 480, 604, and HB 1424); 2nd Session of the 34th Legislature (HB 1672 and 1756); 1st Session of the 35th Legislature (SB 116 and HB 1297); 2nd Session of the 35th Legislature (HB 1637 and 1839); 1st Session of the 36th Legislature (HB 1126 and 1055); 2nd Session of the 36th Legislature (SB 259 and HB 1789); 2nd Session of the 37th Legislature (SB 637); 1st Session of the 38th Legislature (HB 1399); 2nd Session of the 38th Legislature (HB 1706, 1808, and SB 410); 1st Session of the 39th Legislature (HB 1223 and 1419); 2nd Session of the 39th Legislature (SB 501 and 505); 2nd Session of the 40th Legislature (SB 511 and HB 1465); 1st Session of the 41st Legislature (HB 1207); 2nd Session of the 41st Legislature (SB 493); 1st Session of the 42nd Legislature (HB 1135, 1262, and SB 79); 2nd Session of the 42nd Legislature (SB 799, 855, and 858); 1st Session of the 43rd Legislature (HB 1126, 1723, and SB 120); 2nd Session of the 43rd Legislature (HB 2485); 1st Session of the 44th Legislature (SB 85, 93, 143, 344, and HB 1198 and 1447); 2nd Session of the 44th Legislature (SB 597 and 641, and HB 1492, 1948, 2133, and 2154); 1st Session of the 45th Legislature (HB 1462); 1st Session of the 46th Legislature (SB 43, 706, 645, and HB 1130); 2nd Session of the 46th Legislature (HB 2792 and HJR 19); 1st Session of the 47th Legislature (HB 1579 and SB 259); 2nd Session of the 47th Legislature (HB 2400); 1st Session of the 48th Legislature (HB 1341); 2nd Session of the 48th Legislature (SB 1404 and 882); 1st Session of the 49th Legislature (SB 435 and 741); 2nd Session of the 49th Legislature (SB 1288 and HB 2497); 1st Session of the 50th Legislature (SB 763); 2nd Session of the 50th Legislature (SB 1634 and 1466); 1st Session of the 51st Legislature (SB 1028 and 809); 2nd Session of the 51st Legislature (HB 2662, and SB 1873, and 1531); 1st Session of the 52nd Legislature (SB 1175); the 2nd Session of the 52nd Legislature (HB 2333, 2363, 2704, and SB 1280, 1592, and 1970); 1st Session of the 53rd Legislature (SB 756); 2nd Session of the 53rd Legislature (HB 2204 and 3079); 1st Session of the 54th Legislature (HB 1023, 1911, 1554, and SB 5); 2nd Session of the 54th Legislature (HB 2914, 2505, and SB 2078); 1st Session of the 55th Legislature (HB 1001 and 1584); 2nd Session of the 55th Legislature (HB 2253, 2338, and 3164); 1st Session of the 56th Legislature (HB 1110, 1621, and SB 292; 2nd Session of the 56th Legislature (HB 2523); and 1st Session of the 57th Legislature (HB 1095, and SB 62, SB 335, and SB 988).

The Act is officially published as Title 40, Chapter 1, in the Oklahoma Statutes. The Act is also available at: https://oesc.ok.gov/sites/g/files/gmc821/f/documents/2020/oes_act_2020.pdf

No sections were added, amended, or repealed this year.

EQUAL OPPORTUNITY EMPLOYER/PROGRAMS
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RATE TABLE

Rate Table 167

TITLE 40 – LABOR

CHAPTER 1 – EMPLOYMENT SECURITY ACT OF 1980
ARTICLE 1 – GENERAL PROVISIONS AND DEFINITIONS

§ 1-101. Short title

This act shall be known and may be cited as the Employment Security Act of 1980.

§ 1-102. Purpose of act

(1) The purpose of the act is to promote employment security by increasing opportunities for placement through the maintenance of a system of public employment offices and to provide through the accumulation of reserves for the payment of compensation to individuals with respect to their unemployment. The Legislature hereby declares its intention to provide for carrying out the purposes of this act in cooperation with the appropriate agencies of other states and of the federal government, as part of a nationwide employment security program, in order to secure for this state and the citizens thereof the grants and privileges available thereunder.

(2) The purpose of this act is to renumber, recodify, amend, and to reenact the present Oklahoma Employment Security Act, 40 O.S.1971, Section 211 through Section 238.1, both inclusive, as amended, and to delete obsolete language therefrom and to add new language thereto. Said laws as reenacted and amended herein shall be codified in Title 40 with the article numbers, part numbers, section numbers and captions provided in this act. This act is and shall be interpreted and construed as a recodification and renumbering of the Oklahoma Employment Security Act, including amendments thereof as provided herein. It is the intention of the Legislature that this act shall be construed and interpreted as a reenactment with amendments of the Oklahoma Employment Security Act.

§ 1-103. Declaration of state public policy

As a guide to the interpretation and application of this act, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Unemployment is therefore a subject of general interest and concern which requires appropriate action by the Legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This objective can be furthered by operating free public employment offices in affiliation with nationwide system of employment services, by devising appropriate methods for reducing the volume of unemployment and by the systematic accumulation of funds during periods of employment, thus maintaining purchasing power and limiting the serious social consequences of unemployment. The Legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police power of the state for the establishment and maintenance of free public employment offices and for the

compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

§ 1-104. Saving clause

A. The Legislature reserves the right to amend or repeal all or any part of the Employment Security Act at any time and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by the Employment Security Act, or by acts done pursuant thereto, shall exist subject to the power of the Legislature to amend or repeal the Employment Security Act at any time.

B. If any provision of the Employment Security Act necessary for certification for administrative grants under the Social Security Act or tax credits under the Federal Unemployment Tax Act are determined to be inconsistent with federal requirements by a delegate of the Secretary of Labor, the Commission, with the concurrence of the Oklahoma Attorney General, is authorized to administer such provisions consistently with federal requirements until the Legislature has an opportunity to enact appropriate legislation during its next regularly scheduled session.

§ 1-105. Repealed

§ 1-106. Section captions

Section captions are parts of this act.

§ 1-107. Construction against implicit repeal

This act being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

§ 1-108. Indian tribes or tribal units—Benefits—Contributions or payments—Extended benefits—Delinquencies—No waiver of sovereign immunity

A. The term “employer” shall include any Indian tribe for which service in employment is performed, as defined in the Employment Security Act of 1980.

B. The term “employment” shall include service performed in the employ of an Indian tribe, as defined in the Federal Unemployment Tax Act (FUTA), 26 U.S.C., Section 3306(u), provided such service is excluded from “employment” as defined in FUTA solely by reason of 26 U.S.C., Section 3306(c)(7), and is not otherwise excluded from employment under the Employment Security Act of 1980. For purposes of this section, the exclusions from employment in subparagraphs (c) and (e) of paragraph (7) of Section 1-210 of this title shall be applicable to services performed in the employ of an Indian tribe.

C. The terms “Indian tribe” and “tribal unit” shall have the meanings ascribed to them in federal law. “Tribal unit” includes subdivisions, subsidiaries, and business enterprises wholly owned by an Indian tribe.

D. Benefits based on service in employment defined in this section shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the

basis of other service subject to the Employment Security Act of 1980, provided wages used to establish the claim were paid during a time in which the account of the Indian tribe for which services were rendered was not terminated pursuant to subparagraph a of paragraph 1 of subsection F of this section.

E. 1. An Indian tribe or tribal unit subject to the Employment Security Act of 1980 shall pay contributions under the same terms and conditions as required of nongovernmental employers for profit subject to the Employment Security Act of 1980 unless the tribe elects to pay into the State Unemployment Compensation Fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe.

2. An Indian tribe or tribal unit electing to make payments in lieu of contributions shall so notify the Oklahoma Employment Security Commission in writing before the last day of January of the calendar year in which the tribe wishes to begin making reimbursement payments. If the Commission determines the Indian tribe is eligible to exercise its option, the Indian tribe shall be liable for reimbursement payments in lieu of contributions in the same manner and subject to the same provisions that apply to reimbursing nonprofit organizations as provided in Part 8 of Article 3 of the Employment Security Act of 1980, including formation of group accounts, and the proportionate allocation of benefit costs, except that one hundred percent (100%) of the extended benefits attributable to the Indian tribe shall be reimbursed. Indian tribes shall determine whether reimbursement for benefits paid shall be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units. If any provision contained in Part 8 of Article 3 of the Employment Security Act of 1980, including the administrative rules implementing that Part, contradicts a provision of this section, the provision of this section shall control.

3. An Indian tribe or tribal unit shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

F. 1. a. If an Indian tribe or tribal unit thereof fails to file the required reports and pay all late filing penalties or fails to make required payments under the Employment Security Act of 1980, including payment of all interest, penalties, surcharges, or fees, a notice of reporting or payment delinquency shall be mailed to the Indian tribe at its last-known address. If the delinquency is not corrected within ninety (90) days of the date of mailing of the notice of delinquency, the account of the Indian tribe shall be terminated and notice of termination shall be mailed to the tribe at its last-known address, together with a statement of protest rights available pursuant to Section 3-115 of this title. If the account of an Indian tribe is terminated pursuant to this subparagraph, the Indian tribe shall not be considered an “employer” for purposes of subsection A of this section, and services performed for the Indian tribe shall not be considered “employment” for purposes of subsection B of this section.

b. The Oklahoma Employment Security Commission may reinstate the account of any Indian tribe that loses coverage under subparagraph a of this subsection if the tribe pays all contributions, payments in lieu of contributions, interest, penalties, surcharges, and fees that are due and owing. Upon reinstatement, the tribe shall again be considered an

"employer" for purposes of subsection A of this section and services performed for the tribe shall again be considered "employment" for purposes of subsection B of this section.

2. a. Failure of an Indian tribe or tribal unit to make required payments, including assessments of interest, penalties, surcharges, and fees within ninety (90) days of the due date for payment shall cause the Indian tribe to lose the option to make payments in lieu of contributions, as described in subsection E of this section, for the following tax year unless payment in full is received before January 31 of the next tax year.

b. Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in subparagraph a of this paragraph, shall have the option reinstated if, after a period of one (1) year, all contribution payments have been timely made, provided no contributions, payments in lieu of contributions for benefits paid, interest, penalties, surcharges, or fees remain outstanding.

G. The notice of payment or reporting delinquency to Indian tribes or their tribal units, referred to in subparagraph a of paragraph 1 of subsection F of this section, shall include information that failure to make full payment and file required reports within the prescribed time frame shall cause:

1. The Indian tribe to be liable for taxes under FUTA;
2. The Indian tribe to lose the option to make payments in lieu of contributions;
3. The Indian tribe to be excepted from the definition of "employer", as provided in subsection A of this section; and
4. Services performed in the employ of the Indian tribe to be excepted from the definition of "employment", as provided in subsection B of this section.

H. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the United States government shall be financed in their entirety by the Indian tribe.

I. If an Indian tribe fails to make required payments under the Employment Security Act of 1980, including the payment of all interest, penalties, surcharges, and fees, within ninety (90) days of the mailing of the notice of payment delinquency, the Oklahoma Employment Security Commission shall immediately notify the United States Internal Revenue Service and the United States Department of Labor.

J. The provisions of subsections K and L of this section shall provide a transition for the implementation of Section 166 of Public Law 106-554 enacted by the Congress of the United States and effective December 21, 2000, so that Indian tribes may qualify for federal tax credits and employees of Indian tribes may be eligible for benefits.

K. Any Indian tribe which did not have an active account with the Oklahoma Employment Security Commission from January 1, 2001, to the effective date of this section, but which desires to be covered for benefits for that period of time, may elect to be subject to one of the following, if the tribe notifies the Commission of the election in writing:

1. To pay contributions. If the tribe elects to make payments for contributions, interest or penalties shall not be assessed against such tribe for the period from January 1, 2001, to the effective date of this section if full payment for all contributions due is made within twenty (20) days after an account is established for the tribe; or

2. To make payments in lieu of contributions. If the tribe elects to make payments in lieu of contributions, interest or penalties shall not be assessed against such tribe for the period from January 1, 2001, to the effective date of this section if all reports that are due for that period are filed within twenty (20) days after an account is established for the tribe.

L. Any Indian tribe which did not have an active account with the Oklahoma Employment Security Commission from January 1, 2001, to the effective date of this section and does not desire to be covered for benefits for that period shall be covered by the provisions of subsections A through I of this section. The coverage for any such tribe shall be prospective only and shall not entitle any employee of the tribe to benefits for any period prior to the effective date of this section.

M. Indian tribes paying contributions prior to the date of this section shall not be able to make an election to make payments in lieu of contributions for the period from January 1, 2001, to the effective date of this section. Any change in election shall be prospective only.

N. Participation by any Indian tribe in the state unemployment insurance system shall not operate as a waiver of the sovereign immunity of the tribe.

§ 1-109. Unemployment benefits impact study

If a proposed new law or amendment to an existing law will have the effect of expanding unemployment benefits available to unemployment benefit claimants, the Oklahoma Employment Security Commission shall study the fiscal impact the benefit expansion will have upon Oklahoma's Unemployment Trust Fund established pursuant to 42 U.S.C., Section 1104. The impact study shall be presented to each house of the Legislature before the final vote on the bill containing the provision and shall be sent to the Governor before final approval of the bill containing the provision.

PART 2 – GENERAL DEFINITIONS

§ 1-201. General definitions

The words and phrases used in this act shall, unless the context clearly requires otherwise, have the meanings prescribed in Part 2 of this article.

§ 1-202. Base period

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

§ 1-202A. Renumbered as Title 40, § 1-202.1 by Laws 2006, c. 176, § 29, emerg. eff. July 1, 2006

§ 1-202B. Renumbered as Title 40, § 1-202.2 by Laws 2006, c. 176, § 29, emerg. eff. July 1, 2006

§ 1-202.1. Extended base period

If an individual lacks sufficient base period wages because of a job-related injury for which the individual received total temporary disability payments awarded by the Workers' Compensation Court, upon written application by the claimant, an extended base period will be substituted for the current base period on a quarter-by-quarter basis as needed to establish a valid claim. "Extended base period" means the four quarters prior to the claimant's base period. These four quarters may be substituted for base period quarters on a quarter-by-quarter basis to establish a valid claim regardless of whether the wages have been used to establish a prior claim, except any wages earned that would render the Commission out of compliance with applicable federal law will be excluded if used in a prior claim. Benefits paid on the basis of an extended base period, which would not otherwise be payable, shall be noncharged.

§ 1-202.2. Alternative base period

"Alternative Base Period" means the most recent four (4) completed calendar quarters immediately preceding the first day of an individual's benefit year. In the event that an individual's claim uses an alternative base period to meet the wage requirement under Section 2-207 of Title 40 of the Oklahoma Statutes, this "alternative base period" shall be substituted for "base period" for all other purposes under the Employment Security Act of 1980.

§ 1-203. Benefits

"Benefits" mean the money payments payable to an individual as provided in this act with respect to his unemployment, including extended benefits. The federal share of such extended benefits shall not be construed as benefits for the purposes of computing contribution rates under this act.

§ 1-204. Benefit year

"Benefit year" with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits shall be deemed a valid claim for the purpose of this section if the individual has been paid the wages for insured work required under this act.

§ 1-205. Calendar quarter

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

§ 1-206. Commission, Commissioner

"Commission" means the Oklahoma Employment Security Commission and "Commissioner" means a member of such Commission.

§ 1-207. Contributions

"Contributions" mean the money payments, including taxes and reimbursements, required by this act to be paid into the Unemployment Compensation Fund by an employer.

§ 1-208. Employer

"Employer" means:

1. Any employing unit, except as provided under paragraphs 10 and 11 of this section, which:
   a. for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different calendar weeks, whether or not such weeks are or were consecutive, within either the calendar year or the preceding calendar year, and for the purpose of this definition if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one (1) calendar week and the days beginning January 1 another such week, has or had in employment one or more individuals, irrespective of whether the same individuals are or were employed in each such day, or
   b. in any calendar quarter, in either the calendar year or preceding calendar year paid for service in employment wages of One Thousand Five Hundred Dollars ($1,500.00) or more;
2. Any individual or employing unit, whether or not an employing unit at the time of the acquisition, which acquired substantially all of the organization, employees, trade, business, or assets thereof, of another which at the time of such acquisition was an employer subject to the Employment Security Act of 1980; or which acquired a part of the organization, employees, trade, or business of another employing unit which at the time of such acquisition was an employer subject to the Employment Security Act of 1980;
3. Any individual or employing unit, whether or not an employing unit at the time of acquisition, which acquired substantially all of the organization, employees, trade, business, or assets thereof, of another employing unit, if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit and employer subject to the Employment Security Act of 1980 under paragraph 1 of this section; or any individual or employing unit which acquired substantially all of the organization, employees, trade, business, or assets of another employing unit if such employing unit subsequent to such acquisition, and such acquired unit prior to such acquisition, both within the same calendar quarter, together paid for service in employment wages totaling One Thousand Five Hundred Dollars ($1,500.00) or more;
4. Any employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly by the same interest, or which owns or controls one or more other employing units, by legally enforceable means or otherwise, and which, if treated as a single unit with such other employing unit, would be an employer under paragraph 1 of this section;
5. Any employing unit which, having become an employer under paragraph 1, 2, 3, 4, 6, 8, 10, 11 or 12 of this section has not, under Section 3-202 of this title, ceased to be an employer subject to the Employment Security Act of 1980;

6. For the effective period of its election pursuant to Section 3-203 of this title any other employing unit which has elected to become subject to the Employment Security Act of 1980;
7. Any department of this state, any other state, and all instrumentalities thereof, including any political subdivisions and their instrumentalities, for which service in employment, as defined in paragraph (3) of Section 1-210 of this title, is performed, except as provided under paragraphs 10 and 11 of this section;
8. Any employing unit for which service in employment, as defined in paragraph (4) of Section 1-210 of this title, is performed, except as provided under paragraphs 10 and 11 of this section;
9. For purposes of paragraphs 1, 8, 10 and 11 of this section, employment shall include service which would constitute employment but for the fact that the service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into in accordance with Section 4-702 of this title by the Oklahoma Employment Security Commission and an agency charged with the administration of any other state or federal unemployment compensation law;
10. Any employing unit for which agricultural labor as defined in paragraph (5) of Section 1-210 of this title is performed. In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under paragraph 1, 7, 8 or 11 of this section, the wages earned or the employment of an employee performing service in agricultural labor shall not be taken into account;
11. Any employing unit for which domestic service in employment as defined in paragraph (6) of Section 1-210 of this title is performed. In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under paragraph 1, 7, 8 or 10 of this section, the wages earned or the employment of an employee performing domestic service shall not be taken into account;
12. Any employing unit which is not an employer by reason of any other provisions of the Employment Security Act of 1980 shall nevertheless be an “employer” if either:

a. within the calendar year or preceding calendar year, service is or was performed, with respect to which the employing unit is liable for any federal tax against which credit may be taken by the employing unit for contributions required to be paid by it into a state unemployment fund, or

b. the employing unit is required to be an “employer” as a condition for approval of the Employment Security Act of 1980 for full tax credit to be allowed against the tax imposed by the Federal Unemployment Tax Act, 26 U. S.C., Section 3301 et seq.; or

13. If two or more employers share common ownership, management, or control, the Commission may combine their merit rating accounts, including their actual contribution and benefit experience, annual payrolls, and contribution rates into one account.

§ 1-208A. Renumbered as Title 40, § 1-208.1 by Laws 2006, c. 176, § 29, emerg. eff. July 1, 2006

§ 1-208.1. Motor carrier not employer of lessor or driver

In no event will a motor carrier be determined to be the employer of a lessor as defined in Section 166a or 230.29 of Title 47 of the Oklahoma Statutes, or of a driver receiving compensation from a lessor.

§ 1-209. Employing unit

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

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

Whenever any employing unit contracts with or has under it any contractor or subcontractor for any employment, which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of Section 1-208 or Section 3-203 of this title, the employing unit shall for all the purposes of the Employment Security Act of 1980 be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such employment; except that each such contractor or subcontractor who is an employer by reason of Section 1-208 or Section 3-203 of this title shall alone be liable for the contributions measured by wages paid to individuals employed by the contractor or subcontractor, and except that any employing unit which shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of Section 1-208 or Section 3-203 of this title may recover the same from such contractor or subcontractor.

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

§ 1-209A. Renumbered as Title 40, § 1-209.1 by Laws 2006, c. 176, § 29, emerg. eff. July 1, 2006

§ 1-209.1. Lessor employing unit

A. "Lessor employing unit" means any independently established business entity which engages in the business of providing leased employees to any other employer, individual, organization, partnership, corporation or other legal entity, referred to herein as a client lessee.

B. Any employer or any individual, organization, partnership, corporation or other legal entity which meets the definition of lessor employing unit shall be liable for contribution on wages paid by the lessor employing unit to individuals performing services for client lessees of the lessor employing unit.
C. Unless the lessor employing unit has timely complied with the provisions of this section, any employer, individual, organization, partnership, corporation or other legal entity leasing employees from any lessor employing unit shall be jointly and severally liable for any unpaid contributions, interest, penalties and fees due under this section from any lessor employing unit attributable to wages for services performed for the client lessee entity by the employees leased to the client lessee entity.
D. In order to relieve client lessees from joint and several liability imposed under this section, any lessor employing unit as defined herein may post and maintain a surety bond issued by a corporate surety authorized to do business in this state in an amount equivalent to the contributions for which the lessor employing unit was liable in the last calendar year in which it accrued contributions, or One Hundred Thousand Dollars ($100,000.00), whichever amount is the greater, to ensure prompt payment of contributions, interest, penalties and fees for which the lessor employing unit may be or may become liable under this section.
E. Any lessor employing unit as defined herein which is currently engaged in the business of leasing employees to client lessees shall comply with the provisions of this section by January 1, 1991.
F. Any lessor employing unit not engaged in the business of leasing employees to client lessees on or before the effective date of this act shall comply with the requirements herein before entering into lease agreements with client lessees.

§ 1-209.2. Professional Employer Organization definitions

A. 1. A “Professional Employer Organization” or “PEO” is an organization that is subject to the Oklahoma Professional Employer Organization Recognition and Registration Act and which meets the definition set out in paragraph 9 of Section 600.2 of Title 40 of the Oklahoma Statutes.
2. “Client” shall have the same meaning as provided by paragraph 1 of Section 600.2 of Title 40 of the Oklahoma Statutes.
3. “Coemployer” shall have the same meaning as provided by paragraph 2 of Section 600.2 of Title 40 of the Oklahoma Statutes.
4. “Coemployment relationship” shall have the same meaning as provided by paragraph 3 of Section 600.2 of Title 40 of the Oklahoma Statutes.
5. “Covered employee” shall have the same meaning as provided by paragraph 5 of Section 600.2 of Title 40 of the Oklahoma Statutes.

B. For purposes of the Employment Security Act of 1980, the PEO and its client shall be considered coemployers of the covered employees that are under the direction and control of the client.
C. If a PEO fails to become or remain registered under the Oklahoma Professional Employer Organization Recognition and Registration Act, the entity shall be considered a third-party

administrator of the client account. As a third-party administrator, a power of attorney will be required to obtain information from the client's account.

§ 1-210. Employment

"Employment" means:

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

(a) any officer of a corporation; or

(b) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, as provided in paragraph (14) of this section, has the status of an employee.

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

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

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

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

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

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

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

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

(4) Service performed by an individual in the employ of a community chest, fund, foundation or corporation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in, including

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person or entity who paid cash remuneration of One Thousand Dollars ($1,000.00) or more to individuals employed in domestic service in any calendar quarter in the calendar year or the preceding calendar year.
(7) For the purposes of paragraphs (3) and (4) of this section the term "employment" does not apply to service performed:

(a) in the employ of:

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

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

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

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

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

(i) as an elected official;

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

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

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

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

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

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

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

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

(a) the employer's principal place of business in the United States is located in this state;
(b) the employer has no place of business in the United States, but:
(i) the employer is an individual who is a resident of this state;
(ii) the employer is a corporation which is organized under the laws of this state; or
(iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state;
(c) none of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state;
(d) an "American employer", for purposes of this subsection, means a person who is:
(i) an individual who is a resident of the United States;
(ii) a partnership if two-thirds (2/3) or more of the partners are residents of the United States;
(iii) a trust, if all of the trustees are residents of the United States; or
(iv) a corporation organized under the laws of the United States or of any state; and
(e) the term "United States", for the purposes of this subsection, includes the states, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

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

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

(a) includes any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; and
(b) includes any service which is required to be "employment" for full tax credit to be allowed against the tax imposed by the Federal Unemployment Tax Act of 1954, Public Law 591, Chapter 736, as amended, 26 U.S.C., Section 3301 et seq.

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

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

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

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

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

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

(b) services covered by an arrangement pursuant to Section 4-701 et seq. of this title between the Oklahoma Employment Security Commission and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment if the Commission has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

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

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

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

(14) Notwithstanding any other provision of this subsection, services performed by an individual for wages shall be deemed to be employment subject to the Employment Security Act of 1980 if the services are performed by the individual in an employer-employee relationship with the employer using the 20-factor test used by the Internal Revenue Service of the United States Department of Treasury in Revenue Ruling 87-41, 1987-1 C.B. 296. The Oklahoma Employment Security Commission shall have the excusive authority to make a determination of whether an individual is an independent contractor or employee.

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

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

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

(c) service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his or her father or mother, or both father and mother;
(d) service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the Employment Security Act of 1980, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of the Employment Security Act of 1980 shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the Secretary of Labor of the United States under the Federal Internal Revenue Code, 26 U.S.C., Section 3304(c), the payments required of such instrumentalities with respect to the year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in Section 3-304 of this title with respect to contributions erroneously collected;
(e) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;
(f) service performed in the employ of a foreign government, including service as a consul or other officer or employee or a nondiplomatic representative;
(g) service performed in the employ of an instrumentality wholly owned by a foreign government:

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

(h) service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within the jurisdiction of such other state or federal agency;
(i) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has

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

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

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

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

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

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

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

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

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

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

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

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

(n) service performed in the employ of a hospital, if the service is performed by a patient of the hospital;
(o) services performed by cooperative extension personnel holding federal appointments employed by state institutions of higher learning;
(p) earnings of employees being paid by state warrants who are presently covered by the Federal Unemployment Compensation Act, 5 U.S.C., Section 8501 et seq., by virtue of their federal status;
(q) cosmetology services performed by an individual in a beauty shop, as defined by Section 199.1 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the beauty shop leases or rents facilities for cosmetology to such individual;
(r) barbering services performed by an individual in a barber shop, as defined by Section 61.5 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the barber shop leases or rents facilities for barbering to such individual;
(s) services performed as a participant in a work or training program administered by the Department of Human Services;
(t) riding services performed by a jockey and services performed by a trainer of race horses in preparation for and during an approved race meeting licensed by the Oklahoma Horse Racing Commission;
(u) service performed by an individual whose remuneration consists solely of commissions, overrides, bonuses, and differentials related to sales or other output derived from in-person sales to, or solicitation of orders from, ultimate consumers primarily in the home, or otherwise than in a permanent retail establishment;
(v) service performed by a person, commonly referred to as “owner-operator”, who owns or leases a truck-tractor or truck for hire, provided the owner-operator actually operates the truck-tractor or truck and, further, that the entity contracting with the owner-operator is not the lessor of the truck-tractor or truck;
(w) services performed as a chopper of cotton who weeds or thins cotton crops by hand or hoe. This subsection shall be interpreted and applied consistently with the Federal Unemployment Tax Act, 26 U.S.C., Sections 3304(a)(6)(A) and 3306(k);
(x) services performed for a private for-profit person or entity by an individual as a landman:

(i) if the individual is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or negotiating business agreements that provide for the exploration for or development of minerals,
(ii) if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual, and
99(iii) if the services performed by the individual are performed under a written contract between the individual and the person for whom the services are performed; provided that the individual is to be treated as an independent

contractor and not as an employee with respect to the services provided under the contract; or

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

§ 1-211. Employment office

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

§ 1-212. Fund, Employment Security Administration Fund

(1) "Fund" means the Unemployment Compensation Fund established by this act.
(2) "Employment Security Administration Fund" means the fund established by this act from which administration expenses under this act shall be paid.

§ 1-213. Hospital

"Hospital" means any hospital required to be licensed under the Public Health Code, Sections 101[1] et seq. of Title 63 of the Oklahoma Statutes, and includes state mental hospitals and any other mental hospital or institution.

§ 1-214. Institution of higher education

"Institution of higher education" means an educational institution which:
(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate;
(2) Is legally authorized in this state to provide a program of education beyond high school;
(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and
(4) Is a public or other nonprofit institution.
Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this state are institutions of higher education for purposes of this section.

§ 1-215. Insured work

"Insured work" means employment for employers as defined by this act.

§ 1-216. State

"State" includes, in addition to the states of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

§ 1-217. Unemployed

An individual shall be deemed "unemployed" with respect to any week during which he performed no services and with respect to which no wages are payable to him, or with respect to any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount plus One Hundred Dollars ($100.00); provided that for the purpose of this section only, any vacation leave payments or sick leave payments, which such individual may receive or be entitled to from his employer or former employer, arising by reason of separation from employment, shall be deemed not to be wages as the term wages is used in this section.

§ 1-218. Wages

"Wages" means all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and includes dismissal payments which the employer is required by law or contract to make. Gratuities customarily received by an individual in the course of work from persons other than the employing unit shall be treated as wages received from the employing unit. The reasonable cash value of remuneration in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Oklahoma Employment Security Commission. If the Internal Revenue Code, at 26 USCA, Section 1 et seq., provides that a payment made by an employer to an employee is considered to be wages, that payment shall also be considered wages by the Oklahoma Employment Security Commission for the purposes of this act. The term wages shall not include:

1. The amount of any payment, with respect to services performed to or on behalf of an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund to provide for any such payment, on account of:

a. retirement, other than employee contributions or deferrals under a qualified plan as described in 26 U.S.C., Section 401(k), 403(b), 408(k), 457, 7701(j) or 408(p),

b. sickness or accident disability,

c. medical and hospitalization expenses in connection with sickness or accident disability,

d. death, provided the individual in its employ:

(1) has not the option to receive, instead of provision for such death benefit, any part of such payment, or if such death benefit is insured, any part of the premium or contributions to premiums paid by the employing unit, and

(2) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive cash consideration in lieu of such benefit either upon withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of the individual's services with such employing unit, or

e. a bona fide thrift or savings fund, providing:

(1) such payment is conditioned upon a payment of a substantial sum by such individuals in its employ, and
(2) that such sum paid by the employing unit cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any twelve-month period, except upon an individual's separation from that employment;

2. Any payment made to, or on behalf of, an employee or his or her beneficiary under a cafeteria plan of the type described in 26 U.S.C., Section 125 and referred to in 26 U.S.C., Section 3306(b)(5)(G);
3. Any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C., Section 127 or a dependent care assistance program as described in 26 U.S.C., Section 129 and as referred to in 26 U.S.C., Section 3306(b)(13);
4. The payment by an employing unit, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under 26 U.S.C., Section 3101 with respect to domestic services in a private home of the employer or for agricultural labor;
5. Dismissal payments which the employer is not required by law or contract to make;
6. The value of any meals and lodging furnished by or on behalf of an employer to an individual in its employ; provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer; or
7. Payments made under an approved supplemental unemployment benefit plan.

§ 1-219. Wages paid

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

§ 1-220. Week

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

§ 1-221. Benefit wages

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

§ 1-222. Repealed

§ 1-223. Taxable wages

"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 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;
4. Forty-seven and one-half percent (47.5%) during calendar years in which condition "c" exists; and
5. Fifty percent (50%) during calendar years in which condition "d" exists.

§ 1-224. File

A. When any document is required to be filed by the provisions of the Employment Security Act of 1980 or the rules promulgated under the authority of the Employment Security Act of 1980 with the Oklahoma Employment Security Commission, any of its representatives, or the Board of Review for the Oklahoma Employment Security Commission, the term “file”, “files”, or “filed” shall be defined as follows:

1. Hand-delivered 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 by the Oklahoma Employment Security Commission on or before the date due. Timely mailing shall be determined by the postmark. If there is no proof from the post office of the date of mailing, the date of receipt by the Commission shall constitute the date of filing; or
4. Electronically transmitted via data lines 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.

B. If the Employment Security Act of 1980 or the rules promulgated under the Employment Security Act of 1980 require that a document be filed with a court or any other agency of this

state, the term “file”, “files” or “filed” shall be defined by the statutes, rules or practice governing that court or agency.

§ 1-225. Supplemental unemployment benefit plan

A. “Supplemental unemployment benefit plan” means a plan that provides for an employer to make payments to its employees during a permanent or temporary layoff that will supplement unemployment benefits received by the employees. The purpose of a supplemental unemployment benefit plan is to allow an employer to sustain the purchasing power of its employees or former employees during a layoff.

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

1. The plan shall provide for a payment from the employer to the employee each week during the temporary layoff to supplement unemployment benefits received by the employee;
2. The plan must be part of an agreement entered into between the employer and employee, or between the employer and a collective bargaining agent on behalf of the employee, before the date the layoff is effective;
3. The employer must be able to give a reasonable assurance that the separated employees will be able to return to work at the end of the temporary layoff;
4. The employer must inform the Commission of the beginning and ending dates of the layoff and keep the Commission informed of any changes in circumstances while any claims for unemployment benefits are in existence; and
5. The plan must provide for equal treatment of all employees covered by the plan who are included in the layoff.

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

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

1. The plan shall provide for a payment from the employer to the former employee during each week unemployment benefits are paid to the former employee, in order to supplement the unemployment benefits received by the former employee;
2. The plan must be part of an agreement entered into between the employer and former employee, or between the employer and a collective bargaining agent on behalf of the former employee, before the date the layoff is effective; and
3. The plan must provide for equal treatment of all former employees covered by the plan who are included in the layoff.

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

D. The amount of supplemental unemployment benefit plan payments will not be deducted from the weekly benefit amount of an unemployment benefit claim.

E. All supplemental unemployment benefit plans must be approved by the Director of the Unemployment Insurance Division of the Oklahoma Employment Security Commission. The

Director's determination will be in writing and mailed to the employer and the collective bargaining agent of the employees, if any exists, at their last-known addresses, within twenty (20) days of the receipt of the employer's plan. If an employer or collective bargaining agent disagrees with the determination, an appeal can be taken pursuant to Section 3-115 of this title.

§ 1-225A. Repealed

§ 1-226. Initial claim—Additional initial claim—Reopened claim—Continued claim series

A. "Initial claim" means a new claim application submitted by a claimant to establish a benefit year for unemployment insurance benefits.

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

C. "Reopened claim" means a claim application which reactivates a claim during an existing benefit year when a claimant stopped filing for benefits before his or her claim was exhausted, but in which there occurred no intervening employment from the date of the filing of the last initial, additional or reopened claim.

D. "Continued claim series" means an uninterrupted series of weekly claims filed by a claimant during the benefit year.

§ 1-227. Experience period

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

§ 1-228. Limited liability companies

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

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

§ 1-229. Assigned tax rate and earned tax rate

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

B. "Earned tax rate" means the tax rate calculated for an employer with sufficient experience history to meet the At-Risk Rule set out in paragraph 3 of Section 3-110.1 of this title, with the

tax rate calculated pursuant to the provisions of Part 1 of Article 3 of the Employment Security Act of 1980.

PART 3 – OTHER DEFINITIONS

§ 1-301. Other definitions applicable to extended benefits

Other definitions applicable to extended benefits and the sections in which they appear are:
"Eligibility period"—Section 2-711
"Exhaustee"—Section 2-712
"Extended benefit period"—Section 2-703
"Extended benefits"—Section 2-710
"National 'off' indicator"—Section 2-705
"National 'on' indicator"—Section 2-704
"Rate of insured unemployment"—Section 2-708
"Regular benefits"—Section 2-709
"State law"—Section 2-713
"State 'off' indicator"—Section 2-707
"State 'on' indicator"—Section 2-706

§ 1-302. Index of other definitions

Other definitions in this act and the sections in which they appear are:
"Crew leader"—Section 1-210(5)(d)
"American employer"—Section 1-210(9)(d)
"United States"—Section 1-210(9)(e)
"Suitable work"—Section 2-408(2)

ARTICLE 2 – BENEFITS
PART 1 – COMPUTATION

§ 2-101. Applicability
The provisions of this part shall be applicable to the computation of benefits under this act.

§ 2-102. Rounding provision
Any benefit amount, any maximum benefit amount, or any payment amount computed under the provisions of this article that is not a multiple of One Dollar ($1.00) shall be computed to the next lower multiple of One Dollar ($1.00).

§ 2-103. Benefits paid from fund
All benefits provided herein shall be payable from the fund. All benefits shall be paid in accordance with the rules as the Oklahoma Employment Security Commission may prescribe.

§ 2-104. Computation of benefit amount
A. The weekly benefit amount of an individual shall be an amount equal to one twenty-third ($^{1}/_{23}$) of the taxable wages paid to the individual during that quarter of his base period in which the taxable wages were highest. If the amount is more than the maximum weekly benefit amount, it shall be reduced to the maximum weekly benefit amount or if the amount is less than Sixteen Dollars ($16.00), it shall be increased to Sixteen Dollars ($16.00).

B. The maximum weekly benefit amount shall be:

1. Sixty percent (60%) of the average weekly wage of the second preceding calendar year 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. Fifty-seven and one-half percent (57.5%) of the average weekly wage of the second preceding calendar year during calendar years in which condition “a”, as set forth in paragraph (1) of Section 3-113 of this title, exists;
3. Fifty-five percent (55%) of the average weekly wage of the second preceding calendar year during calendar years in which condition “b”, as set forth in paragraph (2) of Section 3-113 of this title, exists;
4. Fifty-two and one-half percent (52.5%) of the average weekly wage of the second preceding calendar year during calendar years in which condition “c”, as set forth in paragraph (3) of Section 3-113 of this title, exists; and
5. Fifty percent (50%) of the average weekly wage of the second preceding calendar year during calendar years in which condition “d”, as set forth in paragraph (4) of Section 3-113 of this title, exists.

C. Before the last day of June of each year the Commission shall determine the average weekly wage of the preceding calendar year in the following manner:

1. The sum of the total monthly employment reported for the calendar year shall be divided by twelve (12) to determine the average monthly employment;

2. The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage; and
3. The average annual wage shall be divided by fifty-two (52) to determine the average weekly wage.

§ 2-105. Wages subtracted from benefit amount

Each eligible individual who is unemployed with respect to any week ending after July 1, 1994, shall be paid with respect to such week a benefit in an amount equal to the weekly benefit amount of the individual less that part of the wages, if any, payable to the individual with respect to such week which is in excess of One Hundred Dollars ($100.00). Each individual claiming benefits shall report all wages that the individual has been or will be paid for work performed during any week in which the individual claims unemployment benefits, regardless of the source or amount.

§ 2-105.1. Furlough and work stoppage—Back pay subtracted from benefit amount—Redetermination of benefit eligibility

A. Reimbursed pay or back pay received by a claimant shall be subtracted from the benefit amount drawn by a claimant in each week in which:

1. The claimant is placed on furlough or work stoppage by his or her employer;
2. The claimant is not paid wages or salary during the pendency of the furlough or work stoppage;
3. The furlough or work stoppage is due to a lapse in appropriations, funding or budget shortfall affecting the employer;
4. After the furlough or work stoppage concludes, the claimant is reimbursed his or her full pay for the period during which the furlough or work stoppage occurred; and
5. The employer considers the employee as having been in a pay status during the furlough or work stoppage.

B. If reimbursed pay or back pay is required to be subtracted from the claimant's benefit amount pursuant to subsection A of this section, the eligibility for benefits of each week in question shall be redetermined pursuant to Section 2-506 of Title 40 of the Oklahoma Statutes and the amount of reimbursed pay or back pay received by the claimant shall be deducted from any unemployment benefits drawn during the pendency of the furlough or work stoppage. Any party to the redetermination may appeal pursuant to Section 2-603 of Title 40 of the Oklahoma Statutes. Any overpayment of benefits established under this section shall be collected in the same manner as an overpayment established under paragraph 2 of Section 2-613 of Title 40 of the Oklahoma Statutes.

§ 2-106. Maximum benefit amount

An otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of:

1. Twenty-six (26) times the weekly benefit amount of the individual;

2. 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 is determined by the conditional factor in place during the calendar year in which the individual files for benefits. The conditional factor is determined pursuant to the provisions of Section 3-113 of this title. The applicable percentages for this paragraph are as follows:

a. twenty-five percent (25%) 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,

b. twenty-three and three-fourths percent (23.75%) during calendar years in which condition "a" exists,

c. twenty-two and one-half percent (22.5%) during calendar years in which condition "b" exists,

d. twenty-one and one-fourth percent (21.25%) during calendar years in which condition "c" exists, and

e. twenty percent (20%) during calendar years in which condition "d" exists; or

3. The applicable percentage of the individual's wages for insured work paid during the base period of the individual. The applicable percentage is determined by the conditional factor in place during the calendar year in which the individual files for benefits. The conditional factor is determined pursuant to the provisions of Section 3-113 of this title. The applicable percentages for this paragraph are as follows:

a. fifty percent (50%) 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,

b. forty-seven and one-half percent (47.5%) during calendar years in which condition "a" exists,

c. forty-five percent (45%) during calendar years in which condition "b" exists,

d. forty-two and one-half percent (42.5%) during calendar years in which condition "c" exists, and

e. forty percent (40%) during calendar years in which condition "d" exists.

§ 2-107. Benefits—Portion of a week

Notwithstanding any other provisions of this act, the Commission may by rule prescribe that the existence of unemployment, eligibility for benefits and the amount of benefits payable shall be determined, in the case of any otherwise eligible claimant who, within a week of unemployment, is separated from, or secures, work on a regular attachment basis, for that portion of the week occurring before or after such separation from or securing of work, provided such rules are reasonably calculated to secure general results substantially similar to those provided by this act with respect to weeks of unemployment.

§ 2-108. Benefits—Approved training

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

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

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

§ 2-109. Employment requirement in preceding benefit year

No individual may receive benefits in a benefit year unless, subsequent to the beginning of the immediately preceding benefit year during which the individual received benefits, the individual performed service and earned remuneration for such service in an amount equal to at least ten (10) times the individual's weekly benefit amount in the current benefit year.

PART 2 – ELIGIBILITY

§ 2-201. Applicability

The provisions of this part apply to eligibility to receive benefits under this act.

§ 2-202. Conditions for eligibility

An unemployed individual shall be eligible to receive benefits with respect to any week only if the Commission finds that he satisfies the provisions of this Part 2.

§ 2-203. Claim

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

B. 1. During the process of filing an initial claim for unemployment benefits, the claimant shall be made aware of the definition of misconduct set out in Section 2-406 of this title, and the claimant shall affirmatively certify that the answers given to all questions in the initial claim process are true and correct to the best of the claimant's knowledge and that no information has been intentionally withheld or misrepresented in an attempt by the claimant to receive benefits to which he or she is not entitled.
2. The certification statement required in paragraph 1 of this subsection shall be available through the Internet Claims service provided by the Commission and by a form to be completed by the claimant in a local office of the Commission or at any alternate site designated by the Commission to take unemployment benefit claims.

C. With respect to each week, he or she must provide the Commission with a true and correct statement of all material facts relating to: his or her unemployment; ability to work; availability for work; activities or conditions which could restrict the individual from seeking or immediately accepting full-time employment or part-time work if subsection 4 of Section 2-408 of this title applies; applications for or receipt of workers' compensation benefits; employment and earnings; and the reporting of other income from retirement, pension, disability, self-employment, education or training allowances.

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

E. The Commission may require the individual to produce documents or information relevant to the claim for benefits. If the individual fails to produce it, the individual's claim for unemployment benefits may be disqualified indefinitely by the Commission until the information is produced. An individual that has been disqualified indefinitely by the provisions of this subsection may receive payment for any week between the initial failure and the compliance with this subsection if the claimant is otherwise eligible and has made a timely filing for each intervening week.

§ 2-204. Registration for employment

The unemployed individual must register for work within seven (7) days of filing his or her initial claim for unemployment benefits in accordance with such rules as the Commission may prescribe, except that the Commission may waive the requirements of this section as to individuals attached to regular jobs, situations involving mass layoffs, or individuals in areas not served by an established employment office or Internet service when it finds that compliance with these requirements would be oppressive, or would be inconsistent with the purpose of the Employment Security Act of 1980.

§ 2-205. Repealed

§ 2-205.1. Ability to work and acceptance of employment

The unemployed individual must be able to perform work duties in keeping with his education, training and experience. He must also be available to seek and accept work at any time and

may not be engaged in any activity that would normally restrict his seeking or accepting employment in keeping with his education, training and experience.

The fact that an individual is enrolled in school shall not, in and of itself, render an individual ineligible for unemployment benefits. Such individual who is involuntarily unemployed and otherwise eligible for benefits and who offers to quit school, adjust class hours or change shifts in order to secure employment shall be entitled to benefits.

§ 2-206. Waiting period

The unemployed individual must have been unemployed for a waiting period of one (1) week. No week shall be counted as a week of unemployment for the purposes of this section:
(1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits;
(2) If benefits have been paid with respect thereto;
(3) Unless the individual was eligible for benefits with respect thereto.

§ 2-207. Wage requirement during base period

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

1. Taxable wages of not less than One Thousand Five Hundred Dollars ($1,500.00); and
2. Total wages of not less than one and one-half (1 1/2) times the amount of wages during that quarter of the individual's base period in which the wages were highest.

B. Notwithstanding the provisions in subsection A of this section, an unemployed individual shall be eligible for benefits if, during the individual's base period, he or she shall have been paid:

1. Taxable wages of any amount; and
2. Total wages equal to or more than the annual amount of taxable wages that applies to any calendar year in which the claim for unemployment benefits was filed.

C. 1. If an individual lacks sufficient base period wages to establish a claim for benefits under this section, any wages paid in the individual's alternative base period shall be considered as the individual's base period wages. Once the alternative base period wages are determined, those wage figures shall be used to determine eligibility for benefits under subsection A or B of this section.

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

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

4. If alternative base period wages are established by affidavit of the individual, the employer to which the wages are attributed will have the right to protest the wages reported. If a protest is made, the employer must provide documentary evidence of wages

paid to the individual. The Commission will determine the wages paid based on the preponderance of the evidence presented by each party.
5. Provided, no wages used to establish a claim under an alternative base period shall be subsequently used to establish a second benefit year.

§ 2-208. Aliens

(1) Effective January 1, 1978, benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services or otherwise is permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act. Provided, that any modifications to the provisions of Section 3304(a)(14) of the Federal Unemployment Tax Act as provided by Public Law 95-19 which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this subsection.
(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.
(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

§ 2-209. Benefits for employees of governmental or nonprofit employers

Benefits based on service in employment defined in paragraph (3) or (4) of Section 1-210 of this title, including any federally operated educational institutions, shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to the Employment Security Act of 1980, except that:
(1) With respect to service performed in an instructional, research or principal administrative capacity for an educational institution, benefits shall not be paid based on services for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if the individual performs services in the first academic year or term and if there is a contract or a reasonable assurance that the individual will perform services in any such capacity for any educational institution in the second academic year or term.
(2) With respect to services performed in any other capacity for an educational institution, benefits shall not be paid on the basis of services to any individual for any week which commences during a period between two (2) successive academic years or terms if the individual performs services in the first academic year or term and there is a reasonable

assurance that the individual will perform services in any such capacity in the second academic year or term, except that if compensation is denied to any individual pursuant to this paragraph and the individual was not offered an opportunity to perform services for the educational institution for the second academic year or term, the individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause;
(3) With respect to any services described in paragraphs (1) and (2) of this section, benefits shall not be payable on the basis of services in any capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform services in any such capacity in the period immediately following the vacation period or holiday recess;
(4) With respect to any services described in paragraphs (1) and (2) of this section, benefits shall not be payable on the basis of services in any capacities as specified in paragraphs (1), (2) and (3) of this section to any individual who performed services in an educational institution while in the employ of an educational service agency. For purposes of this paragraph, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions; and
(5) If an individual has employment with an educational institution and has employment with a noneducational employer or employers during the base period of the individual's benefit year, the individual may become eligible for benefits during the between-term denial period, based only on the noneducational employment.

§ 2-209.1 Repealed

§ 2-210. Separation from work due to compelling family circumstances

In addition to the eligibility provisions provided by this act, an individual shall be eligible to receive unemployment benefits, if monetarily and otherwise eligible, if the claimant was separated from work due to compelling family circumstances. For purposes of this section:
1. "Immediate family member" means the claimant's spouse, parents and dependent children;
2. "Illness" means a verified illness which necessitates the care of the ill person for a period of time longer than the employer is willing to grant paid or unpaid leave;
3. "Disability" means a verified disability which necessitates the care of the disabled person for a period of time longer than the employer is willing to grant paid or unpaid leave. Disability encompasses all types of disability, including:
   a. mental and physical disabilities,
   b. permanent and temporary disabilities, and
   c. partial and total disabilities; and
4. "Compelling family circumstances" means:
   a. if the claimant was separated from employment with the employer because of the illness or disability of the claimant and, based on available information, the Oklahoma

Employment Security Commission finds that it was medically necessary for the claimant to stop working or change occupations,
b. the claimant was separated from work due to the illness or disability of an immediate family member,
c. if the spouse of the claimant was transferred or obtained employment in another city or state, and the family is required to move to the location of that job that is outside of commuting distance from the prior employment of the claimant, and the claimant separates from employment in order to move to the new employment location of the spouse,
d. if the claimant separated from employment due to domestic violence or abuse, verified by any reasonable evidence, which causes the individual to reasonably believe that the individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family, or
e. if the claimant separated from employment to move with the claimant's spouse to a new location, and if the spouse of the claimant:
(1) was a member of the U.S. Military, the U.S. Military Reserve, or the National Guard,
(2) was on active duty within ninety (90) days of the date of discharge,
(3) has a service-connected disability,
(4) was discharged under honorable conditions from the military service, and
(5) takes up residence at a location more than fifty (50) miles away from the claimant's former employer for the purpose of reentering civilian life.

PART 3 – PROTECTION OF RIGHTS AND BENEFITS

§ 2-301. Waiver void

Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this act shall be void. Any agreement by any individual in the employ of any person or employing unit to pay all or any portion of an employer's contributions, required under this act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him or require or accept any waiver of any right hereunder by any individual in his employ, discriminate in regard to the hiring or tenure of work on any term or condition of work of any individual on account of his claiming benefits under this act, or in any manner obstruct or impede the filing of claims for benefits. Any employer or officer or agent of an employer who violates any provision of this section shall, for each offense, be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) or be imprisoned for not more than six (6) months, or both such fine and imprisonment.

§ 2-302. Fee—No charge by Commission or its employees—Counsel fee subject to approval—Choice of representative

A. No individual claiming benefits shall be charged fees or costs of any kind in any proceeding under this act by the Board of Review, the Commission, or its representatives, or by any court

or any officer thereof, except that a court may assess costs against the claimant or employer if the court determines that the proceedings for judicial review have been instituted or continued without reasonable grounds. Any individual claiming benefits in any proceeding before the Commission or the Board of Review or its representatives or a court may be represented by counsel but no such counsel shall either charge or receive for such services more than an amount approved by the Board of Review. Any person who violates any provision of this section shall, for each such offense, be fined not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or imprisoned for not more than six (6) months, or both such fine and imprisonment.

B. Parties to any proceeding before the Commission or Board of Review may be represented in that proceeding by the individual of his or her choice regardless of whether or not that individual is an attorney duly licensed to practice law by the Supreme Court of the State of Oklahoma. Parties to any proceeding before a court of record of this state may appear pro se or the party must be represented by an attorney duly licensed to practice law by the Supreme Court of this state.

§ 2-303. Assignments void, exemption from process

No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under the Employment Security Act of 1980 shall be valid. All such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Benefits received by an individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts during the time the individual was unemployed, except debts for child support obligations pursuant to Section 2-801 of this title, and debts created due to food purchase assistance overissuances for which the individual is liable pursuant to Section 2-803 of this title. Benefits shall be subject to tax levies issued by the Internal Revenue Service in accordance with 26 U.S.C., Section 6331(h) provided an agreement is entered into between the Internal Revenue Service and the Oklahoma Employment Security Commission, and approved by the United States Department of Labor, that provides for the payment of all administrative costs associated with processing the tax levies. No waiver of any exemption provided for in this section shall be valid.

§ 2-304. Deduction of health insurance premiums

Notwithstanding the provisions of Sections 2-301 and 2-303 of Title 40 of the Oklahoma Statutes, nothing shall be construed to prohibit the deduction of an amount from unemployment compensation otherwise payable to an individual to pay for health insurance premiums if such individual elected to have such deduction made and such deduction is made under a program approved by the United States Secretary of Labor. For purposes of this section, the term “premium” shall only include the sum of money agreed to be paid by the insured individual to the underwriter as consideration for the insurance.

§ 2-305. Deduction of individual income tax withholdings

Notwithstanding the provisions of Sections 2-301 and 2-303 of this title, nothing shall be construed to prohibit the deduction of an amount from unemployment compensation, otherwise payable to an individual, to pay the withholding of federal or state individual income tax, if that individual elected to have such a deduction made and that deduction is made under a program approved by the United States Secretary of Labor. For the purposes of this section, if an individual elects to have this deduction taken from his or her weekly benefits, the federal withholding will be deducted at the percentage specified in the Federal Internal Revenue Code at 26 U.S.C., Section 3402(p)(2), and three percent (3%) of the total benefit amount will be deducted to pay the state withholding.

PART 4 – DISQUALIFICATION

§ 2-401. Application of Part 4

This part applies to disqualification for benefits.

§ 2-402. Fraud

A. If the Oklahoma Employment Security Commission determines that any individual has made a false statement or representation or has failed to disclose a material fact in violation of Section 5-102 of this title, the individual shall be ineligible to receive unemployment compensation for the week that determination is made by the Commission and for the next following fifty-one (51) weeks, and no benefit year shall be established during such period of ineligibility. After a determination has been made that an individual has violated Section 5-102 of this title in a particular benefit year, if the Commission determines that another violation of that section has occurred in any subsequent benefit year, the individual shall be ineligible to receive unemployment compensation for the week in which the subsequent determination is made by the Commission and for the next following one hundred three (103) weeks, and no benefit year shall be established during such period of ineligibility.

B. If the Commission makes a determination as described in subsection A of this section, the individual shall be disqualified for each week benefits were paid as a result of a false statement or representation or a failure to disclose a material fact, and the individual shall be deemed overpaid for the entire amount of benefits paid as a result of claimant fraud.

C. The ineligibility and disqualification set forth in subsections A and B of this section are in addition to the penalty provided by Section 5-102 of this title, and shall be invoked irrespective of whether such individual is prosecuted for violation of Section 5-102 of this title, when the Commission makes such a determination of ineligibility or disqualification.

D. A determination of fraud must be made within two (2) years of the date on which the violation occurred.

§ 2-403. Repealed

§ 2-404. Leaving work voluntarily

A. An individual shall be disqualified for benefits for leaving his or her last work voluntarily without good cause connected to the work, if so found by the Commission.

B. When adjudicating a separation from employment in an initial claim or additional initial claim, disqualification under this section shall continue for the full period of unemployment next ensuing after the individual left work voluntarily without good cause connected to the work and until the individual has become reemployed and has earned wages equal to or in excess of ten (10) times his or her weekly benefit amount.

C. When adjudicating a separation from employment during a continued claim series, disqualification under this section shall be for the week of the occurrence of leaving work voluntarily without good cause connected to the work.

§ 2-404.1. Temporary employee leaving work voluntarily

A. For the purposes of this section:

1. "Temporary help firm" means a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads and special assignments and projects;
2. "Temporary employee" means an employee assigned to work for the clients of a temporary help firm; and
3. "Good cause" means a reason that is significant and would compel an average reasonable worker, who would otherwise want a suitable job assignment with a client of the temporary help firm, to fail to contact the temporary help firm, to refuse an offered assignment, or to be unavailable for assignment; and
4. "Suitable job assignment" means work, either full-time or part-time for one or more days or portions thereof, that is in keeping with the education, training, experience, and ability of the individual to perform.

B. A temporary employee of a temporary help firm will be deemed to have left his or her last work voluntarily without good cause connected with the work if the temporary employee:

1. Does not contact the temporary help firm for reassignment on completion of an assignment. The temporary help firm shall establish the manner for a temporary employee to communicate that his or her assignment has ended and that he or she is available for reassignment at any time;
2. Refuses a suitable job assignment, without good cause;
3. Communicates his or her decision to cease seeking assignment for any period of time;
4. Becomes unavailable to accept a suitable job assignment, without good cause; or
5. Accepts employment with a client of the temporary help firm.

On and after the effective date of this act, the provisions of this subsection shall apply only if the temporary employee has been advised of the obligations and been provided a copy of a separate document written in clear and concise language that states the provisions in this section and that unemployment benefits may be denied for failure to comply.

C. For the purposes of the Employment Security Act of 1980, the temporary help firm is deemed to be the employer of the temporary employee.

§ 2-404.2. Work of a limited duration of time

A. When an employer employs a worker for a limited duration of time specified by the employer, the worker is considered to have been laid off due to lack of work at the end of the time period set by the employer, provided that the worker's separation was due only to the completion of the work or the expiration of the time period.

B. When an employer employs a worker for a limited duration of time specified by the worker, the worker is considered to have voluntarily quit work at the end of the time period set by the worker, provided that the worker's separation was due only to the expiration of the time period.

§ 2-405. Determining good cause

Good cause for voluntarily leaving work under Section 2-404 of this title may include, among other factors, the following:

1. A job working condition that had changed to such a degree it was so harmful, detrimental, or adverse to the individual's health, safety, or morals, that leaving the work was justified;
2. Substantially unfair treatment of the employee or the creating of substantially difficult working conditions by the employer; or
3. If the claimant, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits waiver of his or her right to retain the employment when there is a layoff, has elected to be separated and the employer has consented thereto.

§ 2-406. Discharge for misconduct

A. An individual shall be disqualified for benefits if he or she has been discharged for misconduct connected with his or her last work. If discharged for misconduct, the employer shall have the burden to prove that the employee engaged in misconduct as defined by this section. Such burden of proof is satisfied by the employer, or its designated representative, providing a signed affidavit, or presenting such other evidence which properly demonstrates the misconduct which resulted in the discharge. Once this burden is met, the burden then shifts to the discharged employee to prove that the facts are inaccurate or that the facts as stated do not constitute misconduct as defined by this section. Disqualification under this section shall continue for the full period of unemployment next ensuing after he or she has been discharged for misconduct connected with his or her work and until such individual has become reemployed and has earned wages equal to or in excess of ten (10) times the weekly benefit amount.

B. Acts which constitute misconduct under this section shall be limited to the following:

1. Any intentional act or omission by an employee which constitutes a material or substantial breech of the employee's job duties or responsibilities or obligations pursuant to his or her employment or contract of employment;
2. Unapproved or excessive absenteeism or tardiness;

3. Indifference to, breach of, or neglect of the duties required which result in a material or substantial breach of the employee's job duties or responsibilities;
4. Actions or omissions that place in jeopardy the health, life, or property of self or others;
5. Dishonesty;
6. Wrongdoing;
7. Violation of a law; or
8. A violation of a policy or rule enacted to ensure orderly and proper job performance or for the safety of self or others.

C. Any misconduct violation as defined in subsection B of this section shall not require a prior warning from the employer. As long as the employee knew, or should have reasonably known, that a rule or policy of the employer was violated, the employee shall not be eligible for benefits.

D. Any finding by a state or federal agency of any failure by the employee to meet the applicable civil, criminal or professional standards of the employee's profession shall create a rebuttable presumption of such misconduct, and benefits shall be denied, unless the employee can show, with clear and convincing evidence, that such misconduct did not occur, or the Commission determines that such failure did not constitute misconduct as defined herein.

§ 2-406.1. Discharge for refusal to undergo drug or alcohol testing or positive test

A. 1. An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a positive drug or alcohol test conducted in accordance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be considered to have been discharged for misconduct and shall be disqualified for benefits pursuant to the provisions of Section 2-406 of this title.

2. In any challenge to a positive drug or alcohol test, the claimant has the burden to prove that the test was not properly conducted. The employer must provide the chain of custody documentation at the request of any claimant challenging his or her test result.

3. When the claimant fails to request a confirmation test pursuant to Section 556 of this title, the claimant shall not be eligible for benefits.

B. In any claim brought by the discharged employee for compensation, a written report of the drug or alcohol test results shall be accepted as prima facie evidence of the administration and results of the drug or alcohol test. If challenged by the claimant as provided in paragraph 2 of subsection A of this section, the written report of the drug or alcohol test results shall be acceptable for presentation as evidence with the chain of custody of the sample properly documented.

§ 2-406.2. Case review—Annual report

The Oklahoma Employment Security Commission shall promulgate rules requiring a review of at least five percent (5%) of its unemployment benefit cases where misconduct was alleged and decided either in favor of or against the employer. The cases reviewed pursuant to this section shall be summarized in an annual report which shall be delivered to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate

Committee on Business and Commerce and the House Committee on Economic Development and Financial Services, or its successor committee.

§ 2-407. Repealed

§ 2-408. Suitable work

(1) In determining whether or not any work is suitable for an individual, there shall be considered among other factors and in addition to those enumerated in Section 2-409 the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work.
(2) Suitable work shall be defined as employment in an occupation in keeping with the individual's prior work experience, education or training, or having no prior work experience, special education or training for occupations available in
the general area then, employment for which the individual would have the physical and mental ability to perform.
(3) Upon receipt of fifty percent (50%) of his benefits, suitable work shall not be limited to his customary or registered occupation.
(4) If the majority of the weeks of work in an individual's base period includes part-time work, the individual shall not be denied unemployment benefits under any provisions of this act relating to availability for work, active search for work, or failure to accept work, solely because the individual is seeking only part-time work. The phrase "seeking only part-time work", as used in this subsection, means the individual claiming unemployment benefits is available for a number of hours per week that are comparable to the individual's part-time work experience in the base period.

§ 2-409. Conditions exempting otherwise suitable work

Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
(1) If the position offered is vacant due directly to a strike, lockout or other labor dispute;
(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;
(4) If the new work involved a substantial degree of risk to his health, safety or morals.

§ 2-410. Participation in labor disputes

(1) An individual shall be disqualified to receive benefits for any week with respect to which the Commission finds that his unemployment is due to a stoppage of work which exists at the factory, establishment or other premises at which he is or was last employed, because of a labor dispute.
(2) This section shall not apply if it is shown that:

(a) He is not participating in or directly interested in the labor dispute which caused the stoppage of work;
(b) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; or
(c) The employer has locked out his employees.

(3) Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this section, be deemed to be a separate factory, establishment or other premises.

§ 2-411. Retirement payments

1. Except for any payment or benefit payment made pursuant to the federal Social Security Act, an individual shall be disqualified for benefits for any week which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity or any other similar periodic retirement payment which is based on the previous work of such individual if:
   a. such pension, retirement or retired pay, annuity or similar payment is under a plan maintained, or contributed to, by a base period and chargeable employer, and
   b. in the case of such a payment not made under the Railroad Retirement Act of 1974, 45 U.S.C., Section 231 et seq., services performed for such employer by the individual after the beginning of the base period, or remuneration for such services, affect eligibility for or increase the amount of, such pension, retirement or retired pay, annuity or similar payment.
2. If the total of such remuneration is less than the benefits which would otherwise be due under the Employment Security Act of 1980, Section 1-101 et seq. of this title, the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.
3. If payments referred to in this section are being received by an individual under the federal Social Security Act, the Commission shall take into account the individual's contribution to social security and make no reduction in the weekly benefit amount.

§ 2-412. Receiving benefits from another state

An individual shall be disqualified for benefits for any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. Provided, that if the appropriate agency of such other state or of the United States in which the individual was seeking benefits, but had not received benefits, finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.

§ 2-413. Inmates during confinement

No inmate of the State Department of Corrections shall during confinement be eligible to receive benefits under this act.

§ 2-414. Pregnant women not disqualified

Nothing in this act shall prohibit pregnant women, who otherwise qualify for benefits under this title, from receiving said benefits for the full number of weeks to which they are entitled.

§ 2-415. Participating in sports or athletic events

Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons or similar periods if such individual performed such services in the first of such season or similar periods and there is a reasonable assurance that such individual will perform such services in the latter part of such seasons or similar periods.

§ 2-416. Prohibition against disqualification of individuals taking approved training under Trade Act

No individual shall be denied benefits for any week because such individual is in training approved under 19 U.S.C., Section 2296 (a)(1) of the Trade Act of 1974. An individual shall not be denied benefits by reason of leaving work to begin or continue such training, provided the work left is not suitable employment, or because of the application, to any such week in training, of the provisions of the Employment Security Act of 1980 or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this section, the term “suitable employment” means with respect to an individual, work of a substantially equal or higher skill level than the adversely affected past employment of the individual, as defined for purposes of the Trade Act of 1974, and wages for such work at not less than eighty percent (80%) of the average weekly wage of the individual as determined for the purposes of the Trade Act of 1974.

§ 2-417. Seek and accept work—Week of occurrence disqualification

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

1. Diligently search for suitable employment at a pay rate generally available in that area of the state in keeping with his or her prior experience, education and training;
2. Make application for work with employers who could reasonably be expected to have work available; or
3. Present oneself as an applicant for employment in a manner designed to encourage favorable employment consideration.

B. The requirements of subsection A of this section shall be waived if the individual has been summoned to appear for jury duty before any court of the United States or of any state. The

waiver will continue for as long as the individual remains on jury duty pursuant to the original summons.

§ 2-418. Seek and accept work—Indefinite disqualification

A. An individual shall be disqualified to receive benefits for the full period of unemployment next ensuing after the individual shall have failed to do any of the following:

1. Accept an offer of suitable work, as defined by Sections 2-408 and 2-409 of this title, from an employer including any former employer;
2. Apply for or accept suitable work, as defined by Sections 2-408 and 2-409 of this title, when so directed by the Commission; or
3. Accept employment pursuant to a hiring hall agreement when so offered.

Such disqualification shall continue until the individual has become reemployed and has earned wages equal to or in excess of ten (10) times his or her weekly benefit amount.

B. An employer who provides evidence of an offer of suitable work pursuant to paragraph 1 of subsection A of this section shall be proof of the failure of the individual to meet this requirement and shall result in the immediate cessation of benefits until a determination can be made by the Commission. The Commission shall conduct a timely investigation of any such claim and verify the offer of suitable work.

C. Any individual who shall have failed in any of the requirements of subsection A of this section due to illness, death of a family member or other extenuating circumstance beyond his or her control shall be disqualified for regular benefits under this section only for the week of the occurrence of such circumstance beyond his or her control.

§ 2-419. Acceptance of accelerated buyout of employment contract—Definition

An individual shall be disqualified for unemployment benefits if that individual has accepted an accelerated buyout of a written employment contract from the employer. Disqualification under this section shall continue for the full period of unemployment next ensuing after the individual has accepted the contract buyout connected with the work of the individual and until such individual has become reemployed and has earned wages equal to or in excess of ten times the weekly benefit amount of the individual.

For purposes of this section, “accelerated buyout” shall mean a purchase of the remaining terms of a written employment contract in a single payment of One Hundred Thousand Dollars ($100,000.00) or more.

§ 2-420. Failure to personally appear as directed

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

§ 2-421. Failure to participate in reemployment services through profiling

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

1. The claimant has previously completed the re-employment services within the benefit year; or
2. There is good cause for the claimant's failure to participate in re-employment services.

§ 2-422. Seasonal workers

A. Unemployment benefits based on services by a seasonal worker performed in seasonal employment are payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits shall not be paid based on services performed in seasonal employment for any week of unemployment that begins during the period between two (2) successive normal seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. The notice of reasonable assurance shall be given by the employer to the employee in writing on or before the last day of work in the season. If benefits are denied to an individual for any week solely as a result of this section and the individual is not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the individual is entitled to a retroactive payment of benefits under this section for each week that the individual previously filed a timely claim for benefits. An individual may apply for any retroactive benefits under this section in accordance with the provisions of Article 2 of the Employment Security Act of 1980.

B. Not less than twenty (20) days before the estimated beginning date of a normal seasonal work period, an employer may apply to the Commission in writing for designation as a seasonal employer. At the time of application, the employer shall conspicuously display a copy of the application on the employer's premises. Within ninety (90) days after receipt of the application, the Commission shall determine if the employer is a seasonal employer. The employer may appeal this decision pursuant to the provisions of Section 3-115 of Title 40 of the Oklahoma Statutes. A determination of the Commission concerning the status of an employer as a seasonal employer, or the decision of the Assessment Board or a court of this state through the administrative appeal process, which has become final, may be introduced in any proceeding involving a claim for benefits, and the facts found and decision issued in the determination or decision shall be conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

C. If the employer is determined to be a seasonal employer, the employer shall give notice to each employee of the employer's status as a seasonal employer and the beginning and ending dates of the employer's normal seasonal work periods, and this notice shall be given to the employee within the first seven (7) days of employment. On or before the last day of work in the season, if the employer intends to issue a notice of reasonable assurance of employment for the next season, the employer shall also give notice to each employee advising that the employee shall timely file an initial application for unemployment benefits at the end of the current seasonal work period and file timely weekly continued claims thereafter to preserve his or her right to receive retroactive unemployment benefits if he or she is not reemployed by the seasonal employer in the subsequent normal seasonal work period. The notices must be on a separate document written in clear and concise language that states these provisions. Failure of the employer to give adequate notice as required by this subsection will result in the termination of the employer as a seasonal employer under subsection D of this section.

D. The Commission may issue a determination terminating an employer's status as a seasonal employer on the Commission's own motion for good cause, or upon the written request of the employer. The effective date of a termination determination under this subsection shall be set by the Commission. A determination under this subsection may be appealed pursuant to the provisions of Section 3-115 of Title 40 of the Oklahoma Statutes.

E. An employer whose status as a seasonal employer is terminated under subsection D of this section shall not reapply for a seasonal employer status determination until after a regularly recurring normal seasonal work period has begun and ended.

F. If a seasonal employer informs an employee who received assurance of being rehired that, despite the assurance, the employee will not be rehired at the beginning of the employer's next normal seasonal work period, this section does not prevent the employee from receiving unemployment benefits in the same manner and to the same extent he or she would receive benefits under the Employment Security Act of 1980 from an employer who has not been determined to be a seasonal employer.

G. A successor of a seasonal employer is considered to be a seasonal employer unless the successor provides the Commission, within one hundred twenty (120) days after the transfer, with a written request for termination of its status as a seasonal employer in accordance with subsection D of this section.

H. At the time an employee is hired by a seasonal employer, the employer shall notify the employee in writing if the employee will be a seasonal worker. The employer shall provide the worker with written notice of any subsequent change in the employee's status as a seasonal worker. If an employee of a seasonal employer is denied benefits because that employee is a seasonal worker, the employee may contest that designation by filing an appeal pursuant to the provisions of Part 6 of Article 2 of the Employment Security Act of 1980.

I. As used in this section:

1. "Construction industry" means the work activity designated in Sector Group 23 – Construction of the North American Industrial Classification System published by the Executive Office of the President, Office of Management and Budget, 2012 edition;

2. "Normal seasonal work period" means that period, or those periods, of time during which an individual is employed in seasonal employment, as determined by the Commission;
3. "Seasonal employment" means the employment of one or more individuals primarily hired to perform services during regularly recurring periods of twenty-six (26) weeks or less in any fifty-two-week period other than services in the construction industry;
4. "Seasonal employer" means an employer, other than an employer in the construction industry, who applies to the Commission for designation as a seasonal employer and whom the Commission determines to be an employer whose operations and business require employees engaged in seasonal employment; and
5. Seasonal worker" means a worker who has been paid wages by a seasonal employer for work performed only during the normal seasonal work period.

PART 5 – FILING CLAIMS—NOTICE

§ 2-501. Applicability

This part applies to procedures for benefits.

§ 2-502. Posting of information

Each employer shall post and maintain in places readily accessible to its employees, statements concerning benefit rights, claims for benefits and any other matters relating to the administration of this act as the Commission may by rule prescribe. Each employer shall supply to its employees copies of statements or other materials relating to claims for benefits when and as the Commission may by rule prescribe. Statements and other materials shall be supplied by the Commission to all Oklahoma employers through the Internet website of the Commission, without cost to the employer.

§ 2-503. Claims, notices and objections

A. Claims for benefits shall be made in accordance with all rules that the Oklahoma Employment Security Commission may prescribe.
B. Promptly after an initial claim or an additional initial claim is filed, the Commission shall give written notice of the claim to the last employer of the claimant for whom he or she worked at least fifteen (15) working days. The required fifteen (15) working days are not required to be consecutive. Provided, that promptly after the Commission is notified of the claimant's separation from an employment obtained by a claimant during a continued claim series, the Commission shall give written notice of the claim to the last separating employer. Notices to separating employers during a continued claim series will be given to the last employer in the claim week without regard to length of employment. Each notice shall contain an admonition that failure to respond to the notice could affect the employer's tax rate.
C. Promptly after the claim is paid for the fifth week of benefits the Commission shall give written notice of the claim to all other employers of the claimant during the claimant's base period. The notice will be given pursuant to Section 3-106 of this title.

D. Notices shall be deemed given when the Commission deposits the same in the United States mail addressed to the employer's last-known address. Notice shall be presumed prima facie to have been given to the employer to whom addressed on the date stated in the written notice. If the employer has elected to be notified by electronic means according to procedures set out in Oklahoma Employment Security Commission rules, notice shall be deemed to be given when the Commission transmits the notification by electronic means.
E. Within ten (10) days after the date on the notice or the date of the postmark on the envelope in which the notice was sent, whichever is later, an employer may file with the Commission at the address prescribed in the notice written objections to the claim setting forth specifically the facts which:

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

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

§ 2-503.1. Filing of employer protest and documents through employer portal
A. The procedure set out in this section for the filing of a statement of objection through the employer portal is an optional procedure for the employer. If the employer chooses not to utilize this procedure, the employer must file its protest in accordance with subsection E of Section 2-503 of Title 40 of the Oklahoma Statutes.
B. An employer may file a statement of objections to the claim of a former employee at any time from the moment of discharge or separation from employment of the employee until the expiration of the ten-day time period set out in subsection E of Section 2-503 of Title 40 of the Oklahoma Statutes. The statement of objection must be filed through the employer portal on the Oklahoma Employment Security Commission's Internet website and must contain a statement of specific facts and documentation which:

1. Disclose the name and social security number of the employee;
2. Make the claimant ineligible for benefits under Sections 2-201 through 2-210 of Title 40 of the Oklahoma Statutes;
3. Disqualify the claimant for benefits under Sections 2-401 through 2-419 of Title 40 of the Oklahoma Statutes; or
4. Relieve the employer from being charged for the benefits wages of this claimant.

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

§ 2-504. Determinations of benefits

A determination upon a claim for benefits shall be made promptly by a representative of the Commission. It shall include a statement as to whether and in what amount claimant is entitled to benefits for the week with respect to which the determination is made. In the event the claimant is determined to be ineligible for or disqualified from benefits under Part 2 or Part 4 of this article the determination shall state the reasons therefor. The initial determination in a benefit year shall include a statement as to whether the claimant has been paid the wages required under this act, and if so, the beginning and ending dates of the benefit year, the weekly benefit amount, and the maximum total amount of benefits payable to him with respect to such benefit year.

§ 2-505. Determinations in labor dispute cases

Whenever any claim involves the application of the provisions of Section 2-410, the representative of the Commission first considering the claim shall, if so directed by the Commission, promptly transmit such claim and all filed objections thereto to an appeal tribunal which shall make a determination upon the issues involved under that section. Such appeal tribunal shall make the determination thereon after affording the claimant and each employer who filed an objection an opportunity for a hearing in accordance with the provisions of this section with respect to hearings and determinations of appeal tribunals. The parties shall be promptly notified of the determination, together with the reasons therefor. Such determination shall be the final decision on the claim, unless, within ten (10) days after the mailing of notice to a party's last-known address, appeal is filed with the Board of Review.

§ 2-506. Redeterminations

The Oklahoma Employment Security Commission may reconsider a determination only when it finds that an error in computation or identity has occurred in connection therewith, or that wages of the claimant pertinent to such determination, but not considered in connection therewith, have been newly determined, or that reimbursed pay or back pay was received by a claimant under circumstances that would reduce the amount of benefits drawn, or that benefits have been allowed or denied or the amount of benefits fixed on the basis of misrepresentation or mistake of material facts, but no such redetermination shall be made after the expiration of the benefit year established by the initial determination, except that a determination made because of a false statement or representation or failure to disclose a material fact in violation of Section 5-102 or 5-103 of this title may be redetermined within two (2) years from the date of such false statement or representation or failure to disclose. Notice of any such redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in the Employment Security Act of 1980 with respect to notice of an original determination. If the amount of benefits is increased upon such redetermination, an appeal therefrom solely with respect to the matters involved in such increase may be filed in the manner and subject to the limitations provided in Part 5 of Article 2 of the Employment Security Act of 1980. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to review in connection

with an appeal by claimant from any determination upon a subsequent claim for benefits which may be affected in amount or duration by such redetermination. Subject to the same limitations and for the same reasons, the Commission may reconsider the determination in any case in which the final decision has been rendered by an appeal tribunal, the Board of Review or a court, and may apply to the body or court which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination.

§ 2-507. Notice of determinations

Notice of a determination upon a claim shall be given promptly to the claimant by delivery thereof or by mailing the notice to the claimant's last-known address or by electronic means if the claimant elected this form of notification through procedures set out by Oklahoma Employment Security Commission rules. Notice of a determination shall also be given promptly to the last employer of the claimant, for whom the claimant worked at least fifteen (15) working days, that objected to the claim in accordance with the provisions of subsection E of Section 2-503 of this title and to each other employer who timely filed a written objection to the claim. If the employer has elected to be notified by electronic means according to procedures set out in Oklahoma Employment Security Commission rules, notice shall be deemed to be given when the Commission transmits the notification by electronic means.

PART 6 – APPEALS

§ 2-601. Applicability

This part applies to appeals from determinations of the Commission or its representatives to its appeals tribunal, to appeals from decisions of its appeals tribunal to the Board of Review and to judicial review of decisions of the Board of Review.

§ 2-602. Appeal referees

(1) The Executive Director, with approval by the Commission, shall appoint one or more referees who shall constitute the appeal tribunal. The referees shall act under the direct supervision of the Executive Director.

(2) Each appeal from a determination made by the Commission or one of its representatives shall be assigned to a referee who shall conduct a hearing after notice to the parties, receive the evidence in such hearing and decide the appeal.

§ 2-603. Appeal Tribunal

The claimant or any other party entitled to notice of a determination may file an appeal from the determination with the appeal tribunal within ten (10) days after the date of mailing of the notice to the claimant's or other party's last-known address or, if the notice is not mailed, within ten (10) days after the date of delivery of the notice. The claimant or other party may file an appeal in any manner allowed by Section 1-224 of this title or by telephone to the

Commission's call center. In order to be considered timely, filing of an appeal made by telephone through a claims representative must be completed before the end of normal business hours.

§ 2-604. Hearing

The appeal referee to whom the appeal is assigned, after affording the parties reasonable opportunity for a fair hearing, shall make findings and conclusions, and on the basis thereof affirm, modify, or reverse such determination; provided, however, that whenever an appeal involves a question as to whether services were performed by claimant in employment or for an employer, or as to amount of wages reported by an employer for claimant, the tribunal referee shall give special notice of such issue and of the pendency of the appeal by mail to the employer and to the Commission, both of whom shall thenceforth be parties to the proceeding and be afforded a reasonable opportunity to adduce evidence bearing on such questions; provided, that any party who enters an appearance before the tribunal referee waives the requirement of special notice by mail.

§ 2-605. Notice of referee decision

The parties shall be promptly notified of such referee's decision and shall be furnished with a copy of the decision, including the findings and conclusions in support thereof. Such decision shall be final unless, within ten (10) days after the date of mailing of notice thereof to the parties' last-known addresses, or, in the absence of such mailing, within ten (10) days after the delivery of such notice, further review before the Board of Review is initiated pursuant to Section 2-606 of this title.

§ 2-606. Appeals from tribunal referee decisions to Board of Review

The Board of Review shall review the record of an appeal filed by any of the parties entitled to notice on a determination of an appeal tribunal referee. An appeal to the Board of Review may be filed in any manner allowed by Section 1-224 of this title. On appeal, the Board of Review may affirm, modify, reverse, or remand any decision of an appeal tribunal referee on the basis of evidence previously submitted, or on the basis of additional evidence received by an appeal tribunal referee on remand. The Board of Review shall promptly notify the parties of its decision in writing, and the decision shall be final unless within thirty (30) days after the mailing of the decision to the parties' last-known addresses, a proceeding for judicial review is initiated pursuant to Section 2-610 of this title.

§ 2-607. Rules and procedures in appeals

The Board of Review shall adopt reasonable rules governing the manner of filing appeals and the conduct of hearings and appeals before the Board of Review, consistent with the provisions of the Employment Security Act of 1980. The Oklahoma Employment Security Commission shall adopt and, from time to time, may modify and amend rules governing appeals before the Appeal Tribunal of the Commission and its referees. The Oklahoma Employment Security Commission shall create and maintain a precedent manual to reflect current statutes and

statutory changes along with current case law that is applicable to questions of law which may arise during hearing or appeals. The precedent manual shall be updated by the Commission within thirty (30) days of the effective date of any statutory changes and shall be available at the offices of the Commission and on any Internet website maintained by the Commission. When the same or substantially similar evidence is relevant and material to the matters in issue in claims by more than one individual or in claims by a single individual with respect to two (2) or more weeks of unemployment, the same time and place for considering each such claim may be fixed, hearings thereon jointly conducted, a single record of the proceedings made, and evidence introduced with respect to one proceeding considered as introduced in the others, provided that in the judgment of the appeal tribunal referee having jurisdiction of the proceeding, such consolidation would not be prejudicial to any party. No person shall participate as an appeal tribunal referee or member of the Board of Review on any case in which the person has a personal interest. A record shall be kept of all testimony and proceedings before an appeal tribunal referee, but the testimony need not be transcribed unless judicial review is initiated. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Commission, and fees of witnesses subpoenaed on behalf of the Commission, the employer, or any claimant, shall be deemed part of the expense of administering the Employment Security Act of 1980.

§ 2-608. Conclusiveness of determinations and decisions

Except insofar as reconsideration of any determination is had under Section 2-506 of this title, any right, fact, or matter in issue, directly passed upon or necessarily involved in a determination or redetermination which has become final, or in a decision on appeal under this subsection which has become final, shall be conclusive for all the purposes of this act as between the Commission, the claimant, and all employers who had notice of such determination, redetermination, or decision. Subject to appeal proceedings and judicial review as provided in this title, any determination, redetermination or decision as to rights to benefits shall be conclusive for all the purposes of this act and shall not be subject to collateral attack by any party.

§ 2-609. Rule of decision

A final decision of the Board of Review and the principles of law declared in arriving at such decision, unless expressly or impliedly overruled by the passage of a more recent statute, by a later decision of the Board of Review, or by a court of competent jurisdiction, shall be binding upon the Commission and Appeal Tribunal referees in subsequent proceedings which involve the same questions of law or fact. In no event shall a decision of the Board of Review, or by a court of competent jurisdiction, decided prior to a change in law by the Legislature supersede or be binding upon the Commission, Appeal Tribunal referees, Board of Review, or any court of competent jurisdiction in proceedings subsequent to the passage of statutory changes.

§ 2-610. Judicial review

A. Within the thirty (30) days after the day a notice of decision of the Board of Review is mailed to the parties, the Oklahoma Employment Security Commission, or any party to the proceedings before the Board of Review, may obtain judicial review by filing in the district court of the county in which the claimant resides, or if the claimant is not a resident of the State of Oklahoma then in the District Court of Oklahoma County, a petition for review of the decision of the Board of Review. The petition for review shall set out the names of all codefendants in the style of the case, which shall include:

1. The Board of Review;
2. The Oklahoma Employment Security Commission; and
3. All other parties to the proceeding before the Board of Review.

The petition for review need not be verified but shall state specifically the grounds upon which the review is sought. A copy of the petition for review shall be served upon the Board of Review at its official address and the petitioner shall also deliver to the Board of Review as many copies of the petition as there are defendants. The Board of Review shall send to each party to the proceeding a copy of the petition by mail, and the mailing shall be deemed to be service upon all the parties. In any proceeding under this section the findings of the Board of Review as to the facts, if supported by evidence, shall be conclusive and the jurisdiction of the court shall be confined to questions of law. No additional evidence shall be received by the court, but the court may remand the case and order additional evidence to be taken by the Appeal Tribunal of the Oklahoma Employment Security Commission.

B. Within sixty (60) days of the date of service of the petition on the Board of Review, the Board of Review shall file with the court a certified copy of the record of the case, including all documents and papers properly admitted into evidence and a transcript of all testimony taken in the matter, together with the Board of Review's findings, conclusions, and decision.

C. The proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases. An appeal may be taken from the decision of the district court to the Supreme Court of this state in the same manner as is provided in other civil cases. It shall not be necessary as a condition precedent to judicial review of any decision of the Board of Review to enter exceptions to the rulings of the Board, and no bond shall be required as a condition of initiating a proceeding for judicial review or entering an appeal from the decision of the court. Upon the final termination of the judicial proceeding, the Board of Review shall enter an order in accordance with the mandate of the district or appellate court.

§ 2-610.1. Conclusiveness of proceedings

Any findings of fact or law, judgment, conclusion or final order made by the Oklahoma Employment Security Commission, its referees, the Appeal Tribunal or Board of Review in an unemployment insurance proceeding shall not be conclusive or binding in any separate or subsequent action or proceeding, and shall not be used as evidence in any separate or subsequent action or proceeding, between an individual and his or her present or prior employer in any other forum regardless of whether or not the prior action was between the same or related parties or involved the same facts.

§ 2-611. Commission is a party

The Commission shall be a party to and entitled to notice in any proceeding involving a claim for benefits before a referee or the Board of Review. In any proceeding for judicial review the Commission may be represented by any attorney employed by the Commission or designated by it for that purpose or, at the Commission's request, by the Attorney General.

§ 2-612. Payment of benefits

Benefits shall be promptly paid on any claim in accordance with a determination or redetermination or the decision of a referee, the Board of Review or a reviewing court upon the issuance of the determination, redetermination or decision, regardless of the pendency of an appeal, or petition for judicial review that is provided by the Employment Security Act of 1980, unless and until the determination, redetermination, or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of unemployment thereafter in accordance with the modifying or reversing redetermination or decision. No injunction, supersedeas, stay or other writ or process suspending the payment of the benefits shall be issued by any court, but if the determination, redetermination or decision is finally modified or reversed to deny benefits no employer's account shall remain charged with benefit wages pursuant to the erroneous determination, redetermination or decision and benefits shall not be
paid for any weeks of unemployment involved in the modification or reversal that begin after the final decision.

§ 2-613. Benefit overpayments

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

1. Fraud overpayment: in which an individual intentionally makes a false statement or representation or fails to disclose a material fact, and has received any sum as benefits to which the individual was not entitled. The individual shall be liable to repay this sum, plus a penalty of twenty-five percent (25%) of the amount of the original overpayment and interest at the rate of one percent (1%) per month on the unpaid balance of the overpayment, to the Oklahoma Employment Security Commission. Three-fifths (3/5) of the penalty amount collected shall be deposited in the Unemployment Trust Fund for the State of Oklahoma and the remaining two-fifths (2/5) shall be deposited in the Oklahoma Employment Security Commission Revolving Fund. The interest shall cease to accrue when the total accrued interest equals the amount of the overpayment. If an overpayment is modified, the interest shall cease to accrue when the total accrued interest equals the amount of the modified overpayment. The Commission shall deduct the principal sum from any future benefits payable to the individual;
2. Claimant error overpayment: in which an individual, by mistake of law or fact, makes a false statement or representation or fails to disclose a material fact and has received any sum as benefits to which the individual was not entitled. The individual shall be liable to repay this sum, plus interest at the rate of one percent (1%) per month on the unpaid balance of the overpayment, to the Commission. The interest shall cease to accrue when the total accrued

interest equals the amount of the overpayment. If an overpayment is modified, the interest shall cease to accrue when the total accrued interest equals the amount of the modified overpayment. The Commission shall deduct the principal sum from any future benefits payable to the individual; or

3. Administrative overpayment – in which:
   a. an individual has received any sum as benefits under the Employment Security Act of 1980 due to an error by the Commission or an employer, or
   b. an individual has received benefits and the decision to grant benefits was reversed at a higher level of appeal.

The individual shall be liable to have this sum deducted from any future benefits payable to the individual with respect to the benefit year current at the time of the receipt and the next subsequent benefit year that begins within one (1) year after the expiration of the benefit year current at the time of the receipt. No interest shall accrue on administrative overpayments. An individual may voluntarily repay an administrative overpayment with private funds.

§ 2-614. Waiver of appeal time

All time periods provided for appeals pursuant to the provisions of Article 2 of the Employment Security Act of 1980 may be waived for good cause shown up to one (1) year after the date of the determination or redetermination; provided, this waiver shall not apply to appeals to district court of decisions of the Board of Review.

§ 2-615. Waiver of interest

Any interest, or any portion thereof, that accrues pursuant to the provisions of Section 2-613 of Title 40 of the Oklahoma Statutes, may be waived by the Oklahoma Employment Security Commission provided the failure of the claimant to remit payment at the time a determination of overpayment was made:

1. Is explained to the satisfaction of the Commission;
2. Resulted from a mistake by the claimant of either the law or the facts concerning the repayment of overpayment benefits; or
3. Was caused by insolvency of the claimant.

No waiver of interest shall be granted unless a request for waiver is filed with the Commission within a three-year period from the date the interest accrued. No waiver of interest shall be granted to a claimant if it is determined that the claimant received an overpayment of benefits through fraud.

§ 2-616. Notice of overpayment determination

If the Oklahoma Employment Security Commission or its representative determines that an individual has been overpaid unemployment benefits pursuant to Section 2-613 of this title, the individual shall be sent a notice of overpayment determination. If the individual disagrees with this determination, the individual may file an appeal of the determination with the Appeal Tribunal within twenty (20) days after the date of the mailing of the notice to the individual's last-known address or, if the notice is not mailed, within twenty (20) days after the date of the

delivery of the notice. If the individual fails to appeal the determination within the time provided, without good cause, then the determination will be deemed final and no further appeal shall be allowed.

§ 2-617. Warranty of levy and lien

A. If the notice of overpayment determination issued pursuant to Section 2-616 of this title becomes final due to a lack of appeal or if the determination is affirmed on appeal, and if the amount due is not paid within ninety (90) days of the date that the determination becomes final, then the Oklahoma Employment Security Commission may issue a warrant of levy and lien under its official seal, which shall state the name and Social Security number of the debtor and list the amount of indebtedness with interest. The warrant of levy and lien shall be for all purposes the equivalent of a judgment of a court of record.

B. The Commission may file a copy of the warrant of levy and lien with the county clerk of the county or counties in which the individual has property and thereupon the county clerk shall index the warrant of levy and lien in the same manner as judgments using the name of the individual named in the warrant of levy and lien, indicating that it is due to an overpayment of unemployment insurance benefits, showing the amount due with interest, the date upon which the warrant of levy and lien was filed, and shall index the warrant of levy and lien against the real property described therein, if any is described. If the county clerk charges a fee for the filing of the warrant of levy and lien, the Commission may add the amount of the fee to the indebtedness owing by the individual named in the warrant of levy and lien.

C. The filing of the notice in the office of the county clerk of the county in which the individual resides shall constitute and be evidence and notice of the state's lien upon the title to any interest in any real or personal property of the individual named in the notice. The lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of any unpaid indebtedness, interest, penalty, fees and costs, and the lien shall be paramount and superior to all other liens of whatsoever kind or character, attaching to any of the property subsequent to the date of the recording and shall be in addition to any other lien provided for in this act. This lien shall be permanent and continuing without any requirement for executions under Section 735 of Title 12 of the Oklahoma Statutes or any other similar statute. This lien shall continue on personal property of the individual until the amount of the indebtedness, interest, fees and costs are paid. This lien shall continue on real property until released by payment or for a maximum of ten (10) years after the date of its filing.

D. The Commission may file a copy of the notice with the court clerk in the county in which the individual is employed or resides, and it shall be filed in the same manner as a judgment of a court of record for the purpose of pursuing any post-judgment collection procedure that is deemed appropriate. The Commission may send the notice to the sheriff in a county in which the individual owns real or personal property for execution. Upon receiving the notice, the sheriff shall proceed to execute the notice in all respects and with like effect and in same manner prescribed by law in respect to executions against property upon judgment of the court of record; and the sheriff shall execute and deliver to the purchaser a bill of sale or deed, as the case may be. Any purchaser, other than the state, shall be entitled, upon application to the

court having jurisdiction of the property, to have confirmation (the procedure for which shall be the same as is now provided for the confirmation of a sale under execution) of the sale prior to the issuance of a bill of sale or deed. The state shall be authorized to make bids at any such sale to the amount of indebtedness, interest, costs, and fees accrued. In the event the bid of the state is successful, the sheriff shall issue a proper muniment of title to the Commission, and the Commission shall hold the title for the use and benefit of the state. The state may sell any property obtained in this manner through the procedures available for the sale of excess property of the state. Any money received by the Commission through the sale of property in this manner shall be credited against the indebtedness of the individual. The sheriff shall be entitled to the same fee for executing the notice as the sheriff would be entitled to receive if executing an execution issued by the court clerk of the county upon a judgment of a court of record.

§ 2-618. Levy on income and monetary assets

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

1. "Bank" means any state bank or banking association, national bank or banking association, savings and loan company, credit union, or any other financial institution;
2. "Bank account" means any checking or savings account the debtor has with any bank;
3. "Debtor" means any person that is the subject of a warrant of levy and lien issued pursuant to Section 2-617 of this title;
4. "Earnings" means any form of payment to an individual including, but not limited to, salary, wages, commission, or other compensation; and
5. "Employer" means any type of business or organization that owes earnings to a debtor.

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

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

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

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

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

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

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

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

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

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

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

E. Service of the Notice of Levy and the warrant of levy and lien shall be made in the same manner as provided in Section 2004 of Title 12 of the Oklahoma Statutes for service of process in civil actions.
F. If a sheriff's department is enlisted to serve the Notice of Levy, that sheriff's department shall be entitled to a service fee of Fifty Dollars ($50.00) that is to be paid by the Commission and added to the debtor's indebtedness.
G. Claims for exemptions and any other matter relating to the levy shall be filed with the Appeal Tribunal of the Oklahoma Employment Security Commission. An order of exemption may relate back no more than thirty (30) days before the filing of the claim for exemption and shall extend no further than the expiration date or termination of the levy. Appeal from the Appeal Tribunal decision shall be governed by the appeal procedures set out in Part 6 of Article 2 of the Employment Security Act of 1980, and the Administrative Rules of the Oklahoma Employment Security Commission pertaining thereto.

§ 2-619. Treasury offset program—Benefit overpayment collections
A. The Oklahoma Employment Security Commission shall be authorized to collect unemployment benefit overpayment indebtedness through the Tax Offset Program of the U.S. Department of the Treasury pursuant to 26 U.S.C., Section 6402(f) and 31 CFR, Section 285.8. The Commission may submit overpayment indebtedness due to fraud that was established pursuant to paragraph 1 of Section 2-613 of Title 40 of the Oklahoma Statutes and overpayment indebtedness due to claimant error that was established under paragraph 2 of Section 2-613 of Title 40 of the Oklahoma Statutes, if the claimant error overpayment was due to a failure to report earnings.
B. Before submitting an indebtedness to the U.S. Department of the Treasury for collection through the Tax Offset Program, the Oklahoma Employment Security Commission shall notify the debtor in writing of the amount of the debt and the date the indebtedness was established. The notification shall give the debtor sixty (60) days from the date of mailing of the notice to present evidence to the Commission that all or a part of the indebtedness is not legally enforceable or is otherwise invalid.
C. If the debtor responds to the notice by presenting evidence, the Commission shall evaluate the evidence and review its records of the indebtedness. Based on this evaluation and review, the Commission may modify the amount of the indebtedness. Once the evaluation and review process is complete, the indebtedness shall be submitted to the U.S. Department of the Treasury for collection through the Tax Offset Program.
D. If no evidence is presented by the debtor within the sixty-day time period allowed by the notice, the amount of the indebtedness will be submitted to the U.S. Department of the Treasury for collection through the Tax Offset Program.
E. If the Oklahoma Employment Security Commission receives an erroneous payment from the U.S. Department of the Treasury, the Oklahoma Employment Security Commission shall return the payment to the U.S. Department of the Treasury. If the money that was erroneously paid to the Oklahoma Employment Security Commission had been credited to an unemployment

benefit overpayment indebtedness, that indebtedness shall be reinstated to the amount that existed before the payment was credited.

PART 7 – EXTENDED BENEFITS

§ 2-701. Definitions of terms applicable to extended benefits

The words and phrases used in this part shall, unless the context clearly requires otherwise, have the meanings prescribed in this part.

§ 2-702. Applicability

The provisions of this part shall apply to the extended benefits program.

§ 2-703. Extended benefit period

"Extended benefit period" means a period which shall:

(1) begin with the third week after the first week for which there is a state "on" indicator; and

(2) end with either of the following weeks, whichever occurs later:

(a) the third week after the first week for which there is a state "off" indicator, or

(b) the thirteenth consecutive week of such period.

No extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

§§ 2-704, 2-705. Repealed

§ 2-706. State "on" indicator

There is a "state 'on' indicator" for this state for a week if the Oklahoma Employment Security Commission determines, in accordance with the regulations of the Secretary of Labor of the United States, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment, not seasonally adjusted:

1. Equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two (2) calendar years, and equaled or exceeded five percent (5%); or
2. Equaled or exceeded six percent (6%).

Any optional or revised "state 'on' indicator" or indicators or optional waiver by a state of any such indicator or part of any such indicator provided for by Congress for any period of time shall be considered to be in effect in Oklahoma for such period of time.

§ 2-707. State "off" indicator

There is a "state 'off' indicator" for this state for a week if the Commission determines, in accordance with the regulations of the Secretary of Labor of the United States, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment, not seasonally adjusted was either:

1. Less than six percent (6%) and was less than one hundred twenty percent (120%) of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two (2) calendar years; or
2. Less than five percent (5%).

Any optional or revised "state 'off' indicator" or indicators or optional waiver by a state of any such indicator or part of any such indicator provided for by Congress for any period of time shall be considered to be in effect in Oklahoma for such period of time.

§ 2-708. Rate of insured unemployment

"Rate of insured unemployment", for purposes of Sections 2-706 and 2-707 of this title, means the percentage derived by dividing:

(1) the average weekly number of weeks claimed for weeks of unemployment for regular benefits, including interstate claims filed in this state with respect to the most recent thirteen-consecutive-week period, as determined by the Commission on the basis of its reports to the Secretary of Labor of the United States, by

(2) the average monthly employment covered under this act for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such thirteen-week period.

§ 2-709. Regular benefits

"Regular benefits" mean benefits payable to an individual under this act, or under any other state law, including dependents' allowances and benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85, other than extended benefits.

§ 2-710. Extended benefits

"Extended benefits" mean benefits, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85, payable to an individual under the provisions of this Part 7 for weeks of unemployment, as defined by this act, in his eligibility period.

§ 2-711. Eligibility period

"Eligibility period" of an individual for extended benefits means the period consisting of the weeks in his benefit year as defined by this act, which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period.

§ 2-712. Exhaustee

A. "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(1) has received, prior to such week, all the regular benefits payable to him according to the monetary determination for his current benefit year that includes such week under this act, or of any other state law; or

(2) has received, prior to such week, all the regular benefits available to him in his current benefit year that includes such week under this act or of any other state law after a cancellation of some or all of his wage credits or the partial or total reduction of his right to regular compensation; or

(3) his benefit year having expired prior to such week, has insufficient wages or employment, or both, on the basis of which he could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he is precluded from receiving regular benefits by reason of the provisions of Part 1 of Article 2 or the provision of any other state law that meets the requirements of Section 3304(a)(7) of the Internal Revenue Code of 1954; and

(4) has no right to unemployment benefits or allowances, as the case may be, under the following federal laws: The Railroad Unemployment Insurance Act, the Trade Expansion Act, and the Automotive Products Trade Act; and

(5) has not received and is not seeking for such week unemployment benefits under the law of Canada, but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is an exhaustee.

B. For purposes of paragraphs (1) and (2) of subsection A, an individual shall be deemed to have received in his current benefit year all of the regular benefits payable to him according to the monetary determination or available to him, as the case may be, even though;

(1) as a result of a pending appeal with respect to wages or employment or both that were not included in the original monetary determination with respect to such benefit year, he may subsequently be determined to be entitled to more regular benefits; or

(2) having established a benefit year, no regular benefits are payable to him during such year because his wage credits were canceled or his right to regular compensation was totally reduced as the result of the application of a disqualification.

§ 2-713. State law

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

§ 2-714. Extended benefits

Except when the result would be inconsistent with the other provisions of this section, as provided in the rules of the Commission, the provisions of this act which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits including, but not limited to, claim filing, claimant reporting and registration, information to claimants, notices to claimants of their weekly and total extended benefit amounts determinations, redeterminations, appeals and review, week for which benefits are paid, disqualifications and eligibility requirements, but excluding those provisions which apply to any waiting period, monetary qualifying or requalifying requirements and the computation of weekly and total amounts of regular benefits.

§ 2-715. Eligibility for extended benefits

A. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the eligibility period of the individual only if the Commission finds that with respect to such week:

1. The individual is an "exhaustee" as defined in Section 2-712 of this title; and
2. Except as otherwise provided by this section, the individual has satisfied the requirements of the Employment Security Act of 1980, for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification under the Employment Security Act of 1980, Section 1-101 et seq. of this title, for the receipt of benefits.

B. An individual shall not be eligible for extended benefits unless, in the base period with respect to which the individual exhausted all rights to regular benefits, the individual shall have been paid wages for insured work of not less than one and one-half (1 ½) times the amount of wages during that quarter of the base period of the individual in which the wages were the highest.

C. Any payment of extended benefits under the Employment Security Act of 1980 shall not be made to any individual for any week of unemployment in his or her eligibility period during which the individual:

1. Fails to accept any offer of suitable work;
2. Fails to apply for any suitable work to which referred by the state employment service; or
3. Fails to actively engage in seeking suitable work.

D. Suitable work shall be defined as any work which is within such individual's capabilities, except that if the individual furnishes satisfactory evidence that the individual's prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the provisions of Section 2-408 of this title with respect to regular benefit claimants.

1. Any work which is within the capabilities of such individual means that the individual has the physical and mental capacity to do the work and the background and experience which would enable the individual to perform the job.
2. Work for an extended benefit claimant shall not be considered suitable if the gross weekly pay of the job does not exceed the extended weekly benefit amount payable to the individual for a week of total unemployment plus the amount of any Supplemental Unemployment Benefits (SUB), as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C., Section 501, payable for such week and equal the higher of the federal minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, 29 U.S.C., Section 206, without regard to any exemption or any applicable state or local minimum wage.

E. If any individual is ineligible for extended benefits for any week by reason of a failure described in subsection B of this section, such individual shall be ineligible to receive extended benefits for the week in which such failure occurred and until the individual has been employed

during at least four (4) different weeks which begin after such failure and has earned wages equal to or in excess of four (4) times his weekly benefit amount.

F. 1. Extended benefits shall not be denied to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if the position was not offered to such individual in writing or was not listed with the state employment service.

2. Extended benefits shall not be denied to any individual for any week by reason of a failure to accept an offer of or apply for suitable work if such failure would not result in a denial of benefits under the provisions of Sections 2-408, 2-409, 2-417 and 2-418 of this title to the extent that such provisions are not inconsistent with the provisions of this section.

3. Extended benefits shall not be denied to any individual for any week by reason of a failure to accept an offer of or apply for suitable work if the work failed to meet any of the requirements of Section 2-409 of this title.

G. An individual shall be treated as actively engaged in seeking work during any week if such individual has engaged in a systematic and sustained effort to obtain work during such week, and such individual provides tangible evidence to the state employment service that he has engaged in such an effort during such week.

H. An individual filing an interstate claim shall not be eligible for extended benefits after the first two (2) weeks of extended benefits that are payable if no extended benefit period is in effect for such week in the state where the claim is filed.

I. The state employment service shall refer any claimant entitled to extended benefits to any suitable work which meets the criteria prescribed in this section.

§ 2-716. Weekly extended benefit amount

(1) The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly benefit amount payable to him for a week of total unemployment during his current benefit year, or if he has no current benefit year, his most recent benefit year. If the individual had more than one (1) weekly amount of regular benefits for total unemployment during such benefit year, the weekly amount of extended benefits for total unemployment shall be the average of such weekly benefit amounts.

(2) The weekly benefit amount of extended benefits payable for a week of less than total unemployment shall be based on the weekly benefit amount determined pursuant to subsection (1) of this section. Provided, that for any week during a period in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, the weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be reduced by a percentage equivalent to the percentage of the reduction in the federal payment. Such reduced weekly extended benefit amount, if not a full dollar amount, shall be rounded to the nearest lower full dollar amount.

§ 2-717. Total amount of extended benefits payable

The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

(1) fifty percent (50%) of the total amount of regular benefits which were payable to him under this act, during his applicable benefit year;

(2) thirteen times his average weekly benefit amount as determined in subsection (1) of this section which was payable to him under this act, for a week of total unemployment during such benefit year;

(3) thirty-nine times his average weekly benefit amount as determined in subsection (1) of Section 2-716 payable to him under this act, for a week of total unemployment during such benefit year, reduced by the regular benefits paid, or deemed paid, to him during such benefit year.

(4) If an individual is entitled to more extended benefits as a result of an appeal which afforded him more regular benefits, an appropriate change shall be made in the individual's total extended benefit amount.

(5) If an individual who has received extended benefits for a week or weeks of unemployment is determined to be entitled to more regular benefits with respect to such week or weeks as the result of an appeal, the extended benefits paid to him shall be treated as if they were regular benefits up to the greater amount of regular benefits to which he has been determined to be entitled. If the individual is entitled to more extended benefits as a result of being entitled to more regular benefits, the total extended benefit amount payable to him shall be amended accordingly.

§ 2-718. Public announcement of extended benefit period

Whenever an extended benefit period is to become effective in this state, as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of state "off" indicators, the Commission shall make an appropriate public announcement.

§ 2-719. Commission to make computations

Computations required by the provisions of this part shall be made by the Commission, in accordance with regulations prescribed by the Secretary of Labor of the United States.

§ 2-720. Commission to ensure compliance

In the administration of the provisions of this part which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, and the Unemployment Compensation Amendments of 1976, the Commission shall take such action as may be necessary to ensure that the provisions are so interpreted and applied so as to meet the requirements of such federal Act as interpreted by the Department of Labor of the United States, and to secure to this state the full reimbursement of the federal share of extended benefits paid under this act that are reimbursable under the federal Act.

§ 2-721. Employers not liable for reimbursed payments

Notwithstanding any other provisions of this act no employer shall be liable for payments in lieu of contributions with respect to extended benefit payments which are wholly reimbursed to the state by the federal government.

§ 2-722. Reimbursement deposited in fund

Reimbursement of the federal share shall be deposited in the Unemployment Compensation Fund created by this act.

§ 2-723. Overpayments, restitution, offset, and recoupment

The provisions of this act applicable to recovery of overpayments, including restitution, offset, and recoupment shall apply to overpayments of extended benefits. If there is recovery of extended benefits, that proportion of the amount restored or offset which represents the federal share of the original payments shall be restored to the appropriate federal account.

§ 2-724. Limitation on amount of combined unemployment insurance and Trade Act benefits received

If the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the weekly benefit amount for extended benefits of the individual.

PART 8 – CHILD SUPPORT

§ 2-801. Child support obligations

A. Beginning October 1, 1982, any individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes child support obligations. If any such individual discloses that he or she owes child support obligations, and is determined to be eligible for unemployment compensation, the Commission shall notify the state or local child support enforcement agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.

B. The Commission shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations:

(1) the amount specified by the individual to the Commission to be deducted and withheld under this subsection, if neither paragraphs (2) or (3) of this subsection are applicable, or

(2) the amount, if any, determined pursuant to an agreement submitted to the Commission under 42 U.S.C., Section 654(19)(B)(i) by the state or local child support enforcement agency, unless paragraph (3) of this subsection is applicable, or

(3) any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, which shall mean any writ, order, summons or other similar process in the nature of garnishment, which:

(a) is issued by:

(i) a court of competent jurisdiction within any state, territory or possession of the United States,

(ii) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process, or

(iii) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to state or local law, and

(b) is directed to, and the purpose of which is to compel, a governmental entity, which holds monies which are otherwise payable to an individual, to make a payment from such monies to another party in order to satisfy a legal obligation of such individual to provide child support.

C. All income withholding orders or other legal process issued to collect child support through a deduction from unemployment benefits and all other documents necessary to complete the deduction shall be served on the appropriate state or local child support enforcement agency and on the Oklahoma Employment Security Commission.

D. Any amount deducted and withheld under subsection B of this section shall be paid by the Commission to the appropriate state or local child support enforcement agency.

E. Any amount deducted and withheld under subsection B of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

F. For purposes of subsections A through E of this section, the term "unemployment compensation" means any compensation payable under the Employment Security Act of 1980, Section 1-101 of this title, including amounts payable by the Commission pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment.

G. This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs, as determined by the Commission, incurred by the Commission under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

H. For purposes of this section:

(1) "Child support obligations" means only obligations which are being enforced pursuant to a plan described in 42 U.S.C., Section 654, which has been approved by the Secretary of Health and Human Services under 42 U.S.C., Section 651 et seq.

(2) "State or local child support enforcement agency" means any agency of a state or a political subdivision thereof, operating pursuant to a plan described in 42 U.S.C., Section

654, which has been approved by the Secretary of Health and Human Services under 42 U.S.C., Section 651 et seq.

(3) Deductions from unemployment insurance authorized by subsection B of this section in satisfaction of child support obligations are only those obligations defined in paragraph (1) of this subsection, and the recipient of said deductions shall be defined as only a state or local child support enforcement agency operating pursuant to an approved plan described in 42 U.S.C., Section 654 and referenced in paragraph (2) of this subsection.

§ 2-802. Reports by employers to Employment Security Commission—New hire registry

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

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

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

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

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

F. Used in this section:

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

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

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

§ 2-803. Food purchase assistance overissuances

A. An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not he or she owes an uncollected overissuance of food purchase assistance benefits, as defined in 7 U.S.C., Section 2022(c)(1). The Oklahoma Employment Security Commission shall notify the state food purchase assistance agency enforcing such obligations of any individual who discloses that he or she owes food purchase assistance overissuances and who is determined to be eligible for unemployment compensation.

B. The Commission shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance:

1. The amount specified by the individual to the Commission to be deducted and withheld under this section;
2. The amount, if any, determined pursuant to an agreement submitted to the state food purchase assistance agency under 7 U.S.C., Section 2022(c)(3)(A); or
3. Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to 7 U.S.C., Section 2022(c)(3)(B).

C. Any amount deducted and withheld under this section shall be paid by the Commission to the appropriate state food purchase assistance agency.

D. Any amount deducted and withheld under subsection B of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state food purchase assistance agency as repayment of the individual's uncollected overissuance.

E. For purposes of this section, the term "unemployment compensation" means any compensation payable under this act including amounts payable by the Commission pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

F. This section applies only if arrangements have been made for reimbursement by the state food purchase assistance agency for the administrative costs incurred by the Commission under this section which are attributable to the repayment of uncollected overissuances to the state food purchase assistance agency.

PART 9 – SHARED WORK UNEMPLOYMENT COMPENSATION PROGRAM [REPEALED]

§§ 2-900 through 2-910. Repealed

ARTICLE 3 – CONTRIBUTIONS
PART 1 – RATES

§ 3-101. Applicability
(1) The provisions of this Article 3 apply to the payment of contributions by employers.
(2) The provisions of this Part 1 apply to employers other than employers who are subject to Part 7, or employers who have elected to reimburse under Part 8 of this article, or employers who have elected to reimburse under paragraph 2 of subsection E of Section 1-108 of this title.

§ 3-102. Contributions
A. Contributions shall accrue and become payable by each employer for each calendar year in which the employer is subject to the Employment Security Act of 1980, with respect to wages for employment. Such contributions shall become due and be paid by each employer to the Oklahoma Employment Security Commission for the Unemployment Compensation Fund in accordance with such rules as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in the employer's employ.
B. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent ($0.005) or more, in which case it shall be increased to one cent ($0.01).
C. Each employer shall be notified of its contribution rate for a given calendar year on or before September 30 of the previous calendar year. The notice shall be mailed to the employer at the employer's last-known address. If the employer has elected to be notified by electronic means according to procedures set out in Oklahoma Employment Security Commission rules, notice shall be deemed to be given when the Commission transmits the notification by electronic means. The employer shall file an appeal to the rate notice within twenty (20) days after the mailing of the notice of the contribution rate, or the date of transmission by electronic means. Upon the filing of a timely appeal, the Commission shall provide for a review and issue a determination to the employer. If the employer does not file a timely appeal, the contribution rate of the employer shall become conclusive and binding.
D. Within twenty (20) days after the date of mailing of the notice of the determination, the employer may file with the Commission at the address prescribed in the notice the employer's specific written objections to the contribution rate so determined. The matter will be heard upon those specific written objections by a representative appointed by the Commission. The decision shall be made in writing and notice shall be mailed to the employer. The employer may appeal to the district court by filing a petition for review with the clerk of that court within thirty (30) days after the date of mailing stated upon the notice of decision.

§ 3-103. Repealed

§ 3-104. Repealed

§ 3-105. Benefit wages—Quarter charged

When in any benefit year a claimant is paid benefits for his or her fifth compensable week of unemployment or is paid benefits as defined in paragraph 3 of Section 4-702 of this title, his or her taxable wages during his or her base period shall be treated, for the purpose of this part, as though they had been paid in the calendar quarter in which the fifth compensable week of unemployment benefits are paid.

§ 3-106. Benefit wages charged and relief therefrom

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

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

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

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

D. Within twenty (20) days after the mailing of the determination provided for in subsection C of this section, the employer may file with the Commission or its representative a written protest to the determination and request an oral hearing de novo to present evidence in

support of its protest. The Commission or its representative shall, by written notice, advise the employer of the date of the hearing, which shall not be less than ten (10) days from the date of mailing of the written notice. At the discretion of the Commission, this hearing shall be conducted by the Commission or its representative appointed by the Commission for this purpose. Pursuant to the hearing, the Commission or its representative shall, as soon as practicable, make a written order setting forth its findings of fact and conclusions of law, and shall send it to the employer.

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

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

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

1. Left employment with that employer, or with his or her last employer, voluntarily without good cause connected to the work;
2. Was discharged from such employment for misconduct connected with his or her work;
3. Was a regular scheduled employee of that employer prior to the week the employee separated from other employment, and continued to work for the employer through the fifth compensable week of unemployment in his or her established benefit year;
4. Was separated from his or her employment as a direct result of a major natural disaster, declared as such by the President pursuant to the Disaster Relief Act of 1974, P.L. 93-288, and such employee would have been entitled
to disaster unemployment assistance if he or she had not received unemployment insurance benefits;
5. Was discharged by an employer for unsatisfactory performance during an initial employment probationary period. As used in this paragraph, “probationary period” means a period of time set forth in an established probationary plan which applies to all employees or a specific group of employees and does not exceed ninety (90) calendar days from the first day a new employee begins work. The employee must be informed of the probationary period within the first seven (7) work days. There must be conclusive evidence to establish that the individual was separated due to unsatisfactory work performance;
6. Left employment to attend training approved under the Trade Act of 1974 and is allowed unemployment benefits pursuant to Section 2-416 of this title; or
7. Was separated from employment for compelling family circumstances as defined in Section 2-210 of this title.

H. If an employer recalls an employee deemed unemployed as defined by the Employment Security Act of 1980 and the employee continues to be employed or the employee voluntarily terminates employment or is discharged for misconduct within the benefit year, the employer shall be entitled to have the benefit wage charged against the employer's experience rating for the employee reduced by the ratio of the number of weeks of remaining eligibility of the employee to the total number of weeks of entitlement.
I. An employer shall not be charged with benefit wages of a laid-off employee if the employer lists as an objection in a statement filed in accordance with subsection B of this section that the employee collecting benefits was hired to replace a United States serviceman or servicewoman called into active duty and laid-off upon the return to work by that serviceman or servicewoman. The Unemployment Compensation Fund shall be charged with the benefit wages of the laid-off employee.
J. If the Commission receives a notice of amounts paid as benefits by another state under a reciprocal agreement, and the notice is received after three (3) years from the effective date of the underlying benefit claim, no benefit wage charge will be made against the employer identified in the notice, or if a benefit wage charge is made based on such a notice, the employer will be relieved of the charge when the facts are brought to the attention of the Commission.
K. An employer shall not be eligible to be relieved of a benefit wage charge under paragraphs 1 and 2 of subsection G of this section if the employer was sent a notice of benefit claim, pursuant to Section 2-503 of this title, and failed to timely file protest to the benefit claim.

§ 3-106.1. Relief from benefit wages charged—Addendum

The benefit wages charged to an employer for a given calendar year shall be the total of the benefit wages stated in the notices given to the employer by the Commission. Provided, that on and after April 19, 1995, an employer's benefit wages shall not include wages paid by the employer to any employee who was separated from his or her employment as a direct result of a natural disaster, fire, flood, or explosion that causes employees to be separated from one employer's employment. The Commission shall adopt emergency rules for immediate implementation of this section and subsequently adopt permanent rules for review by the 1996 Legislature.

§ 3-106.2. Separating employers—Relief from benefit wage charges

A separating employer will not be charged with benefit wages, or will be relieved of the charge upon notification of the Oklahoma Employment Security Commission, if the former employee who is the subject of the charge was separated from employment under one of the circumstances listed in subsection G of Section 3-106 of Title 40 of the Oklahoma Statutes.

§ 3-107. Benefit wage ratio

The benefit wage ratio of each employer shall be a percentage equal to the total of the employer's benefit wages in the experience period divided by the employer's total taxable

payroll for the experience period on which contributions have been paid to the Commission on or before July 31 of the calendar year immediately preceding the year for which the tax rate is being calculated.

§ 3-108. State experience factor

The total benefits paid from the Unemployment Compensation Fund during the experience period, less all amounts credited to the Fund other than employers' contributions, interest, penalties, fees and interest earned on the Fund, divided by the statewide total of benefit wages of all employers for the experience period, after adjustments to the nearest multiple of one percent (1%) shall be termed the "state experience factor." The state experience factor for any year shall be determined prior to the due date of the first contribution payment on wages for employment in that year.

§ 3-109. Experience rate

The contribution rate for each employer for each calendar quarter after July 1, 2010, to be applied to the employer's current payroll shall be in accordance
with the following table based upon the state experience factor and his benefit wage ratio:

(SEE RATE TABLE ON PAGES 167-168)

If the employer's benefit wage ratio exceeds the amount in the last column of the table on the line for the current year's state experience factor, his contribution rate shall be five and five-tenths percent (5.5%).

§ 3-109.1. Rate reduction

Notwithstanding the provisions of Sections 3-103, 3-109, 3-110 and 3-113 of this title, for the time period beginning July 1, 1998, and ending December 31, 2001, the contribution rate assigned to an employer shall be reduced by fifty percent (50%); provided: the tax rate of employers assigned a tax rate pursuant to Sections 3-103 and 3-110 of this title shall not be reduced to less than one percent (1%); employers who qualify for an earned rate calculated pursuant to Section 3-109 of this title, and are given a rate of five and one-half percent (5.5%) shall be reduced to no less than five and four-tenths percent (5.4%); and employers who qualify for an earned rate calculated pursuant to Section 3-109 of this title, and are given a rate of one-tenth of one percent (0.1%), shall be reduced to a rate of zero percent (0.0%).

§ 3-109.2. Rate reduction for computer fund assessment

Notwithstanding the provisions of Sections 3-103, 3-109, 3-110, and 3-113 of Title 40 of the Oklahoma Statutes, for the time period beginning July 1, 1997, and ending June 30, 1998, the contribution rate assigned to an employer shall be reduced by fifty percent (50%). Provided, the tax rate of employers assigned a tax rate pursuant to Sections 3-103 and 3-110 of Title 40 of the Oklahoma Statutes shall not be reduced to less than one percent (1%). Provided further,

employers who qualify for an earned rate calculated pursuant to Section 3-109 of Title 40 of the Oklahoma Statutes, and are given a rate of five and one-half percent (5.5%), shall not be eligible for the rate reduction provided for in this section.

§ 3-109.3. Rate reduction for technology reinvestment apportionment

Notwithstanding the provisions of Sections 3-109, 3-110.1 and 3-113 of Title 40 of the Oklahoma Statutes, for the time period beginning January 1, 2018, and ending December 31, 2022, the tax rate computed for or assigned to an employer shall be reduced by five percent (5%). Provided, the tax rate of employers assigned a tax rate pursuant to Section 3-110.1 of Title 40 of the Oklahoma Statutes shall not be reduced to less than one percent (1%). Provided further, employers who qualify for an earned tax rate calculated pursuant to Section 3-109 of Title 40 of the Oklahoma Statutes, and are given the highest tax rate in the rate table for the given year, shall not be eligible for the rate reduction provided for in this section.

§ 3-110. Repealed

§ 3-110.1. Unemployment tax rate

Each employer, unless otherwise prescribed in Section 3-111.1, 3-701 or 3-801 of this title, shall pay unemployment tax as follows:

1. All employers shall have an assigned tax rate of one and one-half percent (1.5%) until sufficient experience history exists in the employer's account to meet the At-Risk Rule set out in paragraph 3 of this section. If the account meets the At-Risk Rule, the employer will qualify for an earned tax rate calculated pursuant to the provisions of Part 1 of Article III of the Employment Security Act of 1980;
2. If an employer qualified for an earned tax rate under paragraph 1 of this section, or under a prior law, and at the time the employer's tax rate is being determined for a subsequent year the employer account lacks sufficient experience history to meet the At-Risk Rule of paragraph 3 of this section, the employer shall revert to the assigned tax rate of one and one-half percent (1.5%). The employer shall pay at the assigned tax rate until the provisions of paragraph 1 of this section are met; and
3. "At-Risk Rule" means an employer is required to be at-risk for a claim of unemployment benefits before an earned tax rate is calculated. An employer shall meet the At-Risk Rule and be eligible for an earned tax rate if, throughout the calendar year immediately preceding the year for which the employer's tax rate is being determined, there was an individual who could have filed a claim for unemployment benefits in each quarter of that year establishing a base period, as defined by Section 1-202 of this title, which would include wages from that employer.

§ 3-111. Repealed

§ 3-111.1. Successor and predecessor employers—Special rules on transfer of rates and experience

A. Notwithstanding any other provision of law, the following shall apply regarding assignments of rates and transfers of experience:

1. If an employer transfers its trade or business, or a separate and distinct establishment, or unit thereof, to another employer or an entity that does not meet the definition of an employer at the time of the transfer and there is substantially common ownership, management or control of the two employers or entities at the time of the transfer, then the experience rating account attributable to the transferred trade or business shall be combined with the experience rating account of the employer to whom such business is so transferred. The employer transferring its trade or business shall be the predecessor employer and the employer or entity acquiring the transferred trade or business shall be the successor employer. The successor employer shall acquire the experience rating account of the predecessor employer, including the predecessor's actual tax and benefit experience, annual payrolls and tax rate. The successor employer shall also become jointly and severally liable with the predecessor employer for all current or delinquent taxes, interest, penalties and fees owed to the Oklahoma Employment Security Commission by the predecessor employer. In the case of the transfer of a separate and distinct establishment or unit within the predecessor employer, the successor employer shall acquire that portion of the items identified above that relate to the establishment or unit acquired or its pro-rata share; and

2. Whenever a person who is not an employer under the Employment Security Act of 1980 at the time it acquires the trade or business of an employer, the experience rating account of the acquired business shall not be transferred to that person if the Commission finds that the person acquired the business solely or primarily for the purpose of obtaining a lower tax rate. Instead, the person shall be assigned a tax rate under Section 3-110.1 of this title. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower tax rate, the Commission shall examine objective factors which may include the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long the business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

B. 1. If a person knowingly violates or attempts to violate paragraph 1 or 2 of subsection A of this section or any other provision of the Employment Security Act of 1980 related to determining the assignment of the tax rate, or if a person knowingly advises another person in a way that results in a violation of such provision, the person shall be subject to the following penalties:

a. if the person is an employer, then the employer shall be assessed a penalty equal to ten percent (10%) of the actual taxes due in the calendar quarter in which the employer violated or attempted to violate the provisions of this section and a penalty equal to ten percent (10%) of the actual taxes due in each of the following three (3) calendar

quarters. The funds in payment of this penalty shall be deposited in the Oklahoma Employment Security Commission Revolving Fund established under Section 4-901 of this title,

b. if the person is not an employer, the person shall be subject to a civil money penalty of at least One Hundred Dollars ($100.00) and not more than Five Thousand Dollars ($5,000.00) to be determined by the Assessment Board of the Oklahoma Employment Security Commission. Any fine shall be deposited in the Oklahoma Employment Security Commission Revolving Fund established under Section 4-901 of this title.

2. For purposes of this section, the term "knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

3. For the purposes of this section, the term "violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation or willful nondisclosure.

4. In addition to the penalty imposed by paragraph 1 of this subsection, any person who violates the provisions of this section shall be guilty of a misdemeanor and may be imprisoned for up to one (1) year.

C. The Commission shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

D. or purposes of this section:

1. "Person" has the meaning given such term by 26 U.S.C., Section 7701(a)(1); and
2. "Trade or business" shall include the employer's workforce.

E. This section shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

§ 3-112. Repealed

§ 3-113. Conditional factors

For each calendar year commencing after December 31, 2006, except for those employers with a benefit wage ratio of zero (0) and as otherwise provided in this section, the contribution rate for each employer for the calendar year shall be increased, in the circumstances and in the amounts as follows:

(1) - Condition “a” - If the balance of the unemployment compensation fund is less than three and one-half (3 1/2) times, but not less than three (3) times, the net benefits paid for the most recent twenty (20) consecutive completed calendar quarters divided by five (5), on July 1 of any given year, the contribution rate for the next calendar year for each employer whose benefit wage ratio with respect to that year is zero percent (0%) shall be increased by one-tenth of one percent (1/10 of 1%) of wages paid by the employer during the year; the contribution rate for each employer whose benefit rate wage ratio with respect to that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by two-tenths of one percent (2/10 of 1%) of wages paid by the employer during the year and the contribution rate for each employer whose benefit wage ratio with respect to that year is more

than one-tenth of one percent (1/10 of 1%), shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during that year.
(2) - Condition "b" - If the balance of the unemployment compensation fund is less than three (3) times, but not less than two and one-half (2 1/2) times, the net benefits paid for the most recent twenty (20) consecutive completed calendar quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by thirty-three and one-third percent (33 1/3%) of the rate; provided that the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%), shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during that year; provided, further, that the contribution rate for each employer whose benefit wage ratio with respect to that year is zero percent (0%) shall be increased by two-tenths of one percent (2/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during that year; and the contribution rate for each employer whose benefit wage ratio with respect to that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least four-tenths of one percent (4/10 of 1%) of wages paid by the employer during that year.
(3) - Condition "c" - If the balance of the unemployment compensation fund is less than two and one-half (2 1/2) times, but not less than two (2) times, the net benefits paid for the most recent twenty (20) consecutive completed calendar quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by one-half (1/2) of that rate; provided that the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%), shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during that year; provided, further, that the contribution rate for each employer whose benefit wage ratio with respect to that year is zero percent (0%) shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by four-tenths of one percent (4/10 of 1%) of wages paid by the employer during that year; and the contribution rate for each employer whose benefit wage ratio with respect to that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least five-tenths of one percent (5/10 of 1%) of wages paid by the employer during that year.
(4) - Condition "d" - If the balance of the unemployment compensation fund is less than two (2) times the net benefits paid for the most recent twenty (20) consecutive completed calendar quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by sixty-six and two-thirds percent (66 2/3 %) of the rate; provided that the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%) shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during that year; provided, further, that the contribution rate

for each employer whose benefit wage ratio with respect to that year is zero percent (0%) shall be increased by four-tenths of one percent (4/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by five-tenths of one percent (5/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least six-tenths of one percent (6/10 of 1%) of wages paid by the employer during that year.

(5) The contribution rate, excluding any surcharge, for an employer whose contribution rate is three and four-tenths percent (3.4%) or more shall not be increased by more than two (2) percentage points in any one (1) year. The contribution rate, excluding any surcharge, for an employer whose contribution rate is less than three and four-tenths percent (3.4%) shall not be increased to more than five and four-tenths percent (5.4%) in one (1) year.

For the purposes of this section "net benefits paid for the most recent twenty (20) consecutive completed calendar quarters" means the total amount of monies withdrawn from this state's account in the unemployment trust fund in the United States Treasury for each of the most recent twenty (20) consecutive completed calendar quarters, plus the balance in the benefit account at the start of the period, less the balance in the benefit account at the end of the period. The contribution rate for those employers with a benefit wage ratio of zero (0) shall be two-tenths of one percent (2/10 of 1%) during those years when the fund is in conditions "a", "b", and "c", and shall be three-tenths of one percent (3/10 of 1%) during those years when the fund is in condition "d".

(6) Beginning January 1, 1996, except for this paragraph and paragraph (7) of this section, the provisions of this section shall be suspended until the Unemployment Trust Fund reaches a High Cost Multiple of one and one-fourth (1 1/4). The Oklahoma Employment Security Commission shall determine the High Cost Multiple at the end of each calendar year and shall include the result of its computation in a regularly published periodical together with other employment-related data. As used in this section, "High Cost Multiple" shall be a figure computed as follows:

(a) first, net fund reserves in the Unemployment Compensation Fund as of the date of each computation required by this section shall be divided by total wages earned in insured employment for the twelve (12) months preceding the date of the quarterly High Cost Multiple computation,

(b) second, the result of the computation from subparagraph (a) of this paragraph shall be divided by a figure which is a quotient derived from the computation of the High-Cost Rate contained in subparagraph (c) of this paragraph, and

(c) third, the highest ratio of total state benefit payments experienced previously in any twelve (12) consecutive months to total wages earned in insured employment for the same period shall be the High-Cost Rate.

The result of all computations contained in subparagraphs (a) through (c) of this paragraph, performed in the sequence as specified in this section, shall be known as the High Cost Multiple;

(7) Prior to the beginning of each calendar year, the Commission shall prepare an estimate of the financial condition of the trust fund. If the estimate for the year shows the balance, at any time during the year, will fall below the High Cost Multiple as defined in paragraph (6) of this section, then the Commission shall reinstate the suspended provisions of this section.

§ 3-114. Estimate of financial condition of fund—Surcharge

Prior to the beginning of each calendar quarter, the Commission shall prepare an estimate of the financial condition of the fund for the quarter. Effective July 1, 1992, if the estimate for any quarter shows a balance at any time during the quarter of less than Twenty-five Million Dollars ($25,000,000.00), the Commission shall assess and collect a surcharge for that calendar quarter in an amount sufficient to keep the balance at Twenty-five Million Dollars ($25,000,000.00).

The surcharge shall be charged to each employer in proportion to the employer's total tax liability as of the last completed quarter for the current calendar year and shall not exceed thirty-three and one-third percent (33 ⅓ %) per taxable year.

§ 3-115. Appeal of determinations

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

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

2. Within twenty (20) days after the mailing or transmission of the Notice of Determination as provided for in paragraph 1 of this subsection, the employer may file with the Commission, or its representative, a written request for a review and redetermination setting forth the employer's reasons therefor. If any employer fails to file a written request for review and redetermination within twenty (20) days without good cause, then the initial determination of the Commission shall be final, and no further appeal or protest shall be allowed.

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

within twenty (20) days without good cause, the redetermination of the Commission shall be final and no further appeal or protest shall be allowed.

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

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

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

C. Untimely requests for review and redetermination pursuant to paragraph 2 of subsection B of this section and written protests for appeals filed pursuant to paragraph 3 of subsection B of this section may be allowed for good cause shown if the request for good cause is filed in writing with the Commission within one (1) year of the date of the determination or redetermination that is the basis of the request for untimely filing.

§ 3-116. Reconsideration of determination

A. The Oklahoma Employment Security Commission may reconsider a determination of the basis of:

1. An error in computation;
2. An error in identity;
3. Misrepresentation of material facts;
4. Mistake of material facts;
5. An error in interpretation or application of the law; or
6. A timely request made pursuant to paragraph 2 of subsection B of Section 3-115 of Title 40 of the Oklahoma Statutes.

B. A redetermination shall be made within three (3) years of the last day of the month following the calendar quarter that is subject to the redetermination.

C. Notice and appeal of a redetermination shall be governed by the provisions of Section 3-115 of Title 40 of the Oklahoma Statutes.

§ 3-117. Findings of fact or law

Any findings of fact or law, judgment, conclusion or final order made by the Oklahoma Employment Security Commission or its representatives under Article 3 of the Employment Security Act of 1980 shall be conclusive and binding for all purposes concerning this act. The findings of fact or law, judgment, conclusion or final order of the Oklahoma Employment Security Commission or its representatives shall not be conclusive or binding in any separate or subsequent action or proceeding that does not involve the Oklahoma Employment Security Commission and shall not be used as evidence in any separate or subsequent action or proceeding in any other forum regardless of whether or not the prior action was between the same or related parties or involved the same facts.

§ 3-118. Electronic unemployment tax filing and payment

By December 31, 2008, the Oklahoma Employment Security Commission shall provide a method for employers to file the Employer's Quarterly Contributions and Wage Report for Oklahoma state unemployment taxes through the Internet. The Oklahoma Employment Security Commission shall also provide by December 31, 2008, a method for employers to pay Oklahoma state unemployment taxes through an electronic payment system utilizing the Internet.

§ 3-119. Repealed

§ 3-120. Required filings by Professional Employer Organizations—Payment of contributions—Change of election

A. Each Professional Employer Organization, or PEO, shall file all reports and pay all contributions required by the Employment Security Act of 1980 and the Rules of the Oklahoma Employment Security Commission under one of the following two options. The PEO may choose the option under which it will report and pay. All PEOs that do not exercise their option within the compliance date in subsections C and D of this section shall be assigned to option 1 below. All current client accounts and client accounts set up or acquired after the election shall be reported and paid according to the option elected by the PEO or the option assigned to the PEO if no election is made. The two options are as follows:

1. The PEO shall file quarterly tax returns to report the wages of all covered employees of all its clients and pay all contributions due on those wages under one account of the PEO; or
2. The PEO shall file quarterly tax returns to report the wages of all covered employees under the direction and control of each client and pay all contributions due on those wages under the account assigned to that client by the Oklahoma Employment Security Commission; provided:
    a. a PEO choosing this option shall notify the Oklahoma Employment Security Commission in writing,
    b. a PEO choosing this option shall assist the Commission in the process of the separation and identification of the contribution history, the benefit experience history,

and the payroll of each of its clients, and the Commission shall transfer that experience to the client account,

c. the Commission shall determine the tax rate of each client account separately based upon the client's contribution history, benefit experience history and actual payroll,

d. if there is not sufficient experience in the client account after the transfer of experience to establish a tax rate, the account will be assigned a tax rate pursuant to Section 3-110.1 of this title, and

e. a PEO choosing this option shall produce all documentation and information necessary for the Oklahoma Employment Security Commission to create the client account within sixty (60) days of choosing this option. If the information needed by the Commission is not produced within this sixty-day period, the PEO shall revert to reporting under the option provided for in paragraph 1 of subsection A of this section.

B. Within thirty (30) days after the end of each calendar quarter, each PEO shall file a list of all its clients setting out the federal employer identification number, the name, the client's contact information and the current registration certificate of the PEO issued pursuant to Section 600.4 of this title. The client list shall be filed in a format prescribed by the Oklahoma Employment Security Commission. Materials submitted pursuant to this section shall be deemed records submitted pursuant to the Oklahoma Professional Employer Organization Recognition and Registration Act and shall be treated as confidential and subject to the provisions of subsection C of Section 600.6 of this title and Section 4-508 of this title.

C. Any PEO with a current employer tax account with the Oklahoma Employment Security Commission as of the effective date of this act shall comply with the provisions of this section no later than January 1, 2015.

D. Any PEO that does not have a current employer tax account with the Oklahoma Employment Security Commission as of the effective date of this act shall comply with the provisions of this section upon becoming liable for contributions under the Employment Security Act of 1980.

E. After the initial election or assignment of the option provided for in subsection A of this section, a PEO shall be permitted to change its election one time only. The change of election shall be made by the PEO in writing. The election shall become effective in the calendar year following the date the Commission approves the election of the PEO. If the Commission approves a change of election, all contribution history, benefit experience history and payroll of each client shall be transferred to the pooled account, if the option in paragraph 1 of subsection A of this section is chosen, or the individual client accounts, if the option in paragraph 2 of subsection A of this section is chosen.

§ 3-121. Professional Employer Organizations—Transfer of experience history

If a Professional Employer Organization, or PEO, chooses the option to file quarterly tax returns under the account assigned to its client pursuant to paragraph 2 of subsection A of Section 3-120 of this title, and if the client has an experience history from a previous account assigned to that client that can be used in calculating an earned tax rate pursuant to the provisions of Article 3, Part 1, of the Employment Security Act of 1980, then that experience

history shall be transferred to the account assigned to that client as a coemployer of that PEO. In addition, if taxable wages were reported by a client in a previous account of the client within the calendar year in which the PEO coemployer account is set up, then the PEO coemployer account shall be given credit for the taxable wages paid on each employee in the immediately previous account under which client wages were reported.

PART 2 – PERIOD, TERMINATION, ELECTION

§ 3-201. Employer for any part of year deemed employer for entire year

Except as provided in Section 3-203, any employing unit which is or becomes an employer subject to this act within any calendar year shall be deemed to be an employer during the whole of such calendar year.

§ 3-202. Termination of coverage

Termination of coverage with respect to 1977 or prior years shall be determined in accordance with provisions applicable to those years. Except as otherwise provided in Section 3-203 of this title, an employing unit shall cease to be an employer subject to this act only as of the first day of any calendar year and only if it files with the Commission, during January of such year, a written application for termination of coverage, and the Commission finds that there were (1) no calendar quarter within the preceding calendar year in which such employing unit paid for service in employment wages of One Thousand Five Hundred Dollars ($1,500.00) or more or (2) no twenty (20) different days, each day being in a different calendar week within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this act; provided further that religious, charitable, educational or other organizations covered under paragraph 8 of Section 1-208 of this title shall be so terminated if the Commission finds that there were no twenty (20) different days, each day being in a different calendar week within the preceding calendar year, within which such employing unit employed four or more individuals in employment subject to this act. Provided further that agricultural labor as covered under paragraph 10 of Section 1-208 of this title shall be so terminated if the Commission finds that there were (1) no calendar quarter within the preceding calendar year in which such employing unit paid wages of Twenty Thousand Dollars ($20,000.00) or more, or (2) no twenty (20) different days, each day being in a different calendar week within the preceding calendar year, within which such employing unit employed ten (10) or more individuals in employment subject to this act; provided further that domestic service as covered under paragraph 11 of Section 1-208 of this title shall be terminated if the Commission finds that there were no calendar quarters within the preceding calendar year in which such employing unit paid wages of One Thousand Dollars ($1,000.00) or more. Provided, however, that if the Federal Congress shall, by amendment to the Federal Unemployment Tax Act, redefine the term employer to include employing units not qualified as employers under this section, all of the provisions of this act shall be applicable to such employing units. For the

purposes of this section, the two or more employing units mentioned in paragraph 2, 3 or 4 of Section 1-208 of this title shall be treated as a single employing unit.

§ 3-203. Election by employer

A. An employing unit, not otherwise subject to the Employment Security Act of 1980, which files with the Oklahoma Employment Security Commission its written election to become an employer subject hereto for not less than two (2) calendar years shall, with the written approval of the election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in the approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to the two (2) required calendar years, only if during January of that year it has filed with the Commission a written application for termination of coverage as provided in this section.

B. Any employing unit for which services that do not constitute employment as defined in the Employment Security Act of 1980 are performed may file with the Commission a written election that all such services with respect to which payments are not required under an employment security law of any other state or of the federal government and which are performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of the Employment Security Act of 1980 for not less than two (2) calendar years. Upon the written approval of the election by the Commission, the services shall be deemed to constitute employment subject to the Employment Security Act of 1980 from and after the date stated in the approval. The services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to the two (2) required calendar years, only if during January of that year the employing unit has filed with the Commission a written application for termination of the coverage.

C. The Commission may terminate the election of an employer or employing unit made pursuant to subsection A or B of this section at any time the Commission determines that the employer or employing unit is not abiding by all requirements of the Employment Security Act of 1980 and the rules for the administration of that act, or if the employer or employing unit that has made an election for coverage becomes delinquent in the payment of its unemployment tax contributions, interest, penalties or fees.

D. If the Commission makes a determination that an application of an employer or employing unit submitted under subsections A or B of this section should be denied, or that a voluntary election should be terminated under subsection C of this section, the Commission shall notify the affected employer or employing unit in writing. The notification of the determination shall be delivered to the employer, or mailed to the employer's last-known address.

E. A determination made under this section may be appealed pursuant to the provisions of Section 3-115 of this title.

PART 3 – COLLECTION OF CONTRIBUTIONS

§ 3-301. Penalty and interest on past-due contributions

A. If contributions are not paid on the date on which they are due and payable as prescribed by the Oklahoma Employment Security Commission, the whole or part thereafter remaining unpaid shall bear interest at the rate of one percent (1%) per month for each month or fraction thereof from and after such date until payment is received by the Commission. The date on which payment of contributions is deemed to have been received may be determined by such rules as the Commission may prescribe.

B. If any employer fails or refuses to file contribution and wage reports required under the provisions of this act within fifteen (15) days after written notice has been mailed to the employer by the Commission or its representative regardless whether or not any wages or taxable wages were paid, there shall accrue a penalty of One Hundred Dollars ($100.00) and in addition to such penalty, there shall be a penalty of ten percent (10%) added to the total contributions due, collected and paid. Such penalties shall be in addition to any interest due. The provisions of this subsection shall not apply to employers that are subject to subsection B of Section 3-806 of this title.

§ 3-302. Collections

A. If any employer defaults in any payment of contributions, interest, penalty or fees thereon, the amount due may be collected by civil action in the name of the State of Oklahoma. Civil actions brought under this section to collect contributions, interest, penalty or fees thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act.

B. The courts of this state shall in like manner entertain actions to collect contributions, interest, penalty or fees thereon for which liability has accrued under the unemployment compensation law of any other state or of the federal government.

C. No suit, including an action for a declaratory judgment, shall be maintained and no writ or process shall be issued by any court of this state which has the purpose or effect of restraining, delaying, or forestalling the collection of any contributions, interest, penalties and fees under this act or substituting any collection procedure for those prescribed in this act.

§ 3-303. Priorities under legal dissolutions or distributions

In the event of any distribution of an employer's assets pursuant to an order of any court or under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceedings, all contributions, interest, penalties and fees imposed by the provisions of this act are hereby declared to constitute a lien in favor of the state upon all franchises, property, and the rights to property, whether real or personal, then belonging to or thereafter acquired by the person, firm, corporation, partnership or association owing the contribution, whether such property is employed by such person, firm,

corporation, partnership or association in the prosecution of business, or is in the hands of an assignee, trustee, or receiver for the benefit of creditors, from the date of the filing by the Commission of a notice of claim of said lien in the office of the county clerk of the county in which such property is located. Said lien shall be in addition to any lien accrued by the filing of a tax warrant as provided in this act. Said lien shall be prior, superior and paramount to all other liens, or encumbrances of whatsoever kind or character, attaching to any of said property subsequent to the filing of such notice of claim of lien, except liens for other taxes, in which event said lien shall be coequal, and claims for wages of not more than Two Hundred Fifty Dollars ($250.00) to each claimant, earned within six (6) months of the commencement of any proceeding distributing an employer's assets pursuant to an order of the court under the laws of this state. Said lien shall continue until the amount of contribution, interest, penalty and fees due and owing, and interest subsequently accruing thereon, is paid. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in that act for taxes due any state of the United States.

§ 3-304. Refunds

If not later than three (3) years after the date on which a specific report or return was required to be filed, an employer, who has paid all amounts owing for that specific quarter, may make application for an adjustment in connection with that report or payment, or for a refund thereof because an adjustment cannot be made, and if the Commission shall determine that payment of the contributions, interest, penalty fees or any portion thereof was erroneous, the Commission shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by the employer, or if such adjustment cannot be made, the Commission shall refund from the fund, without interest, the amount erroneously paid. For like cause and within the same period, adjustment or refund may be so made on the Commission's own initiative.

§ 3-305. Assessments

A. If any employer shall fail to make any report or return as required by the Employment Security Act of 1980, the Oklahoma Employment Security Commission or its duly authorized representative, from any information in the possession of or obtainable by the Commission, may determine the amount of contribution due from such employer, and shall mail a copy of the assessment to the last-known address of the delinquent employer. The assessment so made shall not preclude the Commission or its representative from making field audits of the books and records, wherever located, of the employer and from making further adjustments, corrections or assessments. The assessments provided for herein must be made, and a copy thereof delivered to the employer or mailed to the last-known address of the employer, within three (3) years after the date on which the report or return was required to be filed.

B. Assessments under this section may be appealed pursuant to the provisions of Section 3-115 of this title.

§ 3-306. Jeopardy assessments

A. If the Commission, notwithstanding that a return or report, or that contributions with respect thereto may not yet be due, and whether prior to or after the close of the period when any contribution may be due under the provisions of this act, believes that:

1. An employer intends to depart or remove from the state, or conceal himself or any of his property subject to a lien for the payment of contributions;
2. An employer intends to discontinue business; or
3. An employer intends to do any other act tending to prejudice or render wholly or partially ineffectual proceedings to compute, assess or collect any contribution levied under the provisions of this act, the Commission shall declare the period for which any contributions may become due to have terminated for such employer, and shall immediately assess the contributions from any information in his possession, notify the employer and demand immediate payment thereof. In the event of any failure or refusal to pay the contributions, by the employer upon the demand of the Commission, the contributions shall immediately become delinquent and the Commission shall proceed to collect the same as in other cases of delinquent contributions.

B. The order of the Commission assessing the contributions may be appealed from as provided in Part 4 of this Article 3, or the employer may furnish to the Commission, under rules prescribed by it, security that he will make any return or report thereafter to be required to be filed with the Commission, and pay the contributions with respect to the period for which such contributions will become due. After security is approved and accepted, and such further and other security with respect to the contributions covered thereby is given as the Commission may, from time to time, find necessary and require, the payment of such contributions shall not be enforced by any proceedings prior to the expiration of the time otherwise allowed for paying such contributions.

C. In cases where the assessment here authorized is made prior to the close of the period for which contributions become due, and in case the employer elects to pay his contribution rather than to file a bond as herein provided for, the employer may pay the Commission the sum assessed, together with additions to contributions imposed by law, and at the time of making such payment shall notify the Commission of his intention, at the close of the period for which such contributions would have become due, to file suit for recovery. Upon receipt of such notice, an account shall be set up showing the amount paid until the termination of thirty (30) days following the close of the period for which such contributions were due, and if within such period, namely, within thirty (30) days following the close of the period for which such contributions were due, the employer files suit for recovery, the account shall be further maintained pending the final determination of such suit, after which it shall be terminated or refund made by the Commission in accordance with the provisions of Section 3-304 of this title.

§ 3-307. Remittances—Deposit of monies—Returned checks—Bogus check complaint

A. All remittance, under Section 1-101 et seq. of this title, shall be made payable to the Oklahoma Employment Security Commission, at Oklahoma City, Oklahoma, by bank draft, check, cashier's check, electronic fund transfer, money order, or money, and the Commission shall issue its receipt, for cash or money payment, to the payor. No remittance other than cash shall be in final discharge of liability due the Commission unless and until it shall have been paid in cash. All monies collected shall be deposited with the State Treasurer. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars ($25.00) on each check returned to the Commission or any agent thereof by reason of the refusal of the bank upon which such check was drawn to honor the same. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars ($25.00) on each electronic fund transfer that fails due to insufficient funds in the payor's account.

B. Upon the return of any check by reason of the refusal of the bank upon which such check was drawn to honor the same, the Commission may file a bogus check complaint with the appropriate district attorney who shall refer the complaint to the Bogus Check Restitution Program established by Section 111 of Title 22 of the Oklahoma Statutes. Funds collected through the program after collection of the fee authorized by Section 114 of Title 22 of the Oklahoma Statutes for deposit in the Bogus Check Restitution Program Fund in the county treasury shall be transmitted to the Commission and credited to the liability for which the returned check was drawn and to the administrative service fee provided by this section.

§ 3-308. Perjury—Punishment

Any person, or member of any firm or association, or any officer, agent, or employee of any corporation, who shall knowingly make false answer to any question which may be put to him by the Oklahoma Employment Security Commission, touching the business or property of any such person, firm, association, or corporation, or the valuation thereof, or who shall make or present any false statement filed with said Commission or required to be filed by this title or by any state unemployment compensation law, shall be guilty of perjury, and upon conviction, shall be punished as provided for in Section 4-506 of Title 40 of the Oklahoma Statutes.

§ 3-309. Collection of delinquent contributions, penalties, interest, or fees

When a determination that an employer owes delinquent contributions, penalties, interest or fees becomes final, the Oklahoma Employment Security Commission shall be entitled to proceed by levy to collect any delinquent contribution and to collect any penalty, interest or fees due and owing as a result of the delinquency. Provided, that upon proper application under the procedures outlined herein, the Assessment Board of the Oklahoma Employment Security Commission may issue an order continuing or modifying the levy for the collection of delinquent contributions, penalties, interest or fees.

§ 3-310. Waiver of penalty or interest

A. Any penalty or interest, or any portion thereof, assessed because an employer or employee fails to file a report or remit payment as required by Section 1-101 et seq. of this title may be waived by the Oklahoma Employment Security Commission provided the failure of the employer or employee to file a report or remit payment:

1. Is satisfactorily explained to the Commission;
2. Has resulted from a mistake by the employer or employee of either the law or the facts subjecting the employer or employee to file the report or remit payment; or
3. Results from insolvency.

B. Provided, no waiver of penalty or interest assessed for failure to file a report or remit payment as required by this act shall be granted unless the request for waiver is filed with the Commission within a three-year period from the date the penalty or interest was assessed or accrued.

PART 4 – JUDICIAL REVIEW

§ 3-401. Appeals to district court

After the administrative appeal hearing process provided for in Article III of this title[1] is complete, any order, ruling or finding that directly affects an employer or the Oklahoma Employment Security Commission may be appealed by the affected entity to the district court of the county of residence, or principal place of business, of the employer; provided, however, if the employer is a nonresident of this state, then to the district court of Oklahoma County.

§ 3-402. Repealed

§ 3-403. Petition for review and transcript of Commission proceedings

Within thirty (30) days after the date of mailing of the order, ruling, or finding complained of, the party desiring to appeal shall file in the office of the clerk of the district court of the county that has the proper jurisdiction, a Petition for Review specifying the grounds upon which the appeal is based. The Petition for Review shall set out the names of all parties to the case in the style of the case, which shall include:

1. The petitioner or entity filing the petition;
2. The Assessment Board as a respondent; and
3. All other parties in the proceeding before the Assessment Board as respondents.

If a Petition for Review is not filed within the time allowed by this section, the administrative order, ruling or finding will become final and the district court will not have jurisdiction to consider the appeal. The appealing party shall serve a file-stamped copy of the Petition for Review on all opposing parties or their attorneys and the Director of the Appellate Division of the Oklahoma Employment Security Commission. The Director of the Appellate Division shall then cause a certified transcript of the hearing to be made which shall consist of all testimony of the parties, all documentary evidence and other evidence introduced at the hearing, and all

decisions, judgments, or orders rendered as a result of the hearing. The Director of the Appellate Division shall then cause the certified transcript to be filed in the appropriate district court within sixty (60) days of receipt of the Petition for Review. Copies of the transcript shall be mailed by the Director of the Appellate Division to all parties named in the style of the case on the Petition for Review.

§ 3-404. Commission's conclusions of facts conclusive

In any judicial review under this part the findings of the Commission, or its duly-authorized representative, as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the court shall be confined to questions of law.

§ 3-405. Deposit of assessment required

As a condition precedent to the right of an employer to prosecute an appeal, and as a jurisdictional prerequisite of the district court to entertain the appeal, it is specifically provided that, if the appeal be from an order, judgment, finding, or ruling of the Oklahoma Employment Security Commission or its duly authorized representative, the employer shall pay to the Commission all amounts owing in the employer's account. Any amounts so paid shall, pending the final determination of the appeal, be reflected by the Commission in the employer's account, and if, upon a final determination of the appeal the order of the Commission is reversed or modified and it is determined that the contribution or part thereof was erroneously assessed, or the contributions, penalties, interest or fees should not be owed to the Commission, the amount paid by the employer shall be refunded to the employer by the Commission.

§ 3-406. Bond in lieu of cash deposit

In lieu of the cash payment provided for in Section 3-405 of this title, the employer may file with the Commission a surety bond issued by an insurance company that is licensed by the Oklahoma Insurance Department to issue surety bonds in this state. The surety bond must be issued in an amount that is double the amount of the contribution, penalties, interest and fees assessed or owing, and include the conditions that the employer will faithfully and diligently prosecute the appeal to a final determination, and, in the event the order, judgment, ruling or finding of the Commission or its duly authorized representative be affirmed on appeal, will pay the contributions, interest, penalty, costs and fees assessed against, or owing by, the employer.

§ 3-407. Repealed

§ 3-408. Part construed to provide legal remedy

This part shall be construed to provide a legal remedy by action at law in cases where any contribution, or the method of collection or enforcement thereof or any order, ruling, finding or judgment of the Commission or its duly-authorized representative, is complained of or is sought to be enjoined in any action in any court of this state or the United States of America.

PART 5 – WARRANTS

§ 3-500. Definitions

As used in Part 5 of Article 3 of the Employment Security Act of 1980:

1. "Bank" means any state bank or banking association, national bank or banking association, savings and loan company, credit union, or any other financial institution;
2. "Bank account" means any checking or savings account the tax debtor has with any bank;
3. "Contract proceeds" means any payment or exchange of assets due to a tax debtor from any contract the tax debtor is a party to or a beneficiary of;
4. "Contracting entity" means any person, partnership, corporation, limited liability company or legal entity of any kind that owes money to a tax debtor due to the provisions of a contract the entity is bound by;
5. "Earnings" means any form of payment to any individual including, but not limited to, salary, wages, commissions, or other compensation;
6. "Employer" means any person, partnership, corporation, limited liability company or legal entity of any kind that owes earnings to a tax debtor; and
7. "Tax debtor" means any person, partnership, corporation, limited liability company or legal entity of any kind that owes the Oklahoma Employment Security Commission any amount for delinquent state unemployment taxes, interest, penalties, fees or surcharge.

§ 3-501. Commission to issue warrants

If any contribution imposed by the provisions of this act,or any portion of said contribution, be not paid before the same becomes delinquent, the Commission may immediately issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell any real or personal property of any delinquent employer found within his county for the payment of the delinquent contribution, interest , penalty and fees and the cost of executing the warrant, and to return such warrant to the Commission, and to pay it any moneys collected by virtue thereof, by a time to be therein specified, not more than sixty (60) days from the date of the warrant.

§ 3-502. Filing warrant with county clerk

The Commission may also file a copy of its warrant with the county clerk of the county or counties in which the employer has property and thereupon the county clerk shall index the warrant in the same manner as judgments using the name of the delinquent employer named in the warrant, a short name for the contribution, or tax imposed, and the amount of the contributions, interest, penalty and fees for which the warrant was issued, and the date upon which the copy was filed, and shall index the warrant against the real property described therein, if any is described. If the county clerk charges a fee for the filing of the warrant, the Commission may add the amount of the fee to the indebtedness owing by the delinquent employer named in the warrant.

§ 3-503. Filed warrant is lien

The filing of said warrant in the office of the county clerk of said county shall constitute and be evidence and notice of the state's lien upon the title to any interest in any real or personal property of the delinquent employer against whom such warrant is issued. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of such unpaid contribution, interest, penalty, fees and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character, attaching to any of said property subsequent to the date of such recording and shall be in addition to any other lien provided for in this act. This lien on personal property shall be permanent and continuing without any requirement for executions under Section 735 of Title 12 of the Oklahoma Statutes or any other similar statute. This lien on personal property of the State of Oklahoma shall continue until the amount of the tax, contribution, penalty, interest and fees are paid. This lien shall continue on real property until released by payment or for a maximum of ten (10) years after the date of its filing.

§ 3-504. Sheriff to execute warrant in same manner as judgment

Upon receiving such warrant the sheriff shall proceed to execute said warrant in all respects with like effect and in the same manner prescribed by law in respect to executions against property upon judgment of the court of record; and such sheriff shall execute and deliver to the purchaser a bill of sale or deed, as the case may be. Any purchaser, other than the State of Oklahoma, shall be entitled, upon application to the court having jurisdiction of the property, to have confirmation (the procedure for which shall be the same as is now provided for the confirmation of a sale under execution) of such sale prior to the issuance of a bill of sale or deed. The State of Oklahoma shall be authorized to make bids at any such sale to the amount of contributions, penalties, interest, costs and fees accrued. In the event such bid is successful, the sheriff shall issue a proper muniment of title to the Commission, which said Commission shall hold such title for the use and benefit of the State of Oklahoma; and any delinquent employer, or transferee of such delinquent employer, shall have the right, at any time within one (1) year from the date of such sale, to redeem such property, upon the payment of all contributions, penalties, interest, costs and fees accrued to the date of redemption. Such applicant shall not be entitled to a credit upon such contributions, penalties, interest, costs and fees, by reason of any revenue that might have accrued to the State of Oklahoma or other purchaser under sale prior to such redemption. After the expiration of the period of redemption herein provided, the State of Oklahoma may sell such property at public auction, upon giving thirty (30) days' notice, published in a newspaper of general circulation in the county where such property is located, to the highest and best bidder for cash; and upon a sale had thereof, or when a redemption is made, the Commission for and on behalf of the State of Oklahoma shall issue its bill of sale or quit claim deed to the successful bidder or to the redemptioner. The sheriff shall be entitled to the same fee for his services in executing the warrant, as he would be entitled to receive if he were executing an execution issued by the court clerk of said county upon a judgment of a court of record.

§ 3-505. Failure of sheriff to execute warrant

If any sheriff shall refuse or neglect to levy upon and sell any real or personal property of any delinquent employer as directed by any warrant issued by the Commission, or shall refuse or neglect, on demand, to pay over to the Commission, its representatives or attorneys, all monies by him collected or received under any warrant issued by the said Commission, at any time after collecting or receiving the same, such sheriff or other officer shall, upon motion of the Commission in court, and after thirty (30) days' notice thereof, in writing, be amerced in the amount for which any such warrant was issued, together with all penalties and costs and with an additional penalty of ten percent (10%) thereon, to and for the use of the State of Oklahoma. Every surety of any sheriff or officer shall be made a party to the judgment rendered as aforesaid against the sheriff or other officer.

§ 3-506. State may be made party defendant

In any action involving the title to real estate, or the ownership or right to possession of personal property, the State of Oklahoma may be made a party defendant for the purpose of determining any lien claimed by it upon the property involved therein; and in any such action, service of summons upon the Commission or any member thereof shall be a sufficient service and binding upon the State of Oklahoma.

§ 3-507. Injunctions

When any reports required under this act have not been filed or may be insufficient to furnish all the information required by the Commission, or when the contributions imposed by this act have not been paid, the Commission may institute, in the name of the State of Oklahoma, upon the relation of the Commission, any necessary action or proceeding to enjoin such persons, firm, association or corporation from continuing operations until such reports have been filed or contributions paid as required, and in all proper cases injunction shall be issued without a bond being required from the state.

§ 3-508. Appointment of receiver

Upon a proper showing in any action under Section 3-507 that contributions are in danger of being lost or rendered uncollectible by reason of the mismanagement, dissipation or concealment of the property by the taxpayer
and a request for the appointment of a receiver for the management of the taxpayer is made, a receiver shall be appointed.

§ 3-509. Levy on bank accounts

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

B. To levy upon a tax debtor's bank account, the Oklahoma Employment Security Commission must serve a Notice of Levy on the bank in which the tax debtor has an account, along with the tax warrants covering all calendar quarters in which the tax debtor owes unemployment taxes, interest, penalty, fees, or surcharge.
C. Service of the Notice of Levy and tax warrants shall be made on the bank in the same manner as provided in Section 2004 of Title 12 of the Oklahoma Statutes for service of process in civil actions.
D. Upon receiving the Notice of Levy and any tax warrants issued against the tax debtor, the bank shall deliver all of the tax debtor's interest in the money in the tax debtor's bank account at the time of the service of the levy, subject to the banker's lien or right of setoff, or any other priority claim of the bank, up to the amount of indebtedness indicated on the tax warrants plus accrued interest pursuant to subsection A of Section 3-301 of Title 40 of the Oklahoma Statutes and any fees for service of process, to the representative of the Commission indicated on the Notice of Levy. The delivery of this money shall occur within ten (10) days of the date of service of the Notice of Levy.
E. If there is no money in the tax debtor's bank account at the time the Notice of Levy is served, or if the bank account has been closed, an officer of the bank on which the Notice of Levy is served shall make a statement to that effect on the Notice of Levy. The statement must be notarized and returned to the representative of the Oklahoma Employment Security Commission named in the Notice of Levy.
F. The Sheriff's Department that serves the Notice of Levy on the bank shall be entitled to a service fee of Fifty Dollars ($50.00) that is to be paid by the Oklahoma Employment Security Commission and added to the tax debtor's indebtedness as a fee in the latest calendar quarter for which the tax debtor has any type of indebtedness.

§ 3-510. Enforcement of bank levy
A. Any bank that fails or refuses to surrender any money or rights to money in a bank account subject to levy, upon being served with a Notice of Levy and supporting tax warrants of the Oklahoma Employment Security Commission, shall be liable to the Oklahoma Employment Security Commission in a sum equal to the amount of money or rights to money not so surrendered, but not exceeding the amount of the tax debtor's indebtedness for the collection of which the levy has been made, together with accrued interest pursuant to subsection A of Section 3-301 of this title, and the cost of service of the Notice of Levy. Any amount recovered under this subsection shall be credited against the liability for taxes, interest, penalty, fees, and surcharge, for the collection of which the levy was made.
B. Any bank in possession of money or rights to money subject to levy, upon which a levy has been made, that surrenders such money or rights to money to the Oklahoma Employment Security Commission shall be discharged from any obligation or liability to the tax debtor and any other person or entity with respect to such money or rights to money arising from the surrender or payment.

§ 3-511. Levy upon earnings of tax debtor

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

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

1. The employer or contracting entity shall answer the Notice of Levy on a form provided by the Commission. The employer or contracting entity shall follow the procedure for answering a continuing earnings garnishment as set out in subsection F of Section 1173.4 of Title 12 of the Oklahoma Statutes;
2. The Notice of Levy shall be a lien on the debtor's property in the same manner as provided for in subsection G of Section 1173.4 of Title 12 of the Oklahoma Statutes. The Notice of Levy shall also be subject to the procedures and time limits set out in subsections H, I, J and K of Section 1173.4 of Title 12 of the Oklahoma Statutes, except that when a document is required to be filed with the clerk of the court, the document will instead be filed with the Commission as directed on the forms provided;
3. The employer or contracting entity shall deliver all funds subject to the levy up to the amount of indebtedness indicated on the tax warrants plus accrued interest pursuant to subsection A of Section 3-301 of this title and any fees for service of process to the representative of the Commission indicated on the Notice of Levy. The delivery of this money shall occur within
ten (10) days of the date the earnings or contract proceeds are due to be paid to the tax debtor;
4. Any employer that fails or refuses to surrender money or rights to money belonging to its employee in the employer's possession, or that fails or refuses to make the appropriate deduction from wages pursuant to a levy provided for by this statute upon being served with a Notice of Levy and supporting warrant of levy and lien of the Commission, shall be liable to the Commission in a sum equal to the amount of money, rights to money, or wage deduction not so surrendered, but not exceeding the amount of the debtor's indebtedness for the collection of which the levy has been made, together with accrued interest and penalty pursuant to Section 3-301 of this title, and the cost of service of the Notice of Levy. Any amount recovered in this manner shall be credited against the liability of the debtor for which the levy was made; and

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

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

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

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

§ 3-512. Treasury offset program—Delinquent unemployment taxes

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

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

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

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

E. If the Oklahoma Employment Security Commission receives an erroneous payment from the U.S. Department of the Treasury, the Oklahoma Employment Security Commission shall return the payment to the U.S. Department of the Treasury. If the money that was erroneously paid to

the Oklahoma Employment Security Commission had been credited to a state unemployment tax indebtedness, that indebtedness shall be reinstated to the amount that existed before the payment was credited.

PART 6 – UNEMPLOYMENT COMPENSATION FUND

§ 3-601. Establishment of Unemployment Compensation Fund

There is hereby established as a special fund, separate and apart from all public monies or funds of this state, the Unemployment Compensation Fund, which shall be administered by the Commission exclusively for the purpose of this act. This fund shall consist of (1) all contributions collected pursuant to this act, together with any interest thereon collected pursuant to this act; (2) all penalties collected pursuant to the provisions of this act; (3) interest earned upon any monies in the fund; (4) any property or securities acquired through the use of monies belonging to the fund; (5) all earnings of such property or securities; and (6) all other monies received for the fund from any other source. All monies in the fund shall be mingled and undivided.

§ 3-602. State Treasurer custodian of fund

The State Treasurer shall be ex officio the treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the Commission and shall issue his warrants upon it in accordance with such rules as the Commission shall prescribe.

§ 3-603. State Treasurer to maintain three accounts

The State Treasurer shall maintain within the fund three separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account.

§ 3-604. Clearing account

All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to this act shall be payable from the clearing account upon warrants or electronic fund transfers issued under the direction of the Commission.

§ 3-605. Unemployment Trust Fund

After clearance thereof, all other monies in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release or disbursement of monies in the possession or custody of this state to the contrary notwithstanding.

§ 3-606. Benefit account

The benefit account shall consist of all monies requisitioned from this state's account in the Unemployment Trust Fund in the United States Treasury. Monies in the clearing and benefit account may be deposited in any depository bank in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Monies in the clearing and benefit accounts shall not be commingled with other state funds, but shall be maintained in separate accounts on the books of the depository bank. Such monies shall be secured by said depository bank by collateral in the full amount of funds on deposit. Such security shall consist of (1) United States Government obligations, direct or guaranteed, and (2) direct obligations of the State of Oklahoma. Such collateral security shall be pledged at not to exceed the face value of the obligation and shall be kept separate and distinct from any collateral security pledged to secure other funds of the state. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Unemployment Compensation Fund. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

§ 3-607. Requisitions from unemployment trust account

Monies requisitioned from this state's account in the Unemployment Trust Fund shall be used exclusively for the payment of benefits. The Commission shall, from time to time, requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to this state's account therein, as it deems necessary for the payment of such benefits for a reasonable future period. Upon receipt thereof such monies shall be deposited in the benefit account.

§ 3-608. Expenditures not subject to specific appropriation requirements

(1) Expenditures of such monies in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued for the payment of benefits and refunds shall bear the signature of a representative of the Commission duly authorized for that purpose.

(2) Any balance of monies requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the Unemployment Trust Fund.

§ 3-609. Discontinuance of Unemployment Trust Fund

The provisions of this part to the extent that they relate to the Unemployment Trust Fund in the Treasury of the United States, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such Unemployment Trust Fund, from which no other state is permitted to make withdrawals.

§ 3-610. Management of funds of Unemployment Trust Fund

If and when the Unemployment Trust Fund in the Treasury of the United States, ceases to exist, or such separate book account of the Unemployment Trust Fund is no longer maintained, all monies belonging to the Unemployment Compensation Fund of this state shall be administered by the Commission as a trust fund for the purpose of paying benefits under this act, and the Commission shall have authority to hold, invest, transfer, sell, deposit, and release such monies, and any properties, securities, or earnings acquired as an incident to such administration; provided, that such monies shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America or guaranteed both as to interest and principal by the United States; provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission.

PART 7 – FINANCING BENEFITS TO EMPLOYEES OF THE STATE

§ 3-701. Applicability

The provisions of this part shall apply to the financing of benefits to employees of the state and political subdivisions thereof and their instrumentalities.

§ 3-702. Payments by the state subdivisions and instrumentalities in lieu of contributions

In lieu of contributions required of employers under the Employment Security Act of 1980, as provided by this act, the State of Oklahoma and its instrumentalities shall pay each quarter beginning after March 31, 1978, including any political subdivision and its instrumentalities after December 31, 1977, one percent (1%) of taxable wages, as defined in this act, paid to employees covered by this act. Such payments made in lieu of contributions shall be paid on or before the last day of the month following the calendar quarter to be reported and shall be paid into the Unemployment Compensation Fund.

§ 3-703. Benefits and extended benefits paid from unemployment security fund

All regular benefits and extended benefits, as defined by this act, paid to individuals who were employees of the state and political subdivisions and their instrumentalities and which were based on wages paid by the state and political subdivisions and their instrumentalities shall be paid from the benefit account of the Unemployment Compensation Fund.

§ 3-704. Benefits based on wages paid both by the state and other employers

If benefits paid an individual are based on wages paid by both the state and one or more other employers subject to this act, the amount to be included as state benefit payments shall bear the same ratio to the total benefits paid to the individual as the base period wages as defined by this act, paid to the individual by the state bear to the total amount of base period wages paid to the individual by all his base period employers, as defined by this act.

§ 3-705. Election to become liable for reimbursement payments

(1) Any governmental organization, as described in Section 1-208(7) and (8) including their instrumentalities, which is or becomes subject to this act after December 31, 1977, may elect to become liable for reimbursement payments in lieu of contributions in the same manner and subject to the same provisions that apply to reimbursing nonprofit organizations as provided in Part 8 of Article 3, including formation of group accounts, and the proportionate allocation of benefit costs, applicable to reimbursing nonprofit organizations as provided in Part 8 of Article 3, except that one hundred percent (100%) of the extended benefits attributable to governmental entities will be reimbursed after January 1, 1979. In lieu of making reimbursement payments in the manner provided in Part 8 of Article 3, a governmental organization authorized to raise revenue as provided in Article X, Section 28, of the Oklahoma Constitution may elect by resolution filed with the Commission to make reimbursement payments after receipt of the notice of the full amount due that is equal to the regular benefits and extended benefits paid by the Commission during each quarter after January 1, 1978, and is attributable to service in the employ of the governmental organization.

(2) If such amount is not paid into the unemployment compensation fund by such governmental organization by the due date, the Commission may file in the office of the court clerk of the county in which the situs of the governmental organization is located a certified copy of its notice of the full amount due, regardless of any minimum, and including any interest or penalty that may be assessed.

(3) The amount so certified shall be entered on the judgment docket of the district court and shall have the same force and be subject to the same law as judgments of the district court and paid in the manner provided for payment of judgments against subdivisions of government as set forth in Sections 365.1 through 365.6 of Title 62 of the Oklahoma Statutes. The Commission is hereby authorized to sell and assign to the State Treasurer any judgments against such governmental organization as herein provided.

§ 3-706. Benefits that do not apply in the computation of state experience factor

Benefits paid to former employees of governmental entities, except for benefits paid to such employees based upon wages paid by other than governmental entities, shall not be considered as benefits for the purpose of Section 3-108, nor shall any wages of governmental entities be used as benefit wages for the purpose of Section 3-108.

§ 3-707. State pledge

The State of Oklahoma recognizes its obligation under this act and hereby pledges the faith of the state that funds which are to be dispersed by the state to any organization, instrumentality of the state or its political subdivisions will be available to insure payments required under this act.

§ 3-708. Delinquent payments

If the Commission finds that any organization, instrumentality of the state or its political subdivisions, including public trusts, has become delinquent with payments required under the act and following the Commission's written request for such payment, has for sixty (60) days or more thereafter refused or failed to pay amounts due and required under this act, the Commission shall notify the State Budget Director of such delinquency and total amount due. The Budget Director shall authorize payment of such amounts from any funds deposited with the State Treasurer, which would otherwise be due from the state to such organization, instrumentality or political subdivision.

PART 8. FINANCING BENEFITS TO EMPLOYEES OF NONPROFIT ORGANIZATIONS

§ 3-801. Applicability

Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this part. For the purpose of this part, a nonprofit organization is an organization or group of organizations defined in paragraph (4) of Section 1-210 of this title.

§ 3-802. Contributions

Any such nonprofit organization which is, or becomes, subject to this act, on or after January 1, 1972, shall report and pay contributions to the Commission in the same time, manner and amounts as required of nongovernmental employers for profit subject to this act subject, except as herein provided, to the same rights, remedies, obligations and penalties as a nongovernmental employer for profit.

§ 3-803. Election to make payments in lieu of contributions

A nonprofit organization may elect, in accordance with this section, in lieu of contributions, to pay to the Commission for the Unemployment Compensation Fund an amount equal to the amount of regular benefits and of one-half (½) of the extended benefits paid in accordance with this act that is attributable to service in the employ of such nonprofit organization for

weeks of unemployment which begin during the effective period of such election, regardless of reason for separation.

§ 3-804. Period of election—Organizations subject to act after January 1, 1972

Any nonprofit organization which becomes subject to this act on or after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of the calendar year in which subjectivity occurs and the next two (2) succeeding calendar years by filing a written notice of its election with the Commission not later than thirty (30) days immediately following the date of the determination of such subjectivity.

§ 3-805. Written notice of termination of election required

Any nonprofit organization which makes an election in accordance with Section 3-804 of this act will continue to be liable for payments in lieu of contributions until it files with the Commission a written notice terminating its election not later than the last day of January immediately following the beginning of the calendar year for which such termination shall first be effective. After such termination such employer shall be treated as a newly subject nongovernmental employer for profit under the Oklahoma Employment Security Act for purposes of determining such organization's contribution rate.

§ 3-806. Payment of in-lieu contributions

A. At the end of each calendar quarter the Oklahoma Employment Security Commission shall notify in writing each nonprofit organization, or the agent of a group of nonprofit organizations, which has elected to make payments in lieu of contributions, the amount, if any, equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid by the Commission during the quarter that is attributable to service in the employ of the organization or the members of a group of the organizations. The full amount shall include all amounts paid as benefits that are attributable to base period wages paid by the organization, including any benefit amounts paid in error. The notification shall be deemed and treated as an assessment of contributions and the payment of the amount owing shall be collected as contributions, interest, penalty and fees, if any, are collected, in accordance with the provisions of the Employment Security Act of 1980. The employer, or group of employers, shall have the rights and remedies provided by the Employment Security Act of 1980 with respect to assessments of contributions, including the right of protest, hearing and appeal. The Commission shall make its assessment or amend its assessment within three (3) years of the ending date of the calendar quarter to which the assessment or amendment applies. If no protest is filed or if filed and confirmed by the Commission or its authorized representatives, said assessment shall be immediately due and payable and shall bear interest after forty-five (45) days at the rate of one percent (1%) per month until paid. If any nonprofit organization or group of organizations fails or refuses to pay said assessment after same has become delinquent within forty-five (45) days after written request has been mailed to the organization or the agent of the group by the Commission or its representative, a penalty of five percent

(5%) of the amount due shall be added thereto, collected and paid. In the case of group accounts, assessments and penalty and interest provided in this subsection may be prorated in accordance with Section 3-809 of this title. All collections made shall be deposited in the Unemployment Compensation Fund.
B. The electing organization, or group of organizations, shall file reports of wages paid, in the same time and manner as required of nongovernmental employers for profit. If any electing organization, or group of organizations, fails or refuses to file its wage report within fifteen (15) days after written notice a penalty of Ten Dollars ($10.00) for each day until the report is filed with a maximum of One Hundred Dollars ($100.00) is hereby imposed against the organization or group and shall be collected and paid.
C. Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

§ 3-807. Payment of in-lieu contributions—Benefits based on wages paid by more than one employer

(1) Each employer that is liable for payments in lieu of contributions shall pay to the Commission for the fund the amount of regular benefits plus the amount of one-half (½) of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer under this act and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subsection (2) or subsection (3) of this section.
(2) If benefits paid to an individual are based on wages paid by one or more employers that are liable for contributions under this act, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages, as defined by this act, paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers, as defined by this act.
(3) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.
(4) Amounts paid that are to be reimbursed under this section shall not be considered as benefits for the purposes of this act, nor shall any benefit wages be created under this act by such payments.

§ 3-808. Election to become reimbursing employer

Any nonprofit organization which had been liable for paying contributions for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the

Commission not later than the last day of January immediately following the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.

§ 3-809. Repealed

§ 3-810. Commission to provide notice of determinations

The Commission, in accordance with such rules as it may prescribe, shall notify each nonprofit organization, or group of organizations, of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of this act.

ARTICLE 4 – ADMINISTRATION
PART 1 – COMMISSION

§ 4-101. Applicability
This part shall apply to the Oklahoma Employment Security Commission.

§ 4-102. Composition
There is hereby created a Commission to be known as the Oklahoma Employment Security Commission. The Commission shall consist of five (5) members, appointed by the Governor, by and with the consent of the Oklahoma State Senate, two of whom shall represent employers, two shall represent employees, and one shall represent the public. The representative of the public shall be the Chairman of the Commission. New appointments shall be made within ninety (90) days after any vacancy occurs in the membership.

§ 4-103. Qualifications
Each member of such Commission shall be a citizen of the United States, and at the time of appointment shall be, and for more than five (5) years shall have been, a bona fide resident and qualified voter of the State of Oklahoma, and shall be not less than thirty (30) years of age at the time of appointment.

During his term of membership on the Commission, no member shall serve as an officer or committee member of any political party organization.

§ 4-104. Term of office
Each member shall hold office for a term of six (6) years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of enactment of this act shall expire, as designated by the Governor at the time of appointment, two at the end of two (2) years, one a representative of employers, and one a representative of employees; two at the end of four (4) years, one a representative of employers, one a representative of employees; and one, the representative of the public, at the end of six (6) years after the date of enactment of this act. The members of the Commission who are serving at the time this bill is enacted shall continue to serve for the remainders of their respective terms without interruption by reason of this enactment.

§ 4-105. Removal by the Governor
The Governor may, at any time, after notice and hearing, remove any Commissioner for cause, and such Commissioner sought to be thus removed shall, if he so desires, be given a copy of the charges brought against him, and be given an opportunity of being publicly heard in person, or by counsel, upon not less than ten (10) days' notice. Such hearing shall be had before the Governor of the State of Oklahoma. If such Commissioner be removed, the Governor shall file

in the office of the Secretary of State a complete statement of all charges made against such Commissioner, and a complete record of the Governor's proceedings and his findings thereon.

§ 4-106. Repealed

§ 4-106.1. Compensation and travel expenses

In addition to reimbursement for travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes, each Commissioner shall receive Fifty Dollars ($50.00) for each Commission meeting attended, not to exceed Six Hundred Dollars ($600.00) per annum.

§ 4-107. Quorum

Any three Commissioners shall constitute a quorum. No vacancy shall impair the right of the remaining Commissioners to exercise all of the powers of the Commission.

§ 4-108. Executive Director

A. The chief executive officer of the Commission shall be the Executive Director who shall be appointed by and serve at the pleasure of the Commission. The Executive Director shall have such compensation and further duties as the Commission may establish. The Executive Director may appoint in the unclassified service a Deputy Director and an Associate Director, and shall fix the qualifications and duties of such position. The Executive Director may also appoint in the unclassified service secretaries to the Executive Director, Deputy Director, and Associate Director.

B. If a person has acquired grade, rank and career status under the merit system of personnel administration within the Oklahoma Employment Security Commission before being appointed as Executive Director, Deputy Director, Associate Director, or unclassified secretary, that person shall:

1. Upon termination from the unclassified position, have the right to be reinstated to the position within the Oklahoma Employment Security Commission which was held prior to such appointment, or to an equivalent position, unless the person was terminated for a reason that would justify termination of a classified employee or disqualify the person for reinstatement under the Oklahoma Personnel Act or the rules implementing it; and
2. Be entitled during the unclassified appointment to continue to participate without interruption in any fringe benefit programs available to career employees including, but not limited to, retirement and insurance programs.

§ 4-109. Service of process

If the Oklahoma Employment Security Commission is sued, or if its officers or employees are sued in their official capacities, the service of all legal process pursuant to Section 2004 of Title 12 of the Oklahoma Statutes and of all extrajudicial notices which may be required in writing shall be made on the Executive Director at the official office of the Commission as set out in

Administrative Rule 240:1-1-5. This section shall not apply to appeals brought under Article 2, Part 6 and Article 3, Part 4 of the Employment Security Act of 1980. Service of process in Article 2, Part 6 and Article 3, Part 4, shall be made pursuant to the procedures set out by the statutes in those parts and the administrative rules implementing those statutes. This section shall not be construed to waive any immunity created by constitution or statute that applies to the Oklahoma Employment Security Commission, its officers or employees or this state.

PART 2 – BOARD OF REVIEW

§ 4-201. Applicability

This part shall apply to the creation, appointment, salary and qualifications of the Board of Review.

§ 4-202. Creation

There shall be created at such time as is necessary for the proper administration of this act a Board of Review, consisting of three (3) members appointed by the Governor for terms of six (6) years, except that the terms of the members first taking office shall be two (2), four (4) and six (6) years, respectively, as designated by the Governor at the time of appointment, and except that vacancies shall be filled by appointment by the Governor for the unexpired term.

§ 4-203. Salary

Each member of the Board of Review shall be paid from the Employment Security Administration Fund a salary of Thirty Thousand Dollars ($30,000.00) per annum, payable biweekly, plus actual and necessary traveling expenses incurred in the performance of his or her duties as provided in the State Travel Reimbursement Act.

§ 4-204. No member to serve as an officer in a political organization

No member of the Board of Review shall serve as an officer or committee member of any political party organization during his term of office.

§ 4-205. Temporary members

In the event of the disqualification of two or more members of the Board of Review from the hearing and determination on a claim for benefits, the Governor shall designate by appointment temporary members to serve as alternate members, such alternates to be paid traveling expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act. The Governor may at any time, after notice and hearing, remove any member for cause.

PART 3 – POWERS AND DUTIES OF COMMISSION

§ 4-301. Applicability

This part shall apply to the powers and duties of the Commission.

§ 4-302. Commission shall publish rules and other material

It shall be the duty of the Commission to administer this act; and it shall have the power and authority to adopt, amend, or rescind such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and to take such other action as it deems necessary or suitable to that end.

§ 4-303. Repealed

§ 4-304. Commission to determine its own organization and procedure

The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this act.

§ 4-305. Official seal

The Commission shall have an official seal which shall be judicially noticed.

§ 4-306. Report to Governor

Not later than the fifteenth day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as the Commission shall deem proper. Such report shall include a balance sheet of the monies in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period.

§ 4-307. Changes in benefits or contribution rates

Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor, who may make to the Legislature recommendations with respect thereto.

§§ 4-308 to 4-310. Repealed

§ 4-310.1. Adoption and promulgation of rules

The adoption and promulgation of all rules by the Oklahoma Employment Security Commission shall be in accordance with the procedures set forth in Article I of the Administrative Procedures Act.

§ 4-311. Commission shall publish rules

The Oklahoma Employment Security Commission shall cause to be printed for distribution to the public the text of this act, the Commission's rules, its annual reports to the Governor, and

any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

§ 4-312. Personnel and compensation

Subject to other provisions of this act, the Oklahoma Employment Security Commission is authorized to appoint, fix the compensation and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this act. The Commission may delegate to any such persons such power and authority as it deems reasonable and proper for the effective administration of this act, and may in its discretion bond any person handling moneys or signing checks hereunder. The Commission is authorized and directed to maintain the existing merit system covering all persons employed in the administration of this act and shall have authority, by rule, to provide for all matters which are appropriate to the establishment and maintenance of such system on the basis of efficiency and fitness. The Commission is authorized to adopt such rules as may be necessary to meet personnel standards promulgated by the Office of Management and Enterprise Services pursuant to the Social Security Act, as amended, and the Act of Congress entitled "An Act to provide for the establishment of a national employment system, and for other purposes", approved June 6, 1933, as amended, and to provide for the maintenance of the merit system required under this section in conjunction with any merit system applicable to any other state agency or agencies which meets the personnel standards promulgated by the Office of Management and Enterprise Services.

§ 4-313. Commission to cooperate and comply with federal law

In the administration of this act the Oklahoma Employment Security Commission shall cooperate to the fullest extent consistent with the provisions of this act, with the Social Security Act, as amended, and is authorized and directed to take such action, through the adoption of appropriate rules, administrative methods and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of such act, under the provisions of Sections 1602 and 1603 of the Federal Unemployment Tax Act and under the provisions of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with States in the promotion of such system, and for other purposes", approved June 6, 1933, as amended. The Commission shall comply with the regulations of the Secretary of Labor relating to the receipt or expenditure by this state of monies granted under any of such acts and shall make such reports, in such form and containing such information as the Secretary of Labor may from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports.

The Commission may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

§ 4-314. Repealed

§ 4-315. Repealed

§ 4-316. Purchase of real property

If the Commission determines, to its satisfaction, that suitable quarters, office space or facilities are not readily obtainable, the Commission may enter into an agreement with the board of county commissioners of any county, with any state agency or public trust, or with any private person or entity, for the purchase of real property and any improvements or buildings thereon, for the purpose of providing office space to the Commission. The Commission shall not enter into any agreement under the provisions of this section unless one hundred percent (100%) federal financial participation is obtainable. All such agreements shall contain provisions regarding the financial participation therein by the parties to the agreement, the payments made for the purchase of such property, and the ownership of such real property, improvements and buildings thereon after payment of the cost of construction or renovation has been completed. All such provisions shall be consistent with the requirements necessary for the Commission to obtain or receive federal funds for such purpose. No purchase of any building shall occur without approval of the Legislature.

§ 4-317. Employee recognition program

In order to establish a public employee benefit program to encourage outstanding performance in the workplace, the Oklahoma Employment Security Commission is hereby directed to establish an on-the-job employee performance recognition program which encourages outstanding job performance and productivity. The Commission is authorized to expend from monies available to it so much thereof as may be necessary for the purchase of recognition awards for presentation to the members of work units or individual employees with exceptional job performance records or for other significant contributions to the operation of the Commission. Recognition awards shall consist of any type of award authorized by the provisions of Section 4121 of Title 74 of the Oklahoma Statutes.

§ 4-318. Employee performance recognition program—Veterans service division

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

1. A disabled veterans' outreach program specialist;
2. A local veterans employment representative; or
3. An individual providing employment, training and placement services to veterans under the workforce system programs or through an Employment Service delivery system.

§ 4-319. Recognition programs

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

PART 4 – ADVISORY COUNCIL [REPEALED]

§§ 4-401 to 4-405. Repealed

PART 5 – MAINTENANCE AND PRODUCTION OF WORK RECORDS

§ 4-501. Applicability

This part shall apply to the maintenance and production of work records by employers.

§ 4-502. Employing units to maintain records open to Commission

Each employing unit shall keep true and accurate work records, for such periods of time and containing such information as the Commission may prescribe. Such records shall be maintained for a period of four (4) years and shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time.

§ 4-503. Sworn or unsworn reports

The Commission, its authorized representatives, or the Board of Review may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which its authorized representatives deem necessary for the effective administration of this act.

§ 4-504. Oaths, depositions, certifications of official acts and subpoenas

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

§ 4-505. Refusal to obey Commission subpoenas—Judicial orders

In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission, the Board of Review, the chairman of an appeal tribunal, or any duly-authorized representative of any of them shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, the Board of Review, the chairman of an appeal tribunal or any duly-authorized representative of any of them, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by said court as a contempt thereof.

§ 4-506. Penalties for failure to attend lawful inquiries or obey Commission subpoenas

Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in its power so to do, in obedience to a subpoena of the Commission, the Board of Review, the chairman of an appeal tribunal, or any duly-authorized representative of any of them, shall be punished by a fine of not less than Five Hundred Dollars ($500.00) or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment.

§ 4-507. Self-incrimination

No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission, the Board of Review, the chairman of an appeal tribunal, or any duly-authorized representative of any of them, or in obedience to the subpoena of any of them in any cause or proceeding before the Commission, the Board of Review, or an appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce

evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

§ 4-508. Information to be kept confidential—Disclosure

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

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

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

1. The delivery to taxpayer or claimant a copy of any report or other paper filed by the taxpayer or claimant pursuant to the Employment Security Act of 1980;
2. The disclosure of information to any person for a purpose as authorized by the taxpayer or claimant pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be notarized;
3. The Oklahoma Department of Commerce may have access to data obtained pursuant to the Employment Security Act of 1980 pursuant to rules promulgated by the Commission. The information obtained shall be held confidential by the Department and any of its agents and shall not be disclosed or be open to public inspection. The Oklahoma Department of Commerce, however, may release aggregated data, either by industry or county, provided that the aggregation meets disclosure requirements of the Commission;
4. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;
5. The disclosing of information or evidence to the Attorney General or any district attorney when the information or evidence is to be used by the officials or other parties to the proceedings to prosecute or defend allegations of violations of the Employment Security Act

of 1980. The information disclosed to the Attorney General or any district attorney shall be kept confidential by them and not be disclosed except when presented to a court in a prosecution of a violation of Section 1-101 et seq. of this title, and a violation by the Attorney General or district attorney by otherwise releasing the information shall be a felony;

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

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

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

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

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

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

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

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

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

institution may release aggregated data, provided that the aggregation meets disclosure requirements of the Commission;
15. The release to employees of the Office of Management and Enterprise Services of information required to identify economic trends. The information obtained shall be kept confidential by the Office of Management and Enterprise Services and shall not be disclosed or be open to public inspection. The Office of Management and Enterprise Services may release aggregate data, provided that the aggregation meets disclosure requirements of the Commission;
16. The release to employees of the Department of Mental Health and Substance Abuse Services of information required to evaluate the effectiveness of mental health and substance abuse treatment and state or local programs utilized to divert persons from inpatient treatment. The information obtained shall be kept confidential by the Department and shall not be disclosed or be open to public inspection. The Department of Mental Health and Substance Abuse Services, however, may release aggregated data, either by treatment facility, program or larger aggregate units, provided that the aggregation meets disclosure requirements of the Oklahoma Employment Security Commission;
17. The release to employees of the Attorney General, the Oklahoma State Bureau of Investigation, and the Insurance Department for use in the investigation of insurance fraud and health care fraud;
18. The release to employees of public housing agencies for purposes of determining eligibility pursuant to 42 U.S.C., Section 503(i);
19. The release of wage and benefit claim information, at the discretion of the Commission, to an agency of this state or its political subdivisions that operate a program or activity designated as a required partner in the Workforce Innovation and Opportunity Act One-Stop delivery system pursuant to 29 U.S.C.A., Section 3151(b)(1), based on a showing of need made to the Commission and after an agreement concerning the release of information is entered into with the entity receiving the information;
20. The release of information to the State Wage Interchange System, at the discretion of the Commission;
21. The release of information to the Bureau of the Census of the U.S. Department of Commerce for the purpose of economic and statistical research;
22. The release of employer tax information and benefit claim information to the Oklahoma Health Care Authority for use in determining eligibility for a program that will provide subsidies for health insurance premiums for qualified employers, employees, self-employed persons, and unemployed persons;
23. The release of employer tax information and benefit claim information to the State Department of Rehabilitation Services for use in assessing results and outcomes of clients served;
24. The release of information to any state or federal law enforcement authority when necessary in the investigation of any crime in which the Commission is a victim. Information that is confidential under this section shall be held confidential by the law enforcement

authority unless and until it is required for use in court in the prosecution of a defendant in a criminal prosecution;

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

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

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

28. The release of employer tax information and benefit claim information to employees of a county public defender's office in the State of Oklahoma and the Oklahoma Indigent Defense System for the purpose of determining financial eligibility for the services provided by such entities.

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

paragraph 2 of subsection C of this section shall be presented with a request for records within ninety (90) days of the date the document is issued or signed, and the document can only be used one time to obtain records.
E. Should any of the disclosures provided for in this section require more than casual or incidental staff time, the Commission shall charge the cost of the staff time to the party requesting the information.
F. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Commission.

§ 4-509. Information to be furnished to public agencies
A. Subject to such restrictions as the Oklahoma Employment Security Commission may by rule prescribe, information maintained by the Commission may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or the Internal Revenue Service of the United States Department of the Treasury, the United States Social Security Administration or the Oklahoma Tax Commission. Any information obtained in connection with the administration of the employment service may be made available to:

1. Persons or agencies for purposes appropriate to the operation of a public employment service; or
2. Any agency of this state or its political subdivisions that operate a program or activity designated as a required partner in the Workforce Innovation and Opportunity Act One-Stop delivery system pursuant to 29 U.S.C., Section 3151 (b)(1), in accordance with a written agreement entered into between the partner and the Commission.

B. Upon request, the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits pursuant to the provisions of the Employment Security Act of 1980. The Commission shall furnish to public agencies collecting debts created by food purchase assistance overissuances or administering Transitional Assistance to Needy Families (TANF) or child support programs, promptly upon request and in the most economical, effective and timely manner, information as to:

1. Whether an individual has applied for, is receiving or has received unemployment insurance and the amount;
2. The individual's current address;
3. Whether the individual has refused employment and if so a description of the job including the terms, conditions and rate of pay; and
4. Any other information that might be useful in locating any individual who may have a food purchase assistance overissuance or an obligation for support.

§ 4-510. Commission may request examination of return of national bank

The Commission may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this act, and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in Section 1606(c) of the Federal Internal Revenue Code.

§ 4-511. Communications to Commission privileged—Not subject to slander or libel

All letters, reports, communications and other matters, written or oral from employer or former employer or claimant, to the Commission or any of its agents or to any board which have been written, sent, or made in connection with the requirements and administration of this act, shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no employer or claimant or their representatives testifying before the Commission or any board provided for in this act shall be exempt from punishment for perjury.

PART 6 – EMPLOYMENT SECURITY ADMINISTRATION FUND

§ 4-601. Applicability

This part shall apply to the Employment Security Administration Fund.

§ 4-602. Fund created

There is hereby created in the State Treasury a special fund to be known as the Employment Security Administration Fund. All monies which are deposited or paid into this fund shall be continuously available to the Commission for expenditure in accordance with the provisions of this act, and shall not lapse at any time or be transferred to any other fund.

§ 4-603. Monies expended in accordance with Secretary of Labor

All monies in this fund which are received from the federal government or any agency thereof or which are appropriated by this state for the purposes described in Part 8 of this article shall be expended by the Commission solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of this act.

§ 4-604. Composition of fund

The fund shall consist of all monies appropriated by this state, all monies received from the United States of America, or any agency thereof, and all monies received from any other source for such purpose, and shall also include any monies received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from monies in such fund, and any proceeds realized from

the sale or disposition of any such equipment or supplies which may no longer be necessary for the proper administration of this act.

§ 4-605. Maintenance of administrative fund

All monies in this fund shall be deposited in a special fund in the State Treasury. Such monies shall be secured by collateral in the full amount of the funds on deposit in the same kind and manner the State Treasurer is required to secure other funds of the state on deposit.

§ 4-606. State Treasurer liable on official bond

The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Employment Security Administration Fund provided for under this act. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any surety bond for losses sustained by the Employment Security Administration Fund shall be deposited in said fund.

§ 4-607. Reimbursement of fund

This state recognizes its obligation to replace, and hereby pledges the faith of this state that funds will be provided in the future, and applied to the replacement of any monies received after July 1, 1941, from the Secretary of Labor under Title III of the Social Security Act, any unencumbered balances in the Employment Security Administration Fund as of that date, any monies thereafter granted to this state pursuant to the provisions of the Wagner-Peyser Act, and any monies made available by the state or its political subdivisions and matched by such monies granted to this state pursuant to the provisions of the Wagner-Peyser Act, which the Secretary of Labor finds have, because of any action or contingency, been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of this act. Such monies shall be promptly replaced by monies appropriated for such purpose from the general funds of this state to the Employment Security Administration Fund for expenditures as provided in this part. The Commission shall promptly report to the Governor, and the Governor to the Legislature, the amount required for such replacement. This section shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act.

§ 4-608. Reed Act distributions

A. Monies credited to the account of this state in the Unemployment Trust Fund, described in Section 3-605 of this title, by the Secretary of the Treasury of the United States pursuant to 42 U.S.C., Section 1103, may be used for the payment of unemployment benefits to qualified claimants in this state, or may be appropriated by the Legislature following the procedure set

out in 42 U.S.C., Section 1103 (c)(2), for the administration of the unemployment compensation law and public employment offices in this state.
B. Monies credited to the account of this state in the Unemployment Trust Fund, described in Section 3-605 of this title, by the Secretary of the Treasury of the United States pursuant to 42 U.S.C., Section 1103, with respect to federal fiscal years 1999, 2000, and 2001, shall be used solely for the administration of the Unemployment Compensation Program in this state.

PART 7 – RECIPROCAL ARRANGEMENTS

§ 4-701. Applicability

This part shall apply to reciprocal arrangements with agencies of other states, of the federal government, or with foreign governments.

§ 4-702. Reciprocal arrangements authorized

The Commission is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

1. Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states in which:
    a. any parts of such individual's service is performed,
    b. such individual has his residence, or
    c. the employing unit maintains a place of business,
    provided there is in effect, as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state;

2. The Commission shall cooperate with the Department of Labor of the United States to the fullest extent consistent with the provisions of this act, and shall take such action, through the adoption of appropriate rules, administrative methods and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act, 42 U.S.C., Section 301 et seq., that relate to unemployment compensation, the Federal Unemployment Tax Act, 26 U.S.C., Section 3301 et seq., the Wagner-Peyser Act, 29 U.S.C., Section 49 et seq., the Federal-State Extended Unemployment Compensation Act of 1970, 26 U.S.C., Section 3304 et seq., the Workforce Investment Act of 1998, 29 U.S.C., Section 2801 et seq., and any federal comprehensive manpower act and any other similar or related federal acts;

3. The Commission shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under said Oklahoma Employment Security Act, as amended by this act, with his wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies

as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:

a. applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and

b. avoiding the duplicate use of wage and employment by reason of such combining; and

4. Contributions due under this act with respect to wages for insured work shall for the purposes of this act be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursement to the fund of such contributions and the actual earnings thereon as the Commission finds will be fair and reasonable as to all affected interests.

§ 4-703. Reimbursements to be deemed benefits

Reimbursements paid from the fund pursuant to subsection (3) of Section 4-702 of this act shall be deemed to be benefits for the purpose of this act. The Commission is authorized to make to other state or federal agencies and to receive from such other state or federal agencies reimbursements from or to the fund in accordance with arrangements entered into pursuant to Section 4-702 of this act.

§ 4-704. Cooperation authorized

The administration of this act and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this state and such other states and the appropriate federal agencies in exchanging services, and making available facilities and information. The Commission is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this act as it deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law, and, in like manner, to accept and utilize information, services and facilities made available to this state by the agency charged with the administration of any such other unemployment compensation or public employment service law.

§ 4-705. Cooperative arrangements with foreign governments

To the extent permissible under the laws and Constitution of the United States, the Commission is authorized to enter into or cooperate in arrangements whereby facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under the employment security law of this state or under a similar law of such government.

PART 8 – OKLAHOMA STATE EMPLOYMENT SERVICE

§ 4-801. Applicability

This part applies to the Oklahoma State Employment Service.

§ 4-802. Establishment

The Oklahoma State Employment Service is hereby established in the Employment Security Division of the Commission. The Commission, in the conduct of such service, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act and for the purposes of performing such functions as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933, (48 Stat. 113; U.S.C., title 29, Section 49(c)) as amended, hereinafter referred to as the "Wagner-Peyser Act." The provisions of the said Act of Congress are hereby accepted by this state, and the Commission is hereby designated and constituted the agency of this state for the purposes of said act.

§ 4-803. Monies to be paid into the Employment Security Administration Fund

All monies received by this state under the Wagner-Peyser Act shall be paid into the Employment Security Administration Fund and shall be expended solely for the maintenance of the state system of public employment offices.

§ 4-804. Cooperative agreements

For the purpose of establishing and maintaining free public employment offices, and promoting the use of their facilities, the Commission is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States, or of this or any other state, charged with the administration of any law whose purposes are reasonably related to the purposes of this act, and as a part of such agreements may accept monies, services or quarters as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed. All monies received for such purposes shall be paid into the Employment Security Administration Fund.

PART 9. OKLAHOMA EMPLOYMENT SECURITY COMMISSION REVOLVING FUND

§ 4-901. Oklahoma Employment Security Commission Revolving Fund

There is hereby created in the State Treasury a revolving fund for the Oklahoma Employment Security Commission, to be designated the "Oklahoma Employment Security Commission Revolving Fund". The revolving fund shall consist of all penalties and interest received by the Oklahoma Employment Security Commission. Said revolving fund shall be a continuing fund, not subject to fiscal year limitations and shall not be subject to legislative appropriation. Expenditures from said revolving fund shall be made pursuant to the laws of this state and the

statutes relating to the Oklahoma Employment Security Commission and shall be for administration expenses of the Oklahoma Employment Security Commission and for any other purpose which the Legislature directs. Warrants for expenditures from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Oklahoma Employment Security Commission and approved for payment by the Director of the Office of Management and Enterprise Services.

ARTICLE 5 – PENALTIES AND REPRESENTATION
PART 1 – PENALTIES

§ 5-101. Applicability
This part applies to penalties for violations of this act.

§ 5-102. False statement for benefits, failure to disclose material fact
A. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act or under the unemployment compensation law of any state or of the federal government, either for the individual or for any other person, shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense for each week of benefits.
B. If a person is convicted of the crime described in subsection A of this section in a particular benefit year, and in any subsequent benefit year that person again commits the crime described in subsection A of this section, that person shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than one hundred eighty (180) days, or by both fine and imprisonment. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense for each week of benefits.
C. Upon conviction sentences may be suspended or upon a plea of guilty judgment and sentencing may be deferred only upon the condition of full restitution to the Commission of all benefits so obtained or the excess of any benefits so increased.

§ 5-103. Violations by employers
Any employer or any officer or agent of an employer or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this act or under the unemployment compensation law of any state or of the federal government, or who willfully fails or refuses to make or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not longer than ninety (90) days, or by both fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

§ 5-104. Violations of act, and regulations for which no specific penalty is otherwise provided

Any person who shall willfully violate any provision of this act or any order, rule, or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this act, and for which a penalty is neither prescribed in this act nor provided by any other applicable statute, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not longer than ninety (90) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

§§ 5-105 & 5-106. Repealed

§ 5-107. Wrongful disclosure of information

If any employee or member of the Board of Review or the Commission or any employee of the Commission, in violation of Section 4-508, makes any disclosure of information obtained from any employing unit or individual in the administration of this act, or if any person who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this act shall use or permit the use of such list for any political purpose, he shall be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or imprisoned for not longer than ninety (90) days, or both.

§ 5-108. Other penalties in this act

Other penalties are provided in the following sections of this title:
Employer violations of employee rights—Section 2-301
Impermissible charges to claimants—Section 2-302
Disqualification of benefit claims for fraud—Section 2-402
Recovery of benefits paid upon false statement—Section 2-613
SUTA dumping prohibition—Section 3-111.1
Fraud overpayment penalty—Section 2-613

PART 2 – REPRESENTATION

§ 5-201. Applicability

The provisions of this part apply to representation in court in civil or criminal actions of this act.

§ 5-202. Civil actions

In any civil action to enforce the provisions of this act the Commission, the Board of Review, and the state may be represented by any qualified attorney who is employed by the Commission and is designated by it for this purpose, or at the Commission's request by the

Attorney General, or if the action is brought in the courts of any other state by any attorney qualified to appear in the courts of that state.

§ 5-203. Criminal actions

All criminal actions for violation of any provisions of this act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the Attorney General of the state, or by the prosecuting attorney of any county in which the employing unit has a place of business or the violator resides.

ARTICLE 6 – OESC COMPUTER FUND

§ 6-101. OESC Computer Fund

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Employment Security Commission to be designated the "OESC Computer Fund". The OESC Computer Fund shall be separate and distinct from the Unemployment Compensation Fund and shall consist of:

1. All monies received from employers and paid pursuant to Section 6-104 of this title;
2. All other sums, from whatever source, received by the Commission and paid into the OESC Computer Fund; and
3. Property and securities acquired by and through the use of monies in the OESC Computer Fund.

B. The OESC Computer Fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of the OESC Computer Fund are hereby appropriated and may be budgeted and expended for the purposes set forth in Section 6-102 of this title. Expenditures from the OESC Computer Fund shall be made upon warrants issued by the State Treasurer against claims filed, as prescribed by law, with the Director of the Office of Management and Enterprise Services for approval and payment.

§ 6-102. Expenditures from fund

A. The monies in the OESC Computer Fund shall be used for the following purposes:

1. To purchase or lease a new computer system for the Oklahoma Employment Security Commission to be used in its mission to provide an employment service, unemployment insurance, and economic research for the citizens of this state as well as the administration of these programs;
2. To purchase or lease any auxiliary or peripheral equipment necessary for the operation of the new computer system;
3. To purchase or lease any and all software needed for the operation of the new computer system;
4. To pay for all computer programming and analysis necessary to make the new computer system operational;
5. To pay for all designing, engineering, planning, networking, and training to make the new computer system operational;
6. To pay for all shipping and installation charges for the computer system and its auxiliary and peripheral equipment; and
7. To make refunds of contributions erroneously collected and deposited in the OESC Computer Fund.

B. If any money remains in this fund after the new computer system has been brought on line and made fully operational, that excess money shall be transferred to the Unemployment Compensation Fund.

C. If the Commission receives a grant from the United States Department of Labor to be used to make the Commission's computer system compliant with the year 2000, or if the Commission

receives a grant from the United States Department of Labor to upgrade or modify its Interactive Voice Response System (IVRS), then the Commission will, upon receipt of the federal grant money, deduct an equal amount of money from the OESC Computer Fund and transfer it to the Unemployment Compensation Fund.

§ 6-103. Custodian and treasurer of fund

A. The State Treasurer shall be the custodian and treasurer of the OESC Computer Fund.

B. The State Treasurer shall deposit the monies belonging to the OESC Computer Fund, that are in his or her custody, subject to the provisions of Section 7 of this act.

C. The State Treasurer, as custodian of the OESC Computer Fund, shall hold, invest, transfer, sell, deposit, and release those monies, properties, or securities in a manner approved by the Oklahoma Employment Security Commission. Provided, however, that those monies shall be invested in the classes of securities legal for investment of public monies of this state. Provided further, the investment shall at all times be so made that all assets of the OESC Computer Fund shall always be readily convertible into cash when needed for any expenditure authorized in Section 5 of this act.

§ 6-104. Computer fund assessments

A. 1. For the period from July 1, 1997, to June 30, 1998, each employer subject to the provisions of Sections 3-103, 3-109 and 3-110 of Title 40 of the Oklahoma Statutes shall be required to pay an OESC Computer Fund assessment equal to fifty percent (50%) of the unemployment contributions that would be owed to the Oklahoma Employment Security Commission before any rate reduction is made pursuant to Section 3 of this act. This assessment shall be in addition to any contribution which that employer is required to make pursuant to the provisions of the Employment Security Act of 1980.

2. The assessment provided for in this section shall not be considered part of any contribution required of an individual employer pursuant to the Employment Security Act of 1980, nor shall it be considered for purposes of determining the individual employer's contribution rate.

B. Employers assigned a tax rate pursuant to Sections 3-103 and 3-110 of Title 40 of the Oklahoma Statutes shall pay an OESC Computer Fund assessment equal to the rate reduction granted them pursuant to Section 3 of this act.

C. Employers who qualify for an earned rate calculated pursuant to Section 3-109 of Title 40 of the Oklahoma Statutes, and are given a rate of five and one-half percent (5.5%), shall be exempt from the provisions of this section.

D. Employers making payments in lieu of contributions pursuant to Sections 3-702, 3-705 and 3-806 of Title 40 of the Oklahoma Statutes shall be exempt from the provisions of this section.

E. The assessment shall be made and collected by the Oklahoma Employment Security Commission for deposit, on a quarterly basis, to the credit of the OESC Computer Fund. Provided, all monies received by the Oklahoma Employment Security Commission for the

account of the OESC Computer Fund, upon receipt, shall be deposited in a clearance account in a financial institution located in this state.
F. Once the sum of Twenty Million Dollars ($20,000,000.00) is collected through this assessment, any amount of money collected through this assessment in excess of Twenty Million Dollars ($20,000,000.00) shall be transferred to the Unemployment Compensation Fund.
G. The Oklahoma Employment Security Commission shall promulgate such rules as may be necessary to implement the provisions of Sections 3 through 7 of this act.

§ 6-201. OESC technology fund
A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Employment Security Commission to be designated the "OESC Technology Fund". The OESC Technology Fund shall be separate and distinct from the Unemployment Compensation Fund and shall consist of:

1. All monies received from employers and paid pursuant to Section 6-204 of this title; and
2. Financial instruments, certificates of deposit, bonds and securities acquired by and through the use of monies in the OESC Technology Fund.

B. The OESC Technology Fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of the OESC Technology Fund are hereby appropriated and shall be budgeted and expended solely for the purposes of modernizing the business processes and technology of the Oklahoma Employment Security Commission as set forth in Section 6-202 of this title. Expenditures from the OESC Technology Fund shall be made upon warrants issued by the State Treasurer against claims filed, as prescribed by law, with the Director of the Office of Management and Enterprise Services for approval and payment.

§ 6-202. Expenditures from fund
A. The monies in the OESC Technology Fund shall be used for the following purposes:

1. To purchase or lease new technology systems hardware for the Oklahoma Employment Security Commission to be used in its mission to provide employment services, unemployment insurance and economic research for the citizens of this state as well as the administration of these programs;
2. To purchase or lease any auxiliary or peripheral equipment necessary for the operation of the new technology systems;
3. To pay for the maintenance of all OESC technology system hardware;
4. To purchase or lease any and all software needed for the operation of the new technology systems;
5. To pay for all OESC technology system software license fees;
6. To pay for all programming and analysis necessary to make the new technology system operational;
7. To pay for all testing, designing, engineering, planning, networking and training to make the new technology system operational;

8. To pay for all shipping and installation charges for the technology system and its auxiliary and peripheral equipment;
9. To contract with vendors and hire personnel as necessary to accomplish the modernization effort;
10. To analyze business processes and develop requirements for Requests for Proposals;
11. To fund project planning, project management, strategy development and project consulting services; and
12. To make refunds of money erroneously collected and deposited in the OESC Technology Fund.

B. The total expenditures from the OESC Technology Fund shall not exceed Thirty-nine Million Dollars ($39,000,000.00) between January 1, 2018, and December 31, 2022, without legislative authority. Prior to expenditures authorized by paragraphs 1, 4, 6, 7, 9, 10 and 11 of subsection A of this section, the Chief Information Officer of the Office of Management and Enterprise Services shall be consulted for recommendations. The Office of Management and Enterprise Services shall provide periodic oversight of the technology modernization efforts and may assist the Oklahoma Employment Security Commission in any manner necessary to accomplish the purposes of this fund, including requiring the Oklahoma Employment Security Commission provide regular reports to the Office of Management and Enterprise Services on the technology modernization efforts.

C. If any money remains in this fund after the new technology system has been brought online and made fully operational, that excess money shall be transferred to the Unemployment Compensation Fund.

§ 6-203. Custodian and treasurer of fund

A. The State Treasurer shall be the custodian and treasurer of the OESC Technology Fund.

B. The State Treasurer shall deposit the monies belonging to the OESC Technology Fund that are in his or her custody subject to the provisions of Section 6-204 of this title.

C. The State Treasurer, as custodian of the OESC Technology Fund, shall hold, invest, transfer, sell, deposit and release those monies, properties or securities in a manner approved by the Oklahoma Employment Security Commission. Provided, however, that those monies shall be invested in the classes of securities legal for investment of public monies of this state. Provided further, the investment shall at all times be so made that all assets of the OESC Technology Fund shall always be readily convertible into cash when needed for any expenditure authorized in Section 6-202 of this title.

§ 6-204. Technology reinvestment apportionment

A. 1. For the period from January 1, 2018, to December 31, 2022, each employer subject to the provisions of Sections 3-109, 3-110.1 and 3-113 of Title 40 of the Oklahoma Statutes shall be required to pay an OESC Technology Reinvestment Apportionment equal to five percent (5%) of the unemployment taxes that would be owed to the Oklahoma Employment Security Commission before any rate reduction is made pursuant to Section 3-109.3 of this

title. This apportionment shall be in addition to any contribution which that employer is required to make pursuant to the provisions of the Employment Security Act of 1980.

2. The apportionment provided for in this section shall not be considered part of any unemployment taxes required of an individual employer pursuant to the Employment Security Act of 1980, nor shall it be considered for purposes of determining the individual employer's tax rate.

B. Employers assigned a tax rate pursuant to Section 3-110.1 of Title 40 of the Oklahoma Statutes shall pay an OESC Technology Reinvestment Apportionment equal to the rate reduction granted them pursuant to Section 3-109.3 of this title.

C. Employers who qualify for an earned tax rate calculated pursuant to Section 3-109 of this title, and are given the highest tax rate in the rate table for the given year, shall be exempt from the provisions of this section.

D. Employers making payments in lieu of contributions pursuant to Sections 3-702, 3-705 and 3-806 of this title shall be exempt from the provisions of this section.

E. The apportionment shall be made and collected by the Oklahoma Employment Security Commission for deposit, on a monthly basis, to the credit of the OESC Technology Fund. Provided, all monies received by the Oklahoma Employment Security Commission for the account of the OESC Technology Fund, upon receipt, shall be deposited in a clearance account.

F. The Oklahoma Employment Security Commission shall promulgate such rules as may be necessary to implement the provisions of Sections 3-109.3 and 6-201 to 6-205 of this title.

G. The Oklahoma Employment Security Commission shall create an annual report detailing the collection of the apportionment funds and the expenditures from the OESC Technology Fund. The report shall be filed on or before March 31 of each year following the effective date of this act, and shall continue until all money in the OESC Technology Fund is expended or transferred pursuant to subsection C of Section 6-202 of this title. The report shall be filed with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the State Treasurer, the State Auditor and Inspector, and the Director of the Office of Management and Enterprise Services.

§ 6-205. Technology fund balance

The balance of the OESC Technology Fund on July 1 of any given year shall be used in the calculation of conditional factors pursuant to Section 3-113 of Title 40 of the Oklahoma Statutes as long as the OESC Technology Fund has a balance greater than zero. The calculation shall be conducted in the following manner: The balance of the OESC Technology Fund as of July 1 of any given year shall be aggregated with the balance of the Unemployment Compensation Fund as of July 1 of the same year, with the resulting sum to be used in the calculation of the conditional factors as set out in Section 3-113 of Title 40 of the Oklahoma Statutes. The aggregate of the two fund balances shall only be for the purpose of the calculation and in no way shall balances in these two funds be commingled.

Article 7 – Reserved

Article 8 – Reserved

ARTICLE 9 – EFECTIVE DATE, REPEALER, TRANSITIONAL PROVISIONS AND EMERGENCY

§ 9-101. Effective date

(1) Except as otherwise provided in this article, this act becomes effective on July 1, 1980.
(2) Article 4 on administration takes effect upon enactment of this act.
(3) Part 6 of Article 2 on appeals takes effect on October 1, 1980; provided however, the Oklahoma Employment Security Commission may by resolution provide that Part 6 of Article 2 on appeals becomes effective at an earlier date than October 1, 1980, if the Commission by resolution adopts an earlier date.

§ 9-102. Repeal

The Oklahoma Employment Security Act, 40 O.S.1971, Sections 211 through 238.1, both inclusive, as amended, is hereby repealed subject to the provisions of Section 9-103, except that 40 O.S.1971, Section 226(a) and (b) are not repealed.

§ 9-103. Transitional provisions

(1) Notwithstanding the repeal of the Oklahoma Employment Security Act by Section 9-102 of this title, all liabilities accruing thereunder, including both civil and criminal liabilities, including but not limited to liabilities for contributions, liabilities for refunds, liabilities for repayment and liabilities for interest and penalties, shall not be extinguished by the repeal of the Oklahoma Employment Security Act and such liabilities shall be liabilities under this act and shall be administered and enforced as liabilities under this act.
(2) Unemployment experience, wage records and contribution records under the Oklahoma Employment Security Act, 40 O.S. 1971, Section 211 through Section 238.1, both inclusive, as amended, shall be deemed and shall constitute the same things under this act unless and except this act expressly provides otherwise.

§ 9-104. Emergency

It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

CHAPTER 15 – STANDARDS FOR WORKPLACE DRUG AND ALCOHOL TESTING ACT

§ 551. Short title

Sections 551 through 563 of this title shall be known and may be cited as the "Standards for Workplace Drug and Alcohol Testing Act".

§ 552. Definitions

As used in the Standards for Workplace Drug and Alcohol Testing Act:

1. "Alcohol" means ethyl alcohol or ethanol;
2. "Applicant" means a person who has applied for a position with an employer and received a conditional offer of employment;
3. "Board" means the State Board of Health;
4. "Confirmation test" means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the same sample and which uses different chemical principles and is of equal or greater accuracy than the prior drug or alcohol test. Where a breathalyzer test is utilized, a confirmation test means a second sample test that confirms the prior result. Where a single-use test is utilized, a confirmation test means a second test confirmed by a testing facility;
5. "Department" means the State Department of Health;
6. "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed herein;
7. "Drug or alcohol test" means a chemical test administered for the purpose of determining the presence or absence of a drug or its metabolites or alcohol in a person's bodily tissue, fluids or products. Adulteration of a specimen or of a drug or alcohol test shall be considered as a refusal to test;
8. "Employee" means any person who supplies labor for remuneration to his or her employer in this state and shall not include an independent contractor, subcontractor or employees of an independent contractor; provided, however, an independent contractor, subcontractor, or employees of an independent contractor, may be subject to a workplace drug or alcohol testing policy under the terms of the contractual agreement when the drug or alcohol testing policy applies to other workers at the job site or workers who are in the same or similar classification or group;
9. "Employer" means any person, firm, corporation, partnership, association, nonprofit organization or public employer, which has one or more employees within this state, or which has offered or may offer employment to one or more individuals in this state;
10. "Public employer" means the State of Oklahoma or any political subdivision thereof, including any department, agency, board, commission, institution, authority, public trust, municipality, county, district or instrumentalities thereof;
11. "Review officer" means a person, qualified by the State Board of Health, who is responsible for receiving results from a testing facility which have been generated by an employer's drug or alcohol

testing program, and who has knowledge and training to interpret and evaluate an individual's test results together with the individual's medical history and any other relevant information;
12. "Sample" means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body; and
13. "Testing facility" means a facility which provides laboratory services to test samples for the presence of drugs or alcohol.

§ 553. Construction of act

A. The Standards for Workplace Drug and Alcohol Testing Act shall not be construed as requiring or encouraging employers to conduct drug or alcohol testing.
B. Except as provided in subsection C of this section, employers who choose to conduct drug or alcohol testing of job applicants or persons employed in this state shall be governed by the provisions of this act and the rules promulgated pursuant thereto.
C. Drug or alcohol testing required by and conducted pursuant to federal law or regulation shall be exempt from the provisions of the Standards for Workplace Drug and Alcohol Testing Act and the rules promulgated pursuant thereto.
D. This act shall not be construed as preventing the negotiation of collective bargaining agreements that provide greater protection to employees or applicants than is provided by this act.

§ 554. Drug or alcohol testing by employers—Restrictions

Employers may conduct drug and alcohol testing in accordance with the Standards for Workplace Drug and Alcohol Testing Act. Employers who choose to conduct drug or alcohol testing may only request or require an applicant or employee to undergo testing under any of the following circumstances:
1. Applicant and transfer/reassignment testing: A public or private employer may request or require an applicant to undergo drug or alcohol testing and may use a refusal to undergo testing or a positive test result as a basis for refusal to hire. A public or private employer may also request or require an employee who transfers to a different position or job, or who is reassigned to a different position or job, to undergo drug or alcohol testing;
2. For-cause testing: A public or private employer may request or require an employee to undergo drug or alcohol testing at any time it reasonably believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:
   a. drugs or alcohol on or about the employee's person or in the employee's vicinity,
   b. conduct on the employee's part that suggests impairment or influence of drugs or alcohol,
   c. a report of drug or alcohol use while at work or on duty,
   d. information that an employee has tampered with drug or alcohol testing at any time,
   e. negative performance patterns, or
   f. excessive or unexplained absenteeism or tardiness;
3. Post-accident testing: A public or private employer may require an employee to undergo drug or alcohol testing if the employee or another person has sustained an injury while at work or property has

been damaged while at work, including damage to equipment. For purposes of workers' compensation, no employee who tests positive for the presence of substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or illegally used chemicals, or refuses to take a drug or alcohol test required by the employer, shall be eligible for such compensation;

4. Random testing: A public or private employer may request or require an employee or all members of an employment classification or group to undergo drug or alcohol testing at random and may limit its random testing programs to particular employment classifications or groups, except that a public employer may require random testing only of employees who:

a. are police or peace officers,
b. have drug interdiction responsibilities,
c. are authorized to carry firearms,
d. are engaged in activities which directly affect the safety of others,
e. are working for a public hospital including any hospital owned or operated by a municipality, county, or public trust, or
f. work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services;

5. Scheduled, fitness-for-duty, return from leave and other periodic testing: A public or private employer may request or require an employee to undergo drug or alcohol testing if the test is conducted as a routine part of a routinely scheduled employee fitness-for-duty medical examination, or is requested or required by the employer in connection with an employee's return to duty from leave of absence, or which is scheduled routinely as part of the employer's written policy, except that a public employer may require scheduled, periodic testing only of employees who:

a. are police or peace officers,
b. have drug interdiction responsibilities,
c. are authorized to carry firearms,
d. are engaged in activities which directly affect the safety of others,
e. are working for a public hospital including any hospital owned or operated by a municipality, county, or public trust, or
f. work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services; and

6. Post-rehabilitation testing: A public or private employer may request or require an employee to undergo drug or alcohol testing for a period of up to two (2) years commencing with the employee's return to work, following a positive test or following participation in a drug or alcohol dependency treatment program.

§ 555. Written policy required—Notice of policy changes—Distribution

A. Any employer that requests or requires an applicant or employee to undergo drug or alcohol testing shall first adopt a written policy setting forth the specifics of its drug or alcohol testing program, which may include, but is not limited to, the following information:

1. A statement of the employer's policy respecting drug or alcohol use by employees;
2. Which applicants and employees are subject to testing;
3. Circumstances under which testing may be requested or required;
4. Substances which may be tested. It shall be sufficient for an employer to state in the written policy that the substances tested shall be for drugs and alcohol;
5. Testing methods and collection procedures to be used;
6. Consequences of refusing to undergo testing;
7. Potential adverse personnel action which may be taken as a result of a positive test result;
8. The ability of an applicant and employee to explain, in confidence, the test results;
9. The ability of an applicant and employee to obtain copies of all information and records related to that individual's testing;
10. Confidentiality requirements; and
11. The available appeal procedures.

B. An employer who implements a drug or alcohol testing policy or changes its policy, shall provide at least ten (10) days' notice to its employees and shall provide a copy of its policy to each applicant upon his or her acceptance of employment by:

1. Hand-delivery of a paper copy of the policy or changes to the policy;
2. Mailing a paper copy of the policy or changes to the policy through the U.S. Postal Service or a parcel delivery service to the last address given by the employee or applicant;
3. Electronically transmitting a copy of the policy through an e-mail or by posting on the employer's website or intranet site; or
4. Posting a copy in a prominent employee access area.

§ 556. Time of employer testing—Payment of costs

Any drug or alcohol testing by an employer shall be deemed work time for purposes of compensation and benefits for current employees. An employer shall pay all costs of testing for drugs or alcohol required by the employer. Provided, however, if an employee or applicant requests a confirmation test of a sample within twenty-four (24) hours of receiving notice of a positive test in order to challenge the results of a positive test, the employee or applicant shall pay all costs of the confirmation test, unless the confirmation test reverses the findings of the challenged positive test. In such case, the employer shall reimburse the individual for the costs of the confirmation test.

§ 557. Licensure and regulation of testing facilities—Alternative testing methods

A. The State Board of Health shall have the power and duty to promulgate, prescribe, amend and repeal rules for the licensure and regulation of testing facilities, which shall include, but not be limited to, the following:

1. Qualifications of testing facilities which shall include the requirement that facilities doing urine analysis tests be certified for forensic urine drug testing pursuant to guidelines or regulations of the federal Department of Health and Human Services or be accredited for forensic urine drug testing by the College of American Pathologists or other organizations recognized by the State Board of Health;
2. Qualifications of testing facility personnel; and
3. Procedures for the testing facility to provide the necessary documentation of testing procedures and test results to the employer requesting testing services as may be required by a court or administrative proceeding.

B. Nothing in the Standards for Workplace Drug and Alcohol Testing Act shall be construed as prohibiting an employer from adopting a policy which allows for testing for drugs or alcohol by another method which is reasonably calculated to detect the presence of drugs or alcohol, including, but not limited to, breathalyzer testing, testing by use of a single-use test device, known as an on-site or quick testing device, to collect, handle, store and ship a sample collected for testing.

§ 558. Licensing of testing facilities—Fees—Administrative fines

A. On and after July 1, 1994, no testing facility shall provide laboratory services to an employer to test for the presence or absence of drugs or alcohol unless it meets the qualifications established for testing facilities pursuant to Section 7 of this act and is licensed by the State Department of Health to perform such tests. The State Board of Health shall promulgate rules relating to the issuance of such license, including rules governing license revocation, suspension and nonrenewal.

B. The fees for licensure of testing facilities by the State Department of Health shall be set by the State Board of Health and shall not be more than One Hundred Fifty Dollars ($150.00) annually.

C. Any testing facility providing laboratory services to an employer to test for the evidence of drugs or alcohol which is not licensed by the State Department of Health pursuant to this section shall be subject to an administrative fine of not more than Five Hundred Dollars ($500.00) for each offense. Each test performed by the unlicensed testing facility in violation of this section shall constitute a separate offense.

§ 559. Sample collection and testing—Conditions

All sample collection and testing for drugs and alcohol pursuant to the provisions of this act shall be conducted in accordance with the following conditions:

1. Samples shall be collected and tested only by individuals deemed qualified by the State Board of Health and may be collected on the premises of the employer;
2. Only samples deemed appropriate by the State Board of Health for drug and alcohol testing shall be collected;
3. The collection of samples shall be performed under reasonable and sanitary conditions;
4. A sample shall be collected in sufficient quantity for splitting into two separate specimens, pursuant to rules of the State Board of Health, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen;

5. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no employer or representative, agent or designee of the employer shall directly observe an applicant or employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;
6. Sample collection shall be documented, and the documentation procedures shall include:
   a. labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and
   b. an opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information;
7. Sample collection, storage, and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration;
8. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by Board rule, at the cutoff levels as determined by Board rule, before the result of any test may be used as a basis for refusal to hire a job applicant or any action by an employer pursuant to Section 12 of this act; and
9. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

§ 560. Drug and alcohol test records—Disclosure

A. Records of all drug and alcohol test results and related information maintained by the employer shall be the property of the employer and, upon the request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. Except as provided in subsection B of this section, an employer shall not release such records to any person other than the applicant, employee or the review officer.

B. Records of all drug and alcohol test results and related information maintained by the employer may be released by the employer for any of the following purposes:
   1. As admissible evidence by an employer or the individual tested in a case or proceeding before a court of record or administrative agency if either the employer or the individual tested are named parties in the case or proceeding;
   2. In order to comply with a valid judicial or administrative order; or
   3. To an employer's employees, agents and representatives who need access to such records in the administration of the Standards For Workplace Drug and Alcohol Testing Act.

C. A testing facility, or any agent, representative or designee of the facility, or any review officer, shall not disclose to any employer, based on the analysis of a sample collected from an applicant or employee for the purpose of testing for the presence of drugs or alcohol, any information relating to the general health, pregnancy or other physical or mental condition of the applicant or employee. A

testing facility shall release the results of the drug or alcohol test, and any analysis and information related thereto, to the individual tested upon request.

§ 561. Repealed

§ 562. Disciplinary actions

A. An employer's policy shall state the disciplinary actions that may be taken upon a refusal to undergo a drug or alcohol test or for a positive test for the presence of drugs or alcohol.

B. An employer may take disciplinary action, up to and including discharge, against an employee who refuses to undergo drug or alcohol testing conducted in accordance with the provisions of Section 551 et seq. of this title or who tests positive for the presence of drugs or alcohol.

C. Notwithstanding any provision of law for confidentiality of drug or alcohol testing results, nothing in the Standards for Workplace Drug and Alcohol Testing Act shall preclude an employer, contracting with another employer, from sharing drug or alcohol testing results of any tested person who works pursuant to such contractual agreement.

§ 563. Willful violation of act—Civil actions—Remedies

A. Any person aggrieved by a willful violation of the Standards for Workplace Drug and Alcohol Testing Act may institute a civil action in a court of competent jurisdiction within one (1) year of the alleged willful violation or be barred from obtaining the relief provided for in subsection B of this section. A willful violation of the Standards for Workplace Drug and Alcohol Testing Act requires proof by the preponderance of the evidence that the employer had a specific intent to violate the act.

B. A prevailing party may be awarded lost wages to which the person would have been entitled and an additional equal amount as liquidated damages. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person shall operate to reduce the lost wages otherwise allowable. Reasonable costs and attorney fees may be awarded to the prevailing party, whether plaintiff or defendant.

§§ 564 & 565. Repealed

CHAPTER 16 – OKLAHOMA PROFESSIONAL EMPLOYER ORGANIZATION RECOGNITION AND REGISTRATION ACT (PEO ACT)

§ 600.1. Short title—Legislative findings

A. This act shall be known and may be cited as the "Oklahoma Professional Employer Organization Recognition and Registration Act".

B. The Legislature hereby finds:

1. That professional employer organizations provide a valuable service to commerce and the citizens of this state by increasing the opportunities of employers to develop cost-effective methods of satisfying their personnel requirements and providing employees with access to certain employment benefits which might otherwise not be available to them;
2. That professional employer organizations operating in this state should be properly recognized and regulated by the Department of Insurance of this state, as provided in this act; and
3. That any allocation of the employer's duties and responsibilities pursuant to this act will preserve all rights to which their covered employees would be entitled under a traditional employment relationship.

§ 600.2. Definitions

1. "Client" means any person who enters into a co-employment relationship as a co-employer with a professional employer organization (PEO);
2. "Co-employer" means either a PEO or a client;
3. "Co-employment relationship" means:
   a. as between co-employers, a relationship whereby the rights, duties and obligations of an employer which arise out of an employment relationship have been allocated between co-employers pursuant to a professional employer agreement and the Oklahoma Professional Employer Organization Recognition and Registration Act, and which is intended to be an ongoing relationship, rather than a temporary or project specific relationship, and
   b. as between each PEO and a covered employee as to which a professional employer agreement applies, an employment relationship whereby:
      (1) such PEO is entitled to enforce those rights, and obligated to perform those duties and obligations, allocated to such PEO by the professional employer agreement and the Oklahoma Professional Employer Organization Recognition and Registration Act, and
      (2) such covered employee is entitled to enforce against such PEO those duties and obligations allocated to the PEO by the professional employer agreement and the Oklahoma Professional Employer Organization Recognition and Registration Act;
   c. as between each client and a covered employee to which a professional employer agreement applies and employment relationship whereby:
      (1) such client is entitled to enforce those rights, and obligated to provide and perform those employer obligations allocated to such client by the professional employer agreement and the Oklahoma Professional Employer Organization Recognition and Registration Act and whereby

such client is responsible for any employer right or obligation not otherwise allocated by the professional employer agreement of the Oklahoma Professional Employer Organization Recognition and Registration Act, and

(2) such covered employee is entitled to enforce against such client those duties and obligations allocated to the client by the professional employer agreement and the Oklahoma Professional Employer Organization Recognition and Registration Act and any other duties and obligations of an employer not otherwise allocated by the professional employer agreement or the Oklahoma Professional Employer Organization Recognition and Registration Act;

4. "Commissioner" means the Insurance Commissioner of the State of Oklahoma;
5. "Covered Employee" means an individual having a co-employment relationship with a PEO and a client who have entered into a professional employer agreement with respect to such person, and shall include the client's officers, directors, shareholders, partners and managers to the extent such persons act as operational managers or perform services for the client;
6. "Department" means the Department of Insurance of the State of Oklahoma;
7. "Person" means any individual, partnership, corporation, limited liability company, association, or any other form of legally recognized entity;
8. "Professional employer agreement" means a written contract by and between a client and a PEO under which the PEO and the client agree to establish a co-employment relationship and which satisfies the requirements of subsection C of Section 7 of this act;
9. "Professional Employer Organization" or PEO means any person engaged in the business of providing professional employer services. A person engaged in the business of providing professional employer services shall be subject to registration under the Oklahoma Professional Employer Organization Recognition and Registration Act regardless of its use of the term "professional employer organization", "PEO", "staff leasing company", "registered staff leasing company", "employee leasing company", or any other name;
10. "Professional employer services" means the service of entering into co-employment relationships under the Oklahoma Professional Employer Organization Recognition and Registration Act, in which, except in isolated instances, all or a majority of the employees providing services to a client or to a division or work unit of client are covered employees;
11. "Registrant" means a PEO registered under the Oklahoma Professional Employer Organization Recognition and Registration Act; and
12. "Temporary help services" means a service whereby a person hires workers and assigns them to a person for a temporary time period or nonpermanent basis to support or supplement the other person's workforce in special work situations such as, but not limited to, employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects. Temporary help services shall not be deemed professional employer services.

§ 600.3. Effect of act on collective bargaining agreements, licensing, and tax credits

A. Collective bargaining agreements. Nothing contained in the Oklahoma Professional Employer Organization Recognition and Registration Act or in any professional employer agreement shall affect,

modify or amend any collective bargaining agreement, or the rights or obligations of any client, PEO, or covered employee under the National Labor Relations Act.
B. Licensing. Nothing contained in the Oklahoma Professional Employer Organization Recognition and Registration Act or any professional employer agreement shall affect, modify or amend any state, local, or federal licensing, registration, or certification requirement applicable to any client or covered employee.
C. Licensed employees. A covered employee who must be licensed, registered, or certified according to law or regulation is deemed solely an employee of the client for purposes of any such license, registration, or certification requirement.
D. Licensed activities. A PEO shall not be deemed to engage in any occupation, trade, profession, or other activity that is subject to licensing, registration, or certification requirements, or is otherwise regulated by a governmental entity solely by entering into and maintaining a co-employment relationship with a covered employee who is subject to such requirements or regulation.
E. Tax credits and other incentives. For purposes of determination of tax credits and other economic incentives provided by this state and based on employment, covered employees shall be deemed employees solely of the client. A client shall be entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of covered employees of such client. Each PEO will provide, upon request by a client, employment information reasonably required by any agency or department of this state responsible for administration of any such tax credit or economic incentive and necessary to support any request, claim, application, or other action by a client seeking any such tax credit or economic incentive.

§ 600.4. Registration—De minimis exemption
A. Registration required. Except as otherwise provided in the Oklahoma Professional Employer Organization Recognition and Registration Act, no person shall, unless the person is registered as a PEO or PEO Group under the Oklahoma Professional Employer Organization Recognition and Registration Act, provide, advertise, or otherwise hold itself out as providing professional employer services in this state.
B. Registration information.
1. Each PEO or PEO Group required to be registered under the Oklahoma Professional Employer Organization Recognition and Registration Act shall provide the Insurance Commissioner with information required by the Commissioner on forms prescribed by the Commissioner. Pursuant to paragraph 2 of this subsection, a PEO or PEO Group may use a qualified assurance organization as approved by the Commissioner to provide services related to the registration of the PEO or PEO Group. A PEO or PEO Group may authorize an assurance organization to act on behalf of the PEO or PEO Group in complying with the registration requirements set forth in the Oklahoma Professional Employer Organization Recognition and Registration Act, including, but not limited to, electronic filings of information and payment of registration fees. At a minimum, PEOs, PEO Groups or an approved assurance organization acting on behalf of the PEO or PEO Group, shall provide the following information:

a. the name or names under which the PEO or PEO Group conducts business,
b. the address of the principal place of business of the PEO or PEO Group and the address of each office it maintains in this state,
c. the PEO's or PEO Group's taxpayer or employer identification number,
d. a list by jurisdiction of each name under which the PEO or PEO Group has operated in the preceding five (5) years, including any alternative names, names of predecessors and, if known, successor business entities,
e. a statement of ownership, which shall include the name and evidence of the business experience of any person that, individually or acting in concert with one or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interests of the PEO or PEO Group,
f. a statement of management, which shall include the name and evidence of the business experience of any person who serves as president, chief executive officer, or otherwise has the authority to act as senior executive officer of the PEO or PEO Group, and
g. a financial statement setting forth the financial condition of the PEO or PEO Group, as of a date not earlier than one hundred eighty (180) days prior to the date submitted to the Commissioner, prepared in accordance with generally accepted accounting principles, and audited or reviewed by an independent certified public accountant licensed to practice in the jurisdiction in which such accountant is located. A PEO Group may submit combined or consolidated audited or reviewed financial statements to meet the requirements of this section.

2. The financial statement required by subparagraph g of paragraph 1 of this subsection may be dated as of a date that is not earlier than three hundred sixty-five (365) days before the date on which the application is submitted in the event the PEO or PEO Group provides the following:
a. evidence that is acceptable to the Commissioner that it is licensed or registered in good standing in another state with equal or greater requirements than the requirements of the Oklahoma Professional Employer Organization Recognition and Registration Act,
b. quarterly financial statements of management for each calendar quarter as of the most recent audit that demonstrate continuing financial operations acceptable to the Commissioner, and
c. the certification of an independent Certified Public Accountant that as of the end of the most recent calendar quarter, the PEO or PEO Group has paid all of its state and federal payroll taxes, health and workers' compensation premiums, and contributions to employee retirement plans in a timely and appropriate manner.

3. For purposes of the Oklahoma Professional Employer Organization Recognition and Registration Act, "assurance organization" means an independent entity approved by the Commissioner to certify the qualifications of a PEO or PEO Group for registration under this section and Section 600.6 of this title and any related requirements and procedures. To be considered for approval as an independent and qualified assurance organization, the assurance organization shall submit a written request for approval to the Commissioner. The written request shall include, but not be limited to, the following:

a. evidence that the assurance organization is independent and has an established national program for the accreditation and financial assurance of PEOs and PEO Groups based on requirements similar to the requirements of the Oklahoma Professional Employer Organization Recognition and Registration Act, and any rules promulgated for the implementation of the Oklahoma Professional Employer Organization Recognition and Registration Act,
b. evidence that the assurance organization has documented qualifications, standards, procedures, and financial assurance acceptable to the Commissioner and is licensed or otherwise approved by one or more states to certify the qualifications of PEOs or PEO Groups,
c. an agreement to provide information, compliance monitoring services, and a level of financial assurance as deemed acceptable by the Commissioner,
d. an agreement to provide the Commissioner with an application that has been executed by each PEO or PEO Group requesting alternative registration under this section and Section 600.6 of this title and related requirements and procedures in a form approved by the Commissioner. The application shall:

(1) authorize the assurance organization to share with the Commissioner any application and compliance reporting information required under the Oklahoma Professional Employer Organization Recognition and Registration Act that has been provided to the assurance organization by the PEO or PEO Group,
(2) authorize the Commissioner to accept information shared by the assurance organization for registration or renewal of registration of the PEO or PEO Group as if the information was provided directly to the Commissioner by the PEO or PEO Group,
(3) provide the certification of the PEO or PEO Group that the information provided by the assurance organization to the Commissioner is true and complete and that the PEO or PEO Group is in full and complete compliance with all requirements of the Oklahoma Professional Employer Organization Recognition and Registration Act, and
(4) provide the certification of the assurance organization that the PEO or PEO Group is in compliance with the standards and procedures of the assurance organization which are similar to the requirements of the Oklahoma Professional Employer Organization Recognition and Registration Act and is qualified for registration or renewal of registration under the Oklahoma Professional Employer Organization Recognition and Registration Act,

e. an agreement to provide written notice to the Commissioner within two (2) business days of determination by the assurance organization of the failure of a PEO or PEO Group to meet the qualifications for registration under the Oklahoma Professional Employer Organization Recognition and Registration Act or determination by the assurance organization of the failure of the PEO or PEO Group to meet the qualifications for accreditation or certification by the assurance organization, and
f. an agreement to share with the Commissioner in a timely manner the information and supporting documentation provided to the assurance organization by the PEO or PEO Group similar to the information and documentation required for registration or renewal of registration under the Oklahoma Professional Employer Organization Recognition and Registration Act.

C. Initial registration.

1. Each PEO or PEO Group operating within this state as of November 1, 2002, shall complete its initial registration not later than one hundred eighty (180) days after the end of the PEO's or PEO Group's first fiscal year ending after November 1, 2002.

2. Each PEO or PEO Group not operating within this state as of November 1, 2002, shall complete its initial registration prior to commencement of operations within this state. A registration is valid for a term of one (1) year.

D. Renewal.

1. A registration expires one (1) year following the registration unless it is renewed pursuant to this subsection. Before expiration of the registration, a registrant may renew the registration for an additional one-year term if the registrant:

a. remains in good standing and otherwise is entitled to be registered pursuant to the Oklahoma Professional Employer Organization Recognition and Registration Act,

b. files with the Commissioner a renewal application on a form prescribed by the Commissioner, and

c. pays to the Commissioner a renewal fee as provided for in Section 600.5 of this title.

2. A registration shall be considered late thirty (30) days after the renewal date. Any registration received more than thirty (30) days after the renewal date shall be accompanied by a late registration fee of Five Hundred Dollars ($500.00).

E. Group registration. Any two or more PEOs held under common control of any other person or persons acting in concert may be registered as a PEO Group. A PEO Group may satisfy any reporting and financial requirements of this registration law on a consolidated basis.

F. Electronic filing and compliance. A PEO, PEO Group or an approved independent and qualified assurance organization as provided for in subsection B of this section may electronically submit filings in conformance with Sections 15-101 through 15-121 of Title 12A of the Oklahoma Statutes. Electronically submitted filings include, but are not limited to, applications, documents, reports, and other filings required under the Oklahoma Uniform Electronic Transactions Act.

G. De minimis exemption.

1. A PEO is exempt from the registration requirements payable under the Oklahoma Professional Employer Organization Recognition and Registration Act if such PEO:

a. submits a properly executed request for exemption on a form provided by the Department,

b. is domiciled outside this state and is licensed or registered as a professional employer organization in another state that has the same or greater requirements as the Oklahoma Professional Employer Organization Recognition and Registration Act,

c. does not maintain an office in this state or solicit in any manner clients located or domiciled within this state, and

d. does not have more than twenty-five covered employees employed or domiciled in this state.

2. An exemption of a professional employer organization from the registration requirements under the Oklahoma Professional Employer Organization Recognition and Registration Act shall be valid for one (1) year, subject to renewal.

H. List. The Commissioner shall maintain a list of professional employer organizations registered or exempted under the Oklahoma Professional Employer Organization Recognition and Registration Act and a list of approved assurance organizations.
I. Forms. The Commissioner may prescribe forms necessary to promote the efficient administration of this section.
J. The Commissioner is authorized to promulgate reasonable rules necessary for the administration and implementation of this section.
K. The Commissioner may reject an application for registration, renewal of registration, or for an exemption from registration if the Commissioner finds that:

1. The application is not fully completed or properly executed;
2. Documents required to supplement the application are not included in the application packet or are inadequate;
3. The registration fee is not submitted with the application;
4. The applicant or any person named in the application misrepresents material in the application;
5. The applicant, or any of its officers, is determined by the Commissioner to lack good moral character, business integrity, or financial responsibility; or
6. The controlling person has violated a provision of the Oklahoma Professional Employer Organization Recognition and Registration Act.

§ 600.5. Establishing fees

A. Initial registration. Upon filing an initial registration statement under the Oklahoma Professional Employer Organization Recognition and Registration Act, a PEO shall pay an initial registration fee of Five Hundred Dollars ($500.00).
B. Initial Group Registration. Upon filing an initial Group registration statement pursuant to the Oklahoma Professional Employer Organization Recognition and Registration Act, the PEO Group shall pay an initial registration fee of Five Hundred Dollars ($500.00) per member of the PEO Group.
C. Renewal. Upon each annual renewal of a registration statement filed under the Oklahoma Professional Employer Organization Recognition and Registration Act, a PEO shall pay a renewal fee of Two Hundred Fifty Dollars ($250.00).
D. Renewal. Upon each annual renewal of a Group registration statement filed under the Oklahoma Professional Employer Organization Recognition and Registration Act, a PEO Group shall pay a renewal fee of Two Hundred Fifty Dollars ($250.00) per member of the PEO Group.
E. Exemption. Each PEO exempt from registration under the terms of this subsection shall pay an exemption fee in the amount of Two Hundred Fifty Dollars ($250.00) upon initial application for exemption and upon each annual renewal of the exemption.

§ 600.6. Financial and tax requirements—Confidentiality

A. Net worth and bonding. Each PEO shall maintain either:

1. A minimum net worth of Fifty Thousand Dollars ($50,000.00), as reflected in the financial statements submitted to the Commissioner with the initial registration and each annual renewal; or

2. A bond or securities with a minimum market value of Fifty Thousand Dollars ($50,000.00), held by a depository designated by the Commissioner, securing payment by the PEO of all taxes, wages, benefits or other entitlement due to or with respect to a covered employee, if the PEO does not make such payments when due. Any bond or securities deposited under this subsection shall not be included for the purpose of calculation of the minimum net worth required by this subsection.

B. Payroll tax payments. A PEO shall submit to the Commissioner, within ninety (90) days after the end of each calendar quarter, a statement by an independent certified public accountant that all applicable state payroll taxes for covered employees located in this state have been paid on a timely basis for that quarter.

C. Record confidentiality. All records, reports and other information obtained from a PEO under the Oklahoma Professional Employer Organization Recognition and Registration Act, except to the extent necessary for the proper administration of the Oklahoma Professional Employer Organization Recognition and Registration Act by the Department, shall be confidential and shall not be published or open to public inspection other than to public employees in the performance of their public duties.

§ 600.7. Contract requirements—Rights and duties of employer, employee, and client—Notice—Workers' compensation—Benefit plans—Liability—Sales tax

A. Contractual relationship. Except as specifically provided in the Oklahoma Professional Employer Organization Recognition and Registration Act, the co-employment relationship between the client and the PEO, and between each co-employer and each covered employee, shall be governed by the professional employer agreement. Nothing contained in any professional employer agreement or the Oklahoma Professional Employer Organization Recognition and Registration Act shall be deemed to:

1. Diminish, abolish or remove rights of covered employees as to clients or obligations of such client as to a covered employee, existing prior to the effective date of a professional employer agreement;
2. Terminate an employment relationship existing prior to the effective date of a professional employer agreement; or
3. Create any new or additional enforcement right of a covered employee against a PEO not specifically allocated to such PEO in the professional employer agreement or the Oklahoma Professional Employer Organization Recognition and Registration Act.

B. Allocation of rights, duties and obligations. Except as specifically provided in the Oklahoma Professional Employer Organization Recognition and Registration Act or in the professional employer agreement, in each co-employment relationship:

1. The client shall be entitled to exercise all rights, and shall be obligated to perform all duties and responsibilities, otherwise applicable to an employer in an employment relationship; and
2. The PEO shall be entitled to exercise only those rights, and obligated to perform only those duties and responsibilities, specifically required by the Oklahoma Professional Employer Organization Recognition and Registration Act or set forth in the professional employer agreement. The rights, duties, and obligations of the PEO as co-employer with respect to any covered employee shall be limited to those arising pursuant to the professional employer agreement and

the Oklahoma Professional Employer Organization Recognition and Registration Act during the term of co-employment by the PEO of such covered employee.

C. Professional employer agreement requirements. Each professional employer agreement shall include, at a minimum, the following:

1. The PEO shall reserve a right of direction and control over the covered employees; provided, that the client may retain the right to exercise such direction and control over covered employees as is necessary to conduct the client's business, to discharge any fiduciary responsibility which it may have, or to comply with any applicable licensure requirements;
2. The PEO shall have responsibility to pay wages and salaries to covered employees; to withhold, collect, report, and remit payroll-related and unemployment taxes; and, to the extent the PEO has assumed responsibility in the professional employer agreement, to make payments for employee benefits for covered employees;
3. Both the PEO and the client shall retain authority to hire, terminate, and discipline the covered employees; and
4. The responsibility to obtain workers' compensation coverage for covered employees, from a carrier licensed to do business in this state and otherwise in compliance with all applicable requirements, shall be specifically allocated to either the client or the PEO. If such responsibility is allocated to the PEO under any such agreement, such agreement shall require that the PEO maintain and provide to the client, at the termination of the agreement if requested by the client, records regarding the premium and loss experience related to workers' compensation insurance provided to covered employees pursuant to such agreement.

D. Notice to covered employees. With respect to each professional employer agreement entered into by a PEO, such PEO shall provide written notice to each covered employee affected by such agreement of the general nature of the co-employment relationship between and among the PEO, the client, and such covered employee.

E. Workers' compensation. Both client and the PEO shall be considered the employer for the purpose of coverage under the Workers' Compensation Act and both the PEO and its client shall be entitled to protection of the exclusive remedy provision of the Workers' Compensation Act irrespective of which co-employer obtains such workers' compensation coverage.

F. Benefit plans.

1. A client and a PEO shall each be deemed an employer for purposes of sponsoring retirement and welfare benefit plans for its covered employees.
2. A welfare benefit plan offered to the covered employees of a single PEO shall not be considered a multiple employer welfare arrangement, or MEWA, as provided for in Section 633 of Title 36 of the Oklahoma Statutes, and shall be exempt from the licensing requirements contained in Section 634 of Title 36 of the Oklahoma Statutes.
3. For purposes of the Small Employer Health Reform Act, a PEO shall be considered the employer of all of its covered employees and all covered employees of one or more clients participating in a health benefit plan sponsored by a single PEO shall be considered employees of the PEO.

4. If a PEO offers to its covered employees any health benefit plan which is not fully insured by an authorized insurer, the plan shall:
   a. utilize a third-party administrator licensed to do business in this state,
   b. hold all plan assets, including participant contributions, in a trust account, and
   c. provide sound reserves for such plan as determined using generally accepted actuarial standards.

G. Limitations on liability. Except to the extent otherwise provided in a professional employer agreement:

1. A PEO shall not be liable for the acts, errors, or omissions of a client, or of any covered employee when such covered employee is acting under the direction and control of a client;
2. A client shall not be liable for the acts, errors, or omissions of a PEO, or of any covered employee of the client and a PEO when such covered employee is acting under the direction and control of the PEO;
3. Nothing in this subsection shall serve to limit any contractual liability or obligation specifically provided in a professional employer agreement, nor shall this subsection in any way limit the liabilities and obligations of any PEO or client as defined elsewhere in the Oklahoma Professional Employer Organization Recognition and Registration Act; and
4. A covered employee is not, solely as the result of being a covered employee of a PEO, an employee of the PEO for purposes of general liability, insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or liquor liability insurance carried by the PEO unless the covered employees are included by specific reference in the professional employer agreement and applicable prearranged employment contract, insurance contract, or bond.

H. Services not insurance. The sale of professional employer services provided by PEOs registered under the Oklahoma Professional Employer Organization Recognition and Registration Act shall not constitute the sale of insurance for purposes of Oklahoma Insurance Law.

I. Sales taxes. Covered employees whose services are subject to sales tax shall be deemed the employees of the client for purposes of collecting and levying sales tax on the services performed by the covered employee.

§ 600.8. Unemployment compensation contributions

A. For purposes of the Employment Security Act of 1980, covered employees of a PEO are considered employees of the PEO during the term of the applicable professional employer agreement.

B. The PEO shall report and pay all required contributions to the unemployment compensation fund in accordance with the methods set out in Section 2 of this act.

§ 600.9. Penalties

The Insurance Commissioner may, after notice and opportunity for hearing, refuse to register any person, suspend or revoke the registration of any professional employer organization, or impose

administrative fines as provided for in the Oklahoma Professional Employer Organization Recognition and Registration Act if the Commissioner finds:

1. That the registrant or applicant has violated any of the provisions of this section, rules lawfully promulgated by the Commissioner, or the conditions of financial assurances required by this act;
2. That the registrant or applicant has engaged in a fraudulent, deceptive, or dishonest practice; or
3. For good and sufficient cause, that the registrant or applicant is unfit to be a professional employer organization within the meaning of this act or of any of the rules lawfully promulgated by the Commissioner.

CHAPTER 17 – UNION CONTRACTS

§ 701. Contract between minor and union

A. Except as provided by subsection B of this section, any contract or agreement between a minor and a union is not a valid contract or agreement and shall be null and void for any purpose including, but not limited to, official recognition by a union for purposes of intent or interest by a minor to join, vote, or consent to any action of the union.

B. Any contract or agreement between a minor and a union shall be signed and adjoined by the parent or legal guardian of the minor. The minor, or parent or legal guardian of the minor, shall have the right to rescind the contract or agreement within ninety (90) days of the date of the contract or agreement.

C. Any funds received by a union in an attempt to contractually obligate a minor, without meeting the provisions set forth in subsection B of this section, shall be fully refunded to the minor within thirty (30) days after receipt of written notice from the minor, or parent or legal guardian of the minor. If the full amount of funds received by the union has not been refunded to the minor, or parent or legal guardian of the minor within thirty (30) days, the full amount of funds due shall double each successive thirty-day-period until such refund is made in full to the minor, or parent or legal guardian of the minor.

CHAPTER 18 – VOLUNTARY VETERAN'S PREFERENCE EMPLOYMENT POLICY ACT

§ 801. Voluntary Veteran's Preference Employment Policy Act

A. This section shall be known and may be cited as the "Voluntary Veterans' Preference Employment Policy Act".

B. As used in this section:

1. "DD 214" means United States Department of Defense Form 214 or a similarly effective form issued by the Department relating to separation from military service;
2. "Private employer" means a business entity in the private sector of this state with one or more employees;
3. "Veteran" means a person who served on active duty in the Armed Forces of the United States who was discharged or released with an honorable discharge; and
4. "Veterans' preference employment policy" means a private employer's voluntary preference for hiring, promoting or retaining a veteran over another qualified applicant or employee.

C. A private employer may have a voluntary veterans' preference employment policy. The policy:

1. Shall be in writing; and
2. Shall be applied uniformly to employment decisions regarding hiring, promotion or retention during a reduction in force.

D. An employer may require that a veteran submit a DD 214 to a private employer with a veterans' preference employment policy to be eligible for the preference.

E. The granting of a veterans' preference pursuant to the provisions of this section shall not be deemed to violate any local or state equal employment opportunity law or regulation.

F. The Department of Veterans Affairs shall assist any private employer in determining if an applicant is a veteran to the extent permitted by law.

TITLE 74 – STATE GOVERNMENT
CHAPTER 5 – STATE BUREAU OF INVESTIGATION

§ 150.9.1. Authority to require criminal record searches and fingerprints of agency employees

The Oklahoma Tax Commission, Oklahoma Department of Human Services and Oklahoma Employment Security Commission shall be authorized to require agency employees and the employees of agency contractors in positions that have access to Federal Tax Information and data to supply all information and documentation required in order to be subjected to a criminal history search by the Oklahoma State Bureau of Investigation, as well as be fingerprinted for submission of the fingerprints through the Oklahoma State Bureau of Investigation to the Federal Bureau of Investigation for a national criminal history check. The submitting agency shall be the recipient of the results of the record check. In accordance with Section 150.9 of this title, this includes a national criminal record with a fingerprint analysis.

RATE TABLE

State Experience Factor is:	If the Employer's Benefit Wage Ratio Does Not Exceed:																										
1%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%	110%	120%	130%	140%	150%	160%	170%	180%	190%	200%	210%	220%	230%	240%	250%	260%	270%
2%	5.0	10.0	15.0	20.0	25.0	30.0	35.0	40.0	45.0	50.0	55.0	60.0	65.0	70.0	75.0	80.0	85.0	90.0	95.0	100.0	105.0	110.0	115.0	120.0	125.0	130.0	135.0
3%	3.3	6.7	10.0	13.3	16.7	20.0	23.3	26.7	30.0	33.3	36.7	40.0	43.3	46.7	50.0	53.3	56.7	60.0	63.3	66.7	70.0	73.3	76.7	80.0	83.3	86.7	90.0
4%	2.5	5.0	7.5	10.0	12.5	15.0	17.5	20.0	22.5	25.0	27.5	30.0	32.5	35.0	37.5	40.0	42.5	45.0	47.5	50.0	52.5	55.0	57.5	60.0	62.5	65.0	67.5
5%	2.0	4.0	6.0	8.0	10.0	12.0	14.0	16.0	18.0	20.0	22.0	24.0	26.0	28.0	30.0	32.0	34.0	36.0	38.0	40.0	42.0	44.0	46.0	48.0	50.0	52.0	54.0
6%	1.7	3.3	5.0	6.7	8.3	10.0	11.7	13.3	15.0	16.7	18.3	20.0	21.7	23.3	25.0	26.7	28.3	30.0	31.7	33.3	35.0	36.7	38.3	40.0	41.7	43.3	45.0
7%	1.4	2.9	4.3	5.7	7.1	8.6	10.0	11.4	12.9	14.3	15.7	17.1	18.6	20.0	21.4	22.9	24.3	25.7	27.1	28.6	30.0	31.4	32.9	34.3	35.7	37.1	38.6
8%	1.3	2.5	3.8	5.0	6.3	7.5	8.8	10.0	11.3	12.5	13.8	15.0	16.3	17.5	18.8	20.0	21.3	22.5	23.8	25.0	26.3	27.5	28.8	30.0	31.3	32.5	33.8
9%	1.1	2.2	3.3	4.4	5.6	6.7	7.8	8.9	10.0	11.1	12.2	13.3	14.4	15.6	16.7	17.8	18.9	20.0	21.1	22.2	23.3	24.4	25.6	26.7	27.8	28.9	30.0
10%	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0	26.0	27.0
11%	0.9	1.8	2.7	3.6	4.5	5.5	6.4	7.3	8.2	9.1	10.0	10.9	11.8	12.7	13.6	14.5	15.5	16.4	17.3	18.2	19.1	20.0	20.9	21.8	22.7	23.6	24.5
12%	0.8	1.7	2.5	3.3	4.2	5.0	5.8	6.7	7.5	8.3	9.2	10.0	10.8	11.7	12.5	13.3	14.2	15.0	15.8	16.7	17.5	18.3	19.2	20.0	20.8	21.7	22.5
13%	0.8	1.5	2.3	3.1	3.8	4.6	5.4	6.2	6.9	7.7	8.5	9.2	10.0	10.8	11.5	12.3	13.1	13.8	14.6	15.4	16.2	16.9	17.7	18.5	19.2	20.0	20.8
14%	0.7	1.4	2.1	2.9	3.6	4.3	5.0	5.7	6.4	7.1	7.9	8.6	9.3	10.0	10.7	11.4	12.1	12.9	13.6	14.3	15.0	15.7	16.4	17.1	17.9	18.6	19.3
15%	0.7	1.3	2.0	2.7	3.3	4.0	4.7	5.3	6.0	6.7	7.3	8.0	8.7	9.3	10.0	10.7	11.3	12.0	12.7	13.3	14.0	14.7	15.3	16.0	16.7	17.3	18.0
16%	0.6	1.3	1.9	2.5	3.1	3.8	4.4	5.0	5.6	6.3	6.9	7.5	8.1	8.8	9.4	10.0	10.6	11.3	11.9	12.5	13.1	13.8	14.4	15.0	15.6	16.3	16.9
17%	0.6	1.2	1.8	2.4	2.9	3.5	4.1	4.7	5.3	5.9	6.5	7.1	7.6	8.2	8.8	9.4	10.0	10.6	11.2	11.8	12.4	12.9	13.5	14.1	14.7	15.3	15.9
18%	0.6	1.1	1.7	2.2	2.8	3.3	3.9	4.4	5.0	5.6	6.1	6.7	7.2	7.8	8.3	8.9	9.4	10.0	10.6	11.1	11.7	12.2	12.8	13.3	13.9	14.4	15.0
19%	0.5	1.1	1.6	2.1	2.6	3.2	3.7	4.2	4.7	5.3	5.8	6.3	6.8	7.4	7.9	8.4	8.9	9.5	10.0	10.5	11.1	11.6	12.1	12.6	13.2	13.7	14.2
20%	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10.0	10.5	11.0	11.5	12.0	12.5	13.0	13.5
21%	0.5	1.0	1.4	1.9	2.4	2.9	3.3	3.8	4.3	4.8	5.2	5.7	6.2	6.7	7.1	7.6	8.1	8.6	9.0	9.5	10.0	10.5	11.0	11.4	11.9	12.4	12.9
22%	0.5	0.9	1.4	1.8	2.3	2.7	3.2	3.6	4.1	4.5	5.0	5.5	5.9	6.4	6.8	7.3	7.7	8.2	8.6	9.1	9.5	10.0	10.5	10.9	11.4	11.8	12.3
23%	0.4	0.9	1.3	1.7	2.2	2.6	3.0	3.5	3.9	4.3	4.8	5.2	5.7	6.1	6.5	7.0	7.4	7.8	8.3	8.7	9.1	9.6	10.0	10.4	10.9	11.3	11.7
24%	0.4	0.8	1.3	1.7	2.1	2.5	2.9	3.3	3.8	4.2	4.6	5.0	5.4	5.8	6.3	6.7	7.1	7.5	7.9	8.3	8.8	9.2	9.6	10.0	10.4	10.8	11.3
25%	0.4	0.8	1.2	1.6	2.0	2.4	2.8	3.2	3.6	4.0	4.4	4.8	5.2	5.6	6.0	6.4	6.8	7.2	7.6	8.0	8.4	8.8	9.2	9.6	10.0	10.4	10.8
26%	0.4	0.8	1.2	1.5	1.9	2.3	2.7	3.1	3.5	3.8	4.2	4.6	5.0	5.4	5.8	6.2	6.5	6.9	7.3	7.7	8.1	8.5	8.8	9.2	9.6	10.0	10.4
27%	0.4	0.7	1.1	1.5	1.9	2.2	2.6	3.0	3.3	3.7	4.1	4.4	4.8	5.2	5.6	5.9	6.3	6.7	7.0	7.4	7.8	8.1	8.5	8.9	9.3	9.6	10.0
28%	0.4	0.7	1.1	1.4	1.8	2.1	2.5	2.9	3.2	3.6	3.9	4.3	4.6	5.0	5.4	5.7	6.1	6.4	6.8	7.1	7.5	7.9	8.2	8.6	8.9	9.3	9.6
29%	0.3	0.7	1.0	1.4	1.7	2.1	2.4	2.8	3.1	3.4	3.8	4.1	4.5	4.8	5.2	5.5	5.9	6.2	6.6	6.9	7.2	7.6	7.9	8.3	8.6	9.0	9.3
30%	0.3	0.7	1.0	1.3	1.7	2.0	2.3	2.7	3.0	3.3	3.7	4.0	4.3	4.7	5.0	5.3	5.7	6.0	6.3	6.7	7.0	7.3	7.7	8.0	8.3	8.7	9.0
31%	0.3	0.6	1.0	1.3	1.6	1.9	2.3	2.6	2.9	3.2	3.5	3.9	4.2	4.5	4.8	5.2	5.5	5.8	6.1	6.5	6.8	7.1	7.4	7.7	8.1	8.4	8.7
32%	0.3	0.6	0.9	1.3	1.6	1.9	2.2	2.5	2.8	3.1	3.4	3.8	4.1	4.4	4.7	5.0	5.3	5.6	5.9	6.3	6.6	6.9	7.2	7.5	7.8	8.1	8.4
33%	0.3	0.6	0.9	1.2	1.5	1.8	2.1	2.4	2.7	3.0	3.3	3.6	3.9	4.2	4.5	4.8	5.2	5.5	5.8	6.1	6.4	6.7	7.0	7.3	7.6	7.9	8.2
34%	0.3	0.6	0.9	1.2	1.5	1.8	2.1	2.4	2.6	2.9	3.2	3.5	3.8	4.1	4.4	4.7	5.0	5.3	5.6	5.9	6.2	6.5	6.8	7.1	7.4	7.6	7.9
35%	0.3	0.6	0.9	1.1	1.4	1.7	2.0	2.3	2.6	2.9	3.1	3.4	3.7	4.0	4.3	4.6	4.9	5.1	5.4	5.7	6.0	6.3	6.6	6.9	7.1	7.4	7.7
36%	0.3	0.6	0.8	1.1	1.4	1.7	1.9	2.2	2.5	2.8	3.1	3.3	3.6	3.9	4.2	4.4	4.7	5.0	5.3	5.6	5.8	6.1	6.4	6.7	6.9	7.2	7.5
37%	0.3	0.5	0.8	1.1	1.4	1.6	1.9	2.2	2.4	2.7	3.0	3.2	3.5	3.8	4.1	4.3	4.6	4.9	5.1	5.4	5.7	5.9	6.2	6.5	6.8	7.0	7.3
38%	0.3	0.5	0.8	1.1	1.3	1.6	1.8	2.1	2.4	2.6	2.9	3.2	3.4	3.7	3.9	4.2	4.5	4.7	5.0	5.3	5.5	5.8	6.1	6.3	6.6	6.8	7.1
39%	0.3	0.5	0.8	1.0	1.3	1.5	1.8	2.1	2.3	2.6	2.8	3.1	3.3	3.6	3.8	4.1	4.4	4.6	4.9	5.1	5.4	5.6	5.9	6.2	6.4	6.7	6.9
40%	0.3	0.5	0.8	1.0	1.3	1.5	1.8	2.0	2.3	2.5	2.8	3.0	3.3	3.5	3.8	4.0	4.3	4.5	4.8	5.0	5.3	5.5	5.8	6.0	6.3	6.5	6.8
41%	0.2	0.5	0.7	1.0	1.2	1.5	1.7	2.0	2.2	2.4	2.7	2.9	3.2	3.4	3.7	3.9	4.1	4.4	4.6	4.9	5.1	5.4	5.6	5.9	6.1	6.3	6.6
42%	0.2	0.5	0.7	1.0	1.2	1.4	1.7	1.9	2.1	2.4	2.6	2.9	3.1	3.3	3.6	3.8	4.0	4.3	4.5	4.8	5.0	5.2	5.5	5.7	6.0	6.2	6.4
43%	0.2	0.5	0.7	0.9	1.2	1.4	1.6	1.9	2.1	2.3	2.6	2.8	3.0	3.3	3.5	3.7	4.0	4.2	4.4	4.7	4.9	5.1	5.3	5.6	5.8	6.0	6.3
44%	0.2	0.5	0.7	0.9	1.1	1.4	1.6	1.8	2.0	2.3	2.5	2.7	3.0	3.2	3.4	3.6	3.9	4.1	4.3	4.5	4.8	5.0	5.2	5.5	5.7	5.9	6.1
45%	0.2	0.4	0.7	0.9	1.1	1.3	1.6	1.8	2.0	2.2	2.4	2.7	2.9	3.1	3.3	3.6	3.8	4.0	4.2	4.4	4.7	4.9	5.1	5.3	5.6	5.8	6.0
46%	0.2	0.4	0.7	0.9	1.1	1.3	1.5	1.7	2.0	2.2	2.4	2.6	2.8	3.0	3.3	3.5	3.7	3.9	4.1	4.3	4.6	4.8	5.0	5.2	5.4	5.7	5.9
47%	0.2	0.4	0.6	0.9	1.1	1.3	1.5	1.7	1.9	2.1	2.3	2.6	2.8	3.0	3.2	3.4	3.6	3.8	4.0	4.3	4.5	4.7	4.9	5.1	5.3	5.5	5.7
48%	0.2	0.4	0.6	0.8	1.0	1.3	1.5	1.7	1.9	2.1	2.3	2.5	2.7	2.9	3.1	3.3	3.5	3.8	4.0	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6
49%	0.2	0.4	0.6	0.8	1.0	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.7	2.9	3.1	3.3	3.5	3.7	3.9	4.1	4.3	4.5	4.7	4.9	5.1	5.3	5.5
50%	0.2	0.4	0.6	0.8	1.0	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.6	2.8	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.6	4.8	5.0	5.2	5.4
Employer's Contribution Rate shall be:	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%

Conditional Factors

	X/	Y/	Z/																								
A	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%	2.8%	2.9%	3.0%
B	0.2%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.9%	2.0%	2.1%	2.3%	2.4%	2.5%	2.7%	2.8%	2.9%	3.1%	3.2%	3.3%	3.5%	3.6%
C	0.2%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.9%	2.0%	2.1%	2.3%	2.4%	2.6%	2.7%	2.9%	3.0%	3.2%	3.3%	3.5%	3.6%	3.8%	4.1%
D	0.3%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.7%	1.8%	2.0%	2.2%	2.3%	2.5%	2.7%	2.8%	3.0%	3.2%	3.3%	3.5%	3.7%	3.8%	4.0%	4.2%	4.3%	4.5%

X/ Benefit Wage Ratio is equal to zero
Y/ Benefit Wage Ratio is greater than zero but less than 0.1%
Z/ Benefit Wage Ratio is greater than 0.1%

State Experience Factor is:	If the Employer's Benefit Wage Ratio Does Not Exceed:																												Benefit Wage Ratio Exceeds Last Column
1%	280%	290%	300%	310%	320%	330%	340%	350%	360%	370%	380%	390%	400%	410%	420%	430%	440%	450%	460%	470%	480%	490%	500%	510%	520%	530%	540%	
2%	140.0	145.0	150.0	155.0	160.0	165.0	170.0	175.0	180.0	185.0	190.0	195.0	200.0	205.0	210.0	215.0	220.0	225.0	230.0	235.0	240.0	245.0	250.0	255.0	260.0	265.0	270.0	
3%	93.3	96.7	100.0	103.3	106.7	110.0	113.3	116.7	120.0	123.3	126.7	130.0	133.3	136.7	140.0	143.3	146.7	150.0	153.3	156.7	160.0	163.3	166.7	170.0	173.3	176.7	180.0	
4%	70.0	72.5	75.0	77.5	80.0	82.5	85.0	87.5	90.0	92.5	95.0	97.5	100.0	102.5	105.0	107.5	110.0	112.5	115.0	117.5	120.0	122.5	125.0	127.5	130.0	132.5	135.0	
5%	56.0	58.0	60.0	62.0	64.0	66.0	68.0	70.0	72.0	74.0	76.0	78.0	80.0	82.0	84.0	86.0	88.0	90.0	92.0	94.0	96.0	98.0	100.0	102.0	104.0	106.0	108.0	
6%	46.7	48.3	50.0	51.7	53.3	55.0	56.7	58.3	60.0	61.7	63.3	65.0	66.7	68.3	70.0	71.7	73.3	75.0	76.7	78.3	80.0	81.7	83.3	85.0	86.7	88.3	90.0	
7%	40.0	41.4	42.9	44.3	45.7	47.1	48.6	50.0	51.4	52.9	54.3	55.7	57.1	58.6	60.0	61.4	62.9	64.3	65.7	67.1	68.6	70.0	71.4	72.9	74.3	75.7	77.1	
8%	35.0	36.3	37.5	38.8	40.0	41.3	42.5	43.8	45.0	46.3	47.5	48.8	50.0	51.3	52.5	53.8	55.0	56.3	57.5	58.8	60.0	61.3	62.5	63.8	65.0	66.3	67.5	
9%	31.1	32.2	33.3	34.4	35.6	36.7	37.8	38.9	40.0	41.1	42.2	43.3	44.4	45.6	46.7	47.8	48.9	50.0	51.1	52.2	53.3	54.4	55.6	56.7	57.8	58.9	60.0	
10%	28.0	29.0	30.0	31.0	32.0	33.0	34.0	35.0	36.0	37.0	38.0	39.0	40.0	41.0	42.0	43.0	44.0	45.0	46.0	47.0	48.0	49.0	50.0	51.0	52.0	53.0	54.0	
11%	25.5	26.4	27.3	28.2	29.1	30.0	30.9	31.8	32.7	33.6	34.5	35.5	36.4	37.3	38.2	39.1	40.0	40.9	41.8	42.7	43.6	44.5	45.5	46.4	47.3	48.2	49.1	
12%	23.3	24.2	25.0	25.8	26.7	27.5	28.3	29.2	30.0	30.8	31.7	32.5	33.3	34.2	35.0	35.8	36.7	37.5	38.3	39.2	40.0	40.8	41.7	42.5	43.3	44.2	45.0	
13%	21.5	22.3	23.1	23.8	24.6	25.4	26.2	26.9	27.7	28.5	29.2	30.0	30.8	31.5	32.3	33.1	33.8	34.6	35.4	36.2	36.9	37.7	38.5	39.2	40.0	40.8	41.5	
14%	20.0	20.7	21.4	22.1	22.9	23.6	24.3	25.0	25.7	26.4	27.1	27.9	28.6	29.3	30.0	30.7	31.4	32.1	32.9	33.6	34.3	35.0	35.7	36.4	37.1	37.9	38.6	
15%	18.7	19.3	20.0	20.7	21.3	22.0	22.7	23.3	24.0	24.7	25.3	26.0	26.7	27.3	28.0	28.7	29.3	30.0	30.7	31.3	32.0	32.7	33.3	34.0	34.7	35.3	36.0	
16%	17.5	18.1	18.6	19.4	20.0	20.6	21.3	21.9	22.5	23.1	23.8	24.4	25.0	25.6	26.3	26.9	27.5	28.1	28.8	29.4	30.0	30.6	31.3	31.9	32.5	33.1	33.8	
17%	16.5	17.1	17.6	18.2	18.8	19.4	20.0	20.6	21.2	21.8	22.4	22.9	23.5	24.1	24.7	25.3	25.9	26.5	27.1	27.6	28.2	28.8	29.4	30.0	30.6	31.2	31.8	
18%	15.6	16.1	16.7	17.2	17.8	18.3	18.9	19.4	20.0	20.6	21.1	21.7	22.2	22.8	23.3	23.9	24.4	25.0	25.6	26.1	26.7	27.2	27.6	28.3	28.9	29.4	30.0	
19%	14.7	15.3	15.8	16.3	16.8	17.4	17.9	18.4	18.9	19.5	20.0	20.5	21.1	21.6	22.1	22.6	23.2	23.7	24.2	24.7	25.3	25.8	26.3	26.8	27.4	27.9	28.4	
20%	14.0	14.5	15.0	15.5	16.0	16.5	17.0	17.5	18.0	18.5	19.0	19.5	20.0	20.5	21.0	21.5	22.0	22.5	23.0	23.5	24.0	24.5	25.0	25.5	26.0	26.5	27.0	
21%	13.3	13.8	14.3	14.8	15.2	15.7	16.2	16.7	17.1	17.6	18.1	18.6	19.0	19.5	20.0	20.5	21.0	21.4	21.9	22.4	22.9	23.3	23.8	24.3	24.8	25.2	25.7	
22%	12.7	13.2	13.6	14.1	14.5	15.0	15.5	15.9	16.4	16.8	17.3	17.7	18.2	18.6	19.1	19.5	20.0	20.5	20.9	21.4	21.8	22.3	22.7	23.2	23.6	24.1	24.5	
23%	12.2	12.6	13.0	13.5	13.9	14.3	14.8	15.2	15.7	16.1	16.5	17.0	17.4	17.8	18.3	18.7	19.1	19.6	20.0	20.4	20.9	21.3	21.7	22.2	22.6	23.0	23.5	
24%	11.7	12.1	12.5	12.9	13.3	13.8	14.2	14.6	15.0	15.4	15.8	16.3	16.7	17.1	17.5	17.9	18.3	18.8	19.2	19.6	20.0	20.4	20.8	21.3	21.7	22.1	22.5	
25%	11.2	11.6	12.0	12.4	12.8	13.2	13.6	14.0	14.4	14.8	15.2	15.6	16.0	16.4	16.8	17.2	17.6	18.0	18.4	18.8	19.2	19.6	20.0	20.4	20.8	21.2	21.6	
26%	10.8	11.2	11.5	11.9	12.3	12.7	13.1	13.5	13.8	14.2	14.6	15.0	15.4	15.8	16.2	16.5	16.9	17.3	17.7	18.1	18.5	18.8	19.2	19.6	20.0	20.4	20.8	
27%	10.4	10.7	11.1	11.5	11.9	12.2	12.6	13.0	13.3	13.7	14.1	14.4	14.8	15.2	15.6	15.9	16.3	16.7	17.0	17.4	17.8	18.1	18.5	18.9	19.3	19.6	20.0	
28%	10.0	10.4	10.7	11.1	11.4	11.8	12.1	12.5	12.9	13.2	13.6	13.8	14.3	14.6	15.0	15.4	15.7	16.1	16.4	16.8	17.1	17.5	17.9	18.2	18.6	18.9	19.3	
29%	9.7	10.0	10.3	10.7	11.0	11.4	11.7	12.1	12.4	12.8	13.1	13.4	13.8	14.1	14.5	14.8	15.2	15.5	15.9	16.2	16.6	16.9	17.2	17.6	17.9	18.3	18.6	
30%	9.3	9.7	10.0	10.3	10.7	11.0	11.3	11.7	12.0	12.3	12.7	13.0	13.3	13.7	14.0	14.3	14.7	15.0	15.3	15.7	16.0	16.3	16.7	17.0	17.3	17.7	18.0	
31%	9.0	9.4	9.7	10.0	10.3	10.6	11.0	11.3	11.6	11.9	12.3	12.6	12.9	13.2	13.5	13.9	14.2	14.5	14.8	15.2	15.5	15.8	16.1	16.5	16.8	17.1	17.4	
32%	8.8	9.1	9.4	9.7	10.0	10.3	10.6	10.9	11.3	11.6	11.9	12.2	12.5	12.8	13.1	13.4	13.8	14.1	14.4	14.7	15.0	15.3	15.6	15.9	16.3	16.6	16.9	
33%	8.5	8.8	9.1	9.4	9.7	10.0	10.3	10.6	10.9	11.2	11.5	11.8	12.1	12.4	12.7	13.0	13.3	13.6	13.9	14.2	14.5	14.6	15.2	15.5	15.8	16.1	16.4	
34%	8.2	8.5	8.8	9.1	9.4	9.7	10.0	10.3	10.6	10.9	11.2	11.5	11.8	12.1	12.4	12.6	12.9	13.2	13.5	13.8	14.1	14.4	14.7	15.0	15.3	15.6	15.9	
35%	8.0	8.3	8.6	8.9	9.1	9.4	9.7	10.0	10.3	10.6	10.9	11.1	11.4	11.7	12.0	12.3	12.6	12.9	13.1	13.4	13.7	14.0	14.3	14.6	14.9	15.1	15.4	
36%	7.8	8.1	8.3	8.6	8.9	9.2	9.4	9.7	10.0	10.3	10.6	10.8	11.1	11.4	11.7	11.9	12.2	12.5	12.8	13.1	13.3	13.6	13.9	14.2	14.4	14.7	15.0	
37%	7.6	7.8	8.1	8.4	8.6	8.9	9.2	9.5	9.7	10.0	10.3	10.5	10.8	11.1	11.4	11.6	11.9	12.2	12.4	12.7	13.0	13.2	13.5	13.8	14.1	14.3	14.6	
38%	7.4	7.6	7.9	8.2	8.4	8.7	8.9	9.2	9.5	9.7	10.0	10.3	10.5	10.8	11.1	11.3	11.6	11.8	12.1	12.4	12.6	12.9	13.2	13.4	13.7	13.9	14.2	
39%	7.2	7.4	7.7	7.9	8.2	8.5	8.7	9.0	9.2	9.5	9.7	10.0	10.3	10.5	10.8	11.0	11.3	11.5	11.8	12.1	12.3	12.6	12.8	13.1	13.3	13.6	13.8	
40%	7.0	7.3	7.5	7.8	8.0	8.3	8.5	8.8	9.0	9.3	9.5	9.8	10.0	10.3	10.5	10.8	11.0	11.3	11.5	11.8	12.0	12.3	12.5	12.8	13.0	13.3	13.5	
41%	6.8	7.1	7.3	7.6	7.8	8.0	8.3	8.5	8.8	9.0	9.3	9.5	9.8	10.0	10.2	10.5	10.7	11.0	11.2	11.5	11.7	12.0	12.2	12.4	12.7	12.9	13.2	
42%	6.7	6.9	7.1	7.4	7.6	7.9	8.1	8.3	8.6	8.8	9.0	9.3	9.5	9.8	10.0	10.2	10.5	10.7	11.0	11.2	11.4	11.7	11.9	12.1	12.4	12.6	12.9	
43%	6.5	6.7	7.0	7.2	7.4	7.7	7.9	8.1	8.4	8.6	8.8	9.1	9.3	9.5	9.8	10.0	10.2	10.5	10.7	10.9	11.2	11.4	11.6	11.9	12.1	12.3	12.6	
44%	6.4	6.6	6.8	7.0	7.3	7.5	7.7	8.0	8.2	8.4	8.6	8.9	9.1	9.3	9.5	9.8	10.0	10.2	10.5	10.7	10.9	11.1	11.4	11.6	11.8	12.0	12.3	
45%	6.2	6.4	6.7	6.9	7.1	7.3	7.6	7.8	8.0	8.2	8.4	8.7	8.9	9.1	9.3	9.6	9.8	10.0	10.2	10.4	10.7	10.9	11.1	11.3	11.6	11.8	12.0	
46%	6.1	6.3	6.5	6.7	7.0	7.2	7.4	7.6	7.8	8.0	8.3	8.5	8.7	8.9	9.1	9.3	9.6	9.8	10.0	10.2	10.4	10.7	10.9	11.1	11.3	11.5	11.7	
47%	6.0	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.7	7.9	8.1	8.3	8.5	8.7	8.9	9.1	9.4	9.6	9.8	10.0	10.2	10.4	10.6	10.8	11.1	11.3	11.5	
48%	5.8	6.0	6.3	6.5	6.7	6.9	7.1	7.3	7.5	7.7	7.9	8.1	8.3	8.5	8.8	9.0	9.2	9.4	9.6	9.8	10.0	10.2	10.4	10.6	10.8	11.0	11.3	
49%	5.7	5.9	6.1	6.3	6.5	6.7	6.9	7.1	7.3	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0	10.2	10.4	10.6	10.8	11.0	
50%	5.6	5.8	6.0	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0	10.2	10.4	10.6	10.8	
Employer's Contribution Rate shall be:	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%	3.7%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%	4.6%	4.7%	4.8%	4.9%	5.0%	5.1%	5.2%	5.3%	5.4%	5.5%
Conditional Factors																												
A	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%	3.7%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%	4.6%	4.7%	4.8%	4.9%	5.0%	5.1%	5.2%	5.3%	5.4%	5.5%	5.6%	5.7%	5.8%
B	3.7%	3.9%	4.0%	4.1%	4.3%	4.4%	4.5%	4.7%	4.8%	4.9%	5.1%	5.2%	5.3%	5.5%	5.6%	5.7%	5.9%	6.0%	6.1%	6.3%	6.4%	6.5%	6.7%	6.8%	6.9%	7.1%	7.2%	7.3%
C	4.2%	4.4%	4.5%	4.7%	4.8%	5.0%	5.1%	5.3%	5.4%	5.6%	5.7%	5.9%	6.0%	6.2%	6.3%	6.5%	6.6%	6.8%	6.9%	7.1%	7.2%	7.4%	7.5%	7.7%	7.8%	8.0%	8.1%	8.3%
D	4.7%	4.8%	5.0%	5.2%	5.3%	5.5%	5.7%	5.8%	6.0%	6.2%	6.3%	6.5%	6.7%	6.8%	7.0%	7.2%	7.3%	7.5%	7.7%	7.8%	8.0%	8.2%	8.3%	8.5%	8.7%	8.8%	9.0%	9.2%