

THE HOUSE OF REPRESENTATIVES  
Wednesday, April 9, 2008

Committee Substitute for  
ENGROSSED  
Senate Bill No. 1533

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1533 - By:  
LEFTWICH of the Senate and WATSON of the House.

An Act relating to labor; creating the Oklahoma Unemployment Insurance Trust Fund Security Act of 2008; providing short title; stating certain findings and intentions; providing for certain administrative fund assessment rate reductions for certain types of employers; providing for limit to certain reduction; providing certain employers shall not be eligible for certain rate reduction; creating the OESC Administrative Fund; making fund separate and distinct from certain other funds; stating requirements of fund; making fund a continuing fund; appropriating funds to be budgeted and expended for certain purposes; providing for expenditures from fund; restricting use of certain monies in fund; setting maximum withdrawal per calendar year from fund; providing for certain funds remaining in the fund after maximum withdrawal; making State Treasurer custodian and treasurer of fund; requiring certain deposit of monies to fund; authorizing custodian to hold, invest, transfer, sell, deposit and release certain monies, properties or securities in a manner approved by the Oklahoma Employment Security Commission; providing for investment of monies; restricting investment for certain purpose; providing for certain assessments to the OESC Administrative Fund for certain employers; making assessment in addition to certain required contribution; providing certain assessment to not be part of any contribution required of an individual under certain circumstances; providing assessment shall not be used for determining certain employer's contribution rate; providing for certain assessments to the OESC Administrative Fund for certain employers assigned a certain tax rate; exempting certain employers; requiring assessment to be made on a quarterly basis; providing for deposit of certain monies; providing for certification of certain balance; making monies over certain balance excess funds; providing for transfer of excess funds to the Unemployment Trust Fund; authorizing the Oklahoma Employment Security Commission to promulgate

certain rules; directing the adoption of an agencywide performance improvement program; providing for codification; providing for noncodification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law not to be codified in the  
2 Oklahoma Statutes reads as follows:

3 Sections 1 through 7 of this act shall be known and may be cited as the "Oklahoma  
4 Unemployment Insurance Trust Fund Security Act of 2008".

5 SECTION 2. NEW LAW A new section of law not to be codified in the  
6 Oklahoma Statutes reads as follows:

7 The State of Oklahoma finds that the programs administered by the Oklahoma  
8 Employment Security Commission are necessary for the economic well-being of workers  
9 and employers in Oklahoma. Due to recent funding shortfalls by the federal government,  
10 the effectiveness and integrity of the Oklahoma Employment Security Commission  
11 programs are being compromised, and this will in turn have a negative impact on  
12 Oklahoma's Unemployment Trust Fund. If the balance of the Unemployment Trust  
13 Fund is reduced by large layoffs, fraud and abuse, or a failure to reemploy laid-off  
14 workers as quickly as possible, all Oklahoma workers and employers will be financially  
15 impacted. If the balance of the Unemployment Trust Fund falls, benefits to laid-off  
16 workers will be reduced and taxes to employers will be increased.

1 In order to avoid these adverse consequences, it is the intention of the State of  
2 Oklahoma that programs should be put in place and maintained that will use  
3 reemployment services to reduce the duration of unemployment claims when they occur,  
4 and combat fraud and abuse of the system. This will have the effect of increasing  
5 Oklahoma's economic competitiveness with other states and modernize the  
6 unemployment insurance system.

7 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma  
8 Statutes as Section 3-109.3 of Title 40, unless there is created a duplication in  
9 numbering, reads as follows:

10 Notwithstanding the provisions of Sections 3-103, 3-109, 3-110 and 3-113 of Title 40  
11 of the Oklahoma Statutes, for any tax year beginning after December 31, 2010, the  
12 contribution rate assigned to an employer shall be reduced by six percent (6%). Provided,  
13 the tax rate of employers assigned a tax rate pursuant to Sections 3-103 and 3-110 of  
14 Title 40 of the Oklahoma Statutes shall not be reduced to less than one percent (1%).  
15 Provided further, employers who qualify for an earned rate calculated pursuant to  
16 Section 3-109 of Title 40 of the Oklahoma Statutes, and are given the highest rate in the  
17 rate scale, shall not be eligible for the rate reduction provided for in this section.

18 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma  
19 Statutes as Section 6-201 of Title 40, unless there is created a duplication in numbering,  
20 reads as follows:

21 A. There is hereby created in the State Treasury a revolving fund for the Oklahoma  
22 Employment Security Commission to be designated the "OESC Administrative Fund".

1 The OESC Administrative Fund shall be separate and distinct from the Unemployment  
2 Compensation Fund, and all other special funds, and shall consist of:

- 3 1. All monies received from employers and paid pursuant to Section 7 of this act;
- 4 2. All other sums, from whatever source, received by the Commission and paid into  
5 the OESC Administrative Fund; and
- 6 3. Property and securities acquired by and through the use of monies in the OESC  
7 Administrative Fund.

8 B. The OESC Administrative Fund shall be a continuing fund, not subject to fiscal  
9 year limitations. All monies accruing to the credit of the OESC Administrative Fund are  
10 hereby appropriated and shall be budgeted and expended for the purposes set forth in  
11 Section 5 of this act. Expenditures from the OESC Administrative Fund shall be made  
12 upon warrants issued by the State Treasurer against claims filed, as prescribed by law,  
13 with the Director of State Finance for approval and payment.

14 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma  
15 Statutes as Section 6-202 of Title 40, unless there is created a duplication in numbering,  
16 reads as follows:

17 A. Subject to the limitations set out in subsection B of this section, the monies in  
18 the OESC Administrative Fund shall only be used to pay any expenses incurred by the  
19 Oklahoma Employment Security Commission in the administration of any program or  
20 service under the control of the Oklahoma Employment Security Commission.

1 B. 1. The Oklahoma Employment Security Commission may withdraw a maximum  
2 of Ten Million Dollars (\$10,000,000.00) per calendar year from the OESC Administrative  
3 Fund for administrative expenses described in subsection A of this section.

4 2. Any money remaining in the fund, after the maximum amount has been  
5 withdrawn or transferred under paragraph 1 of this subsection, shall be held in the fund  
6 for use in a future year or deposited in the Unemployment Trust Fund pursuant to the  
7 provisions of Section 7 of this act.

8 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma  
9 Statutes as Section 6-203 of Title 40, unless there is created a duplication in numbering,  
10 reads as follows:

11 A. The State Treasurer shall be the custodian and treasurer of the OESC  
12 Administrative Fund.

13 B. The State Treasurer shall deposit the monies belonging to the OESC  
14 Administrative Fund that are in his or her custody, subject to the provisions of Sections 5  
15 and 7 of this act.

16 C. The State Treasurer, as custodian of the OESC Administrative Fund, shall hold,  
17 invest, transfer, sell, deposit and release those monies, properties or securities in a  
18 manner approved by the Oklahoma Employment Security Commission. Provided,  
19 however, that those monies shall be invested in the classes of securities legal for  
20 investment of public monies of this state. Provided further, the investment shall at all  
21 times be so made that all assets of the OESC Administrative Fund shall always be

1 readily convertible into cash when needed for any expenditure authorized in Section 5 of  
2 this act.

3 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma  
4 Statutes as Section 6-204 of Title 40, unless there is created a duplication in numbering,  
5 reads as follows:

6 A. 1. For any tax year beginning after December 31, 2010, each employer subject to  
7 the provisions of Sections 3-103, 3-109 and 3-110 of Title 40 of the Oklahoma Statutes  
8 shall be required to pay an OESC Administrative Fund assessment equal to six percent  
9 (6%) of the unemployment contributions that would be owed to the Oklahoma  
10 Employment Security Commission before any rate reduction is made pursuant to Section  
11 3 of this act. This assessment shall be in addition to any contribution which that  
12 employer is required to make pursuant to the provisions of the Employment Security Act  
13 of 1980.

14 2. The assessment provided for in this section shall not be considered part of any  
15 contribution required of an individual employer pursuant to the Employment Security  
16 Act of 1980, nor shall it be considered for purposes of determining the individual  
17 employer's contribution rate.

18 B. Employers assigned a tax rate pursuant to Sections 3-103 and 3-110 of Title 40  
19 of the Oklahoma Statutes shall pay an OESC Administrative Fund assessment equal to  
20 the rate reduction granted them pursuant to Section 3 of this act.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 C. Employers who qualify for an earned rate calculated pursuant to Section 3-109  
2 of Title 40 of the Oklahoma Statutes, and are given the highest rate in the rate scale,  
3 shall be exempt from the provisions of this section.

4 D. Employers making payments in lieu of contributions pursuant to Sections 3-702,  
5 3-705 and 3-806 of Title 40 of the Oklahoma Statutes shall be exempt from the provisions  
6 of this section.

7 E. The assessment shall be made and collected by the Oklahoma Employment  
8 Security Commission for deposit, on a quarterly basis, to the credit of the OESC  
9 Administrative Fund. Provided, all monies received by the Oklahoma Employment  
10 Security Commission for the account of the OESC Administrative Fund, upon receipt,  
11 shall be deposited in a clearance account in a financial institution located in this state.

12 F. On December 31 of each year, the Chief Financial Officer of the Oklahoma  
13 Employment Security Commission will certify the balance in the OESC Administrative  
14 Fund. If the balance of the fund is more than Fifteen Million Dollars (\$15,000,000.00),  
15 the Chief Financial Officer shall further certify the amount over that sum as excess  
16 funds. The Chief Financial Officer will transfer the certified amount of excess funds to  
17 the Unemployment Trust Fund for the State of Oklahoma. The transfer will occur in one  
18 payment on or before January 15, following a certification that excess funds as defined in  
19 this subsection exist.

20 G. The Oklahoma Employment Security Commission shall promulgate such rules  
21 as may be necessary to implement the provisions of the Oklahoma Unemployment  
22 Insurance Trust Fund Security Act of 2008.

1 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma  
2 Statutes as Section 6-205 of Title 40, unless there is created a duplication in numbering,  
3 reads as follows:

4 The Oklahoma Employment Security Commission shall adopt and implement an  
5 agencywide performance improvement program. The performance improvement  
6 program will ensure that all agency operations are utilizing technological and personnel  
7 resources in the most effective and efficient manner and that the needs of Oklahoma  
8 employers and persons using the Unemployment Benefit Program and the Employment  
9 Service are being met. The Oklahoma Employment Security Commission will develop an  
10 implementation plan that will identify performance improvement program methodologies  
11 and action steps for the program. The implementation plan will be in writing and  
12 submitted for a one-time approval to the Commissioners of the Oklahoma Employment  
13 Security Commission and the Secretary of Commerce and Tourism. The approval of the  
14 implementation plan shall be in writing. When the implementation plan is approved, the  
15 Oklahoma Employment Security Commission will be authorized to access and expend  
16 funds from the OESC Administration Fund that is created by this act. The Oklahoma  
17 Employment Security Commission shall submit semiannual reports of measurable goals  
18 and action plan progress, including verifiable program improvement, to the  
19 Commissioners of the Oklahoma Employment Security Commission and the Secretary of  
20 Commerce and Tourism. The first semiannual report will be due on January 1, 2009.

21 SECTION 9. This act shall become effective November 1, 2008.

1 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
2 FINANCIAL SERVICES, dated 04-08-08 - DO PASS, As Amended.