

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1110

By: McDaniel and Ritz of the
House

and

Newberry of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to labor; amending 40 O.S. 2011, Sections 1-227, Section 3, Chapter 287, O.S.L. 2016, 2-104 and 2-209, Section 12, Chapter 287, O.S.L. 2016, 4-508, as last amended by Section 19, Chapter 249, O.S.L. 2015 and 4-509 (40 O.S. Supp. 2016, Sections 1-229, 3-121 and 4-508), which relate to the Employment Security Act of 1980; updating language and statutory citations; providing for credit for taxable wages paid for certain employers; authorizing release of certain information for certain purpose; providing for rate reduction for technology reinvestment apportionment; creating the OESC Technology Fund; providing for expenditures from fund; providing for custodian and treasurer of fund; authorizing certain technology reinvestment apportionment; modifying unemployment tax rate; exempting certain tax rates from certain reduction; creating the OESC Technology Fund; providing for expenditures from fund; providing for custodian and treasurer of fund; authorizing certain technology reinvestment apportionment; setting certain percentage rate apportionment; authorizing promulgation of rules; requiring certain report by certain time; directing distribution of report; repealing 40 O.S. 2011, Section 3-809, which relates to group employer accounts; providing for

1 codification; providing an effective date; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 40 O.S. 2011, Section 1-227, is
6 amended to read as follows:

7 Section 1-227. EXPERIENCE PERIOD. "Experience period" means:

8 ~~1. For any tax year occurring before January 1, 2007, the most~~
9 ~~recent three (3) consecutive completed calendar years occurring~~
10 ~~before the calendar year for which a tax rate is being calculated;~~
11 ~~and~~

12 ~~2. For any tax year occurring after December 31, 2006, the most~~
13 recent twelve (12) consecutive completed calendar quarters occurring
14 before July 1 of the year immediately preceding the year for which
15 the employer's contribution rate is being calculated.

16 SECTION 2. AMENDATORY Section 3, Chapter 287, O.S.L.
17 2016 (40 O.S. Supp. 2016, Section 1-229), is amended to read as
18 follows:

19 Section 1-229. ASSIGNED TAX RATE AND EARNED TAX RATE. A.
20 "Assigned tax rate" means the tax rate assigned to an employer
21 pursuant to Section 3-110.1 of ~~Title 40 of the Oklahoma Statutes~~
22 this title when the employer does not have sufficient experience
23 history to meet the At-Risk Rule set out in paragraph 3 of Section
24 ~~40 3-110.1~~ 3-110.1 of this ~~act~~ title.

1 B. "Earned tax rate" means the tax rate calculated for an
2 employer with sufficient experience history to meet the At-Risk Rule
3 set out in paragraph 3 of Section ~~40~~ 3-110.1 of this ~~act~~ title, with
4 the tax rate calculated pursuant to the provisions of Part 1 of
5 Article 3 of the Employment Security Act of 1980.

6 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-104, is
7 amended to read as follows:

8 Section 2-104. COMPUTATION OF BENEFIT AMOUNT. A. The weekly
9 benefit amount of an individual shall be an amount equal to one
10 twenty-third (1/23) of the taxable wages paid to the individual
11 during that quarter of his base period in which ~~such~~ the taxable
12 wages were highest. If ~~such~~ the amount is more than the maximum
13 weekly benefit amount, it shall be reduced to the maximum weekly
14 benefit amount or if the amount is less than Sixteen Dollars
15 (\$16.00), it shall be increased to Sixteen Dollars (\$16.00).

16 B. The maximum weekly benefit amount shall be:

17 1. ~~Prior to July 1, 1984, One Hundred Eighty-five Dollars~~
18 ~~(\$185.00); and~~

19 2. ~~Beginning July 1, 1984, the greater of:~~

20 a. ~~One Hundred Ninety-seven Dollars (\$197.00), or~~

21 b. ~~(1)~~ sixty Sixty percent (60%) of the average weekly
22 wage of the second preceding calendar year during
23 any calendar year in which the balance in the
24 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;~~

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;~~

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;~~

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~~

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.

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

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

7 2. The sum of the total wages reported for the previous
8 calendar year shall be divided by the average monthly employment to
9 determine the average annual wage; and

10 3. The average annual wage shall be divided by fifty-two (52)
11 to determine the average weekly wage.

12 SECTION 4. AMENDATORY 40 O.S. 2011, Section 2-209, is
13 amended to read as follows:

14 Section 2-209. BENEFITS FOR EMPLOYEES OF GOVERNMENTAL OR
15 NONPROFIT EMPLOYERS.

16 Benefits based on service in employment defined in ~~paragraphs~~
17 ~~(2)~~, paragraph (3) or (4) of Section 1-210 of this title, including
18 any federally operated educational institutions, shall be payable in
19 the same amount, on the same terms and subject to the same
20 conditions as benefits payable on the basis of other service subject
21 to the Employment Security Act of 1980, except that:

22 (1) With respect to service performed in an instructional,
23 research or principal administrative capacity for an educational
24 institution, benefits shall not be paid based on ~~such~~ services for

1 any week of unemployment commencing during the period between two
2 (2) successive academic years, or during a similar period between
3 two regular but not successive terms, or during a period of paid
4 sabbatical leave provided for in the individual's contract, to any
5 individual if ~~such~~ the individual performs ~~such~~ services in the
6 first ~~of such~~ academic ~~years~~ year or ~~terms~~ term and if there is a
7 contract or a reasonable assurance that ~~such~~ the individual will
8 perform services in any ~~such~~ capacity for any educational
9 institution in the second ~~of such~~ academic ~~years~~ year or ~~terms~~.
10 term;

11 (2) With respect to services performed in any other capacity
12 for an educational institution, benefits shall not be paid on the
13 basis of ~~such~~ services to any individual for any week which
14 commences during a period between two (2) successive academic years
15 or terms if ~~such~~ the individual performs ~~such~~ services in the first
16 ~~of such~~ academic ~~years~~ year or ~~terms~~ term and there is a reasonable
17 assurance that ~~such~~ the individual will perform ~~such~~ services in the
18 second ~~of such~~ academic ~~years~~ year or ~~terms~~ term, except that if
19 compensation is denied to any individual ~~under~~ pursuant to this
20 paragraph and ~~such~~ the individual was not offered an opportunity to
21 perform ~~such~~ services for the educational institution for the second
22 ~~of such~~ academic ~~years~~ year or ~~terms~~ term, ~~such~~ the individual shall
23 be entitled to a retroactive payment of compensation for each week
24

1 for which the individual filed a timely claim for compensation and
2 for which compensation was denied solely by reason of this clause-;

3 (3) With respect to any services described in paragraphs (1)
4 and (2) of this section, benefits shall not be payable on the basis
5 of services in any ~~such~~ capacities to any individual for any week
6 which commences during an established and customary vacation period
7 or holiday recess if ~~such~~ the individual performs ~~such~~ services in
8 the period immediately before ~~such~~ the vacation period or holiday
9 recess, and there is a reasonable assurance that ~~such~~ the individual
10 will perform ~~such~~ services in the period immediately following ~~such~~
11 the vacation period or holiday recess-;

12 (4) With respect to any services described in paragraphs (1)
13 and (2) of this section, benefits shall not be payable on the basis
14 of services in any ~~such~~ capacities as specified in paragraphs (1),
15 (2) and (3) of this section to any individual who performed ~~such~~
16 services in an educational institution while in the employ of an
17 educational service agency. For purposes of this paragraph, the
18 term "educational service agency" means a governmental agency or
19 governmental entity which is established and operated exclusively
20 for the purpose of providing ~~such~~ services to one or more
21 educational institutions-;

22 (5) With respect to services to which ~~paragraphs (2),~~ paragraph
23 (3) or (4) of Section 1-210 of this title ~~apply~~ applies, if ~~such~~
24 services are provided to or on behalf of an educational institution,

benefits shall not be payable under the same circumstances and subject to the same terms and conditions as described in paragraphs (1), (2), (3) and (4) of this section; and

(6) If an individual has employment with an educational institution and has employment with a noneducation 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.

SECTION 5. AMENDATORY Section 12, Chapter 287, O.S.L. 2016 (40 O.S. Supp. 2016, Section 3-121), is amended to read as follows:

Section 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 ~~Title 40 of the Oklahoma Statutes~~ 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 ~~co-employer~~ 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

1 which the PEO coemployer account is set up, then the PEO coemployer
2 account shall be given credit for the taxable wages paid on each
3 employee in the immediately previous account under which client
4 wages were reported.

5 SECTION 6. AMENDATORY 40 O.S. 2011, Section 4-508, as
6 last amended by Section 19, Chapter 249, O.S.L. 2015 (40 O.S. Supp.
7 2016, Section 4-508), is amended to read as follows:

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

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

23 B. Upon receipt of written request by any employer who
24 maintains a Supplemental Unemployment Benefit (SUB) Plan, the

1 Commission or its designated representative may release to ~~such~~ that
2 employer information regarding weekly benefit amounts paid its
3 workers during a specified temporary layoff period, provided ~~such~~
4 the Supplemental Unemployment Benefit (SUB) Plan requires benefit
5 payment information before Supplemental Unemployment Benefits can be
6 paid to ~~such~~ the workers. Any information disclosed under this
7 provision shall be utilized solely for the purpose outlined herein
8 and shall be held strictly confidential by the employer.

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

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

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

21 3. The Oklahoma Department of Commerce may have access to data
22 obtained pursuant to the Employment Security Act of 1980 pursuant to
23 rules promulgated by the Commission. The information obtained shall
24 be held confidential by the Department and any of its agents and

1 shall not be disclosed or be open to public inspection. The
2 Oklahoma Department of Commerce, however, may release aggregated
3 data, either by industry or county, provided that ~~such~~ the
4 aggregation meets disclosure requirements of the Commission;

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

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

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

22 7. The furnishing of information to other state agencies for
23 the limited purpose of aiding in the collection of debts owed by
24

1 individuals to the requesting agencies or the Oklahoma Employment
2 Security Commission;

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

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

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

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

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

23 13. The release to employees of the Oklahoma State Regents for
24 Higher Education of information required for use in the default

1 prevention efforts and/or collection of defaulted student loans
2 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
3 information disclosed under this provision shall be utilized solely
4 for the purpose outlined herein and shall be held strictly
5 confidential by the Oklahoma State Regents for Higher Education;

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

18 15. The release to employees of the Office of Management and
19 Enterprise Services of information required to identify economic
20 trends. The information obtained shall be kept confidential by the
21 Office of Management and Enterprise Services and shall not be
22 disclosed or be open to public inspection. The Office of Management
23 and Enterprise Services may release aggregate data, provided that
24

1 ~~such~~ the aggregation meets disclosure requirements of the
2 Commission;

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

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

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

21 19. The release of wage and benefit claim information, at the
22 discretion of the Commission, to an agency of this state or its
23 political subdivisions, ~~or any nonprofit corporation that operates~~
24 operate a program or activity designated as a required partner in

1 the Workforce ~~Investment~~ Innovation and Opportunity Act One-Stop
2 delivery system pursuant to 29 U.S.C.A., Section ~~2481(b)~~ 3151(b)(1),
3 based on a showing of need made to the Commission and after an
4 agreement concerning the release of information is entered into with
5 the entity receiving the information;

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

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

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

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

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

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

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

19 27. The release of information to vendors that contract with
20 the State of Oklahoma for the purpose of providing a public
21 electronic labor exchange system that will support the Oklahoma
22 Employment Security Commission's operation of an employment service
23 system to connect employers with job seekers and military veterans.
24 This labor exchange system would enhance the stability and security

1 of Oklahoma's economy as well as support the provision of veterans'
2 priority of service. The vendors may perform computer programming
3 operations, perform computer maintenance or replacement operations,
4 or host the electronic solution; provided each vendor agrees to
5 protect and safeguard all information received, that no information
6 shall be disclosed to any third party, that the use of the
7 information shall be restricted to the scope of the contract, and
8 that the vendor shall properly dispose of all information when no
9 longer needed for the purposes set out in the contract; or

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

15 D. Subpoenas to compel disclosure of information made
16 confidential by this statute shall not be valid, except for
17 administrative subpoenas issued by federal, state, or local
18 governmental agencies that have been granted subpoena power by
19 statute or ordinance. Confidential information maintained by the
20 Commission can be obtained by order of a court of record that
21 authorizes the release of the records in writing. All
22 administrative subpoenas or court orders for production of documents
23 must provide a minimum of twenty (20) days from the date it is
24 served for the Commission to produce the documents. If the date on

1 which production of the documents is required is less than twenty
2 (20) days from the date of service, the subpoena or order shall be
3 considered void on its face as an undue burden or hardship on the
4 Commission. All administrative subpoenas, court orders or notarized
5 waivers of confidentiality authorized by paragraph 2 of subsection C
6 of this section shall be presented with a request for records within
7 ninety (90) days of the date the document is issued or signed, and
8 the document can only be used one time to obtain records.

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

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

17 SECTION 7. AMENDATORY 40 O.S. 2011, Section 4-509, is
18 amended to read as follows:

19 Section 4-509. INFORMATION TO BE FURNISHED TO PUBLIC AGENCIES.

20 A. Subject to such restrictions as the Oklahoma Employment Security
21 Commission may by rule prescribe, information maintained by the
22 Commission may be made available to any agency of this or any other
23 state, or any federal agency, charged with the administration of an
24 unemployment compensation law or the maintenance of a system of

1 public employment offices, or the Internal Revenue Service of the
2 United States Department of the Treasury, the United States Social
3 Security Administration or the Oklahoma Tax Commission. Any
4 information obtained in connection with the administration of the
5 employment service may be made available to:

6 1. Persons or agencies for purposes appropriate to the
7 operation of a public employment service; or

8 2. Any agency of this state or its political subdivisions ~~or~~
9 ~~nonprofit corporation~~ that ~~operates~~ operate a program or activity
10 designated as a required partner in the Workforce ~~Investment~~
11 Innovation and Opportunity Act One-Stop delivery system pursuant to
12 29 U.S.C., Section ~~2841~~ 3151 (b) (1), in accordance with a written
13 agreement entered into between the partner and the Commission.

14 B. Upon request, the Commission shall furnish to any agency of
15 the United States charged with the administration of public works or
16 assistance through public employment, and may furnish to any state
17 agency similarly charged, the name, address, ordinary occupation,
18 and employment status of each recipient of benefits and such
19 recipient's rights to further benefits pursuant to the provisions of
20 the Employment Security Act of 1980. The Commission shall furnish
21 to public agencies collecting debts created by food stamp
22 overissuances or administering Transitional Assistance to Needy
23 Families (TANF) or child support programs, promptly upon request and
24

1 in the most economical, effective and timely manner, information as
2 to:

3 1. Whether an individual has applied for, is receiving or has
4 received unemployment insurance and the amount;

5 2. The individual's current address;

6 3. Whether the individual has refused employment and if so a
7 description of the job including the terms, conditions and rate of
8 pay; and

9 4. Any other information that might be useful in locating any
10 individual who may have a food stamp overissuance or an obligation
11 for support.

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

15 RATE REDUCTION FOR TECHNOLOGY REINVESTMENT APPORTIONMENT.

16 Notwithstanding the provisions of Sections 3-109, 3-110.1 and 3-
17 113 of Title 40 of the Oklahoma Statutes, for the time period
18 beginning January 1, 2018, and ending December 31, 2022, the tax
19 rate computed for or assigned to an employer shall be reduced by
20 five percent (5%). Provided, the tax rate of employers assigned a
21 tax rate pursuant to Section 3-110.1 of Title 40 of the Oklahoma
22 Statutes shall not be reduced to less than one percent (1%).
23 Provided further, employers who qualify for an earned tax rate
24 calculated pursuant to Section 3-109 of Title 40 of the Oklahoma

1 Statutes, and are given the highest tax rate in the rate table for
2 the given year, shall not be eligible for the rate reduction
3 provided for in this section.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6-201 of Title 40, unless there
6 is created a duplication in numbering, reads as follows:

7 OESC TECHNOLOGY FUND.

8 A. There is hereby created in the State Treasury a revolving
9 fund for the Oklahoma Employment Security Commission to be
10 designated the "OESC Technology Fund". The OESC Technology Fund
11 shall be separate and distinct from the Unemployment Compensation
12 Fund and shall consist of:

13 1. All monies received from employers and paid pursuant to
14 Section 12 of this act; and

15 2. Financial instruments, certificates of deposit, bonds and
16 securities acquired by and through the use of monies in the OESC
17 Technology Fund.

18 B. The OESC Technology Fund shall be a continuing fund, not
19 subject to fiscal year limitations. All monies accruing to the
20 credit of the OESC Technology Fund are hereby appropriated and shall
21 be budgeted and expended solely for the purposes of modernizing the
22 business processes and technology of the Oklahoma Employment
23 Security Commission as set forth in Section 10 of this act.
24 Expenditures from the OESC Technology Fund shall be made upon

1 warrants issued by the State Treasurer against claims filed, as
2 prescribed by law, with the Director of the Office of Management and
3 Enterprise Services for approval and payment.

4 SECTION 10. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6-202 of Title 40, unless there
6 is created a duplication in numbering, reads as follows:

7 EXPENDITURES FROM FUND.

8 A. The monies in the OESC Technology Fund shall be used for the
9 following purposes:

10 1. To purchase or lease new technology systems hardware for the
11 Oklahoma Employment Security Commission to be used in its mission to
12 provide employment services, unemployment insurance and economic
13 research for the citizens of this state as well as the
14 administration of these programs;

15 2. To purchase or lease any auxiliary or peripheral equipment
16 necessary for the operation of the new technology systems;

17 3. To pay for the maintenance of all OESC technology system
18 hardware;

19 4. To purchase or lease any and all software needed for the
20 operation of the new technology systems;

21 5. To pay for all OESC technology system software license fees;

22 6. To pay for all programming and analysis necessary to make
23 the new technology system operational;

1 7. To pay for all testing, designing, engineering, planning,
2 networking and training to make the new technology system
3 operational;

4 8. To pay for all shipping and installation charges for the
5 technology system and its auxiliary and peripheral equipment;

6 9. To contract with vendors and hire personnel as necessary to
7 accomplish the modernization effort;

8 10. To analyze business processes and develop requirements for
9 Requests for Proposals;

10 11. To fund project planning, project management, strategy
11 development and project consulting services; and

12 12. To make refunds of money erroneously collected and
13 deposited in the OESC Technology Fund.

14 B. The total expenditures from the OESC Technology Fund shall
15 not exceed Thirty-nine Million Dollars (\$39,000,000.00) between
16 January 1, 2018, and December 31, 2022, without Legislative
17 authority. Prior to expenditures authorized by paragraphs 1, 4, 6,
18 7, 9, 10 and 11 of subsection A of this section, the Chief
19 Information Officer of the Office of Management and Enterprise
20 Services shall be consulted for recommendations. The Office of
21 Management and Enterprise Services shall provide periodic oversight
22 of the technology modernization efforts and may assist the Oklahoma
23 Employment Security Commission in any manner necessary to accomplish
24 the purposes of this fund, including requiring the Oklahoma

1 Employment Security Commission provide regular reports to the Office
2 of Management and Enterprise Services on the technology
3 modernization efforts.

4 C. If any money remains in this fund after the new technology
5 system has been brought online and made fully operational, that
6 excess money shall be transferred to the Unemployment Compensation
7 Fund.

8 SECTION 11. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6-203 of Title 40, unless there
10 is created a duplication in numbering, reads as follows:

11 CUSTODIAN AND TREASURER OF FUND.

12 A. The State Treasurer shall be the custodian and treasurer of
13 the OESC Technology Fund.

14 B. The State Treasurer shall deposit the monies belonging to
15 the OESC Technology Fund that are in his or her custody subject to
16 the provisions of Section 12 of this act.

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

1 when needed for any expenditure authorized in Section 10 of this
2 act.

3 SECTION 12. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6-204 of Title 40, unless there
5 is created a duplication in numbering, reads as follows:

6 TECHNOLOGY REINVESTMENT APPORTIONMENT.

7 A. 1. For the period from January 1, 2018, to December 31,
8 2022, each employer subject to the provisions of Sections 3-109, 3-
9 110.1 and 3-113 of Title 40 of the Oklahoma Statutes shall be
10 required to pay an OESC Technology Reinvestment Apportionment equal
11 to five percent (5%) of the unemployment taxes that would be owed to
12 the Oklahoma Employment Security Commission before any rate
13 reduction is made pursuant to Section 8 of this act. This
14 apportionment shall be in addition to any contribution which that
15 employer is required to make pursuant to the provisions of the
16 Employment Security Act of 1980.

17 2. The apportionment provided for in this section shall not be
18 considered part of any unemployment taxes required of an individual
19 employer pursuant to the Employment Security Act of 1980, nor shall
20 it be considered for purposes of determining the individual
21 employer's tax rate.

22 B. Employers assigned a tax rate pursuant to Section 3-110.1 of
23 Title 40 of the Oklahoma Statutes shall pay an OESC Technology
24

1 Reinvestment Apportionment equal to the rate reduction granted them
2 pursuant to Section 8 of this act.

3 C. Employers who qualify for an earned tax rate calculated
4 pursuant to Section 3-109 of Title 40 of the Oklahoma Statutes, and
5 are given the highest tax rate in the rate table for the given year,
6 shall be exempt from the provisions of this section.

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

10 E. The apportionment shall be made and collected by the
11 Oklahoma Employment Security Commission for deposit, on a monthly
12 basis, to the credit of the OESC Technology Fund. Provided, all
13 monies received by the Oklahoma Employment Security Commission for
14 the account of the OESC Technology Fund, upon receipt, shall be
15 deposited in a clearance account.

16 F. The Oklahoma Employment Security Commission shall promulgate
17 such rules as may be necessary to implement the provisions of
18 Sections 8 through 13 of this act.

19 G. The Oklahoma Employment Security Commission shall create an
20 annual report detailing the collection of the apportionment funds
21 and the expenditures from the OESC Technology Fund. The report
22 shall be filed on or before March 31 of each year following the
23 effective date of this act, and shall continue until all money in
24 the OESC Technology Fund is expended or transferred pursuant to

1 subsection C of Section 10 of this act. The report shall be filed
2 with the Governor, the President Pro Tempore of the Senate, the
3 Speaker of the House of Representatives, the State Treasurer, the
4 State Auditor and Inspector, and the Director of the Office of
5 Management and Enterprise Services.

6 SECTION 13. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6-205 of Title 40, unless there
8 is created a duplication in numbering, reads as follows:

9 TECHNOLOGY FUND BALANCE.

10 The balance of the OESC Technology Fund on July 1 of any given
11 year shall be used in the calculation of conditional factors
12 pursuant to Section 3-113 of Title 40 of the Oklahoma Statutes as
13 long as the OESC Technology Fund has a balance greater than zero.
14 The calculation shall be conducted in the following manner: The
15 balance of the OESC Technology Fund as of July 1 of any given year
16 shall be aggregated with the balance of the Unemployment
17 Compensation Fund as of July 1 of the same year, with the resulting
18 sum to be used in the calculation of the conditional factors as set
19 out in Section 3-113 of Title 40 of the Oklahoma Statutes. The
20 aggregate of the two fund balances shall only be for the purpose of
21 the calculation and in no way shall balances in these two funds be
22 comingled.

23 SECTION 14. REPEALER 40 O.S. 2011, Section 3-809, is
24 hereby repealed.

SECTION 15. This act shall become effective July 1, 2017.

SECTION 16. It being immediately necessary for the preservation of the public peace, health or 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.

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