

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2456

By: Hill of the House

and

Paxton of the Senate

7  
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9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to labor; amending 40 O.S. 2021,  
12 Sections 3-109.3, 3-301, 3-311, 3-806, 6-202, 6-204,  
13 and 6-205, which relate to the Employment Security  
14 Act of 1980; modifying dates for certain rate  
15 reduction; increasing penalties; modifying refund of  
16 remaining credit balance; removing expenditure limit;  
17 modifying technology reinvestment apportionment;  
18 providing for limit of fund; and providing an  
19 effective date.

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

21 SECTION 1. AMENDATORY 40 O.S. 2021, Section 3-109.3, is  
22 amended to read as follows:

23 Section 3-109.3

24 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~~ this title, for the time

1 period beginning January 1, ~~2018, and ending December 31, 2022~~ 2023,  
2 and ending December 31, 2027, the tax rate computed for or assigned  
3 to an employer shall be reduced by five percent (5%). ~~Provided, the~~  
4 ~~tax rate of employers assigned a tax rate pursuant to Section 3-~~  
5 ~~110.1 of Title 40 of the Oklahoma Statutes shall not be reduced to~~  
6 ~~less than one percent (1%). Provided further, employers who qualify~~  
7 ~~for an earned tax rate calculated pursuant to Section 3-109 of Title~~  
8 ~~40 of the Oklahoma Statutes, and are given the highest tax rate in~~  
9 ~~the rate table for the given year, shall not be eligible for the~~  
10 ~~rate reduction provided for in this section.~~

11 SECTION 2. AMENDATORY 40 O.S. 2021, Section 3-301, is  
12 amended to read as follows:

13 Section 3-301.

14 PENALTY AND INTEREST ON PAST-DUE CONTRIBUTIONS.

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

23 B. If any employer fails or refuses to file contribution and  
24 wage reports required under the provisions of this act within

1 fifteen (15) days after written notice has been mailed to the  
2 employer by the Commission or its representative regardless of  
3 whether or not any wages or taxable wages were paid, there shall  
4 accrue a penalty of ~~One Hundred Dollars (\$100.00)~~ and in Two Hundred  
5 Dollars (\$200.00). In addition to such penalty, there shall be a  
6 penalty of ten percent (10%) added to the total contributions due,  
7 collected and paid. Such penalties shall be in addition to any  
8 interest due. The provisions of this subsection shall not apply to  
9 employers that are subject to subsection B of Section 3-806 of this  
10 title.

11 SECTION 3. AMENDATORY 40 O.S. 2021, Section 3-311, is  
12 amended to read as follows:

13 Section 3-311.

14 FORFEITURE OF TERMINATED EMPLOYER UNEMPLOYMENT TAX ACCOUNT  
15 OVERPAYMENTS.

16 A. It is the fiduciary duty of the Oklahoma Employment Security  
17 Commission to return overpayments received in the employer's  
18 unemployment tax account. Upon the termination of the employer's  
19 unemployment tax account, the Commission will issue a refund of any  
20 remaining credit balance that is equal to or greater than One  
21 Hundred Dollars (\$100.00) by mailing it to the last address provided  
22 by the employer. If an employer's unemployment tax account has been  
23 terminated and has a credit balance that has been at that level for  
24 a period of one hundred eighty (180) days or more without a refund

1 being requested from the employer, the Commission will reduce the  
2 balance of that unemployment tax account to zero (0) and consider  
3 the credit to be forfeited after the Commission has exercised its  
4 fiduciary duty.

5 B. Once the Commission has completed its fiduciary duty in  
6 facilitating the return of the credit to the employer, based upon  
7 the most current mailing address provided by the employer, the  
8 Commission can assume its fiduciary duty is completed. If the  
9 refund of the overpayment is returned to the Commission, the  
10 employer shall consider the funds forfeited and will be prohibited  
11 from requesting the credit balance in the future. All returns of  
12 overpayment shall be returned to the clearing account as set forth  
13 in Section 3-604 of ~~Title 40 of the Oklahoma Statutes~~ this title.

14 SECTION 4. AMENDATORY 40 O.S. 2021, Section 3-806, is  
15 amended to read as follows:

16 Section 3-806.

17 PAYMENT OF IN-LIEU CONTRIBUTIONS.

18 A. At the end of each calendar quarter the Oklahoma Employment  
19 Security Commission shall notify in writing each nonprofit  
20 organization, or the agent of a group of nonprofit organizations,  
21 which has elected to make payments in lieu of contributions, the  
22 amount, if any, equal to the full amount of regular benefits plus  
23 one-half (1/2) of the amount of extended benefits paid by the  
24 Commission during the quarter that is attributable to service in the

1 employ of the organization or the members of a group of the  
2 organizations. The full amount shall include all amounts paid as  
3 benefits that are attributable to base period wages paid by the  
4 organization, including any benefit amounts paid in error. The  
5 notification shall be deemed and treated as an assessment of  
6 contributions and the payment of the amount owing shall be collected  
7 as contributions, interest, penalty and fees, if any, are collected,  
8 in accordance with the provisions of the Employment Security Act of  
9 1980. The employer, or group of employers, shall have the rights  
10 and remedies provided by the Employment Security Act of 1980 with  
11 respect to assessments of contributions, including the right of  
12 protest, hearing and appeal. The Commission shall make its  
13 assessment or amend its assessment within three (3) years of the  
14 ending date of the calendar quarter to which the assessment or  
15 amendment applies. If no protest is filed or if filed and confirmed  
16 by the Commission or its authorized representatives, said assessment  
17 shall be immediately due and payable and shall bear interest after  
18 forty-five (45) days at the rate of one percent (1%) per month until  
19 paid. If any nonprofit organization or group of organizations fails  
20 or refuses to pay said assessment after same has become delinquent  
21 within forty-five (45) days after written request has been mailed to  
22 the organization or the agent of the group by the Commission or its  
23 representative, a penalty of five percent (5%) of the amount due  
24 shall be added thereto, collected and paid. ~~In the case of group~~

1 ~~accounts, assessments and penalty and interest provided in this~~  
2 ~~subsection may be prorated in accordance with Section 3-809 of this~~  
3 ~~title.~~ All collections made shall be deposited in the Unemployment  
4 Compensation Fund.

5 B. The electing organization, or group of organizations, shall  
6 file reports of wages paid, in the same time and manner as required  
7 of nongovernmental employers for profit. If any electing  
8 organization, or group of organizations, fails or refuses to file  
9 its wage report within fifteen (15) days after written notice, a  
10 penalty of ~~Ten Dollars (\$10.00)~~ Twenty Dollars (\$20.00) for each day  
11 until the report is filed with a maximum of ~~One Hundred Dollars~~  
12 ~~(\$100.00)~~ Two Hundred Dollars (\$200.00) is hereby imposed against  
13 the organization or group and shall be collected and paid.

14 C. Payments made by any nonprofit organization under the  
15 provisions of this section shall not be deducted or deductible, in  
16 whole or in part, from the remuneration of individuals in the employ  
17 of the organization.

18 SECTION 5. AMENDATORY 40 O.S. 2021, Section 6-202, is  
19 amended to read as follows:

20 Section 6-202.

21 EXPENDITURES FROM FUND.

22 A. The monies in the OESC Technology Fund shall be used for the  
23 following purposes:  
24

- 1        1. To purchase or lease new technology systems hardware for the  
2 Oklahoma Employment Security Commission to be used in its mission to  
3 provide employment services, unemployment insurance and economic  
4 research for the citizens of this state as well as the  
5 administration of these programs;
- 6        2. To purchase or lease any auxiliary or peripheral equipment  
7 necessary for the operation of the new technology systems;
- 8        3. To pay for the maintenance of all OESC technology system  
9 hardware;
- 10       4. To purchase or lease any and all software needed for the  
11 operation of the new technology systems;
- 12       5. To pay for all OESC technology system software license fees;
- 13       6. To pay for all programming and analysis necessary to make  
14 the new technology system operational;
- 15       7. To pay for all testing, designing, engineering, planning,  
16 networking and training to make the new technology system  
17 operational;
- 18       8. To pay for all shipping and installation charges for the  
19 technology system and its auxiliary and peripheral equipment;
- 20       9. To contract with vendors and hire personnel as necessary to  
21 accomplish the modernization effort;
- 22       10. To analyze business processes and develop requirements for  
23 Requests for Proposals;

24

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

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

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

19 ~~C. If any money remains in this fund after the new technology~~  
20 ~~system has been brought online and made fully operational, that~~  
21 ~~excess money shall be transferred to the Unemployment Compensation~~  
22 ~~Fund.~~

23 SECTION 6. AMENDATORY 40 O.S. 2021, Section 6-204, is  
24 amended to read as follows:



1 Section 6-204.

2 TECHNOLOGY REINVESTMENT APPORTIONMENT.

3 A. 1. For the period ~~from~~ beginning January 1, ~~2018, to~~  
4 ~~December 31, 2022~~ 2023, and ending December 31, 2027, each employer  
5 subject to the provisions of Sections 3-109, 3-110.1 and 3-113 of  
6 ~~Title 40 of the Oklahoma Statutes~~ this title shall be required to  
7 pay an OESC Technology Reinvestment Apportionment equal to five  
8 percent (5%) of the unemployment taxes that would be owed to the  
9 Oklahoma Employment Security Commission before any rate reduction is  
10 made pursuant to Section 3-109.3 of this title. This apportionment  
11 shall be in addition to any contribution which that employer is  
12 required to make pursuant to the provisions of the Employment  
13 Security Act of 1980.

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

19 B. Employers assigned a tax rate pursuant to Section 3-110.1 of  
20 ~~Title 40 of the Oklahoma Statutes~~ this title shall pay an OESC  
21 Technology Reinvestment Apportionment equal to the rate reduction  
22 granted them pursuant to Section 3-109.3 of this title.

23 C. ~~Employers who qualify for an earned tax rate calculated~~  
24 ~~pursuant to Section 3-109 of this title, and are given the highest~~

1 ~~tax rate in the rate table for the given year, shall be exempt from~~  
2 ~~the provisions of this section.~~

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

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

12 ~~F.~~ E. The Oklahoma Employment Security Commission shall  
13 promulgate such rules as may be necessary to implement the  
14 provisions of Sections 3-109.3 and 6-201 ~~to~~ through 6-205 of this  
15 title.

16 ~~G.~~ F. The Oklahoma Employment Security Commission shall create  
17 an annual report detailing the collection of the apportionment funds  
18 and the expenditures from the OESC Technology Fund. The report  
19 shall be filed on or before March 31 of each year following the  
20 effective date of this act, ~~and shall continue until all money in~~  
21 ~~the OESC Technology Fund is expended or transferred pursuant to~~  
22 ~~subsection C of Section 6-202 of this title.~~ The report shall be  
23 filed with the Governor, the President Pro Tempore of the Senate,  
24 the Speaker of the House of Representatives, the State Treasurer,

1 the State Auditor and Inspector, and the Director of the Office of  
2 Management and Enterprise Services.

3 SECTION 7. AMENDATORY 40 O.S. 2021, Section 6-205, is  
4 amended to read as follows:

5 Section 6-205.

6 TECHNOLOGY FUND BALANCE.

7 The balance of the OESC Technology Fund on July 1 of any given  
8 year shall be used in the calculation of conditional factors  
9 pursuant to Section 3-113 of ~~Title 40 of the Oklahoma Statutes~~ this  
10 title as long as the OESC Technology Fund has a balance greater than  
11 zero (0).

12 The balance of the fund shall not exceed Twenty-five Million  
13 Dollars (\$25,000,000.00) prior to June 30, 2024, or be greater than  
14 the calculated amount of Twenty-five Million Dollars  
15 (\$25,000,000.00). All funds in excess of these amounts shall be  
16 transferred to the Unemployment Compensation Fund.

17 The calculation shall be conducted in the following manner: The  
18 balance of the OESC Technology Fund as of July 1 of any given year  
19 shall be aggregated with the balance of the Unemployment  
20 Compensation Fund as of July 1 of the same year, with the resulting  
21 sum to be used in the calculation of the conditional factors as set  
22 out in Section 3-113 of ~~Title 40 of the Oklahoma Statutes~~ this  
23 title. The aggregate of the two fund balances shall only be for the  
24

1 purpose of the calculation and in no way shall balances in these two  
2 funds be commingled.

3 SECTION 8. This act shall become effective November 1, 2023.

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