

# An Act

ENROLLED HOUSE  
BILL NO. 2456

By: Hill of the House

and

Paxton of the Senate

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

SUBJECT: Labor

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

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

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~~ this title, for the time period beginning January 1, ~~2018, and ending December 31, 2022~~ 2023, and ending December 31, 2027, 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.~~

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

Section 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 of whether or not any wages or taxable wages were paid, there shall accrue a penalty of ~~One Hundred Dollars (\$100.00)~~ and in Two Hundred Dollars (\$200.00). 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.

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

Section 3-311.

FORFEITURE OF TERMINATED EMPLOYER UNEMPLOYMENT TAX ACCOUNT OVERPAYMENTS.

A. It is the fiduciary duty of the Oklahoma Employment Security Commission to return overpayments received in the employer's unemployment tax account. Upon the termination of the employer's

unemployment tax account, the Commission will issue a refund of any remaining credit balance that is equal to or greater than One Hundred Dollars (\$100.00) by mailing it to the last address provided by the employer. If an employer's unemployment tax account has been terminated and has a credit balance that has been at that level for a period of one hundred eighty (180) days or more without a refund being requested from the employer, the Commission will reduce the balance of that unemployment tax account to zero (0) and consider the credit to be forfeited after the Commission has exercised its fiduciary duty.

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

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

Section 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)~~ Twenty Dollars (\$20.00) for each day until the report is filed with a maximum of ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) 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.

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

Section 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 to 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.~~

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

Section 6-204.

TECHNOLOGY REINVESTMENT APPORTIONMENT.

A. 1. For the period ~~from beginning~~ beginning January 1, 2018, ~~to December 31, 2022~~ 2023, and ending December 31, 2027, each employer subject to the provisions of Sections 3-109, 3-110.1 and 3-113 of ~~Title 40 of the Oklahoma Statutes~~ this title 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~~ this title 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. D.~~ 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. E.~~ 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~~ through 6-205 of this title.

~~G. F.~~ 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.

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

Section 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~~ this title as long as the OESC Technology Fund has a balance greater than zero (0).

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

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~~ this title. 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.

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



Passed the House of Representatives the 24th day of May, 2023.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 25th day of May, 2023.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_