

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 ENGROSSED HOUSE
4 BILL NO. 2456

By: Hill of the House

5 and

6 Paxton of the Senate

7
8 An Act relating to labor; amending 40 O.S. 2021,
9 Sections 3-109.3, 3-301, 3-311, 3-806, 6-202, 6-204,
10 and 6-205, which relate to the Employment Security
11 Act of 1980; modifying dates for certain rate
12 reduction; increasing penalties; modifying refund of
remaining credit balance; removing expenditure limit;
13 modifying technology reinvestment apportionment;
14 providing for limit of fund; and providing an
effective date.

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

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

18 Section 3-109.3

19 RATE REDUCTION FOR TECHNOLOGY REINVESTMENT APPORTIONMENT.

20 Notwithstanding the provisions of Sections 3-109, 3-110.1 and 3-
21 113 of ~~Title 40 of the Oklahoma Statutes~~ this title, for the time
22 period beginning January 1, ~~2018, and ending December 31, 2022~~ 2023,
23 and ending December 31, 2027, the tax rate computed for or assigned
24 to an employer shall be reduced by five percent (5%). ~~Provided, the~~

1 ~~tax rate of employers assigned a tax rate pursuant to Section 3-~~
2 ~~110.1 of Title 40 of the Oklahoma Statutes shall not be reduced to~~
3 ~~less than one percent (1%). Provided further, employers who qualify~~
4 ~~for an earned tax rate calculated pursuant to Section 3-109 of Title~~
5 ~~40 of the Oklahoma Statutes, and are given the highest tax rate in~~
6 ~~the rate table for the given year, shall not be eligible for the~~
7 ~~rate reduction provided for in this section.~~

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

10 Section 3-301.

11 PENALTY AND INTEREST ON PAST-DUE CONTRIBUTIONS.

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

20 B. If any employer fails or refuses to file contribution and
21 wage reports required under the provisions of this act within
22 fifteen (15) days after written notice has been mailed to the
23 employer by the Commission or its representative regardless of
24 whether or not any wages or taxable wages were paid, there shall

1 accrue a penalty of ~~One Hundred Dollars (\$100.00)~~ and in Two Hundred
2 Dollars (\$200.00). Said penalty shall automatically be inflation-
3 adjusted by the cumulative rate of inflation as measured by the
4 Bureau of Labor Statistics - Consumer Price Index. In addition to
5 such penalty, there shall be a penalty of ten percent (10%) added to
6 the total contributions due, collected and paid. Such penalties
7 shall be in addition to any interest due. The provisions of this
8 subsection shall not apply to employers that are subject to
9 subsection B of Section 3-806 of this title.

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

12 Section 3-311.

13 FORFEITURE OF TERMINATED EMPLOYER UNEMPLOYMENT TAX ACCOUNT
14 OVERPAYMENTS.

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

1 balance of that unemployment tax account to zero (0) and consider
2 the credit to be forfeited after the Commission has exercised its
3 fiduciary duty.

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

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

15 Section 3-806.

16 PAYMENT OF IN-LIEU CONTRIBUTIONS.

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

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

1 ~~subsection may be prorated in accordance with Section 3-809 of this~~
2 ~~title.~~ All collections made shall be deposited in the Unemployment
3 Compensation Fund.

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

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

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

19 Section 6-202.

20 EXPENDITURES FROM FUND.

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

23 1. To purchase or lease new technology systems hardware for the
24 Oklahoma Employment Security Commission to be used in its mission to

1 provide employment services, unemployment insurance and economic
2 research for the citizens of this state as well as the
3 administration of these programs;

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

6 3. To pay for the maintenance of all OESC technology system
7 hardware;

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

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

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

13 7. To pay for all testing, designing, engineering, planning,
14 networking and training to make the new technology system
15 operational;

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

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

20 10. To analyze business processes and develop requirements for
21 Requests for Proposals;

22 11. To fund project planning, project management, strategy
23 development and project consulting services; and
24

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

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

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

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

23 Section 6-204.

24 TECHNOLOGY REINVESTMENT APPORTIONMENT.

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

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

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

21 C. ~~Employers who qualify for an earned tax rate calculated~~
22 ~~pursuant to Section 3-109 of this title, and are given the highest~~
23 ~~tax rate in the rate table for the given year, shall be exempt from~~
24 ~~the provisions of this section.~~

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

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

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

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

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

3 Section 6-205.

4 TECHNOLOGY FUND BALANCE.

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

10 The balance of the fund shall not exceed Twenty-five Million
11 Dollars (\$25,000,000.00) prior to June 30, 2024, or be greater than
12 the calculated amount of Twenty-five Million Dollars
13 (\$25,000,000.00) plus the greater of the annual Consumer Price Index
14 rate for the State of Oklahoma for each subsequent year, as provided
15 by the Bureau of Labor Statistics, or three percent (3%) per annum
16 from that date forward. All funds in excess of these amounts shall
17 be transferred to the Unemployment Compensation Fund.

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

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.

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
5 April 10, 2023 - DO PASS
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