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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 218. OFFICE OF EDUCATIONAL QUALITY AND ACCOUNTABILITY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #18-675]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

218:1-1-3 [AMENDED]

218:1-1-4 [AMENDED]

218:1-1-6 [AMENDED]

218:1-1-8 [AMENDED]

SUMMARY:

The proposed Administrative Operations amendments clarify language on office location and commission meetings.

AUTHORITY:

Office of Educational Quality and Accountability; 70 O.S. §3-116.1 et seq.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 9, 2019 at the following address: Office for Educational Quality and Accountability, 840 Research Parkway, Suite 455, Oklahoma City, OK 73104.

PUBLIC HEARING:

A public hearing will be held from 9:00 a.m. to 10:00 a.m. on Wednesday, January 9, 2019 in the 4th floor Board Room, 840 Research Parkway, Oklahoma City, 73104.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency within the comment period, with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Daniel Craig, at the above address, before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Office of Educational Quality and Accountability, 840 Research Parkway, Suite 455, Oklahoma City, OK 73104.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be prepared and may be obtained from the Office of Educational Quality and Accountability at the above address beginning on November 26, 2018.

CONTACT PERSON:

Daniel Craig, Executive Director, 405-522-5399

[OAR Docket #18-675; filed 10-23-18]

TITLE 218. OFFICE OF EDUCATIONAL QUALITY AND ACCOUNTABILITY CHAPTER 10. EDUCATIONAL QUALITY

[OAR Docket #18-676]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Educator Preparation Program Accreditation

218:10-5-1 [AMENDED]

218:10-5-3 [AMENDED]

SUMMARY:

The proposed Educator Preparation Program Accreditation amendments reflect changes in state standards and policies for program accreditation to align with national accreditation.

AUTHORITY:

Office of Educational Quality and Accountability; 70 O.S. §6-180 et seq.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 9, 2019 at the following address: Office for Educational Quality and Accountability, 840 Research Parkway, Suite 455, Oklahoma City, OK 73104.

PUBLIC HEARING:

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REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Office of Educational Quality and Accountability, 840 Research Parkway, Suite 455, Oklahoma City, OK 73104.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be prepared and may be obtained from the Office of Educational Quality and Accountability at the above address beginning on November 26, 2018.

CONTACT PERSON:

Daniel Craig, Executive Director, 405-522-5399

[OAR Docket #18-676; filed 10-23-18]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #18-673]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Records and Inspections
240:1-3-4. Copies [AMENDED]

SUMMARY:

This is a cleanup amendment to remove an obsolete subsection from the rule. The governing statute at 40 O.S. §4-508(D), gives the OESC 20 days to produce documents requested. Subsection (b) is being deleted because it exceeds that 20-day time period. The correct time period is specifically set out by this amendment.

AUTHORITY:

Oklahoma Employment Security Commission; 40 O.S. §§4-302 & 4-508.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 5:00 p.m. on December 17, 2018, at the following address: Gina Antipov, OESC Legal Department, 2401 North Lincoln Boulevard, Room 511-6, P.O. Box 53039, Oklahoma City, OK 73152, or Gina.Antipov@oesc.state.ok.us.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, December 18, 2018, at the Oklahoma Employment Security Commission, 5th Floor Room 511, Will Rogers Building, 2401 North Lincoln Boulevard, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 9:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OESC requests that business entities affected by this proposed rule provide the OESC, within the comment period, in dollar amounts if possible, the increase in the level of direct services, revenue loss, or other costs expected to be incurred by costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, and labor to the particular business entity due to compliance with the proposed rule. Business entities may submit this information in writing to Gina Antipov, at the above address, before the close of the comment period on December 17, 2018.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the OESC Legal Department, 2401 North Lincoln Boulevard, Room 511-6, P.O. Box 53039, Oklahoma City, OK 73152. The proposed rule is also available on the OESC website at https://www.ok.gov/oesc_web/documents/2019%20Notice.docx

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared and may be obtained from the OESC Legal Department at the above address beginning November 15, 2018.

CONTACT PERSON:

Gina Antipov, Secretary V, (405) 557-7146,
Gina.Antipov@oesc.state.ok.us.

[OAR Docket #18-673; filed 10-11-18]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #18-674]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
240:10-1-2. Definitions [AMENDED]
Subchapter 3. Benefits
Part 3. ~~Rates~~ Computation
240:10-3-12. Payment of benefits [AMENDED]
Part 5. Eligibility
240:10-3-20. Instructions to secure work [AMENDED]
Subchapter 5. Contributions
Part 1. General Provisions
240:10-5-2. Definitions [AMENDED]
Part 7. Collection of Contributions
240:10-5-33. Application of payments to Computer Assessment Fund and Technology Reinvestment Apportionment [AMENDED]
Part 19. Maintenance and Production of Work Records
240:10-5-91. Employer's Quarterly Contribution Wage Reports [AMENDED]
240:10-5-96. Application for Oklahoma UI Tax Account Number [AMENDED]

SUMMARY:

240:10-1-2. The definition of "profiling" is being deleted because this program for identifying claimants likely to exhaust benefits has been replaced by the Re-employment Services and Eligibility Assessment (RESEA). New definitions defining "RESEA" and "RESEA Selection" are being added to the definition section for use in administering the new program. The definition of "temporary layoff" is being amended to reflect actual agency policy. A temporary layoff can last no

more than 8 weeks in any benefit year. The request must be made in writing and must include a specific recall date. The employer may apply to the Commission for an extension of the recall date that will not exceed 4 additional weeks in the benefit year. Language in this definition relating to a temporary layoff by federal agencies or federal contractors has been deleted from this definition, and a new definition of "temporary layoff-federal" has been added to the rule. When a federal agency or federal contractor lays off employees for a temporary period of time due to the needs of the federal government, the employer maintains an attachment to the employee by means of its contract of employment. No recall date is required for federal temporary layoffs.

240:10-3-12. The amendments to this statute reflect changes in the debit card and direct deposit procedures for unemployment benefits. In the current rule, the claimant can choose at the onset of the claim whether or not to be paid through the use of a debit card or direct deposit to the claimant's bank account. The state-selected vendor for debit cards has made changes to this procedure. At this time, all claimants get a debit card. Once the claimant has been issued a debit card, the claimant can request direct deposit into another bank account. All direct deposit information will be given by the claimant to the state-selected vendor, and the state-selected vendor will make arrangements for the direct deposits into the other bank account. The changes to this rule reflect the current procedure.

240:10-3-20. This rule is being amended in subsection (b) to state specifically that a claimant must make two work search efforts each week. Subsection (b) contains a list of appropriate work search activities. Three items are being deleted from this list because staff did not feel like they were activities of significant import to consider them to be a "work search."

A new subsection (c) is being added to state that the Commission may increase the number of work searches required each week based on the circumstances of the claimant. There were two subsections in the original rule that spoke to the waiver of the work search requirement. These subsections are being combined into one subsection (d). The newly-defined "temporary layoff-federal" is referenced in the new work search waiver subsection.

240:10-5-2. The definition of "substantially all" is being amended to remove reference to the statute at 40 O.S. §3-111 because that statute was repealed. It is being replaced with a reference to 40 O.S. §1-208 which is the definition of "employer" in the governing act. This definition will be used to terminate an employer that has sold its business to another entity.

New definitions of "substantially common control," "substantially common management," and "substantially common ownership," have been added to aid in the implementation of the successor statute at 40 O.S. §3-111.1. These definitions indicate that substantially common ownership, management, and control will be found if 60% of any of these aspects of a business of the predecessor is also found to be in place with the successor entity.

240:10-5-33. A new subsection (b) is being added to this rule to state that if a payment is received to pay back indebtedness in a delinquent taxpayer account, and there is an amount owing for the OESC Technology Reinvestment Apportionment, the money received in the payment will first be applied to the amounts owing for the OESC Technology Reinvestment Apportionment and any remaining money shall be applied pursuant to Rule 240:10-5-32 which relates to regular tax indebtedness.

240:10-5-91. This is a cleanup and clarification amendment to state that the paper form OES-3 for the filing of the employer's quarterly unemployment taxes is to be used only for those employees who have been granted an exception from filing through the employer portal as required by subsection (d) of the rule.

240:10-5-96. This rule is being amended to clarify that trustees of trusts must complete certain portions of the application for a UI tax number in the same manner as owners, corporate officers, and other employers. An employing unit is defined in the governing act at 40 O.S. §1-209. The definition includes trusts that have employees.

240:10-11-5. This rule is being amended to include in the jurisdiction of the Assessment Board the hearings concerning a protest made by a debtor to the OESC through the procedures of the U.S. Treasury Offset Program. This is being done pursuant to 26 USCA §6402, and 40 O.S. §§2-619 and 3-512.

240:10-11-27. This is a new rule that requires each party to a hearing before the Assessment Board to deliver all documents and electronically recorded evidence to the Assessment Board 5 days before the hearing so that copies can be delivered to the opposing party.

240:10-13-47. This is a new rule that requires each party to a hearing before the Appeal Tribunal to deliver all documents and electronically recorded evidence to the Appeal Tribunal 5 days before the hearing so that copies can be delivered to the opposing party.

AUTHORITY:

Oklahoma Employment Security Commission; 40 O.S. §§4-302, 1-209, 2-619, 3-102, 3-512, 4-310.1, 4-503, 26 USCA §6402.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 5:00 p.m. on December 17, 2018, at the following address: Gina Antipov, OESC Legal Department, 2401 North Lincoln Boulevard, Room 511-6, P.O. Box 53039, Oklahoma City, OK 73152, or Gina.Antipov@oesc.state.ok.us.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, December 18, 2018, at the Oklahoma Employment Security Commission, 5th Floor Room 511, Will Rogers Building, 2401 North Lincoln Boulevard, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 9:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OESC requests that business entities affected by this proposed rule provide the OESC, within the comment period,

Notices of Rulemaking Intent

in dollar amounts if possible, the increase in the level of direct services, revenue loss, or other costs expected to be incurred by costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, and labor to the particular business entity due to compliance with the proposed rule. Business entities may submit this information in writing to Gina Antipov, at the above address, before the close of the comment period on December 17, 2018.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the OESC Legal Department, 2401 North Lincoln Boulevard, Room 511-6, P.O. Box 53039, Oklahoma City, OK 73152. The proposed rules are also available on the OESC website at https://www.ok.gov/oesc_web/documents/2019%20Notice.docx

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared and may be obtained from the OESC Legal Department at the above address beginning November 15, 2018.

CONTACT PERSON:

Gina Antipov, Secretary V, (405) 557-7146,
Gina.Antipov@oesc.state.ok.us.

[OAR Docket #18-674; filed 10-11-18]

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 50. INCOME

[OAR Docket #18-677]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Oklahoma Taxable Income
Part 5. Other Adjustments to Income
710:50-15-50 [AMENDED]
Part 7. Credits Against Tax
710:50-15-76 [AMENDED]
710:50-15-103 [AMENDED]

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

ADOPTION:

September 18, 2018

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

October 17, 2018

EXPIRATION:

Effective through September 14, 2019, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Some of the statutory changes made by the 56th Legislature, Second Special Session (2017) are effective for the 2018 tax year. Compelling public interest was found to warrant emergency promulgation of these rules to insure that the public has timely information regarding these new provisions in the law.

GIST/ANALYSIS:

The proposed emergency rules implement the provisions of legislative changes made by the Second Special Session of the 56th Legislature (HB1011xx, HB1034xx and HB1036xx), which capped itemized deductions, the coal income tax credit and the railroad income tax credit beginning with tax year 2018. [68:2357.11, 2357.104, 2358]

CONTACT PERSON:

Lisa Haws, OBA #12695, Tax Policy Analyst; (405) 521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(F):

SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

PART 5. OTHER ADJUSTMENTS TO INCOME

710:50-15-50. Deductions

(a) In the event federal itemized deductions are used on the federal return, federal itemized deductions must be used on the Oklahoma return. Oklahoma itemized deductions to income will be the same as federal itemized deductions, subject to the ~~limitation~~ limitations in (i) of this Section. In the event the standard deduction is used on the federal return, the Oklahoma standard deduction must be used on the Oklahoma return.

(b) For tax year 2005 and prior, the standard deduction for Oklahoma is the larger of \$1,000.00 or 15% of Oklahoma Adjusted Gross Income not to exceed \$2,000.00 (if married filing separately, the larger of \$500.00 or 15% not to exceed \$1,000.00).

(c) For tax year 2006, taxpayers filing as married joint, head of household or surviving spouse will have a standard deduction for Oklahoma of \$3,000.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$2,000.00.

(d) For tax year 2007, taxpayers filing as married joint or surviving spouse will have a standard deduction for Oklahoma of \$5,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$2,750.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$4,125.00.

(e) For tax year 2008, taxpayers filing as married joint, or surviving spouse will have a standard deduction for Oklahoma of \$6,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$3,250.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$4,875.00.

(f) For tax year 2009, taxpayers filing as married joint, or surviving spouse will have a standard deduction for Oklahoma of \$8,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$4,250.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$6,375.00.

Emergency Adoptions

(g) For tax year 2010 through tax year 2016, taxpayers will have a standard deduction for Oklahoma equal to the standard deduction allowed by the Internal Revenue Code of 1986 based upon the amount and filing status prescribed by the Code for purposes of filing federal individual income tax returns.

(h) For tax year 2017 and subsequent tax years, taxpayers filing as married joint or qualifying widow will have a standard deduction for Oklahoma of \$12,700.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$6,350.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$9,350.00.

(i) Oklahoma itemized deductions to income will be the same as federal itemized deductions, subject to the following limitations:

(1) For tax year 2016 and subsequent tax years, taxpayers shall add back state and local sales or income taxes which were allowed as an itemized deduction on the federal income tax return.

(2) For tax year 2017 and subsequent tax years, state and local sales or income taxes which were not allowed as an Oklahoma itemized deduction but were required to be recaptured on the federal income tax return will not be included in Oklahoma taxable income.

(3) For tax year 2018 and subsequent tax years, Oklahoma itemized deductions may not exceed \$17,000, provided charitable contributions and medical expenses deductible for federal income tax purposes are excluded from the \$17,000 cap.

PART 7. CREDITS AGAINST TAX

710:50-15-76. Oklahoma coal credits

(a) **General provisions applicable to qualifying business entities purchasing Oklahoma-mined coal.** There shall be allowed a credit against the tax imposed by Sections 1803 and 2355 of Title 68 or Sections 624 and 628 of Title 36 of the Oklahoma Statutes for legal business entities purchasing Oklahoma-mined coal for qualifying purposes. In order to qualify for the Oklahoma Coal Credit, the business entity must either furnish water, heat, light, or power to the citizens or to the State of Oklahoma, or burn coal to generate heat, light, or power for use in manufacturing operations in Oklahoma. [See: 68 O.S. § 2357.11; *Wyoming v. Oklahoma*, 112 S.Ct. 789 (1992)]

(1) **Basic credit.** For tax years beginning on or after January 1, 1993, and ending on or before December 31, 2005 and for the period beginning January 1, 2006 through June 30, 2006, the credit shall be Two Dollars (\$2.00) per ton of Oklahoma-mined coal purchased. For the period July 1, 2006 through December 31, 2006 and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Two Dollars and eighty-five cents (\$2.85) per ton of Oklahoma-mined coal purchased, except as provided in (h) of this Section.

(2) **Extended basic credit.** For the period July 1, 2006 through December 31, 2006 and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Two Dollars and fifteen cents

(\$2.15) per ton of Oklahoma-mined coal purchased. The extended basic credit may not be claimed or transferred prior to January 1, 2008, except as provided in (h) of this Section.

(3) **Additional credit for large quantity purchasers.** For tax years beginning on or after January 1, 1995, and ending on or before December 31, 2005 and for the period beginning January 1, 2006 through June 30, 2006, there shall be allowed, in addition to the credit described in (1) of this subsection, a **supplemental** credit of Three Dollars (\$3.00) per ton of Oklahoma-mined coal purchased. However, to obtain the credit described in this paragraph, purchases must total at least Seven Hundred Fifty Thousand (750,000) tons of Oklahoma-mined coal in the tax year for which credit is sought.

(b) **General provisions applicable to qualifying business entities that mine, produce, or extract coal.** For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2021, there shall be allowed a credit against the tax imposed by Sections 1803 and 2355 of Title 68 or Sections 624 and 628 of Title 36 of the Oklahoma Statutes for every business entity in this state primarily engaged in mining, production, or extraction of coal, and holding a valid permit issued by the Oklahoma Department of Mines, **so long as** the average price of coal mined, produced, or extracted in any month for which credits are claimed is less than Sixty-eight Dollars (\$68.00) per ton.

(1) **Basic credit.** For tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period beginning January 1, 2006 through June 30, 2006, the credit shall be Ninety-five Cents (\$0.95) per ton and for the period of July 1, 2006 through December 31, 2006, and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Five Dollars (\$5.00) for each ton of coal mined, produced, or extracted in, on, under, or through a permit in this state, except as provided in (h) of this Section.

(2) **Additional credit for thin seam coal.** For tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period of January 1, 2006 through June 30, 2006, there shall be allowed, in addition to that described in (1) of this subsection, a **supplemental** credit in the amount of Ninety-five Cents (\$0.95) per ton of coal mined, produced, or extracted from **thin seams** in this state, **so long as** the purchaser of the thin seam coal purchases less than Seven Hundred Fifty Thousand (750,000) tons of Oklahoma coal per year.

(3) **Extended credit for thin seam coal.** For tax years beginning on or after January 1, 2005 and ending on or before December 31, 2005, for the period of January 1, 2006, through June 30, 2006, there shall be allowed, in addition to that described in (1) and (2) of this subsection, a **supplemental** credit in the amount of Ninety-five Cents (\$0.95) per ton of coal mined, produced, or extracted from **thin seams** in this state on or after July 1, 2005.

(c) **Transferability.** The coal credits allowed, but not used, shall be freely transferable by written agreement to subsequent

transferees, at any time during the five (5) years following the year of qualification.

(1) **"Eligible transferee" defined.** For purposes of this subsection, an "eligible transferee" means *any taxpayer subject to the tax imposed by Section 1803 or 2355 of Title 68 or Section 624 or 628 of Title 36 of the Oklahoma Statutes.* [See: 68 O.S. § 2357.11(H)] Pursuant to the statutory definition, an "eligible transferee" taxpayer may be an individual, as well as a legal business entity.

(2) **Written transfer agreement requirements.** The business entity which originally earned the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring entity, and the tax year or years for which the credit may be claimed.

(3) **Claiming transferred credit.** A copy of OTC Form 572 must be attached to any tax return on which a taxpayer claims a transferred credit.

(4) **Limitation of transferability.** Credits earned after December 31, 2013, shall not be transferable.

(d) **Application of credit election.** Any coal credit may, upon the election of the taxpayer, be claimed as a payment of tax, a prepayment of tax, or a payment of estimated tax for purposes of Section 1803 or 2355 of Title 68 or Section 624 or 628 of Title 36. In no event shall the credit reduce the tax below zero, and as such, this credit is non-refundable. Coal credits shall not be used to lower the price of any Oklahoma-mined coal sold that is produced by a subsidiary of the person receiving a tax credit under this section to other buyers of the Oklahoma-mined coal.

(e) **Carryover provisions.** Any coal credit earned prior to January 1, 2014, to the extent not used, may be carried over in order to each of the five (5) years following the year of qualification. However, at no time may the credit claimed exceed the tax liability for credits earned prior to January 1, 2014.

(f) **Refund of tax credits.** Credits earned on or after January 1, 2014, but not used, shall be refunded to the taxpayer at eighty-five percent (85%) of the face amount of the credits. If the taxpayer is a pass-through entity and does not file a claim for a direct refund, the pass-through entity shall allocate the credit to one or more of the shareholders, partners or members of the pass-through entity. The total amount of credits refunded or allocated shall not exceed the amount of the credit or refund to which the pass-through entity is entitled.

(g) **Tax credit moratorium.** No credit may be claimed for coal purchased, mined, produced or extracted during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for Oklahoma-mined coal for qualifying purposes purchased, mined, produced or extracted on or after July 1, 2012.

(h) **Tax credit limitation.**

(1) For any credits calculated pursuant to (a)(1) or (a)(2), or (b)(1) of this Section for activities occurring

on or after January 1, 2016, the amount of credit allowed shall be equal to seventy-five percent (75%) of the amount otherwise provided. [68 O.S. § 2357.11(N)]

(2) For tax years beginning on or after January 1, 2018, the total amount of credits authorized by this section used to offset tax or paid as a refund shall be adjusted annually to limit the annual amount of credits to Five Million Dollars (\$5,000,000.00). The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this section shall be reduced so the total amount of credits used to offset tax or paid as a refund does not exceed Five Million Dollars (\$5,000,000.00) per year.

710:50-15-103. Credit for qualified railroad reconstruction or replacement expenditures

(a) **General provisions.** For tax years beginning after December 31, 2005 there is a credit allowed against the tax imposed by Section 2355 of Title 68 equal to 50% of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Eligible taxpayer"** means any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(2) **"Qualified railroad reconstruction or replacement expenditures"** means expenditures for reconstruction or replacement of railroad infrastructure. This includes track, roadbed, bridges, industrial leads and track-related structures owned or leased by a Class II or Class III railroad as of January 1, 2006. Qualified railroad reconstruction or replacement expenditures can also include new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by a Class II or Class III railroad.

(c) **Limitations.**

(1) The amount of the credit may not exceed the product of Five Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars (\$2,000.00) for tax years 2008 and the number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year. In tax year 2009 and subsequent tax years, an eligible taxpayer may elect to increase the limit for tax year 2008 to an amount equal to three times the amount specified. However, the taxpayer may only claim one third (1/3) of the credit in any one taxable period. An eligible taxpayer who elects to increase the limitation on the credit will not be granted additional credits during the period of such election.

(2) Effective for tax years beginning on or after January 1, 2016, the credit is limited to seventy-five percent (75%) of the otherwise allowable credit. [68 O.S. § 2357.104(H)]

(d) **Transferability.** The credits allowed pursuant to this Section that are not used are freely transferable by written

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agreement, to subsequent transferees, at any time during the five (5) years following the year of qualification.

- (1) **"Eligible transferee" defined.** For purposes of this subsection, an "eligible transferee" shall be any taxpayer subject to the tax imposed by Section 2355 of Title 68.
- (2) **Written transfer agreement requirements.** The person originally allowed the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person, and the tax year or years for which the credit may be claimed.
- (e) **Carryover provisions.** Any credit allowed pursuant to the provisions of this Section, to the extent not used, may be carried over in order to each of the five (5) years following the year of qualification.
- (f) **Tax credit moratorium.** No credit may be claimed for qualified railroad reconstruction or replacement expenditures

occurring during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. Qualified railroad reconstruction or replacement expenditures occurring before July 1, 2010 will qualify for the tax credit regardless of when the Department of Transportation issues the certificate of verification of completion of the project. This credit may be claimed for tax year 2012 and subsequent tax years, for qualified railroad reconstruction or replacement expenditures on or after July 1, 2012.

(g) **Tax credit limitation.** For tax years beginning on or after January 1, 2018, the total amount of credits authorized by this section used to offset tax shall be adjusted annually to limit the annual amount of credits to Two Million Dollars (\$2,000,000.00). The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this section shall be reduced so the total amount of credits used to offset tax does not exceed Two Million Dollars (\$2,000,000.00) per year.

[OAR Docket #18-677; filed 10-24-18]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2018-26.

EXECUTIVE ORDER 2018-26

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property, and upon all public buildings and grounds in Oklahoma, at half-staff, until sunset October 31, 2018, as a mark of respect for the victims of the terrible act of violence perpetrated at The Tree of Life Synagogue in Pittsburgh, Pennsylvania, on October 27, 2018.

This Executive Order shall be forwarded to the Division of Capital Assets Management, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 29th day of October 2018.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

James A. Williamson
Secretary of State

[OAR Docket #18-678; filed 10-29-18]

1:2018-27.

EXECUTIVE ORDER 2018-27

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby order the formation of the Oklahoma Justice Reform Implementation Oversight Commission (Commission).

The Commission shall monitor and oversee implementation of the legislation advanced during the 2017 and 2018 legislative sessions reflecting the recommendations of the Oklahoma Justice Reform Task Force, established by Executive Order 2016-24.

The duties of the Commission shall include, but are not limited to, the following:

1. Track implementation and policy changes required by the following legislation:
 - a. 2018 House Bill 2281
 - b. 2017 House Bill 2284
 - c. 2018 House Bill 2286
 - d. 2018 Senate Bill 185
 - e. 2017 Senate Bill 603
 - f. 2017 Senate Bill 604
 - g. 2018 Senate Bill 649
 - h. 2018 Senate Bill 650
 - i. 2018 Senate Bill 689
 - j. 2018 Senate Bill 786
 - k. 2018 Senate Bill 793
2. Collect and analyze data from multiple sources to track the implementation successes and challenges of the above mentioned bills.
3. Engage and educate criminal justice stakeholders with implementation responsibilities for the policies identified in above mentioned bills.
4. Make recommendations to Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives based on the data collected to inform further criminal justice policy and budget decisions.
5. Publish an annual report on implementation progress, performance metrics, recommendations, and other relevant Commission activities.

The Commission shall submit to the Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives an annual report on or before December 31st, 2019 and then on or before December 31st of each of the next four years, detailing the status of justice reform implementation.

The Governor, or designee, shall serve as the Chairperson of the Commission. The Director of the Department of Corrections, or designee, shall serve as the Vice-Chairperson. The members of the Commission shall be appointed by and serve at the pleasure of the Governor, and shall include: the Commissioner of the Department of Mental Health and Substance Abuse Services, or designee; the Director of the Pardon and Parole Board, or designee; a member of the Oklahoma State Senate; a member of the Oklahoma House of Representatives;

Executive Orders

the Director of the Administrative Office of the Courts; a District Court Judge; the chair of the Oklahoma District Attorney's Council; the Tulsa County Public Defender; a member of the Association of County Commissioners of Oklahoma; the President of the Oklahoma City Chamber of Commerce or designee; the President of the Tulsa Regional Chamber of Commerce or designee; a member of a non-profit organization or foundation focused on reentry services; a member of a non-profit organization or foundation focused on criminal justice reform and a member of a victims' services organization.

All Executive departments, officers, agencies, and employees of the State shall cooperate with the Commission, including providing any information, data, records, and reports as may be requested by the chair.

The Commission shall meet biannually or at the call of the chair. Members shall serve without compensation. The Office of Management and Enterprise Services shall provide staff and administrative support for the Commission.

This Executive Order shall be distributed to the Director of OMES and each Commission member.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 30th day of October, 2018.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
James A. Williamson
Secretary of State

[OAR Docket #18-685; filed 11-1-18]
