COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB746 _____

                                               Of the printed Bill

Page _____   Section _____   Lines _____

                                               Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: John Pfeiffer

Adopted: _____

                                                   _____

_____
                Reading Clerk

1   STATE OF OKLAHOMA

2   1st Session of the 57th Legislature (2019)

3   PROPOSED COMMITTEE
    SUBSTITUTE
4   FOR ENGROSSED
    SENATE BILL NO. 746   By: Smalley of the Senate
5
                                            and
6
                                    Pfeiffer of the House
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10   PROPOSED COMMITTEE SUBSTITUTE

11   [income tax credits - codification - effective date]

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

15   SECTION 1.   NEW LAW   A new section of law to be codified

16 in the Oklahoma Statutes as Section 2357.405 of Title 68, unless

17 there is created a duplication in numbering, reads as follows:

18   A. As used in this section:

19   1. "Annual wages" means the wages subject to withholding taxes

20 paid to qualified software and cybersecurity employees by a

21 qualifying employer;

22   2. "Degree-producing institution" means an institution within

23 The Oklahoma State System of Higher Education or any other public or

24 private college or university that has cybersecurity or IT

accredited programs from the Computing Accreditation Commission

(CAC) or the Engineering Accreditation Commission (EAC) of the

Accreditation Board for Engineering and Technology (ABET);

    3. "Technology center" means an institution in the Oklahoma

State Board of Career and Technology Education that offers

accredited software or cybersecurity programs requiring more than

eight hundred (800) hours of class time accredited by the Cisco

Networking Academy, VMware IT Academy, CompTIA Academy or the

Raytheon Cyber Academy;

    4. "Accredited program" means:

        a.   an undergraduate or graduate software, cybersecurity,

                computer science or IT degree program accredited by

                the Computing Accreditation Commission (CAC) or the

                Engineering Accreditation Commission (EAC) of the

                Accreditation Board for Engineering and Technology

                (ABET) offered at a degree-producing institution, or

        b.   an accredited software or cybersecurity program

                requiring more than eight hundred (800) hours of class

                time accredited by the Cisco Networking Academy,

                VMware IT Academy, CompTIA Academy or the Raytheon

                Cyber Academy;

    5. "Qualified employer" means a sole proprietor, general

partnership, limited partnership, limited liability company,

corporation or other legally recognized business entity, or

governmental entity that has at least fifteen full-time employees

and who will hire within twelve (12) months of application at least

five qualified software or cybersecurity employees, as defined in

this section;

6. "Qualified industry" means a private or public company whose

activities are defined or classified in the most recent North

American Industry Classification System (NAICS) manual under U.S.

Sector Nos. 21, 22, 31-33, 48, 51, 52, 54, 55 and 62, or a national

defense governmental entity classified in the most recent NAICS

manual under U.S. Sector No. 92;

7. "Qualified program" means:

    a.   an accredited program whose successful completion

         results in a degree obtained from a degree-producing

         institution, or

    b.   an accredited program at a technology center that

         awards credentials in the fields of software

         engineering, programming or cybersecurity; and

8. "Qualified software or cybersecurity employee" means any

person newly employed by a qualifying employer in a qualifying

industry on or after the effective date of this act who:

    a.   has been awarded an associate's or higher degree from

         a degree-producing institution in a qualified program,

         or

1   b.   has been awarded a certificate or credential in a

2   qualified program from a technology center.

3   B.   Average annualized wages at a qualifying employer must meet

4 or exceed one hundred ten percent (110%) of the average county wage,

5 as that percentage is determined by the Oklahoma Department of

6 Commerce based on the most recent U.S. Department of Commerce data

7 for the county in which the employer is located; or, for federal

8 employees, such employees shall meet a GS-5 or equivalent initial

9 hiring threshold in lieu of the wage requirement. For the purposes

10 of this section, annual wages shall not include employer-provided

11 health care or retirement benefits.

12   C.   In order to receive the tax credit as provided for in

13 subsection G of this section, a qualified employer shall apply to

14 the Oklahoma Department of Commerce on behalf of its qualified

15 employees. The application shall be on a form prescribed by the

16 Department and shall contain such information as may be required by

17 the Department to determine if the applicants are qualified.

18 Potentially qualifying software or cybersecurity employees shall be

19 required to provide sufficient documentation to their employer that

20 they have been awarded a degree, certificate or credential from a

21 qualified program.

22   D.   In order for the qualified software or cybersecurity

23 employees to qualify to receive the tax credit, the qualified

24 employer shall be in a qualifying industry and pay employees a

qualifying compensation for the county in which the qualified

employer has its primary Oklahoma address.

E. If an application contains the required information, the

Oklahoma Department of Commerce shall notify the Oklahoma Tax

Commission of the qualifying employees at a qualified employer at

least once per calendar quarter and it shall be the responsibility

of the Tax Commission to approve or disapprove the credit.

F. In order for the qualified employees to continue to receive

the tax credit pursuant to this section, the qualified employer must

annually submit by January 31 to the Tax Commission the list of

qualifying employees on such a form as the Tax Commission

designates.

G. 1. For taxable years beginning on or after January 1, 2020,

and ending on December 31, 2029, a qualified software or

cybersecurity employee shall be allowed a credit against the tax

imposed pursuant to Section 2355 of Title 68 of the Oklahoma

Statutes, subject to the amount prescribed in paragraph 2 of this

subsection.

2. The credit, which may be claimed for a period of time not to

exceed seven (7) years, shall be as follows:

     a.   Two Thousand Two Hundred Dollars ($2,200.00) for a

          qualified software or cybersecurity employee who has

          been awarded a bachelor's degree from a qualified

          program at a degree-producing institution, and

b.   One Thousand Eight Hundred Dollars ($1,800.00) for a

                 qualified software or cybersecurity employee who has

                 been awarded an associate's degree from a qualified

                 program at a degree-producing institution or a

                 credential or certificate from a qualified program at

                 a technology center.

     H.   The credit authorized by this section shall not be used to

reduce the tax liability of the taxpayer to less than zero (0).

     I.   Qualified employers may participate in the Oklahoma Quality

Jobs Program Act, the Small Employer Quality Jobs Incentive Act and

the 21st Century Quality Jobs Incentive Act. However, the qualified

employees as provided for in this section shall be included in

baseline employment for the purposes of the Oklahoma Quality Jobs

Program Act, the Small Employer Quality Jobs Incentive Act and the

21st Century Quality Jobs Incentive Act.

     J.   No taxpayer shall claim both the credit provided pursuant to

this section and the credit provided pursuant to Section 2357.304 of

Title 68 of the Oklahoma Statutes for the same tax year.

     K.   No taxpayer that has claimed the credit pursuant to this

section for less than seven (7) years and switches employers may

continue to claim the credit beyond the term of employment at the

original qualifying employer.

     L.   The maximum time period that the credit may be claimed by

any taxpayer is seven (7) years.

1   M.   For the tax year beginning January 1, 2020, and each tax

2 year thereafter, the total amount of credits authorized by this

3 section used to offset tax shall be adjusted annually to limit the

4 annual amount of credits to Five Million Dollars ($5,000,000.00).

5 The Tax Commission shall annually calculate and publish by the first

6 day of the affected year a percentage by which the credits

7 authorized by this section shall be reduced so the total amount of

8 credits used to offset tax does not exceed Five Million Dollars

9 ($5,000,000.00) per year.   The formula to be used for the percentage

10 adjustment shall be Five Million Dollars ($5,000,000.00) divided by

11 the credits claimed in the second preceding year.

12   N.   In the event the total tax credits authorized by this

13 section exceed Five Million Dollars ($5,000,000.00) in any calendar

14 year, the Tax Commission shall permit any excess over Five Million

15 Dollars ($5,000,000.00) but shall factor such excess into the

16 percentage adjustment formula for subsequent years.

17   SECTION 2.   This act shall become effective November 1, 2019.

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19   57-1-8530   MAH   03/26/19

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