STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1377

By: Ervin, Pettigrew and Smith (Dale) of the House

and

Fisher of the Senate

COMMITTEE SUBSTITUTE

An Act relating to workforce training incentives; enacting the Workforce Training Incentive Act; defining terms; requiring Oklahoma Employment Security Commission to develop method for evaluation of job training expense plans; prescribing filing of job training expense plan by employers to be eligible for certain income tax credit; prescribing procedures for filing of plan; requiring Oklahoma Employment Security Commission to develop form; providing for evaluation of job training expense plans; requiring action within certain period of time; imposing requirements upon employers; requiring demonstration of certain matters to Oklahoma Employment Security Commission; requiring certification; requiring release of certain information; requiring evaluation of job training expense plan by Oklahoma Employment Security Commission; requiring approval of job training expense plan prior to claim for income tax credit; authorizing amendments or supplements to plans; prescribing procedures; providing for finality of decision by Oklahoma Employment Security Commission; requiring copy of job training expense plan to be provided to Oklahoma Tax Commission; authorizing income tax credit for qualified job training expenses; prescribing amount of credit; limiting credit based upon certain number of employees; prohibiting credit for expenses incurred for certain maximum number of employees; prescribing procedures for proof to Oklahoma Tax Commission regarding certain requirements; limiting total amount of tax credits available; authorizing carryover of credits; providing for continued eligibility to receipt of certain incentives; limiting taxable years for which credit may be claimed; requiring certain reports by Oklahoma Tax Commission; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Workforce Training Incentive Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.35 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in Sections 3 and 4 of this act:

1. "Eligible employer" means an establishment engaged in an activity defined as a "basic industry" pursuant to subparagraph a of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes. For purposes of claiming the income tax credit provided by Section 4 of this act, a business described by:

a. division (7) of subparagraph a of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes shall not be required to ship seventy-five percent (75%) or more of inventory processed to an out-of-state destination,

b. division (8) of subparagraph a of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes shall not be required to service seventy-five percent (75%) of loans to out-of-state debtors,

c. subdivision (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) or (n) of division (10) of subparagraph a of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes shall not be required to have, within one (1) year, sales of seventy-five percent (75%) of its total sales to out-of-state customers or buyers or to other entities as would otherwise be required pursuant to the Oklahoma Quality Jobs Program Act; and

2. "Qualified employee training expense" means that:

a. the expense has been identified in a job training expense plan filed by the tax credit claimant and approved by the Oklahoma Employment Security Commission, or its administratively designated unit, as provided by Section 3 of this act,

b. the expense is a direct payment by the employer to an eligible training provider subject to a maximum amount of Three Thousand Dollars ($3,000.00) per employee per calendar year,

c. the payment is made to an entity identified in the job training expense plan and approved as an eligible job training provider by the Oklahoma Employment Security Commission,

d. the employee upon whose behalf the expenditure is made is a resident of the State of Oklahoma and:

(1) is a new full-time employee, as defined for purposes of determining whether the employer is required to make payment of the contributions imposed pursuant to Section 3-101 et seq. of Title 40 of the Oklahoma Statutes, and hired on or after the date the job training expense plan is filed and earns at least Seven Dollars ($7.00) per hour, including the amount of health care premiums or premium equivalents paid by the employer for the employee, after the completion of the education or training for which the expenditure is made, or

(2) is an existing full-time employee, as defined for purposes of determining whether the employer is required to make payment of the contributions imposed pursuant to Section 3-101 et seq. of Title 40 of the Oklahoma Statutes, and receives

at least a ten percent (10%) increase in wages from the employer within one (1) year after the educational service or training is provided, and

e. the person providing the instruction to the employee has not been an employee of the entity claiming the credit authorized by Section 4 of this act within one (1) year of the date the education or training is provided. The Oklahoma Tax Commission may request additional documentation from a credit claimant if the credit is based upon an expense incurred for training provided by an instructor who was an employee of the credit claimant within one (1) year at the date the expense was incurred. The Tax Commission may require adequate proof from the credit claimant that an instructor who was an employee of the claimant within such one-year period provided instruction to at least three other entities or employees of entities in addition to the claimant within the one-year period.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.36 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Employment Security Commission shall develop a method to evaluate plans for training expenses that qualify as eligible for the credit authorized by Section 4 of this act.

B. In order for an employer to claim any credit authorized by Section 4 of this act for any taxable year used to report Oklahoma income tax, the employer shall file a job training expense plan with the Oklahoma Employment Security Commission. The plan shall be filed not later than the last day of the third month of the taxable year used by the employer for purposes of reporting Oklahoma income tax liability. For good cause shown, the Oklahoma Employment

Security Commission may allow a job training expense plan to be filed after the end of the third month of the taxable year.

C. The Oklahoma Employment Security Commission shall develop a form to be used in order for an employer to obtain the required approval for a job training expense plan.

D. Job training expense plans shall be evaluated in the order of receipt by the Oklahoma Employment Security Commission. The Commission shall take action and approve or disapprove a plan within thirty (30) days of its receipt.

E. In order to be eligible to obtain an evaluation or approval of a job training expense plan, the employer shall:

1. Be able to demonstrate to the Oklahoma Employment Security Commission that the employer is a validly organized legal entity authorized to do business in the state;

2. Prove to the satisfaction of the Oklahoma Employment Security Commission that the applicant makes payment of wages to at least one employee as of the date the job training expense plan is filed;

3. Establish that it has been engaged in lawful business activity for a period of at least one (1) year prior to the date as of which the job training expense plan is filed;

4. Make a certification, upon a verified statement under oath, to the Oklahoma Employment Security Commission of the number of employees to whom wages are paid as of the date the job training expense plan is filed;

5. Undertake a commitment that an employee upon whose behalf a job training expenditure is to be made after the job training expense plan is approved will meet the requirements imposed pursuant to either division (1) or division (2) of subparagraph d of paragraph 2 of Section 2 of this act;

6. Provide a release to the Oklahoma Employment Security Commission, and a waiver of liability, in order for the Oklahoma

Employment Security Commission to provide information to the Oklahoma Tax Commission including, but not limited to, the total number of employees to whom wages are paid as of the date the job training expense plan is filed. The number of employees so determined as of the plan filing date shall be used to compute the percentage of the credit as prescribed by subparagraphs a, b and c of paragraphs 1 and 2 of subsection A of Section 4 of this act; and

7. Establish that it has made payment to the Oklahoma Employment Security Commission of all contributions, interest or other amount required by law to be paid pursuant to the requirements of the Employment Security Act of 1980, as of the date that the job training expense plan is filed.

F. The Oklahoma Employment Security Commission shall evaluate the job training expense plan with respect to:

1. Legitimate job training expenditure categories that are clearly identifiable as expenses not incurred in the ordinary course of business for initial training of a work force;

2. Legitimate job training expense amounts given the financial characteristics of the employer;

3. The number of job training service providers;

4. The experience level of job training service providers, including any awards or evaluations of the efficacy of the job training services by independent organizations;

5. The location of the job training service providers; and

6. The maximum amount of tax credit that could be claimed by the employer assuming that the full amount of projected expense is actually incurred as identified in the plan.

G. Employers shall obtain approval from the Oklahoma Employment Security Commission or from any administratively designated unit within the Oklahoma Employment Security Commission for the job training expense plan, including the maximum amount of job training expenditures for which a credit may be claimed on the applicable

income tax return of the employer. No entity may claim or receive any income tax credit pursuant to Section 4 of this act if the entity has not obtained the approval required by this subsection prior to the date as of which the income tax return for the appropriate period is filed.

H. Subject to the requirements of this section, an employer may amend or supplement a plan, if the amendment or supplement is approved pursuant to subsection G of this section. No amendment or supplement shall be filed or approved later than the end of the ninth month of the taxable year used by the employer for purposes of reporting Oklahoma income tax liability. For good cause shown, the Oklahoma Employment Security Commission may allow a job training expense plan amendment or supplement to be filed after the end of the ninth month of the taxable year.

I. The final decision regarding approval or disapproval of a job training expense plan or job training expense plan amendment or supplement shall be final and not subject to administrative or judicial review.

J. The Oklahoma Employment Security Commission shall provide a copy of each job training expense plan approved pursuant to this section to the Oklahoma Tax Commission.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.37 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Subject to the requirements of this section, for taxable years beginning after December 31, 1999, there shall be allowed as a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes, an amount equal to a percentage of the cost of a qualified employee training expense incurred by an eligible employer, based upon the number of employees employed by the employer as identified in the job training expense plan, for payment to:

1. An in-state job training provider equal to:

a. twenty-five percent (25%) for an employer with fewer than one hundred employees,

b. twenty percent (20%) for an employer with at least one hundred employees, but not more than two hundred employees,

c. fifteen percent (15%) for an employer with more than two hundred employees; or

2. An out-of-state job training provider equal to:

a. twelve and one-half percent (12.5%) for an employer with fewer than one hundred employees,

b. ten percent (10%) for an employer with at least one hundred employees, but not more than two hundred employees,

c. seven and one-half percent (7.5%) for an employer with more than two hundred employees.

B. No employer eligible to claim a credit pursuant to this section may receive a credit for job training expenses incurred for more than fifty employees in any taxable year.

C. If an eligible employer can demonstrate to the Tax Commission that an employee upon whose behalf a qualified job training expense has been incurred after a job training expense plan has been approved meets the requirement of either division (1) or division (2) of subparagraph d of paragraph 2 of Section 2 of this act as of the date that the applicable income tax return is filed, such documentation shall be provided and the credit initially claimed for the taxable year in which the expense was incurred. If the employee upon whose behalf a qualified job training expense has been incurred does not meet the requirements of either division (1) or division (2) of subparagraph d of paragraph 2 of Section 2 of this act until after the close of the taxable year during which the expense was incurred, the eligible employer may file an amended

return at such time as the applicable requirement can be demonstrated and the filing of such an amended return, if no other changes in taxable income or liability are made on the return, shall not extend the statute of limitations for assessment of additional tax pursuant to the Uniform Tax Procedure Code or the Oklahoma Income Tax Act.

D. The total amount of credits which may be allowed to all employers for any fiscal year pursuant to subsection A of this section shall not exceed Two Million Dollars ($2,000,000.00).

E. Credits established pursuant to subsection D of this section not used by eligible employers shall not be added to the available pool of credits for any subsequent years. The amount prescribed by subsection D of this section for total tax credits shall be the maximum amount of credits available for claim in any taxable year. The provisions of this subsection shall not limit the right of an employer to carry over credits authorized pursuant to the filing of an income tax return and validly claimed by the employer.

F. If the tax credit authorized by paragraph 1 or paragraph 2 of subsection A of this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed four (4) years.

G. No eligible employer claiming a credit pursuant to this section shall be prohibited from receiving an incentive payment pursuant to the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the Former Military Facility Development Act or any other incentive authorized by law.

H. The credit authorized by this section may be claimed for taxable years ending not later than December 31, 2002, or for

taxable years ending on the last day of the twelfth month of a taxable year beginning in calendar year 2002, whichever last occurs.

I. The Oklahoma Tax Commission, on or before January 31 of each year, shall submit a report regarding the credit authorized by this section to both houses of the Legislature. Such report shall summarize the total amount of credits claimed and likely to be claimed and allowed pursuant to the provisions of this section. In order to assist in the reporting of the information required by this subsection, the Tax Commission shall develop a form or shall modify existing forms so that data may be collected regarding the actual costs incurred by each credit claimant, the number of employees for whose benefit the qualifying expenditures were incurred, the wage levels of employees for whose benefit the qualifying expenditures were incurred and such other information as the Tax Commission may require.

SECTION 6. This act shall become effective January 1, 2000.

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