Bill No.:	**SB 746**
Version:	**FULLPCS2**
Request Number:	**8620**
Author:	**Rep. Pfeiffer**
Date:	**4/3/2019**
Impact:	**Tax Commission:**
	Unknown Potential Revenue Decrease

Research Analysis

Pending

Prepared By: House Research Staff

Fiscal Analysis

Analysis provided by the Tax Commission:

The Proposed Committee Substitute (Req. No. 8620) for SB 746 proposes to enact a nonrefundable income tax credit for individuals employed as qualified software or cybersecurity employees effective for tax years 2020 through 2029. The credit will be either $2,200 or $1,800, depending upon the employee's level of education[1] and is available for a period of seven (7) years.[2]

A **qualified software or cybersecurity employee** means any person employed by a qualifying employer in a qualifying industry on or after the effective date of this measure, who has met certain educational requirements.

An employer **may** apply to the Oklahoma Tax Commission for qualification as a "qualified employer". The qualified employer must be in a **qualifying industry**[3] and pay **all** employees a qualifying compensation[4] for the county in which the qualified employer has its primary Oklahoma address in order for the qualified software or cybersecurity employees to qualify for the tax credit.

This measure caps[5] the credits at $5 million beginning with tax year 2022.

Although it is unknown how many employees will be eligible for this credit, data from Oklahoma State Regents for Higher Education suggests that in the 2016-2017 reporting cycle, 462 certificates and Associate's Degrees were conferred (eligible for $1,800 credit) and 858 Bachelor's degrees or higher were conferred (eligible for the $2,200 credit) in potentially qualifying fields of studies.[6] These combined certificates and degrees suggest a potential first year revenue decrease of $2.7 million[7], a potential decrease in revenue of $5.4 million in the second year, and a potential decrease of $8.1 million in the third year. If the credits claimed in year two exceed $5 million, the credits authorized in year four will be reduced as a result of the cap. It is likely the number of qualified employees will increase each year, resulting in a continuing decrease in the amount of the credit each year.

It is unknown how many qualified employees[8] will claim this credit or at what dollar level in tax year 2020. There is a potential unknown negative fiscal impact, beginning as early as FY20, if withholding or estimated tax remittances are changed as a result of this credit.

[1] The amount of the credit is $2,200 for a qualified software or cybersecurity employee who has been awarded a Bachelor's or degree or higher from a qualified program at a degree-producing institution, or $1,800 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 or it's out of state equivalent.

[2] Several provisions of this measure make it difficult for the Tax Commission to administer.

[3] "Qualified industry" means a qualified employer 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, 62 and 92.

[4] "Qualifying compensation" is the average annualized wages paid by a qualifying employer which is at least one hundred ten percent (110%) of the average county wage for the county in which the employer is located as that percentage is determined by the Oklahoma Department of Commerce based on the most recent U.S. Department of Commerce data; or, for federal employees, such employees shall meet a GS-5 or equivalent initial hiring threshold in lieu of the wage requirement. For the purposes of this definition, annual wages shall not include employer-provided health care or retirement benefits.

[5] For the tax year beginning January 1, 2022, and each tax year thereafter, 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 $5 million. The Tax Commission shall annually calculate and publish by the first day of the affected year 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 $5 million per year. The formula to be used for the percentage adjustment shall be $5 million divided by the credits claimed in the second preceding year.

[6] *Science, Technology, Engineering, Mathematics (STEM) Degrees by Field of Study and Degree Level 2016-2017 Public Institutions*; Oklahoma State Regents for Higher Education. www.okhighered.org/studies-reports/outcomes.shtml

[7] Data from private degree producing institutions as well as technology centers or the out of state equivalent has not yet been located and will potentially increase any fiscal impact.

[8] For purposes of this impact, only newly graduated qualified employees were included. It is unknown how many out-of-state employees will move into Oklahoma and take advantage of this income tax credit.

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Other Considerations

None.