STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3192 By: Pfeiffer

AS INTRODUCED

An Act relating to revenue and taxation; amending Section 1, Chapter 483, O.S.L. 2019 (68 O.S. Supp. 2019, Section 2357.405), which relates to an income tax credit with respect to certain software or cybersecurity employees; modifying definitions; modifying references; modifying provisions related to qualifying employers and qualified employees; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 483, O.S.L. 2019 (68 O.S. Supp. 2019, Section 2357.405), is amended to read as follows:

Section 2357.405 A. As used in this section:

1. "Degree-producing institution" means any public or private college or university that has accredited programs, as defined in this ~~act~~ section, from the Accreditation Board for Engineering and Technology (ABET);

2. "Technology center" means an institution in the Oklahoma State Board of Career and Technology Education that offers accredited programs as defined in this ~~act~~ section;

3. "Accredited program" means:

a. an undergraduate or graduate cybersecurity, information technology, computer science ~~and engineering or software~~ or computer engineering 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. a software, cybersecurity, programming, software programming, coding, application development, computer science or information technology program requiring more than eight hundred (800) hours of class time;

4. "Qualifying compensation" means average annualized wages paid by a qualifying employer which meet or exceed one hundred ten percent (110%) of the average county wage, as that percentage is determined by the Oklahoma Department of Commerce based on the most recent U.S. Department of Commerce data for the county in which the employer is located; 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. "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;

6. "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; and

7. "Qualified software or cybersecurity employee" means any person employed in Oklahoma by a qualifying employer in a qualifying industry on or after ~~the effective date of this act~~ November 1, 2019, who:

a. has been awarded a degree in an accredited program from a degree-producing institution, or

b. has been awarded a certificate or credential in an accredited program from a technology center.

B. An employer may apply to the Oklahoma Tax Commission for qualification as a "qualified employer" in the manner prescribed by the Tax Commission.

C. In order for the qualified software or cybersecurity employees to qualify to receive the tax credit, the qualified 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.

D. 1. For taxable years beginning on or after January 1, 2020, and ending before January 1, 2030, 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; provided, the credit shall not be allowed for any qualifying employee working in the state as of ~~the effective date of this act~~ November 1, 2019.

2. The credit may be claimed for a period of time not to exceed seven (7) years and, except as provided in subsection I of this section, 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 or higher degree from an accredited 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 an accredited program at a degree-producing institution or a credential or certificate from an accredited program at a technology center.

E. The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

F. ~~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.~~

~~G.~~ 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.

~~H.~~ G. The maximum time period that the credit may be claimed by any taxpayer is seven (7) years.

~~I.~~ H. 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 Five Million Dollars ($5,000,000.00). 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 Five Million Dollars ($5,000,000.00) per year. The formula to be used for the percentage adjustment shall be Five Million Dollars ($5,000,000.00) divided by the credits claimed in the second preceding year.

~~J.~~ I. In the event the total tax credits authorized by this section exceed Five Million Dollars ($5,000,000.00) in any calendar year, the Tax Commission shall permit any excess over Five Million Dollars ($5,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

SECTION 2. This act shall become effective July 1, 2020.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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