

1 STATE OF OKLAHOMA

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

3 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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9 COMMITTEE SUBSTITUTE

10 [income tax credits - codification - effective date]

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

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2357.405 of Title 68, unless
16 there is created a duplication in numbering, reads as follows:

17 A. As used in this section:

18 1. "Degree-producing institution" means any public or private
19 college or university that has cybersecurity or IT accredited
20 programs from the Computing Accreditation Commission (CAC) or the
21 Engineering Accreditation Commission (EAC) of the Accreditation
22 Board for Engineering and Technology (ABET);

23 2. "Technology center" means an institution in the Oklahoma
24 State Board of Career and Technology Education or any equivalent

1 out-of-state program that offers accredited software or
2 cybersecurity programs requiring more than eight hundred (800) hours
3 of class time;

4 3. "Accredited program" means:

5 a. an undergraduate or graduate software, cybersecurity,
6 programming, software programming, coding, application
7 development, computer science or IT degree program
8 accredited by the Computing Accreditation Commission
9 (CAC) or the Engineering Accreditation Commission
10 (EAC) of the Accreditation Board for Engineering and
11 Technology (ABET) offered at a degree-producing
12 institution, or

13 b. an accredited software, cybersecurity, programming,
14 software programming, coding, application development,
15 computer science or IT program requiring more than
16 eight hundred (800) hours of class time;

17 4. "Qualifying compensation" means average annualized wages
18 paid by a qualifying employer which meet or exceed one hundred ten
19 percent (110%) of the average county wage, as that percentage is
20 determined by the Oklahoma Department of Commerce based on the most
21 recent U.S. Department of Commerce data for the county in which the
22 employer is located; or, for federal employees, such employees shall
23 meet a GS-5 or equivalent initial hiring threshold in lieu of the
24 wage requirement. For the purposes of this definition, annual wages

1 shall not include employer-provided health care or retirement
2 benefits;

3 5. "Qualified employer" means a sole proprietor, general
4 partnership, limited partnership, limited liability company,
5 corporation or other legally recognized business entity, or
6 governmental entity that has at least fifteen full-time employees;

7 6. "Qualified industry" means a qualified employer whose
8 activities are defined or classified in the most recent North
9 American Industry Classification System (NAICS) manual under U.S.
10 Sector Nos. 21, 22, 31-33, 48, 51, 52, 54, 55, 62 and 92; and

11 7. "Qualified software or cybersecurity employee" means any
12 person employed in Oklahoma by a qualifying employer in a qualifying
13 industry on or after the effective date of this act who:

- 14 a. has been awarded a degree in an accredited program
15 from a degree-producing institution, or
- 16 b. has been awarded a certificate or credential in an
17 accredited program from a technology center.

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

21 C. In order for the qualified software or cybersecurity
22 employees to qualify to receive the tax credit, the qualified
23 employer shall be in a qualifying industry and pay employees a
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1 qualifying compensation for the county in which the qualified
2 employer has its primary Oklahoma address.

3 D. 1. For taxable years beginning on or after January 1, 2020,
4 and ending before January 1, 2030, a qualified software or
5 cybersecurity employee shall be allowed a credit against the tax
6 imposed pursuant to Section 2355 of Title 68 of the Oklahoma
7 Statutes, subject to the amount prescribed in paragraph 2 of this
8 subsection. Provided, the credit shall not be allowed for any
9 qualifying employee working in the state as of the effective date of
10 this act.

11 2. The credit may be claimed for a period of time not to exceed
12 seven (7) years and except as provided in subsection I, shall be as
13 follows:

14 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a
15 qualified software or cybersecurity employee who has
16 been awarded a bachelor's or higher degree from an
17 accredited program at a degree-producing institution,
18 and

19 b. One Thousand Eight Hundred Dollars (\$1,800.00) for a
20 qualified software or cybersecurity employee who has
21 been awarded an associate's degree from an accredited
22 program at a degree-producing institution or a
23 credential or certificate from an accredited program
24 at a technology center.

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

3 F. Qualified employers may participate in the Oklahoma Quality
4 Jobs Program Act, the Small Employer Quality Jobs Incentive Act and
5 the 21st Century Quality Jobs Incentive Act. However, the qualified
6 employees as provided for in this section shall be included in
7 baseline employment for the purposes of the Oklahoma Quality Jobs
8 Program Act, the Small Employer Quality Jobs Incentive Act and the
9 21st Century Quality Jobs Incentive Act.

10 G. No taxpayer shall claim both the credit provided pursuant to
11 this section and the credit provided pursuant to Section 2357.304 of
12 Title 68 of the Oklahoma Statutes for the same tax year.

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

15 I. For the tax year beginning January 1, 2022, and each tax
16 year thereafter, the total amount of credits authorized by this
17 section used to offset tax shall be adjusted annually to limit the
18 annual amount of credits to Five Million Dollars (\$5,000,000.00).
19 The Tax Commission shall annually calculate and publish by the first
20 day of the affected year a percentage by which the credits
21 authorized by this section shall be reduced so the total amount of
22 credits used to offset tax does not exceed Five Million Dollars
23 (\$5,000,000.00) per year. The formula to be used for the percentage
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1 adjustment shall be Five Million Dollars (\$5,000,000.00) divided by
2 the credits claimed in the second preceding year.

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

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

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