

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SUBCOMMITTEE RECOMMENDATION

FOR ENGROSSED

SENATE BILL NO. 746

By: Smalley of the Senate

and

Pfeiffer of the House

SUBCOMMITTEE RECOMMENDATION

[income tax credits - codification - effective date]

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

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

A. As used in this section:

1. "Annual wages" means the wages subject to withholding taxes paid to qualified software and cybersecurity employees by a qualifying employer;

2. "Degree-producing institution" means an institution within The Oklahoma State System of Higher Education or any other public or private college or university that has cybersecurity or IT

1 accredited programs from the Computing Accreditation Commission
2 (CAC) or the Engineering Accreditation Commission (EAC) of the
3 Accreditation Board for Engineering and Technology (ABET);

4 3. "Technology center" means an institution in the Oklahoma
5 State Board of Career and Technology Education that offers
6 accredited software or cybersecurity programs requiring more than
7 eight hundred (800) hours of class time accredited by the Cisco
8 Networking Academy, VMware IT Academy, CompTIA Academy or the
9 Raytheon Cyber Academy;

10 4. "Accredited program" means:

11 a. an undergraduate or graduate software, cybersecurity,
12 computer science or IT degree program accredited by
13 the Computing Accreditation Commission (CAC) or the
14 Engineering Accreditation Commission (EAC) of the
15 Accreditation Board for Engineering and Technology
16 (ABET) offered at a degree-producing institution, or

17 b. an accredited software or cybersecurity program
18 requiring more than eight hundred (800) hours of class
19 time accredited by the Cisco Networking Academy,
20 VMware IT Academy, CompTIA Academy or the Raytheon
21 Cyber Academy;

22 5. "Qualified employer" means a sole proprietor, general
23 partnership, limited partnership, limited liability company,
24 corporation or other legally recognized business entity, or

1 governmental entity that has at least fifteen full-time employees
2 and who will hire within twelve (12) months of application at least
3 five qualified software or cybersecurity employees, as defined in
4 this section;

5 6. "Qualified industry" means a private or public company whose
6 activities are defined or classified in the most recent North
7 American Industry Classification System (NAICS) manual under U.S.
8 Sector Nos. 21, 22, 31-33, 48, 51, 52, 54, 55 and 62, or a national
9 defense governmental entity classified in the most recent NAICS
10 manual under U.S. Sector No. 92;

11 7. "Qualified program" means:

12 a. an accredited program whose successful completion
13 results in a degree obtained from a degree-producing
14 institution, or

15 b. an accredited program at a technology center that
16 awards credentials in the fields of software
17 engineering, programming or cybersecurity; and

18 8. "Qualified software or cybersecurity employee" means any
19 person newly employed by a qualifying employer in a qualifying
20 industry on or after the effective date of this act who:

21 a. has been awarded an associate's or higher degree from
22 a degree-producing institution in a qualified program,
23 or

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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. For the purposes
8 of this section, annual wages shall not include employer-provided
9 health care or retirement benefits.

10 C. In order to receive the tax credit as provided for in
11 subsection G of this section, a qualified employer shall apply to
12 the Oklahoma Department of Commerce on behalf of its qualified
13 employees. The application shall be on a form prescribed by the
14 Department and shall contain such information as may be required by
15 the Department to determine if the applicants are qualified.
16 Potentially qualifying software or cybersecurity employees shall be
17 required to provide sufficient documentation to their employer that
18 they have been awarded a degree, certificate or credential from a
19 qualified program.

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

1 E. If an application contains the required information, the
2 Oklahoma Department of Commerce shall notify the Oklahoma Tax
3 Commission of the qualifying employees at a qualified employer at
4 least once per calendar quarter and it shall be the responsibility
5 of the Tax Commission to approve or disapprove the credit.

6 F. In order for the qualified employees to continue to receive
7 the tax credit pursuant to this section, the qualified employer must
8 annually submit by January 31 to the Tax Commission the list of
9 qualifying employee on such a form as the Tax Commission designates.

10 G. 1. For taxable years beginning on or after January 1, 2020,
11 and ending on December 31, 2029, a qualified software or
12 cybersecurity employee shall be allowed a credit against the tax
13 imposed pursuant to Section 2355 of Title 68 of the Oklahoma
14 Statutes, subject to the amount prescribed in paragraph 2 of this
15 subsection.

16 2. The credit, which may be claimed for a period of time not to
17 exceed seven (7) years, shall be as follows:

18 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a
19 qualified software or cybersecurity employee who has
20 been awarded a bachelor's degree from a qualified
21 program at a degree-producing institution, and

22 b. One Thousand Eight Hundred Dollars (\$1,800.00) for a
23 qualified software or cybersecurity employee who has
24 been awarded an associate's degree from a qualified

1 program at a degree-producing institution or a
2 credential or certificate from a qualified program at
3 a technology center.

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

6 I. Qualified employers may participate in the Oklahoma Quality
7 Jobs Program Act, the Small Employer Quality Jobs Incentive Act and
8 the 21st Century Quality Jobs Incentive Act. However, the qualified
9 employees as provided for in this section shall be included in
10 baseline employment for the purposes of the Oklahoma Quality Jobs
11 Program Act, the Small Employer Quality Jobs Incentive Act and the
12 21st Century Quality Jobs Incentive Act.

13 J. No taxpayer shall claim both the credit provided pursuant to
14 this section and the credit provided pursuant to Section 2357.304 of
15 Title 68 of the Oklahoma Statutes for the same tax year.

16 K. No taxpayer that has claimed the credit pursuant to this
17 section for less than seven (7) years and switches employers may
18 continue to claim the credit beyond the term of employment at the
19 original qualifying employer.

20 L. The maximum time period that the credit may be claimed by
21 any taxpayer is seven (7) years.

22 M. For the tax year beginning January 1, 2020, and each tax
23 year thereafter, the total amount of credits authorized by this
24 section used to offset tax shall be adjusted annually to limit the

1 annual amount of credits to Five Million Dollars (\$5,000,000.00).
2 The Tax Commission shall annually calculate and publish by the first
3 day of the affected year a percentage by which the credits
4 authorized by this section shall be reduced so the total amount of
5 credits used to offset tax does not exceed Five Million Dollars
6 (\$5,000,000.00) per year. The formula to be used for the percentage
7 adjustment shall be Five Million Dollars (\$5,000,000.00) divided by
8 the credits claimed in the second preceding year.

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

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

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