

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2759

By: Wallace and Hilbert of the
House

and

Thompson and Rader of the
Senate

12 COMMITTEE SUBSTITUTE

13 An Act relating to revenue and taxation; defining
14 terms; providing for certain qualified employers to
15 make application to the Oklahoma Tax Commission;
16 providing for income tax credit; specifying tax
17 credit amount; imposing limitation on taxable years
18 for which tax credit may be claimed; specifying tax
19 credit amount; prohibiting reduction of tax liability
20 to less than zero; authorizing qualified employers to
21 participate in designated economic incentives;
22 prohibiting use of income tax credit and certain
23 other income tax credit for same tax year; imposing
24 limitation on total credits used to offset tax
25 liability; providing for annual adjustment;
26 prescribing formula; providing for treatment of tax
27 credits in excess of annual cap amount; providing for
28 codification; and providing an effective date.

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

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

4 A. As used in this section:

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

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

12 3. "Accredited program" means:

13 a. an undergraduate or graduate cybersecurity,
14 information technology, computer science and
15 engineering or software engineering degree program
16 accredited by the Computing Accreditation Commission
17 (CAC) or the Engineering Accreditation Commission
18 (EAC) of the Accreditation Board for Engineering and
19 Technology (ABET) offered at a degree-producing
20 institution, or

21 b. a software, cybersecurity, programming, software
22 programming, coding, application development, computer
23 science or information technology program requiring
24 more than eight hundred (800) hours of class time;

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

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

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

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

- 22 a. has been awarded a degree in an accredited program
23 from a degree-producing institution, or
24

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.

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

1 accredited program at a degree-producing institution,
2 and

3 b. One Thousand Eight Hundred Dollars (\$1,800.00) for a
4 qualified software or cybersecurity employee who has
5 been awarded an associate's degree from an accredited
6 program at a degree-producing institution or a
7 credential or certificate from an accredited program
8 at a technology center.

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

11 F. Qualified employers may participate in the Oklahoma Quality
12 Jobs Program Act, the Small Employer Quality Jobs Incentive Act and
13 the 21st Century Quality Jobs Incentive Act. However, the qualified
14 employees as provided for in this section shall be included in
15 baseline employment for the purposes of the Oklahoma Quality Jobs
16 Program Act, the Small Employer Quality Jobs Incentive Act and the
17 21st Century Quality Jobs Incentive Act.

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

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

23 I. For the tax year beginning January 1, 2022, and each tax
24 year thereafter, the total amount of credits authorized by this

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

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

15 SECTION 2. This act shall become effective November 1, 2019.
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17 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS
18 AND BUDGET, dated 05/20/2019 - DO PASS, As Amended.
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