

1 ENGROSSED HOUSE
2 BILL NO. 2759

By: Wallace and Hilbert of the
House

3 and

4 Thompson and Rader of the
5 Senate

6
7
8 An Act relating to revenue and taxation; defining
9 terms; providing for certain qualified employers to
10 make application to the Oklahoma Tax Commission;
11 providing for income tax credit; specifying tax
12 credit amount; imposing limitation on taxable years
13 for which tax credit may be claimed; specifying tax
14 credit amount; prohibiting reduction of tax liability
15 to less than zero; authorizing qualified employers to
16 participate in designated economic incentives;
17 prohibiting use of income tax credit and certain
18 other income tax credit for same tax year; imposing
19 limitation on total credits used to offset tax
20 liability; providing for annual adjustment;
21 prescribing formula; providing for treatment of tax
22 credits in excess of annual cap amount; providing for
23 codification; and providing an effective date.
24

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. "Degree-producing institution" means any public or private
college or university that has accredited programs, as defined in

1 this act, from the Accreditation Board for Engineering and
2 Technology (ABET);

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

6 3. "Accredited program" means:

- 7 a. an undergraduate or graduate cybersecurity,
8 information technology, computer science and
9 engineering or software engineering degree program
10 accredited by the Computing Accreditation Commission
11 (CAC) or the Engineering Accreditation Commission
12 (EAC) of the Accreditation Board for Engineering and
13 Technology (ABET) offered at a degree-producing
14 institution, or
15 b. a software, cybersecurity, programming, software
16 programming, coding, application development, computer
17 science or information technology program requiring
18 more than eight hundred (800) hours of class time;

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

1 meet a GS-5 or equivalent initial hiring threshold in lieu of the
2 wage requirement. For the purposes of this definition, annual wages
3 shall not include employer-provided health care or retirement
4 benefits;

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

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

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

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

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

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

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

1 employer shall be in a qualifying industry and pay employees a
2 qualifying compensation for the county in which the qualified
3 employer has its primary Oklahoma address.

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

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

- 15 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a
16 qualified software or cybersecurity employee who has
17 been awarded a bachelor's or higher degree from an
18 accredited program at a degree-producing institution,
19 and
20 b. One Thousand Eight Hundred Dollars (\$1,800.00) for a
21 qualified software or cybersecurity employee who has
22 been awarded an associate's degree from an accredited
23 program at a degree-producing institution or a
24

1 credential or certificate from an accredited program
2 at a technology center.

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

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

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

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

17 I. For the tax year beginning January 1, 2022, and each tax
18 year thereafter, the total amount of credits authorized by this
19 section used to offset tax shall be adjusted annually to limit the
20 annual amount of credits to Five Million Dollars (\$5,000,000.00).
21 The Tax Commission shall annually calculate and publish by the first
22 day of the affected year a percentage by which the credits
23 authorized by this section shall be reduced so the total amount of
24 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. 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 November 1, 2019.

Passed the House of Representatives the 21st day of May, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2019.

Presiding Officer of the Senate