

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 746

By: Smalley of the Senate

and

Pfeiffer and **Phillips** of  
the House

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9  
10                                   COMMITTEE SUBSTITUTE

[ income tax credits - codification - effective date ]

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

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

18           A. As used in this section:

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

1        2. "Technology center" means an institution in the Oklahoma  
2 State Board of Career and Technology Education or any equivalent  
3 out-of-state program that offers accredited software or  
4 cybersecurity programs requiring more than eight hundred (800) hours  
5 of class time;

6        3. "Accredited program" means:

7            a. an undergraduate or graduate software, cybersecurity,  
8 programming, software programming, coding, application  
9 development, computer science or IT 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. an accredited software, cybersecurity, programming,  
16 software programming, coding, application development,  
17 computer science or IT program requiring more than  
18 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, shall be as  
14 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

1 (\$5,000,000.00) per year. The formula to be used for the percentage  
2 adjustment shall be Five Million Dollars (\$5,000,000.00) divided by  
3 the credits claimed in the second preceding year.

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

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

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11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
12 04/04/2019 - DO PASS, As Amended and Coauthored.

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