

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2146

6 By: Pfeiffer

7 COMMITTEE SUBSTITUTE

8 [ income tax credits - Oklahoma Department of  
9 Commerce - software and cybersecurity - Oklahoma  
10 Tax Commission - 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. "Compensation" means payments in the form of contract labor  
20 for which the payor is required to provide a Form 1099 to the person  
21 paid, wages subject to withholding tax paid to a part-time employee  
22 or full-time employee, or salary or other remuneration.

23 Compensation shall not include employer-provided retirement, medical  
24 or health care benefits, reimbursement for travel, meals, lodging or

1 any other expense. Annual compensation shall only qualify if the  
2 average annualized wage equals at least one hundred ten percent  
3 (110%) of the average county wage, as that percentage is determined  
4 by the U.S. Department of Commerce based upon the most recent  
5 Department of Commerce data for the county in which the job is  
6 located; or, for federal employees, such employees shall meet a GS-5  
7 or equivalent initial hiring threshold in lieu of the wage  
8 requirement;

9 2. "Institution" means an institution within The Oklahoma State  
10 System of Higher Education or any other public or private college or  
11 university that is accredited by a national accrediting body;

12 3. "Qualified employer" means a sole proprietor, general  
13 partnership, limited partnership, limited liability company,  
14 corporation, other legally recognized business entity or public  
15 entity whose principal business activity requires employment of  
16 qualified software or cybersecurity employees, as defined in this  
17 section;

18 4. "Qualified industry" means a private or public company whose  
19 activities are defined or classified in the NAICS Manual under U.S.  
20 Industry No's. 21, 22, 31, 48, 51, 52, 54, 55, 62 and 90;

21 5. "Qualified program" means an accredited program that awards  
22 a credential in the fields of software engineering or cybersecurity;  
23 and  
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1           6. "Qualified software or cybersecurity employee" means any  
2 person first employed in this state by or first contracting in this  
3 state with a qualified employer on or after the effective date of  
4 this act, who:

5           a. has been awarded an undergraduate or graduate degree  
6           by an institution, or

7           b. has been awarded a two-year associates degree by an  
8           institution or a software or cybersecurity credential  
9           from a qualified program or institution.

10 Provided, in order to claim the credit provided pursuant to this  
11 section, a taxpayer shall first have been certified by the Oklahoma  
12 Department of Commerce as meeting the qualifications of this  
13 paragraph for the applicable tax year. The Oklahoma Department of  
14 Commerce is authorized to adopt any rules or procedures necessary to  
15 implement the certification process.

16           B. 1. Subject to the limitations of subsections C and D of  
17 this section, for taxable years beginning on or after January 1,  
18 2020, and ending on December 31, 2029, a qualified software or  
19 cybersecurity employee shall be allowed a credit against the tax  
20 imposed pursuant to Section 2355 of Title 68 of the Oklahoma  
21 Statutes, subject to the limitations prescribed in paragraph 2 of  
22 this subsection.

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

1 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a  
2 qualified employee who has been awarded an  
3 undergraduate or graduate degree from an institution,  
4 or

5 b. One Thousand Eight Hundred Dollars (\$1,800.00) for a  
6 qualified employee who has been awarded a two-year  
7 associates degree or a credential from a qualified  
8 program or institution.

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

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

14 5. Any credit claimed, but not used, may be carried over, in  
15 order, to each of the five (5) subsequent taxable years.

16 C. For the tax year beginning January 1, 2020, and each tax  
17 year thereafter, the total amount of credits authorized by this  
18 section used to offset tax shall be adjusted annually to limit the  
19 annual amount of credits to Five Million Dollars (\$5,000,000.00).  
20 The Tax Commission shall annually calculate and publish by the first  
21 day of the affected year a percentage by which the credits  
22 authorized by this section shall be reduced so the total amount of  
23 credits used to offset tax does not exceed Five Million Dollars  
24 (\$5,000,000.00) per year. The formula to be used for the percentage

1 adjustment shall be Five Million Dollars (\$5,000,000.00) divided by  
2 the credits claimed in the second preceding year.

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

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

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