

1 ENGROSSED HOUSE  
2 BILL NO. 2146

By: Pfeiffer of the House

3 and

4 Smalley of the Senate

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6  
7 [ income tax credits - Oklahoma Department of  
8 Commerce - software and cybersecurity - Oklahoma  
9 Tax Commission - effective date ]  
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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

16 A. As used in this section:

17 1. "Compensation" means payments in the form of contract labor  
18 for which the payor is required to provide a Form 1099 to the person  
19 paid, wages subject to withholding tax paid to a part-time employee  
20 or full-time employee, or salary or other remuneration.

21 Compensation shall not include employer-provided retirement, medical  
22 or health care benefits, reimbursement for travel, meals, lodging or  
23 any other expense. Annual compensation shall only qualify if the  
24 average annualized wage equals at least one hundred ten percent

1 (110%) of the average county wage, as that percentage is determined  
2 by the U.S. Department of Commerce based upon the most recent  
3 Department of Commerce data for the county in which the job is  
4 located; or, for federal employees, such employees shall meet a GS-5  
5 or equivalent initial hiring threshold in lieu of the wage  
6 requirement;

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

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

16 4. "Qualified industry" means a private or public company whose  
17 activities are defined or classified in the NAICS Manual under U.S.  
18 Industry Nos. 21, 22, 31, 48, 51, 52, 54, 55, 62 and 90;

19 5. "Qualified program" means an accredited program that awards  
20 a credential in the field of software engineering or cybersecurity;  
21 and

22 6. "Qualified software or cybersecurity employee" means any  
23 person first employed in this state by or first contracting in this  
24

1 state with a qualified employer on or after the effective date of  
2 this act, who:

3 a. has been awarded an undergraduate or graduate degree  
4 by an institution, or

5 b. has been awarded a two-year associate's degree by an  
6 institution or a software or cybersecurity credential  
7 from a qualified program or institution.

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

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

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

23 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a  
24 qualified employee who has been awarded an

1           undergraduate or graduate degree from an institution,  
2           or

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

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

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

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

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

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

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

8 Passed the House of Representatives the 7th day of March, 2019.

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2019.

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Presiding Officer of the Senate

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