

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3192

By: Pfeiffer of the House

5 and

6 **Hall** of the Senate

7
8
9 AS INTRODUCED

10 [revenue and taxation - income tax credit with
11 respect to certain software or cybersecurity
12 employees - effective date -

13 emergency]

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

18 SECTION 1. AMENDATORY Section 1, Chapter 483, O.S.L.
19 2019 (68 O.S. Supp. 2019, Section 2357.405), is amended to read as
20 follows:

21 Section 2357.405 A. As used in this section:

22 1. "Degree-producing institution" means any public or private
23 college or university that has accredited programs, as defined in
24

1 this ~~act~~ section, 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~~ section;

6 3. "Accredited program" means:

7 a. an undergraduate or graduate cybersecurity,
8 information technology, computer science ~~and~~
9 ~~engineering or software~~ or computer engineering degree
10 program accredited by the Computing Accreditation
11 Commission (CAC) or the Engineering Accreditation
12 Commission (EAC) of the Accreditation Board for
13 Engineering and Technology (ABET) offered at a degree-
14 producing 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~~ November 1,
16 2019, who:

- 17 a. has been awarded a degree in an accredited program
18 from a degree-producing institution, or
19 b. has been awarded a certificate or credential in an
20 accredited program from a technology center.

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

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1 C. In order for the qualified software or cybersecurity
2 employees to qualify to receive the tax credit, the qualified
3 employer shall be in a qualifying industry and pay employees a
4 qualifying compensation for the county in which the qualified
5 employer has its primary Oklahoma address.

6 D. 1. For taxable years beginning on or after January 1, 2020,
7 and ending before January 1, 2030, a qualified software or
8 cybersecurity employee shall be allowed a credit against the tax
9 imposed pursuant to Section 2355 of Title 68 of the Oklahoma
10 Statutes, subject to the amount prescribed in paragraph 2 of this
11 subsection; provided, the credit shall not be allowed for any
12 qualifying employee working in the state as of ~~the effective date of~~
13 ~~this act~~ November 1, 2019.

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

17 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a
18 qualified software or cybersecurity employee who has
19 been awarded a bachelor's or higher degree from an
20 accredited program at a degree-producing institution,
21 and

22 b. One Thousand Eight Hundred Dollars (\$1,800.00) for a
23 qualified software or cybersecurity employee who has
24 been awarded an associate's degree from an accredited

1 program at a degree-producing institution or a
2 credential or certificate from an accredited program
3 at a technology center.

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

6 ~~F. Qualified employers may participate in the Oklahoma Quality
7 Jobs Program Act, the Small Employer Quality Jobs Incentive Act and
8 the 21st Century Quality Jobs Incentive Act. However, the qualified
9 employees as provided for in this section shall be included in
10 baseline employment for the purposes of the Oklahoma Quality Jobs
11 Program Act, the Small Employer Quality Jobs Incentive Act and the
12 21st Century Quality Jobs Incentive Act.~~

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

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

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

1 credits used to offset tax does not exceed Five Million Dollars
2 (\$5,000,000.00) per year. The formula to be used for the percentage
3 adjustment shall be Five Million Dollars (\$5,000,000.00) divided by
4 the credits claimed in the second preceding year.

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

10 SECTION 2. This act shall become effective July 1, 2020.

11 SECTION 3. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
17 02/26/2020 - DO PASS, As Amended and Coauthored.

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