

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 938

By: Hall

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5  
6 AS INTRODUCED

7 An Act relating to income tax; amending 68 O.S. 2011,  
8 Section 2357.302, as last amended by Section 1,  
9 Chapter 153, O.S.L. 2017 (68 O.S. Supp. 2020, Section  
10 2357.302), which relates to income tax credit;  
11 modifying time period for which credits can be  
12 claimed; amending Section 1, Chapter 317, O.S.L.  
13 2018, as amended by Section 1, Chapter 388, O.S.L.  
14 2019 (68 O.S. Supp. 2020, Section 2357.404), which  
15 relates to income tax credits; modifying time period  
16 for which credits can be claimed; and providing an  
17 effective date.

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

19 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.302, as  
20 last amended by Section 1, Chapter 153, O.S.L. 2017 (68 O.S. Supp.  
21 2020, Section 2357.302), is amended to read as follows:

22 Section 2357.302. A. Except as provided in subsection F of  
23 this section, for ~~taxable years beginning after December 31, 2008,~~  
24 ~~and ending before January 1, 2026~~ tax years 2009 through tax year  
25 2021, a qualified employer shall be allowed a credit against the tax  
imposed pursuant to Section 2355 of this title for tuition  
reimbursed to a qualified employee.

1 B. The credit authorized by subsection A of this section may be  
2 claimed only if the qualified employee has been awarded an  
3 undergraduate or graduate degree within one (1) year of commencing  
4 employment with the qualified employer.

5 C. The credit authorized by subsection A of this section shall  
6 be in the amount of fifty percent (50%) of the tuition reimbursed to  
7 a qualified employee for the first through fourth years of  
8 employment. In no event shall this credit exceed fifty percent  
9 (50%) of the average annual amount paid by a qualified employee for  
10 enrollment and instruction in a qualified program at a public  
11 institution in Oklahoma.

12 D. The credit authorized by subsection A of this section shall  
13 not be used to reduce the tax liability of the qualified employer to  
14 less than zero (0).

15 E. No credit authorized by this section shall be claimed after  
16 the fourth year of employment.

17 F. No credit otherwise authorized by the provisions of this  
18 section may be claimed for any event, transaction, investment,  
19 expenditure or other act occurring on or after July 1, 2010, for  
20 which the credit would otherwise be allowable. The provisions of  
21 this subsection shall cease to be operative on July 1, 2011.  
22 Beginning July 1, 2011, the credit authorized by this section may be  
23 claimed for any event, transaction, investment, expenditure or other  
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1 act occurring on or after July 1, 2011, according to the provisions  
2 of this section.

3 SECTION 2. AMENDATORY Section 1, Chapter 317, O.S.L.  
4 2018, as amended by Section 1, Chapter 388, O.S.L. 2019 (68 O.S.  
5 Supp. 2020, Section 2357.404), is amended to read as follows:

6 Section 2357.404. A. As used in this section:

7 1. "Vehicle manufacturing" and "automotive parts manufacturing"  
8 mean a private or public company first placed in operation in this  
9 state after November 1, 2019, which is engaged in the research,  
10 development, design and manufacture of motor vehicles or automotive  
11 parts manufacturing which may be driven on the avenues of public  
12 access. For purposes of this section, "motor vehicle" does not  
13 include low-speed electric vehicles or motor vehicles manufactured  
14 primarily for off-road use, such as primarily for use on a golf  
15 course;

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

20 Compensation shall not include employer-provided retirement, medical  
21 or health-care benefits, reimbursement for travel, meals, lodging or  
22 any other expense;

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

4           4. "Qualified employer" means a sole proprietor, general  
5 partnership, limited partnership, limited liability company,  
6 corporation, other legally recognized business entity, or public  
7 entity whose principal business activity involves the vehicle  
8 manufacturing as defined in this section;

9           5. "Qualified employee" means any person, regardless of the  
10 date of hire, employed in this state by or contracting in this state  
11 with a qualified employer on or after January 1, 2018, who has been  
12 awarded an undergraduate or graduate degree from a qualified program  
13 by an institution, and who was not employed in vehicle manufacturing  
14 in this state immediately preceding employment or contracting with a  
15 qualified employer. Provided, the definition shall not be  
16 interpreted to exclude any person who was employed in vehicle  
17 manufacturing, but not as a full-time engineer, prior to being  
18 awarded an undergraduate or graduate degree from a qualified program  
19 by an institution or any person who has been awarded an  
20 undergraduate or graduate degree from a qualified program by an  
21 institution and is employed by a professional staffing company and  
22 assigned to work in vehicle manufacturing in this state;

23           6. "Qualified program" means a program that awards an  
24 undergraduate or graduate degree and that has been accredited by the

1 Engineering Accreditation Commission of the Accreditation Board for  
2 Engineering and Technology (ABET); and

3 7. "Tuition" means the average annual amount paid by a  
4 qualified employee for enrollment and instruction in a qualified  
5 program. Tuition shall not include the cost of books, fees or room  
6 and board.

7 B. 1. Except as otherwise provided in subsection E of this  
8 section, for ~~taxable years beginning after December 31, 2018, and~~  
9 ~~ending before January 1, 2026~~ tax years 2019 through 2021, a  
10 qualified employer shall be allowed a credit against the tax imposed  
11 pursuant to Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this  
12 title for tuition reimbursed to a qualified employee.

13 2. The credit authorized by this subsection may be claimed only  
14 if the qualified employee has been awarded an undergraduate or  
15 graduate degree within one (1) year of commencing employment with  
16 the qualified employer.

17 3. The credit authorized by this subsection shall be in the  
18 amount of fifty percent (50%) of the tuition reimbursed to a  
19 qualified employee for the first through fourth years of employment.  
20 In no event shall this credit exceed fifty percent (50%) of the  
21 average annual amount paid by a qualified employee for enrollment  
22 and instruction in a qualified program at a public institution in  
23 Oklahoma.

1 4. The credit authorized by this subsection shall not be used  
2 to reduce the tax liability of the qualified employer to less than  
3 zero (0).

4 5. No credit authorized by this subsection shall be claimed  
5 after the fourth year of employment.

6 C. 1. Except as otherwise provided in subsection E of this  
7 section, for taxable years beginning after December 31, 2018, and  
8 ending before January 1, 2026, a qualified employer shall be allowed  
9 a credit against the tax imposed pursuant to Section 2355 of ~~Title~~  
10 ~~68 of the Oklahoma Statutes~~ this title for compensation paid to a  
11 qualified employee.

12 2. The credit authorized by this subsection shall be in the  
13 amount of:

14 a. ten percent (10%) of the compensation paid for the  
15 first through fifth years of employment in vehicle  
16 manufacturing if the qualified employee graduated from  
17 an institution located in this state, or

18 b. five percent (5%) of the compensation paid for the  
19 first through fifth years of employment in vehicle  
20 manufacturing if the qualified employee graduated from  
21 an institution located outside this state.

22 3. The credit authorized by this subsection shall not exceed  
23 Twelve Thousand Five Hundred Dollars (\$12,500.00) for each qualified  
24 employee annually.

1 4. The credit authorized by this subsection shall not be used  
2 to reduce the tax liability of the qualified employer to less than  
3 zero (0).

4 5. No credit authorized pursuant to this subsection shall be  
5 claimed after the fifth year of employment.

6 D. 1. Except as otherwise provided in subsection F of this  
7 section, for taxable years beginning after December 31, 2018, and  
8 ending before January 1, 2026, a qualified employee shall be allowed  
9 a credit against the tax imposed pursuant to Section 2355 of ~~Title~~  
10 ~~68 of the Oklahoma Statutes~~ this title of up to Five Thousand  
11 Dollars (\$5,000.00) per year for a period of time not to exceed five  
12 (5) years.

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

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

17 E. 1. For any tax year during which the credit is allowed, the  
18 total amount of credits authorized by subsections B and C of this  
19 section used to offset tax shall be adjusted annually to limit the  
20 annual amount of credits to Three Million Dollars (\$3,000,000.00).  
21 The Tax Commission shall annually calculate and publish a percentage  
22 by which the credits authorized by subsections B and C of this  
23 section shall be reduced so the total amount of credits used to  
24 offset tax does not exceed Three Million Dollars (\$3,000,000.00) per

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

4 2. Pursuant to paragraph 1 of this subsection, in the event the  
5 total tax credits authorized by subsections B and C of this section  
6 exceed Three Million Dollars (\$3,000,000.00) in any tax year, the  
7 Tax Commission shall permit any excess over Three Million Dollars  
8 (\$3,000,000.00), but shall factor such excess into the percentage  
9 adjustment formula for subsequent years.

10 F. 1. For any tax year during which the credit is allowed, the  
11 total amount of credits authorized by subsection D of this section  
12 used to offset tax shall be adjusted annually to limit the annual  
13 amount of credits to Two Million Dollars (\$2,000,000.00). The Tax  
14 Commission shall annually calculate and publish a percentage by  
15 which the credits authorized by subsection D of this section shall  
16 be reduced so the total amount of credits used to offset tax does  
17 not exceed Two Million Dollars (\$2,000,000.00) per year. The  
18 formula to be used for the percentage adjustment shall be Two  
19 Million Dollars (\$2,000,000.00) divided by the credits claimed in  
20 the second preceding year.

21 2. Pursuant to paragraph 1 of this subsection, in the event the  
22 total tax credits authorized by subsection D of this section exceed  
23 Two Million Dollars (\$2,000,000.00) in any tax year, the Tax  
24 Commission shall permit any excess over Two Million Dollars



1 (\$2,000,000.00), but shall factor such excess into the percentage  
2 adjustment formula for subsequent years.

3 SECTION 3. This act shall become effective November 1, 2021.

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