

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3100

By: Osburn

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending
8 Section 1, Chapter 483, O.S.L. 2019 (68 O.S. Supp.
9 2019, Section 2357.405), which relates to an income
10 tax credit; modifying date reference; and providing
11 an effective date.

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

13 SECTION 1. AMENDATORY Section 1, Chapter 483, O.S.L.
14 2019 (68 O.S. Supp. 2019, Section 2357.405), is amended to read as
15 follows:

16 Section 2357.405 A. As used in this section:

17 1. "Degree-producing institution" means any public or private
18 college or university that has accredited programs, as defined in
19 this act, from the Accreditation Board for Engineering and
20 Technology (ABET);

21 2. "Technology center" means an institution in the Oklahoma
22 State Board of Career and Technology Education that offers
23 accredited programs as defined in this act;

24 3. "Accredited program" means:

1 a. an undergraduate or graduate cybersecurity,
2 information technology, computer science and
3 engineering or software engineering degree program
4 accredited by the Computing Accreditation Commission
5 (CAC) or the Engineering Accreditation Commission
6 (EAC) of the Accreditation Board for Engineering and
7 Technology (ABET) offered at a degree-producing
8 institution, or

9 b. a software, cybersecurity, programming, software
10 programming, coding, application development, computer
11 science or information technology program requiring
12 more than eight hundred (800) hours of class time;

13 4. "Qualifying compensation" means average annualized wages
14 paid by a qualifying employer which meet or exceed one hundred ten
15 percent (110%) of the average county wage, as that percentage is
16 determined by the Oklahoma Department of Commerce based on the most
17 recent U.S. Department of Commerce data for the county in which the
18 employer is located; or, for federal employees, such employees shall
19 meet a GS-5 or equivalent initial hiring threshold in lieu of the
20 wage requirement. For the purposes of this definition, annual wages
21 shall not include employer-provided health care or retirement
22 benefits;

23 5. "Qualified employer" means a sole proprietor, general
24 partnership, limited partnership, limited liability company,

1 corporation or other legally recognized business entity, or
2 governmental entity that has at least fifteen full-time employees;

3 6. "Qualified industry" means a qualified employer whose
4 activities are defined or classified in the most recent North
5 American Industry Classification System (NAICS) manual under U.S.
6 Sector Nos. 21, 22, 31-33, 48, 51, 52, 54, 55, 62 and 92; and

7 7. "Qualified software or cybersecurity employee" means any
8 person employed in Oklahoma by a qualifying employer in a qualifying
9 industry on or after the effective date of this act who:

10 a. has been awarded a degree in an accredited program
11 from a degree-producing institution, or

12 b. has been awarded a certificate or credential in an
13 accredited program from a technology center.

14 B. An employer may apply to the Oklahoma Tax Commission for
15 qualification as a "qualified employer" in the manner prescribed by
16 the Tax Commission.

17 C. In order for the qualified software or cybersecurity
18 employees to qualify to receive the tax credit, the qualified
19 employer shall be in a qualifying industry and pay employees a
20 qualifying compensation for the county in which the qualified
21 employer has its primary Oklahoma address.

22 D. 1. For taxable years beginning on or after January 1, 2020,
23 and ending before January 1, 2030, a qualified software or
24 cybersecurity employee shall be allowed a credit against the tax

1 imposed pursuant to Section 2355 of ~~Title 68 of the Oklahoma~~
2 ~~Statutes~~ this title, subject to the amount prescribed in paragraph 2
3 of this subsection; provided, the credit shall not be allowed for
4 any qualifying employee working in the state as of ~~the effective~~
5 ~~date of this act~~ November 1, 2019.

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

9 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a
10 qualified software or cybersecurity employee who has
11 been awarded a bachelor's or higher degree from an
12 accredited program at a degree-producing institution,
13 and

14 b. One Thousand Eight Hundred Dollars (\$1,800.00) for a
15 qualified software or cybersecurity employee who has
16 been awarded an associate's degree from an accredited
17 program at a degree-producing institution or a
18 credential or certificate from an accredited program
19 at a technology center.

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

22 F. Qualified employers may participate in the Oklahoma Quality
23 Jobs Program Act, the Small Employer Quality Jobs Incentive Act and
24 the 21st Century Quality Jobs Incentive Act. However, the qualified

1 employees as provided for in this section shall be included in
2 baseline employment for the purposes of the Oklahoma Quality Jobs
3 Program Act, the Small Employer Quality Jobs Incentive Act and the
4 21st Century Quality Jobs Incentive Act.

5 G. No taxpayer shall claim both the credit provided pursuant to
6 this section and the credit provided pursuant to Section 2357.304 of
7 ~~Title 68 of the Oklahoma Statutes~~ this title for the same tax year.

8 H. The maximum time period that the credit may be claimed by
9 any taxpayer is seven (7) years.

10 I. For the tax year beginning January 1, 2022, and each tax
11 year thereafter, the total amount of credits authorized by this
12 section used to offset tax shall be adjusted annually to limit the
13 annual amount of credits to Five Million Dollars (\$5,000,000.00).
14 The Tax Commission shall annually calculate and publish by the first
15 day of the affected year a percentage by which the credits
16 authorized by this section shall be reduced so the total amount of
17 credits used to offset tax does not exceed Five Million Dollars
18 (\$5,000,000.00) per year. The formula to be used for the percentage
19 adjustment shall be Five Million Dollars (\$5,000,000.00) divided by
20 the credits claimed in the second preceding year.

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

3 SECTION 2. This act shall become effective November 1, 2020.

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