

1 **SENATE FLOOR VERSION**

2 February 19, 2019

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 746

6 By: Smalley

7 [ income tax credits - codification - effective date  
8 ]

9  
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

14 A. As used in this section:

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

19 Compensation shall not include employer-provided retirement, medical  
20 or healthcare benefits, reimbursement for travel, meals, lodging or  
21 any other expense. Annual compensation shall only qualify if the  
22 average annualized wage equals at least one hundred ten percent  
23 (110%) of the average county wage, as that percentage is determined  
24 by the U.S. Department of Commerce based upon the most recent

1 Department of Commerce data for the county in which the job is  
2 located; or, for federal employees, such employees shall meet a GS-5  
3 or equivalent initial hiring threshold in lieu of the wage  
4 requirement;

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

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

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

17 5. "Qualified program" means an accredited program that awards  
18 a credential in the fields of software engineering or cybersecurity;  
19 and

20 6. "Qualified software or cybersecurity employee" means any  
21 person first employed in this state by or first contracting in this  
22 state with a qualified employer on or after the effective date of  
23 this act, who:

24

1 a. has been awarded an undergraduate or graduate degree  
2 by an institution, or

3 b. has been awarded a two-year associates degree by an  
4 institution or a software or cybersecurity credential  
5 from a qualified program or institution.

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

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

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

21 a. Two Thousand Two Hundred Dollars (\$2,200.00) for a  
22 qualified employee who has been awarded an  
23 undergraduate or graduate degree from an institution,  
24 or

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

5           3.    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, for the same tax year.

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

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

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

23          D.    Pursuant to subsection C of this section, in the event the  
24 total tax credits authorized by this section exceed Five Million

1 Dollars (\$5,000,000.00) in any calendar year, the Tax Commission  
2 shall permit any excess over Five Million Dollars (\$5,000,000.00)  
3 but shall factor such excess into the percentage adjustment formula  
4 for subsequent years.

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

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
7 February 19, 2019 - DO PASS AS AMENDED  
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