

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 746 By: Smalley of the Senate  
3 and  
4 Pfeiffer of the House  
5  
6

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

9 AUTHOR: Add the following House Coauthors: Phillips and Boatman

10 AMENDMENT NO. 1. Delete the stricken title, enacting clause and  
11 entire bill and replace with:

12 "An Act relating to revenue and taxation; defining  
13 terms; providing for certain qualified employers to  
14 make application to the Oklahoma Tax Commission;  
15 providing for income tax credit; specifying tax  
16 credit amount; imposing limitation on taxable years  
17 for which tax credit may be claimed; specifying tax  
18 credit amount; prohibiting reduction of tax  
19 liability to less than zero; authorizing qualified  
20 employers to participate in designated economic  
21 incentives; prohibiting use of income tax credit and  
22 certain other income tax credit for same tax year;  
23 imposing limitation on total credits used to offset  
24 tax liability; providing for annual adjustment;  
prescribing formula; providing for treatment of tax  
credits in excess of annual cap amount; providing  
for income tax credit for certain compensation  
earned by qualifying doctors or osteopaths; defining  
terms; imposing limitation on tax credit amount;  
imposing annual limitation on total tax credits;  
prohibiting reduction of tax liability to less than  
zero; requiring prequalification certificate;  
prescribing procedures to obtain prequalification  
certificate; imposing deadline for prequalification  
process; providing for ability to claim tax credit  
in subsequent tax years; prescribing procedures

1 related to annual tax credit cap amount; providing  
2 for allocation of annual tax credit cap amount in  
3 certain circumstances; providing for codification;  
4 and providing an effective date.

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

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

9 A. As used in this section:

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

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

17 3. "Accredited program" means:

18 a. an undergraduate or graduate cybersecurity,  
19 information technology, computer science and  
20 engineering or software engineering degree program  
21 accredited by the Computing Accreditation Commission  
22 (CAC) or the Engineering Accreditation Commission  
23 (EAC) of the Accreditation Board for Engineering and  
24

1 Technology (ABET) offered at a degree-producing  
2 institution, or

3 b. a software, cybersecurity, programming, software  
4 programming, coding, application development, computer  
5 science or information technology program requiring  
6 more than eight hundred (800) hours of class time;

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

17 5. "Qualified employer" means a sole proprietor, general  
18 partnership, limited partnership, limited liability company,  
19 corporation or other legally recognized business entity, or  
20 governmental entity that has at least fifteen full-time employees;

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

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

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

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

8           B. An employer may apply to the Oklahoma Tax Commission for  
9 qualification as a "qualified employer" in the manner prescribed by  
10 the Tax Commission.

11           C. In order for the qualified software or cybersecurity  
12 employees to qualify to receive the tax credit, the qualified  
13 employer shall be in a qualifying industry and pay employees a  
14 qualifying compensation for the county in which the qualified  
15 employer has its primary Oklahoma address.

16           D. 1. For taxable years beginning on or after January 1, 2020,  
17 and ending before January 1, 2030, a qualified software or  
18 cybersecurity employee shall be allowed a credit against the tax  
19 imposed pursuant to Section 2355 of Title 68 of the Oklahoma  
20 Statutes, subject to the amount prescribed in paragraph 2 of this  
21 subsection. Provided, the credit shall not be allowed for any  
22 qualifying employee working in the state as of the effective date of  
23 this act.

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

4           a. Two Thousand Two Hundred Dollars (\$2,200.00) for a  
5           qualified software or cybersecurity employee who has  
6           been awarded a bachelor's or higher degree from an  
7           accredited program at a degree-producing institution,  
8           and

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

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

17           F. Qualified employers may participate in the Oklahoma Quality  
18 Jobs Program Act, the Small Employer Quality Jobs Incentive Act and  
19 the 21st Century Quality Jobs Incentive Act. However, the qualified  
20 employees as provided for in this section shall be included in  
21 baseline employment for the purposes of the Oklahoma Quality Jobs  
22 Program Act, the Small Employer Quality Jobs Incentive Act and the  
23 21st Century Quality Jobs Incentive Act.

1 G. No taxpayer shall claim both the credit provided pursuant to  
2 this section and the credit provided pursuant to Section 2357.304 of  
3 Title 68 of the Oklahoma Statutes for the same tax year.

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

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

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

22 SECTION 2. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2357.410 of Title 68, unless  
24 there is created a duplication in numbering, reads as follows:

1       A. Except as otherwise provided by this section, for taxable  
2 years beginning after December 31, 2019, and ending not later than  
3 December 31, 2024, subject to the limitations on the total tax  
4 credit amount pursuant to subsection C of this section, there shall  
5 be allowed a credit against the tax imposed pursuant to Section 2355  
6 of Title 68 of the Oklahoma Statutes equal to five percent (5.0%) of  
7 the qualifying compensation earned by a qualifying doctor directly  
8 related to the practice of medicine or osteopathic medicine in a  
9 qualifying rural area of the state.

10       B. For purposes of this section:

11       1. "Qualifying compensation" means money earned by a qualifying  
12 doctor resulting from the performance of his or her professional  
13 services in a qualifying rural area;

14       2. "Qualifying doctor" means a medical doctor or osteopathic  
15 physician:

16           a. who is licensed in this state by the State Board of  
17 Medical Licensure and Supervision or the State Board  
18 of Osteopathic Examiners,

19           b. who has graduated from a college of medicine or  
20 osteopathic medicine located in this state or has  
21 completed his or her residency in this state or has  
22 participated in clinical rotations in this state, and

23           c. whose professional services are performed in a  
24 qualifying rural area; and

1 3. "Qualifying rural area" means:

2 a. any county with a population of less than thirty-six  
3 thousand (36,000) persons according to the latest  
4 Federal Decennial Census or most recent population  
5 estimate, and

6 b. any municipality in Oklahoma which has a population  
7 not exceeding twenty-five thousand (25,000) persons as  
8 determined by the latest Federal Decennial Census or  
9 most recent population estimate.

10 C. Subject to the tax credit cap amount prescribed by  
11 subsection D of this section, the amount of the credit provided by  
12 this section claimed by a taxpayer in any tax year shall not exceed  
13 Twenty-five Thousand Dollars (\$25,000.00). For purposes of a joint  
14 income tax return, the amount of the tax credit provided by this  
15 section claimed by a married couple shall not exceed Fifty Thousand  
16 Dollars (\$50,000.00).

17 D. The total amount of tax credits for each taxable year for  
18 which prequalification certificates may be issued pursuant to  
19 subsection F of this section shall not exceed One Million Dollars  
20 (\$1,000,000.00).

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

23 F. Any taxpayer that intends to claim the tax credit authorized  
24 by this section shall be required to obtain a prequalification



1 certificate from the Oklahoma Tax Commission using such electronic  
2 form or system as may be prescribed by the Tax Commission for that  
3 purpose. If the tax credits will be claimed on an income tax return  
4 filed by married taxpayers, each of the taxpayers shall be required  
5 to obtain his or her own separate prequalification certificate in  
6 order to claim the tax credit on the applicable income tax return.  
7 The prequalification application shall be made to the Tax Commission  
8 not earlier than January 1 nor later than December 31 of the income  
9 tax year for which the income tax credit is intended to be claimed.  
10 The prequalification certificate shall be attached to the Oklahoma  
11 income tax return of the person or persons claiming the tax credit.

12 G. Once a taxpayer has obtained a prequalification certificate  
13 pursuant to subsection F of this section, the taxpayer shall be  
14 eligible to claim the income tax credit authorized by this section  
15 for each of the following income tax years for which the tax credit  
16 is available as provided by subsection A of this section if the  
17 taxpayer meets all of the qualifications and requirements with  
18 respect to the rendition of professional services in a qualified  
19 rural area as required by this section.

20 H. The Oklahoma Tax Commission shall issue a prequalification  
21 certificate to each qualified applicant until the One Million Dollar  
22 (\$1,000,000.00) tax credit cap amount for that income tax year is  
23 reached or would be exceeded. If an applicant is denied a  
24 prequalification certificate because the tax credit cap amount for

1 the applicable tax year would be exceeded, the applicant shall not  
2 claim any tax credits otherwise authorized by this section with  
3 respect to such tax year, but may make application for a  
4 prequalification certificate with respect to any subsequent tax year  
5 for which the tax credit is available as provided by this section.

6 I. If a taxpayer makes application for a prequalification  
7 certificate and the total amount of tax credit for which the  
8 certificate is requested exceeds the available tax credit cap, but  
9 some part of the total tax credit amount is less than the available  
10 tax credit cap, the prequalification certificate shall be issued for  
11 the maximum amount available for that tax year.

12 SECTION 3. This act shall become effective November 1, 2019."

13 Passed the House of Representatives the 25th day of April, 2019.

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Presiding Officer of the House of  
Representatives

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

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Presiding Officer of the Senate

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1 ENGROSSED SENATE  
2 BILL NO. 746

By: Smalley of the Senate

3 and

4 Pfeiffer of the House

5  
6  
7 [ income tax credits - codification - effective date ]  
8

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

10 SECTION 4. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 2357.405 of Title 68, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. As used in this section:

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

18 Compensation shall not include employer-provided retirement, medical  
19 or healthcare benefits, reimbursement for travel, meals, lodging or  
20 any other expense. Annual compensation shall only qualify if the  
21 average annualized wage equals at least one hundred ten percent  
22 (110%) of the average county wage, as that percentage is determined  
23 by the U.S. Department of Commerce based upon the most recent  
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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, 31-33, 48-52, 54-56, 62, 71 and 92;

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 employed in this state or contracting in this state with a  
22 qualified employer on or after the effective date of this act, who:

23 a. has been awarded an undergraduate or graduate degree  
24 by an institution, or

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

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

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

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

- 19           a. Two Thousand Two Hundred Dollars (\$2,200.00) for a  
20                   qualified employee who has been awarded an  
21                   undergraduate or graduate degree from an institution,  
22                   or  
23           b. One Thousand Eight Hundred Dollars (\$1,800.00) for a  
24                   qualified employee who has been awarded a two-year

1 associates degree or a credential from a qualified  
2 program or institution.

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

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

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

10 C. For the tax year beginning January 1, 2020, 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 D. Pursuant to subsection C of this section, in the event the  
22 total tax credits authorized by this section exceed Five Million  
23 Dollars (\$5,000,000.00) in any calendar year, the Tax Commission  
24 shall permit any excess over Five Million Dollars (\$5,000,000.00)

1 but shall factor such excess into the percentage adjustment formula  
2 for subsequent years.

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

4 Passed the Senate the 11th day of March, 2019.

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\_\_\_\_\_  
Presiding Officer of the Senate

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8 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

9 2019.

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Presiding Officer of the House  
of Representatives

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