

1 ENGROSSED SENATE  
2 BILL NO. 1204

By: Bice of the Senate

3 and

4 Fetgatter of the House

5  
6 An Act relating to income tax; amending Section 1,  
7 Chapter 483, O.S.L. 2019 (68 O.S. Supp. 2019, Section  
8 2357.405), which relates to income tax credit for  
9 qualifying software or cybersecurity employees;  
10 modifying definition; eliminating specific authority  
11 for participation in certain program and related  
12 requirement; updating statutory references; providing  
13 an effective date; and declaring an emergency.

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

15 SECTION 1. AMENDATORY Section 1, Chapter 483, O.S.L.  
16 2019 (68 O.S. Supp. 2019, Section 2357.405), is amended to read as  
17 follows:

18 Section 2357.405. A. As used in this section:

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

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

26 3. "Accredited program" means:

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

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

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

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

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

23 D. 1. For taxable years beginning on or after January 1, 2020,  
24 and ending before January 1, 2030, a qualified software or

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

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

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

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

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. ~~Qualified employers may participate in the Oklahoma Quality~~  
24 ~~Jobs Program Act, the Small Employer Quality Jobs Incentive Act and~~

1 ~~the 21st Century Quality Jobs Incentive Act. However, the qualified~~  
2 ~~employees as provided for in this section shall be included in~~  
3 ~~baseline employment for the purposes of the Oklahoma Quality Jobs~~  
4 ~~Program Act, the Small Employer Quality Jobs Incentive Act and the~~  
5 ~~21st Century Quality Jobs Incentive Act.~~

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

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

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

22 ~~J.~~ I. In the event the total tax credits authorized by this  
23 section exceed Five Million Dollars (\$5,000,000.00) in any calendar  
24 year, the Tax Commission shall permit any excess over Five Million

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 July 1, 2020.

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

8 Passed the Senate the 3rd day of March, 2020.

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

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12 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
13 2020.

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Presiding Officer of the House  
of Representatives

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