

1 **SENATE FLOOR VERSION**

2 February 11, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1204

5 By: Bice

6 [income tax - credit for qualifying software or
7 cybersecurity employees - ~~effective date -~~
8 ~~emergency~~]

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

11 SECTION 1. AMENDATORY Section 1, Chapter 483, O.S.L.
12 2019 (68 O.S. Supp. 2019, Section 2357.405), is amended to read as
13 follows:

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

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

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

22 3. "Accredited program" means:

- 23 a. an undergraduate or graduate cybersecurity,
24 information technology, computer science ~~and~~

1 ~~engineering or software~~ or computer engineering degree
2 program accredited by the Computing Accreditation
3 Commission (CAC) or the Engineering Accreditation
4 Commission (EAC) of the Accreditation Board for
5 Engineering and Technology (ABET) offered at a degree-
6 producing institution, or

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

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

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

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

5 7. "Qualified software or cybersecurity employee" means any
6 person employed in Oklahoma by a qualifying employer in a qualifying
7 industry on or after ~~the effective date of this act~~ November 1,
8 2019, who:

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

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

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

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

21 D. 1. For taxable years beginning on or after January 1, 2020,
22 and ending before January 1, 2030, a qualified software or
23 cybersecurity employee shall be allowed a credit against the tax
24 imposed pursuant to Section 2355 of Title 68 of the Oklahoma

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

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

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

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

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

21 ~~F. Qualified employers may participate in the Oklahoma Quality~~
22 ~~Jobs Program Act, the Small Employer Quality Jobs Incentive Act and~~
23 ~~the 21st Century Quality Jobs Incentive Act. However, the qualified~~
24 ~~employees as provided for in this section shall be included in~~

1 ~~baseline employment for the purposes of the Oklahoma Quality Jobs~~
2 ~~Program Act, the Small Employer Quality Jobs Incentive Act and the~~
3 ~~21st Century Quality Jobs Incentive Act.~~

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

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

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

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

1 ~~SECTION 2. This act shall become effective July 1, 2020.~~

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

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
7 February 11, 2020 - DO PASS AS AMENDED
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