

AN ACT  
RELATING TO TAXATION; ENACTING SECTIONS OF THE INCOME TAX  
ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT TO  
PROVIDE TAX CREDITS FOR EMPLOYMENT OF LONG-TERM FAMILY  
ASSISTANCE RECIPIENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. LEGISLATIVE FINDINGS--DECLARATION OF  
PURPOSE. --The legislature finds that:

A. the provisions of the New Mexico Works Act that mandate benefit time limits and work requirements pose a significant job creation challenge for the state's businesses and communities;

B. in January 1998, the human services department estimated that there were seventeen thousand eight hundred households receiving temporary assistance for needy families;

C. in November 1997, the labor department estimated that there were forty-seven thousand five hundred twenty-three people unemployed and actively looking for work;

D. the failure to create new jobs for temporary assistance for needy families recipients coupled with the high number of people unemployed and looking for work could result in an oversupply of labor, resulting in falling wages

and benefits for many New Mexicans;

E. meeting the challenge of creating new jobs for people on welfare plus reaching the goal of full employment for the rest of New Mexico's work force will require the creation of an estimated thirty-two thousand new jobs;

F. the task is not spread evenly; the jobs deficit posed by unemployment and people on welfare in certain counties is considerably higher than in the state's metropolitan areas;

G. without significant job growth in rural areas, temporary assistance for needy families recipients will either be forced to replace existing workers in these labor markets by bidding down the terms of work or leave their homes in search of work in metropolitan areas, disrupting family and community life and destroying the close ties of New Mexican communities;

H. it is in the public interest that the state act to protect New Mexican communities, families and workers. To this end, the state must pursue strategies to encourage and create employment that is sufficient to sustain families and ensure the dignity of all workers, maintaining the health, efficiency and general well-being of workers against the unfair competition of wage and hours standards which do not provide adequate standards of living;

I. the purpose of the welfare-to-work tax credit

provided by this act is to expand the labor market by encouraging the creation of new, long-term positions in small, rural businesses, while ensuring that existing workers are protected from displacement or a loss in wages due to unfair competition or a lowering of the wage floor; and

J. tax credits are but a first step toward the immense goal of creating jobs that will provide New Mexican workers with meaningful opportunities and the capacity to lift their families out of poverty.

Section 2. A new section of the Income Tax Act is enacted to read:

"WELFARE-TO-WORK TAX CREDIT. --

A. Any taxpayer who files an individual New Mexico income tax return and is not a dependent of another taxpayer and is entitled to claim the federal welfare-to-work credit provided by 26 U.S.C. Section 51A with respect to a state-qualified employee in a state-qualified job may take a tax credit equal to fifty percent of the amount of the welfare-to-work credit claimed and allowed under 26 U.S.C. Section 51A with respect to that employee in that job.

B. To be eligible for the credit provided by this section, a taxpayer must be in compliance with the following provisions:

(1) the hiring of any state-qualified

employee shall not result in the displacement of any currently employed worker or position, including partial displacement such as a reduction in the hours of nonovertime work, wages or employment benefits, or in any infringement of the promotional opportunities of any currently employed individual;

(2) the hiring of any state-qualified employee shall not impair existing contracts for services or collective bargaining agreements, and no employment under the terms of this act shall be inconsistent with the terms of a collective bargaining agreement or involve the performance of duties covered under a collective bargaining agreement unless the employer and the labor organization concur in writing;

(3) a state-qualified employee may fill or perform the duties of an employment position only in a manner that is consistent with existing laws, personnel procedures and collective bargaining contracts;

(4) no state-qualified employee shall be employed or assigned:

(a) when any other individual is on layoff from the same or any substantially equivalent job;

(b) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its work force with the effect of filling the vacancy so created with a state-qualified employee; or

(c) to any position at a particular work site when there is an ongoing strike or lockout at that particular work site;

(5) state-qualified employees shall be paid a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage; and

(6) employers shall:

(a) maintain health, safety and working conditions not less than those of comparable jobs offered by the employer; and

(b) maintain standard and customary entry-level wages and benefits and apply historical and normal increases in wages and benefits appropriate for experience and training of the state-qualified employee.

**C. For the purposes of this section:**

(1) "high-unemployment county" means a county in which the unemployment rate as reported by the labor department exceeds ten percent in six or more months of the calendar year preceding the year for which the tax credit provided by this section is claimed;

(2) "state-qualified employee" means a "long-term family assistance recipient", as that term is defined in 26 U.S.C. Section 51A(c), who resides in a high-unemployment county during the period of employment for which the welfare-to-work credit provided by 26 U.S.C. Section 51A applies with respect to that employee; and

(3) "state-qualified job" means a job established by the taxpayer that:

(a) when first occupied by a state-

qualified employee results in the total number of the taxpayer's employees exceeding the average number of the taxpayer's employees during the taxpayer's preceding tax year; or

(b) was a position previously filled by a state-qualified employee and was vacant prior to the hiring of the new state-qualified employee in that position.

**D. The labor department shall determine whether the employee is a state-qualified employee and whether the job is a state-qualified job and, if the employee is a state-qualified employee and the job is a state-qualified job, certify that fact to the employer. The taxpayer claiming the tax credit provided by this section shall provide a copy of the certification with respect to each employee for which the tax credit is claimed.**

**E. By July 1, 1998 and by January 31 of each subsequent year, the labor department shall certify to the taxation and revenue department the high-unemployment counties for the preceding calendar year.**

**F. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit provided by this section that would have been allowed on a joint return.**

**G. A taxpayer who otherwise qualifies may claim his pro rata share of the tax credit provided by this**

section with respect to state-qualified employees employed by a partnership or other business association of which the taxpayer is a member. The total tax credit claimed by all members of the partnership or association shall not exceed the amount of tax credit provided pursuant to Subsection A of this section with respect to each state-qualified employee for which the credit is allowed.

H. The tax credit provided by this section may only be deducted from the taxpayer's income tax liability. Any portion of the tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years."

Section 3. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"WELFARE-TO-WORK TAX CREDIT. --

A. Any taxpayer who files a New Mexico corporate income tax return and who is entitled to claim the federal welfare-to-work credit provided by 26 U.S.C. Section 51A with respect to a state-qualified employee in a state-qualified job may take against the taxpayer's corporate income tax liability a tax credit equal to fifty percent of the amount of the welfare-to-work credit claimed and allowed under 26 U.S.C. Section 51A with respect to that employee in that job.

B. To be eligible for the credit provided by this section, a taxpayer must be in compliance with the following

provisions:

(1) the hiring of any state-qualified employee shall not result in the displacement of any currently employed worker or position, including partial displacement such as a reduction in the hours of nonovertime work, wages or employment benefits, or in any infringement of the promotional opportunities of any currently employed individual;

(2) the hiring of any state-qualified employee shall not impair existing contracts for services or collective bargaining agreements, and no employment under the terms of this act shall be inconsistent with the terms of a collective bargaining agreement or involve the performance of duties covered under a collective bargaining agreement unless the employer and the labor organization concur in writing;

(3) a state-qualified employee may fill or perform the duties of an employment position only in a manner that is consistent with existing laws, personnel procedures and collective bargaining contracts;

(4) no state-qualified employee shall be employed or assigned:

(a) when any other individual is on layoff from the same or any substantially equivalent job;

(b) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its work force with the effect of filling the vacancy so created with a state-qualified employee; or

(c) to any position at a particular



work site when there is an ongoing strike or lockout at that particular work site;

(5) state-qualified employees shall be paid a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage; and

(6) employers shall:

(a) maintain health, safety and working conditions not less than those of comparable jobs offered by the employer; and

(b) maintain standard and customary entry-level wages and benefits and apply historical and normal increases in wages and benefits appropriate for experience and training of the state-qualified employee.

**C. For the purposes of this section:**

(1) "high-unemployment county" means a county in which the unemployment rate as reported by the labor department exceeds ten percent in six or more months of the calendar year preceding the year for which the tax credit provided by this section is claimed;

(2) "state-qualified employee" means a "long-term family assistance recipient", as that term is defined in 26 U.S.C. Section 51A(c), who resides in a high-unemployment county during the period of employment for which the welfare-to-work credit provided by 26 U.S.C. Section 51A applies with respect to that employee; and

(3) "state-qualified job" means a job

established by the taxpayer that:

(a) when first occupied by a state-qualified employee results in the total number of the taxpayer's employees exceeding the average number of the taxpayer's employees during the taxpayer's preceding tax year; or

(b) was a position previously filled by a state-qualified employee and was vacant prior to the hiring of the new state-qualified employee in that position.

**D. The labor department shall determine whether the employee is a state-qualified employee and whether the job is a state-qualified job and, if the employee is a state-qualified employee and the job is a state-qualified job, certify that fact to the employer. The taxpayer claiming the tax credit provided by this section shall provide a copy of the certification with respect to each employee for which the tax credit is claimed.**

**E. By July 1, 1998 and by January 31 of each subsequent year, the labor department shall certify to the taxation and revenue department the high-unemployment counties for the preceding calendar year.**

**F. The tax credit provided in this section may only be deducted from the taxpayer's corporate income tax liability. Any portion of the tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years. "**

Section 4. APPLICABILITY. -- The provisions of this act are applicable to taxable years beginning on or after January 1, 1998. \_\_\_\_\_