

LEGISLATIVE BILL 1368

Approved by the Governor April 15, 1996

Introduced by Brashear, 4; Avery, 3; Bernard-Stevens, 42; Bohlke, 33; Brown, 6; Crosby, 29; Hartnett, 45; Hilgert, 7; Jensen, 20; Klein, 19; Lindsay, 9; Maurstad, 30; Pedersen, 39; Pirsch, 10; Robinson, 16; Warner, 25; Wehrbein, 2; Wickersham, 49; Will, 8; Witek, 31

AN ACT relating to the Quality Jobs Act; to amend sections 77-4901, 77-4925, and 77-4927, Revised Statutes Supplement, 1995; to change provisions relating to the wage benefit credit under the act; to provide for an alternative use of the credit; to provide for calculation of the credit; to provide for refunds; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 77-4901, Revised Statutes Supplement, 1995, is amended to read:

77-4901. Sections 77-4901 to 77-4935 and sections 3 and 5 of this act shall be known and may be cited as the Quality Jobs Act.

Sec. 2. Section 77-4925, Revised Statutes Supplement, 1995, is amended to read:

77-4925. Wage benefit credit means the withholding credit described in the Quality Jobs Act.

Sec. 3. (1) The policy of the state in adopting the Quality Jobs Act as stated in section 77-4902 is to encourage new businesses to relocate to and existing businesses to expand in Nebraska and to provide appropriate inducements to encourage them to do so. Depending on the nature of the company and its employees, the state recognizes the inducements contained in the act may be more appropriate and administratively more convenient and efficient for the state, the company, and the employees, if the wage benefit credit is charged against the company's income tax rather than individually computed and used against each employee's income tax. Therefore if the company uses the wage benefit credit for company training programs, employee benefit programs, educational institution training programs, or company workplace safety programs, or any combination thereof, as determined by the company as otherwise provided for in the act and if the board has approved the project application, then in lieu of the wage benefit credit allowed in section 77-4927, the company shall be allowed a wage benefit credit to be determined, used, and calculated as provided in this section.

(2) If the company has entered into an agreement with the state pursuant to section 77-4928 and if that agreement provides that this section shall apply in lieu of section 77-4927, then the company shall receive the wage benefit credit in the manner provided in this section.

(3) The wage benefit credit shall be paid or applied by the company for company training programs, employee benefit programs, educational institution training programs, or company workplace safety programs, or any combination thereof, as determined by the company. Nothing in this section shall be construed to limit the right of an employee or employees subject to a collective bargaining agreement to negotiate relative to such programs.

(4) The wage benefit credit shall be an amount equal to the percentage specified in subsection (5) of this section multiplied by the amount by which the total compensation paid during each project year to employees of the company while employed at the project exceeds the average compensation paid at the project multiplied by the number of equivalent base-year employees. For purposes of computation of the credit, average compensation means the total compensation paid during each project year divided by the total number of equivalent employees at the project.

(5) The percentage used to determine the wage benefit credit shall be:

<u>If the average compensation for the project year is over</u>	<u>But not over</u>	<u>Then the credit percentage shall be</u>
\$0	\$20,000	0%
\$20,000	\$30,000	3%
\$30,000	\$40,000	4%
\$40,000		5%

(6) The wage benefit credit shall be allowed for each project year.

(7) The wage benefit credit shall be established by filing the forms

required by the Tax Commissioner with the income tax return for the year. The credit may be used to reduce the taxpayer's Nebraska income tax liability. The credits shall be applied in the order in which they were first allowed. The credit may be carried over until fully utilized, except that the credit may not be carried over more than eight years after the end of the entitlement period. If a credit is subsequently recaptured under section 77-4929, the credit shall be treated as if it had never been allowed.

(8) The wage benefit credit shall not be transferable.

Sec. 4. Section 77-4927, Revised Statutes Supplement, 1995, is amended to read:

77-4927. (1) If a company has entered into an agreement with the state pursuant to section 77-4928, employees who are employed at the project covered by the agreement, other than base-year employees, shall during each project year receive the wage benefit credit in the manner provided in the Quality Jobs Act.

(2) The wage benefit credit shall be paid or applied by the employee for company training programs, employee benefit programs, educational institution training programs, or company workplace safety programs, or any combination thereof, as designated by the employee or as agreed to by the company and employee.

(3) Except as provided in subsection (4) of this section, the wage benefit credit per employee shall be an amount equal to the Nebraska income tax withholding attributable to the employee's compensation for services rendered in connection with the project for the project year without regard to the credit calculation under subsection (6) of this section.

(4) The wage benefit credit total for the project per year shall not exceed five percent of the total compensation paid by the company in the year to all employees, other than base-year employees, for services rendered in connection with the project. If the total of the wage benefit credit exceeds five percent of the total compensation paid to all employees, other than base-year employees, the withholding in excess of five percent of each employee's compensation shall be returned to the Department of Revenue in the manner provided in section 77-2756.

(5) The wage benefit credit shall be allowed for each project year.

(6) The wage benefit credit shall be withheld by the company from the employee's compensation in the normal manner provided by section 77-2753, except that the amount shall not be required to be paid over to the state under section 77-2756 and shall not constitute part of the trust fund or be owned by the state as provided in section 77-2757, but instead shall, to the extent of attributable tax liability, represent a credit in the calculation of each such employee's tax liability and shall be paid or applied for the programs in the manner that the company and employee have determined as allowed by the act. For purposes of the withholding reporting provisions of sections 77-2754 and 77-2756, the company shall report the wage benefit credit separately to the state and to the employee as a wage benefit credit. Each employee shall be allowed on his or her Nebraska income tax return a nonrefundable credit against the tax imposed by sections 77-2714 to 77-27,123 equal to the wage benefit credit not to exceed (a) his or her income tax liability minus (b) the amount that Nebraska income tax liability would be if the total compensation paid by the company in the taxable year were excluded from the employee's adjusted gross income. The calculation of this nonrefundable credit shall be included with the employee's tax return and reported as determined by the Department of Revenue. If any amount allowable as a wage benefit credit has been through error or otherwise improperly paid to the state, it shall be refunded to the person who paid it upon application for refund filed within three years after payment. If the wage benefit credit withheld by the company exceeds the nonrefundable credit allowed the employee as calculated in this subsection, the company shall refund the difference to the employee. The company may request verification or substantiation of the amount claimed. Such verification or substantiation shall be confidential and used only for the determination of the claim filed by the employee. A company shall notify employees individually in writing at the time the company reports the wage benefit credit to the employee of the right to claim a refund under this subsection by April 1 of each year. The claim for the refund from the company shall be made by September 1 of the year when the employee files his or her tax return or fifteen days after the employee files such tax return, whichever is later. The company shall pay the refund to an employee within thirty days after the date a claim is filed.

Sec. 5. Section 3 of this act and the changes made to sections 77-4901 and 77-4925 by this legislative bill apply to any agreement entered into under the Quality Jobs Act after the effective date of this act.

Sec. 6. This act becomes operative for all taxable years beginning

or deemed to begin on or after January 1, 1996, under the Internal Revenue Code of 1986, as amended.

Sec. 7. Original sections 77-4901, 77-4925, and 77-4927, Revised Statutes Supplement, 1995, are repealed.