



# S.8309-A, Part FF (Budget) and A.8809-A, Part CC

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<b>BILL</b> S.8309-A, Part FF (Budget) and A.8809-A, Part CC
<b>SUBJECT</b> State-level Work Opportunity Tax Credit Pilot Project
<b>DATE</b> March 27, 2024
<b>SUPPORT</b>

The Business Council supports this legislation that will promote the state’s interest in bringing additional persons into the workforce, by providing an incentive for the hiring of persons in one of ten targeted groups that face barriers to employment. Any size employer who hires qualified employees would be eligible for this credit.

Both the Senate and Assembly propose the creation of a “work opportunity tax credit” (WOTC) pilot program, with similar but not identical language.

- The Senate proposal caps the per employee, per year credit at \$500, with the credit applicable to tax years 2024, 2025 and 2026, and aggregate cap on available credits of \$5 million.
- The Assembly also proposes a per employee credit cap of \$500, and a total program cap of \$30 million, and while it also proposes a three-year pilot, its program available is delayed one year, and would apply to tax years 2025, 2026 and 2027.

We appreciate both houses’ support, and recommend adoption of the Senate’s implementation schedule and the Assembly’s higher program cap. The Senate’s proposal for \$5 million spread over three years is too limited a funding commitment to provide an effective test of the impact of a state-level WOTC in New York.

This proposal will amplify the impact of the longstanding federal Work Opportunity Tax Credit by adopting a comparable WOTC credit under New York’s personal income, corporate franchise, and insurance tax. Importantly, to maximize its impact, the state WOTC credit will be refundable, meaning if the credit exceeds tax liability, the excess will be refunded as an overpayment of taxes.

State implementation will be straightforward as the criteria and calculations for the state WOTC will be the same as under federal law, and the New York State Department of Labor is already responsible for certifying employee eligibility under the federal WOTC, under federal designation.

The credit is explicitly designed to promote the hiring of:

- the formerly incarcerated or those previously convicted of a felony;
- recipients of assistance for families with dependent children under part A of title IV of the Social Security Act (SSA);
- veterans, with an increased credit for disabled veterans;
- residents in areas designated as empowerment zones or rural renewal counties;
- individuals referred to an employer following completion of a vocational rehabilitation plan or program;
- Summer Youth Employee participants;
- individuals whose families are recipients of supplemental nutrition assistance under the Food and Nutrition Act of 2008;
- recipients of supplemental security income benefits under title XVI of the SSA;
- Long-Term Family Assistance Recipient; and
- individuals experiencing long-term unemployment, who have exhausted their 26 weeks of regular benefits.

Data show that New York underutilizes this federal incentive program. For example, New York's ratio of WOTC-certified employees to populations is the lowest of the 18 states with the largest number of WOTC certified employees, including Texas, Ohio, Illinois, Pennsylvania, North Carolina, Michigan, Wisconsin and Maryland, among others.

At the federal level, the credit is equal to 25 percent of wages paid to qualified individuals who perform at least 120 but less than 400 hours of service for the employer, and 40 percent for employees with 400 or more hours, applicable to the first \$6,000 of wages paid, for a maximum credit of \$2,400. For qualified disabled veterans, the credit applies to the first \$24,000 in wages, for a maximum credit of \$9,000.

Under these proposals, the same calculation would apply but the per-employee credit is capped at \$500.

At both the federal and state level, credits are only claimed after a qualified employee is hired and paid the minimum hours required. Under federal law, the credit is available for an employee's first year of work, and an employer cannot claim the WOTC for employees who are rehired by an employer - provisions that

will be reflected in state law as well. Finally, under this new state law, it should be clear that an employer can only claim the WOTC or an alternative state credit, such as the state's existing credit for hiring veterans or disabled persons, for any individual employee.

At a time when employers are looking to expand their search for employees, and the state is working to expand the workforce and support the re-entry of workers into the workforce, we believe this targeted hiring incentive would be a "win-win" for the state.

For these reasons, The Business Council supports adoption of a WOTC pilot program as part of the final FY 2025 state budget.