

**SENATE, No. 3397**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED JUNE 6, 2024

**Sponsored by:**

**Senator ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Co-Sponsored by:**

**Senator Diegnan**

**SYNOPSIS**

Provides corporation business tax and gross income tax credits for employers of certain persons with disabilities.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/13/2024)**

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1 AN ACT providing credits against the corporation business and  
2 gross income tax for employing persons with disabilities, and  
3 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title  
4 54A of the New Jersey Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. a. A taxpayer shall be allowed a credit against the tax  
10 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
11 an amount equal to 15 percent of the wages paid by the taxpayer  
12 during a privilege period to a qualified employee with a disability.  
13 The credit provided pursuant to this section during a privilege  
14 period shall not exceed \$2,000 per qualified employee with a  
15 disability.

16 b. (1) To claim the credit provided pursuant to this section, a  
17 taxpayer shall submit an application to the director for certification  
18 that one or more employees meet the criteria of a qualified  
19 employee with a disability for purposes of qualifying for the credit.  
20 The director shall establish an application process and prescribe the  
21 form and manner through which a taxpayer may submit an  
22 application for a certification.

23 (2) The director shall review each application for certification  
24 submitted by a taxpayer in accordance with this section and make a  
25 determination regarding the approval of an application for  
26 certification within 90 calendar days of the date a complete  
27 application is received. The director shall issue a written  
28 certification to each taxpayer whose application has been reviewed  
29 and approved by the director in accordance with this section within  
30 five calendar days of the date the director's determination is made.  
31 A copy of the certification shall be included in the filing of a return  
32 that includes a claim for the credit. The contents of the certification  
33 shall state the fact of the certification and not disclose any private  
34 or confidential health information.

35 (3) If the director fails to make a determination regarding an  
36 application submitted pursuant to this subsection within 90 calendar  
37 days of the date the application is received, or if the director fails to  
38 issue a written certification within five calendar days of the date a  
39 determination is made, the application shall be deemed to have been  
40 approved and the written certification shall be deemed to have been  
41 issued by the director. Each taxpayer that submitted an application  
42 in accordance with this subsection but fails to receive a  
43 determination from the director within 90 calendar days of the date  
44 the application is submitted, or fails to receive a written  
45 certification from the director within five calendar days of the date  
46 of the director's determination is made, shall include a copy of the  
47 taxpayer's application when filing a return that includes a claim for  
48 the credit allowed in accordance with subsection a. of this section.

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1 c. All information regarding a qualified employee with a  
2 disability which is obtained or compiled in connection with the  
3 certification and which may be identified with the qualified  
4 employee with a disability shall not be released to a person other  
5 than the qualified employee with a disability, except as provided by  
6 subsection d. of this section, unless the qualified employee with a  
7 disability provides written permission to the division for the release  
8 of the information, provided however that the division may release  
9 program statistics so classified as to prevent the identification of a  
10 particular qualified employee with a disability or that person's  
11 disability.

12 d. The director may confirm to the employer of a qualified  
13 employee with a disability, upon application of the employer, the  
14 fact that a qualified employee with a disability has been so certified.

15 e. The order of priority of the application of the credit allowed  
16 under this section and any other credits allowed by law shall be as  
17 prescribed by the Director of the Division of Taxation. The amount  
18 of credits applied under this section against the tax imposed  
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a  
20 privilege period, together with any other payments, credits,  
21 deductions, and adjustments allowed by law, shall not exceed 50  
22 percent of the tax liability otherwise due and shall not reduce the  
23 tax liability for a privilege period to an amount less than the  
24 statutory minimum provided in subsection (e) of section 5 of  
25 P.L.1945, c.162. The amount of the credit otherwise allowable  
26 under this section which cannot be applied for the privilege period  
27 due to the limitations of this subsection or under other provisions of  
28 P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if  
29 necessary, to the seven privilege periods following the privilege  
30 period for which the credit is allowed.

31 f. As used in this section:

32 "Director" means the Director of the Division of Vocational  
33 Rehabilitation Services in the Department of Labor and Workforce  
34 Development.

35 "Division" means the Division of Vocational Rehabilitation  
36 Services in the Department of Labor and Workforce Development.

37 "Qualified employee with a disability" means a person with a  
38 disability defined under section 3 of the federal "Americans with  
39 Disabilities Act of 1990," Pub.L.101-336 (42 U.S.C. s. 12102), who  
40 is employed by the taxpayer for at least 35 hours a week, and paid  
41 wages at a rate of no less than \$15 per hour. A "qualified employee  
42 with a disability" shall not include any person with a disability who  
43 works for the taxpayer as an independent contractor or on a  
44 consulting basis.

45

46 2. a. A taxpayer shall be allowed a credit against the tax  
47 imposed pursuant to the "New Jersey Gross Income Tax Act,"  
48 N.J.S.54A:1-1 et seq., in an amount equal to 15 percent of the

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1 wages paid by the taxpayer during a taxable year to a qualified  
2 employee with a disability. The credit provided pursuant to this  
3 section during a taxable year shall not exceed \$2,000 per qualified  
4 employee with a disability.

5 b. (1) To claim the credit provided pursuant to this section, a  
6 taxpayer shall submit an application to the director for certification  
7 that one or more employees meet the criteria of a qualified  
8 employee with a disability for purposes of qualifying for the credit.  
9 The director shall establish an application process and prescribe the  
10 form and manner through which a taxpayer may submit an  
11 application for a certification.

12 (2) The director shall review each application for certification  
13 submitted by a taxpayer in accordance with this section and make a  
14 determination regarding the approval of an application for  
15 certification within 90 calendar days of the date a complete  
16 application is received. The director shall issue a written  
17 certification to each taxpayer whose application has been reviewed  
18 and approved by the director in accordance with this section within  
19 five calendar days of the date the director's determination is made.  
20 A copy of the certification shall be included in the filing of a return  
21 that includes a claim for the credit. The contents of the certification  
22 shall state the fact of the certification and not disclose any private  
23 or confidential health information.

24 (3) If the director fails to make a determination regarding an  
25 application submitted pursuant to this subsection within 90 calendar  
26 days of the date the application is received, or if the director fails to  
27 issue a written certification within five calendar days of the date a  
28 determination is made, the application shall be deemed to have been  
29 approved and the written certification shall be deemed to have been  
30 issued by the director. Each taxpayer that submitted an application  
31 in accordance with this subsection but fails to receive a  
32 determination from the director within 90 calendar days of the date  
33 a complete application is received, or fails to receive a written  
34 certification from the director within five calendar days of the date  
35 of the director's determination is made, shall include a copy of the  
36 taxpayer's application when filing a return that includes a claim for  
37 the credit allowed in accordance with subsection a. of this section.

38 c. All information regarding a qualified employee with a  
39 disability which is obtained or compiled in connection with the  
40 certification and which may be identified with the qualified  
41 employee with a disability shall not be released to a person other  
42 than the qualified employee with a disability, except as provided by  
43 subsection d. of this section, unless the qualified employee with a  
44 disability provides written permission to the division for the release  
45 of the information, provided however that the division may release  
46 program statistics so classified as to prevent the identification of a  
47 particular qualified employee with a disability or that person's  
48 disability.

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1 d. The director may confirm to the employer of a qualified  
2 employee with a disability, upon application of the employer, the  
3 fact that a qualified employee with a disability has been so certified.

4 e. (1) A business entity that is classified as a partnership for  
5 federal income tax purposes shall not be allowed the credit directly  
6 under the gross income tax, but the amount of credit of the taxpayer  
7 in respect of a distributive share of partnership income shall be  
8 determined by allocating to the taxpayer that proportion of the  
9 credit acquired by the partnership that is equal to the taxpayer's  
10 share, whether or not distributed, of the total distributive income or  
11 gain of the partnership for its taxable year ending within or with the  
12 taxpayer's taxable year.

13 (2) A taxpayer that is a New Jersey S corporation shall not be  
14 allowed the credit directly under the gross income tax, but the  
15 amount of credit of a taxpayer in respect of a pro rata share of S  
16 corporation income shall be determined by allocating to the  
17 taxpayer that proportion of the credit acquired by the New Jersey S  
18 corporation that is equal to the taxpayer's share, whether or not  
19 distributed, of the total pro rata share of S corporation income of the  
20 New Jersey S corporation for its privilege period ending within or  
21 with the taxpayer's taxable year.

22 f. The order of priority of the application of the credit allowed  
23 under this section and any other credits allowed by law shall be as  
24 prescribed by the director. The amount of a tax credit allowed  
25 pursuant to this section, together with any payments, credits,  
26 deductions, and adjustments allowed by law, shall not reduce the  
27 amount of tax otherwise due for the taxable year under the "New  
28 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. to an amount  
29 less than zero. The amount of credit otherwise allowable under this  
30 section which cannot be applied for the taxable year due to the  
31 limitations of this subsection may be carried forward, if necessary,  
32 to the seven taxable years following the taxable year for which the  
33 credit is allowed.

34 g. As used in this section:

35 "Director" means the Director of the Division of Vocational  
36 Rehabilitation Services in the Department of Labor and Workforce  
37 Development.

38 "Division" means the Division of Vocational Rehabilitation  
39 Services in the Department of Labor and Workforce Development.

40 "Qualified employee with a disability" means a person with a  
41 disability defined under section 3 of the federal "Americans with  
42 Disabilities Act of 1990," Pub.L.101-336 (42 U.S.C. s. 12102), who  
43 is employed by the taxpayer for at least 35 hours a week, and paid  
44 wages at a rate of no less than \$15 per hour. A "qualified employee  
45 with a disability" shall not include a person with a disability who  
46 works for the taxpayer as an independent contractor or on a  
47 consulting basis.

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1 3. The Director of the Division of Vocational Rehabilitation  
2 Services in the Department of Labor and Workforce Development,  
3 in consultation with the Director of the Division of Taxation in the  
4 Department of the Treasury, shall adopt rules and regulations in  
5 accordance with the "Administrative Procedure Act," P.L.1968,  
6 c.410 (C.52:14B-1 et seq.) as necessary to implement the provisions  
7 of this act.

8  
9 4. This act shall take effect immediately and apply to privilege  
10 periods and taxable years beginning on or after the January 1 next  
11 following the date of enactment.

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13  
14 STATEMENT

15  
16 This bill provides corporation business and gross income tax  
17 credits to taxpayers that employ certain persons with disabilities.  
18 The credit would be for up to 15 percent of the wages paid by the  
19 taxpayer during a taxable year to a qualifying employee with a  
20 disability, not to exceed \$2,000 per qualified employee.

21 To claim the credit, a taxpayer would be required to submit an  
22 application to the Director of the Division of Vocational  
23 Rehabilitation Services in the Department of Labor and Workforce  
24 Development for certification that the employee has a disability for  
25 purposes of qualifying for the credit. A copy of the certification  
26 would be included with the taxpayer's tax return. The contents of  
27 the certification would only state the fact the employee has a  
28 qualifying disability and not disclose any private or confidential  
29 health information.

30 The bill requires the director to establish an application process  
31 and prescribe the form and manner through which a taxpayer may  
32 submit an application to obtain a certification from the director that  
33 an employee is a qualified employee with a disability for purposes  
34 of the tax credit. The bill provides that applications would be  
35 deemed approved and written authorizations are deemed issued if  
36 the director fails to make a determination regarding within 90  
37 calendar days of the date a complete application is received or if the  
38 director fails to issue a written authorization within five calendar  
39 days of the date a determination is made.

40 The bill defines a "qualified employee with a disability" as a  
41 person with a disability recognized under the federal "Americans  
42 with Disabilities Act of 1990," Pub.L.101-336 (42 U.S.C. s. 12102).  
43 A qualified employee is also required to be employed by the  
44 taxpayer for at least 35 hours a week and paid wages at a rate of no  
45 less than \$15 per hour. A taxpayer would be unable to claim the  
46 credit for the wages paid to a person with a disability who works for  
47 the taxpayer as an independent contractor or on a consulting basis.