

**ASSEMBLY, No. 225**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

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**District 14 (Mercer and Middlesex)**

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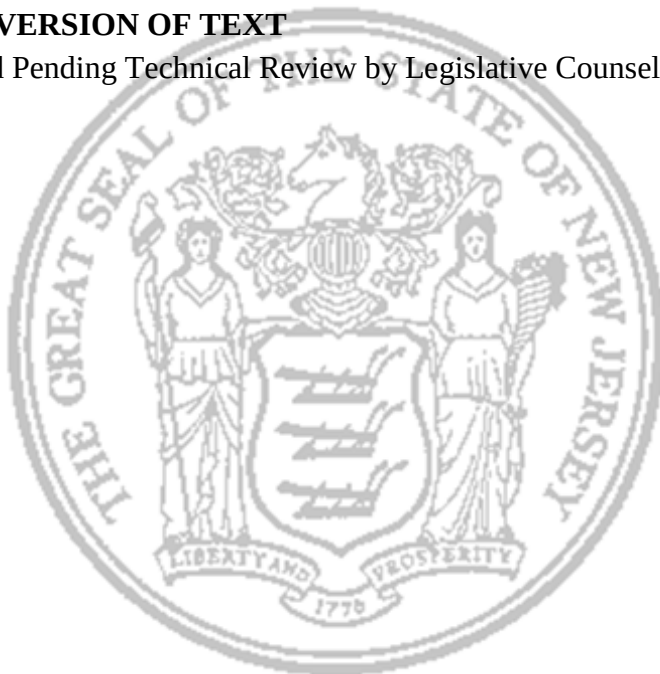
**Assemblyman Coughlin**

**SYNOPSIS**

Provides tax credit under corporation business tax and gross income tax for certain costs incurred in purchase and installation of certain environmentally responsible business equipment.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing a tax credit under the corporation business tax  
 2 and the gross income tax for certain costs incurred in the  
 3 purchase and installation of certain environmentally responsible  
 4 business equipment, supplementing P.L.1945, c.162 (C.54:10A-1  
 5 et seq.) and chapter 4 of Title 54A of the New Jersey Statutes.

6

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

9

10 1. a. A taxpayer shall be allowed a credit against the tax  
 11 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in  
 12 an amount equal to 10% of the amount paid for the purchase and  
 13 installation of environmentally responsible business equipment  
 14 which is used or consumed directly and exclusively by the taxpayer  
 15 in that taxpayer's business, trade, or occupation, if the equipment is  
 16 certified as environmentally responsible business equipment by the  
 17 Commissioner of the Department of Environmental Protection in  
 18 accordance with the terms and conditions of subsection b. of this  
 19 section.

20 b. (1) To qualify for the tax credit allowed pursuant to this  
 21 section, the taxpayer shall file an application for a certification from  
 22 the Commissioner of the Department of Environmental Protection  
 23 that the equipment purchased and installed by the taxpayer qualifies  
 24 as environmentally responsible business equipment as that term is  
 25 defined by subsection i. of this section, and is used or consumed  
 26 directly and exclusively by the taxpayer in that taxpayer's business,  
 27 trade, or occupation. The certification shall specifically indicate the  
 28 date of purchase, the date of installation, a description of the  
 29 equipment and how it is used or consumed in the taxpayer's  
 30 business, trade, or occupation, and the amount paid for the purchase  
 31 and installation of the equipment.

32 (2) The Commissioner of the Department of Environmental  
 33 Protection shall have 90 days from the date of receipt of a complete  
 34 application to make a determination as to the issuance of a  
 35 certification.

36 (3) Upon certification, the Commissioner of the Department of  
 37 Environmental Protection shall submit a copy thereof to the  
 38 taxpayer and the director. In filing a tax return that includes a claim  
 39 for the credit allowed pursuant to this section, the taxpayer shall  
 40 include a copy of the certification.

41 c. The first privilege period in which a taxpayer may use a  
 42 credit allowed under this section is the privilege period in which the  
 43 taxpayer's application made and filed for a certification from the  
 44 Commissioner of the Department of Environmental Protection is  
 45 granted.

46 d. The amount of any unused credit may be carried forward, if  
 47 necessary, for use in each of the seven privilege periods following  
 48 the privilege period for which the credit is allowed.

1 e. The order of priority of the application of the credit allowed  
2 pursuant to this section and any other credits allowed by law shall  
3 be as prescribed by the director. The amount of the credit applied  
4 under this section against the tax imposed pursuant to section 5 of  
5 P.L.1945, c.162 for a privilege period, together with any other  
6 credits allowed against the tax imposed pursuant to section 5 of  
7 P.L.1945, c.162, shall not exceed 50% of the tax liability otherwise  
8 due and shall not reduce the tax liability to an amount less than the  
9 statutory minimum provided in subsection (e) of section 5 of  
10 P.L.1945, c.162.

11 f. A credit shall not be allowed pursuant to this section for the  
12 purchase and installation of environmentally responsible business  
13 equipment which is included in the calculation of another credit  
14 allowed against the tax imposed pursuant to section 5 of P.L.1945,  
15 c.162 for the same or a prior privilege period by the same or another  
16 taxpayer.

17 g. The Commissioner of the Department of Environmental  
18 Protection shall establish a tax credit pre-certification process  
19 through which a taxpayer can determine if an expected purchase  
20 and installation of environmentally responsible business equipment  
21 would be eligible to qualify for a credit allowed pursuant to this  
22 section. The tax credit pre-certification process established by the  
23 commissioner may require the submission of written information  
24 describing the equipment to be purchased and how it is intended to  
25 be used or consumed in the taxpayer's business, trade, or  
26 occupation; provided however, that obtaining pre-certification from  
27 the commissioner shall not be required to qualify for a credit  
28 allowed pursuant to this section.

29 h. The Commissioner of the Department of Environmental  
30 Protection, in consultation with the director, shall adopt rules and  
31 regulations in accordance with the "Administrative Procedure Act,"  
32 P.L.1968, c.410 (C.52:14B-1 et seq.), establishing technical  
33 specifications and certification requirements for the qualification of  
34 environmentally responsible business equipment pursuant to this  
35 section. Such rules and regulations shall include examples of  
36 environmentally responsible business equipment and the procedures  
37 and forms to apply for a certification.

38 i. As used in this section:

39 "Environmentally responsible business equipment" means  
40 machinery, apparatus, or equipment which is used directly and  
41 primarily in producing, fabricating, processing, printing or  
42 imprinting tangible personal property, and which (1) has not  
43 previously been put in service in New Jersey, (2) has a useful life  
44 exceeding one year, and (3) is powered predominately by a system  
45 of renewable energy or exceeds by a substantial margin the average  
46 energy efficiency consumption or usage standards of all other  
47 comparable machinery, apparatus, or equipment available to the  
48 taxpayer at the time of purchase.

1       “Renewable energy” means (1) electric energy produced from  
2 solar technologies, photovoltaic technologies, wind energy, fuel  
3 cells, geothermal technologies, wave or tidal action, methane gas  
4 from landfills, a resource recovery facility, a hydropower facility or  
5 a biomass facility; and (2) energy produced from solar thermal or  
6 geothermal technologies.

7  
8       2. a. A taxpayer shall be allowed a credit against the tax  
9 otherwise due for the taxable year under the “New Jersey Gross  
10 Income Tax Act,” N.J.S.54A:1-1 et seq., in an amount equal to 10%  
11 of the amount paid for the purchase and installation of  
12 environmentally responsible business equipment which is used or  
13 consumed directly and exclusively by the taxpayer in that  
14 taxpayer’s business, trade, or occupation, if the equipment is  
15 certified as environmentally responsible business equipment by the  
16 Commissioner of the Department of Environmental Protection in  
17 accordance with the terms and conditions of subsection b. of this  
18 section.

19       b. (1) To qualify for the tax credit allowed pursuant to this  
20 section, the taxpayer shall file an application for a certification from  
21 the Commissioner of the Department of Environmental Protection  
22 that the equipment purchased and installed by the taxpayer qualifies  
23 as environmentally responsible business equipment as that term is  
24 defined by subsection i. of this section, and is used or consumed  
25 directly and exclusively by the taxpayer in that taxpayer’s business  
26 trade or occupation. The certification shall specifically indicate the  
27 date of purchase, the date of installation, a description of the  
28 equipment and how it is used or consumed in the taxpayer’s  
29 business, trade, or occupation, and the amount paid for the purchase  
30 and installation of the equipment.

31       (2) The Commissioner of the Department of Environmental  
32 Protection shall have 90 days from the date of receipt of a complete  
33 application to make a determination as to the issuance of a  
34 certification.

35       (3) Upon certification, the Commissioner of the Department of  
36 Environmental Protection shall submit a copy thereof to the  
37 taxpayer and the director. In filing a tax return that includes a claim  
38 for the credit allowed pursuant to this section, the taxpayer shall  
39 include a copy of the certification.

40       c. The first taxable year in which a taxpayer may claim a credit  
41 allowed under this section is the taxable year in which the  
42 taxpayer’s application made and filed for a certification from the  
43 Commissioner of the Department of Environmental Protection is  
44 granted.

45       d. The amount of any unused credit may be carried forward, if  
46 necessary, for use in each of the seven taxable years following the  
47 taxable year for which the credit is allowed.

1 e. The order of priority of the application of the credit allowed  
2 pursuant to this section and any other credits allowed by law shall  
3 be as prescribed by the director. The amount of the credit applied  
4 under this section against the tax imposed pursuant to N.J.S.54A:1-  
5 1 et seq. for a taxable year, together with any other credits allowed  
6 against the tax imposed pursuant to N.J.S.54:A:1-1 et seq., shall not  
7 exceed 50% of the taxpayer's liability for tax for the taxable year.

8 f. A credit shall not be allowed pursuant to this section for the  
9 purchase and installation of environmentally responsible business  
10 equipment which is included in the calculation of another credit  
11 allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq.  
12 for the same or a prior taxable year by the same or another taxpayer.

13 g. The Commissioner of the Department of Environmental  
14 Protection shall establish a tax credit pre-certification process  
15 through which a taxpayer can determine if an expected purchase  
16 and installation of environmentally responsible business equipment  
17 would be eligible to qualify for a credit allowed pursuant to this  
18 section. The tax credit pre-certification process established by the  
19 commissioner may require the submission of written information  
20 describing the equipment to be purchased and how it is intended to  
21 be used or consumed in the taxpayer's business, trade, or  
22 occupation; provided however, that obtaining pre-certification from  
23 the commissioner shall not be required to qualify for a credit  
24 allowed pursuant to this section.

25 h. The Commissioner of the Department of Environmental  
26 Protection, in consultation with the director, shall adopt rules and  
27 regulations in accordance with the "Administrative Procedure Act,"  
28 P.L.1968, c.410 (C.52:14B-1 et seq.), establishing technical  
29 specifications and certification requirements for the qualification of  
30 environmentally responsible business equipment pursuant to this  
31 section. Such rules and regulations shall include examples of  
32 environmentally responsible business equipment and the procedures  
33 and forms to apply for a certification.

34 i. As used in this section:

35 "Environmentally responsible business equipment" means  
36 machinery, apparatus, or equipment which is used directly and  
37 primarily in producing, fabricating, processing, printing or  
38 imprinting tangible personal property, and which (1) has not  
39 previously been put in service in New Jersey, (2) has a useful life  
40 exceeding one year, and (3) is powered predominately by a system  
41 of renewable energy or exceeds by a substantial margin the average  
42 energy efficiency consumption or usage standards of all other  
43 comparable machinery, apparatus, or equipment available to the  
44 taxpayer at the time of purchase.

45 "Renewable energy" means (1) electric energy produced from  
46 solar technologies, photovoltaic technologies, wind energy, fuel  
47 cells, geothermal technologies, wave or tidal action, methane gas  
48 from landfills, a resource recovery facility, a hydropower facility or

1 a biomass facility; and (2) energy produced from solar thermal or  
2 geothermal technologies.

3  
4 3. This act shall take effect immediately and apply to amounts  
5 paid in privilege periods and taxable years beginning on or after the  
6 date of enactment.

7  
8  
9 STATEMENT

10  
11 This bill provides a tax credit under the corporation business tax  
12 and the gross income tax for certain costs incurred in the purchase  
13 and installation of environmentally responsible business equipment.

14 Under the bill, a taxpayer is eligible to elect to claim a credit in  
15 an amount equal to 10 percent of the amount paid for the purchase  
16 and installation of environmentally responsible business equipment  
17 which is used or consumed directly and exclusively by the taxpayer  
18 in that taxpayer's business, trade, or occupation. For purposes of the  
19 bill, environmentally responsible business equipment is any  
20 machinery, apparatus, or equipment which is used directly and  
21 primarily in producing, fabricating, processing, printing or  
22 imprinting tangible personal property, and which (1) has not  
23 previously been put in service in New Jersey, (2) has a useful life  
24 exceeding one year, and (3) is powered predominately by a system  
25 of renewable energy or exceeds by a substantial margin the average  
26 energy efficiency consumption or usage standards of all other  
27 machinery, apparatus, or equipment available to the taxpayer at the  
28 time of purchase.

29 The bill provides that a taxpayer must first qualify for a credit in  
30 order to be eligible to claim a credit. To qualify, a taxpayer must  
31 file an application with the Commissioner of the Department of  
32 Environmental Protection who is responsible for issuing a  
33 certification denoting that the equipment purchased and installed by  
34 the taxpayer qualifies as environmentally responsible business  
35 equipment and is used or consumed directly and exclusively by the  
36 taxpayer in their business, trade, or occupation.

37 The bill provides that the Commissioner of the Department of  
38 Environmental Protection has 90 days after the receipt of a  
39 complete application from a taxpayer to make a determination as to  
40 the issuance of a certification. If the application submitted by a  
41 taxpayer is certified, the director must submit the certification to the  
42 Director of the Division of Taxation in the Department of the  
43 Treasury and to the taxpayer. That certification is then used by the  
44 taxpayer in filing a tax return that includes a claim for the credit.

45 The bill provides that the first privilege period or taxable year in  
46 which a taxpayer may use the credit is the privilege period or  
47 taxable year in which the certification is granted. The bill also  
48 provides that the amount of any unused credit may be carried

1 forward, if, necessary to each of the seven privilege periods or  
2 taxable years following the period or year in which the credit is first  
3 allowed, but stipulates that a credit is not allowed if the  
4 environmentally responsible business equipment is used to secure  
5 another credit in the same or prior period or year by the same or  
6 another taxpayer.

7 Additionally, the bill requires the Commission of the Department  
8 of Environmental Protection to establish a pre-certification process  
9 through which a taxpayer can determine if an expected purchase  
10 and installation of environmentally responsible business equipment  
11 would be eligible to qualify for a credit, and to develop rules and  
12 regulations, in consultation with the Director of the Division of  
13 Taxation in the Department of Treasury, establishing technical  
14 specifications and certification requirements for the qualification of  
15 environmentally responsible business equipment. The bill specifies  
16 that the pre-certification established by the commissioner may  
17 require the submission of certain written information describing the  
18 equipment to be purchased and how it is intended to be used or  
19 consumed, but that obtaining pre-certification from the  
20 commissioner is not required to qualify for a credit.

21 The purpose of this bill is to encourage taxpayers to purchase  
22 and use more environmentally responsible business equipment in  
23 their business, trade, or occupation.