

ASSEMBLY, No. 2499

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Provides corporation business tax and gross income tax credits for certain employer-provided child care expenditures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/24/2020)

1 **AN ACT** providing credits against the corporation business tax and
2 the gross income tax for certain employer-provided child care
3 expenditures, supplementing P.L.1945, c.162 (C.54:10A-1 et
4 seq.) and chapter 4 of Title 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 50 percent of the cost paid or incurred by the
12 taxpayer on or after the effective date of P.L. , ,
13 c. (C.) (pending before the Legislature as this bill) to acquire,
14 construct, reconstruct, renovate, or otherwise improve real property
15 in this State that is to be used by the taxpayer, or another person
16 under contract or agreement with the taxpayer, to conduct,
17 maintain, and operate a qualified child care center primarily for the
18 children of individuals employed by the taxpayer.

19 b. To be eligible to apply the credit allowed in accordance with
20 subsection a. of this section against the tax imposed pursuant to
21 section 5 of P.L.1945, c.162 (C.54:10A-5), a taxpayer shall make
22 and enter into an agreement with the director on or before the last
23 day of the privilege period for which the credit is first applied.

24 The agreement shall require the taxpayer to submit to the
25 director all receipts, bills, invoices, and other similar documents
26 that the director determines to be necessary to verify the costs paid
27 or incurred by the taxpayer.

28 The agreement shall require the taxpayer to demonstrate to the
29 director that the real property acquired, constructed, reconstructed,
30 renovated, or otherwise improved in this State is not part of the
31 principal residence of the taxpayer or part of the principal residence
32 of an individual employed by the taxpayer.

33 The agreement shall require the taxpayer to demonstrate to the
34 director that the real property acquired, constructed, reconstructed,
35 renovated, or otherwise improved in this State is used by the
36 taxpayer, or another person under contract or agreement with the
37 taxpayer, to conduct, maintain, and operate a qualified child care
38 center primarily for the children of individuals employed by the
39 taxpayer on the date the agreement is entered into.

40 The agreement shall require the taxpayer to use the real property
41 acquired, constructed, reconstructed, renovated, or otherwise
42 improved in this State to conduct, maintain, and operate, either
43 directly or indirectly by another person under contract or agreement
44 with the taxpayer, a qualified child care center primarily for the
45 children of individuals employed by the taxpayer for a period of 60
46 consecutive months beginning on the first day of the first month
47 next following the date the agreement is entered into.

1 The agreement shall require the taxpayer to notify the director in
2 writing if, at any time during the 60-month period in which the real
3 property is required to be used as a qualified child care center, the
4 real property is not used by the taxpayer, or another person under
5 contract or agreement with the taxpayer, to conduct, maintain, and
6 operate a qualified child care center primarily for the children of
7 individuals employed by the taxpayer.

8 The agreement shall require the taxpayer to repay the amount of
9 credit allowed in accordance with subsection a. of this section that
10 has been applied to reduce the taxpayer's liability for tax or that has
11 been used as the basis of a tax credit transfer certificate that has
12 been sold to another person in accordance with subsection e. of this
13 section, and shall prohibit the taxpayer from applying any unused
14 amount of credit allowed in accordance with subsection a. of this
15 section or from making and filing an application with the director in
16 accordance with subsection e. of this section for a tax credit transfer
17 certificate in lieu of the taxpayer being allowed to apply any
18 amount of the credit against the tax liability of the taxpayer, if the
19 taxpayer is required to notify the director of the taxpayer's failure to
20 conduct, maintain, and operate a qualified child care center during
21 the 60-month period in which the real property is required to be
22 used as a qualified child care center; provided however, that the
23 taxpayer shall not be required to repay the amount of any credit, or
24 be prohibited from applying any unused credit, allowed in
25 accordance with subsection a. of this section, if the taxpayer's
26 failure to conduct, maintain, and operate the qualified child care
27 center during the 60-month period results from a casualty loss,
28 involving the qualified child care center, or if another person, under
29 contract or agreement with the taxpayer and the director, assumes
30 the taxpayer's responsibility to use the real property to conduct,
31 maintain, and operate a qualified child care center primarily for the
32 children of individuals employed by that person for the remainder
33 of the 60-month period.

34 The agreement shall require the director to assess the amount of
35 any credit allowed in accordance with subsection a. of this section
36 that is required to be repaid by the taxpayer, give notice of the
37 assessment to the taxpayer, and make demand upon the taxpayer for
38 payment of the assessment to be made within 30 days of the date
39 notice and demand is mailed to the taxpayer by the director.

40 The agreement shall require the taxpayer to pay to the director
41 interest on an assessment, or any portion of an assessment, that is
42 not paid in full within 30 days of the date notice and demand is
43 mailed at a rate of three percentage points above the prime rate
44 assessed for each month or fraction thereof, compounded annually
45 at the end of each year, from the date the credit allowed in
46 accordance with subsection a. of this section was first applied to
47 reduce the taxpayer's liability for tax, or the date the taxpayer made

1 and filed an application with the director for a tax credit transfer
2 certificate, until the date payment is made.

3 The agreement shall stipulate that an assessment, and any
4 interest on an assessment, required to be paid by the taxpayer is a
5 deficiency with respect to the payment of a State tax: the director
6 shall be provided all rights, powers, and duties authorized under the
7 State Uniform Tax Procedure Law, R.S.54:48-1 et seq., to ensure
8 the payment, collection, or recovery of the deficiency and the
9 taxpayer shall be afforded all protections, rights, and remedies
10 allowed under R.S.54:48-1 et seq. to challenge, protest, or appeal
11 the deficiency or any determination or decision rendered in
12 connection with the deficiency.

13 c. If two or more taxpayers pay or incur costs on or after the
14 effective date of P.L. , c. (C.) (pending before the
15 Legislature as this bill) to acquire, construct, reconstruct, renovate,
16 or otherwise improve real property in this State that is to be used
17 jointly by the taxpayers, or another person under contract or
18 agreement with the taxpayers, to conduct, maintain, and operate a
19 qualified child care center primarily for the children of individuals
20 employed by the taxpayers, each taxpayer shall be allowed a credit
21 in accordance with subsection a. of this section for that portion of
22 the costs paid or incurred by that taxpayer; provided however, that
23 to be eligible to apply the credit allowed in accordance with
24 subsection a. of this section to reduce a liability for tax each
25 taxpayer separately shall make and enter into an agreement with the
26 director in accordance with subsection b. of this section.

27 d. The order of priority of the application of the credit allowed
28 in accordance with subsection a. of this section and any other
29 credits allowed by law against the tax imposed pursuant to section 5
30 of P.L.1945, c.162 (C.54:10A-5) shall be as prescribed by the
31 director.

32 The amount of credit allowed in accordance with subsection a. of
33 this section that is applied against the tax liability of the taxpayer
34 for a privilege period, together with any other credits allowed
35 against the tax imposed pursuant to section 5 of P.L.1945,
36 c.162 (C.54:10A-5), shall not exceed 50 percent of the tax liability
37 otherwise due, and shall not reduce the tax liability otherwise due to
38 an amount less than the statutory minimum provided in subsection
39 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

40 The amount of any credit allowed in accordance with subsection
41 a. of this section that is not applied to reduce the tax liability of the
42 taxpayer for a privilege period due to the limitations and conditions
43 of this subsection may be carried forward, if necessary, to be used
44 by the taxpayer against the tax imposed pursuant to section 5 of
45 P.L.1945, c.162 (C.54:10A-5) in each of the seven privilege periods
46 following the privilege period for which the credit is allowed.

47 e. A taxpayer allowed a credit in accordance with subsection a.
48 of this section may make and file an application with the director

1 for a tax credit transfer certificate in lieu of the taxpayer being
2 allowed any amount of the credit against the tax liability of the
3 taxpayer.

4 Upon the review and approval of an application made and filed
5 in accordance with this subsection, the director shall issue to the
6 taxpayer a tax credit transfer certificate.

7 The tax credit transfer certificate issued to a taxpayer by the
8 director may be sold, in full or in part, to another person that may
9 have a liability for tax under section 5 of P.L.1945,
10 c.162 (C.54:10A-5), N.J.S.54A:1-1 et seq., sections 2 and 3 of
11 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
12 c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private
13 financial consideration to be provided to the taxpayer by the person
14 making the purchase.

15 The tax credit transfer certificate issued to a taxpayer by the
16 director shall include a statement waiving the taxpayer's right to
17 apply that amount of the credit against the tax imposed pursuant to
18 section 5 of P.L.1945, c.162 (C.54:10A-5), that the taxpayer has
19 elected to sell to another person in exchange for private financial
20 consideration.

21 The sale of any amount of a tax credit transfer certificate issued
22 to a taxpayer by the director shall not be made for private financial
23 consideration of less than 75 percent of the transferred credit
24 amount.

25 The amount of any tax credit transfer certificate that may be used
26 by a purchaser against a tax liability of the purchaser under section
27 5 of P.L.1945, c.162 (C.54:10A-5), N.J.S.54A:1-1 et seq., sections
28 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
29 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to
30 any limitations and conditions on the application of tax credit
31 transfer certificates that may be prescribed by the director.

32 f. As used in this section:

33 “Highly compensated employee” means the individuals
34 employed by the taxpayer who, in the aggregate, receive the top 25
35 percent of all employee compensation paid by the taxpayer.

36 “Qualified child care center” means a facility that is licensed as a
37 child care center by the Department of Children and Families in
38 accordance with the “Child Care Licensing Act,” P.L.1983,
39 c.492 (C.30:5B-1 et seq.); provided however, that a “qualified child
40 care center” shall not include a facility licensed by the department
41 if:

42 the principal use of the facility is for some purpose other than the
43 care, development, and supervision of children, unless the facility is
44 the principal residence of the person who owns and operates the
45 qualified child care center;

46 the facility is not used on a regular basis to provide for the care,
47 development, and supervision of children;

1 enrollment in the facility is not open to children of individuals
2 employed by the taxpayer; or

3 use of the facility is limited or restricted under procedures,
4 criteria, or other systems of selection that unfairly discriminate in
5 favor of highly compensated employees, or that unfairly
6 discriminate in favor of individuals employed by the taxpayer on
7 the basis of race, creed, religion, sex, national origin, disability, or
8 marital status.

9
10 2. 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:

13 50 percent of the cost paid or incurred by the taxpayer during the
14 privilege period to conduct, maintain, and operate a qualified child
15 care center of the taxpayer that is used primarily by the children of
16 individuals employed by the taxpayer;

17 50 percent of the amount paid by the taxpayer during the
18 privilege period to another person to conduct, maintain, and
19 operate, under contract or agreement with the taxpayer, a qualified
20 child care center of the taxpayer that is used primarily by the
21 children of individuals employed by the taxpayer;

22 50 percent of the amount paid by the taxpayer during the
23 privilege period to another person, under contract or agreement with
24 the taxpayer, for the provision of child care to children of
25 individuals employed by the taxpayer at a qualified child care
26 center; or

27 10 percent of the cost paid or incurred by the taxpayer during the
28 privilege period for the provision, by the taxpayer or by another
29 person under contract or agreement with the taxpayer, of qualified
30 child care information and referral services to individuals employed
31 by the taxpayer.

32 b. If two or more taxpayers jointly pay or incur costs or jointly
33 pay amounts eligible for the credit allowed in accordance with
34 subsection a. of this section during the privilege period, each
35 taxpayer shall be allowed a credit for that portion of the costs paid
36 or incurred by that taxpayer or that portion of the amounts paid by
37 that taxpayer.

38 c. The order of priority of the application of the credit allowed
39 in accordance with subsection a. of this section and any other
40 credits allowed by law against the tax imposed pursuant to section 5
41 of P.L.1945, c.162 (C.54:10A-5) shall be as prescribed by the
42 director.

43 The amount of credit allowed in accordance with subsection a. of
44 this section that is applied against the tax liability of the taxpayer
45 for a privilege period, together with any other credits allowed
46 against the tax imposed pursuant to section 5 of P.L.1945,
47 c.162 (C.54:10A-5), shall not exceed 50 percent of the tax liability
48 otherwise due, and shall not reduce the tax liability otherwise due to

1 an amount less than the statutory minimum provided in subsection
2 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

3 The amount of any credit allowed in accordance with subsection
4 a. of this section that is not applied to reduce the tax liability of the
5 taxpayer for a privilege period due to the limitations and conditions
6 of this subsection may be carried forward, if necessary, to be used
7 by the taxpayer against the tax imposed pursuant to section 5 of
8 P.L.1945, c.162 (C.54:10A-5) in each of the seven privilege periods
9 following the privilege period for which the credit is allowed.

10 d. As used in this section:

11 "Highly compensated employee" means the individuals
12 employed by the taxpayer who, in the aggregate, receive the top 25
13 percent of all employee compensation paid by the taxpayer.

14 "Qualified child care center" means a facility that is licensed as a
15 child care center by the Department of Children and Families in
16 accordance with the "Child Care Licensing Act," P.L.1983,
17 c.492 (C.30:5B-1 et seq.); provided however, that a "qualified child
18 care center" shall not include a facility licensed by the department
19 if:

20 the principal use of the facility is for some purpose other than the
21 care, development, and supervision of children, unless the facility is
22 the principal residence of the person who owns and operates the
23 qualified child care center;

24 the facility is not used on a regular basis to provide for the care,
25 development, and supervision of children;

26 enrollment in the facility is not open to children of individuals
27 employed by the taxpayer; or

28 use of the facility is limited or restricted under procedures,
29 criteria, or other systems of selection that unfairly discriminate in
30 favor of highly compensated employees, or that unfairly
31 discriminate in favor of individuals employed by the taxpayer on
32 the basis of race, creed, religion, sex, national origin, disability, or
33 marital status.

34 "Qualified child care information and referral services" means
35 services that, at a minimum, identify local child care services,
36 provide information describing local child care services available to
37 individuals employed by the taxpayer, and make referrals of
38 individuals employed by the taxpayer to appropriate child care
39 services when openings are available.

40
41 3. a. A taxpayer shall be allowed a credit against the tax
42 otherwise due for the taxable year under the "New Jersey Gross
43 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 50
44 percent of the cost paid or incurred by the taxpayer on or after the
45 effective date of P.L. , c. (C.) (pending before the
46 Legislature as this bill) to acquire, construct, reconstruct, renovate,
47 or otherwise improve real property in this State that is to be used by
48 the taxpayer, or another person under contract or agreement with

1 the taxpayer, to conduct, maintain, and operate a qualified child
2 care center primarily for the children of individuals employed by
3 the taxpayer.

4 b. To be eligible to apply the credit allowed in accordance with
5 subsection a. of this section against the tax otherwise due for the
6 taxable year under N.J.S.54A:1-1 et seq., a taxpayer shall make and
7 enter into an agreement with the director on or before the last day of
8 the taxable year for which the credit is first applied.

9 The agreement shall require the taxpayer to submit to the
10 director all receipts, bills, invoices, and other similar documents
11 that the director determines to be necessary to verify the costs paid
12 or incurred by the taxpayer.

13 The agreement shall require the taxpayer to demonstrate to the
14 director that the real property acquired, constructed, reconstructed,
15 renovated, or otherwise improved in this State is not part of the
16 principal residence of the taxpayer or part of the principal residence
17 of an individual employed by the taxpayer.

18 The agreement shall require the taxpayer to demonstrate to the
19 director that the real property acquired, constructed, reconstructed,
20 renovated, or otherwise improved in this State is used by the
21 taxpayer, or another person under contract or agreement with the
22 taxpayer, to conduct, maintain, and operate a qualified child care
23 center primarily for the children of individuals employed by the
24 taxpayer on the date the agreement is entered into.

25 The agreement shall require the taxpayer to use the real property
26 acquired, constructed, reconstructed, renovated, or otherwise
27 improved in this State to conduct, maintain, and operate, either
28 directly or indirectly by another person under contract or agreement
29 with the taxpayer, a qualified child care center primarily for the
30 children of individuals employed by the taxpayer for a period of 60
31 consecutive months beginning on the first day of the first month
32 next following the date the agreement is entered into.

33 The agreement shall require the taxpayer to notify the director in
34 writing if, at any time during the 60-month period in which the real
35 property is required to be used as a qualified child care center, the
36 real property is not used by the taxpayer, or another person under
37 contract or agreement with the taxpayer, to conduct, maintain, and
38 operate a qualified child care center primarily for the children of
39 individuals employed by the taxpayer.

40 The agreement shall require the taxpayer to repay the amount of
41 credit allowed in accordance with subsection a. of this section that
42 has been applied to reduce the taxpayer's liability for tax or that has
43 been used as the basis of a tax credit transfer certificate that has
44 been sold to another person in accordance with subsection f. of this
45 section, and shall prohibit the taxpayer from claiming any unused
46 amount of credit allowed in accordance with subsection a. of this
47 section or from making and filing an application with the director in
48 accordance with subsection f. of this section for a tax credit transfer

1 certificate in lieu of the taxpayer being allowed to apply any
2 amount of the credit against the tax liability of the taxpayer, if the
3 taxpayer is required to notify the director of the taxpayer's failure to
4 conduct, maintain, and operate a qualified child care center during
5 the 60-month period in which the real property is required to be
6 used as a qualified child care center; provided however, that the
7 taxpayer shall not be required to repay the amount of any credit, or
8 be prohibited from applying any unused credit, allowed in
9 accordance with subsection a. of this section, if the taxpayer's
10 failure to conduct, maintain, and operate the qualified child care
11 center during the 60-month period results from a casualty loss,
12 involving the qualified child care center, or if another person, under
13 contract or agreement with the taxpayer and the director, assumes
14 the taxpayer's responsibility to use the real property to conduct,
15 maintain, and operate a qualified child care center primarily for the
16 children of individuals employed by that person for the remainder
17 of the 60-month period.

18 The agreement shall require the director to assess the amount of
19 any credit allowed in accordance with subsection a. of this section
20 that is required to be repaid by the taxpayer, give notice of the
21 assessment to the taxpayer, and make demand upon the taxpayer for
22 payment of the assessment to be made within 30 days of the date
23 notice and demand is mailed to the taxpayer by the director.

24 The agreement shall require the taxpayer to pay to the director
25 interest on an assessment, or portion of an assessment, that is not
26 paid in full within 30 days of the date notice and demand is mailed
27 at a rate of three percentage points above the prime rate assessed for
28 each month or fraction thereof, compounded annually at the end of
29 each year, from the date the credit allowed in accordance with
30 subsection a. of this section was first applied to reduce the
31 taxpayer's liability for tax, or the date the taxpayer made and filed
32 an application with the director for a tax credit transfer certificate,
33 until the date payment is made.

34 The agreement shall stipulate that an assessment, and any
35 interest on an assessment, required to be paid by the taxpayer is a
36 deficiency with respect to the payment of a State tax: the director
37 shall be provided all rights, powers, and duties authorized under the
38 State Uniform Tax Procedure Law, R.S.54:48-1 et seq., to ensure
39 the payment, collection, or recovery of the deficiency and the
40 taxpayer shall be afforded all protections, rights, and remedies
41 allowed under R.S.54:48-1 et seq. to challenge, protest, or appeal
42 the deficiency or any determination or decision rendered in
43 connection with the deficiency.

44 c. If two or more taxpayers pay or incur costs on or after the
45 effective date of P.L. , c. (C.) (pending before the
46 Legislature as this bill) to acquire, construct, reconstruct, renovate,
47 or otherwise improve real property in this State that is to be used
48 jointly by the taxpayers, or another person under contract or

1 agreement with the taxpayers, to conduct, maintain, and operate a
2 qualified child care center primarily for the children of individuals
3 employed by the taxpayers, each taxpayer shall be allowed a credit
4 in accordance with subsection a. of this section for that portion of
5 the costs paid or incurred by that taxpayer; provided however, that
6 to be eligible to apply the credit allowed in accordance with
7 subsection a. of this section to reduce a liability for tax each
8 taxpayer separately shall make and enter into an agreement with the
9 director in accordance with subsection b. of this section.

10 d. A business entity that is classified as a partnership for
11 federal income tax purposes shall not be allowed the credit directly
12 under N.J.S.54A:1-1 et seq., but the amount of credit of the
13 taxpayer in respect of a distributive share of partnership income
14 shall be determined by allocating to the taxpayer that proportion of
15 the credit acquired by the partnership that is equal to the taxpayer's
16 share, whether or not distributed, of the total distributive income or
17 gain of the partnership for its taxable year ending within or with the
18 taxpayer's taxable year.

19 A taxpayer that is a New Jersey S corporation shall not be
20 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
21 amount of credit of a taxpayer in respect of a pro rata share of S
22 corporation income shall be determined by allocating to the
23 taxpayer that proportion of the credit acquired by the New Jersey S
24 corporation that is equal to the taxpayer's share, whether or not
25 distributed, of the total pro rata share of S corporation income of the
26 New Jersey S corporation for its privilege period ending within or
27 with the taxpayer's taxable year.

28 e. The order of priority of the application of the credit allowed
29 in accordance with subsection a. of this section and any other
30 credits allowed by law against the tax otherwise due for the taxable
31 year under N.J.S.54A:1-1 et seq. shall be as prescribed by the
32 director.

33 f. A taxpayer allowed a credit in accordance with subsection a.
34 of this section may make and file an application with the director
35 for a tax credit transfer certificate in lieu of the taxpayer being
36 allowed any amount of the credit against the tax liability of the
37 taxpayer.

38 Upon the review and approval of an application made and filed
39 in accordance with this subsection, the director shall issue to the
40 taxpayer a tax credit transfer certificate.

41 The tax credit transfer certificate issued to the taxpayer by the
42 director may be sold, in full or in part, to another person that may
43 have a liability for tax under section 5 of P.L.1945,
44 c.162 (C.54:10A-5), N.J.S.54A:1-1 et seq., sections 2 and 3 of
45 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
46 c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private
47 financial consideration to be provided to the taxpayer by the person
48 making the purchase.

1 The tax credit transfer certificate issued to a taxpayer by the
2 director shall include a statement waiving the taxpayer's right to
3 apply that amount of the credit against the tax otherwise due for the
4 taxable year under N.J.S.54A:1-1 et seq., that the taxpayer has
5 elected to sell to another person in exchange for private financial
6 consideration.

7 The sale of any amount of a tax credit transfer certificate issued
8 to a taxpayer by the director shall not be made for private financial
9 consideration of less than 75 percent of the transferred credit
10 amount.

11 The amount of any tax credit transfer certificate that may be used
12 by a purchaser against a tax liability of the purchaser under section
13 5 of P.L.1945, c.162 (C.54:10A-5), N.J.S.54A:1-1 et seq., sections
14 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
15 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to
16 any limitations and conditions on the application of tax credit
17 transfer certificates that may be prescribed by the director.

18 g. As used in this section:

19 "Highly compensated employee" means the individuals
20 employed by the taxpayer who, in the aggregate, receive the top 25
21 percent of all employee compensation paid by the taxpayer.

22 "Qualified child care center" means a facility that is licensed as a
23 child care center by the Department of Children and Families in
24 accordance with the "Child Care Licensing Act," P.L.1983,
25 c.492 (C.30:5B-1 et seq.); provided however, that a "qualified child
26 care center" shall not include a facility licensed by the department
27 if:

28 the principal use of the facility is for some purpose other than the
29 care, development, and supervision of children, unless the facility is
30 the principal residence of the person who owns and operates the
31 qualified child care center;

32 the facility is not used on a regular basis to provide for the care,
33 development, and supervision of children;

34 enrollment in the facility is not open to children of individuals
35 employed by the taxpayer; or

36 use of the facility is limited or restricted under procedures,
37 criteria, or other systems of selection that unfairly discriminate in
38 favor of highly compensated employees, or that unfairly
39 discriminate in favor of individuals employed by the taxpayer on
40 the basis of race, creed, religion, sex, national origin, disability, or
41 marital status.

42
43 4. a. A taxpayer shall be allowed a credit against the tax
44 otherwise due for the taxable year under the "New Jersey Gross
45 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to:

46 50 percent of the cost paid or incurred by the taxpayer during the
47 taxable year to conduct, maintain, and operate a qualified child care

1 center of the taxpayer that is used primarily by the children of
2 individuals employed by the taxpayer;

3 50 percent of the amount paid by the taxpayer during the taxable
4 year to another person to conduct, maintain, and operate, under
5 contract or agreement with the taxpayer, a qualified child care
6 center of the taxpayer that is used primarily by the children of
7 individuals employed by the taxpayer;

8 50 percent of the amount paid by the taxpayer during the taxable
9 year to another person, under contract or agreement with the
10 taxpayer, for the provision of child care to children of individuals
11 employed by the taxpayer at a qualified child care center; or

12 10 percent of the cost paid or incurred by the taxpayer during the
13 taxable year for the provision, by the taxpayer or by another person
14 under contract or agreement with the taxpayer, of qualified child
15 care information and referral services to individuals employed by
16 the taxpayer.

17 b. If two or more taxpayers jointly pay or incur costs or jointly
18 pay amounts eligible for the credit allowed in accordance with
19 subsection a. of this section during the taxable year, each taxpayer
20 shall be allowed a credit for that portion of the costs paid or
21 incurred by that taxpayer or that portion of the amounts paid by that
22 taxpayer.

23 c. A business entity that is classified as a partnership for
24 federal income tax purposes shall not be allowed the credit directly
25 under N.J.S.54A:1-1 et seq., but the amount of credit of the
26 taxpayer in respect of a distributive share of partnership income
27 shall be determined by allocating to the taxpayer that proportion of
28 the credit acquired by the partnership that is equal to the taxpayer's
29 share, whether or not distributed, of the total distributive income or
30 gain of the partnership for its taxable year ending within or with the
31 taxpayer's taxable year.

32 A taxpayer that is a New Jersey S corporation shall not be
33 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
34 amount of credit of a taxpayer in respect of a pro rata share of S
35 corporation income shall be determined by allocating to the
36 taxpayer that proportion of the credit acquired by the New Jersey S
37 corporation that is equal to the taxpayer's share, whether or not
38 distributed, of the total pro rata share of S corporation income of the
39 New Jersey S corporation for its privilege period ending within or
40 with the taxpayer's taxable year.

41 d. The order of priority of the application of the credit allowed
42 in accordance with subsection a. of this section and any other
43 credits allowed by law against the tax otherwise due for the taxable
44 year under N.J.S.54A:1-1 et seq. shall be as prescribed by the
45 director.

46 e. As used in this section:

1 The bill provides that the amount of the credit allowed for the
2 construction of a child care center is equal to 50 percent of the cost
3 paid or incurred by a business to acquire, construct, reconstruct,
4 renovate, or otherwise improve real property in this State that is to
5 be used by the business, or another person under contract or
6 agreement with the business, to conduct, maintain, and operate a
7 qualified child care center primarily for the children of individuals
8 employed by the business.

9 The bill provides that the amount of the credit allowed for the
10 provision of child care services is equal to:

11 -- 50 percent of the cost paid or incurred by a business to
12 conduct, maintain, and operate a qualified child care center of the
13 business that is used primarily by the children of individuals
14 employed by the business;

15 -- 50 percent of the amount paid by a business to another person
16 to conduct, maintain, and operate, under contract or agreement with
17 the business, a qualified child care center of the business that is
18 used primarily by the children of individuals employed by the
19 business;

20 -- 50 percent of the amount paid by a business to another person,
21 under contract or agreement with the business, for the provision of
22 child care to children of individuals employed by the business at a
23 qualified child care center; or

24 -- 10 percent of the cost paid or incurred by a business for the
25 provision, by the business or by another person under contract or
26 agreement with the business, of qualified child care information and
27 referral services to individuals employed by the business.

28 The bill provides that to be eligible to apply the credit for the
29 construction of a child care center a business must make and enter
30 into an agreement with the Director of the Division of Taxation in
31 the Department of the Treasury. The bill specifies that the
32 agreement must require the business to demonstrate the intended
33 use and status of the real property acquired, constructed,
34 reconstructed, renovated, or otherwise improved in this State, and
35 require the business to use that property to conduct, maintain, and
36 operate a qualified child care center primarily for the children of
37 individuals employed by the business for a 60-month period.

38 The bill provides that, under the credit for the construction of a
39 child care center, a business may make and file an application with
40 the Director of the Division of Taxation for a tax credit transfer
41 certificate in lieu of being allowed any amount of the credit against
42 the tax liability of the business. The bill specifies that, if issued, the
43 certificate may be sold to a another person that may have a tax
44 liability under certain other State taxes in exchange for private
45 financial consideration, but stipulates that the sale cannot be made
46 for consideration of less than 75 percent of the transferred credit
47 amount.

1 The bill defines a “qualified child care center” as a facility that is
2 licensed as a child care center by the Department of Children and
3 Families, but specifically excludes from that definition facilities
4 licensed by the department if: the principal use of the facility is for
5 some purpose other than the care, development, and supervision of
6 children; the facility is not used on a regular basis to provide for the
7 care, development, and supervision of children; enrollment in the
8 facility is not open to children of individuals employed by the
9 business claiming the credit; or use of the facility is limited or
10 restricted under procedures, criteria, or other systems of selection
11 that unfairly discriminate.

12 The bill takes effect immediately and applies to privilege periods
13 and taxable years beginning on or after January 1 next following the
14 date of enactment.

15 The purpose of this bill is to encourage New Jersey businesses to
16 take a more active role in the provision of child care to employees
17 and their children. Businesses that are active in providing child care
18 typically have a more engaged and productive workforce and play
19 an integral part in reducing the overall demand for quality,
20 affordable child care in this State.