The “New Jobs for New Jersey Act.”

As introduced.
AN ACT concerning tax credits for certain employers who hire certain unemployed workers and supplementing P.L.1948, c.446 (C.34:1A-1 et seq.). P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 54A of the New Jersey Statutes.

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

1. This act shall be known and may be cited as the “New Jobs for New Jersey Act.”

2. As used in this act:

   “Average total number of full-time employees” means, for an employer during any 12-month period, the average number of full-time employees of the employer, based on the employer’s average weekly rate of full-time employment during that period.

   “Commissioner” means the Commissioner of Labor and Workforce Development.

   “Department” means the Department of Labor and Workforce Development.

   “Eligible individual” means an individual who was hired by an employer as a full-time employee, was not previously employed by the employer, and did not have full-time employment at any time during a period of 30 days or more days immediately prior to being hired by the employer. An eligible individual shall not include an independent contractor or a consultant.

   “Employer” means any nongovernmental business entity including, but not limited to a corporation, S corporation, limited liability corporation, partnership, limited liability partnership, and sole proprietorship, and shall include all entities related by common ownership or control, that had an average weekly number of full-time employees of not more than 100 employees during the 12 months immediately preceding October 1, 2012.

   “Employer payroll taxes” means the sum of all taxes imposed on an employer by the following: section 3111 of the Federal Insurance Contributions Act (26 U.S.C. s.3111); the Federal Unemployment Tax Act (26 U.S.C. s.3301 et seq.); subsections (a), (b), and (c) of R.S.43:21-7 for purposes of the “unemployment compensation law” (R.S.43:21-1 et seq.); subsection (e) of R.S.43:21-7 for purposes of the “Temporary Disability Benefits Law,” P.L.1948, c.110 (C.43:21-25 et al.); section 2 of P.L.1992, c.44 (C.34:15D-13) for purposes of the Workforce Development Partnership Fund; and section 2 of P.L.2001, c.152 (C. 34:15D-22) for purposes of the Supplemental Workforce Fund for Basic Skills.

   “Full-time employee” means an employee working not less than 35 hours per week for an employer.

3. a. There is established in the department a New Jobs for New Jersey tax credit program to be administered by the
commissioner. The purpose of the program is to provide incentives to private sector employers who increase their workforce by hiring unemployed workers. Under the program, an employer shall be eligible for a New Jobs for New Jersey tax credit in the amount provided in subsection b. of this section against the corporation business tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the gross income tax imposed pursuant to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., whichever of the two taxes is applicable to the employer, for each eligible individual employed by the employer on a full-time basis during a tax year, if the following requirements are met:

(1) The eligible individual or individuals are hired by the employer after October 1, 2012 and employed full-time during the tax year for which the tax credit is provided;

(2) The employer employs an average total number of full-time employees during the tax year for which the tax credit is provided which exceeds the average total number of full-time employees employed by the employer during the 12-month period immediately prior to October 1, 2012; and

(3) The employer applies for the tax credit in the manner required by the commissioner and the commissioner approves the application, and the employer makes available as requested by the commissioner, all information regarding the number, wages, and employer payroll taxes of employees of the employer, and any other information deemed necessary by the commissioner to ensure compliance with the requirements of this act.

b. The amount of the refundable tax credit provided to an approved employer for each eligible individual employed during a tax year shall be the total amount of the employer payroll taxes paid during that tax year by the employer with respect to the eligible individual, subject to the requirements of subsection a. of this section. The employer shall receive the tax credit for the number of eligible individuals employed full-time during the tax year, except that the number of eligible individuals for which the employer receives the tax credit shall not exceed the net increase in the total number of full-time employees. For the purposes of this subsection, “net increase in the total number of full-time employees” means the increase, if any, which occurs in the average total number of individuals employed by the employer full-time during the tax year over the average total number of full-time employees employed by the employer during the 12-month period immediately preceding October 1, 2012.

c. An employer may apply for and qualify for a tax credit pursuant to this act with respect to tax years 2013, 2014, or 2015. If the employer’s application is approved for any of those three tax years, the employer may continue to receive the tax credit for any of the tax years:

(1) which is in the four-year period immediately following the first tax year for which the tax credit is approved; and
(2) during which the employer meets the requirements of this section to qualify for the tax credit.

d. Upon a determination by the commissioner that the employer submitting the application is in compliance with the requirements of this act, the commissioner shall certify to the Director of the Division of Taxation that the employer is eligible for a tax credit under this act and the amount of the tax credit, and shall provide a copy of the certification to the employer.

4. The commissioner shall provide to the Legislature and the public, not later than July 1, 2014 and July 1 of each subsequent year, until and including 2020, a report on the program which shall include, for the tax year immediately preceding the report each year, comprehensive data on the costs and benefits of the program, including the number of participating employers, total amount of tax credits, and the number of new jobs created and any resulting benefits of the new jobs, including increased tax revenues. The report shall include any recommendations the commissioner deems appropriate regarding the possible extension of the duration, or other modification, of the program.

5. The commissioner shall promulgate rules and regulations necessary for the effective implementation of this act. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as are necessary to implement the provisions of this act, which shall be effective for a period not to exceed 12 months following enactment, and may thereafter be amended, adopted, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

6. A taxpayer shall be allowed a credit against the corporation business tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount certified by the Commissioner of Labor and Workforce Development as the taxpayer’s New Jobs for New Jersey tax credit amount pursuant to section 3 of this act. To claim the New Jobs for New Jersey tax credit amount, the taxpayer shall include, with the taxpayer’s annual corporation business tax return, the certificate of credit issued by the Commissioner of Labor and Workforce Development pursuant to section 3 of this act.

Notwithstanding the minimum tax schedule imposed pursuant to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the amount of the tax credit allowed exceeds the amount of corporation business tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess shall be treated as a refundable overpayment except that interest shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of
overpayment attributable to the New Jobs for New Jersey tax credit amount. The Director of the Division of Taxation shall determine the order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law.

7. a. A taxpayer shall be allowed a credit against the gross income tax imposed pursuant to the “New Jersey Gross Income Tax Act” N.J.S.54A:1-1 et seq. in the amount certified by the Commissioner of Labor and Workforce Development as the taxpayer’s New Jobs for New Jersey tax credit amount pursuant to section 3 of this act. To claim the New Jobs for New Jersey tax credit amount the taxpayer shall include, with the taxpayer’s annual gross income tax return, the certificate of credit issued by the Commissioner of Labor and Workforce Development pursuant to section 3 of this act.

If the amount of the credit allowed exceeds the amount of gross income tax otherwise due pursuant to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. the amount of excess shall be treated as a refundable overpayment except that interest shall not be paid pursuant to subsection (f) of N.J.S.54A:9-7 on the amount of overpayment attributable to the New Jobs for New Jersey tax credit amount. The Director of the Division of Taxation shall determine the order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law.

b. A business entity that is treated as a partnership for federal income tax purposes shall not be allowed the credit directly under the gross income tax, but the amount of credit of the taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer’s share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer’s taxable year.

A taxpayer which is a New Jersey S Corporation shall not be allowed the credit directly under the gross income tax, but the amount of credit of a taxpayer in respect of a pro rata share of S Corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S Corporation that is equal to the taxpayer’s share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer’s taxable year.

8. This act shall take effect immediately.
This bill establishes a New Jobs for New Jersey tax credit program to be administered by the Commissioner of Labor and Workforce Development. The purpose of the program is to provide incentives to small private sector employers who increase their workforce by hiring unemployed workers.

The bill makes an employer of 100 or fewer full-time employees eligible for a refundable New Jobs for New Jersey tax credit against the corporation business tax or the gross income tax, whichever applies to the employer, for each eligible individual employed by the employer on a full-time basis during a tax year, if the following requirements are met:

1. The eligible individual is hired by the employer after October 1, 2012, is employed full-time during the tax year for which the tax credit is provided, was not previously employed by the employer, and did not have full-time employment for 30 or more days prior to being hired by the employer;

2. The employer employs an average total number of full-time employees during the tax year for which the tax credit is provided which exceeds the average total number of full-time employees employed by the employer during the 12-month period immediately prior to October 1, 2012; and

3. The employer submits an application for the tax credit in the manner required by the commissioner and the commissioner approves the application, and the employer provides, or makes available as requested by the commissioner, all information regarding the number, wages, and employer payroll taxes or any other information required by the commissioner.

The bill sets the amount of the refundable tax credit provided to an approved employer for each eligible individual employed during a tax year as the total amount of the employer payroll taxes paid during that tax year by the employer with respect to that individual, subject to the requirements of the bill. Employer payroll taxes include the portion paid by employers of State unemployment, temporary disability, and workforce development and basic skills assessments, and federal Social Security, Medicare, and unemployment taxes. The bill provides that the employer receives the tax credit only for the number of eligible individuals employed full-time during the tax year which does not exceed the net increase in the number of full-time employees employed full-time during the tax year compared with the average total number of full-time employees employed by the employer during the 12-month period immediately preceding October 1, 2012.

An employer may apply for and qualify for a tax credit under the bill with respect to tax years 2013, 2014, and 2015. If the employer’s application is approved for any of those three years, the employer may continue to receive the tax credit for any of the four
tax years following that tax year during which the employer meets
the requirements of the bill.

Upon a finding by the commissioner of employer compliance
with the bill’s requirements, the commissioner is required to certify
to the Director of the Division of Taxation that the employer
eligible for a tax credit under this bill and the amount of the tax
credit and provide a copy of the certification to the employer.