

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3054**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: SEPTEMBER 23, 2011

**SUMMARY**

**Synopsis:** Extends certain business tax credit programs to the gross income tax.

**Type of Impact:** Annual Loss of Revenue from the Property Tax Relief Fund (Gross Income Tax).

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual Impact</u></b>
<b>State Revenue Loss</b>	Indeterminate - See comments below

- The Office of Legislative Services (OLS) cannot determine the potential fiscal impact of this bill. The potential number and value of credits claimed under the gross income tax are unknown. Likewise, the value of credits that might flow from partnerships and S Corporations to individual taxpayers is also unknown.
- According to the February, 2011 Division of Taxation publication, *A Report on Tax Expenditures in New Jersey*, the specific tax credits included in this bill yield approximately \$95.0 million in annual tax expenditures under the CBT. The OLS believes the potential revenue impact from expanding these credits to the GIT under this bill should be significantly less than those credits under the existing CBT.

**BILL DESCRIPTION**

Senate Bill No. 3054 of 2011 expands certain corporation business tax credit programs to the gross income tax. The purpose of this bill is to provide gross income taxpayers with the same incentives available to corporation business taxpayers for investment and hiring, particularly sole proprietors, partnerships, and limited liability companies. The bill creates gross income tax credit authority for the corporation business tax credit programs, listed below, and conditions that authority on several uniform requirements addressed after the overview of credits.

- The Business Retention and Relocation Assistance Grant Program;
- The Urban Transit Hub Tax Credit Act;
- The Qualified Municipality Open for Business Incentive Program;
- The Neighborhood Revitalization State Tax Credit Act;
- The Enterprise Zone tax credit program;
- The Manufacturing Equipment and Employment Investment Tax Credit Act;
- The tax credit for purchase of certain effluent treatment equipment for CBT taxpayers who purchase certain treatment equipment;
- The tax credit for qualified digital media content production expenses;
- The research expense tax credit;
- The New Jobs Investment Tax Credit Act; and
- The New Jersey Urban Development Corporation Act's employment credit.

In addition to extending gross income tax authority to the aforementioned credits, the bill also establishes several requirements that will be imposed upon the gross income tax component of each credit. The bill prohibits the duplicative use of a creditable activity to secure a gross income tax credit claim authorized under this bill.

The bill imposes a maximum amount of taxpayer liability against which a credit may be applied for a taxable year, which is that share of a taxpayer's total liability attributable to the inclusion of income in the category of gross income of the taxpayer's credited business entity.

Additionally, the bill provides that a business entity that elects to be treated as a partnership for federal income tax purposes shall not be allowed a gross income tax credit directly. Instead, the amount of credit of a taxpayer shall be determined by allocating to the taxpayer that proportion of the credit that is equal to the taxpayer's distributive share of the partnership.

The bill also provides that a New Jersey S Corporation shall not be allowed a credit directly under the gross income tax. Instead, the amount of credit of a taxpayer shall be determined by allocating to the taxpayer that proportion of the credit that is equal to the taxpayer's pro rata share of S Corporation income.

Lastly, the bill grants the Director of the Division of Taxation rulemaking authority to administer the gross income tax credits allowed pursuant to this bill on substantially similar terms to the related corporation business tax credits.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot determine the potential fiscal impact of this bill. The potential number and value of credits claimed under the gross income tax (GIT) are unknown. Likewise, the value of credits that might flow from partnerships and S Corporations to individual taxpayers is also unknown.

According to the February, 2011 Division of Taxation publication, *A Report on Tax Expenditures in New Jersey*, the specific tax credits included in this bill yield approximately \$95.0 million in annual tax expenditures under the CBT, as shown in the table below. The OLS

believes the potential revenue impact from expanding these credits to the GIT under this bill should be significantly less than those credits under the existing CBT. The largest estimated current tax expenditure under the CBT is \$65.6 million for the research expense tax credit, which includes a technology tax certificate transfer program generally achieving its statutory \$60.0 million annual cap. Significant additional GIT credits for that transfer program under this bill are unlikely. However, the statutory caps for most of the other tax credits have not been reached through the CBT, based on the amounts in the Treasury's tax expenditure report. Accordingly, while the potential for increased tax credit claims through the GIT and additional annual revenue losses remains, the OLS has no means to estimate an accurate amount.

On the other hand, to the extent that these tax credits encourage business expansion and job creation which would otherwise not occur under existing law, there may be economic gains that generate some offsetting State tax revenues. The OLS cannot estimate any such potential future impact, nor estimate any potential opportunity cost due to State resources which may have been utilized in other capacities, absent this bill.

<b>Estimated Tax Expenditures Under the Corporation Business Tax</b> <b>Current Law, FY 2012</b> <i>(Illustrative CBT Figures. Not an Estimate of this Bill)</i>	
<b>Existing Tax Credit Program</b>	<b>Estimated Amount</b>
The Business Retention and Relocation Assistance Grant Program	\$2,700,000
The Urban Transit Hub Tax Credit Act	\$3,000,000
The Qualified Municipality Open for Business Incentive Program	\$10,000
The Neighborhood Revitalization State Tax Credit	\$4,769,000
The Enterprise Zone tax credit	\$0
The Manufacturing Equipment and Employment Investment Tax Credit	\$16,685,000
The tax credit for purchase of certain effluent treatment equipment	\$214,800
The tax credit for qualified digital media content production expenses	\$0
The research expense tax credit;	\$65,594,200
The New Jobs Investment Tax Credit	\$1,900,000
The New Jersey Urban Development Corporation Act's employment credit	\$0
<b>Total Estimated</b>	<b>\$94,873,000</b>
Source: <i>A Report on Tax Expenditures in New Jersey</i> , New Jersey Department of the Treasury, Division of Taxation, February 22, 2011.	

*Section: Revenue, Finance and Appropriations*

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).