

SENATE, No. 2091

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 21, 2010

Sponsored by:

Senator MICHAEL J. DOHERTY

District 23 (Warren and Hunterdon)

SYNOPSIS

Provides temporary reduction of annual cap on corporation business tax benefit certificate transfer program for certain technology and biotechnology companies and temporarily suspends certain tax credits for certain film and digital media content production expenses.

CURRENT VERSION OF TEXT

As introduced.



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1 **AN ACT** providing a temporary reduction of the annual cap imposed
2 on the corporation business tax benefit certificate transfer
3 program for certain technology and biotechnology companies
4 and temporarily suspending certain tax credits for certain film
5 and digital media content production expenses, supplementing
6 P.L.1997, c.334 (C.34:1B-7.42a et al.) and P.L.2005, c.345
7 (C.54:10A-5.39 et al.)

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

11
12 1. Notwithstanding the provisions of subsection b. of section 1
13 of P.L.1997, c.334 (C.34:1B-7.42a) or the provisions of any other
14 law, rule, or regulation to the contrary, the authority shall be
15 authorized to approve the transfer of no more than \$30,000,000 of
16 tax benefits in State Fiscal Year 2011; provided however, that of the
17 \$30,000,000 of transferable tax benefits authorized for State Fiscal
18 Year 2011, \$5,000,000 shall be allocated by the authority for the
19 surrender of transferable tax benefits exclusively by new or
20 expanding emerging technology and biotechnology companies that
21 operate within the boundaries of an innovation zone; provided
22 further, that any portion of the \$5,000,000 that is not so approved
23 by the authority shall be available in State Fiscal Year 2011 for the
24 surrender of transferable tax benefits by new or expanding
25 emerging technology and biotechnology companies that do not
26 operate within the boundaries of an innovation zone.

27
28 2. Notwithstanding the provisions of subsection f. of section 1
29 of P.L.2005, c.345 (C.54:10A-5.39) or the provisions of any other
30 law, rule, or regulation to the contrary, no credits, including tax
31 credits allowed through the granting of tax credit transfer
32 certificates, approved by the director and the authority pursuant to
33 subsection a. of section 1 of P.L.2005, c.345 and pursuant to section
34 2 of P.L.2005, c.345 (C.54A:4-12) shall be allowed in State Fiscal
35 Year 2011 to apply against the tax imposed pursuant to section 5 of
36 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
37 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and no
38 credits, including tax credits allowed through the granting of tax
39 credit transfer certificates, approved by the director and the
40 authority pursuant to subsection b. of section 1 of P.L.2005, c.345
41 shall be allowed in State Fiscal Year 2011 to apply against the tax
42 imposed pursuant to section 5 of P.L.1945, c.162.

43
44 3. Notwithstanding the provisions of subsection f. of section 2
45 of P.L.2005, c.345 (C.54A:4-12) or the provisions of any other law,
46 rule, or regulation to the contrary, no credits, including tax credits
47 allowed through the granting of tax credit transfer certificates,
48 approved by the director and the authority pursuant to subsection a.

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1 of section 2 of P.L.2005, c.345 and pursuant to section 1 of
2 P.L.2005, c.345 (C.54:10A-5.39) shall be allowed in State Fiscal
3 Year 2011 to apply against the tax imposed under N.J.S.54A:1-1 et
4 seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162
5 (C.54:10A-5).

6
7 4. a. The State Treasurer shall prepare a report evaluating the
8 effectiveness of: (1) the corporation business tax benefit certificate
9 transfer program for new or expanding emerging technology and
10 biotechnology companies established pursuant to P.L.1997, c.334
11 (C.34:1B-7.42a et al.), (2) the corporation business tax and gross
12 income tax credits allowed for certain qualified film production
13 expenses pursuant to P.L.2005, c.345 (C.54:10A-5.39 et al.), and
14 (3) the corporation business tax credit allowed for certain qualified
15 digital media content expenses pursuant to P.L.2007, c.257
16 (C.54:10A-5.39) in fulfilling their statutory goals and objectives,
17 including the ability to create and retain jobs in this State.

18 b. The report prepared pursuant to subsection a. of this section
19 shall be submitted by the State Treasurer to the Governor and the
20 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
21 19.1), on or before the date the Governor's annual budget message
22 is presented to the Legislature, pursuant to section 11 of P.L.1944,
23 c.112 (C.52:27B-20), for State Fiscal Year 2012.

24
25 5. This act shall take effect immediately.

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27
28 **STATEMENT**

29
30 This bill provides a temporary reduction of the annual cap
31 imposed on the corporation business tax benefit certificate transfer
32 program available to certain technology and biotechnology
33 companies, and temporarily suspends the tax credits provided for
34 qualified film and qualified digital media content production
35 expenses under the corporation business and gross income taxes.
36 The bill also requires the State Treasurer to make and file a report
37 regarding the effectiveness of the transfer program and the ability of
38 the tax credits to meet their statutory goals and objectives.

39 With respect to the transfer program, the bill reduces the annual
40 cap imposed on the corporation business tax benefit certificate
41 transfer program for new or expanding emerging technology and
42 biotechnology companies in this State from the current \$60 million
43 per year limitation to \$30 million in State Fiscal Year 2011, and
44 proportionally reduces the current set-aside for innovation zone-
45 located companies under the program from \$10 million per year to
46 \$5 million during the same period of time. The change in the
47 annual limitation and the modification to the set-aside applies to the
48 surrender of transferrable tax benefits in State Fiscal Year 2011; it

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1 does not affect tax benefits associated with previously authorized
2 certificates or certificates which may be authorized in future fiscal
3 years.

4 The corporation business tax benefit certificate transfer program
5 was established under P.L.1997, c.334 and permits approved
6 technology and biotechnology businesses with net operating losses
7 to sell their net operating loss carryover and unused research and
8 development tax credits for at least 80 percent of the value of the
9 tax benefits to a profitable corporate taxpayer in this State that is
10 not an affiliated business. The program allows technology and
11 biotechnology businesses with net operating losses to turn their tax
12 losses and credits into cash to buy equipment or facilities, or for
13 certain other allowable expenditures. Under current law, the New
14 Jersey Economic Development Authority must set aside a certain
15 amount (\$10 million) of total funds allocated (\$60 million) for the
16 surrender of transferrable tax benefits by eligible companies that
17 operate within three innovation zones geographically distributed in
18 the northern (Newark), central (greater New Brunswick), and
19 southern (Camden) portions of the State.

20 In terms of film and digital media, the bill temporarily suspends
21 the corporation business tax and the gross income tax credits for
22 qualified film production expenses and the corporation business tax
23 credit for qualified digital media content production expenses by
24 effectively reducing the existing annual tax credit caps from \$10
25 million per year for film and \$5 million per year for digital media
26 content to \$0 for film and digital media content in State Fiscal Year
27 2011. Similar to the transfer program, the disallowance of credits
28 will not affect the carryover of unused film and digital media tax
29 credits previously allowed or which otherwise may be allowed in
30 fiscal years following the temporary suspension; the suspension is
31 limited to the authorization of new credits in State Fiscal Year
32 2011.

33 The film and digital media content production tax credits were
34 established under P.L.2005, c.345 and P.L.2007, c.257,
35 respectively, to encourage the undertaking of film and digital media
36 content production activities in this State. The credits permit
37 eligible taxpayers to receive a corporation business or gross income
38 tax credit in an amount equal to 20 percent of the qualified film
39 production expenses or a corporation business tax credit in an
40 amount up to 20 percent of the qualified digital media content
41 production expenses incurred during a privilege period or taxable
42 year, provided certain conditions related to production are achieved.
43 Under the film credit, 60 percent of total production expenses,
44 exclusive of post-production costs, must be incurred in New Jersey,
45 and principal photography of the film is required to commence
46 within 150 days of the approval of an application. Under the digital
47 media credit, at least \$2 million of the total production expenses
48 must be incurred in New Jersey.

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1 With regard to the report, the bill requires the State Treasurer to
2 make and file a report regarding the effectiveness of the tax benefit
3 certificate transfer program and the film and digital media tax
4 credits in meeting their statutory goals and objectives. The bill
5 stipulates that the report must include information regarding the
6 ability of the program and the credits to create and retain jobs in
7 this State, and must be submitted to the Governor and the
8 Legislature on or before the date the Governor's annual budget
9 message is presented to the Legislature for State Fiscal Year 2012.

10 The temporary reduction in the annual cap on the technology
11 business tax certificate transfer program and the temporary
12 suspension of the film and digital media tax credits are two
13 components of the Governor's Budget Recommendation for State
14 Fiscal Year 2011. The measures are slated to reduce spending, and
15 provide an opportunity for the State Treasurer to conduct an
16 evaluation of the effectiveness of the program and the credits under
17 current law.