SYNOPSIS
Expands eligibility under New Jersey earned income tax credit program to allow taxpayers with Individual Taxpayer Identification Numbers to qualify.

CURRENT VERSION OF TEXT
As introduced.
AN ACT expanding eligibility for certain taxpayers under the New Jersey earned income tax credit program, amending P.L.2000, c.80.

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

1. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read as follows:

2. There is established the New Jersey Earned Income Tax Credit program in the Division of Taxation in the Department of the Treasury.

   a. (1) A resident individual who is eligible for a credit under section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.32) shall be allowed a credit for the taxable year equal to a percentage, as provided in paragraph (2) of this subsection, of the federal earned income tax credit that would be allowed to the individual or the married individuals filing a joint return under section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.32) for the same taxable year for which a credit is claimed pursuant to this section, subject to the restrictions [of this subsection and subsections b., c., d. and e.] and modifications of this section.

   (2) For the purposes of the calculation of the New Jersey earned income tax credit, the percentage of the federal earned income tax credit referred to in paragraph (1) of this subsection shall be:

      (a) 10% for the taxable year beginning on or after January 1, 2000, but before January 1, 2001;

      (b) 15% for the taxable year beginning on or after January 1, 2001, but before January 1, 2002;

      (c) 17.5% for the taxable year beginning on or after January 1, 2002, but before January 1, 2003;

      (d) 20% for taxable years beginning on or after January 1, 2003, but before January 1, 2008;

      (e) 22.5% for taxable years beginning on or after January 1, 2008 but before January 1, 2009;

      (f) 25% for taxable years beginning on or after January 1, 2009 but before January 1, 2010;

      (g) 20% for taxable years beginning on or after January 1, 2010, but before January 1, 2015;

      (h) 30% for taxable years beginning on or after January 1, 2015, but before January 1, 2016;

      (i) 35% for taxable years beginning on or after January 1, 2016, but before January 1, 2018;

      (j) 37% for the taxable year beginning on or after January 1, 2018, but before January 1, 2019;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
(k) 39% for the taxable year beginning on or after January 1, 2019, but before January 1, 2020; and

(l) 40% for taxable years beginning on or after January 1, 2020.

(3) To qualify for the New Jersey earned income tax credit, if the claimant is married, except for a claimant who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, the claimant shall file a joint return or claim for the credit.

(4) A taxpayer may claim a credit pursuant to this section whether the taxpayer has a Social Security number or an Individual Taxpayer Identification Number if, but for section 32(c)(1)(e) of the Internal Revenue Code (26 U.S.C. s.32), the taxpayer would be eligible to claim the credit.

b. In the case of a part-year resident claimant, the amount of the credit allowed pursuant to this section shall be pro-rated, based upon that proportion which the total number of months of the claimant’s residency in the taxable year bears to 12 in that period. For this purpose, 15 days or more shall constitute a month.

c. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit provided under this section as a credit against the tax otherwise due and the amount of the credit treated as an overpayment shall be treated as a credit towards or overpayment of gross income tax, subject to all provisions of N.J.S.54A:1-1 et seq., except as may be otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

d. The Director of the Division of Taxation in the Department of the Treasury shall establish a program for the distribution of earned income tax credits pursuant to the provisions of this section.

e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance or the amount or extent of benefits or assistance under any State program and, to the extent permitted by federal law, under any State program financed in whole or in part with federal funds. (cf: P.L.2018, c.45, s.4)

2. This act shall take effect immediately and apply to taxable years beginning on January 1 next following the date of enactment.

STATEMENT

This bill allows taxpayers with Individual Taxpayer Identification Numbers (ITIN) to qualify for the New Jersey earned income tax credit (NJEITC) program. Under the federal earned
income tax credit program, a taxpayer, including a spouse if filing a joint return, is required to have a Social Security number issued by the federal Social Security Administration in order to qualify. Eligibility for the NJEITC is generally linked to the federal earned income tax credit program; thus, an individual taxpayer who has an ITIN does not qualify for either the federal or State programs. The bill modifies the eligibility criteria under the NJEITC program to allow taxpayers with ITINs to qualify for the tax credit. The sponsor’s intent is for all records submitted by a taxpayer as part of their application for the NJEITC to remain confidential and privileged as set forth in the confidentiality statute that affects any State tax law.