

SENATE, No. 2368

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 13, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Establishes certain exclusions and credits under gross income and corporation business taxes for contributions to lifelong learning accounts.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** establishing certain exclusions and credits under the gross
2 income and corporation business taxes for use of lifelong
3 learning accounts, supplementing Title 54A of the New Jersey
4 Statutes and P.L.1945, c.162.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. a. The gross income of an eligible taxpayer for a taxable
10 year shall not include qualified contributions to a lifelong learning
11 account of the eligible taxpayer until the contributions are
12 distributed from the account, at which time they shall be includible
13 in gross income, except as provided in subsection c. of this section.
14 This subsection shall not apply if the taxpayer's gross income
15 exceeds \$50,000 or the account balance of the lifelong learning
16 account exceeds \$10,000.

17 b. Gross income shall not include earnings that accrue on the
18 balance of a lifelong learning account to the eligible taxpayer until
19 the earnings are distributed from the account, at which time they
20 shall be includible in gross income, except as provided in
21 subsection c. of this section. This subsection shall not apply if the
22 balance in the lifelong learning account exceeds \$10,000.

23 c. (1) Gross income of a taxpayer shall include qualified and
24 nonqualified distributions from a lifelong learning account of the
25 taxpayer for the taxable year of distribution. Provided further, the
26 exclusions allowed pursuant to N.J.S.54A:6-10 and N.J.S.54A:6-15
27 shall not apply to any distributions from a lifelong learning account.

28 (2) Notwithstanding paragraph (1) of this subsection, gross
29 income of an eligible taxpayer for a taxable year shall not include:

30 (a) a distribution of contributions for the taxable year made in
31 excess of the annual \$2,000 limit for lifelong learning account
32 contributions, provided that the earnings thereto are also distributed
33 and reported as gross income, or

34 (b) a distribution from the lifelong learning account of a
35 taxpayer that is contributed to a lifelong learning account of the
36 taxpayer within 60 days of distribution, provided that this
37 subparagraph shall not apply to a distribution occurring within 365
38 days of a prior distribution which was excluded from gross income
39 pursuant to this subparagraph.

40 d. If a taxpayer makes a nonqualified distribution from the
41 taxpayer's lifelong learning account the taxpayer shall be subject to
42 a penalty in the form of additional tax liability due pursuant to the
43 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1, for the taxable
44 year of the distribution. The amount of the additional tax liability
45 shall be five percent of the amount of the nonqualified distribution.

46 This subsection shall not apply to nonqualified distributions
47 incident to death, disability, divorce, separation pursuant to a
48 "qualified domestic relations order" as defined by subsection (p) of

1 section 414 of the federal Internal Revenue Code of 1986 (26
2 U.S.C. s.414), or a taxpayer who has attained the age of 71 as of the
3 first day of the taxable year. Excluded employer contributions shall
4 be allocated to the distribution on a pro rata basis between the
5 amount of the distribution and the amount remaining in the account.

6 e. As used in this section:

7 “Disability” means becoming disabled and being unable to
8 engage in any substantial gainful activity by reason of any
9 medically determinable physical or mental impairment which can
10 be expected to result in death or to be of long-continued and
11 indefinite duration.

12 “Eligible taxpayer” means a taxpayer that as of the first day of
13 the taxable year has attained the age of 18 but not yet attained the
14 age of 71 and is the beneficiary for whom the lifelong learning
15 account has been established.

16 “Lifelong learning account” means an account created or
17 organized, for the exclusive benefit of the taxpayer, in New Jersey
18 as a lifelong learning account, which designation means that the
19 account is to be used exclusively for the purpose of making
20 qualified distributions. To qualify as a lifelong learning account the
21 account shall be administered in adherence to the following
22 requirements: all contributions shall be made in an amount of
23 money; all contributions to lifelong learning accounts of a taxpayer
24 for a taxable year shall not exceed \$2,000, except as to
25 contributions which are made from funds distributed from a lifelong
26 learning account of the taxpayer within 60 days of the contribution,
27 provided that the distribution is not occurring within 365 days of a
28 prior distribution excluded from gross income pursuant to
29 subparagraph (b) of paragraph (2) of subsection c. of this section;
30 the trustee of the lifelong learning account shall be a bank or other
31 entity that demonstrates to the satisfaction of the director that the
32 lifelong learning account shall be administered in adherence to the
33 requirements of this section; an eligible taxpayer’s interest in the
34 account balance is nonforfeitable; the trustee of the lifelong
35 learning account shall not invest the account’s assets in life
36 insurance contracts or “collectibles,” as that term is defined
37 pursuant to subsection (m) of section 408 of the federal Internal
38 Revenue Code of 1986 (26 U.S.C. s.408); lifelong learning account
39 assets shall not be commingled with other property except in a
40 common trust fund or common investment fund; and requirements
41 that the director deems to be necessary to implement P.L. ,
42 c. (C.) (pending before the Legislature as this bill),
43 which the director shall adopt by regulation in accordance with the
44 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
45 seq.).

46 “Nonqualified distribution” means a distribution from a lifelong
47 learning account that is not used for qualified education expenses.

48 A nonqualified distribution shall not include a distribution of

1 contributions for the taxable year made in excess of the annual
2 \$2,000 limit for lifelong learning account contributions, provided
3 that the earnings thereto are also distributed and reported as gross
4 income. A nonqualified distribution shall not include a distribution
5 from the lifelong learning account of a taxpayer that is contributed
6 to a lifelong learning account of the taxpayer within 60 days of
7 distribution, provided that the distribution is not occurring within
8 365 days of a prior distribution excluded from gross income
9 pursuant to subparagraph (b) of paragraph (2) of subsection c. of
10 this section.

11 “Qualified contribution” means a contribution to a lifelong
12 learning account made by the eligible taxpayer or the eligible
13 taxpayer’s employer that: (1) if made by the taxpayer does not
14 exceed \$2,000 in contributions by the taxpayer during the calendar
15 year, or if made by an employer of the taxpayer does not exceed
16 \$2,000 in contributions by that employer to the taxpayer in the
17 calendar year and (2) does not cause the account balance to exceed
18 \$10,000.

19 “Qualified distribution” means a distribution from a lifelong
20 learning account that is used for qualified education expenses.

21 “Qualified education expense” means an amount paid by an
22 eligible taxpayer for expenses incurred and required for
23 instructional courses, training courses, and apprenticeship programs
24 for the eligible taxpayer or the eligible taxpayer’s spouse. Qualified
25 education expenses shall include, but are not limited to, expenses
26 incurred and required for instructional courses, training courses, and
27 apprenticeship programs which are paid on account of books,
28 equipment, fees, information technology devices, supplies, tools,
29 and tuition. Qualified education expenses shall also include
30 expenses incurred for the attainment of “recognized postsecondary
31 credential” as defined in Section 2319 of Title 19 of the United
32 States Code (19 U.S.C. s.2319). Qualified education expense shall
33 also include payments for testing and application fees for obtaining
34 industry-recognized credentials. Qualified education expenses shall
35 not include amounts paid for any course or program taken for
36 recreational or leisure purposes.

37

38 2. a. (1) An eligible taxpayer shall be allowed a credit against
39 the tax liability imposed pursuant to the “New Jersey Gross Income
40 Tax Act,” N.J.S.54A:1-1, for the taxable year for contributions
41 made by the eligible taxpayer to a lifelong learning account of the
42 eligible taxpayer for the taxable year. Creditable contributions shall
43 not include contributions to a lifelong learning account of the
44 taxpayer of amounts distributed from a lifelong learning account of
45 the taxpayer, as determined by the director.

46 (2) (a) For an eligible taxpayer filing as a married individual
47 filing separately, or an unmarried individual, other than individuals
48 filing as head of household or as a surviving spouse, pursuant to

1 subsection b. of N.J.S.54A:2-1, for the first \$500 of contributions
2 for the taxable year the credit shall be in an amount equal to 50
3 percent of the contribution.

4 (b) For eligible taxpayers filing as married individuals jointly,
5 individuals filing as a head of household, or individuals filing as a
6 surviving spouse pursuant to subsection a. of N.J.S.54A:2-1, for the
7 first \$1,000 of contributions for the taxable year the credit shall be
8 in an amount equal to 50 percent of the contribution.

9 (3) (a) For an eligible taxpayer filing as a married individual
10 filing separately, or an unmarried individual, other than individuals
11 filing as head of household or as a surviving spouse, pursuant to
12 subsection b. of N.J.S.54A:2-1, for contributions in excess of \$500
13 for the taxable year the credit shall be in an amount equal to 25
14 percent of the contribution.

15 (b) For eligible taxpayers filing as married individuals jointly,
16 individuals filing as a head of household, or individuals filing as a
17 surviving spouse pursuant to subsection a. of N.J.S.54A:2-1, for
18 contributions in excess of \$1,000 for the taxable year the credit
19 shall be in an amount equal to 25 percent of the contribution.

20 b. (1) The maximum amount of contributions of an eligible
21 taxpayer taken into account for a taxable year as creditable pursuant
22 to subsection a. of this section shall be determined pursuant to
23 paragraphs (2), (3), and (4) of this subsection.

24 (2) An eligible taxpayer filing as a married individual filing
25 separately, or an unmarried individual, other than individuals filing
26 as head of household or as a surviving spouse, pursuant to
27 subsection b. of N.J.S.54A:2-1, with total gross income for a
28 taxable year in excess of \$50,000 shall reduce a maximum
29 creditable contribution limit of \$2,000 by the percentage calculated
30 by dividing the amount of the eligible taxpayer's gross income for
31 the taxable year that is in excess of \$50,000, but not exceeding
32 \$70,000, by \$20,000. No credit shall be allowed for contributions
33 made by an eligible taxpayer filing as a married individual filing
34 separately, or an unmarried individual, other than individuals filing
35 as head of household or as a surviving spouse, pursuant to
36 subsection b. of N.J.S.54A:2-1, with total gross income for a
37 taxable year in excess of \$70,000.

38 (3) Eligible taxpayers filing as married individuals jointly,
39 individuals filing as a head of household, or individuals filing as a
40 surviving spouse pursuant to subsection a. of N.J.S.54A:2-1, with
41 total gross income for a taxable year in excess of \$100,000 shall: (a)
42 in the case of married individuals filing jointly, each of whom has
43 contributed to that individual's lifelong learning account reduce a
44 maximum creditable contribution limit of \$4,000, (b) in the case of
45 individuals filing as a head of household, or individuals filing as a
46 surviving spouse pursuant to subsection a. of N.J.S.54A:2-1 reduce
47 a maximum creditable contribution limit of \$2,000, by the
48 percentage calculated by dividing the amount of the eligible

1 taxpayer's gross income for the taxable year that is in excess of
2 \$100,000, but not exceeding \$140,000, by \$40,000. No credit shall
3 be allowed for contributions made by eligible taxpayers filing as
4 married individuals jointly, individuals filing as a head of
5 household, or individuals filing as a surviving spouse pursuant to
6 subsection a. of N.J.S.54A:2-1, with total gross income for a
7 taxable year in excess of \$140,000.

8 (4) The maximum creditable contribution limit determined
9 pursuant to paragraphs (2) and (3) of this subsection shall be
10 reduced by the amount of employer contributions made to an
11 eligible taxpayer's lifelong learning account which are excluded
12 from gross income pursuant to subsection a. of section 2 of
13 P.L. , c. (C.) (pending before the Legislature as this
14 bill).

15 c. The order in which credits allowed pursuant to this section
16 and any other credits shall be applied against the tax liability
17 imposed pursuant to the "New Jersey Gross Income Tax Act,"
18 N.J.S.54A:1-1 et seq., shall be determined by the director. If any
19 amount of credit allowed pursuant to this section remains after the
20 application of credit to tax liability imposed pursuant to the "New
21 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that amount
22 of credit shall be an overpayment for the purposes of N.J.S.54A:9-
23 7, except that subsection (f) of N.J.S.54A:9-7 shall not apply.

24 d. As used in this section:

25 "Eligible taxpayer" means a taxpayer that as of the first day of
26 the taxable year has attained the age of 18 but not yet attained the
27 age of 71 and is the beneficiary for whom the lifelong learning
28 account has been established.

29 "Lifelong learning account" means an account created or
30 organized, for the exclusive benefit of the taxpayer, in New Jersey
31 as a lifelong learning account, which designation means that the
32 account is to be used exclusively for the purpose of making
33 qualified distributions. To qualify as a lifelong learning account the
34 account shall be administered in adherence to the following
35 requirements: all contributions shall be made in an amount of
36 money; all contributions to lifelong learning accounts of a taxpayer
37 for a taxable year shall not exceed \$2,000, except as to
38 contributions which are made from funds distributed from a lifelong
39 learning account of the taxpayer within 60 days of the contribution,
40 provided that the distribution is not occurring within 365 days of a
41 prior distribution excluded from gross income pursuant to
42 subparagraph (b) of paragraph (2) of subsection c. of section 1 of
43 P.L. , c. (C.) (pending before the Legislature as this
44 bill); the trustee of the lifelong learning account shall be a bank or
45 other entity that demonstrates to the satisfaction of the director that
46 the lifelong learning account shall be administered in adherence to
47 the requirements of this section; an eligible taxpayer's interest in
48 the account balance is nonforfeitable; the trustee of the lifelong

1 learning account shall not invest the account's assets in life
2 insurance contracts or "collectibles," as that term is defined
3 pursuant to subsection (m) of section 408 of the federal Internal
4 Revenue Code of 1986 (26 U.S.C. s.408); lifelong learning account
5 assets shall not be commingled with other property except in a
6 common trust fund or common investment fund; and requirements
7 that the director deems to be necessary to implement P.L. ,
8 c. (C.) (pending before the Legislature as this bill), which
9 the director shall adopt by regulation in accordance with the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.).

12 "Qualified distribution" means a distribution from a lifelong
13 learning account that is used for qualified education expenses.

14 "Qualified education expense" means an amount paid by an
15 eligible taxpayer for expenses incurred and required for
16 instructional courses, training courses, and apprenticeship programs
17 for the eligible taxpayer or the eligible taxpayer's spouse. Qualified
18 education expenses shall include, but are not limited to, expenses
19 incurred and required for instructional courses, training courses, and
20 apprenticeship programs which are paid on account of books,
21 equipment, fees, information technology devices, supplies, tools,
22 and tuition. Qualified education expenses shall also include
23 expenses incurred for the attainment of "recognized postsecondary
24 credential" as defined in Section 2319 of Title 19 of the United
25 States Code (19 U.S.C. s.2319). Qualified education expense shall
26 also include payments for testing and application fees for obtaining
27 industry-recognized credentials. Qualified education expenses shall
28 not include amounts paid for any course or program taken for
29 recreational or leisure purposes.

30

31 3. a. An eligible employer taxpayer shall be allowed a credit
32 against the tax liability imposed for a taxable year pursuant to the
33 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an
34 amount equal to 25 percent of a contribution made by the eligible
35 employer taxpayer to a qualified employee's lifelong learning
36 account.

37 b. Per employee, the maximum amount of contribution that an
38 eligible employer taxpayer shall be allowed as a creditable
39 contribution per taxable year is \$2,000.

40 c. If an eligible employer taxpayer that is a small business is
41 allowed a credit pursuant to subsection a. of this section for the
42 taxable year, the eligible employer taxpayer shall be allowed an
43 additional credit amount for qualified administrative costs
44 associated with the credit allowed pursuant to subsection a. of this
45 section for the taxable year. The additional credit amount shall be
46 limited to an amount equal to 50 percent of qualified administrative
47 costs for the taxable year, but not exceeding \$500 of credit for the
48 taxable year. An eligible employer taxpayer shall only qualify for

1 an additional credit amount pursuant to this subsection for the first
2 and second taxable years for which the eligible employer taxpayer
3 is allowed a credit pursuant to subsection a. of this section.

4 d. The order in which credits allowed pursuant to this section
5 and any other credits shall be applied against the tax liability
6 imposed pursuant to the “New Jersey Gross Income Tax Act,”
7 N.J.S.54A:1-1 et seq., shall be determined by the director. If any
8 amount of credit allowed pursuant to this section remains after the
9 application of credit to tax liability imposed pursuant to the “New
10 Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., that amount
11 of unused credit shall be allowed as a deduction against gross
12 income, as determined pursuant to N.J.S.54A:5-1, for the taxable
13 year immediately following the taxable year for which the credit
14 was allowed.

15 e. An eligible employer taxpayer that is a business entity that is
16 classified as a partnership for federal income tax purposes shall not
17 be allowed a credit directly under the “New Jersey Gross Income
18 Tax Act,” N.J.S.54A:1-1 et seq., but the amount of credit of a
19 taxpayer in respect of a distributive share of partnership income,
20 shall be determined by allocating to the taxpayer that proportion of
21 the credit acquired by the partnership that is equal to the taxpayer's
22 share, whether or not distributed, of the total distributive income or
23 gain of the partnership for its taxable year ending within or with the
24 taxpayer's taxable year, except as otherwise provided by law.

25 An eligible employer taxpayer that is a New Jersey S
26 Corporation shall not be allowed a credit directly under the “New
27 Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., but the
28 amount of credit of a taxpayer in respect of a pro rata share of S
29 Corporation income, shall be determined by allocating to the
30 taxpayer that proportion of the credit acquired by the New Jersey S
31 Corporation that is equal to the taxpayer's share, whether or not
32 distributed, of the total pro rata share of S Corporation income of
33 the New Jersey S Corporation for its privilege period ending within
34 or with the taxpayer's taxable year, except as otherwise provided by
35 law.

36 f. As used in this section:

37 “Eligible employer taxpayer” means a taxpayer with one or more
38 qualified employees.

39 “Lifelong learning account” means an account created or
40 organized, for the exclusive benefit of the qualified employee, in
41 New Jersey as a lifelong learning account, which designation means
42 that the account is to be used exclusively for the purpose of making
43 qualified distributions. To qualify as a lifelong learning account the
44 account shall be administered in adherence to the following
45 requirements: all contributions shall be made in an amount of
46 money; all contributions to lifelong learning accounts of a qualified
47 employee for a taxable year shall not exceed \$2,000, except as to
48 contributions which are made from funds distributed from a lifelong

1 learning account of the qualified employee within 60 days of the
2 contribution, provided that the distribution is not occurring within
3 365 days of a prior distribution excluded from gross income
4 pursuant to subparagraph (b) of paragraph (2) of subsection c. of
5 section 1 of P.L. , c. (C.) (pending before the
6 Legislature as this bill); the trustee of the lifelong learning account
7 shall be a bank or other entity that demonstrates to the satisfaction
8 of the director that the lifelong learning account shall be
9 administered in adherence to the requirements of this section; a
10 qualified employee's interest in the account balance is
11 nonforfeitable; the trustee of the lifelong learning account shall not
12 invest the account's assets in life insurance contracts or
13 "collectibles," as that term is defined pursuant to subsection (m) of
14 section 408 of the federal Internal Revenue Code of 1986 (26
15 U.S.C. s.408); lifelong learning account assets shall not be
16 commingled with other property except in a common trust fund or
17 common investment fund; and requirements that the director deems
18 to be necessary to implement P.L. , c. (C.) (pending
19 before the Legislature as this bill), which the director shall adopt by
20 regulation in accordance with the "Administrative Procedure Act,"
21 P.L.1968, c.410 (C.52:14B-1 et seq.).

22 "Qualified distribution" means a distribution from a lifelong
23 learning account that is used for qualified education expenses.

24 "Qualified education expense" means an amount paid by an
25 eligible taxpayer for expenses incurred and required for
26 instructional courses, training courses, and apprenticeship programs
27 for the eligible taxpayer or the eligible taxpayer's spouse. Qualified
28 education expenses shall include, but are not limited to, expenses
29 incurred and required for instructional courses, training courses, and
30 apprenticeship programs which are paid on account of books,
31 equipment, fees, information technology devices, supplies, tools,
32 and tuition. Qualified education expenses shall also include
33 expenses incurred for the attainment of "recognized postsecondary
34 credential" as defined in Section 2319 of Title 19 of the United
35 States Code (19 U.S.C. s.2319). Qualified education expense shall
36 also include payments for testing and application fees for obtaining
37 industry-recognized credentials. Qualified education expenses shall
38 not include amounts paid for any course or program taken for
39 recreational or leisure purposes.

40 "Qualified employee" means an individual that as of the first day
41 of the taxable year has attained the age of 18 but not yet attained the
42 age of 71 and is the beneficiary for whom the lifelong learning
43 account has been established.

44 "Small business" means a taxpayer that for the taxable year has
45 no more than 100 employees, each of which receives no less than
46 \$5,000 of annual compensation.

1 4. a. An eligible employer taxpayer shall be allowed a credit
2 against the tax liability imposed for a privilege period pursuant to
3 section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 25
4 percent of a contribution made by the eligible employer taxpayer to
5 a lifelong learning account of a qualified employee.

6 b. Per qualified employee, the maximum amount of
7 contribution that an eligible employer taxpayer shall be allowed as a
8 creditable contribution per privilege period is \$2,000.

9 c. If an eligible employer taxpayer that is a small business is
10 allowed a credit pursuant to subsection a. of this section for the
11 privilege period, the eligible employer taxpayer shall be allowed an
12 additional credit amount for qualified administrative costs
13 associated with the credit allowed pursuant to subsection a. of this
14 section for the privilege period. The additional credit amount shall
15 be limited to an amount equal to 50 percent of qualified
16 administrative costs for the privilege period, but not exceeding \$500
17 of credit for the privilege period. An eligible employer taxpayer
18 shall only qualify for an additional credit amount pursuant to this
19 subsection for the first and second privilege periods for which the
20 eligible employer taxpayer is allowed a credit pursuant to
21 subsection a. of this section.

22 d. The order in which credits allowed pursuant to this section
23 and any other credits shall be applied against the tax liability
24 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
25 shall be determined by the director. If any amount of credit allowed
26 pursuant to this section remains after the application of credit to tax
27 liability imposed pursuant to section 5 of P.L.1945, c.162
28 (C.54:10A-5) that amount of unused credit shall be allowed as a
29 deduction against entire net income, as determined pursuant to
30 section 4 of P.L.1945, c.162 (C.54:10A-4), for the privilege period
31 immediately following the privilege period for which the credit was
32 allowed.

33 e. As used in this section:

34 “Eligible employer taxpayer” means a taxpayer with one or more
35 qualified employees.

36 “Lifelong learning account” means an account created or
37 organized, for the exclusive benefit of the qualified employee, in
38 New Jersey as a lifelong learning account, which designation means
39 that the account is to be used exclusively for the purpose of making
40 qualified distributions. To qualify as a lifelong learning account the
41 account shall be administered in adherence to the following
42 requirements: all contributions shall be made in an amount of
43 money; all contributions to lifelong learning accounts of a qualified
44 employee for a taxable year shall not exceed \$2,000, except as to
45 contributions which are made from funds distributed from a lifelong
46 learning account of the qualified employee within 60 days of the
47 contribution, provided that the distribution is not occurring within
48 365 days of a prior distribution excluded from gross income

1 pursuant to subparagraph (b) of paragraph (2) of subsection c. of
2 section 1 of P.L. , c. (C.) (pending before the
3 Legislature as this bill); the trustee of the lifelong learning account
4 shall be a bank or other entity that demonstrates to the satisfaction
5 of the director that the lifelong learning account shall be
6 administered in adherence to the requirements of this section; a
7 qualified employee's interest in the account balance is
8 nonforfeitable; the trustee of the lifelong learning account shall not
9 invest the account's assets in life insurance contracts or
10 "collectibles," as that term is defined pursuant to subsection (m) of
11 section 408 of the federal Internal Revenue Code of 1986 (26
12 U.S.C. s.408); lifelong learning account assets shall not be
13 commingled with other property except in a common trust fund or
14 common investment fund; and requirements that the director deems
15 to be necessary to implement P.L. , c. (C.) (pending
16 before the Legislature as this bill), which the director shall adopt by
17 regulation in accordance with the "Administrative Procedure Act,"
18 P.L.1968, c.410 (C.52:14B-1 et seq.).

19 "Qualified distribution" means a distribution from a lifelong
20 learning account that is used for qualified education expenses.

21 "Qualified education expense" means an amount paid by a
22 qualified employee for expenses incurred and required for
23 instructional courses, training courses, and apprenticeship programs
24 for the qualified employee or the qualified employee's spouse.
25 Qualified education expenses shall include, but are not limited to,
26 expenses incurred and required for instructional courses, training
27 courses, and apprenticeship programs which are paid on account of
28 books, equipment, fees, information technology devices, supplies,
29 tools, and tuition. Qualified education expenses shall also include
30 expenses incurred for the attainment of "recognized postsecondary
31 credential" as defined in Section 2319 of Title 19 of the United
32 States Code (19 U.S.C. s.2319). Qualified education expense shall
33 also include payments for testing and application fees for obtaining
34 industry-recognized credentials. Qualified education expenses shall
35 not include amounts paid for any course or program taken for
36 recreational or leisure purposes.

37 "Qualified employee" means an individual that as of the first day
38 of the privilege period has attained the age of 18 but not yet attained
39 the age of 71 and is the beneficiary for whom the lifelong learning
40 account has been established.

41 "Small business" means a taxpayer that for the privilege period
42 has no more than 100 employees, each of which receives no less
43 than \$5,000 of annual compensation.

44
45 5. A taxpayer shall not use a qualified distribution from a
46 lifelong learning account to pay for any qualified higher educational
47 expenses for which a qualified withdrawal has been made from an

1 account established pursuant to the “New Jersey Educational
2 Savings Trust (NJBEST) Program,” N.J.S.18A:71B-35 et seq.

3
4 6. This act shall take effect immediately and apply to privilege
5 periods and taxable years beginning on or after the January 1 next
6 following the date of enactment.

7
8
9 STATEMENT

10
11 This bill establishes certain tax exclusions and credits for the use
12 of lifelong learning accounts (account) in order to finance worker
13 training and education. Generally, the bill consists of four parts:
14 gross income tax (GIT) exclusions for account contributions and
15 account earnings; a GIT credit for personal account contributions;
16 GIT and corporation business tax (CBT) credits for employers
17 making account contributions for their employees; and
18 administrative provisions concerning the maintenance of the
19 accounts.

20 The bill allows a taxpayer to exclude from taxable gross income
21 personal or employer contributions to the taxpayer’s account of up
22 to \$2,000 per year and earnings on account balances, unless the
23 taxpayer’s gross income exceeds \$50,000 or the account balance of
24 the lifelong learning account exceeds \$10,000. The earnings on
25 these lifelong learning accounts are tax deferred as long as the
26 account balance does not exceed \$10,000. Generally, distributions
27 from an account are treated as taxable income under the GIT, except
28 in the case of certain account rollovers and account adjustments
29 made due to excess contributions.

30 The bill provides a GIT credit for a taxpayer’s own contributions
31 to the taxpayer’s account. Generally, the credit is for 50 percent of
32 a taxpayer’s first \$500 of account contributions, or \$1,000 for
33 taxpayers filing jointly, and 25 percent for the taxpayer’s account
34 contributions exceeding \$500, or \$1,000 for taxpayers filing jointly.
35 The maximum creditable contribution amount varies based on the
36 taxpayer’s filing status and annual income level. Generally,
37 individual filers are allowed a maximum creditable contribution of
38 \$2,000, which is reduced by \$1 for each \$8 earned over \$50,000.
39 Creditable contributions are not allowed for individual filers with
40 \$70,000 of annual income or more. Generally, joint filers are
41 allowed a maximum creditable contribution of \$4,000 in the case of
42 married individuals each of whom contributes to a lifelong learning
43 account, which is reduced by \$1 for each \$8 earned over \$100,000.
44 Creditable contributions are not allowed for joint filers with
45 \$140,000 of annual income or more. Maximum creditable
46 contributions are reduced by the amount of any employer-provided
47 account contributions, which are excluded from the taxpayer’s
48 taxable income by this bill. Generally, the maximum credit amount

1 is \$750 for individuals and \$1,500 for joint filers. Depending upon
2 a taxpayer's liability and order of application of other potential
3 credits, the GIT credit for taxpayer account contributions is
4 refundable. The bill grants the Director of the Division of Taxation
5 the authority to preclude rollovers between accounts from
6 qualifying for credit.

7 The bill allows GIT and CBT credits for employers making
8 account contributions for their employees in an amount equal to 25
9 percent of account contributions. Per employee per tax year, annual
10 account contributions may not exceed \$2,000.

11 Small business employers are allowed an additional credit
12 amount for 50 percent of the administrative costs associated with
13 the credit for the tax year, but not exceeding \$500 of credit for the
14 tax year. The bill defines a small business as a taxpayer with no
15 more than 100 employees, each with no less than \$5,000 of annual
16 compensation. The small business administrative cost credit is
17 allowed only for the first and second tax years for which the
18 employer is allowed the employer-provided employee account
19 contribution credit. Both the employer-provided employee account
20 contribution credit and the small business administrative cost credit
21 are nonrefundable, but the amount of an unused credit may be
22 carried forward one tax year and used as a deduction.

23 The bill establishes certain requirements for the maintenance and
24 use of the accounts. Accounts must be created or organized in New
25 Jersey and for the exclusive benefit of the account beneficiary. For
26 a tax year, total contributions, from whatever source, to lifelong
27 learning accounts of a taxpayer may not exceed \$2,000, except as to
28 account rollovers. Account trustees must be a bank or other entity
29 that demonstrates to the Director of the Division of Taxation that
30 accounts will be maintained in accordance with the bill. An
31 account beneficiary's interest in the account balance is
32 nonforfeitable. The bill prohibits a trustee from investing account
33 assets in life insurance contracts or collectibles and prohibits
34 account assets from being commingled with other property, except
35 as to common trust or investment funds. The bill gives the Director
36 of the Division of Taxation rulemaking authority with regard to
37 further account requirements.

38 Generally, the bill restricts qualified use of accounts to taxpayers
39 that are 18 to 70 years of age. Account funds are to be distributed
40 for qualified education expenses incurred by the taxpayer or the
41 taxpayer's spouse. Qualified education expenses are amounts paid
42 and required for instructional courses, training courses, and
43 apprenticeship programs, which include, but are not limited to,
44 books, equipment, fees, information technology devices, supplies,
45 tools, and tuition. Qualified education expenses shall also include
46 expenses incurred for the attainment of "recognized postsecondary
47 credential" as defined in Chapter 12 of Title 19 of the United States
48 Code Service (19 USCS § 2319). Qualified education expense shall

1 also include payments for testing and application fees for obtaining
2 industry-recognized credentials. Qualified education expenses do
3 not include amounts paid for courses or programs taken for
4 recreational or leisure purposes.

5 The bill includes a penalty for nonqualified distributions in the
6 form of additional tax liability in the amount of five percent of the
7 nonqualified distribution. The bill's nonqualified distribution
8 penalty does not apply to distributions on account of death,
9 disability, divorce, or attaining the age of 71 as of the first day of
10 the taxable year. The bill also contains exemptions from the
11 nonqualified distribution penalties for distributions that are
12 rollovers between accounts and account adjustments made due to
13 excess annual account contributions.

14 This bill prohibits a taxpayer from using a qualified distribution
15 from a lifelong learning account to pay for any qualified higher
16 educational expenses for which a qualified withdrawal has been
17 made from an account established pursuant to the "New Jersey
18 Educational Savings Trust (NJBEST) Program."