

# 54:10A-5.31

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001                    **CHAPTER:** 321

**NJSA:** 54:10A-5.31 (Corporation business tax credit)

**BILL NO:** A2380 (Substituted for S1209)

**SPONSOR(S):** Bagger and Suliga

**DATE INTRODUCED:** May 8, 2000

**COMMITTEE:**                    **ASSEMBLY:** Solid and Hazardous Waste; Appropriations

**SENATE:** Budget

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                    **ASSEMBLY:** October 30, 2000

**SENATE:** December 6, 2001

**DATE OF APPROVAL:** January 4, 2002

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (2nd reprint enacted)

(Amendments during passage denoted by superscript numbers)

**A2380**

	<b>SPONSORS STATEMENT:</b> (Begins on page 3 of original bill)	Yes
Waste)	<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b> Yes 6-8-2000(Solid
		9-21-2000(Appopr.)
	<b>SENATE:</b>	Yes
	<b>FLOOR AMENDMENT STATEMENTS:</b>	No
	<b>LEGISLATIVE FISCAL NOTES:</b>	Yes 7-10-2000
		1-10-2002

**S1209**

**SPONSORS STATEMENT:** (Begins on page 3 of original bill) Yes

Bill and Sponsors Statement identical to A2380

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

Growth.)

**SENATE:** Yes 5-22-2000(Ec.

2-26-2001(Budget)

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL NOTES:** Yes 7-10-2000

1-10-2002

Identical to Fiscal Notes to A2380

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

# ASSEMBLY, No. 2380

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 8, 2000

**Sponsored by:**

**Assemblyman RICHARD H. BAGGER**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Assemblyman JOSEPH SULIGA**

**District 20 (Union)**

**Co-Sponsored by:**

**Assemblyman LeFevre**

**SYNOPSIS**

Provides franchise tax credit for purchase of certain effluent treatment equipment used to treat effluent for reuse in an industrial process.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/30/2000)**

A2380 BAGGER, SULIGA

2

1 AN ACT concerning the reuse of treated effluent in industrial facilities,  
2 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).

3

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

6

7 1. a. A taxpayer who purchases treatment equipment certified by  
8 the Commissioner of the Department of Environmental Protection  
9 pursuant to subsection b. of this section, to be used exclusively within  
10 this State, shall be entitled to a credit as provided herein against the  
11 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
12 an amount equal to 50% of the cost of the treatment equipment less  
13 the amount of any loan received pursuant to section 5 of P.L.1981,  
14 c.278 (C.13:1E-96). The tax imposed pursuant to section 5 of  
15 P.L.1945, c.162 (C.54:10A-5) shall first be reduced by the amount of  
16 any credit allowable pursuant to section 19 of P.L.1983, c.303  
17 (C.52:27H-78) prior to applying the credit allowed pursuant to this  
18 section. The amount of the credit claimed in the tax year for which  
19 certification of treatment equipment is received, and the amount of  
20 credit claimed therefor in each tax year thereafter, shall not exceed  
21 20% of the amount of the total credit allowable, shall not exceed 50%  
22 of the tax liability which would be otherwise due, and shall not reduce  
23 the amount of tax liability to less than the statutory minimum provided  
24 in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). For  
25 the purposes of this section, "treatment equipment" means any  
26 equipment that is used to take effluent from a wastewater treatment  
27 system about to be discharged into the waters of the State for  
28 purposes of further treatment and reuse in an industrial process  
29 thereafter.

30 b. In order to qualify for the tax credit pursuant to subsection a. of  
31 this section, the taxpayer shall apply for a certification from the  
32 Commissioner of the Department of Environmental Protection that  
33 certifies that the equipment purchased qualifies as treatment equipment  
34 as defined in subsection a. of this section. The certification shall  
35 specifically indicate the date of purchase, a description of the  
36 equipment, and the cost, and state that the equipment has not  
37 previously qualified for a credit pursuant to this section either for the  
38 owner or for a previous owner.

39 Upon certification, the Commissioner of the Department of  
40 Environmental Protection shall submit a copy thereof to the taxpayer  
41 and the Director of the Division of Taxation. When filing a tax return  
42 that includes a claim for a credit pursuant to this section, the taxpayer  
43 shall include a copy of the certification and a statement that the  
44 treatment equipment is in use in the applicable tax year and is used  
45 exclusively in New Jersey. Any credit shall be valid in the tax year in  
46 which the certification is approved and any unused portion thereof may

1 be carried forward into subsequent years as provided in subsection a.  
2 of this section.

3 The Commissioner of the Department of Environmental Protection,  
4 in consultation with the Director of the Division of Taxation, shall  
5 adopt rules and regulations establishing technical specifications and  
6 certification requirements for the qualification of treatment equipment  
7 for the credit established pursuant to this section.

8 c. On or before January 31 of each year, the Commissioner of the  
9 Department of Environmental Protection shall submit a report to the  
10 Governor, the State Treasurer, and the Legislature setting forth the  
11 number of certifications that were approved during the preceding  
12 calendar year and the cost of each type of treatment equipment which  
13 has been certified as qualifying for the credit.

14

15 2. This act shall take effect immediately.

16

17

18

#### STATEMENT

19

20 This bill would establish a credit against the corporation franchise  
21 tax (P.L.1945, c.162 C.54:10A-1 et seq.) for the purchase of so-called  
22 "treatment equipment" for use exclusively in New Jersey.

23 Specifically, the bill would provide an investment tax credit of 20%  
24 against the franchise tax for the purchase of treatment equipment that  
25 is used exclusively for the treatment of effluent from a wastewater  
26 treatment system.

27 Treatment equipment refers to equipment that is used to take  
28 effluent from a wastewater treatment system about to be discharged  
29 into a waterway for purposes of additional treatment and subsequent  
30 reuse in an industrial process.

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2380**

**STATE OF NEW JERSEY**

DATED: JUNE 8, 2000

The Assembly Solid and Hazardous Waste Committee reports favorably Assembly Bill No. 2380.

This bill would establish a credit against the corporation franchise tax (P.L.1945, c.162 C.54:10A-1 et seq.) for the purchase of so-called "treatment equipment" for use exclusively in New Jersey.

Specifically, the bill would provide an investment tax credit of 20% against the franchise tax for the purchase of treatment equipment that is used exclusively for the treatment of effluent from a wastewater treatment system.

Treatment equipment refers to equipment that is used to take effluent from a wastewater treatment system about to be discharged into a waterway for purposes of additional treatment and subsequent reuse in an industrial process.

**FISCAL NOTE**  
**ASSEMBLY, No. 2380**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: JULY 10, 2000

**SUMMARY**

**Synopsis:** Provides franchise tax credit for purchase of certain effluent treatment equipment used to treat effluent for reuse in an industrial process.

**Type of Impact:** Reduction in State Corporation Business Tax revenues.

**Agencies Affected:** No specific agencies.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Undetermined revenue loss.		

- ! The Office of Legislative Services (OLS) concurs with Executive Branch statements.
- ! Undetermined revenue loss will be **continuous**.
- ! The bill provides a credit to taxpayers against the Corporation Business Tax (CBT) for the purchase of equipment that further treats wastewater effluent so it can be reused in other industrial processes instead of being discharged into waterways.
- ! Corporation business, or franchise, taxes are imposed on domestic and foreign corporations for the privilege of existing or doing business as a corporation under New Jersey law.
- ! Notwithstanding minimum tax rates, the general CBT rate is 9 percent on entire net income, or the portion of net income allocated to New Jersey. Revenues collected from businesses are deposited in the State Treasury and used for State, county and municipal support.

**BILL DESCRIPTION**

Assembly Bill No. 2380 of 2000 establishes a credit against the Corporation Business Tax (CBT) for taxpayers who purchase certain treatment equipment designed to take effluent from a wastewater treatment system for purposes of additional treatment and subsequent reuse in an industrial process. Such equipment must first be certified by the Department of Environmental Protection, be used exclusively in New Jersey facilities, and treat effluents that would otherwise be discharged into state waterways from wastewater treatment systems.

The bill provides a credit against the CBT equal to 50 percent of the cost of treatment equipment, less other liabilities and applicable tax credits, and may not exceed 20 percent of the

amount of the total credit allowable in any one tax year.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Taxation certifies that the bill's enactment will result in a loss of CBT revenues to the State Treasury, and that the loss will be continuous. It cannot, however, provide an estimate of such losses due to the absence of relevant data. The Division also states that any additional administrative costs resulting from the bill will be absorbed into its annual operating budget.

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

The Office of Legislative Services (OLS) concurs with the Division of Taxation's statements and notes that costs incurred by the DEP under the bill, if any, would probably be minimal and therefore absorbed into its annual operating budget.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2380**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 21, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2380 with committee amendments.

Assembly Bill No. 2380, as amended, allows a credit against the corporation business tax (P.L.1945, c.162 C.54:10A-1 et seq.) for the purchase of "treatment equipment" for use exclusively in New Jersey.

The bill allows a credit for taxpayers who purchase certain treatment equipment designed to take effluent from a wastewater treatment system for purposes of additional treatment and subsequent reuse in an industrial process. Such equipment must first be certified by the Department of Environmental Protection, be used exclusively in New Jersey facilities, and treat effluents that would otherwise be discharged into state waterways from wastewater treatment systems.

The bill provides a credit against the corporation business tax equal to 50 percent of the cost of treatment equipment, less other liabilities and applicable tax credits, and may not exceed 20 percent of the amount of the total credit allowable in any one tax year or, together with other credits, reduce the liability below 50% of the amount otherwise due.

#### FISCAL IMPACT:

The Division of Taxation has noted that the bill will result in a loss of corporation business tax revenue, and that the loss will be continuous, but that an estimate of such losses cannot be made due to the absence of relevant data.

#### COMMITTEE AMENDMENTS:

In addition to making a number of technical changes to legal references, the amendments clarify that an unused credit may be carried forward to offset liability in future privilege periods, give the Director of the Division of Taxation clear authority to determine the priority of credit application under the several credits that may be available to the taxpayer, clarify that a purchase cost used for a credit under the bill cannot be used as a cost for the several other credits available against the corporation business tax, and clarify that the credit is available for purchases made in the year in which the bill is enacted, even if the purchase was made before enactment of the bill.

[First Reprint]

**ASSEMBLY, No. 2380**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

INTRODUCED MAY 8, 2000

**Sponsored by:**

**Assemblyman RICHARD H. BAGGER**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Assemblyman JOSEPH SULIGA**

**District 20 (Union)**

**Co-Sponsored by:**

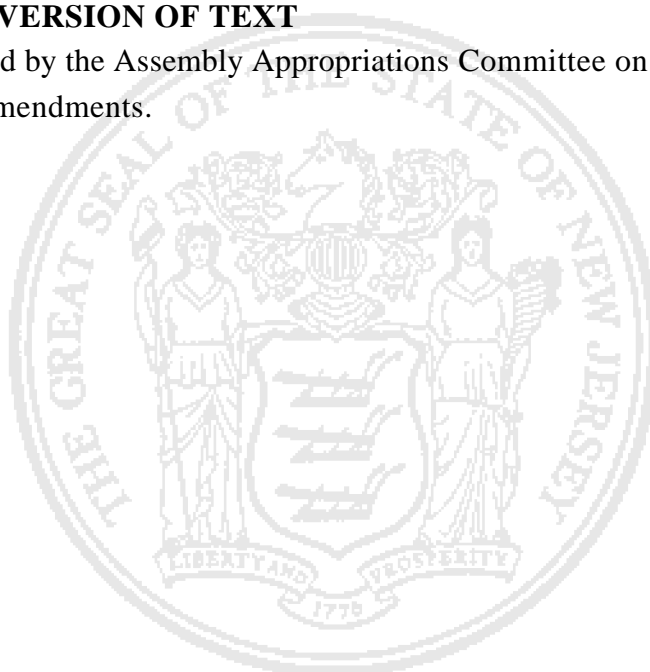
**Assemblyman LeFevre**

**SYNOPSIS**

Provides corporation business tax credit for purchase of certain effluent treatment equipment used to treat effluent for reuse in an industrial process.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on September 21, 2000, with amendments.



**(Sponsorship Updated As Of: 6/30/2000)**

1 AN ACT concerning the reuse of treated effluent in industrial facilities,  
2 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. A taxpayer who purchases treatment equipment certified by  
8 the Commissioner of the Department of Environmental Protection  
9 pursuant to subsection b. of this section, to be used exclusively within  
10 this State, shall be <sup>1</sup>[entitled to]allowed<sup>1</sup> a credit as provided herein  
11 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
12 (C.54:10A-5) in an amount equal to 50% of the cost of the treatment  
13 equipment <sup>1</sup>purchased in the privilege period<sup>1</sup> less the amount of any  
14 loan received pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96)  
15 <sup>1</sup>and excluding the amount of any sales and use tax paid pursuant to  
16 P.L.1966, c.30 (C.54:32B-1 et seq.)<sup>1</sup> . <sup>1</sup>[The tax imposed pursuant  
17 to section 5 of P.L.1945, c.162 (C.54:10A-5) shall first be reduced by  
18 the amount of any credit allowable pursuant to section 19 of P.L.1983,  
19 c.303 (C.52:27H-78) prior to applying the credit allowed pursuant to  
20 this section.]<sup>1</sup> The amount of the credit claimed in the <sup>1</sup>[tax year]  
21 privilege period<sup>1</sup> for which certification of treatment equipment is  
22 received, and the amount of credit claimed therefor in each <sup>1</sup>[tax year]  
23 privilege period<sup>1</sup> thereafter, shall not exceed 20% of the amount of  
24 the total credit allowable, shall not <sup>1</sup>together with any other credits  
25 allowed by law,<sup>1</sup> exceed 50% of the tax liability which would be  
26 otherwise due, and shall not reduce the amount of tax liability to less  
27 than the statutory minimum provided in subsection (e) of section 5 of  
28 P.L.1945, c.162 (C.54:10A-5). <sup>1</sup>An unused credit may be carried  
29 forward, if necessary, for use in future privilege periods. The order of  
30 priority of the credit allowed under this section and any other credits  
31 allowed by law shall be as prescribed by the director.<sup>1</sup> For the  
32 purposes of this section, "treatment equipment" means any equipment  
33 that is used to take effluent from a wastewater treatment system about  
34 to be discharged into the waters of the State for purposes of further  
35 treatment and reuse in an industrial process thereafter.

36 b. In order to qualify for the tax credit pursuant to subsection a. of  
37 this section, the taxpayer shall apply for a certification from the  
38 Commissioner of the Department of Environmental Protection that  
39 certifies that the equipment purchased qualifies as treatment equipment  
40 as defined in subsection a. of this section. The certification shall  
41 specifically indicate the date of purchase, a description of the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AAP committee amendments adopted September 21, 2000.

1 equipment, and the cost, and state that the equipment has not  
2 previously qualified for a credit pursuant to this section either for the  
3 owner or for a previous owner.

4 Upon certification, the Commissioner of the Department of  
5 Environmental Protection shall submit a copy thereof to the taxpayer  
6 and the Director of the Division of Taxation. When filing a tax return  
7 that includes a claim for a credit pursuant to this section, the taxpayer  
8 shall include a copy of the certification and a statement that the  
9 treatment equipment is in use in the applicable <sup>1</sup>[tax year] privilege  
10 period<sup>1</sup> and is used exclusively in New Jersey. Any credit shall be  
11 <sup>1</sup>[valid in]allowed for<sup>1</sup> the <sup>1</sup>[tax year] privilege period<sup>1</sup> in which the  
12 certification is approved and any unused portion thereof may be  
13 carried forward into subsequent <sup>1</sup>[years] privilege periods<sup>1</sup> as  
14 provided in subsection a. of this section.

15 The Commissioner of the Department of Environmental Protection,  
16 in consultation with the Director of the Division of Taxation, shall  
17 adopt rules and regulations establishing technical specifications and  
18 certification requirements for the qualification of treatment equipment  
19 for the credit established pursuant to this section.

20 c. <sup>1</sup>No amount of cost included in calculation of the credit allowed  
21 under this section shall be included in the costs for calculation of any  
22 other credit against the tax imposed pursuant to section 5 of P.L.1945,  
23 c.162 (C.54:10A-5).

24 d.<sup>1</sup> On or before January 31 of each year, the Commissioner of the  
25 Department of Environmental Protection shall submit a report to the  
26 Governor, the State Treasurer, and the Legislature setting forth the  
27 number of certifications that were approved during the preceding  
28 calendar year and the cost of each type of treatment equipment which  
29 has been certified as qualifying for the credit.

30

31 2. This act shall take effect immediately and apply to purchases made  
32 in privilege periods ending after enactment <sup>1</sup>.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 2380**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 26, 2001

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2380 (1R).

This bill allows a credit against the corporation business tax (CBT) for the purchase of certain equipment for use in the treatment of wastewater exclusively within New Jersey.

The bill provides an incentive for the establishment of facilities that take wastewater effluent, already subjected to primary treatment sufficient to permit its discharge into the waters of the State, and re-treat the effluent to improve the quality still further to enable its reuse in power generation and other industrial processes. The bill would apply, not only to the re-treatment equipment itself, but also to the equipment (generally, pipe conduits) used to transport the re-treated water to and from the facility.

The bill requires a taxpayer wishing to claim the credit to obtain a determination from the Department of Environmental Protection (DEP) that the operation of the equipment in question, along with the reuse or proposed reuse of the re-treated effluent, would benefit the environment. To obtain such a determination, the taxpayer would have to file with the department an application that includes the following information:

- < the date or anticipated date of purchase of the equipment,
- < a description of the equipment,
- < the cost of the equipment,
- < the name of any primary wastewater treatment facility from which effluent is or will be received for further treatment,
- < the name of each facility to which the re-treated effluent is or will be conveyed for reuse,
- < the nature of the reuse,
- < the place at which the re-treated effluent is or will be discharged either before or after reuse,
- < the volume of re-treated wastewater that is or will be reused, and

< the portion of that volume to be consumed in the reuse and the portion that is to be discharged after the reuse.

The application would also include the taxpayer's explanation of how the operation of the system is or will be beneficial to the environment and the taxpayer's affidavit that the equipment has not previously qualified for a credit under the legislation.

The amount of the CBT credit allowed under the bill would be 50% of the cost of the equipment, net of the amount of any loan from the State Recycling Fund and exclusive of State sales tax. The amount of the credit taken in any one tax year could not exceed 20% of the amount of the total credit allowable or, together with other credits, reduce the taxpayer's liability below 50% of the amount of tax otherwise due.

The provisions of this bill, as amended, are identical to those of Senate Bill No. 1209 Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill (1) extend coverage of the credit to purchases of equipment used to convey wastewater to and from the re-treatment facility, (2) condition allowance of the credit on the DEP's determination of environmental benefit and provide for the procedures and standards to be used, respectively, in seeking and making that determination, (3) allow the DEP, for the initial guidance of taxpayers considering investment in re-treatment equipment, to adopt temporary regulations implementing the department's responsibilities under the legislation, including that of determining environmental benefit, (4) allow corporate owners of an unincorporated subsidiary, the profits of which are subject to CBT only at the ownership level, to receive passed-through credit for the subsidiary's purchase of equipment and to apply that credit against their own liability for the tax, (5) clarify that the credit shall be available only for purchases made in the tax years following the bill's enactment, and (6) make various administrative revisions and technical corrections.

#### FISCAL IMPACT

The Division of Taxation has stated that the bill will result in a loss of corporation business tax revenue, and that the loss will be continuous, but that an estimate of such losses cannot be made due to the absence of relevant data.

A survey by a trade association for New Jersey's independent power producers indicates that four potential operators are considering the establishment of re-treatment facilities, with treatment equipment costs estimated at roughly \$5 million each at three of those plants and \$4 million at the fourth, for a total of \$19 million. If all four plants were constructed, and credit were allowed for those equipment costs in a single tax year at the bill's rate of 50%, the State's loss of CBT revenue would amount to \$9.5 million spread over at least five years, or up to \$1.9 million per year. It should be noted that this

estimate does not include the cost that will likely result, under the committee amendments, from extending the scope of the credit to purchases of wastewater conveyance equipment.

[Second Reprint]

**ASSEMBLY, No. 2380**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

INTRODUCED MAY 8, 2000

**Sponsored by:**

**Assemblyman RICHARD H. BAGGER**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Assemblyman JOSEPH SULIGA**

**District 20 (Union)**

**Co-Sponsored by:**

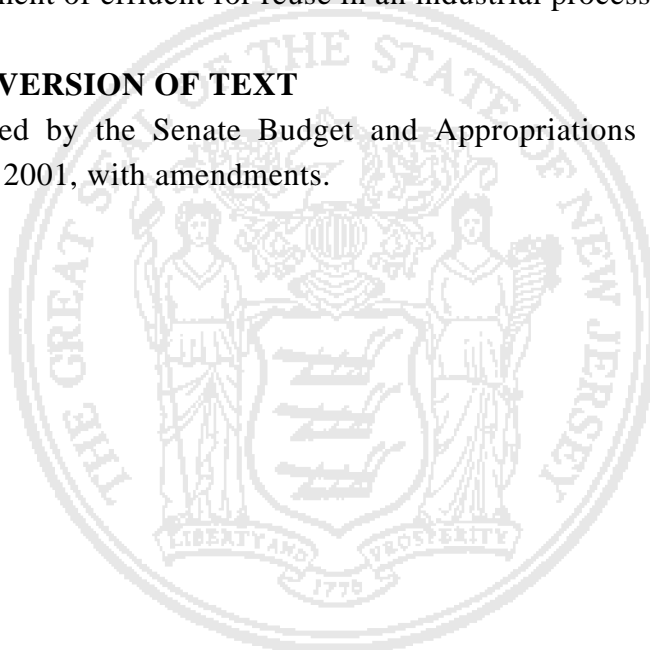
**Assemblyman LeFevre, Senators Singer, Kenny, Ciesla and Allen**

**SYNOPSIS**

Provides corporation business tax credit for purchase of certain equipment used in treatment of effluent for reuse in an industrial process.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on February 26, 2001, with amendments.



**(Sponsorship Updated As Of: 12/7/2001)**



A2380 [2R] BAGGER, SULIGA

2

1 AN ACT concerning the reuse of treated effluent in industrial facilities,  
2 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. a. <sup>2</sup>(1)<sup>2</sup> A taxpayer who <sup>2</sup>in a privilege period<sup>2</sup> purchases  
8 treatment equipment <sup>2</sup>[certified by the Commissioner of the  
9 Department of Environmental Protection pursuant to subsection b. of  
10 this section, to be used] or conveyance equipment for use<sup>2</sup> exclusively  
11 within this State, shall be <sup>1</sup>[entitled to] allowed<sup>1</sup> a credit as provided  
12 herein against the tax imposed <sup>2</sup>for that privilege period<sup>2</sup> pursuant to  
13 section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 50%  
14 of the cost of the treatment equipment <sup>2</sup>[<sup>1</sup>purchased in the privilege  
15 period<sup>1</sup>] or conveyance equipment<sup>2</sup> less the amount of any loan  
16 received pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96) <sup>1</sup>and  
17 excluding the amount of any sales and use tax paid pursuant to  
18 P.L.1966, c.30 (C.54:32B-1 et seq.)<sup>1 2</sup>, provided that the  
19 Commissioner of the Department of Environmental Protection has  
20 issued a determination under subsection b. of this section that the  
21 operation of the system of equipment and the reuse of wastewater  
22 effluent that results therefrom are or will be beneficial to the  
23 environment<sup>2</sup>. <sup>1</sup>[The tax imposed pursuant to section 5 of P.L.1945,  
24 c.162 (C.54:10A-5) shall first be reduced by the amount of any credit  
25 allowable pursuant to section 19 of P.L.1983, c.303 (C.52:27H-78)  
26 prior to applying the credit allowed pursuant to this section.]<sup>1</sup> The  
27 amount of the credit claimed <sup>2</sup>[in] for<sup>2</sup> the <sup>1</sup>[tax year] privilege  
28 period<sup>1 2</sup>[for] in<sup>2</sup> which <sup>2</sup>[certification] the purchase<sup>2</sup> of treatment  
29 equipment <sup>2</sup>or conveyance equipment<sup>2</sup> is <sup>2</sup>[received] made<sup>2</sup>, and the  
30 amount of credit claimed therefor in each <sup>1</sup>[tax year] privilege period<sup>1</sup>  
31 thereafter, shall not exceed 20% of the amount of the total credit  
32 allowable, shall not <sup>1</sup>, together with any other credits allowed by law,<sup>1</sup>  
33 exceed 50% of the tax liability which would be otherwise due, and  
34 shall not reduce the amount of tax liability to less than the statutory  
35 minimum provided in subsection (e) of section 5 of P.L.1945, c.162  
36 (C.54:10A-5). <sup>1</sup>An unused credit <sup>2</sup>amount<sup>2</sup> may be carried forward,  
37 if necessary, for use in future privilege periods. <sup>2</sup>[The]  
38 Notwithstanding any other provision of law, the<sup>2</sup> order of priority  
39 <sup>2</sup>[of] in which<sup>2</sup> the credit allowed under this section and any other  
40 credits allowed by law <sup>2</sup>may be taken<sup>2</sup> shall be as prescribed by the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AAP committee amendments adopted September 21, 2000.

<sup>2</sup> Senate SBA committee amendments adopted February 26, 2001.

1 director.<sup>1</sup>

2 <sup>2</sup>A taxpayer who, in a privilege period, purchased treatment  
3 equipment or conveyance equipment, but who did not receive approval  
4 of an application for determination pursuant to subsection b. of this  
5 section before filing a return for that privilege period, may, in  
6 accordance with the provisions of the State Tax Uniform Procedure  
7 Law, R.S.54:48-1 et seq., and subject to the provisions of this section,  
8 file with the director a claim for the credit for that privilege period and  
9 any subsequent privilege period, as appropriate.<sup>2</sup>

10 For the purposes of this section, "treatment equipment" means any  
11 equipment that is used <sup>2</sup>exclusively<sup>2</sup> to <sup>2</sup>[take] treat<sup>2</sup> effluent from a  
12 <sup>2</sup>primary<sup>2</sup> wastewater treatment <sup>2</sup>[system about to be] facility, which  
13 effluent would otherwise have been<sup>2</sup> discharged into the waters of the  
14 State<sup>2</sup>,<sup>2</sup> for purposes of <sup>2</sup>[further treatment and]<sup>2</sup> reuse in an  
15 industrial process thereafter<sup>2</sup>, and "conveyance equipment" means any  
16 equipment that is used exclusively to transport that effluent to the  
17 facility in which the treatment equipment has been or is to be installed  
18 and to transport the product of that further treatment to the site of that  
19 reuse<sup>2</sup>.

20 <sup>2</sup>(2) If a person who purchases treatment equipment or conveyance  
21 equipment for which the Commissioner of the Department of  
22 Environmental Protection has issued a determination of  
23 environmentally beneficial operation pursuant to subsection b. of this  
24 section is a partnership, limited liability company, or other person  
25 classified as a partnership for federal tax purposes and not subject to  
26 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-  
27 5), a portion of the amount of the credit otherwise allowed to the  
28 purchaser pursuant to paragraph (1) of this subsection shall be allowed  
29 to each owner of that purchaser that is subject to the tax in proportion  
30 to the owner's share of the income of the purchaser. The purchaser  
31 shall be treated as the taxpayer for the purpose of administering the  
32 provisions of this section.<sup>2</sup>

33 b. In order to qualify for the tax credit pursuant to subsection a. of  
34 this section, the taxpayer shall apply for a <sup>2</sup>[certification]  
35 determination<sup>2</sup> from the Commissioner of the Department of  
36 Environmental Protection that <sup>2</sup>[certifies that]<sup>2</sup> the equipment  
37 <sup>2</sup>[purchased] with respect to which the credit is sought (1)<sup>2</sup> qualifies  
38 as treatment equipment <sup>2</sup>or conveyance equipment<sup>2</sup> as defined in  
39 subsection a. of this section <sup>2</sup>, and (2) is or will be in its operation,  
40 considered in conjunction with the reuse of the further treated  
41 wastewater effluent that results from that operation, beneficial to the  
42 environment<sup>2</sup>. The <sup>2</sup>[certification] application shall be submitted in  
43 writing in a form as the commissioner shall prescribe and<sup>2</sup> shall  
44 specifically <sup>2</sup>[indicate] include:<sup>2</sup> the date <sup>2</sup>or anticipated date<sup>2</sup> of  
45 purchase <sup>2</sup>of the equipment<sup>2</sup>, a <sup>2</sup>physical and functional<sup>2</sup> description

1 of the equipment,<sup>2</sup>[and]<sup>2</sup> the cost, <sup>2</sup>the name and address or location  
 2 of each primary wastewater treatment facility from which effluent is or  
 3 is to be received for further treatment, the name and address or  
 4 location of each facility to which the effluent is or is to be conveyed  
 5 after the further treatment for reuse, the nature of the reuse, the  
 6 location of any site at which the wastewater that has been or is to be  
 7 further treated is being or is to be discharged either prior to or after  
 8 reuse, the volume of such wastewater that is or is to be reused, the  
 9 portion of that volume that is or is to be consumed in that reuse and  
 10 the portion thereof that is or is to be discharged thereafter.<sup>2</sup> and  
 11 <sup>2</sup>[state] the taxpayer's explanation of how the operation of the system  
 12 and the reuse of the wastewater effluent that has been further treated  
 13 are or will be beneficial to the environment. The application shall also  
 14 include the taxpayer's affidavit<sup>2</sup> that <sup>2</sup>, to the best of the taxpayer's  
 15 knowledge,<sup>2</sup> the equipment has not previously qualified for a credit  
 16 pursuant to this section either for the <sup>2</sup>taxpayer or other<sup>2</sup> owner or for  
 17 a previous owner.

18 Upon <sup>2</sup>[certification] approval of the application<sup>2</sup>, the  
 19 Commissioner of the Department of Environmental Protection shall  
 20 submit a copy <sup>2</sup>[thereof] of the determination of equipment  
 21 qualification and environmentally beneficial operation<sup>2</sup> to the taxpayer  
 22 and the Director of the Division of Taxation. When filing a tax return  
 23 that includes a claim for a credit pursuant to this section, the taxpayer  
 24 shall include a copy of the <sup>2</sup>[certification] determination<sup>2</sup> and <sup>2</sup>[a  
 25 statement] the taxpayer's affidavit<sup>2</sup> that the treatment equipment <sup>2</sup>[is  
 26 in use in the applicable <sup>1</sup>[tax year] privilege period<sup>1</sup> and] or  
 27 conveyance equipment<sup>2</sup> is <sup>2</sup>or will be<sup>2</sup> used exclusively in New Jersey.  
 28 Any credit shall be <sup>1</sup>[valid in] <sup>2</sup>initially<sup>2</sup> allowed for<sup>1</sup> the <sup>1</sup>[tax year]  
 29 privilege period<sup>1</sup> in which the [<sup>2</sup>certification] equipment is <sup>2</sup>  
 30 <sup>2</sup>[approved] purchased,<sup>2</sup> and any unused portion thereof may be  
 31 carried forward into subsequent <sup>1</sup>[years] privilege periods <sup>1</sup>as  
 32 provided in subsection a. of this section.

33 The Commissioner of the Department of Environmental Protection,  
 34 in consultation with the Director of the Division of Taxation, shall  
 35 adopt rules and regulations establishing technical <sup>2</sup>[specifications]<sup>2</sup>  
 36 and <sup>2</sup>[certification] administrative<sup>2</sup> requirements for the qualification  
 37 of treatment equipment <sup>2</sup>and conveyance equipment, and for the  
 38 determination that the operation of a system of such equipment and the  
 39 reuse of wastewater effluent that has been treated thereby are  
 40 beneficial to the environment, for the purpose of establishing a  
 41 taxpayer's eligibility<sup>2</sup> for <sup>2</sup>[the] a<sup>2</sup> credit <sup>2</sup>[established]<sup>2</sup> pursuant to  
 42 this section. <sup>1</sup>In the development and adoption of the rules and  
 43 regulations prescribed under this act and of any procedure for making  
 44 application for a credit under subsection a. of this section, the  
 45 commissioner, in consultation with the director, shall to the greatest

1 extent possible ensure that they are consolidated or consistent with any  
2 corresponding rules, regulations, and procedures established under  
3 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
4 Senate Bill No. 1210 (1R) and Assembly Bill No. 2695 of 2000) and  
5 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
6 Senate Bill No. 1234 (2R) and Assembly Bill No. 2381 (2R) of  
7 2000).<sup>1</sup>

8 c. <sup>1</sup>No amount of cost included in calculation of the credit allowed  
9 under this section shall be included in the costs for calculation of any  
10 other credit against the tax imposed pursuant to section 5 of P.L.1945,  
11 c.162 (C.54:10A-5).

12 d.<sup>1</sup> On or before January 31 of each year, the Commissioner of the  
13 Department of Environmental Protection shall submit a report to the  
14 Governor, the State Treasurer, and the Legislature setting forth the  
15 number of <sup>2</sup>[certifications] taxpayer applications under subsection b.  
16 of this section<sup>2</sup> that were approved during the preceding calendar year  
17 and the cost of each type of <sup>2</sup>[treatment]<sup>2</sup> equipment which has been  
18 <sup>2</sup>[certified as qualifying] determined to qualify<sup>2</sup> for the credit.

19  
20 <sup>2</sup>2. Notwithstanding the provisions of P.L.1968, c.410 (C.52:14B-  
21 1 et seq.) to the contrary, the Commissioner of the Department of  
22 Environmental Protection may, immediately upon filing with the Office  
23 of Administrative Law, adopt such temporary regulations as the  
24 commissioner deems necessary to implement the provisions of section  
25 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
26 this bill), which regulations shall be effective for a period not to  
27 exceed 270 days from the date of the filing, but in no case after one  
28 year from the effective date of that P.L. \_\_\_\_\_, c. \_\_\_\_\_. The regulations  
29 may thereafter be amended, adopted or readopted by the commissioner  
30 as the commissioner deems necessary in accordance with the  
31 requirements of P.L.1968, c.410.<sup>2</sup>

32  
33 <sup>2</sup>[2.] 3.<sup>2</sup> This act shall take effect immediately <sup>1</sup>and apply to  
34 purchases made in privilege periods <sup>2</sup>[ending after] beginning on or  
35 after July 1 next following<sup>2</sup> enactment<sup>1</sup>.

**FISCAL NOTE**  
[Second Reprint]  
**ASSEMBLY, No. 2380**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: JANUARY 10, 2002

**SUMMARY**

**Synopsis:** Provides franchise tax credit for purchase of certain effluent treatment equipment used to treat effluent for reuse in an industrial process.

**Type of Impact:** Reduction in State Corporation Business Tax revenues.

**Agencies Affected:** Department of the Treasury

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$57,000,000	\$9,000,000	\$9,000,000

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$1,600,000 to \$2,000,000	\$1,600,000 to \$2,000,000	\$1,600,000 to \$2,000,000

- ! The Office of Legislative Services (OLS) **does not concur** with the Executive estimates because of questions regarding cost development methodology and tax credit allocation.
- ! The Office of Legislative Services estimates that the bill, assuming four facilities simultaneously qualify for the tax credit, could decrease CBT revenues by \$1.6 million to \$2.0 million annually over a minimum of five years.
- ! The bill provides a 50 percent credit to taxpayers against the Corporation Business Tax (CBT) for the purchase of equipment that conveys and further treats wastewater effluent so it can be reused in other industrial processes instead of being discharged into waterways.
- ! Corporation business, or franchise, taxes are imposed on domestic and foreign corporations for the privilege of existing or doing business as a corporation under New Jersey law. Revenues collected from businesses are deposited in the State Treasury and used for State, county and municipal support.

## **BILL DESCRIPTION**

Assembly Bill No. 2380 (2R) of 2000 establishes a credit against the Corporation Business Tax (CBT) for taxpayers who purchase certain treatment equipment designed to take effluent from a wastewater treatment system for purposes of additional treatment and subsequent reuse in an industrial process. The use and environmental benefits of such equipment must first be certified by the Department of Environmental Protection (DEP), and such equipment must be used exclusively in New Jersey facilities and treat effluents that would otherwise be discharged into state waterways from wastewater treatment systems.

The bill provides a credit against the CBT equal to 50 percent of the cost of treatment equipment, less other liabilities and applicable tax credits, and may not exceed 20 percent of the amount of the total credit allowable in any one tax year. The annual credit also cannot reduce the taxpayer's liability below 50 percent of the amount of CBT tax otherwise due. Eligible treatment equipment does not include installation costs but may include equipment used to convey wastewater to and from the re-treatment facility.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Taxation estimates that the loss of State revenue generated from the Corporation Business Tax (CBT) would approximate \$57 million in FY 2003 and \$9 million per year thereafter. These estimates were based on information provided by the DEP, using a methodology that calculated the cost of equipment based on the volume of effluent treated daily. Thus, the Division estimated the cost of equipment necessary to re-treat 3 million gallons of effluent per day at approximately \$18 million. The Division then utilized a scenario in which four different companies purchased sufficient effluent re-treatment equipment during the first year after enactment to handle a combined total of 19 million gallons of effluent per day.

The Division's estimate of \$57 million in credits was calculated by applying the "\$18 million for equipment per 3 million gallon" ratio to the purchase of equipment needed to process 19 million gallons of effluent per day. Under the bill, half of the resulting total amount, or \$57 million, would represent the total combined credit due the four companies. The \$9 million estimate in FY 2004 (and thereafter) is also based on this methodology and on the assumption that one new company annually would enter this endeavor and purchase \$18 million in re-treatment equipment.

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

The Office of Legislative Services (OLS) does not concur with the Division of Taxation's estimates for two primary reasons. First, the full credit of the estimates should not have been calculated and displayed as one-year totals. Rather, according to the bill, tax credit awarded in any one year cannot equal more than 20 percent of the total approved credit, thereby necessitating a minimum five-year credit period. If so presented by the Division, the first year estimate of \$57 million would instead be \$11.4 million for five years, and the \$9 million estimates would also be distributed and displayed accordingly.

Second, the methodology used by the Division does not necessarily reflect the realistic costs

of the equipment envisioned under the bill. While the methodology, referred to as the "First Approximation Cost Technique," may utilize standardized statistical parameters and effluent capacities to calculate effluent re-treatment equipment costs, the OLS believes that an estimate of the actual costs and capacity needs of such equipment in the State of New Jersey would be more relevant to the fiscal impact of this bill. In preparing such an estimate, the OLS reviewed information from a New Jersey trade organization representing independent energy producers and developers who would most likely represent the candidates for tax credits under the bill.

This organization surveyed potential tax credit participants, who estimated re-treatment equipment costs at approximately \$4 million to \$5 million per facility (not including installation) to re-treat 3-5 million gallons of effluent daily. Using the "four facility" scenario presented by the Division of Taxation, the OLS estimates that the total cost of equipment purchased for these facilities would be \$16 million to \$20 million, thereby resulting in a combined tax credit under the bill of \$8 million to \$10 million. Assuming all the necessary equipment is bought and credits are approved for the four facilities in the same year, and that such credits are awarded over the same five-year period, the combined yearly credit (or CBT revenue loss) for the four facilities would be \$1.6 million to \$2.0 million.

Last, the OLS notes that this estimate is one of many possible scenarios, all of which are primarily governed by the actual number of taxpayers who decide to take advantage of the tax credit in any given year.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

# SENATE, No. 1209

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 4, 2000

**Sponsored by:**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**Senator BERNARD F. KENNY**

**District 33 (Hudson)**

**SYNOPSIS**

Provides franchise tax credit for purchase of certain effluent treatment equipment used to treat effluent for reuse in an industrial process.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/19/2000)**



1 AN ACT concerning the reuse of treated effluent in industrial facilities,  
2 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. a. A taxpayer who purchases treatment equipment certified by  
8 the Commissioner of the Department of Environmental Protection  
9 pursuant to subsection b. of this section, to be used exclusively within  
10 this State, shall be entitled to a credit as provided herein against the  
11 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
12 an amount equal to 50% of the cost of the treatment equipment less  
13 the amount of any loan received pursuant to section 5 of P.L.1981,  
14 c.278 (C.13:1E-96). The tax imposed pursuant to section 5 of  
15 P.L.1945, c.162 (C.54:10A-5) shall first be reduced by the amount of  
16 any credit allowable pursuant to section 19 of P.L.1983, c.303  
17 (C.52:27H-78) prior to applying the credit allowed pursuant to this  
18 section. The amount of the credit claimed in the tax year for which  
19 certification of treatment equipment is received, and the amount of  
20 credit claimed therefor in each tax year thereafter, shall not exceed  
21 20% of the amount of the total credit allowable, shall not exceed 50%  
22 of the tax liability which would be otherwise due, and shall not reduce  
23 the amount of tax liability to less than the statutory minimum provided  
24 in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). For  
25 the purposes of this section, "treatment equipment" means any  
26 equipment that is used to take effluent from a wastewater treatment  
27 system about to be discharged into the waters of the State for  
28 purposes of further treatment and reuse in an industrial process  
29 thereafter.

30 b. In order to qualify for the tax credit pursuant to subsection a. of  
31 this section, the taxpayer shall apply for a certification from the  
32 Commissioner of the Department of Environmental Protection that  
33 certifies that the equipment purchased qualifies as treatment equipment  
34 as defined in subsection a. of this section. The certification shall  
35 specifically indicate the date of purchase, a description of the  
36 equipment, and the cost, and state that the equipment has not  
37 previously qualified for a credit pursuant to this section either for the  
38 owner or for a previous owner.

39 Upon certification, the Commissioner of the Department of  
40 Environmental Protection shall submit a copy thereof to the taxpayer  
41 and the Director of the Division of Taxation. When filing a tax return  
42 that includes a claim for a credit pursuant to this section, the taxpayer  
43 shall include a copy of the certification and a statement that the  
44 treatment equipment is in use in the applicable tax year and is used  
45 exclusively in New Jersey. Any credit shall be valid in the tax year in  
46 which the certification is approved and any unused portion thereof may

1 be carried forward into subsequent years as provided in subsection a.  
2 of this section.

3 The Commissioner of the Department of Environmental Protection,  
4 in consultation with the Director of the Division of Taxation, shall  
5 adopt rules and regulations establishing technical specifications and  
6 certification requirements for the qualification of treatment equipment  
7 for the credit established pursuant to this section.

8 c. On or before January 31 of each year, the Commissioner of the  
9 Department of Environmental Protection shall submit a report to the  
10 Governor, the State Treasurer, and the Legislature setting forth the  
11 number of certifications that were approved during the preceding  
12 calendar year and the cost of each type of treatment equipment which  
13 has been certified as qualifying for the credit.

14

15 2. This act shall take effect immediately.

16

17

18

#### STATEMENT

19

20 This bill would establish a credit against the corporation franchise  
21 tax (P.L.1945, c.162, C.54:10A-1 et seq.) for the purchase of so-  
22 called "treatment equipment" for use exclusively in New Jersey.

23 Specifically, the bill would provide an investment tax credit of 20%  
24 against the franchise tax for the purchase of treatment equipment that  
25 is used exclusively for the treatment of effluent from a wastewater  
26 treatment system.

27 Treatment equipment refers to equipment that is used to take  
28 effluent from a wastewater treatment system about to be discharged  
29 into a waterway for purposes of additional treatment and subsequent  
30 reuse in an industrial process.

SENATE ECONOMIC GROWTH, AGRICULTURE AND  
TOURISM COMMITTEE

STATEMENT TO

**SENATE, No. 1209**

**STATE OF NEW JERSEY**

DATED: MAY 22, 2000

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably Senate Bill No. 1209.

This bill would establish a credit against the Corporation Business Tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.) for the purchase of certain "treatment equipment" for use exclusively in New Jersey.

Specifically, the bill would provide an investment tax credit of 20% against the tax for the purchase of treatment equipment that is used exclusively for the treatment of effluent from a wastewater treatment system.

Treatment equipment refers to equipment that is used to take effluent from a wastewater treatment system about to be discharged into a waterway for purposes of additional treatment and subsequent reuse in an industrial process.

**FISCAL NOTE**  
**SENATE, No. 1209**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: JULY 10, 2000

**SUMMARY**

**Synopsis:** Provides franchise tax credit for purchase of certain effluent treatment equipment used to treat effluent for reuse in an industrial process.

**Type of Impact:** Reduction in State Corporation Business Tax revenues.

**Agencies Affected:** No specific agencies.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Undetermined revenue loss.		

- ! The Office of Legislative Services (OLS) concurs with Executive Branch statements.
- ! Undetermined revenue loss will be **continuous**.
- ! The bill provides a credit to taxpayers against the Corporation Business Tax (CBT) for the purchase of equipment that further treats wastewater effluent so it can be reused in other industrial processes instead of being discharged into waterways.
- ! Corporation business, or franchise, taxes are imposed on domestic and foreign corporations for the privilege of existing or doing business as a corporation under New Jersey law.
- ! Notwithstanding minimum tax rates, the general CBT rate is 9 percent on entire net income, or the portion of net income allocated to New Jersey. Revenues collected from businesses are deposited in the State Treasury and used for State, county and municipal support.

**BILL DESCRIPTION**

Senate Bill No. 1209 of 2000 establishes a credit against the Corporation Business Tax (CBT) for taxpayers who purchase certain treatment equipment designed to take effluent from a wastewater treatment system for purposes of additional treatment and subsequent reuse in an industrial process. Such equipment must first be certified by the Department of Environmental Protection, be used exclusively in New Jersey facilities, and treat effluents that would otherwise be discharged into state waterways from wastewater treatment systems.

The bill provides a credit against the CBT equal to 50 percent of the cost of treatment equipment, less other liabilities and applicable tax credits, and may not exceed 20 percent of the

amount of the total credit allowable in any one tax year.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Taxation certifies that the bill's enactment will result in a loss of CBT revenues to the State Treasury, and that the loss will be continuous. It cannot, however, provide an estimate of such losses due to the absence of relevant data. The Division also states that any additional administrative costs resulting from the bill will be absorbed into its annual operating budget.

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

The Office of Legislative Services (OLS) concurs with the Division of Taxation's statements and notes that costs incurred by the DEP under the bill, if any, would probably be minimal and therefore absorbed into its annual operating budget.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 1209**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 26, 2001

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1209.

This bill allows a credit against the corporation business tax (CBT) for the purchase of certain equipment for use in the treatment of wastewater exclusively within New Jersey.

The bill provides an incentive for the establishment of facilities that take wastewater effluent, already subjected to primary treatment sufficient to permit its discharge into the waters of the State, and re-treat the effluent to improve the quality still further to enable its reuse in power generation and other industrial processes. The bill would apply, not only to the re-treatment equipment itself, but also to the equipment (generally, pipe conduits) used to transport the re-treated water to and from the facility.

The bill requires a taxpayer wishing to claim the credit to obtain a determination from the Department of Environmental Protection (DEP) that the operation of the equipment in question, along with the reuse or proposed reuse of the re-treated effluent, would benefit the environment. To obtain such a determination, the taxpayer would have to file with the department an application that includes the following information:

- < the date or anticipated date of purchase of the equipment,
- < a description of the equipment,
- < the cost of the equipment,
- < the name of any primary wastewater treatment facility from which effluent is or will be received for further treatment,
- < the name of each facility to which the re-treated effluent is or will be conveyed for reuse,
- < the nature of the reuse,
- < the place at which the re-treated effluent is or will be discharged either before or after reuse,
- < the volume of re-treated wastewater that is or will be reused, and
- < the portion of that volume to be consumed in the reuse and the portion that is to be discharged after the reuse.

The application would also include the taxpayer's explanation of how the operation of the system is or will be beneficial to the environment

and the taxpayer's affidavit that the equipment has not previously qualified for a credit under the legislation.

The amount of the CBT credit allowed under the bill would be 50% of the cost of the equipment, net of the amount of any loan from the State Recycling Fund and exclusive of State sales tax. The amount of the credit taken in any one tax year could not exceed 20% of the amount of the total credit allowable or, together with other credits, reduce the taxpayer's liability below 50% of the amount of tax otherwise due.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 2380 (1R) Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill (1) extend coverage of the credit to purchases of equipment used to convey wastewater to and from the re-treatment facility, (2) condition allowance of the credit on the DEP's determination of environmental benefit and provide for the procedures and standards to be used, respectively, in seeking and making that determination, (3) allow the DEP, for the initial guidance of taxpayers considering investment in re-treatment equipment, to adopt temporary regulations implementing the department's responsibilities under the legislation, including that of determining environmental benefit, (4) provide that any purchase cost for which a credit is allowed under the bill could not be used as a cost for any of the several other credits available against the CBT, (5) allow corporate owners of an unincorporated subsidiary, the profits of which are subject to CBT only at the ownership level, to receive passed-through credit for the subsidiary's purchase of equipment and to apply that credit against their own liability for the tax, (6) permit a taxpayer to carry forward any unused credit to offset CBT liability in future tax years, (7) give the Director of the Division of Taxation explicit authority to determine the priority of credit application under the several credits that may be available to the taxpayer, (8) clarify that the credit shall be available only for purchases made in the tax years following the bill's enactment, and (9) make various administrative revisions and technical corrections.

#### FISCAL IMPACT

The Division of Taxation has stated that the bill will result in a loss of corporation business tax revenue, and that the loss will be continuous, but that an estimate of such losses cannot be made due to the absence of relevant data.

A survey by a trade association for New Jersey's independent power producers indicates that four potential operators are considering the establishment of re-treatment facilities, with treatment equipment costs estimated at roughly \$5 million each at three of those plants and \$4 million at the fourth, for a total of \$19 million. If all

four plants were constructed, and credit were allowed for those equipment costs in a single tax year at the bill's rate of 50%, the State's loss of CBT revenue would amount to \$9.5 million spread over at least five years, or up to \$1.9 million per year. It should be noted that this estimate does not include the cost that will likely result, under the committee amendments, from extending the scope of the credit to purchases of wastewater conveyance equipment.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 1209**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 26, 2001

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1209.

This bill allows a credit against the corporation business tax (CBT) for the purchase of certain equipment for use in the treatment of wastewater exclusively within New Jersey.

The bill provides an incentive for the establishment of facilities that take wastewater effluent, already subjected to primary treatment sufficient to permit its discharge into the waters of the State, and re-treat the effluent to improve the quality still further to enable its reuse in power generation and other industrial processes. The bill would apply, not only to the re-treatment equipment itself, but also to the equipment (generally, pipe conduits) used to transport the re-treated water to and from the facility.

The bill requires a taxpayer wishing to claim the credit to obtain a determination from the Department of Environmental Protection (DEP) that the operation of the equipment in question, along with the reuse or proposed reuse of the re-treated effluent, would benefit the environment. To obtain such a determination, the taxpayer would have to file with the department an application that includes the following information:

- < the date or anticipated date of purchase of the equipment,
- < a description of the equipment,
- < the cost of the equipment,
- < the name of any primary wastewater treatment facility from which effluent is or will be received for further treatment,
- < the name of each facility to which the re-treated effluent is or will be conveyed for reuse,
- < the nature of the reuse,
- < the place at which the re-treated effluent is or will be discharged either before or after reuse,
- < the volume of re-treated wastewater that is or will be reused, and
- < the portion of that volume to be consumed in the reuse and the portion that is to be discharged after the reuse.

The application would also include the taxpayer's explanation of how the operation of the system is or will be beneficial to the environment

and the taxpayer's affidavit that the equipment has not previously qualified for a credit under the legislation.

The amount of the CBT credit allowed under the bill would be 50% of the cost of the equipment, net of the amount of any loan from the State Recycling Fund and exclusive of State sales tax. The amount of the credit taken in any one tax year could not exceed 20% of the amount of the total credit allowable or, together with other credits, reduce the taxpayer's liability below 50% of the amount of tax otherwise due.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 2380 (1R) Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill (1) extend coverage of the credit to purchases of equipment used to convey wastewater to and from the re-treatment facility, (2) condition allowance of the credit on the DEP's determination of environmental benefit and provide for the procedures and standards to be used, respectively, in seeking and making that determination, (3) allow the DEP, for the initial guidance of taxpayers considering investment in re-treatment equipment, to adopt temporary regulations implementing the department's responsibilities under the legislation, including that of determining environmental benefit, (4) provide that any purchase cost for which a credit is allowed under the bill could not be used as a cost for any of the several other credits available against the CBT, (5) allow corporate owners of an unincorporated subsidiary, the profits of which are subject to CBT only at the ownership level, to receive passed-through credit for the subsidiary's purchase of equipment and to apply that credit against their own liability for the tax, (6) permit a taxpayer to carry forward any unused credit to offset CBT liability in future tax years, (7) give the Director of the Division of Taxation explicit authority to determine the priority of credit application under the several credits that may be available to the taxpayer, (8) clarify that the credit shall be available only for purchases made in the tax years following the bill's enactment, and (9) make various administrative revisions and technical corrections.

#### FISCAL IMPACT

The Division of Taxation has stated that the bill will result in a loss of corporation business tax revenue, and that the loss will be continuous, but that an estimate of such losses cannot be made due to the absence of relevant data.

A survey by a trade association for New Jersey's independent power producers indicates that four potential operators are considering the establishment of re-treatment facilities, with treatment equipment costs estimated at roughly \$5 million each at three of those plants and \$4 million at the fourth, for a total of \$19 million. If all

four plants were constructed, and credit were allowed for those equipment costs in a single tax year at the bill's rate of 50%, the State's loss of CBT revenue would amount to \$9.5 million spread over at least five years, or up to \$1.9 million per year. It should be noted that this estimate does not include the cost that will likely result, under the committee amendments, from extending the scope of the credit to purchases of wastewater conveyance equipment.

[First Reprint]

**SENATE, No. 1209**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED MAY 4, 2000

**Sponsored by:**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**Senator BERNARD F. KENNY**

**District 33 (Hudson)**

**Co-Sponsored by:**

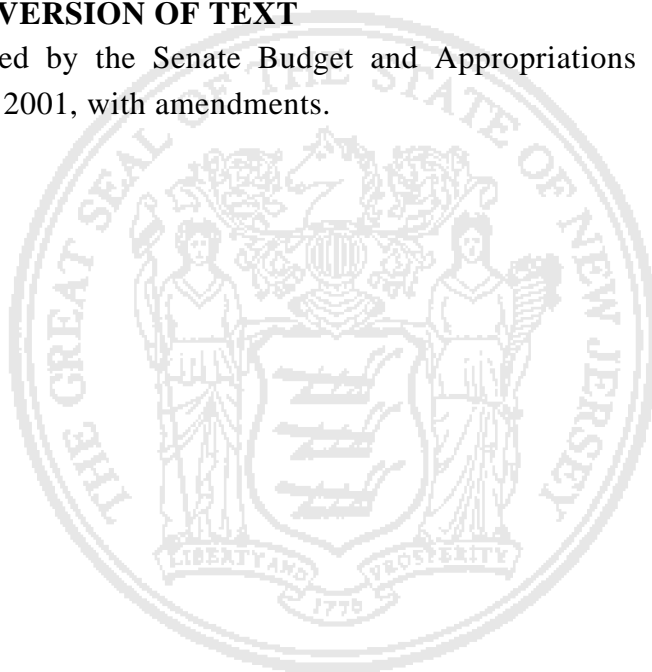
**Senators Ciesla and Allen**

**SYNOPSIS**

Provides corporation business tax credit for purchase of certain equipment used in treatment of effluent for reuse in an industrial process.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on February 26, 2001, with amendments.



**(Sponsorship Updated As Of: 5/25/2001)**

1 AN ACT concerning the reuse of treated effluent in industrial facilities,  
2 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. <sup>1</sup>(1)<sup>1</sup> A taxpayer who <sup>1</sup>in a privilege period<sup>1</sup> purchases  
8 treatment equipment <sup>1</sup>[certified by the Commissioner of the  
9 Department of Environmental Protection pursuant to subsection b. of  
10 this section, to be used] or conveyance equipment for use<sup>1</sup> exclusively  
11 within this State, shall be <sup>1</sup>[entitled to] allowed<sup>1</sup> a credit as provided  
12 herein against the tax imposed <sup>1</sup>for that privilege period<sup>1</sup> pursuant to  
13 section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 50%  
14 of the cost of the treatment equipment <sup>1</sup>or conveyance equipment<sup>1</sup> less  
15 the amount of any loan received pursuant to section 5 of P.L.1981,  
16 c.278 (C.13:1E-96) <sup>1</sup>and excluding the amount of any sales and use  
17 tax paid pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), provided  
18 that the Commissioner of the Department of Environmental Protection  
19 has issued a determination under subsection b. of this section that the  
20 operation of the system of equipment and the reuse of wastewater  
21 effluent that results therefrom are or will be beneficial to the  
22 environment<sup>1</sup>. <sup>1</sup>[The tax imposed pursuant to section 5 of P.L.1945,  
23 c.162 (C.54:10A-5) shall first be reduced by the amount of any credit  
24 allowable pursuant to section 19 of P.L.1983, c.303 (C.52:27H-78)  
25 prior to applying the credit allowed pursuant to this section.]<sup>1</sup> The  
26 amount of the credit claimed <sup>1</sup>[in] for<sup>1</sup> the <sup>1</sup>[tax year for] privilege  
27 period in<sup>1</sup> which <sup>1</sup>[certification] the purchase<sup>1</sup> of treatment equipment  
28 <sup>1</sup>or conveyance equipment<sup>1</sup> is <sup>1</sup>[received] made<sup>1</sup>, and the amount of  
29 credit claimed therefor in each <sup>1</sup>[tax year] privilege period<sup>1</sup> thereafter,  
30 shall not exceed 20% of the amount of the total credit allowable, shall  
31 not <sup>1</sup>, together with any other credits allowed by law,<sup>1</sup> exceed 50% of  
32 the tax liability which would be otherwise due, and shall not reduce the  
33 amount of tax liability to less than the statutory minimum provided in  
34 subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). <sup>1</sup>An  
35 unused credit amount may be carried forward, if necessary, for use in  
36 future privilege periods. Notwithstanding any other provision of law,  
37 the order of priority in which the credit allowed under this section and  
38 any other credits allowed by law may be taken shall be as prescribed  
39 by the director.

40 A taxpayer who, in a privilege period, purchased treatment  
41 equipment or conveyance equipment, but who did not receive approval

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SBA committee amendments adopted February 26, 2001.

1 of an application for determination pursuant to subsection b. of this  
2 section before filing a return for that privilege period, may, in  
3 accordance with the provisions of the State Tax Uniform Procedure  
4 Law, R.S.54:48-1 et seq., and subject to the provisions of this section,  
5 file with the director a claim for the credit for that privilege period and  
6 any subsequent privilege period, as appropriate.<sup>1</sup>

7 For the purposes of this section, "treatment equipment" means any  
8 equipment that is used <sup>1</sup>exclusively<sup>1</sup> to <sup>1</sup>[take] treat<sup>1</sup> effluent from a  
9 <sup>1</sup>primary<sup>1</sup> wastewater treatment <sup>1</sup>[system about to be] facility, which  
10 effluent would otherwise have been<sup>1</sup> discharged into the waters of the  
11 State<sup>1, 1</sup> for purposes of <sup>1</sup>[further treatment and]<sup>1</sup> reuse in an  
12 industrial process thereafter<sup>1</sup>, and "conveyance equipment" means any  
13 equipment that is used exclusively to transport that effluent to the  
14 facility in which the treatment equipment has been or is to be installed  
15 and to transport the product of that further treatment to the site of that  
16 reuse<sup>1</sup>.

17 <sup>1</sup>(2) If a person who purchases treatment equipment or conveyance  
18 equipment for which the Commissioner of the Department of  
19 Environmental Protection has issued a determination of  
20 environmentally beneficial operation pursuant to subsection b. of this  
21 section is a partnership, limited liability company, or other person  
22 classified as a partnership for federal tax purposes and not subject to  
23 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-  
24 5), a portion of the amount of the credit otherwise allowed to the  
25 purchaser pursuant to paragraph (1) of this subsection shall be allowed  
26 to each owner of that purchaser that is subject to the tax in proportion  
27 to the owner's share of the income of the purchaser. The purchaser  
28 shall be treated as the taxpayer for the purpose of administering the  
29 provisions of this section.<sup>1</sup>

30 b. In order to qualify for the tax credit pursuant to subsection a. of  
31 this section, the taxpayer shall apply for a <sup>1</sup>[certification]  
32 determination<sup>1</sup> from the Commissioner of the Department of  
33 Environmental Protection that <sup>1</sup>[certifies that]<sup>1</sup> the equipment  
34 <sup>1</sup>[purchased] with respect to which the credit is sought (1)<sup>1</sup> qualifies  
35 as treatment equipment <sup>1</sup>or conveyance equipment <sup>1</sup>as defined in  
36 subsection a. of this section<sup>1</sup>, and (2) is or will be in its operation,  
37 considered in conjunction with the reuse of the further treated  
38 wastewater effluent that results from that operation, beneficial to the  
39 environment<sup>1</sup>. The <sup>1</sup>[certification] application shall be submitted in  
40 writing in a form as the commissioner shall prescribe and<sup>1</sup> shall  
41 specifically <sup>1</sup>[indicate] include:<sup>1</sup> the date <sup>1</sup>or anticipated date<sup>1</sup> of  
42 purchase <sup>1</sup>of the equipment<sup>1</sup>, a <sup>1</sup>physical and functional<sup>1</sup> description  
43 of the equipment, <sup>1</sup>[and]<sup>1</sup> the cost, <sup>1</sup>the name and address or location  
44 of each primary wastewater treatment facility from which effluent is or  
45 is to be received for further treatment, the name and address or

1 location of each facility to which the effluent is or is to be conveyed  
2 after the further treatment for reuse, the nature of the reuse, the  
3 location of any site at which the wastewater that has been or is to be  
4 further treated is being or is to be discharged either prior to or after  
5 reuse, the volume of such wastewater that is or is to be reused, the  
6 portion of that volume that is or is to be consumed in that reuse and  
7 the portion thereof that is or is to be discharged thereafter.<sup>1</sup> and  
8 <sup>1</sup>[state] the taxpayer's explanation of how the operation of the system  
9 and the reuse of the wastewater effluent that has been further treated  
10 are or will be beneficial to the environment. The application shall also  
11 include the taxpayer's affidavit<sup>1</sup> that <sup>1</sup>, to the best of the taxpayer's  
12 knowledge,<sup>1</sup> the equipment has not previously qualified for a credit  
13 pursuant to this section either for the <sup>1</sup>taxpayer or other<sup>1</sup> owner or for  
14 a previous owner.

15 Upon <sup>1</sup>[certification] approval of the application<sup>1</sup>, the  
16 Commissioner of the Department of Environmental Protection shall  
17 submit a copy <sup>1</sup>[thereof] of the determination of equipment  
18 qualification and environmentally beneficial operation<sup>1</sup> to the taxpayer  
19 and the Director of the Division of Taxation. When filing a tax return  
20 that includes a claim for a credit pursuant to this section, the taxpayer  
21 shall include a copy of the <sup>1</sup>[certification] determination<sup>1</sup> and <sup>1</sup>[a  
22 statement] the taxpayer's affidavit<sup>1</sup> that the treatment equipment <sup>1</sup>[is  
23 in use in the applicable tax year and] or conveyance equipment<sup>1</sup> is <sup>1</sup>or  
24 will be<sup>1</sup> used exclusively in New Jersey. Any credit shall be <sup>1</sup>[valid  
25 in] initially allowed for<sup>1</sup> the <sup>1</sup>[tax year] privilege period<sup>1</sup> in which the  
26 <sup>1</sup>[certification] equipment<sup>1</sup> is <sup>1</sup>[approved] purchased,<sup>1</sup> and any  
27 unused portion thereof may be carried forward into subsequent  
28 <sup>1</sup>[years] privilege periods<sup>1</sup> as provided in subsection a. of this section.

29 The Commissioner of the Department of Environmental Protection,  
30 in consultation with the Director of the Division of Taxation, shall  
31 adopt rules and regulations establishing technical <sup>1</sup>[specifications]<sup>1</sup>  
32 and <sup>1</sup>[certification] administrative<sup>1</sup> requirements for the qualification  
33 of treatment equipment <sup>1</sup>and conveyance equipment, and for the  
34 determination that the operation of a system of such equipment and the  
35 reuse of wastewater effluent that has been treated thereby are  
36 beneficial to the environment, for the purpose of establishing a  
37 taxpayer's eligibility<sup>1</sup> for <sup>1</sup>[the] a<sup>1</sup> credit <sup>1</sup>[established]<sup>1</sup> pursuant to  
38 this section. <sup>1</sup>In the development and adoption of the rules and  
39 regulations prescribed under this act and of any procedure for making  
40 application for a credit under subsection a. of this section, the  
41 commissioner, in consultation with the director, shall to the greatest  
42 extent possible ensure that they are consolidated or consistent with any  
43 corresponding rules, regulations, and procedures established under  
44 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
45 Senate Bill No. 1210 (1R) and Assembly Bill No. 2695 of 2000) and

1 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
2 Senate Bill No. 1234 (2R) and Assembly Bill No. 2381 (2R) of  
3 2000).<sup>1</sup>

4 c. <sup>1</sup>No amount of cost included in calculation of the credit allowed  
5 under this section shall be included in the costs for calculation of any  
6 other credit against the tax imposed pursuant to section 5 of P.L.1945,  
7 c.162 (C.54:10A-5).

8 d.<sup>1</sup> On or before January 31 of each year, the Commissioner of the  
9 Department of Environmental Protection shall submit a report to the  
10 Governor, the State Treasurer, and the Legislature setting forth the  
11 number of <sup>1</sup>[certifications] taxpayer applications under subsection b.  
12 of this section<sup>1</sup> that were approved during the preceding calendar year  
13 and the cost of each type of <sup>1</sup>[treatment]<sup>1</sup> equipment which has been  
14 <sup>1</sup>[certified as qualifying] determined to qualify<sup>1</sup> for the credit.

15  
16 <sup>1</sup>2. Notwithstanding the provisions of P.L.1968, c.410 (C.52:14B-  
17 1 et seq.) to the contrary, the Commissioner of the Department of  
18 Environmental Protection may, immediately upon filing with the Office  
19 of Administrative Law, adopt such temporary regulations as the  
20 commissioner deems necessary to implement the provisions of section  
21 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
22 this bill), which regulations shall be effective for a period not to  
23 exceed 270 days from the date of the filing, but in no case after one  
24 year from the effective date of that P.L. \_\_\_\_\_, c. \_\_\_\_\_. The regulations  
25 may thereafter be amended, adopted or readopted by the commissioner  
26 as the commissioner deems necessary in accordance with the  
27 requirements of P.L.1968, c.410.<sup>1</sup>

28  
29 <sup>1</sup>[2.] 3.<sup>1</sup> This act shall take effect immediately <sup>1</sup>and apply to  
30 purchases made in privilege periods beginning on or after July 1 next  
31 following enactment<sup>1</sup>.



**FISCAL NOTE**  
 [First Reprint]  
**SENATE, No. 1209**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: JANUARY 10, 2002

**SUMMARY**

**Synopsis:** Provides franchise tax credit for purchase of certain effluent treatment equipment used to treat effluent for reuse in an industrial process.

**Type of Impact:** Reduction in State Corporation Business Tax revenues.

**Agencies Affected:** Department of the Treasury

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$57,000,000	\$9,000,000	\$9,000,000

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$1,600,000 to \$2,000,000	\$1,600,000 to \$2,000,000	\$1,600,000 to \$2,000,000

- ! The Office of Legislative Services (OLS) **does not concur** with the Executive estimates because of questions regarding cost development methodology and tax credit allocation.
- ! The Office of Legislative Services estimates that the bill, assuming four facilities simultaneously qualify for the tax credit, could decrease CBT revenues by \$1.6 million to \$2.0 million annually over a minimum of five years.
- ! The bill provides a 50 percent credit to taxpayers against the Corporation Business Tax (CBT) for the purchase of equipment that conveys and further treats wastewater effluent so it can be reused in other industrial processes instead of being discharged into waterways.
- ! Corporation business, or franchise, taxes are imposed on domestic and foreign corporations for the privilege of existing or doing business as a corporation under New Jersey law. Revenues collected from businesses are deposited in the State Treasury and used for State, county and municipal support.

## **BILL DESCRIPTION**

Senate Bill No. 1209 (1R) of 2000 establishes a credit against the Corporation Business Tax (CBT) for taxpayers who purchase certain treatment equipment designed to take effluent from a wastewater treatment system for purposes of additional treatment and subsequent reuse in an industrial process. The use and environmental benefits of such equipment must first be certified by the Department of Environmental Protection (DEP), and such equipment must be used exclusively in New Jersey facilities and treat effluents that would otherwise be discharged into state waterways from wastewater treatment systems.

The bill provides a credit against the CBT equal to 50 percent of the cost of treatment equipment, less other liabilities and applicable tax credits, and may not exceed 20 percent of the amount of the total credit allowable in any one tax year. The annual credit also cannot reduce the taxpayer's liability below 50 percent of the amount of CBT tax otherwise due. Eligible treatment equipment does not include installation costs but may include equipment used to convey wastewater to and from the re-treatment facility.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Taxation estimates that the loss of State revenue generated from the Corporation Business Tax (CBT) would approximate \$57 million in FY 2003 and \$9 million per year thereafter. These estimates were based on information provided by the DEP, using a methodology that calculated the cost of equipment based on the volume of effluent treated daily. Thus, the Division estimated the cost of equipment necessary to re-treat 3 million gallons of effluent per day at approximately \$18 million. The Division then utilized a scenario in which four different companies purchased sufficient effluent re-treatment equipment during the first year after enactment to handle a combined total of 19 million gallons of effluent per day.

The Division's estimate of \$57 million in credits was calculated by applying the "\$18 million for equipment per 3 million gallon" ratio to the purchase of equipment needed to process 19 million gallons of effluent per day. Under the bill, half of the resulting total amount, or \$57 million, would represent the total combined credit due the four companies. The \$9 million estimate in FY 2004 (and thereafter) is also based on this methodology and on the assumption that one new company annually would enter this endeavor and purchase \$18 million in re-treatment equipment.

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

The Office of Legislative Services (OLS) does not concur with the Division of Taxation's estimates for two primary reasons. First, the full credit of the estimates should not have been calculated and displayed as one-year totals. Rather, according to the bill, tax credit awarded in any one year cannot equal more than 20 percent of the total approved credit, thereby necessitating a minimum five-year credit period. If so presented by the Division, the first year estimate of \$57 million would instead be \$11.4 million for five years, and the \$9 million estimates would also be distributed and displayed accordingly.

Second, the methodology used by the Division does not necessarily reflect the realistic costs of the equipment envisioned under the bill. While the methodology, referred to as the "First Approximation Cost Technique," may utilize standardized statistical parameters and effluent capacities to calculate effluent re-treatment equipment costs, the OLS believes that an estimate of the actual costs and capacity needs of such equipment in the State of New Jersey would be more relevant to the fiscal impact of this bill. In preparing such an estimate, the OLS reviewed information from a New Jersey trade organization representing independent energy producers and developers who would most likely represent the candidates for tax credits under the bill.

This organization surveyed potential tax credit participants, who estimated re-treatment equipment costs at approximately \$4 million to \$5 million per facility (not including installation) to re-treat 3-5 million gallons of effluent daily. Using the "four facility" scenario presented by the Division of Taxation, the OLS estimates that the total cost of equipment purchased for these facilities would be \$16 million to \$20 million, thereby resulting in a combined tax credit under the bill of \$8 million to \$10 million. Assuming all the necessary equipment is bought and credits are approved for the four facilities in the same year, and that such credits are awarded over the same five-year period, the combined yearly credit (or CBT revenue loss) for the four facilities would be \$1.6 million to \$2.0 million.

Last, the OLS notes that this estimate is one of many possible scenarios, all of which are primarily governed by the actual number of taxpayers who decide to take advantage of the tax credit in any given year.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

P.L. 2001, CHAPTER 321, *approved January 4, 2002*  
Assembly, No. 2380 (*Second Reprint*)

1 **AN ACT** concerning the reuse of treated effluent in industrial facilities,  
2 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).

3

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

6

7 1. a. <sup>2</sup>(1)<sup>2</sup> A taxpayer who <sup>2</sup>in a privilege period<sup>2</sup> purchases  
8 treatment equipment <sup>2</sup>[certified by the Commissioner of the  
9 Department of Environmental Protection pursuant to subsection b. of  
10 this section, to be used] or conveyance equipment for use<sup>2</sup> exclusively  
11 within this State, shall be <sup>1</sup>[entitled to] allowed<sup>1</sup> a credit as provided  
12 herein against the tax imposed <sup>2</sup>for that privilege period<sup>2</sup> pursuant to  
13 section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 50%  
14 of the cost of the treatment equipment <sup>2</sup>[<sup>1</sup>purchased in the privilege  
15 period<sup>1</sup>] or conveyance equipment<sup>2</sup> less the amount of any loan  
16 received pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96) <sup>1</sup>and  
17 excluding the amount of any sales and use tax paid pursuant to  
18 P.L.1966, c.30 (C.54:32B-1 et seq.)<sup>1</sup> <sup>2</sup>, provided that the  
19 Commissioner of the Department of Environmental Protection has  
20 issued a determination under subsection b. of this section that the  
21 operation of the system of equipment and the reuse of wastewater  
22 effluent that results therefrom are or will be beneficial to the  
23 environment<sup>2</sup>. <sup>1</sup>[The tax imposed pursuant to section 5 of P.L.1945,  
24 c.162 (C.54:10A-5) shall first be reduced by the amount of any credit  
25 allowable pursuant to section 19 of P.L.1983, c.303 (C.52:27H-78)  
26 prior to applying the credit allowed pursuant to this section.]<sup>1</sup> The  
27 amount of the credit claimed <sup>2</sup>[in] for<sup>2</sup> the <sup>1</sup>[tax year] privilege  
28 period<sup>1</sup> <sup>2</sup>[for] in<sup>2</sup> which <sup>2</sup>[certification] the purchase<sup>2</sup> of treatment  
29 equipment <sup>2</sup>or conveyance equipment<sup>2</sup> is <sup>2</sup>[received] made<sup>2</sup>, and the  
30 amount of credit claimed therefor in each <sup>1</sup>[tax year] privilege period<sup>1</sup>  
31 thereafter, shall not exceed 20% of the amount of the total credit  
32 allowable, shall not <sup>1</sup>, together with any other credits allowed by law,<sup>1</sup>  
33 exceed 50% of the tax liability which would be otherwise due, and  
34 shall not reduce the amount of tax liability to less than the statutory  
35 minimum provided in subsection (e) of section 5 of P.L.1945, c.162  
36 (C.54:10A-5). <sup>1</sup>An unused credit <sup>2</sup>amount<sup>2</sup> may be carried forward,

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AAP committee amendments adopted September 21, 2000.

<sup>2</sup> Senate SBA committee amendments adopted February 26, 2001.

1 if necessary, for use in future privilege periods. <sup>2</sup>[The]  
2 Notwithstanding any other provision of law, the<sup>2</sup> order of priority  
3 <sup>2</sup>[of] in which<sup>2</sup> the credit allowed under this section and any other  
4 credits allowed by law <sup>2</sup>may be taken<sup>2</sup> shall be as prescribed by the  
5 director.<sup>1</sup>

6 <sup>2</sup>A taxpayer who, in a privilege period, purchased treatment  
7 equipment or conveyance equipment, but who did not receive approval  
8 of an application for determination pursuant to subsection b. of this  
9 section before filing a return for that privilege period, may, in  
10 accordance with the provisions of the State Tax Uniform Procedure  
11 Law, R.S.54:48-1 et seq., and subject to the provisions of this section,  
12 file with the director a claim for the credit for that privilege period and  
13 any subsequent privilege period, as appropriate.<sup>2</sup>

14 For the purposes of this section, "treatment equipment" means any  
15 equipment that is used <sup>2</sup>exclusively<sup>2</sup> to <sup>2</sup>[take] treat<sup>2</sup> effluent from a  
16 <sup>2</sup>primary<sup>2</sup> wastewater treatment <sup>2</sup>[system about to be] facility, which  
17 effluent would otherwise have been<sup>2</sup> discharged into the waters of the  
18 State<sup>2,2</sup> for purposes of <sup>2</sup>[further treatment and]<sup>2</sup> reuse in an  
19 industrial process thereafter<sup>2</sup>, and "conveyance equipment" means any  
20 equipment that is used exclusively to transport that effluent to the  
21 facility in which the treatment equipment has been or is to be installed  
22 and to transport the product of that further treatment to the site of that  
23 reuse<sup>2</sup>.

24 <sup>2</sup>(2) If a person who purchases treatment equipment or conveyance  
25 equipment for which the Commissioner of the Department of  
26 Environmental Protection has issued a determination of  
27 environmentally beneficial operation pursuant to subsection b. of this  
28 section is a partnership, limited liability company, or other person  
29 classified as a partnership for federal tax purposes and not subject to  
30 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-  
31 5), a portion of the amount of the credit otherwise allowed to the  
32 purchaser pursuant to paragraph (1) of this subsection shall be allowed  
33 to each owner of that purchaser that is subject to the tax in proportion  
34 to the owner's share of the income of the purchaser. The purchaser  
35 shall be treated as the taxpayer for the purpose of administering the  
36 provisions of this section.<sup>2</sup>

37 b. In order to qualify for the tax credit pursuant to subsection a. of  
38 this section, the taxpayer shall apply for a <sup>2</sup>[certification]  
39 determination<sup>2</sup> from the Commissioner of the Department of  
40 Environmental Protection that <sup>2</sup>[certifies that]<sup>2</sup> the equipment  
41 <sup>2</sup>[purchased] with respect to which the credit is sought (1)<sup>2</sup> qualifies  
42 as treatment equipment <sup>2</sup>or conveyance equipment<sup>2</sup> as defined in  
43 subsection a. of this section <sup>2</sup>, and (2) is or will be in its operation,  
44 considered in conjunction with the reuse of the further treated  
45 wastewater effluent that results from that operation, beneficial to the

1 environment<sup>2</sup>. The <sup>2</sup>[certification] application shall be submitted in  
2 writing in a form as the commissioner shall prescribe and<sup>2</sup> shall  
3 specifically <sup>2</sup>[indicate] include;<sup>2</sup> the date <sup>2</sup>or anticipated date<sup>2</sup> of  
4 purchase <sup>2</sup>of the equipment<sup>2</sup>, a <sup>2</sup>physical and functional<sup>2</sup> description  
5 of the equipment,<sup>2</sup>[and]<sup>2</sup> the cost, <sup>2</sup>the name and address or location  
6 of each primary wastewater treatment facility from which effluent is or  
7 is to be received for further treatment, the name and address or  
8 location of each facility to which the effluent is or is to be conveyed  
9 after the further treatment for reuse, the nature of the reuse, the  
10 location of any site at which the wastewater that has been or is to be  
11 further treated is being or is to be discharged either prior to or after  
12 reuse, the volume of such wastewater that is or is to be reused, the  
13 portion of that volume that is or is to be consumed in that reuse and  
14 the portion thereof that is or is to be discharged thereafter,<sup>2</sup> and  
15 <sup>2</sup>[state] the taxpayer's explanation of how the operation of the system  
16 and the reuse of the wastewater effluent that has been further treated  
17 are or will be beneficial to the environment. The application shall also  
18 include the taxpayer's affidavit<sup>2</sup> that <sup>2</sup>, to the best of the taxpayer's  
19 knowledge,<sup>2</sup> the equipment has not previously qualified for a credit  
20 pursuant to this section either for the <sup>2</sup>taxpayer or other<sup>2</sup> owner or for  
21 a previous owner.

22 Upon <sup>2</sup>[certification] approval of the application<sup>2</sup>, the  
23 Commissioner of the Department of Environmental Protection shall  
24 submit a copy <sup>2</sup>[thereof] of the determination of equipment  
25 qualification and environmentally beneficial operation<sup>2</sup> to the taxpayer  
26 and the Director of the Division of Taxation. When filing a tax return  
27 that includes a claim for a credit pursuant to this section, the taxpayer  
28 shall include a copy of the <sup>2</sup>[certification] determination<sup>2</sup> and <sup>2</sup>[a  
29 statement] the taxpayer's affidavit<sup>2</sup> that the treatment equipment <sup>2</sup>[is  
30 in use in the applicable <sup>1</sup>[tax year] privilege period<sup>1</sup> and] or  
31 conveyance equipment<sup>2</sup> is <sup>2</sup>or will be<sup>2</sup> used exclusively in New Jersey.  
32 Any credit shall be <sup>1</sup>[valid in] <sup>2</sup>initially<sup>2</sup> allowed for<sup>1</sup> the <sup>1</sup>[tax year]  
33 privilege period<sup>1</sup> in which the <sup>2</sup>[certification] equipment<sup>2</sup> is  
34 <sup>2</sup>[approved] purchased,<sup>2</sup> and any unused portion thereof may be  
35 carried forward into subsequent <sup>1</sup>[years] privilege periods<sup>1</sup> as  
36 provided in subsection a. of this section.

37 The Commissioner of the Department of Environmental Protection,  
38 in consultation with the Director of the Division of Taxation, shall  
39 adopt rules and regulations establishing technical <sup>2</sup>[specifications]<sup>2</sup>  
40 and <sup>2</sup>[certification] administrative<sup>2</sup> requirements for the qualification  
41 of treatment equipment <sup>2</sup>and conveyance equipment, and for the  
42 determination that the operation of a system of such equipment and the  
43 reuse of wastewater effluent that has been treated thereby are  
44 beneficial to the environment, for the purpose of establishing a  
45 taxpayer's eligibility<sup>2</sup> for <sup>2</sup>[the] a<sup>2</sup> credit <sup>2</sup>[established]<sup>2</sup> pursuant to

1 this section. <sup>1</sup>In the development and adoption of the rules and  
 2 regulations prescribed under this act and of any procedure for making  
 3 application for a credit under subsection a. of this section, the  
 4 commissioner, in consultation with the director, shall to the greatest  
 5 extent possible ensure that they are consolidated or consistent with any  
 6 corresponding rules, regulations, and procedures established under  
 7 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
 8 Senate Bill No. 1210 (1R) and Assembly Bill No. 2695 of 2000) and  
 9 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
 10 Senate Bill No. 1234 (2R) and Assembly Bill No. 2381 (2R) of  
 11 2000).<sup>1</sup>

12 c. <sup>1</sup>No amount of cost included in calculation of the credit allowed  
 13 under this section shall be included in the costs for calculation of any  
 14 other credit against the tax imposed pursuant to section 5 of P.L.1945,  
 15 c.162 (C.54:10A-5).

16 d.<sup>1</sup> On or before January 31 of each year, the Commissioner of the  
 17 Department of Environmental Protection shall submit a report to the  
 18 Governor, the State Treasurer, and the Legislature setting forth the  
 19 number of <sup>2</sup>[certifications] taxpayer applications under subsection b.  
 20 of this section<sup>2</sup> that were approved during the preceding calendar year  
 21 and the cost of each type of <sup>2</sup>[treatment]<sup>2</sup> equipment which has been  
 22 <sup>2</sup>[certified as qualifying] determined to qualify<sup>2</sup> for the credit.

23  
 24 <sup>2</sup>2. Notwithstanding the provisions of P.L.1968, c.410 (C.52:14B-  
 25 1 et seq.) to the contrary, the Commissioner of the Department of  
 26 Environmental Protection may, immediately upon filing with the Office  
 27 of Administrative Law, adopt such temporary regulations as the  
 28 commissioner deems necessary to implement the provisions of section  
 29 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as  
 30 this bill), which regulations shall be effective for a period not to  
 31 exceed 270 days from the date of the filing, but in no case after one  
 32 year from the effective date of that P.L. \_\_\_\_\_, c. \_\_\_\_\_. The regulations  
 33 may thereafter be amended, adopted or readopted by the commissioner  
 34 as the commissioner deems necessary in accordance with the  
 35 requirements of P.L.1968, c.410.<sup>2</sup>

36  
 37 <sup>2</sup>[2.] 3.<sup>2</sup> This act shall take effect immediately <sup>1</sup>and apply to  
 38 purchases made in privilege periods <sup>2</sup>[ending after] beginning on or  
 39 after July 1 next following<sup>2</sup> enactment<sup>1</sup>.

40  
 41 \_\_\_\_\_  
 42  
 43 Provides corporation business tax credit for purchase of certain  
 44 equipment used in treatment of effluent for reuse in an industrial  
 45 process.

## CHAPTER 321

AN ACT concerning the reuse of treated effluent in industrial facilities, and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).

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

C.54:10A-5.31 Tax credit for purchase of effluent treatment, conveyance equipment.

1. a. (1) A taxpayer who in a privilege period purchases treatment equipment or conveyance equipment for use exclusively within this State, shall be allowed a credit as provided herein against the tax imposed for that privilege period pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 50% of the cost of the treatment equipment or conveyance equipment less the amount of any loan received pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96) and excluding the amount of any sales and use tax paid pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), provided that the Commissioner of the Department of Environmental Protection has issued a determination under subsection b. of this section that the operation of the system of equipment and the reuse of wastewater effluent that results therefrom are or will be beneficial to the environment. The amount of the credit claimed for the privilege period in which the purchase of treatment equipment or conveyance equipment is made, and the amount of credit claimed therefor in each privilege period thereafter, shall not exceed 20% of the amount of the total credit allowable, shall not, together with any other credits allowed by law, exceed 50% of the tax liability which would be otherwise due, and shall not reduce the amount of tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). An unused credit amount may be carried forward, if necessary, for use in future privilege periods. Notwithstanding any other provision of law, the order of priority in which the credit allowed under this section and any other credits allowed by law may be taken shall be as prescribed by the director.

A taxpayer who, in a privilege period, purchased treatment equipment or conveyance equipment, but who did not receive approval of an application for determination pursuant to subsection b. of this section before filing a return for that privilege period, may, in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., and subject to the provisions of this section, file with the director a claim for the credit for that privilege period and any subsequent privilege period, as appropriate.

For the purposes of this section, "treatment equipment" means any equipment that is used exclusively to treat effluent from a primary wastewater treatment facility, which effluent would otherwise have been discharged into the waters of the State, for purposes of reuse in an industrial process thereafter, and "conveyance equipment" means any equipment that is used exclusively to transport that effluent to the facility in which the treatment equipment has been or is to be installed and to transport the product of that further treatment to the site of that reuse.

(2) If a person who purchases treatment equipment or conveyance equipment for which the Commissioner of the Department of Environmental Protection has issued a determination of environmentally beneficial operation pursuant to subsection b. of this section is a partnership, limited liability company, or other person classified as a partnership for federal tax purposes and not subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a portion of the amount of the credit otherwise allowed to the purchaser pursuant to paragraph (1) of this subsection shall be allowed to each owner of that purchaser that is subject to the tax in proportion to the owner's share of the income of the purchaser. The purchaser shall be treated as the taxpayer for the purpose of administering the provisions of this section.

b. In order to qualify for the tax credit pursuant to subsection a. of this section, the taxpayer shall apply for a determination from the Commissioner of the Department of Environmental Protection that the equipment with respect to which the credit is sought (1) qualifies as treatment equipment or conveyance equipment as defined in subsection a. of this section, and (2) is or will be in its operation, considered in conjunction with the reuse of the further treated wastewater effluent that results from that operation, beneficial to the environment. The application shall be submitted in writing in a form as the commissioner shall prescribe and shall specifically include; the date or anticipated date of purchase of the equipment, a physical and functional description of the equipment, the cost, the name and address or location of each primary wastewater treatment facility from which effluent is or is to be received for further treatment, the name and



address or location of each facility to which the effluent is or is to be conveyed after the further treatment for reuse, the nature of the reuse, the location of any site at which the wastewater that has been or is to be further treated is being or is to be discharged either prior to or after reuse, the volume of such wastewater that is or is to be reused, the portion of that volume that is or is to be consumed in that reuse and the portion thereof that is or is to be discharged thereafter, and the taxpayer's explanation of how the operation of the system and the reuse of the wastewater effluent that has been further treated are or will be beneficial to the environment. The application shall also include the taxpayer's affidavit that, to the best of the taxpayer's knowledge, the equipment has not previously qualified for a credit pursuant to this section either for the taxpayer or other owner or for a previous owner.

Upon approval of the application, the Commissioner of the Department of Environmental Protection shall submit a copy of the determination of equipment qualification and environmentally beneficial operation to the taxpayer and the Director of the Division of Taxation. When filing a tax return that includes a claim for a credit pursuant to this section, the taxpayer shall include a copy of the determination and the taxpayer's affidavit that the treatment equipment or conveyance equipment is or will be used exclusively in New Jersey. Any credit shall be initially allowed for the privilege period in which the equipment is purchased, and any unused portion thereof may be carried forward into subsequent privilege periods as provided in subsection a. of this section.

The Commissioner of the Department of Environmental Protection, in consultation with the Director of the Division of Taxation, shall adopt rules and regulations establishing technical and administrative requirements for the qualification of treatment equipment and conveyance equipment, and for the determination that the operation of a system of such equipment and the reuse of wastewater effluent that has been treated thereby are beneficial to the environment, for the purpose of establishing a taxpayer's eligibility for a credit pursuant to this section. In the development and adoption of the rules and regulations prescribed under this act and of any procedure for making application for a credit under subsection a. of this section, the commissioner, in consultation with the director, shall to the greatest extent possible ensure that they are consolidated or consistent with any corresponding rules, regulations, and procedures established under P.L. , c. (C. ) (now pending before the Legislature as Senate Bill No. 1210 (1R) and Assembly Bill No. 2695 of 2000) and P.L.2001, c.322.

c. No amount of cost included in calculation of the credit allowed under this section shall be included in the costs for calculation of any other credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

d. On or before January 31 of each year, the Commissioner of the Department of Environmental Protection shall submit a report to the Governor, the State Treasurer, and the Legislature setting forth the number of taxpayer applications under subsection b. of this section that were approved during the preceding calendar year and the cost of each type of equipment which has been determined to qualify for the credit.

#### C.54:10A-5.32 Temporary regulations for effluent treatment tax credit.

2. Notwithstanding the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of the Department of Environmental Protection may, immediately upon filing with the Office of Administrative Law, adopt such temporary regulations as the commissioner deems necessary to implement the provisions of section 1 of P.L.2001, c.321 (C.54:10A-5.31), which regulations shall be effective for a period not to exceed 270 days from the date of the filing, but in no case after one year from the effective date of that P.L.2001, c.321. The regulations may thereafter be amended, adopted or readopted by the commissioner as the commissioner deems necessary in accordance with the requirements of P.L.1968, c.410.

3. This act shall take effect immediately and apply to purchases made in privilege periods beginning on or after July 1 next following enactment

Approved January 4, 2002.