



**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** Yes

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"NJ budget agreement: What it means for your taxes, schools, legal weed and more," northjersey.com, 6-30-2018

"Trenton – Ignoring both the clock and the calendar," Burlington County Times, 7-2-2018

"Governor signs 2019, Legislature-backed budget," NJBIZ, 7-2-2018

"Phil Murphy: With new budget, era of a stronger and fairer NJ is beginning," northjersey.com, 7-2-2019

RWH

§5 - C.54A:4-17  
§7 - C.54A:5-16  
§9 - C.54:10A-6.4  
§11 - T&E  
§12 - Note

P.L. 2018, CHAPTER 45, *approved July 1, 2018*  
Assembly Committee Substitute (*First Reprint*) for  
Assembly, No. 3088

1 AN ACT concerning certain State taxes, supplementing Title 54A of  
2 the New Jersey Statutes and P.L.1945, c.162, and amending  
3 various parts of the statutory law.

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

7  
8 1. Section 3 of P.L.1996, c.60 (C.54A:3A-17) is amended to  
9 read as follows:

10 3. a. A resident taxpayer under the "New Jersey Gross Income  
11 Tax Act," N.J.S.54A:1-1 et seq., shall be allowed a deduction from  
12 gross income for the amount of property tax credit as defined in  
13 section 1 of P.L.2018, c.11 (C.54:4-66.6) plus property taxes, the  
14 total of which shall not exceed **[\$10,000]** \$15,000, subject to the  
15 limitations of subsection f. of this section. Property taxes  
16 deductible under this section shall be due and paid for the calendar  
17 year in which the taxes are due and payable on the taxpayer's  
18 homestead.

19 b. A deduction for property taxes or property tax credits shall  
20 be allowed pursuant to this section in relation to the amount of the  
21 property taxes or property tax credits actually paid by or allocable  
22 to a resident taxpayer who has more than one homestead, but the  
23 aggregate amount of the property taxes or property tax credits  
24 claimed shall not exceed the total of the proportionate amounts of  
25 property taxes assessed and levied against or allocable to each  
26 homestead for the portion of the taxable year for which the taxpayer  
27 occupied it as the taxpayer's principal residence.

28 c. If title to a homestead is held by more than one individual as  
29 joint tenants or tenants in common, each individual shall be allowed  
30 a deduction pursuant to this section only in relation to the  
31 individual's proportionate share of the property taxes assessed and  
32 levied against the homestead. The proportionate share shall be  
33 equal to that of all other individuals who hold the title, but if the  
34 conveyance under which the title is held provides for unequal

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly amendments adopted in accordance with Governor's recommendations June 30, 2018.

1 interests therein, a taxpayer's share of the property taxes shall be in  
2 proportion to the taxpayer's interest in the title.

3 d. If title to a homestead is held by a husband and wife who  
4 own the homestead as tenants by the entirety, or if that husband and  
5 wife are both residential shareholders of a cooperative or mutual  
6 housing corporation and occupy the same homestead therein, and  
7 who elect to file separate income tax returns pursuant to the "New  
8 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that husband  
9 and wife shall each be entitled to one-half of the deduction for  
10 property taxes for which they may be jointly eligible pursuant to  
11 this section.

12 e. If the homestead is a dwelling house consisting of more than  
13 one unit, that taxpayer shall be allowed a deduction for property  
14 taxes or property tax credits only in relation to the proportionate  
15 share of the property taxes assessed and levied against the  
16 residential unit occupied by the taxpayer, as determined by the local  
17 tax assessor.

18 f. Notwithstanding the provisions of subsection a. of this  
19 section to the contrary: (1) a resident taxpayer shall be allowed a  
20 deduction for a taxpayer's taxable year beginning during 1996 based  
21 on 50% of the property taxes not in excess of \$5,000 paid on the  
22 taxpayer's homestead; and (2) a resident taxpayer shall be allowed a  
23 deduction for a taxpayer's taxable year beginning during 1997 based  
24 on 75% of the property taxes not in excess of \$7,500 paid on the  
25 taxpayer's homestead.

26 g. Notwithstanding any other provision of this section, the  
27 deduction allowed under this section to a resident taxpayer eligible  
28 to receive a homestead property tax reimbursement pursuant to  
29 P.L.1997, c.348 (C.54:4-8.67 et al.) shall not exceed that resident  
30 taxpayer's base year property tax liability as determined pursuant to  
31 P.L.1997, c.348 (C.54:4-8.67 et al.).

32 h. Notwithstanding any other provision of this section, for the  
33 taxable year beginning January 1, 2009, a taxpayer who has gross  
34 income for the taxable year of more than \$250,000 and is not:

- 35 (1) 65 years of age or older at the close of the taxable year; or  
36 (2) allowed to claim a personal deduction as a blind or disabled  
37 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1, shall not be  
38 allowed a deduction pursuant to this section;

39 provided however, the deduction for a taxpayer who has gross  
40 income for the taxable year of more than \$150,000 but not  
41 exceeding \$250,000 and is not:

- 42 (1) 65 years of age or older at the close of the taxable year; or  
43 (2) allowed to claim a personal deduction as a blind or disabled  
44 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1, shall not  
45 exceed \$5,000.

46 (cf: P.L.2018, c.11, s.15)

1       2. Section 4 of P.L.1996, c.60 (C.54A:3A-18) is amended to  
2 read as follows:

3       4. a. A resident taxpayer whose homestead is a unit of  
4 residential rental property shall be allowed a deduction from gross  
5 income for that portion of the rent constituting property taxes not in  
6 excess of ~~【\$10,000】~~ \$15,000, subject to the limitations of  
7 subsection d. of this section, due and paid for the calendar year in  
8 which the rent constituting taxes is due and payable, for occupancy  
9 of that homestead.

10       b. A husband and wife who elect to file separate income tax  
11 returns pursuant to the "New Jersey Gross Income Tax Act,"  
12 N.J.S.54A:1-1 et seq., shall each be entitled to one-half of the  
13 property tax deduction allowed pursuant to this section.

14       c. If more than one taxpayer, other than husband and wife,  
15 qualify to deduct rent constituting property taxes by reason of their  
16 having occupied the same rented homestead, it shall be presumed  
17 that the deduction shall be equally divided. A taxpayer may,  
18 however, deduct an amount for rent constituting property taxes in  
19 the same proportion that the rent paid by that taxpayer bears to the  
20 total rent paid by all tenants of the same unit.

21       d. Notwithstanding the provisions of subsection a. of this  
22 section to the contrary: (1) a resident taxpayer whose homestead is  
23 a unit of residential rental property shall be allowed a deduction for  
24 the taxpayer's taxable year beginning during 1996 based on 50% of  
25 the rent constituting property taxes not in excess of \$5,000 paid for  
26 the occupancy of that homestead; and (2) a resident taxpayer whose  
27 homestead is a unit of residential rental property shall be allowed a  
28 deduction for the taxpayer's taxable year beginning during 1997  
29 based on 75% of the rent constituting property taxes not in excess  
30 of \$7,500 paid for the occupancy of that homestead.

31 (cf: P.L.1996, c.60, s.4)

32

33       3. Section 5 of P.L.1996, c.60 (C.54A:3A-19) is amended to  
34 read as follows:

35       5. a. If a taxpayer who is eligible for a deduction for property  
36 taxes under section 3 of this act for a part of the taxable year is also  
37 eligible for a deduction for rent constituting property taxes under  
38 section 4 of this act for a part of the taxable year, the taxpayer shall  
39 be allowed a deduction, not in excess of ~~【\$10,000】~~ \$15,000, subject  
40 to the limitations of subsection b. of this section, the amount of  
41 which shall be equal to the sum of the amount of property tax credit  
42 as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6) plus the  
43 amount of property taxes due and paid for the calendar year in  
44 which the property taxes are due and payable on a homestead that is  
45 not a unit of residential rental property and the amount of rent  
46 constituting property taxes due and paid for the calendar year in  
47 which the rent constituting property taxes is due and payable for the  
48 occupancy of a homestead that is a unit of residential rental

1 property, provided however, that the amount of property taxes and  
2 property tax credits shall be subject to the limitations set forth in  
3 subsections b. through e. of section 3 and the amount of rent  
4 constituting property taxes shall be subject to the limitations set  
5 forth in subsections b. and c. of section 4 as may be applicable.

6 b. Notwithstanding the provisions of subsection a. of this  
7 section to the contrary: (1) a taxpayer who is eligible for a  
8 deduction for property taxes under section 3 of this act for a part of  
9 the taxable year and is also eligible for a deduction for rent  
10 constituting property taxes under section 4 of this act for a part of  
11 the taxable year, shall be allowed a deduction for the taxpayer's  
12 taxable year beginning during 1996 based on 50% of an amount not  
13 in excess of \$5,000, the amount of which shall be equal to the sum  
14 of the amount of property taxes paid on a homestead that is not a  
15 unit of residential rental property and the amount of rent  
16 constituting property taxes paid for the occupancy of a homestead  
17 that is a unit of residential rental property; and (2) a taxpayer who is  
18 eligible for a deduction for property taxes under section 3 of this act  
19 for a part of the taxable year and is also eligible for a deduction for  
20 rent constituting property taxes under section 4 of this act for a part  
21 of the taxable year, shall be allowed a deduction for the taxpayer's  
22 taxable year beginning during 1997 based on 75% of an amount not  
23 in excess of \$7,500, the amount of which shall be equal to the sum  
24 of the amount of property taxes paid on a homestead that is not a  
25 unit of residential rental property and the amount of rent  
26 constituting property taxes paid for the occupancy of a homestead  
27 that is a unit of residential rental property.

28 (cf: P.L.2018, c.11, s.16)

29

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

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

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

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

- 1 (a) 10% for the taxable year beginning on or after January 1,  
2 2000, but before January 1, 2001;
- 3 (b) 15% for the taxable year beginning on or after January 1,  
4 2001, but before January 1, 2002;
- 5 (c) 17.5% for the taxable year beginning on or after January 1,  
6 2002, but before January 1, 2003;
- 7 (d) 20% for taxable years beginning on or after January 1, 2003,  
8 but before January 1, 2008;
- 9 (e) 22.5% for taxable years beginning on or after January 1,  
10 2008 but before January 1, 2009;
- 11 (f) 25% for taxable years beginning on or after January 1, 2009  
12 but before January 1, 2010;
- 13 (g) 20% for taxable years beginning on or after January 1, 2010,  
14 but before January 1, 2015;
- 15 (h) 30% for taxable years beginning on or after January 1, 2015,  
16 but before January 1, 2016; **[and]**
- 17 (i) 35% for taxable years beginning on or after January 1, 2016,  
18 but before January 1, 2018;
- 19 (j) 37% for the taxable year beginning on or after January 1,  
20 2018, but before January 1, 2019;
- 21 (k) 39% for the taxable year beginning on or after January 1,  
22 2019, but before January 1, 2020; and
- 23 (l) 40% for taxable years beginning on or after January 1, 2020.
- 24 (3) To qualify for the New Jersey earned income tax credit, if  
25 the claimant is married, except for a claimant who files as a head of  
26 household or surviving spouse for federal income tax purposes for  
27 the taxable year, the claimant shall file a joint return or claim for  
28 the credit.
- 29 b. In the case of a part-year resident claimant, the amount of  
30 the credit allowed pursuant to this section shall be pro-rated, based  
31 upon that proportion which the total number of months of the  
32 claimant's residency in the taxable year bears to 12 in that period.  
33 For this purpose, 15 days or more shall constitute a month.
- 34 c. The amount of the credit allowed pursuant to this section  
35 shall be applied against the tax otherwise due under N.J.S.54A:1-1  
36 et seq., after all other credits and payments. If the credit exceeds the  
37 amount of tax otherwise due, that amount of excess shall be an  
38 overpayment for the purposes of N.J.S.54A:9-7; provided however,  
39 that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit  
40 provided under this section as a credit against the tax otherwise due  
41 and the amount of the credit treated as an overpayment shall be  
42 treated as a credit towards or overpayment of gross income tax,  
43 subject to all provisions of N.J.S.54A:1-1 et seq., except as may be  
44 otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).
- 45 d. The Director of the Division of Taxation in the Department  
46 of the Treasury shall establish a program for the distribution of  
47 earned income tax credits pursuant to the provisions of this section.

1 e. Any earned income tax credit pursuant to this section shall  
2 not be taken into account as income or receipts for purposes of  
3 determining the eligibility of an individual for benefits or assistance  
4 or the amount or extent of benefits or assistance under any State  
5 program and, to the extent permitted by federal law, under any State  
6 program financed in whole or in part with federal funds.  
7 (cf: P.L.2016, c.57, s.11)

8  
9 5. (New section) a. A 'resident' taxpayer with New Jersey  
10 taxable income of \$60,000 or less who is allowed a credit for  
11 expenses for household and dependent care services for federal  
12 income tax purposes pursuant to section 21 of the Internal Revenue  
13 Code (26 U.S.C. s.21) shall be allowed a credit against the tax  
14 otherwise due pursuant to the "New Jersey Gross Income Tax Act,"  
15 N.J.S.54A:1-1 et seq. The credit shall be in an amount equal to a  
16 percentage of the credit allowed the taxpayer for federal income tax  
17 purposes for the taxable year, according to the following schedule:

18 NJ taxable income is:	19 Amount of NJ credit is:
20 Not over \$20,000	21 50% of federal credit
22 over \$20,000 but not over \$30,000	23 40% of federal credit
24 over \$30,000 but not over \$40,000	25 30% of federal credit
26 over \$40,000 but not over \$50,000	27 20% of federal credit
28 over \$50,000 but not over \$60,000	29 10% of federal credit.

30 The credit allowed by this section for a taxable year shall not  
31 exceed \$500 for employment-related expenses paid by the taxpayer  
32 for one qualifying individual and \$1,000 for employment-related  
33 expenses paid by the taxpayer for two or more qualifying  
34 individuals. The \$60,000 income limit set forth in this subsection  
35 shall apply to taxpayers of any filing status.

36 b. A credit allowed pursuant to this section shall not reduce the  
37 tax liability otherwise due pursuant to N.J.S.54A:1-1 et seq. for a  
38 taxable year to an amount less than zero.

39 c. Married couples shall file a joint return in order to claim the  
40 credit provided by this section. A taxpayer eligible to receive a  
41 credit pursuant to paragraph (3) or (4) of subsection (e) of section  
42 21 of the federal Internal Revenue Code (26 U.S.C. s.21) shall be  
43 eligible for the credit provided by this section, provided the  
44 taxpayer satisfies the income limit set forth in subsection a. of this  
45 section.

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



1       6. N.J.S.54A:5-8 is amended to read as follows:

2       54A:5-8. a. Income from sources within this State for a  
3 nonresident individual, estate or trust means the income from the  
4 categories of gross income enumerated and classified under chapter  
5 5 of this act to the extent that it is earned, received or acquired from  
6 sources within this State:

7       (1) By reason of ownership or disposition of any interest in real  
8 or tangible personal property in this State; or

9       (2) In connection with a trade, profession, occupation carried on  
10 in this State or for the rendition of personal services performed in  
11 this State; or

12       (3) As a distributive share of the income of an unincorporated  
13 business, profession, enterprise, undertaking or other activity as the  
14 result of work done, services rendered or other business activities  
15 conducted in this State except as allocated to another state pursuant  
16 to regulations promulgated by the director under this act; or

17       (4) From intangible personal property employed in a trade,  
18 profession, occupation or business carried on in this State; or

19       (5) As a result of any lottery or wagering transaction in this  
20 State other than that excluded from taxation pursuant to  
21 N.J.S.54A:6-11; or

22       (6) As S corporation income allocated to this State of a New  
23 Jersey S corporation.

24       b. Income from sources within this State for a nonresident  
25 individual shall not include income from pensions and annuities as  
26 set forth in subsection j. of N.J.S.54A:5-1.

27       c. For purposes of paragraphs (2) through (4) of subsection a.  
28 of this section, a nonresident taxpayer shall not be deemed to be  
29 carrying on a trade, profession, occupation, business, enterprise,  
30 undertaking or other activity in this State, or to be rendering  
31 personal services in this State, solely as a result of the purchase,  
32 holding and sale of intangible personal property by the trade,  
33 profession, occupation, business, enterprise or undertaking, to the  
34 extent that (1) the activities related to the intangible personal  
35 property are for the account of the trade, profession, occupation,  
36 business, enterprise, or undertaking and (2) the trade, profession,  
37 occupation, business, enterprise, or undertaking does not hold the  
38 intangible personal property for sale to customers. For the purposes  
39 of this subsection: "intangible personal property" includes, but is  
40 not limited to, "commodities", as defined in paragraph (2) of  
41 subsection (e), and "securities," as defined in paragraph (2) of  
42 subsection (c), of section 475 of the federal Internal Revenue Code  
43 of 1986, 26 U.S.C. s.475; and "purchase, holding and sale of  
44 intangible personal property" includes activities incidental thereto  
45 giving rise to income, including commitment fees, breakup fees,  
46 income from securities lending, and any other incidental activities  
47 as prescribed or authorized by the director. The director shall adopt

1 such regulations as the director deems necessary to accomplish the  
2 purposes of this section.

3 d. (1) The provisions of subsection c. of this section shall not  
4 apply to income from investment management services provided to  
5 a partnership, S corporation, or other entity.

6 (2) As used in this subsection:

7 “Investment management services” means providing a  
8 substantial quantity of any of the following services to a  
9 partnership, S corporation, or other entity as a partner thereto:

10 (a) advising as to the advisability of investing in, purchasing, or  
11 selling a specified asset;

12 (b) managing, acquiring, or disposing of a specified asset;

13 (c) arranging financing with respect to acquiring specified  
14 assets; or

15 (d) any activity in support of the services described in  
16 subparagraphs (a) through (c) of this paragraph.

17 A partner shall not be deemed to be providing investment  
18 management services under this section if the partnership interest is  
19 held directly or indirectly by a corporation, or any capital interest in  
20 the partnership, which provides the taxpayer with a right to share in  
21 partnership capital commensurate with the amount of capital  
22 contributed, determined at the time of receipt of such partnership  
23 interest, or the value of partnership interest subject to tax under  
24 section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the  
25 receipt or vesting of such interest.

26 “Specified asset” means certain securities, real estate held for  
27 rental or investment, interests in partnerships, commodities, or  
28 options or derivatives contracts, except if at least 80 percent of the  
29 average fair market value of the specified assets of the partnership,  
30 S corporation, or other entity during the taxable year consists of real  
31 estate.

32 (3) This subsection shall remain inoperative until enactment into  
33 law by the states of Connecticut, New York, and Massachusetts of  
34 legislation having an identical effect with this subsection, sections 7  
35 and 9 of P.L. , c. (C. ) (pending before the Legislature as this  
36 bill), and subsection (D) of section 6 of P.L.1945, c.162 (C.54:10A-  
37 6), as shall be determined by the Director of the Division of  
38 Taxation in the Department of the Treasury.

39 (cf: P.L.1998, c.106, s.14)

40

41 7. (New section) a. As used in this section:

42 “Investment management services” means providing a  
43 substantial quantity of any of the following services to a  
44 partnership, S corporation, or other entity as a partner thereto:

45 (1) advising as to the advisability of investing in, purchasing, or  
46 selling a specified asset;

47 (2) managing, acquiring, or disposing of a specified asset;

1 (3) arranging financing with respect to acquiring specified  
2 assets; or

3 (4) any activity in support of the services described in  
4 paragraphs (1) through (3) of this subsection.

5 A partner shall not be deemed to be providing investment  
6 management services under this section if the partnership interest is  
7 held directly or indirectly by a corporation, or any capital interest in  
8 the partnership, which provides the taxpayer with a right to share in  
9 partnership capital commensurate with the amount of capital  
10 contributed, determined at the time of receipt of such partnership  
11 interest, or the value of partnership interest subject to tax under  
12 section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the  
13 receipt or vesting of such interest.

14 “Specified asset” means certain securities, real estate held for  
15 rental or investment, interests in partnerships, commodities, or  
16 options or derivatives contracts, except if at least 80 percent of the  
17 average fair market value of the specified assets of the partnership,  
18 S corporation, or other entity during the taxable year consists of real  
19 estate.

20 b. Notwithstanding the provisions of the “New Jersey Gross  
21 Income Tax Act,” N.J.S.54A:1-1 et seq., to the contrary, in addition  
22 to the tax imposed on the income of a non-resident taxpayer  
23 pursuant to N.J.S.54A:5-8, there shall be imposed an additional  
24 surtax of 17 percent on income from investment management  
25 services received during the taxpayer’s taxable year.

26 c. Notwithstanding the provisions of the “New Jersey Gross  
27 Income Tax Act,” N.J.S.54A:1-1 et seq., to the contrary, in addition  
28 to the tax imposed on the income of a resident taxpayer from the  
29 categories of gross income enumerated and classified in  
30 N.J.S.54A:5-1 et seq., there shall be imposed an additional surtax of  
31 17 percent on income received during the taxpayer’s taxable year  
32 from investment management services provided to a partnership, S  
33 corporation, or other entity.

34 d. This section shall remain inoperative until enactment into  
35 law by the states of Connecticut, New York, and Massachusetts of  
36 legislation having an identical effect with this section, subsection d.  
37 of N.J.S.54A:5-8, subsection (D) of section 6 of P.L.1945, c.162  
38 (C.54:10A-6), and section 9 of P.L. , c. (C. ) (pending before  
39 the Legislature as this bill), as shall be determined by the Director  
40 of the Division of Taxation in the Department of the Treasury.

41

42 8. Section 6 of P.L.1945, c.162 (C.54:10A-6) is amended to  
43 read as follows:

44 6. The portion of a taxpayer's entire net worth to be used as a  
45 measure of the tax imposed by subsection (a) of section 5 of  
46 P.L.1945, c.162 (C.54:10A-5), and the portion of its entire net  
47 income to be used as a measure of the tax imposed by subsection (c)  
48 of section 5 of P.L.1945, c.162 (C.54:10A-5), shall be determined

1 by multiplying such entire net worth and entire net income,  
2 respectively, by an allocation factor which is the property fraction,  
3 plus twice the sales fraction plus the payroll fraction and the  
4 denominator of which is four, and which, for privilege periods  
5 beginning on or after January 1, 2012, is the sum of the portions of  
6 the property fraction, the sales fraction, and the payroll fraction  
7 determined in accordance with the following schedule:

8 for privilege periods beginning on or after January 1, 2012 but  
9 before January 1, 2013, 15% of the property fraction plus 70% of  
10 the sales fraction plus 15% of the payroll fraction,

11 for privilege periods beginning on or after January 1, 2013 but  
12 before January 1, 2014, 5% of the property fraction plus 90% of the  
13 sales fraction plus 5% of the payroll fraction, and

14 for privilege periods beginning on or after January 1, 2014,  
15 100% of the sales fraction,

16 except as the director may determine pursuant to section 8 of  
17 P.L.1945, c.162 (C.54:10A-8), that is:

18 (A) The property fraction is the average value of the taxpayer's  
19 real and tangible personal property within the State during the  
20 period covered by its report divided by the average value of all the  
21 taxpayer's real and tangible personal property wherever situated  
22 during such period; provided, however, that for the purpose of  
23 determining average value, the provisions with respect to  
24 depreciation as set forth in subparagraph (F) of paragraph (2) of  
25 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be  
26 taken into account for arriving at such value.

27 (B) The sales fraction is the receipts of the taxpayer, computed  
28 on the cash or accrual basis according to the method of accounting  
29 used in the computation of its net income for federal tax purposes,  
30 arising during such period from

31 (1) sales of its tangible personal property located within this  
32 State at the time of the receipt of or appropriation to the orders  
33 where shipments are made to points within this State,

34 (2) sales of tangible personal property located without the State  
35 at the time of the receipt of or appropriation to the orders where  
36 shipment is made to points within the State,

37 (3) (Deleted by amendment.)

38 (4) services performed within the State,

39 (5) rentals from property situated, and royalties from the use of  
40 patents or copyrights, within the State,

41 (6) all other business receipts (excluding dividends excluded  
42 from entire net income by paragraph (1) of subsection (k) of section  
43 4 of P.L.1945, c.162 (C.54:10A-4)) earned within the State,

44 divided by the total amount of the taxpayer's receipts, similarly  
45 computed, arising during such period from all sales of its tangible  
46 personal property, services, rentals, royalties and all other business  
47 receipts, whether within or without the State.

1 (C) The payroll fraction is the total wages, salaries and other  
2 personal service compensation, similarly computed, during such  
3 period of officers and employees within the State divided by the  
4 total wages, salaries and other personal service compensation,  
5 similarly computed, during such period of all the taxpayer's officers  
6 and employees within and without the State.

7 In the case of a banking corporation which maintains a regular  
8 place of business outside this State other than a statutory office, and  
9 which elects to take the exclusion from net worth provided in  
10 subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the  
11 deduction from entire net income provided in paragraph (4) of  
12 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), the  
13 allocation factor shall be computed and applied in accordance with  
14 section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that  
15 the numerators and the denominators of the fractions described in  
16 (A), (B) or (C) above shall include all amounts attributable, directly  
17 or indirectly, to the production of the eligible net income of an  
18 international banking facility as defined in paragraph (4) of  
19 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4),  
20 whether or not such amounts are otherwise attributable to this State.

21 (D) (1) For the purposes of paragraph (4) of subsection (B) of  
22 this section, services performed within the State shall be deemed to  
23 include, but shall not be limited to, investment management  
24 services performed by the taxpayer as a partner provided to a  
25 partnership, S corporation, or other entity.

26 (2) As used in this subsection:

27 “Investment management services” means providing a  
28 substantial quantity of any of the following services to a  
29 partnership, S corporation, or other entity as a partner thereto:

30 (a) advising as to the advisability of investing in, purchasing, or  
31 selling a specified asset;

32 (b) managing, acquiring, or disposing of a specified asset;

33 (c) arranging financing with respect to acquiring specified  
34 assets; or

35 (d) any activity in support of the services described in  
36 subparagraphs (a) through (c) of this paragraph.

37 A partner shall not be deemed to be providing investment  
38 management services under this subsection if the partnership  
39 interest is held directly or indirectly by a corporation, or any capital  
40 interest in the partnership, which provides the taxpayer with a right  
41 to share in partnership capital commensurate with the amount of  
42 capital contributed, determined at the time of receipt of such  
43 partnership interest, or the value of partnership interest subject to  
44 tax under section 83 of the Internal Revenue Code (26 U.S.C. s.83),  
45 upon the receipt or vesting of such interest.

46 “Specified asset” means certain securities, real estate held for  
47 rental or investment, interests in partnerships, commodities, or  
48 options or derivatives contracts, except if at least 80 percent of the

1 average fair market value of the specified assets of the partnership,  
2 S corporation, or other entity during the taxable year consists of real  
3 estate.

4 (3) This subsection shall remain inoperative until enactment into  
5 law by the states of Connecticut, New York, and Massachusetts of  
6 legislation having an identical effect with this subsection,  
7 subsection d. of N.J.S.54A:5-8, and sections 7 and 9 of P.L. \_\_\_\_\_,  
8 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), as shall be  
9 determined by the Director of the Division of Taxation in the  
10 Department of the Treasury.

11 (cf: P.L.2011, c.59, s.1)

12

13 9. (New section) a. As used in this section:

14 “Investment management services” means providing a  
15 substantial quantity of any of the following services to a  
16 partnership, S corporation, or other entity as a partner thereto:

17 (1) advising as to the advisability of investing in, purchasing, or  
18 selling a specified asset;

19 (2) managing, acquiring, or disposing of a specified asset;

20 (3) arranging financing with respect to acquiring specified  
21 assets; or

22 (4) any activity in support of the services described in  
23 paragraphs (1) through (3) of this subsection.

24 A partner shall not be deemed to be providing investment  
25 management services under this section if the partnership interest is  
26 held directly or indirectly by a corporation, or any capital interest in  
27 the partnership, which provides the taxpayer with a right to share in  
28 partnership capital commensurate with the amount of capital  
29 contributed, determined at the time of receipt of such partnership  
30 interest, or the value of partnership interest subject to tax under  
31 section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the  
32 receipt or vesting of such interest.

33 “Specified asset” means certain securities, real estate held for  
34 rental or investment, interests in partnerships, commodities, or  
35 options or derivatives contracts, except if at least 80 percent of the  
36 average fair market value of the specified assets of the partnership,  
37 S corporation, or other entity during the taxable year consists of real  
38 estate.

39 b. Notwithstanding the provisions of the “Corporation Business  
40 Tax Act (1945),” P.L.1945, c.162 (C.54:10A-1 et seq.), to the  
41 contrary, in addition to the tax imposed on the entire net income of  
42 a taxpayer pursuant to the provisions of section 6 of P.L.1945,  
43 c.162 (C.54:10A-6), there shall be imposed an additional surtax of  
44 17 percent on income received from investment management  
45 services during the taxpayer’s accounting or privilege period.

46 c. This section shall remain inoperative until enactment into  
47 law by the states of Connecticut, New York, and Massachusetts of  
48 legislation having an identical effect with this section, section 7 of

1 P.L. , c. (C. ) (pending before the Legislature as this bill),  
2 subsection (D) of section 6 of P.L.1945, c.162 (C.54:10A-6), and  
3 subsection d. of N.J.S.54A:5-8, as shall be determined by the  
4 Director of the Division of Taxation in the Department of the  
5 Treasury.

6  
7 <sup>1</sup>10. N.J.S.54A:2-1 is amended to read as follows:

8 54A:2-1. Imposition of tax. There is hereby imposed a tax for  
9 each taxable year (which shall be the same as the taxable year for  
10 federal income tax purposes) on the New Jersey gross income as  
11 herein defined of every individual, estate or trust (other than a  
12 charitable trust or a trust forming part of a pension or profit-sharing  
13 plan), subject to the deductions, limitations and modifications  
14 hereinafter provided, determined in accordance with the following  
15 tables with respect to taxpayers' taxable income:

16 a. For married individuals filing a joint return and individuals  
17 filing as head of household or as surviving spouse for federal  
18 income tax purposes:

19 (1) for taxable years beginning on or after January 1, 1991 but  
20 before January 1, 1994:

If the taxable income is:	The tax is:
Not over \$20,000.00.....	2% of taxable income
Over \$20,000.00 but not over \$50,000.00.....	\$400.00 plus 2.5% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00.....	\$1,150.00 plus 3.5% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00.....	\$1,850.00 plus 5.0% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00.....	\$2,350.00 plus 6.5% of the excess over \$80,000.00
Over \$150,000.00 .....	\$6,900.00 plus 7.0% of the excess over \$150,000.00

45 (2) for taxable years beginning on or after January 1, 1994 but  
46 before January 1, 1995:

47  
48 If the taxable income is: The tax is:

[1R] ACS for **A3088**

1	Not over \$20,000.00.....	1.900% of taxable income
2		
3	Over \$20,000.00 but not	
4	over \$50,000.00.....	\$380.00 plus 2.375% of the
5		excess over \$20,000.00
6		
7	Over \$50,000.00 but not	
8	over \$70,000.00.....	\$1,092.50 plus 3.325% of the
9		excess over \$50,000.00
10		
11	Over \$70,000.00 but not	
12	over \$80,000.00.....	\$1,757.50 plus 4.750% of the
13		excess over \$70,000.00
14		
15	Over \$80,000.00 but not	
16	over \$150,000.00.....	\$2,232.50 plus 6.175% of the
17		excess over \$80,000.00
18		
19	Over \$150,000.00 .....	\$6,555.00 plus 6.650% of the
20		excess over \$150,000.00
21		
22	(3) for taxable years beginning on or after January 1, 1995 but	
23	before January 1, 1996:	
24		
25	If the taxable income is:	The tax is:
26		
27	Not over \$20,000.00.....	1.700% of taxable income
28		
29	Over \$20,000.00 but not	
30	over \$50,000.00.....	\$340.00 plus 2.125% of the
31		excess over \$20,000.00
32		
33	Over \$50,000.00 but not	
34	over \$70,000.00.....	\$977.50 plus 2.975% of the
35		excess over \$50,000.00
36		
37	Over \$70,000.00 but not	
38	over \$80,000.00.....	\$1,572.50 plus 4.250% of the
39		excess over \$70,000.00
40		
41	Over \$80,000.00 but not	
42	over \$150,000.00.....	\$1,997.50 plus 6.013% of the
43		excess over \$80,000.00
44		
45	Over \$150,000.00 .....	\$6,206.60 plus 6.580% of the
46		excess over \$150,000.00



1 (4) for taxable years beginning on or after January 1, 1996 but  
 2 before January 1, 2004:

3	4 If the taxable income is:	5 The tax is:
6	Not over \$20,000.00.....	1.400% of taxable income
7		
8	Over \$20,000.00 but not	
9	over \$50,000.00.....	\$280.00 plus 1.750% of the
10		excess over \$20,000.00
11	Over \$50,000.00 but not	
12	over \$70,000.00.....	\$805.00 plus 2.450% of the
13		excess over \$50,000.00
14		
15	Over \$70,000.00 but not	
16	over \$80,000.00.....	\$1,295.50 plus 3.500% of the
17		excess over \$70,000.00
18		
19	Over \$80,000.00 but not	
20	over \$150,000.00.....	\$1,645.00 plus 5.525% of the
21		excess over \$80,000.00
22		
23	Over \$150,000.00 .....	\$5,512.50 plus 6.370% of the
24		excess over \$150,000.00

25  
 26 (5) for taxable years beginning on or after January 1, 2004 but  
 27 before January 1, 2018:

28	29 If the taxable income is:	30 The tax is:
31	Not over \$20,000.00.....	1.400% of taxable income
32		
33	Over \$20,000.00 but not	
34	over \$50,000.00.....	\$280.00 plus 1.750% of the
35		excess over \$20,000.00
36		
37	Over \$50,000.00 but not	
38	over \$70,000.00.....	\$805.00 plus 2.450% of the
39		excess over \$50,000.00
40		
41	Over \$70,000.00 but not	
42	over \$80,000.00.....	\$1,295.50 plus 3.500% of the
43		excess over \$70,000.00
44		
45	Over \$80,000.00 but not	
46	over \$150,000.00.....	\$1,645.00 plus 5.525% of the
47		excess over \$80,000.00
48	Over \$150,000.00 but not	

1	over \$500,000.00.....	\$5,512.50 plus 6.370% of the
2		excess over \$150,000.00
3		
4	Over \$500,000.00 .....	\$27,807.50 plus 8.970% of the
5		excess over \$500,000.00

7 (6) for taxable years beginning on or after January 1, 2018:

9	<u>If the taxable income is:</u>	<u>The tax is:</u>
10		
11	<u>Not over \$20,000.00.....</u>	<u>1.400% of taxable income</u>
12		
13	<u>Over \$20,000.00 but not</u>	
14	<u>over \$50,000.00.....</u>	<u>\$280.00 plus 1.750% of the</u>
15		<u>excess over \$20,000.00</u>
16		
17	<u>Over \$50,000.00 but not</u>	
18	<u>over \$70,000.00.....</u>	<u>\$805.00 plus 2.450% of the</u>
19		<u>excess over \$50,000.00</u>
20		
21	<u>Over \$70,000.00 but not</u>	
22	<u>over \$80,000.00.....</u>	<u>\$1,295.50 plus 3.500% of the</u>
23		<u>excess over \$70,000.00</u>
24		
25	<u>Over \$80,000.00 but not</u>	
26	<u>over \$150,000.00.....</u>	<u>\$1,645.00 plus 5.525% of the</u>
27		<u>excess over \$80,000.00</u>
28		
29	<u>Over \$150,000.00 but not</u>	
30	<u>over \$500,000.00.....</u>	<u>\$5,512.50 plus 6.370% of the</u>
31		<u>excess over \$150,000.00</u>
32		
33	<u>Over \$500,000.00 but not</u>	
34	<u>over \$5,000,000.00.....</u>	<u>\$27,807.50 plus 8.970% of the</u>
35		<u>excess over \$500,000.00.</u>
36		
37	<u>Over \$5,000,000.00 .....</u>	<u>\$431,457.50 plus 10.75% of the</u>
38		<u>excess over \$5,000,000.00.</u>

39 b. For married individuals filing separately, unmarried  
 40 individuals other than individuals filing as head of household or as  
 41 a surviving spouse for federal income tax purposes, and estates and  
 42 trusts:

43 (1) for taxable years beginning on or after January 1, 1991 but  
 44 before January 1, 1994:

46	If the taxable income is:	The tax is:
47		
48	Not over \$20,000.00.....	2% of taxable income

[1R] ACS for **A3088**

1	Over \$20,000.00 but not	
2	over \$35,000.00.....	\$400.00 plus 2.5% of the
3		excess over \$20,000.00
4		
5	Over \$35,000.00 but not	
6	over \$40,000.00.....	\$775.00 plus 5.0% of the
7		excess over \$35,000.00
8	Over \$40,000.00 but not	
9	over \$75,000.00.....	\$1,025.00 plus 6.5% of the
10		excess over \$40,000.00
11		
12	Over \$75,000.00 .....	\$3,300.00 plus 7.0% of the
13		excess over \$75,000.00
14		

15 (2) for taxable years beginning on or after January 1, 1994 but  
16 before January 1, 1995:

17		
18	If the taxable income is:	The tax is:
19		
20	Not over \$20,000.00.....	1.900% of taxable income
21		
22	Over \$20,000.00 but not	
23	over \$35,000.00.....	\$380.00 plus 2.375% of the
24		excess over \$20,000.00
25		
26	Over \$35,000.00 but not	
27	over \$40,000.00.....	\$736.25 plus 4.750% of the
28		excess over \$35,000.00
29		
30	Over \$40,000.00 but not	
31	over \$75,000.00.....	\$973.75 plus 6.175% of the
32		excess over \$40,000.00
33		
34	Over \$75,000.00 .....	\$3,135.00 plus 6.650% of the
35		excess over \$75,000.00
36		

37 (3) for taxable years beginning on or after January 1, 1995 but  
38 before January 1, 1996:

39		
40	If the taxable income is:	The tax is:
41		
42	Not over \$20,000.00.....	1.700% of taxable income
43		
44	Over \$20,000.00 but not	
45	over \$35,000.00.....	\$340.00 plus 2.125% of the
46		excess over \$20,000.00
47		
48	Over \$35,000.00 but not	

[1R] ACS for **A3088**

1	over \$40,000.00.....	\$658.75 plus 4.250% of the
2		excess over \$35,000.00
3		
4	Over \$40,000.00 but not	
5	over \$75,000.00.....	\$871.25 plus 6.013% of the
6		excess over \$40,000.00
7		
8	Over \$75,000.00 .....	\$2,975.80 plus 6.580% of the
9		excess over \$75,000.00
10		
11	(4) for taxable years beginning on or after January 1, 1996 but	
12	before January 1, 2004:	
13		
14	If the taxable income is:	The tax is:
15		
16	Not over \$20,000.00.....	1.400% of taxable income
17		
18	Over \$20,000.00 but not	
19	over \$35,000.00.....	\$280.00 plus 1.750% of the
20		excess over \$20,000.00
21		
22	Over \$35,000.00 but not	
23	over \$40,000.00.....	\$542.50 plus 3.500% of the
24		excess over \$35,000.00
25		
26	Over \$40,000.00 but not	
27	over \$75,000.00.....	\$717.50 plus 5.525% of the
28		excess over \$40,000.00
29		
30	Over \$75,000.00.....	\$2,651.25 plus 6.370% of the
31		excess over \$75,000.00
32		
33	(5) for taxable years beginning on or after January 1, 2004 <u>but</u>	
34	<u>before January 1, 2018:</u>	
35		
36	If the taxable income is:	The tax is:
37		
38	Not over \$20,000.00.....	1.400% of taxable income
39		
40	Over \$20,000.00 but not	
41	over \$35,000.00.....	\$280.00 plus 1.750% of the
42		excess over \$20,000.00
43		
44	Over \$35,000.00 but not	
45	over \$40,000.00.....	\$542.50 plus 3.500% of the
46		excess over \$35,000.00
47		
48	Over \$40,000.00 but not	

1	over \$75,000.00.....	\$717.50 plus 5.525% of the
2		excess over \$40,000.00
3		
4	Over \$75,000.00 but not	
5	over \$500,000.00.....	\$2,651.25 plus 6.370% of the
6		excess over \$75,000.00
7		
8	Over \$500,000.00 .....	\$29,723.75 plus 8.970% of the
9		excess over \$500,000.00

10  
11 (6) for taxable years beginning on or after January 1, 2018:

12		
13	<u>If the taxable income is:</u>	<u>The tax is:</u>
14		
15	<u>Not over \$20,000.00.....</u>	<u>1.400% of taxable income</u>
16		
17	<u>Over \$20,000.00 but not</u>	
18	<u>over \$35,000.00.....</u>	<u>\$280.00 plus 1.750% of the</u>
19		<u>excess over \$20,000.00</u>
20		
21	<u>Over \$35,000.00 but not</u>	
22	<u>over \$40,000.00.....</u>	<u>\$542.50 plus 3.500% of the</u>
23		<u>excess over \$35,000.00</u>
24		
25	<u>Over \$40,000.00 but not</u>	
26	<u>over \$75,000.00.....</u>	<u>\$717.50 plus 5.525% of the</u>
27		<u>excess over \$40,000.00</u>
28		
29	<u>Over \$75,000.00 but not</u>	
30	<u>over \$500,000.00.....</u>	<u>\$2,651.25 plus 6.370% of the</u>
31		<u>excess over \$75,000.00</u>
32		
33	<u>Over \$500,000.00 but not</u>	
34	<u>over \$5,000,000.00.....</u>	<u>\$29,723.75 plus 8.970% of the</u>
35		<u>excess over \$500,000.00</u>
36		
37	<u>Over \$5,000,000.00 .....</u>	<u>\$433,373.75 plus 10.75% of the</u>
38		<u>excess over \$5,000,000.00</u>

39 c. For the purposes of this section, an individual who would be  
40 eligible to file as a head of household for federal income tax  
41 purposes but for the fact that such taxpayer is a nonresident alien,  
42 shall determine tax pursuant to subsection a. of this section.

43 d. For the purposes of this section, for taxable year 2018,  
44 withholding by every employer from salaries, wages and other  
45 remuneration paid by an employer for services rendered described  
46 in subsection a. and b. of this section, in excess of \$5,000,000  
47 during that taxable year, shall be at the rate of 15.6% as soon as  
48 practicable but no later than September 1, 2018. The Director of the

1 Division of Taxation is authorized to do all things necessary to  
2 implement the withholding tax prescribed by this section for taxable  
3 year 2018.

4 e. No additions to tax or penalty shall be imposed under  
5 N.J.S.54A:9-6 for insufficient payment of estimated tax that may  
6 otherwise be due on salaries, wages and other remuneration  
7 received before September 1, 2018, on which there is a rate of tax  
8 imposed pursuant to subsections a. and b. of this section.

9 f. An employer maintaining an office or transacting business  
10 within this State and making payment of any salaries, wages and  
11 remuneration subject to New Jersey gross income tax or making  
12 payment of any remuneration for employment subject to  
13 contribution under the New Jersey "unemployment compensation  
14 law," pursuant to R.S.43:21-1 et seq., that is subject to New Jersey  
15 gross income tax shall not be subject to interest, penalties or other  
16 costs that may otherwise be imposed for insufficient withholding of  
17 salaries, wages and other remuneration made before September 1,  
18 2018, that is directly attributable to the enactment of the taxable  
19 income tables and tax rates in subsections a. and b. of this section.<sup>1</sup>

20 (cf: P.L.2004, c.40, s.17)

21

22 <sup>1</sup>**[10.] 11.**<sup>1</sup> (New section) Notwithstanding the provisions of  
23 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
24 seq.), to the contrary, the director may adopt immediately upon  
25 filing with the Office of Administrative Law, regulations that the  
26 director deems necessary to implement the provisions of P.L. , c.  
27 (C. ) (pending before the Legislature as this bill), which  
28 regulations shall be effective for a period not to exceed 360 days  
29 from the date of the filing. The director may thereafter amend,  
30 adopt, or readopt the regulations in accordance with the  
31 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

32

33 <sup>1</sup>**[11.] 12.**<sup>1</sup> This act shall take effect immediately and shall  
34 apply to taxable years beginning on and after January 1, 2018,  
35 except that sections 6 through 9 shall remain inoperative until  
36 enactment into law by the states of Connecticut, New York, and  
37 Massachusetts of legislation having an identical effect with sections  
38 6 through 9 of this act, as shall be determined by the Director of the  
39 Division of Taxation in the Department of the Treasury, but if the  
40 states of Connecticut, New York, and Massachusetts shall have  
41 already enacted such legislation, as shall be determined by the  
42 director, sections 6 through 9 of this act shall take effect  
43 immediately, and shall apply to taxable years and accounting or  
44 privilege periods beginning after its effective date; provided further,  
45 however, that sections 7 and 9 of this act shall expire if the director  
46 determines that the United States Congress has passed, and the  
47 President of the United States has signed, legislation having an

1 identical effect with sections 6 through 9 of this act applicable to  
2 such income earned in all of the states and territories.

3

4

5

6

7       Increases earned income tax credit; provides credit for child or  
8 dependent care expenses; taxes “investment management services.”

# ASSEMBLY, No. 3088

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

**Sponsored by:**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**SYNOPSIS**

Increases New Jersey Earned Income Tax Credit to 40 percent of federal benefit amount beginning in Tax Year 2018.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/19/2018)



1 AN ACT increasing the New Jersey Earned Income Tax Credit,  
2 amending P.L.2000, c.80.

3

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

6

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

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

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

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

25 (a) 10% for the taxable year beginning on or after January 1,  
26 2000, but before January 1, 2001;

27 (b) 15% for the taxable year beginning on or after January 1,  
28 2001, but before January 1, 2002;

29 (c) 17.5% for the taxable year beginning on or after January 1,  
30 2002, but before January 1, 2003;

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

33 (e) 22.5% for taxable years beginning on or after January 1,  
34 2008 but before January 1, 2009;

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

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

39 (h) 30% for taxable years beginning on or after January 1, 2015,  
40 but before January 1, 2016; **[and]**

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

43 (j) 40% for taxable years beginning on or after January 1, 2018.

44 (3) To qualify for the New Jersey earned income tax credit, if  
45 the claimant is married, except for a claimant who files as a head of

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

**Matter underlined thus is new matter.**

1 household or surviving spouse for federal income tax purposes for  
2 the taxable year, the claimant shall file a joint return or claim for  
3 the credit.

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

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

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

23 e. Any earned income tax credit pursuant to this section shall  
24 not be taken into account as income or receipts for purposes of  
25 determining the eligibility of an individual for benefits or assistance  
26 or the amount or extent of benefits or assistance under any State  
27 program and, to the extent permitted by federal law, under any State  
28 program financed in whole or in part with federal funds.  
29 (cf: P.L.2016, c.57, s.11)

30

31 2. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill increases the New Jersey Earned Income Tax Credit (NJ  
37 EITC) to 40 percent of the federal benefit amount beginning in Tax  
38 Year 2018. The NJ EITC program, which piggy-backs on the  
39 federal EITC program, currently provides a refundable earned  
40 income tax credit under the State gross income tax equal to 35  
41 percent of the federal benefit amount.

42 The federal and State EITC programs are intended to “make  
43 work pay” by offsetting the burden of payroll taxes for low and  
44 moderate income workers.

45 To claim a credit, taxpayers must first file for the federal EITC.  
46 Eligibility for the program is determined by taxpayer income, filing  
47 status, and the number of qualifying children. For Tax Year 2018,

**A3088 PRIETO, JIMENEZ**

1 the Internal Revenue Service has indicated, the following program  
2 limits:

3

Maximum Income Eligibility Levels				
If filing ...	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	\$15,310	\$40,402	\$45,898	\$49,298
Married Filing Jointly	\$21,000	\$46,102	\$51,598	\$54,998

4

5 According to the New Jersey Department of the Treasury, it is  
6 estimated that some 546,334 taxpayers claimed a credit during TY  
7 2016, the most recent year for which data are available.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3088

# STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3088.

This substitute makes several changes to the “New Jersey Gross Income Tax Act” (GIT), N.J.S.A.54A:1-1 et seq., and the corporation business tax. The substitute increases the maximum GIT deduction allowed for homestead property taxes paid, increases the State earned income tax credit to 40 percent of the federal credit over three years, provides a credit for certain expenses paid for the care of a child or dependent, and taxes certain “investment management services.”

#### *GIT Deduction for Property Taxes*

This substitute increases the maximum GIT deduction allowed for homestead property taxes paid. Current law allows a resident taxpayer a deduction from gross income for property taxes paid for the calendar year on the taxpayer’s principal residence in the State, up to a maximum deduction of \$10,000. This substitute raises the amount of the maximum deduction from gross income allowed for homestead property taxes paid to \$15,000.

#### *Increases Earned Income Tax Credit*

This substitute increases the State earned income tax credit from 35 percent to 40 percent of the federal earned income tax credit on a phased-in basis over three years. Under this substitute, the State benefit amount would increase from 35 percent in taxable year 2017 to 37 percent in taxable year 2018, to 39 percent in taxable year 2019, and to 40 percent in taxable year 2020. After taxable year 2020, the State earned income tax credit will remain at 40 percent of the federal earned income tax credit.

#### *Child and Dependent Care Tax Credit*

This substitute provides a nonrefundable credit against the New Jersey GIT to taxpayers who incur employment-related expenses while caring for a child or dependent. The credit is available to taxpayers

who are allowed the federal child and dependent care credit and have New Jersey taxable income of \$60,000 or less for the taxable year. Employment related expenses are expenses for household services and for the care of a dependent or child incurred to enable the taxpayer to hold gainful employment.

The amount of the credit provided by this substitute is a specific percentage of the taxpayer's federal child and dependent care credit and varies according to the amount of the taxpayer's New Jersey taxable income. A taxpayer with a taxable income: not over \$20,000 receives 50 percent of the federal credit; over \$20,000 but not over \$30,000 receives 40 percent of the federal credit; over \$30,000 but not over \$40,000 receives 30 percent of the federal credit; over \$40,000 but not over \$50,000 receives 20 percent of the federal credit; and over \$50,000 but not over \$60,000 receives 10 percent of the federal credit.

The substitute caps the credit at a maximum of \$500 for expenses paid for the care of one dependent or child, and \$1,000 for expenses paid for the care of two or more dependents of children, per taxable year.

#### *Taxation of Investment Management Services*

This substitute taxes income attributable to certain "investment management services" that an individual partner or corporate partner provides on behalf of a partnership. The intent of these provisions of the substitute is to ensure that taxpayers cannot use the "carried interest loophole" to avoid State taxation. "Carried interest" describes an investment manager's share in the net profits of an investment fund in excess of any amount contributed by the manager to such fund. The federal government taxes carried interest as capital gains, which are subject to a lower tax rate than ordinary income. The substitute classifies carried interest as investment management services income and clearly identifies such income as taxable income.

In addition, the substitute also implements a 17 percent surtax as a "carried interest fairness fee" under the GIT and the corporation business tax. This surtax aims to "repatriate" the federal income tax lost at the federal level back to the states. However, this 17 percent "carried interest fairness fee" will only remain in effect until the Director of the Division of Taxation determines that the federal government has enacted legislation having an identical effect with this act applicable to such income earned in all of the states and territories. Thus, this State level effort will end if the federal government closes the loophole nationwide.

Section 6 to 9 of this substitute, concerning the taxation of investment management services, have a unique effective date mechanism so that the provisions of these sections take effect only upon the enactment into law of legislation having an identical effect in the states of Connecticut, New York, and Massachusetts. This is

intended to complete a multi-state level effort to close the loophole so that fund managers could not avoid the tax by simply moving to a nearby state.

**FISCAL IMPACT:**

The Executive Branch estimates that the phased-in increase of the Earned Income Tax Credit will decrease revenues by \$27.2 million in Fiscal Years 2019, 2020, and 2011. The new child and dependent care tax credit will decrease revenues by \$14 million in Fiscal Year 2019. The Executive Branch that increasing the cap on deductions for property taxes from \$10,000 to \$15,000 will reduce Fiscal Year 2019 revenues by \$82 million.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 3088**

**STATE OF NEW JERSEY**

**218th LEGISLATURE**

DATED: SEPTEMBER 28, 2018

## SUMMARY

- Synopsis:** Increases earned income tax credit; provides credit for child or dependent care expenses; taxes “investment management services.”
- Type of Impact:** Annual increase in State revenues deposited in the Property Tax Relief Fund and the General Fund.
- Agencies Affected:** Department of the Treasury.

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2019</u></b>	<b><u>FY 2020</u></b>	<b><u>FY 2021</u></b>
<b><u>State Revenue Increases:</u></b>			
<b>Higher Tax Rate on Income over \$5 Million</b>	\$293,700,000 to \$312,000,000	\$263,200,000 to \$285,000,000	\$271,100,000 to \$299,300,000
<b>Taxing “Investment Management Services”</b>	Indeterminate	Indeterminate	Indeterminate
<b><u>State Revenue Decreases:</u></b>			
<b>Increased Earned Income Tax Credit</b>	(\$27,600,000)	(\$56,300,000)	(\$71,800,000)
<b>New Child and Dependent Care Tax Credit</b>	(\$8,000,000 to \$11,000,000)	(\$8,000,000 to \$11,000,000)	(\$8,000,000 to \$11,000,000)
<b>Increased Property Tax Deduction</b>	(Indeterminate)	(Indeterminate)	(Indeterminate)

- The Office of Legislative Services (OLS) concludes that the five separate elements of the bill will result in an indeterminate annual net increase in State gross income tax and corporation business tax revenues.
- The OLS estimates that increasing the marginal gross income tax rate on income over \$5 million from 8.97 percent to 10.75 percent may yield between \$293.7 million and \$312.0 million in additional State revenue in FY 2019. The Executive estimates a \$280.0 million

FY 2019 revenue gain. The OLS notes that incomes and tax liabilities for taxpayers at very high levels of income are volatile and subject to significant changes from year to year.

- The OLS believes that taxing certain “investment management services” may result in an indeterminate, but significant annual gross income tax and corporation business tax revenue gain, but only if certain conditions are fulfilled. The Executive does not anticipate that the conditions will be met in FY 2019 and therefore does not project a FY 2019 revenue impact.
- The Executive has informally indicated that increasing the maximum gross income tax deduction for homestead property taxes paid from \$10,000 to \$15,000 will reduce gross income tax revenues by \$82.0 million per year. The OLS cannot independently verify or refute the Executive estimate because of a lack of access to pertinent data.
- The OLS estimates that gradually increasing the State Earned Income Tax Credit (EITC) from 35 percent to 40 percent of the federal benefit from FY 2019 through FY 2021 will lower gross income tax revenues by \$27.6 million in FY 2019, \$56.3 million in FY 2020, and \$71.8 million in FY 2021. The Executive pegs the FY 2019 revenue loss at \$27.2 million.
- The OLS projects that the new child and dependent care tax credit will reduce annual gross income tax revenues by between \$8.0 million and \$11.0 million. The Executive estimates the annual revenue loss at \$14.0 million.

## **BILL DESCRIPTION**

The bill makes several changes to the gross income tax and the corporation business tax. The changes are applicable for tax years beginning on or after January 1, 2018.

New Gross Income Tax Rate for Income Over \$5 Million: The bill imposes a new gross income tax rate of 10.75 percent on taxable income exceeding \$5 million. Under current law, a tax rate of 8.97 percent applies to that taxable income.

Taxation of Investment Management Services Income: The bill applies the gross income tax and corporation business tax to income that a taxpayer receives from providing certain investment management services as a partner to a partnership, S corporation or other entity. In addition, the bill subjects such income to a 17 percent surtax, also known as the “carried interest fairness fee,” under the gross income tax and the corporation business tax. These provisions of the bill would take effect only upon the enactment into law of legislation having an identical effect in the states of Connecticut, Massachusetts, and New York; and would expire upon the enactment into federal law of legislation having an identical effect as the bill.

Gross Income Tax Deduction for Property Taxes: The bill raises the maximum gross income tax deduction for homestead property taxes paid in a given tax year from \$10,000 to \$15,000.

EITC Increase: The bill increases the State EITC from 35 percent of the federal benefit in tax year 2017 to 37 percent in tax year 2018, 39 percent in tax year 2019, and 40 percent in tax year 2020 and every tax year thereafter.

Child and Dependent Care Tax Credit: The bill provides a nonrefundable gross income tax credit for taxpayers who incur employment-related expenses while caring for a child or dependent. The credit is available to taxpayers who are allowed the federal child and dependent care credit and have New Jersey taxable income of \$60,000 or less for the tax year.



A taxpayer with a taxable income not over \$20,000 receives a New Jersey tax credit equal to 50 percent of the federal credit; over \$20,000 but not over \$30,000 receives 40 percent of the federal credit; over \$30,000 but not over \$40,000 receives 30 percent of the federal credit; over \$40,000 but not over \$50,000 receives 20 percent of the federal credit; and over \$50,000 but not over \$60,000 receives 10 percent of the federal credit. The credit may not exceed \$500 for expenses paid for the care of one dependent or child and \$1,000 for expenses paid for the care of two or more dependents or children, per tax year.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal, written fiscal note for this bill. However, information provided informally by the Executive indicated that the Department of the Treasury projected that the bill would increase FY 2019 State revenue collections by a net \$156.8 million.

The 10.75 percent gross income tax rate on taxable income exceeding \$5 million would raise an estimated \$280.0 million in FY 2019: \$255.0 million from the annualized impact of the new rate and \$25.0 million in nonrecurring revenue attributable to the retroactive application of the tax rate increase to January 1, 2018. That revenue gain would be partially offset by a combined \$123.2 million gross income tax revenue loss from the following initiatives: (1) increase the maximum property tax deduction amount from \$10,000 to \$15,000, \$82.0 million; (2) expand the EITC, \$27.2 million; and (3) establish the child and dependent care tax credit, \$14.0 million. The Department of the Treasury did not specify the methods and data underlying its estimates.

The Executive did not forecast a FY 2019 gross income tax and corporation business tax revenue impact for the bill provisions related to the taxation of certain investment management services income because the enactment of the provisions would be contingent on Connecticut, Massachusetts, and New York enacting into law legislation having the identical effect and because litigation may further delay the entering into effect of the provisions.

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

The OLS concludes that the five separate elements of the bill will result in an indeterminate annual net increase in State gross income tax and corporation business tax revenues. An analysis of the fiscal impact of each of the elements follows below.

New Gross Income Tax Rate for Income Over \$5 Million: The OLS estimates that an increase in the marginal tax rate for income over \$5 million from 8.97 percent to 10.75 percent may yield the following additional amounts of gross income tax revenue: between \$293.7 million and \$312.0 million in FY 2019; between \$263.2 million and \$285.0 million in FY 2020; and between \$271.1 million and \$299.3 million in FY 2021.

To estimate these amounts, the OLS used tax year 2015 data from the Statistics of Income published annually by the Department of the Treasury. The OLS determined the aggregate gross income in the new tax bracket for full-year resident taxpayers with incomes above \$5.0 million, adjusted that amount for the value of certain credits and deductions, estimated the amount of taxable income by affected non-full-year resident filers that will be subject to the higher tax rate, and applied the new incremental tax rate to the estimated income in the new tax bracket by full-year and non-full-year tax return filers. For the lower bound of the range, the OLS assumed that

revenues will increase by 3 percent per year starting in tax year 2016. For the upper bound, the OLS assumed that revenues will grow by 5 percent annually starting in tax year 2016.

The OLS then allocated the tax year figures by fiscal year. The first fiscal year to realize additional tax revenues, FY 2019, receives 100 percent of the tax year 2018 impact plus an estimated 15 percent of the tax year 2019 impact from taxpayer withholding and payments between January 2019 and June 2019, providing a revenue bonus that fiscal year only. The second fiscal year, FY 2020, receives 85 percent of the tax year 2019 impact plus an estimated 15 percent of the tax year 2020 impact. The third fiscal year, FY 2021, receives 85 percent of the tax year 2020 impact plus an estimated 15 percent of the tax year 2021 impact.

The OLS notes that incomes and tax liabilities for taxpayers at very high levels of income are subject to significant volatility from year to year because high-income taxpayers are more dependent on income sources that are more susceptible to changes in the economy, such as capital gains, employment bonuses, and certain types of business income.

Taxation of Investment Management Services: The OLS believes there may be an indeterminate, but significant annual State revenue gain for the General Fund and the Property Tax Relief Fund under the provisions of the bill that affect the taxation of certain investment management services, but only if certain conditions hold. Specifically, the implementation date for the provisions is dependent on actions by other states and by the federal government. If Connecticut, New York, and Massachusetts were to enact legislation of identical effect and if the federal government were to maintain current law regarding the taxation of carried interest, then the State would gain additional tax revenue in fiscal years in which the conditions are met. As of September 2018, the conditions have not been fulfilled.

Precise fiscal information on the impact of the concerned provisions is not available. New Jersey does not produce State gross income tax and corporate tax data related to the sources of income targeted by the provisions. Nationally, there is a wide variance in estimates of the federal impact of the “carried interest loophole.” Previous Congressional Budget Office (CBO) estimates suggest that treating carried interest as ordinary income subject to ordinary federal income tax rates rather than the reduced capital gains tax rates may raise about \$2.0 billion annually. The policy group Citizens for Tax Justice has also estimated that the 10-year federal revenue impact of closing this “loophole” would be about \$21.0 billion, similar to the CBO’s forecast once annualized. Subsequently, the federal Tax Cuts and Jobs Act, enacted on December 22, 2017, reduced the federal top marginal tax rate from 39.6 percent to 37.0 percent. As a result, the CBO-estimated annual revenue gain may be reduced proportionately to \$1.9 billion. If New Jersey’s share of the \$1.9 billion matched its 3.6 percent share of federal adjusted gross income, the legislation has the potential to yield \$70.0 million in additional State revenues attributable to New Jersey taxpayers.

In contrast, Victor Fleischer of the University of San Diego School of Law estimates that the federal tax revenue potential of closing the “carried interest loophole” may be almost 10 times greater than the CBO estimate. Mr. Fleischer calculates that the total carried interest earned by general partners may equal about \$200.0 billion annually in the U.S., half of which may be taxed at the lower capital gains rate. He estimates further that the federal tax rate savings applied to \$100.0 billion yields \$18.0 billion in annual tax savings from the “carried interest loophole,” if adjusting for changes in tax behavior. The Hedge Clippers, an advocacy group that cites the work of Victor Fleischer (Hedgepapers No. 27, March 7, 2016), estimates that states could raise significant tax revenue by taxing carried interest to “repatriate” the tax revenue “lost” at the federal level. That analysis estimated New Jersey could raise \$112.8 million annually through legislation that would impose a 19.6 percent surtax on carried interest income. The OLS notes

that this estimate would have to be decreased to \$105.4 million to reflect the lower top marginal tax rate established by the federal Tax Cuts and Jobs Act of 2017.

The OLS has no independent means to evaluate this group's estimate or the estimates for total federal revenues made by the CBO. However, while these estimates vary, the revenue potential is significant, if at some future date the other conditions of this bill were fulfilled.

Property Tax Deduction: The Executive has informally indicated that increasing the amount of the maximum deduction from gross income allowed for homestead property taxes paid from \$10,000 to \$15,000 would reduce gross income tax revenues deposited into the Property Tax Relief Fund by about \$82.0 million per year. Given the absence of taxpayer-specific data and the limited serviceability of available data, the OLS cannot independently determine the magnitude of this proposal's annual State revenue loss and verify the accuracy of the Executive estimate.

EITC Increase: The OLS estimates that the EITC portion of the bill may reduce gross income tax revenues deposited into the Property Tax Relief Fund by about \$27.6 million in FY 2019, \$56.3 million in FY 2020, and \$71.8 million in FY 2021.

The New Jersey EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State's gross income tax. In the Fiscal Year 2019 State of New Jersey Tax Expenditure Report, the Department of the Treasury estimated that the New Jersey EITC, at the current rate of 35 percent of the federal credit, would reduce gross income tax revenues by \$483.2 million in FY 2019.

To estimate the cost of increasing the New Jersey EITC from 35 percent to 37 percent of the federal benefit in FY 2019, the OLS divided the Treasury's FY 2019 EITC estimate (\$483.2 million) by the current EITC rate (35 percent of the federal EITC). The quotient of this calculation, \$1.38 billion, represents the total amount of estimated federal EITC benefits to eligible New Jersey taxpayers in FY 2019. The OLS then multiplied that total by 37 percent. The product of this calculation, approximately \$510.8 million, represents the estimated total of New Jersey EITC benefits if the credit is increased to 37 percent of the federal benefit. The additional State revenue loss, approximately \$27.6 million, is the difference between the projected amount of FY 2019 New Jersey EITC benefits if the State credit is equal to 35 percent and 37 percent of the federal benefit, respectively.

Historically, federal credit amounts have grown by approximately two percent annually. To determine the State revenue losses associated with increasing the State EITC to 39 percent in FY 2020 and then to 40 percent in FY 2021, the OLS increased the estimated amount of federal EITC benefits in FY 2019 by two percent per year for FY 2020 and FY 2021. For FY 2020, the OLS estimates that a New Jersey EITC of 39 percent of the federal benefit will reduce State gross income tax revenues by \$549.2 million, or \$56.3 million more than at the 35 percent benefit level. For FY 2021, the OLS estimates that a New Jersey EITC of 40 percent of the federal benefit will reduce State gross income tax revenues by \$574.5 million, or \$71.8 million more than at the 35 percent benefit level.

Child and Dependent Care Tax Credit: The OLS estimates that this new tax credit may reduce annual gross income tax revenues deposited into the Property Tax Relief Fund by between \$8.0 million and \$11.0 million starting in FY 2019.

Internal Revenue Service (IRS) figures for tax year 2015 indicate that the federal nonrefundable child and dependent care tax credit was valued at \$134.5 million from all New Jersey taxpayers. The bill establishes a maximum New Jersey taxable income level of \$60,000 to qualify for the nonrefundable New Jersey credit, but the IRS data indicate only that federal credits were valued at \$48.8 million (average credit \$570) from New Jersey taxpayers with less

than \$75,000 adjusted gross income (AGI), or \$31.7 million (average credit \$557) from New Jersey taxpayers with less than \$50,000 AGI. A more precise accounting by income levels is not published. Moreover, federal AGI is a different measure of income from New Jersey taxable income, making a direct comparison between federal and State taxable income difficult.

The OLS assumes the midpoint between the latter two federal amounts is a reasonable approximation of taxpayers receiving the federal credit who report less than \$60,000 maximum New Jersey taxable income. That midpoint of \$40.2 million (average credit of \$565) is the estimated federal tax credit baseline to which the range of a 10 percent to 50 percent New Jersey tax credit under the bill may be applied. Accordingly, the OLS estimates that the bill's New Jersey tax credit may produce a gross income tax revenue loss of approximately \$11.0 million. Absent taxpayer-specific data and given that federal AGI differs from New Jersey taxable income, it is conceivable that the annual revenue loss of the New Jersey tax credit may be less than \$11.0 million. Therefore, the OLS estimates the total State revenue loss to range between \$8.0 million and \$11.0 million annually.

*Section: Revenue, Finance, and Appropriations*

*Analyst: Scott A. Brodsky  
Lead Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

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

# SENATE, No. 64

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Imposes corporate business tax and gross income tax on income attributable to certain investment management services that a corporate or individual partner provides on behalf of a partnership.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/16/2018)**

1 AN ACT concerning the taxation of certain investment management  
2 services provided to a partnership, amending N.J.S.54A:5-8 and  
3 P.L.1945, c.162, and supplementing Title 54A of the New Jersey  
4 Statutes and P.L.1945, c.162 (C.54:10A-1 et seq.).  
5

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

9 1. N.J.S.54A:5-8 is amended to read as follows:

10 54A:5-8. a. Income from sources within this State for a  
11 nonresident individual, estate or trust means the income from the  
12 categories of gross income enumerated and classified under chapter  
13 5 of this act to the extent that it is earned, received or acquired from  
14 sources within this State:

15 (1) By reason of ownership or disposition of any interest in real  
16 or tangible personal property in this State; or

17 (2) In connection with a trade, profession, occupation carried on  
18 in this State or for the rendition of personal services performed in  
19 this State; or

20 (3) As a distributive share of the income of an unincorporated  
21 business, profession, enterprise, undertaking or other activity as the  
22 result of work done, services rendered or other business activities  
23 conducted in this State except as allocated to another state pursuant  
24 to regulations promulgated by the director under this act; or

25 (4) From intangible personal property employed in a trade,  
26 profession, occupation or business carried on in this State; or

27 (5) As a result of any lottery or wagering transaction in this  
28 State other than that excluded from taxation pursuant to  
29 N.J.S.54A:6-11; or

30 (6) As S corporation income allocated to this State of a New  
31 Jersey S corporation.

32 b. Income from sources within this State for a nonresident  
33 individual shall not include income from pensions and annuities as  
34 set forth in subsection j. of N.J.S.54A:5-1.

35 c. For purposes of paragraphs (2) through (4) of subsection a.  
36 of this section, a nonresident taxpayer shall not be deemed to be  
37 carrying on a trade, profession, occupation, business, enterprise,  
38 undertaking or other activity in this State, or to be rendering  
39 personal services in this State, solely as a result of the purchase,  
40 holding and sale of intangible personal property by the trade,  
41 profession, occupation, business, enterprise or undertaking, to the  
42 extent that (1) the activities related to the intangible personal  
43 property are for the account of the trade, profession, occupation,  
44 business, enterprise, or undertaking and (2) the trade, profession,

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

**Matter underlined thus is new matter.**

1 occupation, business, enterprise, or undertaking does not hold the  
2 intangible personal property for sale to customers. For the purposes  
3 of this subsection: "intangible personal property" includes, but is  
4 not limited to, "commodities", as defined in paragraph (2) of  
5 subsection (e), and "securities," as defined in paragraph (2) of  
6 subsection (c), of section 475 of the federal Internal Revenue Code  
7 of 1986, 26 U.S.C. s.475; and "purchase, holding and sale of  
8 intangible personal property" includes activities incidental thereto  
9 giving rise to income, including commitment fees, breakup fees,  
10 income from securities lending, and any other incidental activities  
11 as prescribed or authorized by the director.

12 Provided however, that the provisions of this subsection c. shall  
13 not apply to income from investment management services  
14 provided to a partnership, S corporation, or other entity.

15 As used in this subsection:

16 "Investment management services" means providing a  
17 substantial quantity of any of the following services to a  
18 partnership, S corporation, or other entity as a partner thereto:

19 (1) advising as to the advisability of investing in, purchasing or  
20 selling a specified asset;

21 (2) managing, acquiring, or disposing of a specified asset;

22 (3) arranging financing with respect to acquiring specified  
23 assets; or

24 (4) any activity in support of any of the services described in (1)  
25 through (3).

26 "Specified asset" means certain securities, real estate held for  
27 rental or investment, interests in partnerships, commodities, or  
28 options or derivatives contracts, except if at least 80% of the  
29 average fair market value of the specified assets of the partnership,  
30 S corporation, or other entity during the taxable year consists of real  
31 estate.

32 The director shall adopt such regulations as the director deems  
33 necessary to accomplish the purposes of this section.

34 (cf: P.L.1998, c.106, s.14)

35  
36 2. (New section) a. Notwithstanding the provisions of the  
37 "New Jersey Gross Income Tax Act" N.J.S.54A:1-1 et seq. to the  
38 contrary, in addition to the tax imposed on the income of a non-  
39 resident taxpayer pursuant to N.J.S.54A:5-8, there shall be imposed  
40 an additional surtax of 19% on income from investment  
41 management services received during the taxpayer's taxable year.

42 b. Notwithstanding the provisions of the "New Jersey Gross  
43 Income Tax Act" N.J.S.54A:1-1 et seq. to the contrary, in addition  
44 to the tax imposed on the income of a resident taxpayer from the  
45 categories of gross income enumerated and classified in  
46 N.J.S.54A:5-1 et seq., there shall be imposed an additional surtax of  
47 19% on income received during the taxpayer's taxable year from

1 investment management services provided to a partnership, S  
2 corporation, or other entity.

3 As used in this subsection:

4 “Investment management services” means providing a  
5 substantial quantity of any of the following services to a  
6 partnership, S corporation, or other entity as a partner thereto:

7 (1) advising as to the advisability of investing in, purchasing or  
8 selling any specified asset;

9 (2) managing, acquiring, or disposing of a specified asset;

10 (3) arranging financing with respect to acquiring a specified  
11 asset; or

12 (4) any activity in support of any of the services described in (1)  
13 through (3) herein.

14 “Specified asset” means certain securities, real estate held for  
15 rental or investment, interests in partnerships, commodities, or  
16 options or derivatives contracts, except if at least 80% of the  
17 average fair market value of the specified asset of the partnership, S  
18 corporation or other entity during the taxable year consists of real  
19 estate.

20

21 3. Section 6 of P.L.1945, c.162 (C.54:10A-6) is amended to  
22 read as follows:

23 6. The portion of a taxpayer's entire net worth to be used as a  
24 measure of the tax imposed by subsection (a) of section 5 of  
25 P.L.1945, c.162 (C.54:10A-5), and the portion of its entire net  
26 income to be used as a measure of the tax imposed by subsection (c)  
27 of section 5 of P.L.1945, c.162 (C.54:10A-5), shall be determined  
28 by multiplying such entire net worth and entire net income,  
29 respectively, by an allocation factor which is the property fraction,  
30 plus twice the sales fraction plus the payroll fraction and the  
31 denominator of which is four, and which, for privilege periods  
32 beginning on or after January 1, 2012, is the sum of the portions of  
33 the property fraction, the sales fraction, and the payroll fraction  
34 determined in accordance with the following schedule:

35 for privilege periods beginning on or after January 1, 2012 but  
36 before January 1, 2013, 15% of the property fraction plus 70% of  
37 the sales fraction plus 15% of the payroll fraction,

38 for privilege periods beginning on or after January 1, 2013 but  
39 before January 1, 2014, 5% of the property fraction plus 90% of the  
40 sales fraction plus 5% of the payroll fraction, and

41 for privilege periods beginning on or after January 1, 2014,  
42 100% of the sales fraction,

43 except as the director may determine pursuant to section 8 of  
44 P.L.1945, c.162 (C.54:10A-8), that is:

45 (A) The property fraction is the average value of the taxpayer's  
46 real and tangible personal property within the State during the  
47 period covered by its report divided by the average value of all the  
48 taxpayer's real and tangible personal property wherever situated



1 during such period; provided, however, that for the purpose of  
2 determining average value, the provisions with respect to  
3 depreciation as set forth in subparagraph (F) of paragraph (2) of  
4 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be  
5 taken into account for arriving at such value.

6 (B) The sales fraction is the receipts of the taxpayer, computed  
7 on the cash or accrual basis according to the method of accounting  
8 used in the computation of its net income for federal tax purposes,  
9 arising during such period from

10 (1) sales of its tangible personal property located within this  
11 State at the time of the receipt of or appropriation to the orders  
12 where shipments are made to points within this State,

13 (2) sales of tangible personal property located without the State  
14 at the time of the receipt of or appropriation to the orders where  
15 shipment is made to points within the State,

16 (3) (Deleted by amendment.)

17 (4) services performed within the State which shall be deemed  
18 to include, but shall not be limited to, investment management  
19 services performed by the taxpayer as a partner provided to a  
20 partnership, S corporation, or other entity.

21 As used in this subsection:

22 “Investment management services” means providing a  
23 substantial quantity of any of the following services to a  
24 partnership, S corporation, or other entity as a partner thereto:

25 (1) advising as to the advisability of investing in, purchasing or  
26 selling a specified asset;

27 (2) managing, acquiring, or disposing of a specified asset;

28 (3) arranging financing with respect to acquiring a specified  
29 assets; or

30 (4) any activity in support of any of the services described in (1)  
31 through (3).

32 “Specified asset” means certain securities, real estate held for  
33 rental or investment, interests in partnerships, commodities, or  
34 options or derivatives contracts, except if at least 80% of the  
35 average fair market value of the specified assets of the partnership,  
36 S corporation, or other entity during the taxable year consists of real  
37 estate,

38 (5) rentals from property situated, and royalties from the use of  
39 patents or copyrights, within the State,

40 (6) all other business receipts (excluding dividends excluded  
41 from entire net income by paragraph (1) of subsection (k) of section  
42 4 of P.L.1945, c.162 (C.54:10A-4)) earned within the State,

43 divided by the total amount of the taxpayer's receipts, similarly  
44 computed, arising during such period from all sales of its tangible  
45 personal property, services, rentals, royalties and all other business  
46 receipts, whether within or without the State.

47 (C) The payroll fraction is the total wages, salaries and other  
48 personal service compensation, similarly computed, during such

1 period of officers and employees within the State divided by the  
2 total wages, salaries and other personal service compensation,  
3 similarly computed, during such period of all the taxpayer's officers  
4 and employees within and without the State.

5 In the case of a banking corporation which maintains a regular  
6 place of business outside this State other than a statutory office, and  
7 which elects to take the exclusion from net worth provided in  
8 subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the  
9 deduction from entire net income provided in paragraph (4) of  
10 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), the  
11 allocation factor shall be computed and applied in accordance with  
12 section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that  
13 the numerators and the denominators of the fractions described in  
14 (A), (B) or (C) above shall include all amounts attributable, directly  
15 or indirectly, to the production of the eligible net income of an  
16 international banking facility as defined in paragraph (4) of  
17 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4),  
18 whether or not such amounts are otherwise attributable to this State.  
19 (cf: P.L.2011, c.59, s.1)

20

21 4. (New section) Notwithstanding the provisions of the  
22 "Corporation Business Tax Act (1945)," P.L.1945, c.162  
23 (C.54:10A-1 et seq.) to the contrary, in addition to the tax imposed  
24 on the entire net income of a taxpayer pursuant to subject to the  
25 provisions of section 6 of P.L.1945, c.162 (C.54:10A-6), there shall  
26 be imposed an additional surtax of 19% imposed on income  
27 received from investment management services during the  
28 taxpayer's accounting or privilege period.

29

30 5. This act shall take effect immediately but shall remain  
31 inoperative until enactment into law by the states of Connecticut,  
32 New York and Massachusetts of legislation having an identical  
33 effect with this act, as shall be determined by the Director of the  
34 Division of Taxation in the Department of the Treasury, but if the  
35 states of Connecticut, New York, and Massachusetts shall have  
36 already enacted such legislation, as shall be determined by the  
37 director, this act shall take effect immediately; and shall apply to  
38 taxable years and accounting or privilege periods beginning after its  
39 effective date. Provided further, however, that sections 2 and 4 of  
40 this act shall expire if the director determines that the United States  
41 Congress has passed and the President of the United States has  
42 signed legislation having an identical effect with this act applicable  
43 to such income earned in all of the states and territories.

44

45

#### STATEMENT

46

47 This bill taxes income attributable to certain "investment  
48 management services" that an individual partner or corporate

1 partner provides on behalf of a partnership. The intent of the bill is  
2 to ensure that a possible “carried interest loophole” is not used  
3 under New Jersey tax law.

4 “Carried interest” is the term commonly used to describe an  
5 investment manager’s share in the net profits of an investment fund  
6 in excess of any amount contributed by the manager to such fund.  
7 When an investment manager organizes a fund and provides  
8 management services to it, the manager usually receives a share of  
9 the fund’s future net profits (a “carried interest”), along with a fixed  
10 management fee. The investors who provide most of the capital for  
11 the fund share the rest of the fund’s future profits. Under current  
12 federal law, each investor’s share of the fund’s net profits,  
13 including the investment manager’s share, generally is taxed at the  
14 lower rate for capital gains (rather than at ordinary income tax  
15 rates). Simply stated, the carried interest loophole has the effect of  
16 treating hedge fund and private equity fees as capital gains, rather  
17 than ordinary income.

18 Hedge fund and private equity funds are usually structured as  
19 partnerships. The fund manager is the general partner of the funds,  
20 the investors are limited partners. Investors often supply the  
21 majority of the capital, and the fund manager is supposed to supply  
22 investment expertise. Investment managers charge certain fees for  
23 the services they provide. In both hedge funds and private equity  
24 funds, the standard fee structure is “2 and 20” – meaning two  
25 percent of the fund assets per year are taken as the management fee,  
26 which covers operating costs, while 20% of all gains over a certain  
27 benchmark rate are taken by the fund manager as the performance  
28 fee. To many, this 20% fee appears to be compensation for  
29 services. If the federal income tax treated the performance fee as  
30 compensation for services, it would be taxed as ordinary income,  
31 where the highest marginal tax rate is currently 39.6%. Instead,  
32 many fund managers treat this fee as an investment profit. But  
33 profits on investments held longer than one year receive preferential  
34 treatment in the federal income tax code, with the highest marginal  
35 rate on long-term capital gains set at 20%. Thus, at the federal level  
36 this income is taxed at a 20% rate and not a 39.6% marginal rate,  
37 escaping a marginal tax rate of about 19.6%.

38 In order to ensure that the carried interest loophole does not  
39 penetrate New Jersey’s taxes on income from such services, the bill  
40 defines this source of income as investment management services  
41 income so that income that might be claimed by fund managers to  
42 be nontaxable income from intangibles, is clearly identified as  
43 taxable income for both corporate and nonresident and resident  
44 individual partners.

45 The bill has a unique effective date mechanism so that the  
46 proposed changes would take effect only upon the enactment into  
47 law of other states’ legislation having an identical effect in the  
48 states of Connecticut, New York, and Massachusetts. This is

1 intended to complete a multi-state level effort to close the loophole  
2 so that fund managers could not avoid the tax by simply moving to  
3 a nearby state.

4 In addition, the bill also implements a 19% surtax as a “carried  
5 interest fairness fee” under the gross income tax and the  
6 corporation business tax. This surtax aims to “repatriate” the  
7 federal income tax lost at the federal level back to the states.  
8 However this 19% “carried interest fairness fee” will only remain in  
9 effect until such time as the Director of the Division of Taxation  
10 determines that the United States Congress has passed and the  
11 President of the United States has signed legislation having an  
12 identical effect with this act applicable to such income earned in all  
13 of the states and territories. Thus, this state level effort will end if  
14 the loophole is closed at the federal level nationwide.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR SENATE, Nos. 64, 1515, and 2407

# STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 64, 1515, and 2407.

This substitute makes several changes to the “New Jersey Gross Income Tax Act” (GIT), N.J.S.A.54A:1-1 et seq., and the corporation business tax. The substitute increases the maximum GIT deduction allowed for homestead property taxes paid, increases the State earned income tax credit to 40 percent of the federal credit over three years, provides a credit for certain expenses paid for the care of a child or dependent, and taxes certain “investment management services.”

#### *GIT Deduction for Property Taxes*

This substitute increases the maximum GIT deduction allowed for homestead property taxes paid. Current law allows a resident taxpayer a deduction from gross income for property taxes paid for the calendar year on the taxpayer’s principal residence in the State, up to a maximum deduction of \$10,000. This substitute raises the amount of the maximum deduction from gross income allowed for homestead property taxes paid to \$15,000.

#### *Increases Earned Income Tax Credit*

This substitute increases the State earned income tax credit from 35 percent to 40 percent of the federal earned income tax credit on a phased-in basis over three years. Under this substitute, the State benefit amount would increase from 35 percent in taxable year 2017 to 37 percent in taxable year 2018, to 39 percent in taxable year 2019, and to 40 percent in taxable year 2020. After taxable year 2020, the State earned income tax credit will remain at 40 percent of the federal earned income tax credit.

### *Child and Dependent Care Tax Credit*

This substitute provides a nonrefundable credit against the New Jersey GIT to taxpayers who incur employment-related expenses while caring for a child or dependent. The credit is available to taxpayers who are allowed the federal child and dependent care credit and have New Jersey taxable income of \$60,000 or less for the taxable year. Employment related expenses are expenses for household services and for the care of a dependent or child incurred to enable the taxpayer to hold gainful employment.

The amount of the credit provided by this substitute is a specific percentage of the taxpayer's federal child and dependent care credit and varies according to the amount of the taxpayer's New Jersey taxable income. A taxpayer with a taxable income: not over \$20,000 receives 50 percent of the federal credit; over \$20,000 but not over \$30,000 receives 40 percent of the federal credit; over \$30,000 but not over \$40,000 receives 30 percent of the federal credit; over \$40,000 but not over \$50,000 receives 20 percent of the federal credit; and over \$50,000 but not over \$60,000 receives 10 percent of the federal credit.

The substitute caps the credit at a maximum of \$500 for expenses paid for the care of one dependent or child, and \$1,000 for expenses paid for the care of two or more dependents of children, per taxable year.

### *Taxation of Investment Management Services*

This substitute taxes income attributable to certain "investment management services" that an individual partner or corporate partner provides on behalf of a partnership. The intent of these provisions of the substitute is to ensure that taxpayers cannot use the "carried interest loophole" to avoid State taxation. "Carried interest" describes an investment manager's share in the net profits of an investment fund in excess of any amount contributed by the manager to such fund. The federal government taxes carried interest as capital gains, which are subject to a lower tax rate than ordinary income. The substitute classifies carried interest as investment management services income and clearly identifies such income as taxable income.

In addition, the substitute also implements a 17 percent surtax as a "carried interest fairness fee" under the GIT and the corporation business tax. This surtax aims to "repatriate" the federal income tax lost at the federal level back to the states. However, this 17 percent "carried interest fairness fee" will only remain in effect until the Director of the Division of Taxation determines that the federal government has enacted legislation having an identical effect with this act applicable to such income earned in all of the states and territories. Thus, this State level effort will end if the federal government closes the loophole nationwide.

Section 6 to 9 of this substitute, concerning the taxation of investment management services, have a unique effective date mechanism so that the provisions of these sections take effect only upon the enactment into law of legislation having an identical effect in the states of Connecticut, New York, and Massachusetts. This is intended to complete a multi-state level effort to close the loophole so that fund managers could not avoid the tax by simply moving to a nearby state.

FISCAL IMPACT:

The Executive Branch estimates that the phased-in increase of the Earned Income Tax Credit will decrease revenues by \$27.2 million in Fiscal Years 2019, 2020, and 2011. The new child and dependent care tax credit will decrease revenues by \$14 million in Fiscal Year 2019. The Executive Branch that increasing the cap on deductions for property taxes from \$10,000 to \$15,000 will reduce Fiscal Year 2019 revenues by \$82 million.

# SENATE, No. 1515

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Increases New Jersey Earned Income Tax Credit to 40 percent of federal benefit amount beginning in Tax Year 2018.

**CURRENT VERSION OF TEXT**

As introduced.





S1515 TURNER

2

1 AN ACT increasing the New Jersey Earned Income Tax Credit,  
2 amending P.L.2000, c.80.

3

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

6

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

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

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

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

25 (a) 10% for the taxable year beginning on or after January 1,  
26 2000, but before January 1, 2001;

27 (b) 15% for the taxable year beginning on or after January 1,  
28 2001, but before January 1, 2002;

29 (c) 17.5% for the taxable year beginning on or after January 1,  
30 2002, but before January 1, 2003;

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

33 (e) 22.5% for taxable years beginning on or after January 1,  
34 2008 but before January 1, 2009;

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

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

39 (h) 30% for taxable years beginning on or after January 1, 2015,  
40 but before January 1, 2016; **[and]**

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

43 (j) 40% for taxable years beginning on or after January 1, 2018.

44 (3) To qualify for the New Jersey earned income tax credit, if  
45 the claimant is married, except for a claimant who files as a head of

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

**Matter underlined thus is new matter.**

**S1515 TURNER**

1 household or surviving spouse for federal income tax purposes for  
2 the taxable year, the claimant shall file a joint return or claim for  
3 the credit.

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

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

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

23 e. Any earned income tax credit pursuant to this section shall  
24 not be taken into account as income or receipts for purposes of  
25 determining the eligibility of an individual for benefits or assistance  
26 or the amount or extent of benefits or assistance under any State  
27 program and, to the extent permitted by federal law, under any State  
28 program financed in whole or in part with federal funds.  
29 (cf: P.L.2016, c.57, s.11)

30

31 2. This act shall take effect immediately.

32

33

34

**STATEMENT**

35

36 This bill increases the New Jersey Earned Income Tax Credit (NJ  
37 EITC) to 40 percent of the federal benefit amount beginning in Tax  
38 Year 2018. The NJ EITC program, which piggy-backs on the  
39 federal EITC program, currently provides a refundable earned  
40 income tax credit under the State gross income tax equal to 35  
41 percent of the federal benefit amount.

42 The federal and State EITC programs are intended to “make  
43 work pay” by offsetting the burden of payroll taxes for low and  
44 moderate income workers.

45 To claim a credit, taxpayers must first file for the federal EITC.  
46 Eligibility for the program is determined by taxpayer income, filing  
47 status, and the number of qualifying children. For Tax Year 2018,

**S1515 TURNER**

1 the Internal Revenue Service has indicated, the following program  
2 limits:

3

Maximum Income Eligibility Levels				
If filing ...	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	\$15,310	\$40,402	\$45,898	\$49,298
Married Filing Jointly	\$21,000	\$46,102	\$51,598	\$54,998

4

5 According to the New Jersey Department of the Treasury, it is  
6 estimated that some 546,334 taxpayers claimed a credit during TY  
7 2016, the most recent year for which data are available.

**SENATE, No. 2407**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED APRIL 5, 2018

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Senator Turner**

**SYNOPSIS**

Allows gross income tax credit for certain child and dependent care expenses.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT allowing a credit against gross income tax for certain child  
2 and dependent care expenses and supplementing Title 54A of the  
3 New Jersey Statutes.

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

7  
8 1. a. A taxpayer with New Jersey taxable income of \$60,000  
9 or less who is allowed a credit for expenses for household and  
10 dependent care services for federal income tax purposes pursuant to  
11 section 21 of the federal Internal Revenue Code (26 U.S.C. s.21)  
12 shall be allowed a credit against the tax otherwise due pursuant to  
13 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in  
14 an amount equal to a percentage of the credit allowed the taxpayer  
15 for federal income tax purposes for the taxable year, according to  
16 the following schedule:

17

18 NJ taxable income is:	Amount of NJ credit is:
19	
20 Not over \$20,000	50% of federal credit
21 over \$20,000 but not over \$30,000	40% of federal credit
22 over \$30,000 but not over \$40,000	30% of federal credit
23 over \$40,000 but not over \$50,000	20% of federal credit
24 over \$50,000 but not over \$60,000	10% of federal credit.

25

26 Provided however, the credit allowed by this section for a taxable  
27 year shall not exceed \$500 for employment-related expenses paid  
28 by the taxpayer for one qualifying individual and \$1,000 for  
29 employment-related expenses paid by the taxpayer for two or more  
30 qualifying individuals.

31 b. A credit allowed pursuant to this section shall not reduce the  
32 tax liability otherwise due pursuant to N.J.S.54A:1-1 et seq. for a  
33 taxable year to an amount less than zero.

34 c. Married couples shall file a joint return in order to claim the  
35 credit provided by this section.

36  
37 2. This act shall take effect immediately and shall apply to  
38 taxable years beginning on or after the January 1 next following the  
39 date of enactment.

40  
41

42 STATEMENT

43  
44 This bill provides a nonrefundable credit against the New Jersey  
45 gross income tax for certain expenses paid for the care of a child or  
46 dependent when necessary for the taxpayer's employment. The  
47 credit is available to taxpayers who are allowed the federal child

S2407 RUIZ, SINGLETON

1 and dependent care credit and have New Jersey taxable income of  
2 \$60,000 or less for the taxable year.

3 The amount of the credit provided by this bill is a specific  
4 percentage of the taxpayer's federal child and dependent care credit  
5 and varies according to the amount of taxpayer's New Jersey  
6 taxable income as follows:

7

8 NJ taxable income is:	Amount of NJ credit is:
9 Not over \$20,000	50% of federal credit
10 over \$20,000 but not over \$30,000	40% of federal credit
11 over \$30,000 but not over \$40,000	30% of federal credit
12 over \$40,000 but not over \$50,000	20% of federal credit
13 over \$50,000 but not over \$60,000	10% of federal credit.

14  
15 The credit is capped at a maximum of \$500 for expenses paid for  
16 one qualifying individual, and \$1,000 for expenses paid for two or  
17 more qualifying individuals, per taxable year. Married couples  
18 must file jointly in order to claim the credit.

19 The amount of the credit established by this bill is linked to the  
20 amount of the taxpayer's federal child and dependent care credit.  
21 The provisions of section 21 of the federal Internal Revenue Code  
22 define employment-related expenses and qualifying individual, and  
23 establish dollar limits on creditable expenses, among other things  
24 which will apply for the purposes of the State credit established by  
25 this bill.

26 The purpose of the credit is to assist working taxpayers that incur  
27 expenses for child or dependent care services, which are often  
28 substantial.

July 1, 2018

**ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY BILL NO. 3088**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill No. 3088 with my recommendations for reconsideration.

I am very pleased to have reached a deal with my partners in the Legislature concerning the Fiscal Year 2019 State budget and supporting revenue bills. Our agreed upon spending plan implements almost all of the investments in New Jersey's future that I recommended to the Legislature in March. I thank the Legislature for including all of these important priorities in the State's spending plan for Fiscal Year 2019. With the budget I signed this evening, we are truly building a stronger and fairer New Jersey.

This bill presently includes four components, all of which were part of the budget recommendations I presented to the Legislature in March. First, this bill would increase the maximum deduction from taxable gross income for homestead property taxes paid from \$10,000 to \$15,000. Second, the bill would increase the Earned Income Tax Credit from 35% to 40% of the federal earned income tax credit over the next three years. Third, the bill would establish a new nonrefundable child and dependent care tax credit. And fourth, the bill would close the "carried interest loophole" that enables the inappropriate avoidance of New Jersey taxes by some taxpayers.

As I noted publicly and in meetings with legislative leadership, I had some problems with the revenue side of the Legislature's original Fiscal Year 2019 budget. In particular, I questioned whether the original legislative revenue plan adequately supported the investments that we all want for the

people of New Jersey, including investments in schools, in mass transit, and in property tax relief and other core programs to assist individuals and families, in a sustainable manner. These long-term commitments require real, reliable, long-term revenues. Because of magnanimous concessions on all sides, I am satisfied that the plan we agreed to today will appropriately begin the multi-year process of fixing New Jersey's fiscal woes in a fair and responsible manner.

One such revenue is a modest increase in the income tax for multi-millionaires to ensure that all New Jerseyans begin to pay a fair share to support important investments like those included in this bill. Accordingly, I am recommending one small technical change to the child and dependent care credit in order to limit its application only to New Jersey residents. I also am recommending that the bill be amended to include a fifth component in the form of a millionaire's tax consistent with the terms of the Fiscal Year 2019 budget deal struck with legislative leadership.

Therefore, I herewith return Assembly Committee Substitute for Assembly Bill No. 3088 and recommend that it be amended as follows:

Page 6, Section 5, Line 44: After "A" insert "resident"

Page 13, Line 38: Insert new section 10:

"10. N.J.S.54A:2-1 is amended to read as follows:

54A:2-1. Imposition of tax. There is hereby imposed a tax for each taxable year (which shall be the same as the taxable year for federal income tax purposes) on the New Jersey gross income as herein defined of every individual, estate or trust (other than a charitable trust or a trust forming part of a pension or profit-sharing plan), subject to the deductions, limitations and modifications hereinafter provided, determined in accordance with the following



tables with respect to taxpayers' taxable income:

a. For married individuals filing a joint return and individuals filing as head of household or as surviving spouse for federal income tax purposes:

(1) for taxable years beginning on or after January 1, 1991 but before January 1, 1994:

If the taxable income is:	The tax is:
Not over \$20,000.00	2% of taxable income
Over \$20,000.00 but not over 50,000.00	\$400.00 plus 2.5% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$1,150.00 plus 3.5% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,850.00 plus 5.0% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$2,350.00 plus 6.5% of the excess over \$80,000.00
Over \$150,000.00	\$6,900.00 plus 7.0% of the excess over \$150,000.00

(2) for taxable years beginning on or after January 1, 1994 but before January 1, 1995:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.900% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$380.00 plus 2.375% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$1,092.50 plus 3.325% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,757.50 plus 4.750% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$2,232.50 plus 6.175% of the excess over \$80,000.00
Over \$150,000.00	\$6,555.00 plus 6.650% of the

excess over  
\$150,000.00

(3) for taxable years beginning on or after January 1, 1995 but before January 1, 1996:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.700% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$340.00 plus 2.125% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$977.50 plus 2.975% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,572.50 plus 4.250% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$1,997.50 plus 6.013% of the excess over \$80,000.00
Over \$150,000.00	\$6,206.60 plus 6.580% of the excess over \$150,000.00

(4) for taxable years beginning on or after January 1, 1996 but before January 1, 2004:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$805.00 plus 2.450% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,295.50 plus 3.500% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$1,645.00 plus 5.525% of the excess over \$80,000.00
Over \$150,000.00	\$5,512.50 plus 6.370% of the excess over \$150,000.00

(5) for taxable years beginning on or after January 1, 2004 but before January 1, 2018:

<u>If the taxable income is</u>	<u>The tax is:</u>
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$805.00 plus 2.450% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,295.50 plus 3.500% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$1,645.00 plus 5.525% of the excess over \$80,000.00
Over \$150,000.00 but not over \$500,000.00	\$5,512.50 plus 6.370% of the excess over \$150,000.00
Over \$500,000.00	\$27,807.50 plus 8.970% of the excess over \$500,000.00

(6) for taxable years beginning on or after January 1, 2018:

<u>If the taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$20,000.00</u>	<u>1.400% of taxable income</u>
<u>Over \$20,000.00 but not over \$50,000.00</u>	<u>\$280.00 plus 1.750% of the excess over \$20,000.00</u>
<u>Over \$50,000.00 but not over \$70,000.00</u>	<u>\$805.00 plus 2.450% of the excess over \$50,000.00</u>
<u>Over \$70,000.00 but not over \$80,000.00</u>	<u>\$1,295.50 plus 3.500% of the excess over \$70,000.00</u>
<u>Over \$80,000.00 but not over \$150,000.00</u>	<u>\$1,645.00 plus 5.525% of the excess over \$80,000.00</u>
<u>Over \$150,000.00 but not over \$500,000.00</u>	<u>\$5,512.50 plus 6.370% of the excess over \$150,000.00</u>
<u>Over \$500,000.00 but not over \$5,000,000.00</u>	<u>\$27,807.50 plus 8.970% of the excess over \$500,000.00.</u>

Over	\$431,457.50
<u>\$5,000,000.00</u>	<u>plus 10.75% of</u>
	<u>the excess over</u>
	<u>\$5,000,000.00.</u>

b. For married individuals filing separately, unmarried individuals other than individuals filing as head of household or as a surviving spouse for federal income tax purposes, and estates and trusts:

(1) for taxable years beginning on or after January 1, 1991 but before January 1, 1994:

If the taxable income is:	The tax is:
Not over \$20,000.00	2% of taxable income
Over \$20,000.00 but not over \$35,000.00.	\$400.00 plus 2.5% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00.	\$775.00 plus 5.0% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$1,025.00 plus 6.5% of the excess over \$40,000.00
Over \$75,000.00	\$3,300.00 plus 7.0% of the excess over \$75,000.00

(2) for taxable years beginning on or after January 1, 1994 but before January 1, 1995:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.900% of taxable income
Over \$20,000.00 but not over \$35,000.00.	\$380.00 plus 2.375% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$736.25 plus 4.750% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$973.75 plus 6.175% of the excess over \$40,000.00
Over \$75,000.00	\$3,135.00 plus 6.650% of the excess over \$75,000.00

(3) for taxable years beginning on or after January 1, 1995 but before January 1, 1996:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.700% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$340.00 plus 2.125% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$658.75 plus 4.250% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$871.25 plus 6.013% of the excess over \$40,000.00
Over \$75,000.00	\$2,975.80 plus 6.580% of the excess over \$75,000.00

(4) for taxable years beginning on or after January 1, 1996 but before January 1, 2004:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$542.50 plus 3.500% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00.	\$717.50 plus 5.525% of the excess over \$40,000.00
Over \$75,000.00	\$2,651.25 plus 6.370% of the excess over \$75,000.00

(5) for taxable years beginning on or after January 1, 2004 but before January 1, 2018:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$542.50 plus 3.500% of the excess over \$35,000.00

	excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$717.50 plus 5.525% of the excess over \$40,000.00
Over \$75,000.00 but not over \$500,000.00	\$2,651.25 plus 6.370% of the excess over \$75,000.00
Over \$500,000.00	\$29,723.75 plus 8.970% of the excess over \$500,000.00

(6) for taxable years beginning on  
or after January 1, 2018:

<u>If the taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$20,000.00</u>	<u>1.400% of taxable income</u>
<u>Over \$20,000.00 but not over \$35,000.00</u>	<u>\$280.00 plus 1.750% of the excess over \$20,000.00</u>
<u>Over \$35,000.00 but not over \$40,000.00</u>	<u>\$542.50 plus 3.500% of the excess over \$35,000.00</u>
<u>Over \$40,000.00 but not over \$75,000.00.</u>	<u>\$717.50 plus 5.525% of the excess over \$40,000.00</u>
<u>Over \$75,000.00 but not over \$500,000.00</u>	<u>\$2,651.25 plus 6.370% of the excess over \$75,000.00</u>
<u>Over \$500,000.00 but not over \$5,000,000.00</u>	<u>\$29,723.75 plus 8.970% of the excess over \$500,000.00</u>
<u>Over \$5,000,000.00</u>	<u>\$433,373.75 plus 10.75% of the excess over 5,000,000.00</u>

c. For the purposes of this section, an individual who would be eligible to file as a head of household for federal income tax purposes but for the fact that such taxpayer is a nonresident alien, shall determine tax pursuant to subsection a. of this section.

d. For the purposes of this section, for taxable year 2018, withholding by every employer from salaries, wages and other remuneration paid by an employer for services rendered described in subsection a. and b. of this section, in excess of \$5,000,000

during that taxable year, shall be at the rate of 15.6% as soon as practicable but no later than September 1, 2018. The Director of the Division of Taxation is authorized to do all things necessary to implement the withholding tax prescribed by this section for taxable year 2018.

e. No additions to tax or penalty shall be imposed under N.J.S.54A:9-6 for insufficient payment of estimated tax that may otherwise be due on salaries, wages and other remuneration received before September 1, 2018, on which there is a rate of tax imposed pursuant to subsections a. and b. of this section.

f. An employer maintaining an office or transacting business within this State and making payment of any salaries, wages and remuneration subject to New Jersey gross income tax or making payment of any remuneration for employment subject to contribution under the New Jersey "unemployment compensation law," pursuant to R.S.43:21-1 et seq., that is subject to New Jersey gross income tax shall not be subject to interest, penalties or other costs that may otherwise be imposed for insufficient withholding of salaries, wages and other remuneration made before September 1, 2018, that is directly attributable to the enactment of the taxable income tables and tax rates in subsections a. and b. of this section."

Page 13, Section 10, Line 39: Delete "10." and insert "11."

Page 14, Section 11, Line 1: Delete "11." and insert "12."

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate E. McDonnell

Deputy Chief Counsel to the Governor



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## Newark, N.J.

# Governor Murphy Signs Fiscal Year 2019 Budget into Law

07/1/2018

**TRENTON** - Governor Phil Murphy today conditionally vetoed the following bills and signed them into law after the Legislature concurred with the Governor's recommendations:

**ACS for A-3088wGR/SCS for S-64, 1515, 2407 (Jimenez, Dancer, Mukherji/Turner, Singleton, Ruiz, Pennacchio)** - Increases earned income tax credit; provides credit for child or dependent care expenses; taxes "investment management services"  
[Copy of Message on A-3088](#)

**A-3438wGR/SCS for S-1841, 2523 (Karabinchak, Coughlin, DeAngelo/Diegnan, Cryan)** - Requires Director of the Division of Taxation to establish 90-day State tax amnesty period that ends no later than January 15, 2019  
[Copy of Message on A-3438](#)

**ACS for A-4061wGR/S-2767 (Chiaravalloti, Mukherji/Cruz-Perez)** - Imposes surcharge on prearranged rides and increases certain fee associated with motor vehicle violations  
[Copy of Message on A-4061](#)

**A-4202wGR/S-2746 (Pintor Marin/Sweeney)** - Imposes surtax on corporation business tax liability; decouples certain provisions from Internal Revenue Code; imposes tax on certain dividends  
[Copy of Message on A-4202](#)

### Governor Murphy signed the following bills into law:

**A-1753/S-749 (Quijano, Vainieri Huttel, Mukherji, Giblin/Diegnan, Sarlo)** - Imposes State sales and use tax and hotel and motel occupancy fee on transient accommodations; authorizes various municipal taxes and fees on transient accommodations

**A-4132/S-2731 (Pintor Marin, Timberlake, Mukherji/Sarlo)** - Imposes \$0.10 per fluid milliliter tax related to sales of liquid nicotine

**A-4207/S-2657 (Greenwald/Sarlo)** - Establishes Medicaid emergency room triage reimbursement fee for low acuity emergency room encounters

**A-4229/S-2772 (Calabrese, Schaer, Jimenez/Sarlo)** - Applies Meadowlands regional hotel use assessment to all municipalities that participate in Meadowlands tax sharing program



**Governor Murphy signed the following bills into law while exercising his line item veto authority:**

**S-2019/A-4200 (Sarlo/Pintor Marin, Burzichelli)** - LINE ITEM - Appropriates \$36,517,421,000 in State funds and \$16,551,418,698 in federal funds for the State budget for fiscal year 2018-2019

[Line Item Veto of S-2019](#)

[Line Item Veto Message on S-2019](#)

**S-2824/A-4326 (Sarlo/Coughlin)** - LINE ITEM - Amends and supplements various appropriations and language provisions in Fiscal year 2019 annual State appropriations ac

[Line Item Veto of S-2824](#)

[Line Item Veto Message on S-2824](#)

Revenue Certification for Fiscal Year 2019 Budget - <https://nj.gov/governor/news/statements/docs/RevenueCert-S2019.pdf>

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## Governor Phil Murphy

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