

[First Reprint]

**SENATE, No. 2411**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED JUNE 20, 2016

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Adjusts certain State taxes to support strengthened investments in public, private, and charitable assets in this State.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 23, 2016, with amendments.



1 AN ACT adjusting certain State taxes to support strengthened  
2 investments in public, private, and charitable assets in this State,  
3 amending and supplementing various parts of the statutory law  
4 pertaining to taxes of this State.

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

8  
9 1. R.S.54:38-1 is amended to read as follows:

10 54:38-1. a. In addition to the inheritance, succession or  
11 legacy taxes imposed by this State under authority of chapters 33 to  
12 36 of this title (R.S.54:33-1 et seq.), or hereafter imposed under  
13 authority of any subsequent enactment, there is hereby imposed an  
14 estate or transfer tax:

15 (1) Upon the transfer of the estate of every resident decedent  
16 dying before January 1, 2002 which is subject to an estate tax  
17 payable to the United States under the provisions of the federal  
18 revenue act of one thousand nine hundred and twenty-six and the  
19 amendments thereof and supplements thereto or any other federal  
20 revenue act in effect as of the date of death of the decedent, the  
21 amount of which tax shall be the sum by which the maximum credit  
22 allowable against any federal estate tax payable to the United States  
23 under any federal revenue act on account of taxes paid to any state  
24 or territory of the United States or the District of Columbia, shall  
25 exceed the aggregate amount of all estate, inheritance, succession or  
26 legacy taxes actually paid to any state or territory of the United  
27 States or the District of Columbia, including inheritance, succession  
28 or legacy taxes actually paid this State, in respect to any property  
29 owned by such decedent or subject to such taxes as a part of or in  
30 connection with the estate; and

31 (2) (a) Upon the transfer of the estate of every resident  
32 decedent dying after December 31, 2001, but after December 31,  
33 2016, which would have been subject to an estate tax payable to the  
34 United States under the provisions of the federal Internal Revenue  
35 Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31,  
36 2001, the amount of which tax shall be, at the election of the person  
37 or corporation liable for the payment of the tax under this chapter,  
38 either

39 (i) the maximum credit that would have been allowable under  
40 the provisions of that federal Internal Revenue Code in effect on  
41 that date against the federal estate tax that would have been payable  
42 under the provisions of that federal Internal Revenue Code in effect  
43 on that date on account of taxes paid to any state or territory of the  
44 United States or the District of Columbia, or

**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>Senate SBA committee amendments adopted June 23, 2016.

1 (ii) determined pursuant to the simplified tax system as may be  
2 prescribed by the Director of the Division of Taxation in the  
3 Department of the Treasury to produce a liability similar to the  
4 liability determined pursuant to clause (i) of this paragraph reduced  
5 pursuant to paragraph (b) of this subsection.

6 (b) The amount of tax liability determined pursuant to  
7 subparagraph (a) of this paragraph shall be reduced by the  
8 aggregate amount of all estate, inheritance, succession or legacy  
9 taxes actually paid to any state or territory of the United States or  
10 the District of Columbia, including inheritance, succession or  
11 legacy taxes actually paid this State, in respect to any property  
12 owned by such decedent or subject to such taxes as a part of or in  
13 connection with the estate; provided however, that the amount of  
14 the reduction shall not exceed the proportion of the tax otherwise  
15 due under this subsection that the amount of the estates's property  
16 subject to tax by other jurisdictions bears to the entire estate taxable  
17 under this chapter.

18 (3) (a) Upon the transfer of the estate of each resident decedent  
19 dying on or after January 1, 2017, but before January 1, 2020,  
20 whether or not subject to an estate tax payable to the United States  
21 under the provisions of the federal Internal Revenue Code (26  
22 U.S.C. s.1 et seq.), the amount of the taxable estate, determined  
23 pursuant to section 2051 of the federal Internal Revenue Code (26  
24 U.S.C. s.2051), shall be subject to tax pursuant to the following  
25 schedule:

26

<u>On any amount up to \$100,000 . . . . .</u>	<u>0.0%</u>
<u>On any amount in excess of \$100,000,</u> <u>up to \$150,000 . . . . .</u>	<u>0.8%</u>
<u>On any amount in excess of \$150,000,</u> <u>up to \$200,000. . . . .</u>	<u>\$400 plus 1.6% of the excess</u> <u>over \$150,000</u>
<u>On any amount in excess of \$200,000,</u> <u>up to \$300,000. . . . .</u>	<u>\$1,200 plus 2.4% of the</u> <u>excess over \$200,000</u>
<u>On any amount in excess of \$300,000,</u> <u>up to \$500,000. . . . .</u>	<u>\$3,600 plus 3.2% of the</u> <u>excess over \$300,000</u>
<u>On any amount in excess of \$500,000,</u> <u>up to \$700,000. . . . .</u>	<u>\$10,000 plus 4.0% of the</u> <u>excess over \$500,000</u>

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<u>On any amount in excess of \$700,000, up to \$900,000. . . . .</u>	<u>\$18,000 plus 4.8% of the excess over \$700,000</u>
<u>On any amount in excess of \$900,000, up to \$1,100,000. . . . .</u>	<u>\$27,600 plus 5.6% of the excess over \$900,000</u>
<u>On any amount in excess of \$1,100,000, up to \$1,600,000. . . . .</u>	<u>\$38,800 plus 6.4% of the excess over \$1,100,000</u>
<u>On any amount in excess of \$1,600,000, up to \$2,100,000. . . . .</u>	<u>\$70,800 plus 7.2% of the excess over \$1,600,000</u>
<u>On any amount in excess of \$2,100,000, up to \$2,600,000. . . . .</u>	<u>\$106,800 plus 8.0% of the excess over \$2,100,000</u>
<u>On any amount in excess of \$2,600,000, up to \$3,100,000. . . . .</u>	<u>\$146,800 plus 8.8% of the excess over \$2,600,000</u>
<u>On any amount in excess of \$3,100,000, up to \$3,600,000. . . . .</u>	<u>\$190,800 plus 9.6% of the excess over \$3,100,000</u>
<u>On any amount in excess of \$3,600,000, up to \$4,100,000. . . . .</u>	<u>\$238,800 plus 10.4% of the excess over \$3,600,000</u>
<u>On any amount in excess of \$4,100,000, up to \$5,100,000. . . . .</u>	<u>\$290,800 plus 11.2% of the excess over \$4,100,000</u>
<u>On any amount in excess of \$5,100,000, up to \$6,100,000. . . . .</u>	<u>\$402,800 plus 12.0% of the excess over \$5,100,000</u>
<u>On any amount in excess of \$6,100,000, up to \$7,100,000. . . . .</u>	<u>\$522,800 plus 12.8% of the excess over \$6,100,000</u>
<u>On any amount in excess of \$7,100,000, up to \$8,100,000. . . . .</u>	<u>\$650,800 plus 13.6% of the excess over \$7,100,000</u>
<u>On any amount in excess of \$8,100,000, up to \$9,100,000. . . . .</u>	<u>\$786,800 plus 14.4% of the excess over \$8,100,000</u>

<u>On any amount in excess of</u>	
<u>\$9,100,000, up to \$10,100,000 . . . .</u>	<u>\$930,800 plus 15.2% of the</u>
	<u>excess over \$9,100,000</u>

<u>On any amount in excess of</u>	
<u>\$10,100,000. . . . .</u>	<u>\$1,082,800 plus 16.0% of</u>
	<u>the excess over \$10,100,000</u>

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(b) A credit shall be allowed against the tax imposed pursuant to subparagraph (a) of this paragraph equal to the amount of tax which would be determined by subparagraph (a) of this paragraph if the amount of the taxable estate were equal to the exclusion amount.

For the transfer of the estate of each resident decedent dying on or after January 1, 2017, but before January 1, 2018, the exclusion amount is \$1,000,000.

For the transfer of the estate of each resident decedent dying on or after January 1, 2018, but before January 1, 2019, the exclusion amount is \$2,000,000.

For the transfer of the estate of each resident decedent dying on or after January 1, 2019, but before January 1 2020, the exclusion amount is \$3,000,000.

(c) The amount of tax liability of a resident decedent determined pursuant to subparagraphs (a) and (b) of this paragraph shall be reduced by the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state of the United States, including inheritance taxes actually paid this State, in respect to any property owned by that decedent or subject to those taxes as a part of or in connection with the estate; provided however, that the amount of the reduction shall not exceed the proportion of the tax otherwise due under this subsection that the amount of the estate's property subject to tax by other jurisdictions bears to the entire estate taxable under this chapter.

(4) For the transfer of the estate of each resident decedent dying on or after January 1, 2020, there shall be no tax imposed.

(5) Upon the transfer of the real or tangible personal property within New Jersey of each nonresident decedent dying on or after January 1, 2017, but before January 1, 2020, which tax shall bear the same ratio to the entire tax which that estate would have been subject to pursuant to subparagraphs (a) and (b) of paragraph (3) of this subsection if that nonresident decedent had been a resident of this State, and all of the decedent's property, real and personal, had been located within this State, as the taxable property within this State bears to the entire estate, wherever situated.

b. (1) In the case of the estate of a decedent dying before January 1, 2002 where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a

1 similar nature, but an estate tax is due the United States under the  
2 provisions of any federal revenue act in effect as of the date of  
3 death, wherein provision is made for a credit on account of taxes  
4 paid the several states or territories of the United States, or the  
5 District of Columbia, the tax imposed by this chapter shall be the  
6 maximum amount of such credit less the aggregate amount of such  
7 estate, inheritance, succession or legacy taxes actually paid to any  
8 state or territory of the United States or the District of Columbia.

9 (2) In the case of the estate of a decedent dying after December  
10 31, 2001, but before December 31, 2016, where no inheritance,  
11 succession or legacy tax is due this State under the provisions of  
12 chapters 33 to 36 of this title or under authority of any subsequent  
13 enactment imposing taxes of a similar nature, the tax imposed by  
14 this chapter shall be determined pursuant to paragraph (2) of  
15 subsection a. of this section.

16 (3) In the case of the estate of a decedent dying on or after  
17 January 1, 2017 the tax imposed by this chapter shall be determined  
18 pursuant to paragraphs (3), (4), and (5) of subsection a. of this  
19 section.

20 c. For the purposes of this section, a "simplified tax system" to  
21 produce a liability similar to the liability determined pursuant to  
22 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of  
23 this section is a tax system that is based upon the \$675,000 unified  
24 estate and gift tax applicable exclusion amount in effect under the  
25 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.  
26 s.1 et seq.) in effect on December 31, 2001, and results in general in  
27 the determination of a similar amount of tax but which will enable  
28 the person or corporation liable for the payment of the tax to  
29 calculate an amount of tax notwithstanding the lack or paucity of  
30 information for compliance due to such factors as the absence of an  
31 estate valuation made for federal estate tax purposes, the absence of  
32 a measure of the impact of gifts made during the lifetime of the  
33 decedent in the absence of federal gift tax information, and any  
34 other information compliance problems as the director determines  
35 are the result of the phased repeal of the federal estate tax.

36 (cf: P.L.2002, c.31, s.1)

37

38 2. N.J.S.54A:6-10 is amended to read as follows:

39 54A:6-10. Pensions and annuities.

40 a. Gross income shall not include that part of any amount  
41 received as an annuity under an annuity, endowment, or life  
42 insurance contract which bears the same ratio to such amount as the  
43 investment in the contract as of the annuity starting date bears to the  
44 expected return under the contract as of such date. Where (1) part  
45 of the consideration for an annuity, endowment, or life insurance  
46 contract is contributed by the employer, and (2) during the three-  
47 year period beginning on the date on which an amount is first  
48 received under the contract as an annuity, the aggregate amount

1 receivable by the employee under the terms of the contract is equal  
2 to or greater than the consideration for the contract contributed by  
3 the employee, then all amounts received as an annuity under the  
4 contract shall be excluded from gross income until there has been so  
5 excluded an amount equal to the consideration for the contract  
6 contributed by the employee.

7 b. (1) In addition to that part of any amount received as an  
8 annuity which is excludable from gross income as herein provided,  
9 gross income shall not include payments:

10 for taxable years beginning before January 1, 2000, of up to  
11 \$10,000 for a married couple filing jointly, \$5,000 for a married  
12 person filing separately, or \$7,500 for an individual filing as a  
13 single taxpayer or an individual determining tax pursuant to  
14 subsection a. of N.J.S.54A:2-1;

15 for the taxable year beginning on or after January 1, 2000, but  
16 before January 1, 2001, of up to \$12,500 for a married couple filing  
17 jointly, \$6,250 for a married person filing separately, or \$9,375 for  
18 an individual filing as a single taxpayer or an individual  
19 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

20 for the taxable year beginning on or after January 1, 2001, but  
21 before January 1, 2002, of up to \$15,000 for a married couple filing  
22 jointly, \$7,500 for a married person filing separately, or \$11,250 for  
23 an individual filing as a single taxpayer or an individual  
24 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

25 for the taxable year beginning on or after January 1, 2002, but  
26 before January 1, 2003, of up to \$17,500 for a married couple filing  
27 jointly, \$8,750 for a married person filing separately, or \$13,125 for  
28 an individual filing as a single taxpayer or an individual  
29 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

30 for taxable years beginning on or after January 1, 2003, but  
31 before January 1, 2017 of up to \$20,000 for a married couple filing  
32 jointly, \$10,000 for a married person filing separately, or \$15,000  
33 for an individual filing as a single taxpayer or an individual  
34 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

35 for taxable years beginning on or after January 1, 2017, but  
36 before January 1, 2018, of up to \$40,000 for a married couple filing  
37 jointly, \$20,000 for a married person filing separately, or \$30,000  
38 for an individual filing as a single taxpayer or an individual  
39 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

40 for taxable years beginning on or after January 1, 2018, but  
41 before January 1, 2019, gross income shall not include income of up  
42 to \$60,000 for a married couple filing jointly, \$30,000 for a married  
43 person filing separately, or \$50,000 for an individual filing as a  
44 single taxpayer or an individual determining tax pursuant to  
45 subsection a. of N.J.S.54A:2-1;

46 for taxable years beginning on or after January 1, 2019, but  
47 before January 1, 2020, of up to \$80,000 for a married couple filing  
48 jointly, \$40,000 for a married person filing separately, or \$60,000

1 for an individual filing as a single taxpayer or an individual  
2 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

3 for taxable years beginning on or after January 1, 2020, of up to  
4 \$100,000 for a married couple filing jointly, \$50,000 for a married  
5 person filing separately, or \$75,000 for an individual filing as a  
6 single taxpayer or an individual determining tax pursuant to  
7 subsection a. of N.J.S.54A:2-1,

8 which are received as an annuity, endowment or life insurance  
9 contract, or payments of any such amounts which are received as  
10 pension, disability, or retirement benefits, under any public or  
11 private plan, whether the consideration therefor is contributed by  
12 the employee or employer or both, by any person who is 62 years of  
13 age or older or who, by virtue of disability, is or would be eligible  
14 to receive payments under the federal Social Security Act [ , but  
15 for ] .

16 (2) For taxable years beginning on or after January 1, 2005, but  
17 before January 1, 2021, the exclusion provided by this subsection  
18 shall only be allowed if the taxpayer has gross income for the  
19 taxable year of not more than \$100,000;

20 for taxable years beginning on or after January 1, 2021, if the  
21 taxpayer has gross income for the taxable year of not more than  
22 \$100,000 the exclusion provided by this subsection shall be fully  
23 allowed, if the taxpayer has gross income for the taxable year in  
24 excess of \$100,000 but not more than \$125,000 then the taxpayer  
25 may exclude 50 percent of the amount otherwise allowed, and if the  
26 taxpayer has gross income for the taxable year in excess of  
27 \$125,000 but not more than \$150,000 then the taxpayer may  
28 exclude 25 percent of the amount otherwise allowed.

29 c. Gross income shall not include any amount received under  
30 any public or private plan by reason of a permanent and total  
31 disability.

32 d. Gross income shall not include distributions from an  
33 employees' trust described in section 401(a) of the Internal Revenue  
34 Code of 1986, as amended (hereinafter referred to as "the Code"),  
35 which is exempt from tax under section 501(a) of the Code if the  
36 distribution, except the portion representing the employees'  
37 contributions, is rolled over in accordance with section 402(a)(5) or  
38 section 403(a)(4) of the Code. The distribution shall be paid in one  
39 or more installments which constitute a lump-sum distribution  
40 within the meaning of section 402(e)(4)(A) (determined without  
41 reference to subsection (e)(4)(B)), or be on account of a termination  
42 of a plan of which the trust is a part or, in the case of a profit-  
43 sharing or stock bonus plan, a complete discontinuance of  
44 contributions under such plan.

45 (cf: P.L.2005, c.130, s.1)

46

47 3. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to  
48 read as follows:



1       3. Other retirement income. a. (1) Gross income shall not  
2 include income:  
3       for taxable years beginning before January 1, 2000, of up to  
4 \$10,000 for a married couple filing jointly, \$5,000 for a married  
5 person filing separately, or \$7,500 for an individual filing as a  
6 single taxpayer or an individual determining tax pursuant to  
7 subsection a. of N.J.S.54A:2-1;  
8       for the taxable year beginning on or after January 1, 2000, but  
9 before January 1, 2001, of up to \$12,500 for a married couple filing  
10 jointly, \$6,250 for a married person filing separately, or \$9,375 for  
11 an individual filing as a single taxpayer or an individual  
12 determining tax pursuant to subsection a. of N.J.S.54A:2-1;  
13       for the taxable year beginning on or after January 1, 2001, but  
14 before January 1, 2002, of up to \$15,000 for a married couple filing  
15 jointly, \$7,500 for a married person filing separately, or \$11,250 for  
16 an individual filing as a single taxpayer or an individual  
17 determining tax pursuant to subsection a. of N.J.S.54A:2-1;  
18       for the taxable year beginning on or after January 1, 2002, but  
19 before January 1, 2003, of up to \$17,500 for a married couple filing  
20 jointly, \$8,750 for a married person filing separately, or \$13,125 for  
21 an individual filing as a single taxpayer or an individual  
22 determining tax pursuant to subsection a. of N.J.S.54A:2-1;  
23       for taxable years beginning on or after January 1, 2003, but  
24 before January 1, 2017, gross income shall not include income of up  
25 to \$20,000 for a married couple filing jointly, \$10,000 for a married  
26 person filing separately, or \$15,000 for an individual filing as a  
27 single taxpayer or an individual determining tax pursuant to  
28 subsection a. of N.J.S.54A:2-1;  
29       for taxable years beginning on or after January 1, 2017 but  
30 before January 1, 2018, gross income shall not include income of up  
31 to \$40,000 for a married couple filing jointly, \$20,000 for a married  
32 person filing separately, or \$30,000 for an individual filing as a  
33 single taxpayer or an individual determining tax pursuant to  
34 subsection a. of N.J.S.54A:2-1;  
35       for taxable years beginning on or after January 1, 2018, but  
36 before January 1, 2019, gross income shall not include income of up  
37 to \$60,000 for a married couple filing jointly, \$30,000 for a married  
38 person filing separately, or \$50,000 for an individual filing as a  
39 single taxpayer or an individual determining tax pursuant to  
40 subsection a. of N.J.S.54A:2-1;  
41       for taxable years beginning on or after January 1, 2019, but  
42 before January 1, 2020, gross income shall not include income of up  
43 to \$80,000 for a married couple filing jointly, \$40,000 for a married  
44 person filing separately, or \$60,000 for an individual filing as a  
45 single taxpayer or an individual determining tax pursuant to  
46 subsection a. of N.J.S.54A:2-1;  
47       for taxable years beginning on or after January 1, 2020, gross  
48 income shall not include income of up to \$100,000 for a married

1 couple filing jointly, \$50,000 for a married person filing separately,  
2 or \$75,000 for an individual filing as a single taxpayer or an  
3 individual determining tax pursuant to subsection a. of N.J.S.54A:2-  
4 1,

5 when received in any tax year by a person aged 62 years or older  
6 who received no income in excess of \$3,000 from one or more of  
7 the sources enumerated in subsections a., b., k. and p. of  
8 N.J.S.54A:5-1 **【, but for】** .

9 (2) For taxable years beginning on or after January 1, 2005, but  
10 before January 1, 2021, the exclusion provided by this subsection  
11 shall only be allowed if the taxpayer has gross income for the  
12 taxable year of not more than \$100,000 **【, provided, however, that**  
13 **the】** ;

14 for taxable years beginning on or after January 1, 2021, if the  
15 taxpayer has gross income for the taxable year of not more than  
16 \$100,000 the exclusion provided by this subsection shall be fully  
17 allowed, if the taxpayer has gross income for the taxable year in  
18 excess of \$100,000 but not more than \$125,000 then the taxpayer  
19 may exclude 50 percent of the amount otherwise allowed, and if the  
20 taxpayer has gross income for the taxable year in excess of  
21 \$125,000 but not more than \$150,000 then the taxpayer may  
22 exclude 25 percent of the amount otherwise allowed.

23 (3) The total exclusion under this subsection and that allowable  
24 under N.J.S.54A:6-10 shall not exceed the amounts of the  
25 exclusions set forth in this subsection.

26 b. In addition to the exclusion provided under N.J.S.54A:6-10  
27 and subsection a. of this section, gross income shall not include  
28 income of up to \$6,000 for a married couple filing jointly or an  
29 individual determining tax pursuant to subsection a. of N.J.S.54A:2-  
30 1, or \$3,000 for a single person or a married person filing  
31 separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-  
32 3, but who would be eligible in any year to receive payments under  
33 either section if he or she were covered thereby.

34 (cf: P.L.2005, c.130, s.2)

35

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

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

41 a. (1) A resident individual who is eligible for a credit under  
42 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.  
43 s.32) shall be allowed a credit for the taxable year equal to a  
44 percentage, as provided in paragraph (2) of this subsection, of the  
45 federal earned income tax credit that would be allowed to the  
46 individual or the married individuals filing a joint return under  
47 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.  
48 s.32) for the same taxable year for which a credit is claimed

1 pursuant to this section, subject to the restrictions of this subsection  
2 and subsections b., c., d. and e. of this section.

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

6 (a) 10% for the taxable year beginning on or after January 1,  
7 2000, but before January 1, 2001;

8 (b) 15% for the taxable year beginning on or after January 1,  
9 2001, but before January 1, 2002;

10 (c) 17.5% for the taxable year beginning on or after January 1,  
11 2002, but before January 1, 2003;

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

14 (e) 22.5% for taxable years beginning on or after January 1,  
15 2008 but before January 1, 2009;

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

18 (g) 20% for taxable years beginning on or after January 1, 2010,  
19 but before January 1, 2015; **[and]**

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

22 (i) 40% for taxable years beginning on or after January 1, 2016.

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

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

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

44 d. The Director of the Division of Taxation in the Department  
45 of the Treasury shall **[have discretion to]** establish a program for  
46 the distribution of earned income tax credits pursuant to the  
47 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.2015, c.73, s.1)

8  
9 5. (New section) a. A taxpayer shall be allowed to deduct  
10 from gross income the amount of charitable contributions of money  
11 made to a qualified charitable agency or a qualified charitable fund-  
12 raising organization in the taxable year equal to the amount that is  
13 allowed as a deduction from federal adjusted gross income for the  
14 federal taxable year pursuant to section 170 of the federal Internal  
15 Revenue Code (26 U.S.C. s.170) or the amount that the taxpayer  
16 would have been allowed to deduct from federal adjusted gross  
17 income for the federal taxable year pursuant to section 170 of the  
18 federal Internal Revenue Code (26 U.S.C. s.170) if the taxpayer had  
19 claimed that deduction on that taxpayer's federal income tax return.  
20 Provided however, that the taxpayer shall not be allowed to deduct  
21 from gross income an amount in excess of 50 percent of the  
22 taxpayer's gross income for the taxable year, determined before any  
23 other adjustments on account of other deductions, exclusions, or  
24 credits.

25 b. For the purposes of this section:

26 "qualified charitable agency" means an agency that is a  
27 volunteer, not-for-profit organization that primarily provides health,  
28 welfare, or human care services to individuals in New Jersey that  
29 has been determined to meet the eligibility criteria pursuant to  
30 section 8 of P.L.1985, c.140 (C.52:14-15.9c8) to participate in a  
31 charitable fund raising campaign pursuant to the "Public Employee  
32 Charitable Fund-Raising Act," P.L.1985, c.140 (C.52:14-15.9c1 et  
33 seq.), and the regulations as may be applicable thereunder, for the  
34 taxable year, provided however, that "qualified charitable agency"  
35 shall not include an agency that is primarily affiliated with an  
36 institution of higher education that is exempt from the registration  
37 requirements of subsection b. of section 9 of P.L.1994, c.16  
38 (C.45:17A-26); and

39 "qualified charitable fund-raising organization" means a  
40 voluntary not-for-profit organization that receives voluntary  
41 charitable contributions and distributes those contributions  
42 primarily to qualified charitable agencies, and that has been  
43 determined to meet the eligibility criteria pursuant to section 7 of  
44 P.L.1985, c.140 (C.52:14-15.9c7) to participate in a charitable fund  
45 raising campaign pursuant to the "Public Employee Charitable  
46 Fund-Raising Act," P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and  
47 the regulations as may be applicable thereunder, for the taxable  
48 year, provided however, that "qualified charitable organization"

1 shall not include an organization that is primarily affiliated with an  
2 institution of higher education that is exempt from the registration  
3 requirements of subsection b. of section 9 of P.L.1994, c.16  
4 (C.45:17A-26).

5 c. The director shall provide each taxpayer with an opportunity  
6 to claim the taxpayer's deduction amount on the taxpayer's tax  
7 return, which may include on the return the amounts of charitable  
8 contributions claimed and indicated by numerical designation  
9 coding for each qualified charitable agency and qualified charitable  
10 fund-raising organization as are limited and defined pursuant to the  
11 provisions of this section and as also may be available pursuant to  
12 the "Public Employee Charitable Fund-Raising Act," P.L.1985,  
13 c.140 (C.52:14-15.9c1 et seq.), the regulations as may be applicable  
14 thereunder, and the advice of the council established pursuant to  
15 subsection d. of this section, for the taxable year. The director shall  
16 make available on a taxpayer accessible searchable website on or  
17 before January 1 of a taxable year, only the relevant portions of the  
18 annual New Jersey employees charitable campaign resources and  
19 reference guide code book prepared pursuant to P.L.1985, c.140  
20 (C.52:14-15.9c1 et seq.) that the director shall determine, with the  
21 advice of the council established pursuant to subsection d. of this  
22 section, are applicable in the administration of this section, and the  
23 regulations as may be applicable thereunder, provided however, that  
24 no costs of administering this section shall be allowed as costs  
25 subject to section 12 of P.L.1985, c.140 (C.52:14-15.9c12).

26 d. There is established in the Department of the Treasury the  
27 "Charity Advisory Council" which shall consist of eight members,  
28 four of whom shall be the Commissioner Human Services, the  
29 Commissioner of Children and Families, the Commissioner of  
30 Health and the Commissioner of Community Affairs, or their  
31 designees, and four public members who shall be individuals  
32 actively engaged in providing health, welfare, or human care  
33 services to individuals in New Jersey. Of the four public members,  
34 one shall be appointed by the Senate President, one shall be  
35 appointed by the Speaker of the General Assembly, one shall be  
36 appointed by the Senate Minority Leader, and one shall be  
37 appointed by the Assembly Minority Leader. The public members  
38 shall serve for terms of three years. Vacancies among the public  
39 members shall be filled in the same manner as the original  
40 appointments were made.

41 The council shall organize upon appointment of a quorum and  
42 shall meet regularly as it may determine, and shall also meet at the  
43 call of the director.

44 The council shall appoint a chairperson from among its  
45 members.

46 Members of the council shall serve without compensation, but  
47 the council may, within the limits of funds appropriated or  
48 otherwise made available for such purposes, reimburse its members

1 for necessary expenses incurred in the discharge of their official  
2 duties.

3 The council shall annually advise the director on the qualified  
4 charitable agencies and the qualified charitable fund-raising  
5 organizations that conform to the criteria of subsection b. of this  
6 section. The advisory council may consult with the State charitable  
7 fund-raising campaign steering committee established pursuant to  
8 section 4 of P.L.1985, c.140 (C.52:14-15.9c4) for any assistance in  
9 the administration of this section as the director deems necessary.  
10

11 6. Section 2 of P.L.1990, c.42 (C.54:15B-2) is amended to read  
12 as follows:

13 2. For the purposes of this act:

14 "Aviation fuel" means aviation gasoline or aviation grade  
15 kerosene or any other fuel that is used in aircraft.

16 "Aviation gasoline" means fuel specifically compounded for use  
17 in reciprocating aircraft engines.

18 "Aviation grade kerosene" means any kerosene type jet fuel  
19 covered by ASTM Specification D 1655 or meeting specification  
20 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

21 "Blended fuel" means a mixture composed of gasoline, diesel  
22 fuel, kerosene or blended fuel and another liquid, including blend  
23 stock other than a de minimis amount of a product such as  
24 carburetor detergent or oxidation inhibitor, that can be used as a  
25 fuel in a highway vehicle. "Blended fuel" includes but is not limited  
26 to gasohol, biobased liquid fuel, biodiesel fuel, ethanol, methanol,  
27 fuel grade alcohol, diesel fuel enhancers and resulting blends.

28 "Company" includes a corporation, partnership, limited  
29 partnership, limited liability company, association, individual, or  
30 any fiduciary thereof.

31 "Diesel fuel" means a liquid that is commonly or commercially  
32 known or sold as a fuel that is suitable for use in a diesel-powered  
33 highway vehicle. A liquid meets this requirement if, without further  
34 processing or blending, the liquid has practical and commercial  
35 fitness for use in the propulsion engine of a diesel-powered  
36 highway vehicle. "Diesel fuel" includes biobased liquid fuel,  
37 biodiesel fuel, and number 1 and number 2 diesel.

38 "Director" means the Director of the Division of Taxation in the  
39 Department of the Treasury.

40 "First sale of petroleum products within this State" means the  
41 initial sale of a petroleum product delivered to a location in this  
42 State. A "first sale of petroleum products within this State" does not  
43 include a book or exchange transfer of petroleum products if such  
44 products are intended to be sold in the ordinary course of business.

45 "Gasoline" means all products commonly or commercially  
46 known or sold as gasoline that are suitable for use as a motor fuel.  
47 "Gasoline" does not include products that have an ASTM octane  
48 number of less than 75 as determined by the "motor method,"

1 ASTM D2700-92. The term does not include racing gasoline or  
2 aviation gasoline, but for administrative purposes does include fuel  
3 grade alcohol.

4 "Gross receipts" means all consideration derived from the first  
5 sale of petroleum products within this State except sales of:

6 a. asphalt;

7 b. petroleum products sold pursuant to a written contract  
8 extending one year or longer to nonprofit entities qualifying under  
9 subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as  
10 evidenced by an invoice in form prescribed by subsection b. of  
11 section 3 of P.L.1991, c.19 (C.54:15B-10);

12 c. petroleum products sold to governmental entities qualifying  
13 under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as  
14 evidenced by an invoice in form prescribed by subsection b. of  
15 section 3 of P.L.1991, c.19 (C.54:15B-10); and

16 d. polymer grade propylene used in the manufacture of  
17 polypropylene.

18 "Highway fuel" means gasoline, blended fuel that contains  
19 gasoline or is intended for use as gasoline, liquefied petroleum gas,  
20 and diesel fuel, blended fuel that contains diesel fuel or is intended  
21 for use as diesel fuel, and kerosene, other than aviation grade  
22 kerosene.

23 "Kerosene" means the petroleum fraction containing  
24 hydrocarbons that are slightly heavier than those found in gasoline  
25 and naphtha, with a boiling range of 149 to 300 degrees Celsius.

26 "Petroleum products" means refined products made from crude  
27 petroleum and its fractionation products, through straight  
28 distillation of crude oil or through redistillation of unfinished  
29 derivatives, but shall not mean the products commonly known as  
30 number 2 heating oil, number 4 heating oil, number 6 heating oil,  
31 kerosene and propane gas to be used exclusively for residential use.

32 "Quarterly period" means a period of three calendar months  
33 commencing on the first day of January, April, July or October and  
34 ending on the last day of March, June, September or December,  
35 respectively.

36 **["Retail gasoline price survey" means a Statewide representative**  
37 **random sample of retail gasoline prices conducted by the Board of**  
38 **Public Utilities, Office of the Economist, or its successor, that shall**  
39 **be completed for the month of November and May of each year.]**

40 "Retail price per gallon" means the price **【posted by gasoline】**  
41 charged by retailers in the State for **【unleaded regular gasoline】** a  
42 gallon of the petroleum product dispensed into the fuel tanks of  
43 motor vehicles without State or federal tax included.

44 "Unleaded regular gasoline" means gasoline of the octane rating  
45 equal to the lowest octane rated gasoline offered for sale at a  
46 majority of the gasoline retailers in the State.

47 (cf: P.L.1991, c.181, s.1)

1       7. Section 7 of P.L.1991, c.181 (C.54:15B-2.1) is amended to  
2 read as follows:

3       7. a. "Gross receipts," as otherwise defined by section 2 of  
4 P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales  
5 of petroleum products used by marine vessels engaged in interstate  
6 or foreign commerce **】**and sales of aviation fuels used by common  
7 carriers in interstate or foreign commerce other than the "burnout"  
8 portion which shall be taxable pursuant to rules promulgated by the  
9 director**】**.

10       b. Motor fuel used for the following purposes is exempt from  
11 the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3), and a  
12 refund of the tax imposed by that section may be claimed by the  
13 consumer providing proof the tax has been paid and no refund has  
14 been previously issued:

15       (1) autobuses while being operated over the highways of this  
16 State in those municipalities to which the operator has paid a  
17 monthly franchise tax for the use of the streets therein under the  
18 provisions of R.S.48:16-25 and autobuses while being operated over  
19 the highways of this State in a regular route bus operation as  
20 defined in R.S.48:4-1 and under operating authority conferred  
21 pursuant to R.S.48:4-3, or while providing bus service under a  
22 contract with the New Jersey Transit Corporation or under a  
23 contract with a county for special or rural transportation bus service  
24 subject to the jurisdiction of the New Jersey Transit Corporation  
25 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses  
26 providing commuter bus service which receive or discharge  
27 passengers in New Jersey. For the purpose of this paragraph  
28 "commuter bus service" means regularly scheduled passenger  
29 service provided by motor vehicles whether within or across the  
30 geographical boundaries of New Jersey and utilized by passengers  
31 using reduced fare, multiple ride, or commutation tickets and shall  
32 not include charter bus operations for the transportation of enrolled  
33 children and adults referred to in subsection c. of R.S.48:4-1 and  
34 "regular route service" does not mean a regular route in the nature  
35 of special bus operation or a casino bus operation;

36       (2) agricultural tractors not operated on a public highway;

37       (3) farm machinery;

38       (4) ambulances;

39       (5) rural free delivery carriers in the dispatch of their official  
40 business;

41       (6) vehicles that run only on rails or tracks, and such vehicles as  
42 run in substitution therefor;

43       (7) highway motor vehicles that are operated exclusively on  
44 private property;

45       (8) motor boats or motor vessels used exclusively for or in the  
46 propagation, planting, preservation and gathering of oysters and  
47 clams in the tidal waters of this State;



- 1     (9) motor boats or motor vessels used exclusively for  
2 commercial fishing;  
3     (10) motor boats or motor vessels, while being used for hire for  
4 fishing parties or being used for sightseeing or excursion parties;  
5     (11) fire engines and fire-fighting apparatus;  
6     (12) stationary machinery and vehicles or implements not  
7 designed for the use of transporting persons or property on the  
8 public highways;  
9     (13) heating and lighting devices;  
10    (14) motor boats or motor vessels used exclusively for Sea Scout  
11 training by a duly chartered unit of the Boy Scouts of America; and  
12    (15) emergency vehicles used exclusively by volunteer first-aid  
13 or rescue squads.

14 (cf: P.L.1991, c.181, s.7)

15

16       8. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read  
17 as follows:

18       3. a. (1) (a) There is imposed on each company which is  
19 engaged in the refining or distribution, or both, of petroleum  
20 products other than highway fuel and which distributes such  
21 products in this State a tax at the rate of [two and three-quarters  
22 percent (2 3/4%)] seven percent of its gross receipts derived from  
23 the first sale of petroleum products within this State and there is  
24 imposed on each company which is engaged in the refining or  
25 distribution, or both, of highway fuel a tax at the rate of 12.5  
26 percent <sup>1</sup>, as adjusted pursuant to subsection c. of this section, <sup>1</sup> of  
27 its gross receipts derived from the first sale of those products within  
28 this State. [; provided however, that the]

29       (b) The applicable tax rate for [fuel oils, aviation fuels and  
30 motor fuels subject to tax under R.S.54:39-1 et seq.] gasoline,  
31 blended fuel that contains gasoline or is intended for use as  
32 gasoline, and liquefied petroleum gas, which are taxed as a highway  
33 fuel pursuant to subparagraph (a) of this paragraph, shall be  
34 converted to a cents-per-gallon rate, rounded to the nearest tenth of  
35 a cent, [that shall be calculated by the use of] and adjusted  
36 quarterly by the director, effective on July 1, October 1, January 1,  
37 and April 1, based on the average retail price per gallon of unleaded  
38 regular gasoline [in December 1990,] in the State, as determined in  
39 [a] the most recent survey of the retail price per gallon of gasoline  
40 [prices] that [included] includes a Statewide representative  
41 random sample conducted [in December 1990 for that month] by  
42 the Board of Public Utilities, Office of the Economist, [and shall be  
43 effective for the tax due for months ending after that date; and] or  
44 its successor.

45       (c) The cents-per-gallon rate determined pursuant to  
46 subparagraph (b) of this paragraph shall not be less than the rate  
47 determined for the quarter beginning July 1, 2016 <sup>1</sup>[and shall not

1 exceed a rate reflecting more than an average retail price per gallon  
2 of gasoline of \$3<sup>1</sup> .

3 (d) The applicable tax rate for diesel fuel, blended fuel that  
4 contains diesel fuel or is intended for use as diesel fuel, and  
5 kerosene, other than aviation grade kerosene, which are taxed as a  
6 highway fuel pursuant to subparagraph (a) of this paragraph, shall  
7 be converted to a cents-per-gallon rate, rounded to the nearest tenth  
8 of a cent, and adjusted quarterly by the director, effective on July 1,  
9 October 1, January 1, and April 1, based on the average retail price  
10 per gallon of number 2 diesel in the State, as determined in the most  
11 recent survey of retail diesel fuel prices that includes a Statewide  
12 representative random sample conducted by the Board of Public  
13 Utilities, Office of the Economist, or its successor.

14 Notwithstanding the provisions of subparagraph (a) of this  
15 paragraph to the contrary, for the period from July 1, 2016 through  
16 December 31, 2016, no rate of tax shall be applied to diesel fuel,  
17 blended fuel that contains diesel fuel or is intended for use as diesel  
18 fuel, or kerosene, other than aviation grade kerosene; for the period  
19 from January 1, 2017 through June 30, 2017, the applicable rate for  
20 those fuels shall be 70 percent of the rate otherwise determined  
21 pursuant to subparagraph (a) of this paragraph, and for July 1, 2017  
22 and thereafter the applicable rate for those fuels determined  
23 pursuant to subparagraph (a) of this paragraph.

24 (e) The cents-per-gallon rate determined pursuant to  
25 subparagraph (d) of this paragraph shall not be less than the rate  
26 determined for the quarter beginning July 1, 2016 <sup>1</sup>and shall not  
27 exceed a rate reflecting more than an average retail price per gallon  
28 of gasoline of \$3<sup>1</sup> .

29 (f) The applicable tax rate for aviation fuel, determined pursuant  
30 to subparagraph (a) of this paragraph shall be converted to a cents-  
31 per-gallon rate, rounded to the nearest tenth of a cent, based on the  
32 average price per gallon, without State or federal tax included, of  
33 aviation grade kerosene in the State, effective July 1, 2016, as  
34 determined in the most recent survey of aviation grade kerosene  
35 prices paid by commercial consumers that includes a Statewide  
36 representative random sample conducted by the Board of Public  
37 Utilities, Office of the Economist, or its successor.

38 (g) <sup>1</sup>Each year as of January 1, the rate for aviation fuel in  
39 effect on the immediately preceding December 31 shall be adjusted  
40 as follows: the rate shall be multiplied by a fraction, the numerator  
41 of which is the sum of the monthly producer price index  
42 (unadjusted) published by the Bureau of Labor Statistics of the  
43 United States Department of Labor for the category of commodities  
44 designated "petroleum products, refined," or its successor series, for  
45 the 12 consecutive months ending with the month of August of the  
46 immediately preceding year and the denominator of which is the  
47 sum of the monthly producer price index (unadjusted) published by  
48 the Bureau of Labor Statistics of the United States Department of

1 Labor for the category of commodities designated “petroleum  
2 products, refined,” or its successor series, for the 12 consecutive  
3 months ending with the month of August in the year prior to that  
4 immediately preceding year, and rounded to the nearest tenth of a  
5 cent.] The cents per gallon rate for aviation fuel shall be adjusted  
6 annually by the director, effective on January 1, based on the  
7 average price per gallon, without State or federal tax included, of  
8 aviation grade kerosene in the State, as determined in the most  
9 recent survey of aviation grade kerosene prices paid by commercial  
10 consumers that includes a Statewide representative random sample  
11 conducted by the Board of Public Utilities, Office of the Economist,  
12 or its successor; provided however, that the adjusted rate shall not  
13 increase above or decrease below the rate in effect on the  
14 immediately preceding December 31 by more than five percent<sup>1</sup> .

15 (h) The applicable tax rate for fuel oil determined pursuant to  
16 subparagraph (a) of this paragraph shall be converted to a cents-per-  
17 gallon rate, rounded to the nearest tenth of a cent, and adjusted  
18 quarterly by the director, effective on July 1, October 1, January 1,  
19 and April 1, to reflect the average price per gallon, without State or  
20 federal tax included, of retail sales of number <sup>1</sup>[4] <sup>2</sup> fuel oil in the  
21 State, as determined in the most recent survey of retail diesel fuel  
22 prices that included a Statewide representative random sample  
23 conducted by the Board of Public Utilities, Office of the Economist,  
24 or its successor.

25 (i) The cents-per-gallon rate determined pursuant to  
26 subparagraph (h) of this paragraph shall not be less than the rate  
27 determined for the quarter beginning July 1, 2016.

28 (j) On and after the 10th day following a certification by the  
29 review council pursuant to subsection c. of section 13 of P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill), no tax shall  
31 be imposed pursuant to this paragraph.

32 (2) (a) In addition to the tax, if any, imposed by paragraph (1) of  
33 this subsection, a cents-per-gallon tax is imposed on each  
34 company’s gross receipts derived from the first sale of petroleum  
35 products within this State on gasoline, blended fuel that contains  
36 gasoline or that is intended for use as gasoline, and liquefied  
37 petroleum gas at the rate of four cents per gallon; and

38 (b) In addition to the tax, if any, imposed by paragraph (1) of  
39 this subsection, a cents-per-gallon tax is imposed on each  
40 company’s gross receipts derived from the first sale of petroleum  
41 products within this State on diesel fuel, blended fuel that contains  
42 diesel fuel or is intended for use as diesel fuel, and kerosene, other  
43 than aviation grade kerosene, at the rate of four cents per gallon  
44 before July 1, 2017 and at the rate of eight cents per gallon on and  
45 after July 1, 2017.

46 b. There is imposed on each company that imports or causes to  
47 be imported, other than by a company subject to and having paid  
48 the tax on those imported petroleum products that have generated

1 gross receipts taxable under subsection a. of this section, petroleum  
2 products for use or consumption by it within this State a tax at the  
3 rate **【of two and three-quarters percent (2 3/4%)】** or rates of the  
4 consideration given or contracted to be given and the gallonage,  
5 determined pursuant to subsection a. of this section, for such  
6 petroleum products if the consideration given or contracted to be  
7 given for all such deliveries made during a quarterly period exceeds  
8 \$5,000**】**; provided however, that the applicable tax rate for fuel oils,  
9 aviation fuels and motor fuels subject to tax under R.S.54:39-1 et  
10 seq. shall be converted to a cents per gallon rate, rounded to the  
11 nearest cent, that shall be calculated by the use of the average retail  
12 price per gallon of unleaded regular gasoline in December 1990, as  
13 determined in a survey of retail gasoline prices that included a  
14 Statewide representative random sample conducted in December  
15 1990 for that month by the Board of Public Utilities, Office of the  
16 Economist, and shall be effective for the tax due for months ending  
17 after that date**】**.

18 <sup>1</sup>c. (1) For State fiscal years 2018 through 2026, the rate of tax  
19 imposed on highway fuel pursuant to subsection a. of this section  
20 shall be adjusted annually so that the total revenue derived from  
21 highway fuel shall not exceed the highway fuel cap amount.

22 (2) The State Treasurer shall, on or before December 31, 2016,  
23 determine the highway fuel cap amount as the sum of:

24 (a) the taxes collected for State Fiscal Year 2016 pursuant to  
25 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,  
26 c.22 (C.54:39-103),

27 (b) the amount derived from taxing the gallonage of highway  
28 fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of  
29 four cents per gallon, and

30 (c) the amount that would have been derived from taxing the  
31 gallonage of highway fuel subject to motor fuel tax in State Fiscal  
32 Year 2016 at the rate of 23 cents per gallon.

33 (3) On or before August 15 of each State Fiscal Year following  
34 State Fiscal Year 2017, the State Treasurer and the Legislative  
35 Budget and Finance Officer shall determine the total revenue  
36 derived from:

37 (a) the taxes collected for the prior State Fiscal Year pursuant to  
38 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,  
39 c.22 (C.54:39-103),

40 (b) the revenue that would be derived from imposing the tax  
41 pursuant to paragraph (2) of subsection a. of this section at the rate  
42 of four cents per gallon, and

43 (c) the revenue derived from the taxation of highway fuel  
44 pursuant to paragraph (1) of subsection a. of this section.

45 (4) Upon consideration of the result of the determination  
46 pursuant to paragraph (3) of this subsection, and consultation with  
47 the Legislative Budget and Finance Officer, the State Treasurer  
48 shall determine the rate of tax to be imposed on highway fuel

1 pursuant to subsection a. of this section that will result in revenue  
2 from:

3 (a) the taxes collected for the current State Fiscal Year pursuant  
4 to paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,  
5 c.22 (C.54:39-103),

6 (b) the revenue derived from the tax imposed pursuant to  
7 paragraph (2) of subsection a. of this section at the rate of four cents  
8 per gallon for the current State Fiscal Year, and

9 (c) the revenue derived from the taxation of highway fuel  
10 pursuant to paragraph (1) of subsection a. of this section

11 equaling the highway fuel cap amount determined pursuant to  
12 paragraph (2) of this subsection, as adjusted pursuant to paragraph  
13 (5) of this subsection;

14 and that rate shall take effect on the October 1 of that year.

15 (5) If the actual revenue determined pursuant to paragraph (3) of  
16 this subsection exceeds the highway fuel cap amount determined  
17 pursuant to paragraph (2) of this subsection, then the highway fuel  
18 cap amount for the succeeding year shall be decreased by the  
19 amount of the excess in setting the rate pursuant to paragraph (4) of  
20 this subsection. If the actual revenue determined pursuant to  
21 paragraph (3) of this subsection is less than the highway fuel cap  
22 amount determined pursuant to paragraph (2) of this subsection,  
23 then the highway fuel cap amount for the succeeding year shall be  
24 increased by the amount of the shortfall in setting the rate pursuant  
25 to paragraph (4) of this subsection.<sup>1</sup>

26 (cf: P.L.2000, c.48, s.1)

27

28 9. Section 2 of P.L.1991, c.19 (C.54:15B-9) is amended to read  
29 as follows:

30 2. a. A person who shall purchase or otherwise acquire  
31 petroleum products, upon which the petroleum products gross  
32 receipts tax has not been paid and is not due pursuant to subsection  
33 b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a  
34 reimbursement payment has been paid pursuant to section 3 of **【this**  
35 **act】** P.L.1991, c.19 (C.54:15B-10), from a federal government  
36 department, agency or instrumentality, or any agent or officer  
37 thereof, for use not specifically associated with any federal  
38 government function or operation, shall pay to the State a tax  
39 **【equivalent to two and three-quarters percent (2 3/4%)】** at the rate  
40 or rates of the consideration given or contracted to be given for the  
41 purchase or acquisition of the petroleum products and the  
42 gallage, determined pursuant to subsection a. of section 3 of  
43 P.L.1990, c.42 (C.54:15B-3) in accordance with the procedures set  
44 forth in the "Petroleum Products Gross Receipts Tax Act,"  
45 P.L.1990, c.42 (C.54:15B-1 et seq.).

46 b. A person who knowingly uses, or who conspires with an  
47 official, agent or employee of a federal government department,  
48 agency or instrumentality, for the use of, a requisition, purchase

1 order, or a card or an authority to which the person is not  
2 specifically entitled by government regulations, with the intent to  
3 obtain petroleum products from a federal government department,  
4 agency or instrumentality for a use not specifically associated with  
5 a federal government function or operation, upon which the  
6 petroleum products gross receipts tax has not been paid, is guilty of  
7 a crime of the fourth degree.

8 (cf: P.L.1991, c.19, s.2)

9

10 10. Section 3 of P.L.1991, c.19 (C.54:15B-10) is amended to  
11 read as follows:

12 a. A federal government department, agency or instrumentality,  
13 that purchases petroleum products other than by the first sale of that  
14 product in this State for use in a federal government function or  
15 operation, upon which petroleum products the petroleum products  
16 gross receipts tax has been paid or is due and payable, shall be  
17 reimbursed and paid an amount **【equivalent to two and three-**  
18 **quarters percent (2 3/4%)】** at the rate or rates of the consideration  
19 given or contracted to be given **【by the federal government**  
20 **department, agency or instrumentality for the purchase of the**  
21 **petroleum products】** , and the gallonage, determined pursuant to  
22 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3).

23 b. The reimbursement shall be claimed by presenting to the  
24 Director of the Division of Taxation in the Department of the  
25 Treasury an application for the reimbursement, on a form prescribed  
26 by the director, which application shall be verified by a declaration  
27 of the applicant that the statements contained therein are true. Such  
28 application for reimbursement shall be supported by an invoice, or  
29 invoices, showing the name and address of the person from whom  
30 the petroleum products were purchased, the name of the purchaser,  
31 the date of purchase, the quantity of the product purchased, the  
32 price paid for the purchase of the product, and an acknowledgment  
33 by the seller that payment of the cost of the product to the seller,  
34 including the petroleum gross receipts tax due thereon, has been  
35 made. Such invoice, or invoices, shall be legibly written and shall  
36 be void if any corrections or erasures shall appear on the face  
37 thereof.

38 c. If petroleum products are sold to a federal government  
39 department, agency or instrumentality that shall be entitled to a  
40 reimbursement under this act, the seller of the petroleum products  
41 shall supply the purchaser with an invoice that conforms with the  
42 requirements of subsection b. of this section.

43 (cf: P.L.1991, c.19, s.3)

44

45 11. (New section) a. There is levied a tax on persons, other  
46 than licensed companies pursuant to section 6 of P.L.1991, c.181  
47 (C.54:15B-12), holding the fuels enumerated in subparagraph (a) of  
48 paragraph (2) of subsection a. of section 3 of P.L.1990, c.42

1 (C.54:15B-3) in storage for sale as of the close of the first business  
2 day following the date of enactment of P.L. , c. (C. )  
3 (pending before the Legislature as this bill) by fifteen days on  
4 which tax has previously been paid. The amount of tax shall be the  
5 difference between the tax per gallon specified by subsection a. of  
6 section 3 of P.L1990, c.42 (C.54:15B-3) for the type of fuel and the  
7 tax previously paid per gallon, multiplied by the gallons in storage  
8 of that type of fuel as of the close of the business day on that day.

9 b. Persons in possession of those fuels in storage as of the close  
10 of the first business day following the date of enactment of  
11 P.L. , c. (C. ) (pending before the Legislature as this bill) by  
12 fifteen days shall:

13 (1) take an inventory at the close of the business day on that  
14 day;

15 (2) report the gallons listed in paragraph (1) of this subsection  
16 on forms provided by the director, not later than 45 days following  
17 the date of enactment of P.L. , c. (C. ) (pending before the  
18 Legislature as this bill) by fifteen days; and

19 (3) Remit the tax levied under this section to the director no  
20 later than February 1, 2017.

21 c. Fuel not reflected in the inventory taken pursuant to  
22 subsection b. of this section is deemed to be previously untaxed,  
23 except to the extent that it is invoiced as delivered tax-paid on or  
24 after July 1, 2016.

25 d. There is levied a tax on persons, other than licensed  
26 companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),  
27 holding the fuels enumerated in subparagraph (b) of paragraph (2)  
28 of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in  
29 storage for sale as of the close of the business day on December 31,  
30 2016 on which tax has previously been paid. The amount of tax  
31 shall be the difference between the tax per gallon specified by  
32 subsection a. of section 3 of P.L1990, c.42 (C.54:15B-3) for the  
33 type of fuel and the tax previously paid per gallon, multiplied by the  
34 gallons in storage of that type of fuel as of the close of the business  
35 day on December 31, 2016.

36 e. Persons in possession of those fuels in storage as of the close  
37 of the business day on December 31, 2016 shall:

38 (1) take an inventory at the close of the business day on  
39 December 31, 2016;

40 (2) report the gallons listed in paragraph (1) of this subsection  
41 on forms provided by the director, not later than January 31, 2017;  
42 and

43 (3) Remit the tax levied under this section to the director no  
44 later than August 1, 2017.

45 f. Fuel not reflected in the inventory taken pursuant to  
46 subsection b. of this section is deemed to be previously untaxed,  
47 except to the extent that it is invoiced as delivered tax-paid on or  
48 after January 1, 2017.

1 g. In determining the amount of tax due under this section, a  
2 person may exclude the amount of fuel in dead storage in each  
3 storage tank

4 h. As used in this section:

5 "Close of the business day" means the time at which the last  
6 transaction has occurred for that day.

7 "Dead storage" means the amount of fuel that cannot be pumped  
8 out of a fuel storage tank because the motor fuel is below the mouth  
9 of the draw pipe. The amount of motor fuel in dead storage is 200  
10 gallons for a tank with a capacity of less than 10,000 gallons and  
11 400 gallons for a tank with a capacity of 10,000 gallons or more.

12

13 12. (New section) Notwithstanding any provision of the  
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
15 seq.) to the contrary, the director may adopt immediately upon  
16 filing with the Office of Administrative Law such regulations as the  
17 director deems necessary to implement the provisions of sections 6  
18 through 11 of P.L. , c. (pending before the Legislature as this  
19 bill), which regulations shall be effective for a period not to exceed  
20 360 days following the date of enactment of P.L. , c. (pending  
21 before the Legislature as this bill) and may thereafter be amended,  
22 adopted, or readopted by the director in accordance with the  
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
24 seq.).

25

26 13. (New section) a. The State Treasurer, and the Legislative  
27 Budget and Finance Officer, together with a third public member  
28 who shall be jointly selected thereby, shall constitute the review  
29 council.

30 b. The review council shall, on or before January 15, 2020,  
31 provide the Governor and the Legislature with an advisory report of  
32 their consensus estimate of the increase or decrease in State  
33 revenues pursuant to each section of P.L. , c. (C. ) (pending  
34 before the Legislature as this bill), and pursuant to this act as a  
35 whole, during the preceding three State fiscal years, including a  
36 comparison of those estimates to the legislative fiscal estimate or  
37 fiscal note published contemporaneous with the enactment of this  
38 act prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

39 c. The review council shall conduct an ongoing review of the  
40 application of each section of P.L. , c. (C. ) (pending before  
41 the Legislature as this bill).

42 The review council shall, not later than five days after any  
43 Legislative action that halts, delays, or reverses the implementation  
44 of those sections as scheduled on the date of enactment of P.L. ,  
45 c. (C. ) (pending before the Legislature as this bill), certify <sup>1</sup>for  
46 the purposes of subparagraph (j) of paragraph (1) of subsection a. of  
47 section 3. of P.L.1990, c.42 (C.54:15B-3)<sup>1</sup> to the Director of the



1 Division of Taxation that the scheduled implementation of P.L. ,  
2 c. (C. ) had been impeded.

3

4 14. This act shall take effect immediately, section 5 shall apply  
5 to taxable years beginning on or after January 1, 2017, and sections  
6 6 through 10 shall apply to first sales of petroleum products within  
7 this State and to deliveries of petroleum products for use or  
8 consumption within this State made on or after July 1, 2016.