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ASSEMBLY, No. 1491

STATE OF NEW JERSEY

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By Assemblymen GREGG, CARROLL, Holzapfel,  
Assemblywoman Allen, Assemblyman LeFevre,  
Assemblywomen Crecco, J. Smith, Assemblymen Augustine,  
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Assemblywoman Vandervalk, Assemblymen Bodine, Geist,  
Bucco, Assemblywoman Murphy, Assemblymen Bateman,  
Asselta, Gibson, Blee, DeSopo, Moran, Suliga, Steele,  
Impreveduto, Romano, Bagger, Assemblywoman Myers,  
Assemblymen Zecker, Azzolina, Barnes, Rooney,  
Assemblywomen Turner, Bark, Assemblymen Felice, Rocco,  
Garrett and Dalton

1 ANACT concerning employer trip reduction programs, amending and  
2 supplementing various sections of the statutory law and repealing  
3 <sup>2</sup>sections 1 through 13 and section 15 of <sup>2</sup> P.L.1992, c.32.

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

7  
8 1. (New section) As authorized by Section 182(d)(1) of the Clean  
9 Air Act as amended by Pub.L.104-70, the Commissioner of  
10 Environmental Protection shall submit a revision of the State  
11 Implementation Plan submitted to the Environmental Protection  
12 Agency pursuant to the Clean Air Act removing provisions of the  
13 State Implementation Plan requiring employers to reduce work-related  
14 vehicle trips and miles traveled by employees.

15  
16 2. (New section) In order to certify to the Director of the Division  
17 of Taxation <sup>2</sup>, in the Department of the Treasury. <sup>2</sup> eligibility for the  
18 tax benefits provided under <sup>2</sup>section 1 of <sup>2</sup> P.L.1993, c.150 (C.27:26A-  
19 15) and <sup>2</sup>section 1 of <sup>2</sup> P.L.1993, c.108 (C.54A:6-23), the  
20 Commissioner of Transportation shall adopt regulations, pursuant to

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ATC committee amendments adopted May 13, 1996.

<sup>2</sup> Assembly floor amendments adopted June 24, 1996.

1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
2 seq.), establishing the procedure by which an employer may register  
3 with the Department of Transportation as a participant in an employer  
4 trip reduction program and the criteria to be met by an employer trip  
5 reduction program using alternative means of commuting to receive  
6 certification for providing commuter transportation benefits.

7 As used in this section:

8 "Alternative means of commuting" means travel between a person's  
9 place of residence and place of employment or termini near those  
10 places, other than in a motor vehicle occupied by one person.  
11 Alternative means of commuting include, but are not limited to, public  
12 transportation, car pools, van pools, bus pools, ferries, bicycling,  
13 telecommuting and walking, which may be used in conjunction with  
14 such strategies as flextime, staggered work hours, compressed work  
15 weeks and like measures.

16 "Commuter transportation benefit" means the cost to employers of  
17 providing benefits to an employee for utilizing an alternative means of  
18 commuting and the cost of providing services and facilities which  
19 would encourage or facilitate use by employees of alternative means  
20 of commuting. The benefit shall include the costs of parking by  
21 employees at park-and-ride lots.

22  
23 3. Section 1 of P.L.1993, c.150 (C.27:26A-15) is amended to read  
24 as follows:

25 1. a. An [affected] employer that is a taxpayer subject to the  
26 provisions of the Corporation Business Tax Act (1945), P.L.1945,  
27 c.162 (C.54:10A-1 et seq.), the "Financial Business Tax Law (1946),"  
28 P.L.1946, c.174 (C.54:10B-1 et seq.), "The Savings Institution Tax  
29 Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on marine  
30 insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed  
31 on fire insurance companies pursuant to R.S.54:17-4 et al., the tax  
32 imposed on insurers generally, pursuant to P.L.1945, c.132  
33 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities  
34 gross receipts tax and public utility excise tax imposed pursuant to  
35 P.L.1940, c.4, and P.L.1940, c.5 (C.54:30A-16 et seq. and  
36 C.54:30A-49 et seq.), or that is a taxpayer in respect of a distributive  
37 share of partnership income under the "New Jersey Gross Income Tax  
38 Act," N.J.S.54A:1-1 et seq., which provides commuter transportation  
39 benefits as defined in section [3 of P.L.1992, c.32 (C.27:26A-3)] 2 of  
40 P.L.19 , c. (C. )(now before the Legislature as this bill) shall be  
41 allowed a credit against that tax equal to 5% of the cost of commuter  
42 transportation benefits for the relevant accounting or privilege period,  
43 as appropriate, subject to the limitations of subsection b. of this  
44 section. For accounting or privilege periods beginning on or after  
45 January 1, 1995, but ending not later than December 31, 2004, the  
46 credit allowed under this section shall be 10% of the cost of commuter  
47 transportation benefits for the relevant accounting or privilege period,

1 as appropriate, subject to the limitations of subsection b. of this  
2 section. In the case of a taxpayer receiving partnership income, an  
3 offset against that income subject to the limitations in paragraph (5) of  
4 subsection b. of this section shall be considered the credit.

5 b. (1) The credit granted a taxpayer for an accounting or privilege  
6 period shall not exceed the per employee limit multiplied by the  
7 number of employees participating in alternative means of commuting  
8 at the work location. The per employee limit shall be \$36 for the  
9 accounting or privilege periods beginning on and after January 1, 1994  
10 but before January 1, 1995, and \$72 for those periods thereafter. For  
11 those periods beginning on or after January 1, 1995, the Director of  
12 the Division of Taxation, in the Department of the Treasury, shall  
13 adjust the limit, rounded down to the nearest dollar, in proportion to  
14 the change in the average consumer price index for all urban  
15 consumers in the New York and Northeastern New Jersey and the  
16 Philadelphia areas, as reported by the United States Department of  
17 Labor, from calendar year 1994 to the calendar year ending  
18 immediately before the appropriate period.

19 (2) The taxpayer may only claim a credit for providing commuter  
20 transportation benefits based upon a direct expenditure made after the  
21 taxpayer has registered with and the taxpayer's employer trip  
22 reduction program been certified by the [department]Department of  
23 Transportation as prescribed in [subsection c. of section 5 of  
24 P.L.1992, c.32 (C.27:26A-5); provided that a taxpayer shall continue  
25 to be eligible for the credit as long as the taxpayer remains in  
26 substantial compliance with subsections d., e., f. and h. of section 5 of  
27 P.L.1992, c.32 (C.27:26A-5); and provided further that the  
28 commissioner may allow additional time for the taxpayer to comply  
29 with subsections d., e., f. and h. of section 5 of P.L.1992, c.32  
30 (C.27:26A-5) before a credit amount is disallowed for an affected  
31 employer; however, a credit amount shall be disallowed if the taxpayer  
32 fails to comply with section 5 of P.L.1992, c.32 (C.27:26A-5) within  
33 three years from the due date of the tax return reflecting a liability  
34 against which a credit was claimed] section 2 of P.L.19 .  
35 c. (C. ) (now before the Legislature as this bill).

36 (3) The amount of the credit allowed under this section for an  
37 accounting or privilege period shall not exceed 50% of the tax liability  
38 which would be otherwise due for any one of the taxes enumerated in  
39 subsection a. of this section after first applying the credits, if any,  
40 allowed under any other law and shall not reduce the amount of tax  
41 liability to less than the statutory minimum provided in subsection (e)  
42 of section 5 of P.L.1945, c.162 (C.54:10A-5), section 3 of P.L.1946,  
43 c.174 (C.54:10B-3) or section 3 of P.L.1973, c.31 (C.54:10D-3), as  
44 may be applicable.

45 (4) A taxpayer having liability for more than one of the taxes  
46 enumerated in subsection a. of this section for an accounting or  
47 privilege period shall allocate the credit amount available for that

1 period to the liabilities for that period in the proportion that each  
2 liability bears to the total of the liabilities for that period, and each  
3 apportioned amount of credit shall be applied to only one amount of  
4 liability.

5 (5) A partnership shall not be allowed a credit under this section  
6 directly. A partnership shall be entitled to reduce total partnership  
7 income distributed to the partners and subject to tax under subsection  
8 k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of  
9 commuter transportation benefits provided pursuant to law or \$515 for  
10 each employee receiving such benefits. For accounting and privilege  
11 periods beginning on or after January 1, 1995, but ending no later than  
12 December 31, 2004, the reduction to partnership income allowed  
13 under this section shall be the lesser of 143 percent of the cost of  
14 commuter transportation benefits provided or \$1,030 for each  
15 employee receiving such benefits for the relevant accounting or  
16 privilege period, as appropriate, subject to the limitations of subsection  
17 b. of this section.

18 <sup>1</sup>(6) Notwithstanding the provisions of paragraph (1) of this  
19 subsection, the per employee limit for a taxpayer which has filed a  
20 compliance plan with the Department of Transportation required by  
21 section 5 of P.L.1992, c.32 (C.27:26A-5) on or before the effective  
22 date of P.L.19 , c. (now before the Legislature as this bill) shall be  
23 twice the per employee limit as determined pursuant to paragraph (1)  
24 of this subsection. The Department of Transportation shall certify to  
25 the Director of the Division of Taxation a list of all employers which  
26 are eligible to claim the per employee limit under this paragraph.<sup>1</sup>

27 c. Each employee who receives money towards commuter  
28 transportation benefits from the employee's employer as an advance,  
29 a reimbursement, or both, shall furnish suitable proof to the employer,  
30 in the form of receipts, ticket stubs or the like, that the employee  
31 utilized monies provided by the employer for an alternative means of  
32 commuting, as defined pursuant to section [3 of P.L.1992, c.32  
33 (C.27:26A-3)]2 of P.L.19 , c. (C. )(now before the Legislature as  
34 this bill).

35 d. For the purposes of verifying eligibility for the credit, the  
36 ~~[commissioner]~~ Commissioner of Transportation shall certify to the  
37 Director of the Division of Taxation a list of those employers which  
38 have registered with the department[, or have an approved compliance  
39 plan or an approved amended compliance plan]and have [an approved]  
40 a certified employer trip reduction program. The list shall be provided  
41 to the Director of the Division of Taxation within 90 days of  
42 registration [and within 210 days of each submission of a compliance  
43 plan or each amended compliance plan].

44 e. The taxpayer shall file with the department a schedule of the  
45 expenditures for which the taxpayer has claimed a credit pursuant to  
46 this section on any tax return filed with the Director of the Division of

1 Taxation, in such form and pursuant to such rules as shall be  
2 prescribed by the commissioner in consultation with the Director of  
3 the Division of Taxation. [The department shall provide the Director  
4 of the Division of Taxation with the schedule and such other  
5 information as is required pursuant to subsection j. of section 5 of  
6 P.L.1992, c.32 (C.27:26A-5).]

7 (cf: P.L.1993, c.150, s.1)

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9 4. Section 1 of P.L.1993, c.108 (C.54A:6-23) is amended to read  
10 as follows:

11 1. a. For the purposes of the "New Jersey Gross Income Tax Act,"  
12 N.J.S.54A:1-1 et seq., "gross income" shall not include employer  
13 provided commuter transportation benefits as defined pursuant to  
14 section [3 of P.L.1992, c.32 (C.27:26A-3)] 2 of P.L. 19 , c.  
15 (C. )(now before the Legislature as this bill) , up to and including the  
16 limit per taxable year per employee pursuant to subsection b. of this  
17 section. Should an employee receive commuter transportation benefits  
18 in excess of those limits in a taxable year, only the amount in excess  
19 of those limits shall be included in gross income. If an employee  
20 receives money towards commuter transportation benefits from the  
21 employee's employer, as an advance, a reimbursement, or both, the  
22 employee shall furnish suitable proof to the employer in the form of  
23 receipts, ticket stubs or the like that the employee used the employer  
24 provided money for alternative means of commuting as defined  
25 pursuant to section [3 of P.L.1992, c.32 (C.27:26A-3)] 2 of P.L.19 ,  
26 c. (C. )(now before the Legislature as this bill).

27 b. The limit per taxable year per employee shall be \$720 for the  
28 taxable years beginning on and after January 1, 1993 but before  
29 January 1, 1994. For taxable years thereafter, the director shall adjust  
30 the limit, rounded down to the nearest \$5, in proportion to the change  
31 in the average consumer price index for all urban consumers in the  
32 New York and Northeastern New Jersey and the Philadelphia areas,  
33 as reported by the United States Department of Labor, from calendar  
34 year 1993 to the calendar year ending immediately before the taxable  
35 year.

36 c. The exclusion provided by subsection a. of this section shall not  
37 apply to any commuter transportation benefit unless such benefit is  
38 provided in addition to and not in lieu of any compensation otherwise  
39 payable to the employee.

40 <sup>1</sup>d. Notwithstanding the provisions of subsection b. of this section  
41 the limit per taxable year for an employee receiving commuter  
42 transportation benefits on the effective date of P.L.19 , c. (now  
43 before the Legislature as this bill) from an employer which filed a  
44 compliance plan with the Department of Transportation required by  
45 section 5 of P.L.1992, c.32 (C.27:26A-5) on or before the effective  
46 date of P.L.19 , c. (now before the Legislature as this bill) shall be  
47 twice the limit as determined by subsection b. of this section. An

1 employer which filed a compliance plan on or before the effective date  
2 of this P.L.19 , c. (now before the Legislature as this bill) shall  
3 certify to the Director of the Division of Taxation a list of employees  
4 receiving commuter transportation <sup>2</sup>benefits<sup>2</sup> on the effective date of  
5 P.L.19 , c. (now before the Legislature as this bill).<sup>1</sup>

6 (cf: P.L.1993, c.108, s.1)

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8 5. N.J.S.54A:7-2 is amended to read as follows:

9 54A:7-2. Information statement for employee or recipient of other  
10 payments. Every employer or payor of a pension or annuity required  
11 to deduct and withhold tax under this act from the wages of an  
12 employee or from the payment of a pension or annuity, or an employer  
13 who would have been required so to deduct and withhold tax if an  
14 employee had claimed no more than one withholding exemption, shall  
15 furnish to each such employee, or pension or annuity recipient or the  
16 estate thereof, in respect of the wages or pension or annuity payments  
17 paid by such employer or payor to such employee or pension or  
18 annuity recipient during the calendar year on or before February 15 of  
19 the succeeding year, or, if his employment or pension or annuity is  
20 terminated before the close of such calendar year, within 30 days from  
21 the date on which the last payment of the wages or pension or annuity  
22 is made, a written statement as prescribed by the director showing the  
23 amount of wages or pension or annuity payments paid by the employer  
24 or payor to the employee or pension or annuity recipient, the cost of  
25 commuter transportation benefits, as defined pursuant to section [3 of  
26 P.L.1992, c.32 (C.27:26A-3)]<sup>2</sup> of P.L.19 , c. (C. )(now before the  
27 Legislature as this bill), excludable by the employee pursuant to  
28 section 1 of P.L.1993, c.108 (C.54A:6-23), and the cost of such  
29 benefits not so excludable, provided by the employer to the employee,  
30 the amount deducted and withheld as tax, the amount deducted and  
31 withheld as worker contributions for unemployment and disability  
32 insurance as provided under the New Jersey Unemployment  
33 Compensation Law, and such other information as the director shall  
34 prescribe.

35 (cf: P.L.1993, c.108, s.2)

36

37 6. Sections 1 through 13 (inclusive) and section 15 of P.L.1992,  
38 c. 32 (C.27:26A-1 through 13 and 27:26A-14) are repealed.

39

40 7. This act shall take effect immediately.

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3 Repeals mandatory employer trip reduction programs; authorizes tax  
4 benefits for voluntary programs.