

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE, Nos. 498 and 927

STATE OF NEW JERSEY

ADOPTED MAY 9, 1996

Sponsored by Senators SCOTT, CAFIERO and ZANE

1 AN ACT concerning employer trip reduction programs, amending and  
2 supplementing various sections of the statutory law and repealing  
3 sections 1 through 13 and section 15 of 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  
17 Division of Taxation, in the Department of the <sup>1</sup>[Treasurer] Treasury<sup>1</sup>,  
18 eligibility for the tax benefits provided under section 1 of P.L.1993,  
19 c.150 (C.27:26A-15) and section 1 of P.L.1993, c.108 (C.54A:6-23),  
20 the Commissioner of Transportation shall adopt regulations, pursuant  
21 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
22 et seq.), establishing the procedure by which an employer may register  
23 with the Department of Transportation as a participant in an employer  
24 trip reduction program and the criteria to be met by an employer trip  
25 reduction program using alternative means of commuting to receive  
26 certification for providing commuter transportation benefits.

27 As used in this section:

28 "Alternative means of commuting" means travel between a person's

**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 floor amendments adopted June 24, 1996.

1 place of residence and place of employment or termini near those  
2 places, other than in a motor vehicle occupied by one person.  
3 Alternative means of commuting include, but are not limited to, public  
4 transportation, car pools, van pools, bus pools, ferries, bicycling,  
5 telecommuting and walking, which may be used in conjunction with  
6 such strategies as flextime, staggered work hours, compressed work  
7 weeks and like measures.

8 "Commuter transportation benefit" means the cost to employers of  
9 providing benefits to an employee for utilizing an alternative means of  
10 commuting and the cost of providing services and facilities which  
11 would encourage or facilitate use by employees of alternative means  
12 of commuting. The benefit shall include, but not necessarily be limited  
13 to, the costs of parking by employees at park-and-ride lots.

14

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

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

44 b. (1) The credit granted a taxpayer for an accounting or privilege  
45 period shall not exceed the per employee limit multiplied by the  
46 number of employees participating in alternative means of commuting

1 at the work location. The per employee limit shall be \$36 for the  
2 accounting or privilege periods beginning on and after January 1, 1994  
3 but before January 1, 1995, and \$72 for those periods thereafter. For  
4 those periods beginning on or after January 1, 1995, the Director of  
5 the Division of Taxation, in the Department of the Treasury, shall  
6 adjust the limit, rounded down to the nearest dollar, in proportion to  
7 the change in the average consumer price index for all urban  
8 consumers in the New York and Northeastern New Jersey and the  
9 Philadelphia areas, as reported by the United States Department of  
10 Labor, from calendar year 1994 to the calendar year ending  
11 immediately before the appropriate period.

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

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

38 (4) A taxpayer having liability for more than one of the taxes  
39 enumerated in subsection a. of this section for an accounting or  
40 privilege period shall allocate the credit amount available for that  
41 period to the liabilities for that period in the proportion that each  
42 liability bears to the total of the liabilities for that period, and each  
43 apportioned amount of credit shall be applied to only one amount of  
44 liability.

45 (5) A partnership shall not be allowed a credit under this section  
46 directly. A partnership shall be entitled to reduce total partnership

1 income distributed to the partners and subject to tax under subsection  
2 k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of  
3 commuter transportation benefits provided pursuant to law or \$515 for  
4 each employee receiving such benefits. For accounting and privilege  
5 periods beginning on or after January 1, 1995, but ending no later than  
6 December 31, 2004, the reduction to partnership income allowed  
7 under this section shall be the lesser of 143 percent of the cost of  
8 commuter transportation benefits provided or \$1,030 for each  
9 employee receiving such benefits for the relevant accounting or  
10 privilege period, as appropriate, subject to the limitations of subsection  
11 b. of this section.

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

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

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

38 e. The taxpayer shall file with the department a schedule of the  
39 expenditures for which the taxpayer has claimed a credit pursuant to  
40 this section on any tax return filed with the Director of the Division of  
41 Taxation, in such form and pursuant to such rules as shall be  
42 prescribed by the commissioner in consultation with the Director of  
43 the Division of Taxation. [The department shall provide the Director  
44 of the Division of Taxation with the schedule and such other  
45 information as is required pursuant to subsection j. of section 5 of  
46 P.L.1992, c.32 (C.27:26A-5).]

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

2

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

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

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

30 c. The exclusion provided by subsection a. of this section shall not  
31 apply to any commuter transportation benefit unless such benefit is  
32 provided in addition to and not in lieu of any compensation otherwise  
33 payable to the employee.

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

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

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

4 54A:7-2. Information statement for employee or recipient of other  
5 payments. Every employer or payor of a pension or annuity required  
6 to deduct and withhold tax under this act from the wages of an  
7 employee or from the payment of a pension or annuity, or an employer  
8 who would have been required so to deduct and withhold tax if an  
9 employee had claimed no more than one withholding exemption, shall  
10 furnish to each such employee, or pension or annuity recipient or the  
11 estate thereof, in respect of the wages or pension or annuity payments  
12 paid by such employer or payor to such employee or pension or  
13 annuity recipient during the calendar year on or before February 15 of  
14 the succeeding year, or, if his employment or pension or annuity is  
15 terminated before the close of such calendar year, within 30 days from  
16 the date on which the last payment of the wages or pension or annuity  
17 is made, a written statement as prescribed by the director showing the  
18 amount of wages or pension or annuity payments paid by the employer  
19 or payor to the employee or pension or annuity recipient, the cost of  
20 commuter transportation benefits, as defined pursuant to section [3 of  
21 P.L.1992, c.32 (C.27:26A-3)]~~2 of P.L.19 , c. (C. )~~(now before the  
22 Legislature as this bill) , excludable by the employee pursuant to  
23 section 1 of P.L.1993, c.108 (C.54A:6-23), and the cost of such  
24 benefits not so excludable, provided by the employer to the employee,  
25 the amount deducted and withheld as tax, the amount deducted and  
26 withheld as worker contributions for unemployment and disability  
27 insurance as provided under the New Jersey Unemployment  
28 Compensation Law, and such other information as the director shall  
29 prescribe.

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

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

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35 7. This act shall take effect immediately.

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40 Repeals mandatory employer trip reduction programs; authorizes tax  
41 benefits for voluntary programs.