

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:

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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 Treasurer, eligibility for  
18 the tax benefits provided under section 1 of P.L.1993, c.150  
19 (C.27:26A-15) and section 1 of P.L.1993, c.108 (C.54A:6-23), the  
20 Commissioner of Transportation shall adopt regulations, pursuant to  
21 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
22 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  
29 place of residence and place of employment or termini near those  
30 places, other than in a motor vehicle occupied by one person.  
31 Alternative means of commuting include, but are not limited to, public  
32 transportation, car pools, van pools, bus pools, ferries, bicycling,

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

**Matter underlined thus is new matter.**

1 telecommuting and walking, which may be used in conjunction with  
2 such strategies as flextime, staggered work hours, compressed work  
3 weeks and like measures.

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

10

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

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

40 b. (1) The credit granted a taxpayer for an accounting or privilege  
41 period shall not exceed the per employee limit multiplied by the  
42 number of employees participating in alternative means of commuting  
43 at the work location. The per employee limit shall be \$36 for the  
44 accounting or privilege periods beginning on and after January 1, 1994  
45 but before January 1, 1995, and \$72 for those periods thereafter. For  
46 those periods beginning on or after January 1, 1995, the Director of

1 the Division of Taxation, in the Department of the Treasury, shall  
2 adjust the limit, rounded down to the nearest dollar, in proportion to  
3 the change in the average consumer price index for all urban  
4 consumers in the New York and Northeastern New Jersey and the  
5 Philadelphia areas, as reported by the United States Department of  
6 Labor, from calendar year 1994 to the calendar year ending  
7 immediately before the appropriate period.

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

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

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

41 (5) A partnership shall not be allowed a credit under this section  
42 directly. A partnership shall be entitled to reduce total partnership  
43 income distributed to the partners and subject to tax under subsection  
44 k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of  
45 commuter transportation benefits provided pursuant to law or \$515 for  
46 each employee receiving such benefits. For accounting and privilege

1 periods beginning on or after January 1, 1995, but ending no later than  
2 December 31, 2004, the reduction to partnership income allowed  
3 under this section shall be the lesser of 143 percent of the cost of  
4 commuter transportation benefits provided or \$1,030 for each  
5 employee receiving such benefits for the relevant accounting or  
6 privilege period, as appropriate, subject to the limitations of subsection  
7 b. of this section.

8 c. Each employee who receives money towards commuter  
9 transportation benefits from the employee's employer as an advance,  
10 a reimbursement, or both, shall furnish suitable proof to the employer,  
11 in the form of receipts, ticket stubs or the like, that the employee  
12 utilized monies provided by the employer for an alternative means of  
13 commuting, as defined pursuant to section [3 of P.L.1992, c.32  
14 (C.27:26A-3)]2 of P.L.1993, c. 108 (C.54A:6-23)(now before the Legislature as  
15 this bill).

16 d. For the purposes of verifying eligibility for the credit, the  
17 ~~[commissioner]~~ Commissioner of Transportation shall certify to the  
18 Director of the Division of Taxation a list of those employers which  
19 have registered with the department[, or have an approved compliance  
20 plan or an approved amended compliance plan]and have [an approved]  
21 a certified employer trip reduction program. The list shall be provided  
22 to the Director of the Division of Taxation within 90 days of  
23 registration [and within 210 days of each submission of a compliance  
24 plan or each amended compliance plan].

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

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

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

38 1. a. For the purposes of the "New Jersey Gross Income Tax  
39 Act," N.J.S.54A:1-1 et seq., "gross income" shall not include employer  
40 provided commuter transportation benefits as defined pursuant to  
41 section [3 of P.L.1992, c.32 (C.27:26A-3)] 2 of P.L. 1993, c.  
42 (C. 54A:6-23)(now before the Legislature as this bill), up to and including the  
43 limit per taxable year per employee pursuant to subsection b. of this  
44 section. Should an employee receive commuter transportation benefits  
45 in excess of those limits in a taxable year, only the amount in excess  
46 of those limits shall be included in gross income. If an employee

1 receives money towards commuter transportation benefits from the  
2 employee's employer, as an advance, a reimbursement, or both, the  
3 employee shall furnish suitable proof to the employer in the form of  
4 receipts, ticket stubs or the like that the employee used the employer  
5 provided money for alternative means of commuting as defined  
6 pursuant to section [3 of P.L.1992, c.32 (C.27:26A-3)] 2 of P.L.19,  
7 c. (C. )(now before the Legislature as this bill).

8 b. The limit per taxable year per employee shall be \$720 for the  
9 taxable years beginning on and after January 1, 1993 but before  
10 January 1, 1994. For taxable years thereafter, the director shall adjust  
11 the limit, rounded down to the nearest \$5, in proportion to the change  
12 in the average consumer price index for all urban consumers in the  
13 New York and Northeastern New Jersey and the Philadelphia areas,  
14 as reported by the United States Department of Labor, from calendar  
15 year 1993 to the calendar year ending immediately before the taxable  
16 year.

17 c. The exclusion provided by subsection a. of this section shall not  
18 apply to any commuter transportation benefit unless such benefit is  
19 provided in addition to and not in lieu of any compensation otherwise  
20 payable to the employee.

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

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

24 54A:7-2. Information statement for employee or recipient of other  
25 payments. Every employer or payor of a pension or annuity required  
26 to deduct and withhold tax under this act from the wages of an  
27 employee or from the payment of a pension or annuity, or an employer  
28 who would have been required so to deduct and withhold tax if an  
29 employee had claimed no more than one withholding exemption, shall  
30 furnish to each such employee, or pension or annuity recipient or the  
31 estate thereof, in respect of the wages or pension or annuity payments  
32 paid by such employer or payor to such employee or pension or  
33 annuity recipient during the calendar year on or before February 15 of  
34 the succeeding year, or, if his employment or pension or annuity is  
35 terminated before the close of such calendar year, within 30 days from  
36 the date on which the last payment of the wages or pension or annuity  
37 is made, a written statement as prescribed by the director showing the  
38 amount of wages or pension or annuity payments paid by the employer  
39 or payor to the employee or pension or annuity recipient, the cost of  
40 commuter transportation benefits, as defined pursuant to section [3 of  
41 P.L.1992, c.32 (C.27:26A-3)]2 of P.L.19, c. (C. )(now before the  
42 Legislature as this bill), excludable by the employee pursuant to  
43 section 1 of P.L.1993, c.108 (C.54A:6-23), and the cost of such  
44 benefits not so excludable, provided by the employer to the employee,  
45 the amount deducted and withheld as tax, the amount deducted and  
46 withheld as worker contributions for unemployment and disability

1 insurance as provided under the New Jersey Unemployment  
2 Compensation Law, and such other information as the director shall  
3 prescribe.

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

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

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9 7. This act shall take effect immediately.

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14 Repeals mandatory employer trip reduction programs; authorizes tax  
15 benefits for voluntary programs.