

SENATE:	No
FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	No
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes
Whitman "signs tax credit that will aid working poor," 8-15-2000 The Press, p.A7	
"Whitman enacts tax credit for the poor," 8-15-2000 Home News, p.A3	
"Governor Oks tax credit for working poor," 8-15-2000 Asbury Park Press, p;A3	

ASSEMBLY, No. 40

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED MARCH 27, 2000

Sponsored by:

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Assemblyman PAUL DIGAETANO

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Establishes a New Jersey Earned Income Tax Credit.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing an earned income tax credit, amending and
2 supplementing Title 54A of the New Jersey Statutes and amending
3 P.L.1981, c.239.

4

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

7

8 1. (New section) The Legislature finds and declares that:

9 a. Since its enactment in 1975, the federal earned income tax credit
10 has received bipartisan support and has proven to be one of the
11 nation's most effective anti-poverty programs for working families by
12 encouraging work, supplementing earnings and lifting nearly five
13 million people out of poverty each year, approximately half of them
14 children;

15 b. The federal earned income tax credit has contributed to a
16 significant increase in labor force participation among New Jersey
17 families;

18 c. A New Jersey Earned Income Tax Credit will build upon the
19 federal program by cutting taxes for families struggling to provide for
20 their children, reducing child poverty, supporting welfare-to-work
21 efforts and making New Jersey a better place to live, work and raise
22 a family;

23 d. Over the last six years, New Jersey's unemployment rate has
24 fallen to its lowest rate in nearly a decade, and a significant number of
25 the State's families who were dependent on welfare have made the
26 transition from public assistance to work, often beginning in low-wage
27 or entry-level positions; and

28 e. A New Jersey Earned Income Tax Credit can further promote
29 work and job retention by supplementing the incomes of nearly
30 280,000 low-income working families as they move up the career
31 ladder and remain independent from public assistance.

32

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

36 a. (1) A resident individual with gross income of \$20,000 or less
37 for the taxable year who files as a head of household or surviving
38 spouse for federal income tax purposes for the taxable year, or a
39 married resident individual with combined gross income of \$20,000 or
40 less for the taxable year who files a joint return for federal income tax
41 purposes for the taxable year, shall be allowed a credit for the taxable
42 year equal to a percentage, as provided in paragraph (2) of this
43 subsection, of the federal earned income tax credit allowed to and

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 claimed by the individual under section 32 of the federal Internal
2 Revenue Code of 1986, 26 U.S.C.s.32, for the same taxable year for
3 which a credit is claimed pursuant to this section, subject to the
4 restrictions of subsections b., c., d. and e. of this section.

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

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

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

12 (c) 17.5% for the taxable year beginning on or after January 1,
13 2002, but before January 1, 2003; and

14 (d) 20% for taxable years beginning on or after January 1, 2003.

15 (3) To qualify for the New Jersey earned income tax credit:

16 (a) the claimant's federal earned income tax credit for the taxable
17 year must be a credit that is based on having at least one "qualifying
18 child" within the meaning of section 32 of the federal Internal Revenue
19 Code of 1986, 26 U.S.C.s.32; and

20 (b) if the claimant is married, except for a claimant who files as a
21 head of household or surviving spouse for federal income tax purposes
22 for the taxable year, the claimant shall file a joint return or claim for
23 the credit.

24 (4) As used in this section, "gross income" means gross income
25 required to be reported pursuant to the "New Jersey Gross Income
26 Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from
27 the gross income tax return but before reduction thereof by any
28 applicable exemptions, deductions and credits received during the
29 taxable year by the claimant. In the case of a part-year resident, gross
30 income means gross income that a part-year resident would have
31 reported if the part-year resident had been a resident for the entire
32 taxable year.

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

38 c. The amount of the credit allowed pursuant to this section shall
39 be applied against the tax otherwise due under N.J.S.54A:-1-1 et seq.,
40 after all other credits and payments. If the credit exceeds the amount
41 of tax otherwise due, that amount of excess shall be an overpayment
42 for the purposes of N.J.S.54A:9-7 if subsection (f) of N.J.S.54A:9-7
43 does not apply. The credit provided under this section as a credit
44 against the tax otherwise due and the amount of the credit treated as
45 an overpayment shall be treated as a credit towards or overpayment of
46 gross income tax, subject to all provisions of N.J.S.54A:1-1 et seq.,

1 except as may be otherwise specifically provided in P.L. , c. (C.)
2 (pending before the Legislature as this bill).

3 d. The Director of the Division of Taxation in the Department of
4 the Treasury shall have discretion to establish a program for the
5 distribution of earned income tax credits pursuant to the provisions of
6 this section.

7 e. Any earned income tax credit pursuant to this section shall not
8 be taken into account as income or receipts for purposes of
9 determining the eligibility of an individual for benefits or assistance or
10 the amount or extent of benefits or assistance under any State program
11 and, to the extent permitted by federal law, under any State program
12 financed in whole or in part with federal funds.

13
14 3. (New section) There shall be annually appropriated to the
15 Department of the Treasury such amount as the Director of the
16 Division of Budget and Accounting in the Department of the Treasury
17 shall determine is necessary for the administrative cost of
18 implementing the provisions of this act.

19
20 4. (New section) The Department of the Treasury shall make
21 available to the Department of Human Services necessary statistical
22 information obtained with respect to the New Jersey Earned Income
23 Tax Credit program, in a usable format and in a timely manner, to
24 prepare federal and other reports.

25
26 5. a. The Director of the Division of Taxation in the Department
27 of the Treasury shall adopt regulations in accordance with the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
29 and prescribe forms to administer the provisions of this act.

30 b. Notwithstanding the provisions of P.L.1968, c.410 to the
31 contrary, the director may adopt, immediately upon filing with the
32 Office of Administrative Law, such regulations as the director deems
33 necessary to implement the provisions of this act, which regulations
34 shall be effective for a period not to exceed 180 days from the date of
35 the filing. The regulation may thereafter be amended, adopted or
36 readopted by the director as the director deems necessary in
37 accordance with the requirements of P.L.1968, c.410.

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

40 54A:8-7. If the amount of a taxpayer's Federal taxable income or
41 earned income tax credit reported on his Federal income tax return for
42 any taxable year is changed or corrected by the United States Internal
43 Revenue Service or other competent authority, or as the result of a
44 renegotiation of a contract or subcontract with the United States, the
45 taxpayer shall report such change or correction in Federal taxable
46 income or earned income tax credit within 90 days after the final

1 determination of such change, correction, or renegotiation, or as
2 otherwise required by the director, and shall concede the accuracy of
3 such determination or state wherein it is erroneous. Any taxpayer
4 filing an amended Federal income tax return shall also file within 90
5 days thereafter an amended return under this act, and shall give such
6 information as the director may require. The director may by
7 regulation prescribe such exceptions to the requirements of this
8 section as he deems appropriate.

9 (cf: P.L.1976, c.47, s.54A:8-7)

10

11 7. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read
12 as follows:

13 1. Whenever any taxpayer or resident shall be entitled to any
14 refund of taxes pursuant to the "New Jersey Gross Income Tax Act"
15 (N.J.S.54A:1-1 et seq.), including an earned income tax credit
16 provided as a refund pursuant to P.L. , c. (C.)(pending before the
17 Legislature as this bill), or whenever any individual is eligible to
18 receive an NJ SAVER rebate or a homestead rebate pursuant to
19 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a
20 et al.), and if the rebate is not required to be paid over to the municipal
21 tax collector under the provisions of section 8 of P.L.1990, c.61
22 (C.54:4-8.64), and at the same time the taxpayer or resident shall be
23 indebted to any agency or institution of State Government, to the
24 Victims of Crime Compensation Board for the portion of an
25 assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the
26 Victims of Crime Compensation Board Account or restitution ordered
27 to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the
28 Victims of Crime Compensation Board Account, or for child support
29 under Title IV-A, Title IV-D, or Title IV-E of the federal Social
30 Security Act (42 U.S.C.s.601 et seq.), or other indebtedness in
31 accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the
32 Department of the Treasury shall apply or cause to be applied the
33 refund, NJ SAVER rebate or homestead rebate, or all, or so much of
34 any or all as shall be necessary, to satisfy the indebtedness. Child
35 support indebtedness shall take precedence over all other
36 indebtedness. The Department of the Treasury shall retain a
37 percentage of the proceeds of any collection setoff as shall be
38 necessary to provide for any expenses of the collection effort.

39 (cf: P.L.1999, c.63, s.12)

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41 8. This act shall take effect immediately and apply to taxable years
42 beginning on or after January 1, 2000.

STATEMENT

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3 This bill establishes the New Jersey Earned Income Tax Credit
4 (EITC) program in the Division of Taxation in the Department of the
5 Treasury. This program will assist New Jersey families struggling to
6 provide for their children, reduce child poverty, help to keep workers
7 employed, help families to afford better care for their children, support
8 welfare-to-work efforts and foster employment Statewide. Along with
9 the federal earned income tax credit, the New Jersey EITC will lift
10 thousands of children and minimum wage-earning families out of
11 poverty.

12 New Jersey families with gross incomes of \$20,000 or less for the
13 taxable year, who receive a federal earned income tax credit, will be
14 eligible for the refundable New Jersey EITC. The amount of the New
15 Jersey EITC will be equal to a percentage of the family's federal
16 earned income tax credit, to be phased in over four years at the rate
17 of: 10% in taxable year 2000, 15% in taxable year 2001, 17.5% in
18 taxable year 2002, and 20% in taxable year 2003 and each year
19 thereafter.

20 The New Jersey EITC will offset any New Jersey State Gross
21 Income Tax liability owed by families with incomes between \$15,000
22 and \$20,000 in taxable year 2000, with the balance of the credit paid
23 to the family as a "refund." In taxable years 2001 and beyond, when
24 the threshold for State income tax rises to \$20,000, New Jersey
25 families with zero tax liability will receive their full "refundable" New
26 Jersey EITC.

27 The table below displays the amount of the tax credit that will be
28 available under the program.

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Annual NJ Gross Income	Estimated NJ EITC Benefit for a Family with 1 Child				Estimated NJ EITC Benefit for a Family with 2 or More Children			
	TY00	TY01	TY02	TY03	TY00	TY01	TY02	TY03
\$500	\$18	\$28	\$33	\$39	\$22	\$33	\$39	\$45
\$10,000	\$238	\$363	\$430	\$499	\$394	\$599	\$710	\$823
\$15,000	\$196	\$299	\$354	\$410	\$338	\$515	\$609	\$707
\$20,000	\$114	\$173	\$205	\$238	\$229	\$349	\$413	\$480

40 Experience in other states suggests that about 85% of eligible
41 families will participate in the New Jersey EITC program, or nearly
42 240,000 New Jersey families. The estimated cost of the New Jersey
43 EITC program for the first year is \$48 million.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 40

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 1, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 40 with committee amendments.

Assembly Bill No. 40, as amended, establishes the New Jersey Earned Income Tax Credit (EITC) program in the Division of Taxation in the Department of the Treasury.

New Jersey households with gross incomes of \$20,000 or less for the taxable year that receive a federal earned income tax credit that is based on at least one "qualifying child" will be eligible for the refundable New Jersey EITC. The amount of the New Jersey EITC will be equal to a percentage of the family's federal earned income tax credit, to be phased in over four years at the rate of: 10% in taxable year 2000, 15% in taxable year 2001, 17.5% in taxable year 2002, and 20% in taxable year 2003 and each year thereafter.

The New Jersey EITC will offset any New Jersey State Gross Income Tax liability owed by families with incomes between \$15,000 and \$20,000 in taxable year 2000, with the balance of the credit paid back to the family as a refund. In taxable years 2001 and beyond, when the threshold for State income tax filing rises to \$20,000, New Jersey families with zero tax liability will receive back the full amount of their refundable New Jersey EITC.

The table below displays the amount of the tax credit that will be available under the program (based on the 1999 federal tax year benefit amounts).

Annual NJ Gross Income	Estimated NJ EITC Benefit for a Family with 1 Child				Estimated NJ EITC Benefit for a Family with 2 or More Children			
	TY00	TY01	TY02	TY03	TY00	TY01	TY02	TY03
\$500	\$18	\$28	\$33	\$39	\$22	\$33	\$39	\$45
\$10,000	\$238	\$363	\$430	\$499	\$394	\$599	\$710	\$823
\$15,000	\$196	\$299	\$354	\$410	\$338	\$515	\$609	\$707
\$20,000	\$114	\$173	\$205	\$238	\$229	\$349	\$413	\$480

Experience in other states suggests that about 85% of eligible families will participate in the New Jersey EITC program.

FISCAL IMPACT:

The estimated cost of the New Jersey EITC program is \$48 million in FY 2001, \$74 million in FY 2002, \$90 million in FY 2003 and \$106 million in FY 2004.

COMMITTEE AMENDMENTS:

The amendments are technical. They correct a legal cross-reference and enacted statutory text, expand an internal cross-reference, and clarify references to married taxpayers filing jointly to make it more clear that the income limits and credit amounts applicable to married couples filing jointly are limits on joint income and provide a joint credit amount.

FISCAL NOTE
 [First Reprint]
ASSEMBLY, No. 40
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: MAY 8, 2000

SUMMARY

Synopsis: Establishes a New Jersey Earned Income Tax Credit.

Type of Impact: Continuing loss of revenue to the Property Tax Relief Fund *or* expenditure of General Fund revenue *or* a combination thereof.

Agencies Affected: Department of the Treasury; Department of Human Services.

Executive Estimate

Fiscal Impact	<u>FY2001</u>	<u>FY2002</u>	<u>FY2003</u>	<u>FY2004</u>
State Cost* (See note below*)	\$44,900,000	\$69,700,000	\$84,100,000	\$99,500,000

- ! ***The Office of Legislative Services (OLS) concurs with the Executive estimate;** however, as indicated above (see "Type of Impact"), while the Executive represents the program as a cost to the State, the OLS notes that the degree to which this program represents an expenditure of General Fund revenues versus a loss of revenue to the Property Tax Relief Fund *will be determined by the proportion of the proposed credit that is refundable.*
- ! The projected cost to the State of providing *refunds* under an earned income credit could potentially be offset by utilizing federal funds from the Temporary Assistance to Needy Families (TANF) block grant, or by counting a portion of the cost of the program towards the State's "maintenance of effort" (MOE) requirement. Thus, it is *possible* that the entire cost of the program could be offset with federal dollars or qualify towards the State's MOE beginning in taxable year 2001 when the filing threshold for State income tax rises to \$20,000.
- ! The Internal Revenue Service Statistics of Income Bulletin (Spring 1999) indicates that 455,475 New Jersey families received benefits under the federal Earned Income Tax Credit (EITC) in Tax Year 1997. Of that amount, approximately 364,380 (80 percent) had incomes below \$20,000. The amount of the federal EITC exceeded the income liability of 77 percent of eligible New Jersey families, resulting in refunds for those families.

- ! While the Federal EITC phases out at approximately \$26,900 for families with one child, and at \$30,580 for families with two or more children in Tax Year 1999 (amounts are adjusted annually for inflation), the proposed State Earned Income Credit phases out at \$20,000.

BILL DESCRIPTION

Assembly Bill No. 40 (1R) of 2000 establishes a New Jersey Earned Income Credit (EIC) program. Under the program, New Jersey families with gross incomes of \$20,000 or less, who receive a federal Earned Income Tax Credit (EITC), will be eligible for a refundable New Jersey EIC. The amount of the New Jersey EIC will be equal to a percentage of the family's federal EITC, to be phased in over four years at the rate of: 10 percent in taxable year 2000, 15 percent in taxable year 2001, 17.5 percent in taxable year 2002, and 20 percent in taxable year 2003 and each year thereafter.

The New Jersey EIC will be applied against any New Jersey State Gross Income Tax liability owed by families with incomes between \$15,000 and \$20,000 in taxable year 2000, with any excess credit paid to the family as a refund. In taxable years 2001 and beyond, when the threshold for State income tax rises to \$20,000, New Jersey families with zero tax liability will receive their full refundable New Jersey EIC.

The table below displays the estimated tax credit that will be available under the program:

Annual NJ Gross Income	Estimated NJ EIC Benefit for a Family with 1 Child				Estimated NJ EIC Benefit for a Family with 2 or More Children			
	TY00	TY01	TY02	TY03	TY00	TY01	TY02	TY03
\$10,000	\$238	\$363	\$430	\$499	\$394	\$599	\$710	\$823
\$15,000	\$196	\$299	\$354	\$410	\$338	\$515	\$609	\$707
\$20,000	\$114	\$173	\$205	\$238	\$229	\$349	\$413	\$480

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive estimate is based on the latest projections (revised March 21, 2000) by the U.S. Treasury which indicate that New Jersey families are expected to claim \$669 million in tax year 2000 (federal fiscal year 2001) under the federal Earned Income Tax Credit (EITC). Using these data, the Executive estimates the total amount of federal EITC claims for subsequent tax years by applying an inflation rate of 3.5 percent. Deducting from these projections those New Jersey tax filers with incomes above \$20,000, as well as those without children, and applying a State Earned Income Credit (EIC) equal to a percentage of the federal credit amount (10 percent in Tax Year 2000, 15 percent in Tax Year 2001, 17.5 percent in Tax Year 2002 and 20 percent in Tax Year 2003) yields an estimate of what the State EIC would cost in a given year if everyone receiving the federal credit also receives the State credit. However, findings by the Center for Budget and Policy Priorities indicate that, in practice, a portion of federal EITC claimants fail to claim state EICs, particularly in the first few years following enactment. Hence,

based on the experience of other state programs, the Executive assumed an 85 percent participation rate, yielding the projected cost of the bill:

Cost of State Earned Income Tax Credit under A-40 (1R)							
State FY	Total Federal EITC	NJ's Share of Federal EITC (Household Incomes to \$30,580)	Deduction of NJ Federal EITC Recipients w/ Incomes above \$20,000	Deduction of Childless Adult Federal EITC Recipients	NET NJ EIC BASE	Rate of NJ EIC	Total Cost of State EIC (Assuming 85% participation rate)
2001	\$30,589,000,000	\$668,981,430	(\$123,821,372)	(\$17,290,000)	\$527,870,058	10%	\$44,868,955
2002	\$31,861,000,000	\$692,395,780	(\$128,138,946)	(\$17,980,276)	\$546,276,558	15%	\$69,650,261
2003	\$32,843,000,000	\$716,629,632	(\$132,641,232)	(\$18,517,883)	\$565,470,517	17.5%	\$84,113,739
2004	\$34,141,000,000	\$741,711,669	(\$137,273,054)	(\$19,221,911)	\$585,216,704	20%	\$99,486,840

Projected federal benefit amount for FY 2001 is based on U.S. Treasury Department estimate (**revised as of March 21, 2000**) available through the Center on Budget and Policy Priorities. Estimates are consistent with independent projections by the Congressional Budget Office and the Congressional Joint Committee on Taxation.

Estimates of federal benefit amounts for Tax Years 2001-2004 assume an annual growth rate of 3.5 percent.

Cost to the State assumes that 85 percent of New Jersey filers receiving the federal credit will file for the State credit. This estimate is based on the experience of other states' earned income tax credit programs.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concurs with the Executive estimate; however, the OLS notes that whether the program will represent an expenditure to the General Fund or a reduction in revenues to the Property Tax Relief Fund will be determined by the proportion of the proposed credit that is refundable.

The OLS notes that under federal rules for the Temporary Assistance to Needy Families (TANF) program, created by the Welfare Reform Law of 1996, the *refundable* portion of state earned income tax credits may be financed with federal TANF funds, or with state "maintenance of effort" (MOE) funds spent to draw down federal TANF funds. (Moreover, a taxpayer who receives a refundable credit need not be a welfare recipient or meet the State's welfare eligibility requirements for this provision to hold. The welfare law only requires TANF and MOE funds to be spent on "needy" families, a definition determined by the State.) Thus, in the first year of the program, the State can offset most of the projected cost by utilizing federal funds from the TANF block grant, or by counting a portion of the cost of the program towards the state's MOE requirement. In subsequent years, the entire cost the program could conceivably be offset when the State income tax filing threshold increases from \$15,000 to \$20,000 in Tax Year 2001. For FY2001, the Governor's Budget Recommendation includes a \$49 million General Fund appropriation (to be applied towards the State's MOE) to provide for this bill.

In addition, the OLS notes that actual program costs will depend on: future tax filer participation rates (which can be expected to increase in future years, since established state programs have participation rates of about 90 percent or better); the actual rate of inflation used to determine the federal credit amounts; and any statutory changes to the federal EITC program or in federal welfare regulations.

Lastly, while the Federal EITC currently phases out at approximately \$26,900 for families with one child, and at \$30,580 for families with two or more children (amounts are adjusted annually for inflation), the proposed State EIC phases out at \$20,000. Consequently, approximately 91,095 New Jersey families which received a Federal credit in Tax Year 1997

would not have qualified for the proposed State credit.

Section: *Revenue, Finance and Appropriations*

Analyst: *Catherine Z. Brennan*
Senior Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

ASSEMBLY, No. 40

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 27, 2000

Sponsored by:

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Assemblyman PAUL DIGAETANO

District 36 (Bergen, Essex and Passaic)

Co-Sponsored by:

Assemblymen Blee, LeFevre, Geist, DeCroce, Merkt, T.Smith, Malone, Assemblywoman Farragher, Assemblymen Felice, Bateman, Biondi, Holzapfel, Cottrell, Corodemus, Augustine, Assemblywomen Heck, Vandervalk, Pou, Assemblymen Kelly, Bodine, Chatzidakis, Stuhltrager, Rooney, Wolfe, Gibson, Bagger, Lance, Asselta, Russo, Thompson, Assemblywoman Previte, Assemblyman O'Toole, Senators Gormley, Allen, Rice, Kenny, Bryant, James, Sinagra, Singer, Robertson, Matheussen, Baer, Vitale, Bucco and Kosco

SYNOPSIS

Establishes a New Jersey Earned Income Tax Credit.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 1, 2000, with amendments.

(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT providing an earned income tax credit, amending and
2 supplementing Title 54A of the New Jersey Statutes and amending
3 P.L.1981, c.239.

4

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

7

8 1. (New section) The Legislature finds and declares that:

9 a. Since its enactment in 1975, the federal earned income tax credit
10 has received bipartisan support and has proven to be one of the
11 nation's most effective anti-poverty programs for working families by
12 encouraging work, supplementing earnings and lifting nearly five
13 million people out of poverty each year, approximately half of them
14 children;

15 b. The federal earned income tax credit has contributed to a
16 significant increase in labor force participation among New Jersey
17 families;

18 c. A New Jersey Earned Income Tax Credit will build upon the
19 federal program by cutting taxes for families struggling to provide for
20 their children, reducing child poverty, supporting welfare-to-work
21 efforts and making New Jersey a better place to live, work and raise
22 a family;

23 d. Over the last six years, New Jersey's unemployment rate has
24 fallen to its lowest rate in nearly a decade, and a significant number of
25 the State's families who were dependent on welfare have made the
26 transition from public assistance to work, often beginning in low-wage
27 or entry-level positions; and

28 e. A New Jersey Earned Income Tax Credit can further promote
29 work and job retention by supplementing the incomes of nearly
30 280,000 low-income working families as they move up the career
31 ladder and remain independent from public assistance.

32

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

36 a. (1) A resident individual with gross income of \$20,000 or less
37 for the taxable year who files as a head of household or surviving
38 spouse for federal income tax purposes for the taxable year, or ¹[a]¹
39 married resident ¹[individual] individuals¹ with combined gross
40 income of \$20,000 or less for the taxable year who ¹[files] file¹ a joint
41 return for federal income tax purposes for the taxable year, shall be

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:

¹ Assembly AAP committee amendments adopted May 1, 2000.

1 allowed a credit for the taxable year equal to a percentage, as provided
2 in paragraph (2) of this subsection, of the federal earned income tax
3 credit allowed to and claimed by the individual ¹or by the married
4 individuals filing a joint return¹ under section 32 of the federal Internal
5 Revenue Code of 1986, 26 U.S.C.s.32, for the same taxable year for
6 which a credit is claimed pursuant to this section, subject to the
7 restrictions of ¹this subsection and¹ subsections b., c., d. and e. of this
8 section.

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

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

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

16 (c) 17.5% for the taxable year beginning on or after January 1,
17 2002, but before January 1, 2003; and

18 (d) 20% for taxable years beginning on or after January 1, 2003.

19 (3) To qualify for the New Jersey earned income tax credit:

20 (a) the claimant's federal earned income tax credit for the taxable
21 year must be a credit that is based on having at least one "qualifying
22 child" within the meaning of section 32 of the federal Internal Revenue
23 Code of 1986, 26 U.S.C.s.32; and

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

28 (4) As used in this section, "gross income" means gross income
29 required to be reported pursuant to the "New Jersey Gross Income
30 Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from
31 the gross income tax return but before reduction thereof by any
32 applicable exemptions, deductions and credits received during the
33 taxable year by the claimant ¹individual or the claimant married
34 individuals filing a joint return¹. In the case of a part-year resident,
35 gross income means gross income that a part-year resident would have
36 reported if the part-year resident had been a resident for the entire
37 taxable year.

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

43 c. The amount of the credit allowed pursuant to this section shall
44 be applied against the tax otherwise due under N.J.S.54A:-1-1 et seq.,
45 after all other credits and payments. If the credit exceeds the amount
46 of tax otherwise due, that amount of excess shall be an overpayment

1 for the purposes of N.J.S.54A:9-7 ¹~~[if]; provided however, that~~ ¹
2 subsection (f) of N.J.S.54A:9-7 ¹~~[does]~~ shall¹ not apply. The credit
3 provided under this section as a credit against the tax otherwise due
4 and the amount of the credit treated as an overpayment shall be treated
5 as a credit towards or overpayment of gross income tax, subject to all
6 provisions of N.J.S.54A:1-1 et seq., except as may be otherwise
7 specifically provided in P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9 d. The Director of the Division of Taxation in the Department of
10 the Treasury shall have discretion to establish a program for the
11 distribution of earned income tax credits pursuant to the provisions of
12 this section.

13 e. Any earned income tax credit pursuant to this section shall not
14 be taken into account as income or receipts for purposes of
15 determining the eligibility of an individual for benefits or assistance or
16 the amount or extent of benefits or assistance under any State program
17 and, to the extent permitted by federal law, under any State program
18 financed in whole or in part with federal funds.

19
20 3. (New section) There shall be annually appropriated to the
21 Department of the Treasury such amount as the Director of the
22 Division of Budget and Accounting in the Department of the Treasury
23 shall determine is necessary for the administrative cost of
24 implementing the provisions of this act.

25
26 4. (New section) The Department of the Treasury shall make
27 available to the Department of Human Services necessary statistical
28 information obtained with respect to the New Jersey Earned Income
29 Tax Credit program, in a usable format and in a timely manner, to
30 prepare federal and other reports.

31
32 5. a. The Director of the Division of Taxation in the Department
33 of the Treasury shall adopt regulations in accordance with the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
35 and prescribe forms to administer the provisions of this act.

36 b. Notwithstanding the provisions of P.L.1968, c.410 to the
37 contrary, the director may adopt, immediately upon filing with the
38 Office of Administrative Law, such regulations as the director deems
39 necessary to implement the provisions of this act, which regulations
40 shall be effective for a period not to exceed 180 days from the date of
41 the filing. The regulation may thereafter be amended, adopted or
42 readopted by the director as the director deems necessary in
43 accordance with the requirements of P.L.1968, c.410.

44
45 6. N.J.S.54A:8-7 is amended to read as follows:

46 54A:8-7. Report of change in federal taxable income ¹or credit¹.

1 If the amount of a taxpayer's federal taxable income or earned income
2 tax credit reported on [his] ¹the taxpayer's¹ federal income tax return
3 for any taxable year is changed or corrected by the United States
4 Internal Revenue Service or other competent authority, or as the result
5 of a renegotiation of a contract or subcontract with the United States,
6 the taxpayer shall report such change or correction in federal taxable
7 income or earned income tax credit within 90 days after the final
8 determination of such change, correction, or renegotiation, or as
9 otherwise required by the director, and shall concede the accuracy of
10 such determination or state wherein it is erroneous. Any taxpayer
11 filing an amended federal income tax return shall also file within 90
12 days thereafter an amended return under this act, and shall give such
13 information as the director may require. The director may by
14 regulation prescribe such exceptions to the requirements of this section
15 as ¹[he] the director¹ deems appropriate.

16 (cf: P.L.1976, c.47, s.54A:8-7)

17

18 7. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read
19 as follows:

20 1. Whenever any taxpayer or resident shall be entitled to any
21 refund of taxes pursuant to the "New Jersey Gross Income Tax Act"
22 (N.J.S.54A:1-1 et seq.), including an earned income tax credit
23 provided as a refund pursuant to P.L. , c. (C.)(pending before
24 the Legislature as this bill), or whenever any individual is eligible to
25 receive an NJ SAVER rebate or a homestead rebate pursuant to
26 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a
27 et al.), and if the rebate is not required to be paid over to the municipal
28 tax collector under the provisions of section 8 of P.L.1990, c.61
29 (C.54:4-8.64), and at the same time the taxpayer or resident shall be
30 indebted to any agency or institution of State Government, to the
31 Victims of Crime Compensation Board for the portion of an
32 assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the
33 Victims of Crime Compensation Board Account or restitution ordered
34 to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the
35 Victims of Crime Compensation Board Account, or for child support
36 under Title IV-A, Title IV-D, or Title IV-E of the federal Social
37 Security Act (42 U.S.C.s.601 et seq.), or other indebtedness in
38 accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the
39 Department of the Treasury shall apply or cause to be applied the
40 refund, NJ SAVER rebate or homestead rebate, or all, or so much of
41 any or all as shall be necessary, to satisfy the indebtedness. Child
42 support indebtedness shall take precedence over all other
43 indebtedness. The Department of the Treasury shall retain a
44 percentage of the proceeds of any collection setoff as shall be
45 necessary to provide for any expenses of the collection effort.

46 (cf: P.L.1999, c.63, s.12)

- 1 8. This act shall take effect immediately and apply to taxable years
- 2 beginning on or after January 1, 2000.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 40

STATE OF NEW JERSEY

DATED: JUNE 19, 2000

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 40 (1R).

This bill establishes a New Jersey Earned Income Tax Credit (EITC) program in the Division of Taxation in the Department of the Treasury.

New Jersey households with gross incomes of \$20,000 or less for the taxable year that receive a federal earned income tax credit that is based on at least one "qualifying child" will be eligible for the refundable New Jersey EITC. The amount of the New Jersey EITC will be equal to a percentage of the family's federal earned income tax credit, to be phased in over four years at the rate of: 10% in taxable year 2000, 15% in taxable year 2001, 17.5% in taxable year 2002, and 20% in taxable year 2003 and each year thereafter.

The New Jersey EITC will offset any New Jersey gross income tax liability owed by families with incomes between \$15,000 and \$20,000 in taxable year 2000, with the balance of the credit paid back to the family as a refund. In taxable years 2001 and beyond, when the threshold for State income tax filing rises to \$20,000, New Jersey families with zero tax liability will receive back the full amount of their refundable New Jersey EITC.

The table below displays the amount of the tax credit that will be available under the program (based on the 1999 federal tax year benefit amounts).

Annual NJ Gross Income	Estimated NJ EITC Benefit for a Family with 1 Child				Estimated NJ EITC Benefit for a Family with 2 or More Children			
	TY00	TY01	TY02	TY03	TY00	TY01	TY02	TY03
\$500	\$18	\$28	\$33	\$39	\$22	\$33	\$39	\$45
\$10,000	\$238	\$363	\$430	\$499	\$394	\$599	\$710	\$823
\$15,000	\$196	\$299	\$354	\$410	\$338	\$515	\$609	\$707
\$20,000	\$114	\$173	\$205	\$238	\$229	\$349	\$413	\$480

Experience in other states suggests that about 85% of eligible families will participate in the New Jersey EITC program.

The provisions of this bill are identical to those of Senate Bill No. 1318, which the committee also reports this day.

FISCAL IMPACT

The Department of the Treasury has provided an estimate of the cost of this legislation that is based on the latest projections (revised March 21, 2000) by the U.S. Treasury which indicate that New Jersey families are expected to claim \$669 million in tax year 2000 (federal fiscal year 2001) under the federal Earned Income Tax Credit (EITC). Using these data, the Department estimates the total amount of federal EITC claims for subsequent tax years by applying an inflation rate of 3.5 percent. Deducting from these projections those New Jersey tax filers with incomes above \$20,000, as well as those without children, and applying a State Earned Income Credit (EIC) equal to the percentage of the federal credit amount prescribed under the bill (10 percent in Tax Year 2000, 15 percent in Tax Year 2001, 17.5 percent in Tax Year 2002 and 20 percent in Tax Year 2003) yields an estimate of what the State EIC would cost in a given year if everyone receiving the federal credit also receives the State credit. However, findings by the Center for Budget and Policy Priorities indicate that, in practice, a portion of federal EITC claimants fail to claim state EICs, particularly in the first few years following enactment. Hence, based on the experience of other state programs, the Department of the Treasury assumed an 85 percent participation rate, yielding the projected cost of the bill:

Cost of State Earned Income Tax Credit under A-40 (1R)							
State FY	Total Federal EITC	NJ's Share of Federal EITC (Household Incomes to \$30,580)	Deduction of NJ Federal EITC Recipients w/ Incomes above \$20,000	Deduction of Childless Adult Federal EITC Recipients	NET NJ EIC BASE	Rate of NJ EIC	Total Cost of State EIC (Assuming 85% participation rate)
2001	\$30,589,000,000	\$668,981,430	(\$123,821,372)	(\$17,290,000)	\$527,870,058	10%	\$44,868,955
2002	\$31,861,000,000	\$692,395,780	(\$128,138,946)	(\$17,980,276)	\$546,276,558	15%	\$69,650,261
2003	\$32,843,000,000	\$716,629,632	(\$132,641,232)	(\$18,517,883)	\$565,470,517	17.5%	\$84,113,739
2004	\$34,141,000,000	\$741,711,669	(\$137,273,054)	(\$19,221,911)	\$585,216,704	20%	\$99,486,840

Projected federal benefit amount for FY 2001 is based on U.S. Treasury Department estimate (**revised as of March 21, 2000**) available through the Center on Budget and Policy Priorities. Estimates are consistent with independent projections by the Congressional Budget Office and the Congressional Joint Committee on Taxation.

Estimates of federal benefit amounts for Tax Years 2001-2004 assume an annual growth rate of 3.5 percent.

Cost to the State assumes that 85 percent of New Jersey filers receiving the federal credit will file for the State credit. This estimate is based on the experience of other states' earned income tax credit programs.

The Office of Legislative Services (OLS) concurs with the Executive estimate; however, the OLS notes that whether the program will represent an expenditure to the General Fund or a reduction in revenues to the Property Tax Relief Fund will be determined by the proportion of the proposed credit that is refundable.

The OLS notes that under federal rules for the Temporary Assistance to Needy Families (TANF) program, created by the Welfare

Reform Law of 1996, the *refundable* portion of state earned income tax credits may be financed with federal TANF funds, or with state "maintenance of effort" (MOE) funds spent to draw down federal TANF funds. (Moreover, a taxpayer who receives a refundable credit need not be a welfare recipient or meet the State's welfare eligibility requirements for this provision to hold. The welfare law only requires TANF and MOE funds to be spent on "needy" families, a definition determined by the State.) Thus, in the first year of the program, the State can offset most of the projected cost by utilizing federal funds from the TANF block grant, or by counting a portion of the cost of the program towards the state's MOE requirement. In subsequent years, the entire cost the program could conceivably be offset when the State income tax filing threshold increases from \$15,000 to \$20,000 in Tax Year 2001. For FY2001, the Governor's Budget Recommendation includes a \$49 million General Fund appropriation (to be applied towards the State's MOE) to provide for this bill.

In addition, the OLS notes that actual program costs will depend on: future tax filer participation rates (which can be expected to increase in future years, since established state programs have participation rates of about 90 percent or better); the actual rate of inflation used to determine the federal credit amounts; and any statutory changes to the federal EITC program or in federal welfare regulations.

Lastly, while the Federal EITC currently phases out at approximately \$26,900 for families with one child, and at \$30,580 for families with two or more children (amounts are adjusted annually for inflation), the proposed State EIC phases out at \$20,000. Consequently, approximately 91,095 New Jersey families which received a Federal credit in Tax Year 1997 would not have qualified for the proposed State credit.

§§1-5
C.54A:4-6
to 54A:4-10
§8
Note to §§1-7

P.L. 2000, CHAPTER 80, *approved August 14, 2000*
Assembly, No. 40 (*First Reprint*)

1 AN ACT providing an earned income tax credit, amending and
2 supplementing Title 54A of the New Jersey Statutes and amending
3 P.L.1981, c.239.

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

7
8 1. (New section) The Legislature finds and declares that:

9 a. Since its enactment in 1975, the federal earned income tax credit
10 has received bipartisan support and has proven to be one of the
11 nation's most effective anti-poverty programs for working families by
12 encouraging work, supplementing earnings and lifting nearly five
13 million people out of poverty each year, approximately half of them
14 children;

15 b. The federal earned income tax credit has contributed to a
16 significant increase in labor force participation among New Jersey
17 families;

18 c. A New Jersey Earned Income Tax Credit will build upon the
19 federal program by cutting taxes for families struggling to provide for
20 their children, reducing child poverty, supporting welfare-to-work
21 efforts and making New Jersey a better place to live, work and raise
22 a family;

23 d. Over the last six years, New Jersey's unemployment rate has
24 fallen to its lowest rate in nearly a decade, and a significant number of
25 the State's families who were dependent on welfare have made the
26 transition from public assistance to work, often beginning in low-wage
27 or entry-level positions; and

28 e. A New Jersey Earned Income Tax Credit can further promote
29 work and job retention by supplementing the incomes of nearly
30 280,000 low-income working families as they move up the career
31 ladder and remain independent from public assistance.

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

36 a. (1) A resident individual with gross income of \$20,000 or less
37 for the taxable year who files as a head of household or surviving

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:

¹ Assembly AAP committee amendments adopted May 1, 2000.

1 spouse for federal income tax purposes for the taxable year, or ¹[a]¹
2 married resident ¹[individual] individuals¹ with combined gross
3 income of \$20,000 or less for the taxable year who ¹[files] file¹ a joint
4 return for federal income tax purposes for the taxable year, shall be
5 allowed a credit for the taxable year equal to a percentage, as provided
6 in paragraph (2) of this subsection, of the federal earned income tax
7 credit allowed to and claimed by the individual ¹or by the married
8 individuals filing a joint return¹ under section 32 of the federal Internal
9 Revenue Code of 1986, 26 U.S.C.s.32, for the same taxable year for
10 which a credit is claimed pursuant to this section, subject to the
11 restrictions of ¹this subsection and¹ subsections b., c., d. and e. of this
12 section.

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

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

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

20 (c) 17.5% for the taxable year beginning on or after January 1,
21 2002, but before January 1, 2003; and

22 (d) 20% for taxable years beginning on or after January 1, 2003.

23 (3) To qualify for the New Jersey earned income tax credit:

24 (a) the claimant's federal earned income tax credit for the taxable
25 year must be a credit that is based on having at least one "qualifying
26 child" within the meaning of section 32 of the federal Internal Revenue
27 Code of 1986, 26 U.S.C.s.32; and

28 (b) if the claimant is married, except for a claimant who files as a
29 head of household or surviving spouse for federal income tax purposes
30 for the taxable year, the claimant shall file a joint return or claim for
31 the credit.

32 (4) As used in this section, "gross income" means gross income
33 required to be reported pursuant to the "New Jersey Gross Income
34 Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from
35 the gross income tax return but before reduction thereof by any
36 applicable exemptions, deductions and credits received during the
37 taxable year by the claimant ¹individual or the claimant married
38 individuals filing a joint return¹. In the case of a part-year resident,
39 gross income means gross income that a part-year resident would have
40 reported if the part-year resident had been a resident for the entire
41 taxable year.

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

1 c. The amount of the credit allowed pursuant to this section shall
2 be applied against the tax otherwise due under N.J.S.54A:-1-1 et seq.,
3 after all other credits and payments. If the credit exceeds the amount
4 of tax otherwise due, that amount of excess shall be an overpayment
5 for the purposes of N.J.S.54A:9-7 ¹[if]; provided however, that¹
6 subsection (f) of N.J.S.54A:9-7 ¹[does] shall¹ not apply. The credit
7 provided under this section as a credit against the tax otherwise due
8 and the amount of the credit treated as an overpayment shall be treated
9 as a credit towards or overpayment of gross income tax, subject to all
10 provisions of N.J.S.54A:1-1 et seq., except as may be otherwise
11 specifically provided in P.L. , c. (C.) (pending before the
12 Legislature as this bill).

13 d. The Director of the Division of Taxation in the Department of
14 the Treasury shall have discretion to establish a program for the
15 distribution of earned income tax credits pursuant to the provisions of
16 this section.

17 e. Any earned income tax credit pursuant to this section shall not
18 be taken into account as income or receipts for purposes of
19 determining the eligibility of an individual for benefits or assistance or
20 the amount or extent of benefits or assistance under any State program
21 and, to the extent permitted by federal law, under any State program
22 financed in whole or in part with federal funds.

23

24 3. (New section) There shall be annually appropriated to the
25 Department of the Treasury such amount as the Director of the
26 Division of Budget and Accounting in the Department of the Treasury
27 shall determine is necessary for the administrative cost of
28 implementing the provisions of this act.

29

30 4. (New section) The Department of the Treasury shall make
31 available to the Department of Human Services necessary statistical
32 information obtained with respect to the New Jersey Earned Income
33 Tax Credit program, in a usable format and in a timely manner, to
34 prepare federal and other reports.

35

36 5. a. The Director of the Division of Taxation in the Department
37 of the Treasury shall adopt regulations in accordance with the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
39 and prescribe forms to administer the provisions of this act.

40 b. Notwithstanding the provisions of P.L.1968, c.410 to the
41 contrary, the director may adopt, immediately upon filing with the
42 Office of Administrative Law, such regulations as the director deems
43 necessary to implement the provisions of this act, which regulations
44 shall be effective for a period not to exceed 180 days from the date of
45 the filing. The regulation may thereafter be amended, adopted or
46 readopted by the director as the director deems necessary in

1 accordance with the requirements of P.L.1968, c.410.

2

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

4 54A:8-7. Report of change in federal taxable income ¹or credit¹.

5 If the amount of a taxpayer's federal taxable income or earned income
6 tax credit reported on [his] ¹the taxpayer's¹ federal income tax return
7 for any taxable year is changed or corrected by the United States
8 Internal Revenue Service or other competent authority, or as the result
9 of a renegotiation of a contract or subcontract with the United States,
10 the taxpayer shall report such change or correction in federal taxable
11 income or earned income tax credit within 90 days after the final
12 determination of such change, correction, or renegotiation, or as
13 otherwise required by the director, and shall concede the accuracy of
14 such determination or state wherein it is erroneous. Any taxpayer
15 filing an amended federal income tax return shall also file within 90
16 days thereafter an amended return under this act, and shall give such
17 information as the director may require. The director may by
18 regulation prescribe such exceptions to the requirements of this section
19 as ¹[he] the director¹ deems appropriate.

20 (cf: P.L.1976, c.47, s.54A:8-7)

21

22 7. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read
23 as follows:

24 1. Whenever any taxpayer or resident shall be entitled to any
25 refund of taxes pursuant to the "New Jersey Gross Income Tax Act"
26 (N.J.S.54A:1-1 et seq.), including an earned income tax credit
27 provided as a refund pursuant to P.L. , c. (C.)(pending before
28 the Legislature as this bill), or whenever any individual is eligible to
29 receive an NJ SAVER rebate or a homestead rebate pursuant to
30 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a
31 et al.), and if the rebate is not required to be paid over to the municipal
32 tax collector under the provisions of section 8 of P.L.1990, c.61
33 (C.54:4-8.64), and at the same time the taxpayer or resident shall be
34 indebted to any agency or institution of State Government, to the
35 Victims of Crime Compensation Board for the portion of an
36 assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the
37 Victims of Crime Compensation Board Account or restitution ordered
38 to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the
39 Victims of Crime Compensation Board Account, or for child support
40 under Title IV-A, Title IV-D, or Title IV-E of the federal Social
41 Security Act (42 U.S.C.s.601 et seq.), or other indebtedness in
42 accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the
43 Department of the Treasury shall apply or cause to be applied the
44 refund, NJ SAVER rebate or homestead rebate, or all, or so much of
45 any or all as shall be necessary, to satisfy the indebtedness. Child
46 support indebtedness shall take precedence over all other

1 indebtedness. The Department of the Treasury shall retain a
2 percentage of the proceeds of any collection setoff as shall be
3 necessary to provide for any expenses of the collection effort.
4 (cf: P.L.1999, c.63, s.12)

5

6 8. This act shall take effect immediately and apply to taxable years
7 beginning on or after January 1, 2000.

8

9

10

11

12 Establishes a New Jersey Earned Income Tax Credit.

CHAPTER 80

AN ACT providing an earned income tax credit, amending and supplementing Title 54A of the New Jersey Statutes and amending P.L.1981, c.239.

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

C.54A:4-6 Findings, declarations relative to an earned income tax credit.

1. The Legislature finds and declares that:

a. Since its enactment in 1975, the federal earned income tax credit has received bipartisan support and has proven to be one of the nation's most effective anti-poverty programs for working families by encouraging work, supplementing earnings and lifting nearly five million people out of poverty each year, approximately half of them children;

b. The federal earned income tax credit has contributed to a significant increase in labor force participation among New Jersey families;

c. A New Jersey Earned Income Tax Credit will build upon the federal program by cutting taxes for families struggling to provide for their children, reducing child poverty, supporting welfare-to-work efforts and making New Jersey a better place to live, work and raise a family;

d. Over the last six years, New Jersey's unemployment rate has fallen to its lowest rate in nearly a decade, and a significant number of the State's families who were dependent on welfare have made the transition from public assistance to work, often beginning in low-wage or entry-level positions; and

e. A New Jersey Earned Income Tax Credit can further promote work and job retention by supplementing the incomes of nearly 280,000 low-income working families as they move up the career ladder and remain independent from public assistance.

C.54A:4-7 New Jersey Earned Income Tax Credit Program.

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

a. (1) A resident individual with gross income of \$20,000 or less for the taxable year who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, or married resident individuals with combined gross income of \$20,000 or less for the taxable year who file a joint return for federal income tax purposes for the taxable year, shall be allowed a credit for the taxable year equal to a percentage, as provided in paragraph (2) of this subsection, of the federal earned income tax credit allowed to and claimed by the individual or by the married individuals filing a joint return under section 32 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.32, for the same taxable year for which a credit is claimed pursuant to this section, subject to the restrictions of this subsection and subsections b., c., d. and e. of this section.

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

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

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

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

(d) 20% for taxable years beginning on or after January 1, 2003.

(3) To qualify for the New Jersey earned income tax credit:

(a) the claimant's federal earned income tax credit for the taxable year must be a credit that is based on having at least one "qualifying child" within the meaning of section 32 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.32; and

(b) if the claimant is married, except for a claimant who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, the claimant shall file a joint return or claim for the credit.

(4) As used in this section, "gross income" means gross income required to be reported pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from the gross income tax return but before reduction thereof by any applicable

exemptions, deductions and credits received during the taxable year by the claimant individual or the claimant married individuals filing a joint return. In the case of a part-year resident, gross income means gross income that a part-year resident would have reported if the part-year resident had been a resident for the entire taxable year.

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

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

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

e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance or the amount or extent of benefits or assistance under any State program and, to the extent permitted by federal law, under any State program financed in whole or in part with federal funds.

C.54A:4-8 Annual appropriation for administration.

3. There shall be annually appropriated to the Department of the Treasury such amount as the Director of the Division of Budget and Accounting in the Department of the Treasury shall determine is necessary for the administrative cost of implementing the provisions of this act.

C.54A:4-9 Availability of statistical information.

4. The Department of the Treasury shall make available to the Department of Human Services necessary statistical information obtained with respect to the New Jersey Earned Income Tax Credit program, in a usable format and in a timely manner, to prepare federal and other reports.

C.54A:4-10 Regulations.

5. a. The Director of the Division of Taxation in the Department of the Treasury shall adopt regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and prescribe forms to administer the provisions of this act.

b. Notwithstanding the provisions of P.L.1968, c.410 to the contrary, the director may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the director deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The regulation may thereafter be amended, adopted or readopted by the director as the director deems necessary in accordance with the requirements of P.L.1968, c.410.

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

Report of change in federal taxable income or credit.

54A:8-7. Report of change in federal taxable income or credit. If the amount of a taxpayer's federal taxable income or earned income tax credit reported on the taxpayer's federal income tax return for any taxable year is changed or corrected by the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall report such change or correction in

federal taxable income or earned income tax credit within 90 days after the final determination of such change, correction, or renegotiation, or as otherwise required by the director, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended federal income tax return shall also file within 90 days thereafter an amended return under this act, and shall give such information as the director may require. The director may by regulation prescribe such exceptions to the requirements of this section as the director deems appropriate.

7. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read as follows:

C.54A:9-8.1 Setoff of indebtedness to State agencies; precedence of child support indebtedness.

1. Whenever any taxpayer or resident shall be entitled to any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" (N.J.S.54A:1-1 et seq.), including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive an NJ SAVER rebate or a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a et al.), and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the same time the taxpayer or resident shall be indebted to any agency or institution of State Government, to the Victims of Crime Compensation Board for the portion of an assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime Compensation Board Account or restitution ordered to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime Compensation Board Account, or for child support under Title IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C.s.601 et seq.), or other indebtedness in accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury shall apply or cause to be applied the refund, NJ SAVER rebate or homestead rebate, or all, or so much of any or all as shall be necessary, to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

8. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2000.

Approved August 14, 2000.

Office of the Governor
NEWS RELEASE

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RELEASE: July 1, 1999

**Governor Assists Low-Income Working Families with New Tax Credit
Signs Administration's 38th Tax Cut**

Governor Christie Whitman today signed legislation creating the New Jersey Earned Income Tax Credit that will assist nearly 240,000 low-income working families stay in the workforce and off welfare.

"It's no secret that I like cutting taxes," said Gov. Whitman. "In fact, when I sign this bill today, it will be tax cut number 38 during my tenure as Governor."

"While every tax cut has been enjoyable, this one is especially pleasing because it helps working families who are trying to make ends meet," said the Governor. "When times are good, we ought to make sure everyone has the opportunity to share in our success, particularly the working poor. We have been doing just that."

"The New Jersey Earned Income Tax Credit (NJEITC) will help thousands of our working families," said Gov. Whitman. "It will reward hard work and encourage self-sufficiency. It will give them added resources to help them make it on their own."

"Just as important as providing for childcare and health care is helping working families keep more of what they earn," said Gov. Whitman. "That's why we have targeted many of our tax cuts to working families, not the least of which was the bill I signed that will increase the threshold for paying state income taxes to \$20,000."

Gov. Whitman noted that the state has expanded the quality and quantity of childcare throughout the state and helped working parents afford health care through the KidCare and recently enacted FamilyCare programs. The NJEITC, an administration initiative, was proposed by the Governor in this year's budget address.

The NJEITC targets families with gross incomes of \$20,000 or less that receive a federal earned income tax credit and builds on the highly successful federal earned income tax credit program. In this coming tax year, New Jersey families will receive nearly \$669 million in federal EITC and \$45 million in NJEITC.

The Governor explained that when this program is fully implemented in 2003, these families will receive a state credit equal to 20 percent of what they receive from the federal government. For instance, a family with two or more children will receive on average \$3,000 when the NJEITC is combined with the federal program.

"Supporting New Jersey's working families so they remain financially stable is one of the best ways to eliminate the need for welfare programs," said Human Services Commissioner Michele K. Guhl. "The New Jersey Earned Income Tax Credit is part of a broader strategy to help improve the quality of life for New Jersey's low-income working families."

The legislation, A-40, was sponsored by Assemblymen Jack Collins (R-Salem/Cumberland/Gloucester) and Paul DiGaetano (R-Bergen/Essex Passaic) and Senators William L. Gormley (R-Atlantic), Diane B. Allen (R-Burlington/Camden), Ronald L. Rice (D-Essex), Bernard F. Kenny, Jr. (D-Hudson), Wayne R. Bryant (D-Camden/Gloucester) and Sharpe James (D-Essex/Union).

"Through all of your efforts we have not only cut a tax, once again, but we have given our residents one more reason to say that New Jersey is truly the best place in which to live, work and raise a family," said Gov. Whitman.

The bill will take effect immediately and apply to taxable years beginning on or after January 1, 2000. Residents can apply for the New Jersey Earned Income Tax Credit by completing a worksheet included as part of their 2000 New Jersey State Income Tax Return. Checks will be mailed directly to working families similar to standard New Jersey Income Tax Refund checks.

New Jersey is the 12th state to enact an earned income tax credit program. The Department of Treasury estimates that the cost of the New Jersey Earned Income Tax Credit will be \$44.9 million in the first year, \$69.7 million in the second year, \$84.1 million in the third year, and \$99.5 million in the fourth year and beyond.

For the first two years, this program will be funded with federal Temporary Assistance for Needy Families/Maintenance of Effort dollars. Thereafter, the program will be funded with both federal and General Fund monies. The bill establishes the EITC program in the Division of Taxation.

The federal earned income tax credit program has helped nearly five million people nationally out of poverty each year-more than half of them children.

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