

52:14-15.1b

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 162
NJSA: 52:14-15.1b (Travel demand management program)
BILL NO: A190 (Substituted for S1051)

SPONSOR(S): Gusciora and Lance

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Transportation; Appropriations

SENATE: Budget

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 26, 2001

SENATE: June 28, 2001

DATE OF APPROVAL: July 17, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

A190

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes 2-7-2000
(Transp)

3-20-2000 (Approp.)

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL NOTE: Yes

S1051

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

Bill and Sponsors Statement identical to A190

COMMITTEE STATEMENT: **ASSEMBLY:** No

(Transp.)

SENATE: Yes 5/22/2000

5/31/2001 (Budget)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL NOTE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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HEARINGS: No

NEWSPAPER ARTICLES: No

ASSEMBLY, No. 190

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Permits a State employees' commuter transportation benefits salary reduction program and excludes certain qualified transportation fringe benefits from New Jersey gross income tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT excluding from New Jersey gross income taxation employer-
2 provided qualified transportation fringe benefits and allowing State
3 payroll deductions for State employee salary reduction agreements
4 for such benefits and supplementing Title 52 of the Revised
5 Statutes and Title 54A of the New Jersey Statutes.

6

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

9

10 1. Notwithstanding the provisions of any other law to the contrary,
11 the State Treasurer, on behalf of the State, and the governing body of
12 an independent State authority, board, commission, corporation,
13 agency or organization may offer as an employer to an employee the
14 option for a reduction in the employee's salary, through payroll
15 deductions or otherwise, in exchange for the payment by the employer
16 of qualified transportation fringe benefit, as defined in section 2 of
17 P.L. , c. (C.), and otherwise consistent with the provisions
18 and limits of section 132 of the federal Internal Revenue Code of
19 1986, 26 U.S.C. s.132. The amount of any reduction in an employee's
20 salary for the purpose of contributing to the payment of the qualified
21 transportation fringe benefit shall continue to be treated as regular
22 compensation for all other purposes, including the calculation of
23 pension contributions and the amount of any retirement allowance,
24 but, to the extent permitted by the federal Internal Revenue Code, and
25 to the same extent permitted under the New Jersey gross income tax,
26 shall not be included in the computation of federal taxes and New
27 Jersey gross income taxes withheld from the employee's salary.

28

29 2. Gross income shall not include any qualified transportation
30 fringe benefit provided by an employer of the taxpayer to the taxpayer
31 which qualifies as a transit pass or transportation in a commuter
32 highway vehicle to the extent and in the amount allowed to be
33 excluded from the taxpayer's federal gross income under section 132
34 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. No
35 amount shall be included in the New Jersey gross income of an
36 employee solely because the employee may choose between any
37 qualified transportation fringe benefit and compensation which would
38 otherwise be includible within the New Jersey gross income of the
39 employee.

40

41 3. This act shall take effect immediately and section 2 shall apply
42 to taxable years ending after enactment.

1 STATEMENT

2

3 This bill provides the full advantage under the State gross income
4 tax of the tax incentives for employer-paid commuter mass transit and
5 vanpool costs recently extended under federal tax law in the Title IX
6 of the federal Transportation Equity Act for the 21st Century, Pub.
7 L.105-178 (TEA-21). TEA-21 allows for employees of participating
8 employers to set aside up to \$65 per month from their regular salary,
9 or for employers to provide up to that amount as a benefit on top of
10 an employee's regular salary, for transit benefits that are excluded from
11 taxable income. The amount is usually administered as a pre-tax
12 payroll deduction and is not subject to federal income tax on the
13 employee's tax return. Employers that administer the benefit realize
14 tax benefits as well, as the amounts of the deductions are not subject
15 to federal payroll taxes. Under this bill transit benefit, whether an
16 employee set-aside or an employer funded increase, is afforded the
17 same exclusion under the New Jersey gross income tax.

18 The bill also allows the State government to offer the qualified
19 transportation fringe benefits to its own employees as an employee set-
20 aside program. This program allows a State employee to chose to
21 have the benefit deducted from the employee's salary, receive any
22 combination of the transportation benefits, or continue to receive the
23 amount as salary, and not pay any tax on the benefit if the employee
24 chooses to receive the transportation benefit.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 190

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2000

The Assembly Transportation Committee reports favorably Assembly Bill No. 190.

This bill allows the State government to offer qualified transportation fringe benefits to its own employees as an employee set-aside program. As a result, this bill provides the full advantage under the State gross income tax of the tax incentives for employer-paid commuter mass transit and vanpool costs recently extended under federal tax law in the Title IX of the federal Transportation Equity Act for the 21st Century, Pub. L.105-178 (TEA-21).

TEA-21 allows for employees of participating employers to set aside up to \$65 per month from their regular salary, or for employers to provide up to that amount as a benefit on top of an employee's regular salary, for transit benefits that are excluded from taxable income. The amount is usually administered as a pre-tax payroll deduction and is not subject to federal income tax on the employee's tax return. Under this bill, a transit benefit is afforded the same exclusion under the New Jersey gross income tax as under the federal gross income tax.

This program allows a State employee to chose to have the benefit deducted from the employee's salary, receive any combination of the transportation benefits, or continue to receive the amount as salary, and not pay any tax on the benefit if the employee chooses to receive the transportation benefit. The amount of any reduction in an employee's salary for the purpose of contributing to the payment of a transportation benefit is treated as regular compensation for the purposes of calculating pension contributions and retirement allowances.

This bill was pre-filed for introduction in the 2000 session pending technical review. As reported, the necessary technical review has been performed.

ASSEMBLY, No. 190

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Permits a State employees' commuter transportation benefits salary reduction program and excludes certain qualified transportation fringe benefits from New Jersey gross income tax.

CURRENT VERSION OF TEXT

As reported by the Assembly Transportation Committee with technical review.



1 AN ACT excluding from New Jersey gross income taxation employer-
2 provided qualified transportation fringe benefits and allowing State
3 payroll deductions for State employee salary reduction agreements
4 for such benefits and supplementing Title 52 of the Revised
5 Statutes and Title 54A of the New Jersey Statutes.

6

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

9

10 1. Notwithstanding the provisions of any other law to the contrary,
11 the State Treasurer, on behalf of the State, and the governing body of
12 an independent State authority, board, commission, corporation,
13 agency or organization may offer as an employer to an employee the
14 option for a reduction in the employee's salary, through payroll
15 deductions or otherwise, in exchange for the payment by the employer
16 of qualified transportation fringe benefit, as defined in section 2 of
17 P.L. , c. (C.), and otherwise consistent with the provisions
18 and limits of section 132 of the federal Internal Revenue Code of
19 1986, 26 U.S.C. s.132. The amount of any reduction in an employee's
20 salary for the purpose of contributing to the payment of the qualified
21 transportation fringe benefit shall continue to be treated as regular
22 compensation for all other purposes, including the calculation of
23 pension contributions and the amount of any retirement allowance,
24 but, to the extent permitted by the federal Internal Revenue Code, and
25 to the same extent permitted under the New Jersey gross income tax,
26 shall not be included in the computation of federal taxes and New
27 Jersey gross income taxes withheld from the employee's salary.

28

29 2. Gross income shall not include any qualified transportation
30 fringe benefit provided by an employer of the taxpayer to the taxpayer
31 which qualifies as a transit pass or transportation in a commuter
32 highway vehicle to the extent and in the amount allowed to be
33 excluded from the taxpayer's federal gross income under section 132
34 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. No
35 amount shall be included in the New Jersey gross income of an
36 employee solely because the employee may choose between any
37 qualified transportation fringe benefit and compensation which would
38 otherwise be includible within the New Jersey gross income of the
39 employee.

40

41 3. This act shall take effect immediately and section 2 shall apply
42 to taxable years ending after enactment.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 190

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 20, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 190 with committee amendments.

Assembly Bill No. 190, as amended, allows the State and local government employers to offer qualified transportation fringe benefits to their own employees as an employee set-aside program. As a result, this bill provides the full advantage under the Federal Internal Revenue Code of the tax incentives for qualified transportation fringe benefits recently extended under federal tax law in the federal Transportation Equity Act for the 21st Century (TEA-21), Title IX of Pub. L.105-178.

TEA-21 allows employees to make agreements with their employers to reduce their salaries by up to \$65 per month for transit benefits (scheduled to increase to \$100 per month in 2002) and up to \$175 month for parking benefits that are excluded from the federal wage tax base of the employers and employees (employer and employee each pay half of 15.3% of nonexcluded wages, up to \$67,000 annually, as FICA and Medicaid taxes) and are excluded from the federal taxable income of the employee.

This bill allows State and local employees to chose to have the benefit deducted from their salary, receive any combination of the transportation benefits, or continue to receive the amount as salary, and allows the State and local governments and the employees to take advantage of the federal tax benefits.

The bill also amends the Travel Demand Management Program in the Department of Transportation (DOT) to make the DOT program more similar to (but not the same as) the federal program and make some technical updates to that program.

The bill makes the DOT trip reduction tax benefits (which, unlike the federal benefits, allow an employee to exclude the benefits from income only when the benefits are offered in addition to, rather than instead of, cash salary) comply with the same annual levels as the federal benefits, effective for 2002. The current New Jersey gross income tax exclusion is up to \$1,000 annually, more than the current \$780 annual federal exclusion. So as not to take away any current State benefits, but also to allow the State and federal benefits at the

same levels, the State benefits are increased to \$1,200 annually beginning in 2002, when the federal transit benefits are also scheduled to increase to \$1,200 annually. Although the DOT program is independent, has different qualifications and applies to significantly more items, these changes are expected to reduce user compliance confusion.

The bill clarifies an important part of the New Jersey gross income tax effects of the 1998 TEA-21 tax changes, which allow the "flip-side" of salary reductions: employers can save money by paying their employees to not take employer-provided parking. Usually the election of this option by one employee would have the tax effect of making every other employee's parking taxable, but the same provision that allows the salary reductions also permits the non-taxation of employees who don't cash out of their parking. Early studies of parking cashouts have actually been shown that they significantly reduce single occupancy transit to the workplace, and the bill clarifies that parking cashouts do not negatively impact nonelecting employees.

FISCAL IMPACT:

No data are available to estimate the fiscal impact of the salary reduction component of the bill; all State and local employees using public transportation and many now using their own cars have a tax savings incentive to participate in a program that results in State and local employer saving on federal employment taxes. It is anticipated that these savings will be greater than the revenue losses caused by increasing the maximum tax exclusion amounts from \$1,000 annually to \$1,200 annually beginning in 2002.

COMMITTEE AMENDMENTS:

The amendments delete a provision that would have allowed amounts excluded from federal taxable income through transportation benefit salary reduction agreements to be excluded from New Jersey gross income taxation. The amendments increase the maximum per-employee commuter transportation benefits under the DOT Travel Demand Management Program from \$1,000 to \$1,200 annually effective in 2002, clarify that acceptance of a parking cashout does not cause the parking to become taxable for employees who do not accept the cashout, corrects some employer credit values to account for decreases in gross income tax rates between 1993 and 1996, make a technical correction to a provision in the Travel Demand Management Program that conflicts with a later extension of that program, and make the bill effective immediately.

[First Reprint]

ASSEMBLY, No. 190

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

Assemblymen Barnes, Bagger, Biondi, Bodine, Assemblywoman Buono, Assemblymen Connors, Felice, Greenwald, Kelly, Merkt, Assemblywoman Quigley, Assemblymen Roberts, T.Smith, Assemblywoman Weinberg, Assemblymen Wisniewski, Caraballo, Cottrell, Assemblywoman Cruz-Perez, Assemblyman B.Smith, Assemblywomen Watson Coleman, Crecco, Assemblyman Doria, Assemblywoman Friscia, Assemblymen Green, Guear, Jones, Payne, Assemblywoman Previte, Assemblyman Charles, Assemblywoman Murphy, Assemblymen DeCroce, R.Smith, Senators Turner, Inverso and Lesniak

SYNOPSIS

Permits a State employees' salary reduction program for qualified transportation benefits and increases the Travel Demand Management Program gross income tax exclusions for commuter transportation benefits.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 20, 2000, with amendments.

(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT ¹[excluding from New Jersey gross income taxation employer-
 2 provided qualified transportation fringe benefits and] ¹ allowing
 3 State payroll deductions for State employee salary reduction
 4 agreements for ¹[such] qualified transportation fringe ¹ benefits and
 5 ¹modifying the Travel Demand Management Program. ¹
 6 supplementing Title 52 of the Revised Statutes and ¹[Title 54A of
 7 the New Jersey Statutes] amending P.L.1993, c.108 and P.L.1993,
 8 c.150 ¹.

9
 10 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 11 *of New Jersey:*

12
 13 1. ¹ (New section) ¹ Notwithstanding the provisions of any other
 14 law to the contrary, the State Treasurer, on behalf of the State, and the
 15 governing body of an independent State authority, board, commission,
 16 corporation, agency or organization may offer as an employer to an
 17 employee the option for a reduction in the employee's salary, through
 18 payroll deductions or otherwise, in exchange for the payment by the
 19 employer of a qualified transportation fringe benefit, as defined in
 20 ¹[section 2 of P.L. , c. (C.)] ¹, and otherwise consistent with
 21 the provisions and limits of ¹, ¹ section 132 of the federal Internal
 22 Revenue Code of 1986, 26 U.S.C. s.132. The amount of any
 23 reduction in an employee's salary for the purpose of contributing to the
 24 payment of the qualified transportation fringe benefit shall continue to
 25 be treated as regular compensation for all other purposes, including
 26 the calculation of pension contributions and the amount of any
 27 retirement allowance, but, to the extent permitted by the federal
 28 Internal Revenue Code ¹[, and to the same extent permitted under the
 29 New Jersey gross income tax] ¹, shall not be included in the
 30 computation of federal taxes ¹[and New Jersey gross income taxes] ¹
 31 withheld from the employee's salary.

32
 33 ¹[2. Gross income shall not include any qualified transportation
 34 fringe benefit provided by an employer of the taxpayer to the taxpayer
 35 which qualifies as a transit pass or transportation in a commuter
 36 highway vehicle to the extent and in the amount allowed to be
 37 excluded from the taxpayer's federal gross income under section 132
 38 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. No
 39 amount shall be included in the New Jersey gross income of an
 40 employee solely because the employee may choose between any
 41 qualified transportation fringe benefit and compensation which would

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted March 20, 2000.

1 otherwise be includible within the New Jersey gross income of the
2 employee.]]¹

3

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

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

20 b. (1) The limit per taxable year per employee shall be \$720 for
21 the taxable years beginning on and after January 1, 1993 but before
22 January 1, 1997.

23 (2) The limit per taxable year per employee shall be \$1,000 for the
24 taxable years beginning on and after January 1, 1997 but before
25 January 1, 2002. For taxable years beginning on or after January 1,
26 1994 but before January 1, 2002, the director shall adjust the limit,
27 rounded down to the nearest \$5, in proportion to the change in the
28 average consumer price index for all urban consumers in the New
29 York and Northeastern New Jersey and the Philadelphia areas, as
30 reported by the United States Department of Labor, from calendar
31 year 1993 to the calendar year ending immediately before the taxable
32 year.

33 (3) The limit per taxable year per employee shall be \$1,200 for the
34 taxable years beginning on or after January 1, 2002, provided however
35 that in the case of any taxable year beginning in a calendar year after
36 2002 the director shall adjust the limit for inflation in parallel with the
37 adjustment pursuant to paragraph (6) of subsection (f) of section 132
38 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132, so that
39 the taxable year limit pursuant to this paragraph is equal to 12 times
40 the adjusted federal monthly limit pursuant subparagraph (A) of
41 paragraph (2) of subsection (f) of section 132 of the federal Internal
42 Revenue Code of 1986, 26 U.S.C. s.132.

43 c. The exclusion provided by subsection a. of this section shall not
44 apply to any commuter transportation benefit unless such benefit is
45 provided in addition to and not in lieu of any compensation otherwise
46 payable to the employee.

1 d. Acceptance of the cash value of qualified parking, pursuant to
2 section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C.
3 s.132, on the part of one employee of an employer in place of qualified
4 parking fringe benefits provided to the other employees of the
5 employer in addition to and not in lieu of compensation, shall not
6 cause the qualified parking fringe to become a taxable benefit for
7 employees who do not accept the cash value.¹

8 (cf: P.L.1996, c.121, s.7)

9
10 ¹3. Section 1 of P.L.1993, c.150 (C.27:26A-15) is amended to read
11 as follows:

12 1. a. An employer that is a taxpayer subject to the provisions of
13 the Corporation Business Tax Act (1945), P.L.1945, c.162
14 (C.54:10A-1 et seq.), the "Financial Business Tax Law (1946),"
15 P.L.1946, c.174 (C.54:10B-1 et seq.), "The Savings Institution Tax
16 Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on marine
17 insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed
18 on fire insurance companies pursuant to R.S.54:17-4 et al., the tax
19 imposed on insurers generally, pursuant to P.L.1945, c.132
20 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
21 gross receipts tax and public utility excise tax imposed pursuant to
22 [P.L.1940, c.4, and] P.L.1940, c.5 ([C.54:30A-16 et seq. and]
23 C.54:30A-49 et seq.), or that is a taxpayer in respect of a distributive
24 share of partnership income under the "New Jersey Gross Income Tax
25 Act," N.J.S.54A:1-1 et seq., which provides commuter transportation
26 benefits as defined in section 3 of P.L.1992, c.32 (C.27:26A-3) shall
27 be allowed a credit against that tax equal to 5% of the cost of
28 commuter transportation benefits for the accounting or privilege
29 period, beginning on or after January 1, 1994 and ending not later than
30 January 1, 1995 subject to the limitations of subsection b. of this
31 section. For accounting or privilege periods beginning on or after
32 January 1, 1995, but ending not later than December 31, 2007, the
33 credit allowed under this section shall be 10% 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. Notwithstanding the provisions of this section to the
37 contrary, a taxpayer which filed a certified compliance plan with the
38 Department of Transportation required by section 5 of P.L.1992, c.32
39 (C.27:26A-5) on or before May 31, 1996, shall be allowed a credit
40 against that tax equal to 15% of the cost of commuter transportation
41 benefits for the accounting or privilege periods ending on and after
42 July 31, 1996 but ending not later than June 30, 1997, for the relevant
43 accounting or privilege period, as appropriate, subject to the
44 limitations of subsection b. of this section. In the case of a taxpayer
45 receiving partnership income, an offset against that income subject to
46 the limitations in paragraph (5) of subsection b. of this section shall be

1 considered the credit.

2 b. (1) The credit granted a taxpayer for an accounting or privilege
3 period shall not exceed the per employee limit multiplied by the
4 number of employees participating in alternative means of commuting
5 at the work location. The per employee limit shall be \$36 for the
6 accounting or privilege periods beginning on and after January 1, 1994
7 but before January 1, 1995, \$72 for the accounting or privilege period
8 beginning on or after January 1, 1995 but before January 1, 1997
9 [and], \$100 for accounting or privilege periods beginning on or after
10 January 1, 1997 but before January 1, 2002, and \$120 for those
11 periods thereafter. Notwithstanding the provisions of this section to
12 the contrary, the per employee limit for a taxpayer which filed a
13 certified compliance plan with the Department of Transportation
14 required by section 5 of P.L.1992, c.32 (C.27:26A-5) on or before the
15 plan submittal date established by the department and which was filed
16 on or before May 31, 1996, shall be \$150 for the accounting or
17 privilege periods ending on or after July 31, 1996 but ending not later
18 than June 30, 1997. For those periods beginning on or after January
19 1, 1995, the Director of the Division of Taxation, in the Department
20 of the Treasury, shall adjust the limit, rounded down to the nearest
21 dollar, in proportion to the change in the average consumer price index
22 for all urban consumers in the New York and Northeastern New Jersey
23 and the Philadelphia areas, as reported by the United States
24 Department of Labor, from calendar year 1994 to the calendar year
25 ending immediately before the appropriate period.

26 (2) The taxpayer may only claim a credit for providing commuter
27 transportation benefits if those benefits are provided in addition to and
28 not in lieu of compensation and those benefits are based upon a direct
29 expenditure made after the taxpayer has registered with the
30 Department of Transportation and the taxpayer's employer trip
31 reduction program has been certified for providing commuter
32 transportation benefits by the Department of Transportation as
33 prescribed in section 3 of P.L.1996, c.121 (C.27:26A-4.3).
34 Notwithstanding any provisions of P.L.1996, c.121 (C.27:26A-4.1 et
35 al.) to the contrary, the tax credit eligibility and reporting requirements
36 found at N.J.A.C.16:50-15 shall remain in effect until such time as the
37 Department of Transportation adopts new regulations pursuant to
38 section 3 of P.L.1996, c.121 (C.27:26A-4.3).

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

1 may be applicable.

2 (4) A taxpayer having liability for more than one of the taxes
3 enumerated in subsection a. of this section for an accounting or
4 privilege period shall allocate the credit amount available for that
5 period to the liabilities for that period in the proportion that each
6 liability bears to the total of the liabilities for that period, and each
7 apportioned amount of credit shall be applied to only one amount of
8 liability.

9 (5) A partnership shall not be allowed a credit under this section
10 directly. A partnership shall be entitled to reduce total partnership
11 income distributed to the partners and subject to tax under subsection
12 k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of
13 commuter transportation benefits provided pursuant to law or \$515 for
14 each employee receiving such benefits. For accounting and privilege
15 periods beginning on or after January 1, 1995, but ending no later than
16 December 31, [2007] 2001, the reduction to partnership income
17 allowed under this section shall be the lesser of 143 percent of the cost
18 of commuter transportation benefits provided or \$1,030, and for
19 accounting and privilege periods beginning on or after January 1, 2002
20 the reduction to partnership income allowed under this section shall be
21 the lesser of 157 percent of the cost of commuter transportation
22 benefits provided or \$1,884, for each employee receiving such benefits
23 for the relevant accounting or privilege period, as appropriate, subject
24 to the limitations of subsection b. of this section.

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

32 d. For the purposes of verifying eligibility for the credit, the
33 Commissioner of Transportation shall certify to the Director of the
34 Division of Taxation a list of those employers which have registered
35 with the department and have a certified voluntary employer trip
36 reduction program. An employer trip reduction program of an
37 employer who is a member of a TMA shall be considered certified by
38 the department. "A member of a TMA" shall be defined in regulations
39 promulgated by the department pursuant to section 3 of P.L.1996,
40 c.121 (C.27:26A-4.3). The list shall be provided to the Director of the
41 Division of Taxation within 90 days of registration.

42 e. The taxpayer shall file with the department a schedule of the
43 expenditures for which the taxpayer has claimed a credit pursuant to
44 this section on any tax return filed with the Director of the Division of
45 Taxation, in such form and pursuant to such rules as shall be
46 prescribed by the commissioner in consultation with the Director of

1 the Division of Taxation.¹

2 (cf: P.L.1996, c.121, s.6)

3

4 ¹4. Section 2 of P.L.1993, c.150 is amended to read as follows:

5 2. This act shall take effect immediately and be applicable to
6 accounting and privilege periods beginning on and after January 1,
7 1994 [and the provisions of this act shall not apply to accounting or
8 privilege periods ending after December 31, 2004].¹

9 (cf: P.L.1993, c.150, s.2)

10

11 ¹[3.] 5.¹ This act shall take effect immediately ¹[and section 2
12 shall apply to taxable years ending after enactment]¹.

FISCAL NOTE
 [First Reprint]
ASSEMBLY, No. 190
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: MAY 22, 2001

SUMMARY

- Synopsis:** Permits a State employees' salary reduction program for federal qualified transportation benefits and increases the Travel Demand Management Program gross income tax exclusions for commuter transportation benefits.
- Type of Impact:** Decrease in State's federal FICA and Medicaid payments; decrease various tax revenues to the General Fund and Property Tax Relief Fund due to increased Travel Demand Management Program credits.
- Agencies Affected:** Department of the Treasury, Division of Taxation; Department of Transportation

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$367,000	\$367,000	\$367,000
Avoidance			
State Revenue	\$367,000	\$367,000	\$367,000

- ! The Office of Legislative Services (OLS) **concur**s with the Department of the Treasury estimate that anticipated State savings from its share of the federal FICA reductions of State employees making salary reductions for federally qualified transportation transit benefits would be \$367,000 annually, and notes that the State's share of the reductions from employees making salary reductions for qualified parking benefits could increase the State savings.
- ! OLS concurs with the conclusion that the increases in the Department of Transportation Travel Demand Management Program tax benefits will have minimal impact on the several taxes affected.

BILL DESCRIPTION

Assembly Bill No. 190 (1R) of 2000 allows the State to offer federal qualified transportation fringe benefits to its employees as a salary reduction program. The federal Transportation Equity Act for the 21st Century (TEA-21), Title IX of Pub. L.105-178, allows employees to make agreements with their employers to reduce their salaries by up to \$65 per month for transit

benefits (scheduled to increase to \$100 per month in 2002) and up to \$175 month for parking benefits that are excluded from the federal wage tax base of the employers and employees (employer and employee each pay half of 15.3 percent of nonexcluded wages, up to \$76,200 annually for 2000, as FICA and Medicaid taxes) and are excluded from the federal taxable income of the employee. This bill allows State employees to choose to have the benefit deducted from their salary, and allows the State and its employees to take advantage of the federal tax benefits.

The bill also amends the Travel Demand Management Program in the Department of Transportation (DOT). Under that program, an employer may register with the DOT as a participant in a voluntary employer trip reduction program, to meet departmental criteria to implement an employer trip reduction program using alternative means of commuting to receive certification for the employer's and its employees' commuter transportation tax benefits. Of fiscal significance the bill increases the DOT trip reduction employee gross income tax benefit limits from \$1,000 annually to \$1,200 annually beginning in 2002, and increases the per-employee employer tax benefits from \$115 annually (the statutory \$100, increased for inflation) to \$120 annually.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of the Treasury has estimated the State share of the federal FICA reductions of State employees making salary reductions for federally qualified transportation benefits at \$367,000 annually.

The Department notes that the increase in the per-employee employer tax benefits from \$115 annually to \$120 annually is indistinguishable from the anticipated next inflation adjustment, and that the impact of that change is, if any, minimal.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) has no information available to it that would lead it to any other estimate of the State share of the federal FICA reductions of State employees; however, the Treasury estimate appears to be based solely on the more commonly used transit benefits: to the extent that employees use salary reductions for the less commonly used parking benefits, there are potential further State savings.

OLS concurs in the conclusion that the increase in the employer tax benefits will have minimal impact on the several taxes affected.

OLS notes that the \$200 increase in the maximum employee tax benefit, with a gross income tax maximum impact of \$12.74 per participating employee, is not expected to have a significant revenue impact.

Section: *Revenue, Finance and Appropriations*

Analyst: *Philip N. Liloia*
Lead Counsel

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

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 190

STATE OF NEW JERSEY

DATED: MAY 31, 2001

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 190 (1R).

This bill allows the State and local government employers to offer qualified transportation fringe benefits to their own employees as an employee set-aside program. As a result, this bill provides the full advantage under the Federal Internal Revenue Code of the tax incentives for qualified transportation fringe benefits recently extended under federal tax law in the federal Transportation Equity Act for the 21st Century (TEA-21), Title IX of Pub. L.105-178.

TEA-21 allows employees to make agreements with their employers to reduce their salaries by up to \$65 per month for transit benefits (scheduled to increase to \$100 per month in 2002) and up to \$175 month for parking benefits that are excluded from the federal wage tax base of the employers and employees (employer and employee each pay half of 15.3% of nonexcluded wages, up to \$67,000 annually, as FICA and Medicaid taxes) and are excluded from the federal taxable income of the employee.

This bill allows State and local employees to chose to have the benefit deducted from their salary, receive any combination of the transportation benefits, or continue to receive the amount as salary, and allows the State and local governments and the employees to take advantage of the federal tax benefits.

The bill also amends the Travel Demand Management Program in the Department of Transportation (DOT) to make the DOT program more similar to (but not the same as) the federal program and make some technical updates to that program.

The bill makes the DOT trip reduction tax benefits (which, unlike the federal benefits, allow an employee to exclude the benefits from income only when the benefits are offered in addition to, rather than instead of, cash salary) comply with the same annual levels as the federal benefits, effective for 2002. The current New Jersey gross income tax exclusion is up to \$1,000 annually, more than the current \$780 annual federal exclusion. So as not to take away any current State benefits, but also to allow the State and federal benefits at the same levels, the State benefits are increased to \$1,200 annually

beginning in 2002, when the federal transit benefits are also scheduled to increase to \$1,200 annually. Although the DOT program is independent, has different qualifications and applies to significantly more items, these changes are expected to reduce user compliance confusion.

The bill clarifies an important part of the New Jersey gross income tax effects of the 1998 TEA-21 tax changes, which allow the "flip-side" of salary reductions: employers can save money by paying their employees to not take employer-provided parking. Usually the election of this option by one employee would have the tax effect of making every other employee's parking taxable, but the same provision that allows the salary reductions also permits the non-taxation of employees who don't cash out of their parking. Early studies of parking cashouts have actually been shown that they significantly reduce single occupancy transit to the workplace, and the bill clarifies that parking cashouts do not negatively impact nonelecting employees.

The provisions of this bill are identical to those of Senate Bill No. 1051 SCS, which the committee also reports this day.

FISCAL IMPACT

The Department of the Treasury has estimated the State share of the federal FICA reductions for State employees making salary reductions for federally qualified transportation benefits at \$367,000 annually. The Department notes that the increase in the per-employee employer tax benefits from \$115 annually to \$120 annually is indistinguishable from the anticipated next inflation adjustment, and that the impact of that change is, if any, minimal.

The Office of Legislative Services (OLS) believes that the department's estimate of the State share of the federal FICA reductions for State employees is reasonable. The OLS notes, however, that the Treasury estimate appears to be based solely on the more commonly used transit benefits, and that to the extent that employees use salary reductions for the less commonly used parking benefits, there are potential further State savings.

The OLS concurs in the department's conclusion that the increase in the employer tax benefits will have minimal impact on the several taxes affected.

The OLS notes that the \$200 increase in the maximum employee tax benefit, with a gross income tax maximum impact of \$12.74 per participating employee, is not expected to have a significant revenue impact.

SENATE, No. 1051

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 17, 2000

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Co-Sponsored by:

Senator Lesniak

SYNOPSIS

Permits a State employees' commuter transportation benefits salary reduction program and excludes certain qualified transportation fringe benefits from New Jersey gross income tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/19/2000)

S1051 TURNER

2

1 AN ACT excluding from New Jersey gross income taxation employer-
2 provided qualified transportation fringe benefits and allowing State
3 payroll deductions for State employee salary reduction agreements
4 for such benefits and supplementing Title 52 of the Revised
5 Statutes and Title 54A of the New Jersey Statutes.

6

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

9

10 1. Notwithstanding the provisions of any other law to the contrary,
11 the State Treasurer, on behalf of the State, and the governing body of
12 an independent State authority, board, commission, corporation,
13 agency or organization may offer as an employer to an employee the
14 option for a reduction in the employee's salary, through payroll
15 deductions or otherwise, in exchange for the payment by the employer
16 of qualified transportation fringe benefit, as defined in section 2 of
17 P.L. , c. (C.), and otherwise consistent with the provisions
18 and limits of section 132 of the federal Internal Revenue Code of
19 1986, 26 U.S.C. s.132. The amount of any reduction in an employee's
20 salary for the purpose of contributing to the payment of the qualified
21 transportation fringe benefit shall continue to be treated as regular
22 compensation for all other purposes, including the calculation of
23 pension contributions and the amount of any retirement allowance,
24 but, to the extent permitted by the federal Internal Revenue Code, and
25 to the same extent permitted under the New Jersey gross income tax,
26 shall not be included in the computation of federal taxes and New
27 Jersey gross income taxes withheld from the employee's salary.

28

29 2. Gross income shall not include any qualified transportation
30 fringe benefit provided by an employer of the taxpayer to the taxpayer
31 which qualifies as a transit pass or transportation in a commuter
32 highway vehicle to the extent and in the amount allowed to be
33 excluded from the taxpayer's federal gross income under section 132
34 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. No
35 amount shall be included in the New Jersey gross income of an
36 employee solely because the employee may choose between any
37 qualified transportation fringe benefit and compensation which would
38 otherwise be includible within the New Jersey gross income of the
39 employee.

40

41 3. This act shall take effect immediately and section 2 shall apply
42 to taxable years ending after enactment.

STATEMENT

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This bill provides the full advantage under the State gross income tax of the tax incentives for employer-paid commuter mass transit and vanpool costs recently extended under federal tax law in the Title IX of the federal Transportation Equity Act for the 21st Century, Pub. L.105-178 (TEA-21). TEA-21 allows for employees of participating employers to set aside up to \$65 per month from their regular salary, or for employers to provide up to that amount as a benefit on top of an employee's regular salary, for transit benefits that are excluded from taxable income. The amount is usually administered as a pre-tax payroll deduction and is not subject to federal income tax on the employee's tax return. Employers that administer the benefit realize tax benefits as well, as the amounts of the deductions are not subject to federal payroll taxes. Under this bill the transit benefit, whether an employee set-aside or an employer funded increase, is afforded the same exclusion under the New Jersey gross income tax.

The bill also allows the State government to offer the qualified transportation fringe benefits to its own employees as an employee set-aside program. This program allows a State employee to chose to have the benefit deducted from the employee's salary, receive any combination of the transportation benefits, or continue to receive the amount as salary, and not pay any tax on the benefit if the employee chooses to receive the transportation benefit.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1051

STATE OF NEW JERSEY

DATED: MAY 22, 2000

The Senate Transportation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1051.

This substitute bill allows State government and independent State authority, commission, corporation and agency employers to offer qualified transportation fringe benefits to their own employees as an employee set-aside program. As a result, this bill provides the full advantage under the Federal Internal Revenue Code of the tax incentives for qualified transportation fringe benefits recently extended under federal tax law in the federal Transportation Equity Act for the 21st Century (TEA-21), Title IX of Pub. L.105-178.

TEA-21 allows employees to make agreements with their employers to reduce their salaries by up to \$65 per month for transit benefits (scheduled to increase to \$100 per month in 2002) and up to \$175 per month for parking benefits that are excluded from the federal wage tax base of the employers and employees (employer and employee each pay half of 15.3% of nonexcluded wages, up to \$67,000 annually, as FICA and Medicaid taxes) and are excluded from the federal taxable income of the employee.

This bill allows the employees to choose to have the benefit deducted from their salary, receive any combination of the transportation benefits, or continue to receive the amount as salary, and allows the employers and the employees to take advantage of the federal tax benefits.

The bill also amends the Travel Demand Management Program in the Department of Transportation (DOT) so that the DOT program has a greater similarity to (but is not the same as) the federal program and make some technical updates to that program.

The bill makes the DOT trip reduction tax benefits (which, unlike the federal benefits, allow an employee to exclude the benefits from income only when the benefits are offered in addition to, rather than instead of, cash salary) comply with the same annual levels as the federal benefits, effective for 2002. The current New Jersey gross income tax exclusion is up to \$1,000 annually, more than the current \$780 annual federal exclusion. So as not to take away any current State benefits, but also to allow the State and federal benefits at the same levels, the State benefits are increased to \$1,200 annually

beginning in 2002, when the federal transit benefits are also scheduled to increase to \$1,200 annually. Although the DOT program is independent, has different qualifications and applies to significantly more items, these changes are expected to reduce user compliance confusion.

The bill clarifies an important part of the New Jersey gross income tax effects of the 1998 TEA-21 tax changes, which allow the "flip-side" of salary reductions: employers can save money by paying their employees not to take employer-provided parking. Usually the election of this option by one employee would have the tax effect of making every other employee's parking taxable, but the same provision that allows the salary reductions also permits the non-taxation of employees who don't cash out of their parking. Early studies of parking cashouts have actually been shown that they significantly reduce single occupancy transit to the workplace, and the bill clarifies that parking cashouts do not negatively impact nonelecting employees.

This bill is identical to A-190 (1R) of 2000.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1051

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED MAY 22, 2000

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Lesniak

SYNOPSIS

Permits a State employees' salary reduction program for qualified transportation benefits and increases the Travel Demand Management Program gross income tax exclusions for commuter transportation benefits.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Transportation Committee.



(Sponsorship Updated As Of: 12/5/2000)

1 **AN ACT** allowing State payroll deductions for State employee salary
2 reduction agreements for qualified transportation fringe benefits
3 and modifying the Travel Demand Management Program,
4 supplementing Title 52 of the Revised Statutes and amending
5 P.L.1993, c.108 and P.L.1993, c.150.

6

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

9

10 1. (New section) Notwithstanding the provisions of any other law
11 to the contrary, the State Treasurer, on behalf of the State, and the
12 governing body of an independent State authority, board, commission,
13 corporation, agency or organization may offer as an employer to an
14 employee the option for a reduction in the employee's salary, through
15 payroll deductions or otherwise, in exchange for the payment by the
16 employer of a qualified transportation fringe benefit, as defined in, and
17 otherwise consistent with the provisions and limits of, section 132 of
18 the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. The
19 amount of any reduction in an employee's salary for the purpose of
20 contributing to the payment of the qualified transportation fringe
21 benefit shall continue to be treated as regular compensation for all
22 other purposes, including the calculation of pension contributions and
23 the amount of any retirement allowance, but, to the extent permitted
24 by the federal Internal Revenue Code, shall not be included in the
25 computation of federal taxes withheld from the employee's salary.

26

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

29 1. a. For the purposes of the "New Jersey Gross Income Tax
30 Act," N.J.S.54A:1-1 et seq., "gross income" shall not include employer
31 provided commuter transportation benefits as defined pursuant to
32 section 3 of P.L.1992, c.32 (C.27:26A-3), up to and including the limit
33 per taxable year per employee pursuant to subsection b. of this section.
34 Should an employee receive commuter transportation benefits in
35 excess of those limits in a taxable year, only the amount in excess of
36 those limits shall be included in gross income. If an employee receives
37 money towards commuter transportation benefits from the employee's
38 employer, as an advance, a reimbursement, or both, the employee shall
39 furnish suitable proof to the employer in the form of receipts, ticket
40 stubs or the like that the employee used the employer provided money
41 for alternative means of commuting as defined pursuant to section 3
42 of P.L.1992, c.32 (C.27:26A-3).

43 b. (1) The limit per taxable year per employee shall be \$720 for

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

Matter underlined thus is new matter.

1 the taxable years beginning on and after January 1, 1993 but before
2 January 1, 1997.

3 (2) The limit per taxable year per employee shall be \$1,000 for the
4 taxable years beginning on and after January 1, 1997 but before
5 January 1, 2002. For taxable years beginning on or after January 1,
6 1994 but before January 1, 2002, the director shall adjust the limit,
7 rounded down to the nearest \$5, in proportion to the change in the
8 average consumer price index for all urban consumers in the New
9 York and Northeastern New Jersey and the Philadelphia areas, as
10 reported by the United States Department of Labor, from calendar
11 year 1993 to the calendar year ending immediately before the taxable
12 year.

13 (3) The limit per taxable year per employee shall be \$1,200 for the
14 taxable years beginning on or after January 1, 2002, provided however
15 that in the case of any taxable year beginning in a calendar year after
16 2002 the director shall adjust the limit for inflation in parallel with the
17 adjustment pursuant to paragraph (6) of subsection (f) of section 132
18 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132, so that
19 the taxable year limit pursuant to this paragraph is equal to 12 times
20 the adjusted federal monthly limit pursuant subparagraph (A) of
21 paragraph (2) of subsection (f) of section 132 of the federal Internal
22 Revenue Code of 1986, 26 U.S.C. s.132.

23 c. The exclusion provided by subsection a. of this section shall not
24 apply to any commuter transportation benefit unless such benefit is
25 provided in addition to and not in lieu of any compensation otherwise
26 payable to the employee.

27 d. Acceptance of the cash value of qualified parking, pursuant to
28 section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C.
29 s.132, on the part of one employee of an employer in place of qualified
30 parking fringe benefits provided to the other employees of the
31 employer in addition to and not in lieu of compensation, shall not
32 cause the qualified parking fringe to become a taxable benefit for
33 employees who do not accept the cash value.

34 (cf: P.L.1996, c.121, s.7)

35

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

38 1. a. An employer that is a taxpayer subject to the provisions of
39 the Corporation Business Tax Act (1945), P.L.1945, c.162
40 (C.54:10A-1 et seq.), the "Financial Business Tax Law (1946),"
41 P.L.1946, c.174 (C.54:10B-1 et seq.), "The Savings Institution Tax
42 Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on marine
43 insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed
44 on fire insurance companies pursuant to R.S.54:17-4 et al., the tax
45 imposed on insurers generally, pursuant to P.L.1945, c.132
46 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities

1 gross receipts tax and public utility excise tax imposed pursuant to
2 [P.L.1940, c.4, and] P.L.1940, c.5 ([C.54:30A-16 et seq. and]
3 C.54:30A-49 et seq.), or that is a taxpayer in respect of a distributive
4 share of partnership income under the "New Jersey Gross Income Tax
5 Act," N.J.S.54A:1-1 et seq., which provides commuter transportation
6 benefits as defined in section 3 of P.L.1992, c.32 (C.27:26A-3) shall
7 be allowed a credit against that tax equal to 5% of the cost of
8 commuter transportation benefits for the accounting or privilege
9 period, beginning on or after January 1, 1994 and ending not later than
10 January 1, 1995 subject to the limitations of subsection b. of this
11 section. For accounting or privilege periods beginning on or after
12 January 1, 1995, but ending not later than December 31, 2007, the
13 credit allowed under this section shall be 10% of the cost of commuter
14 transportation benefits for the relevant accounting or privilege period,
15 as appropriate, subject to the limitations of subsection b. of this
16 section. Notwithstanding the provisions of this section to the
17 contrary, a taxpayer which filed a certified compliance plan with the
18 Department of Transportation required by section 5 of P.L.1992, c.32
19 (C.27:26A-5) on or before May 31, 1996, shall be allowed a credit
20 against that tax equal to 15% of the cost of commuter transportation
21 benefits for the accounting or privilege periods ending on and after
22 July 31, 1996 but ending not later than June 30, 1997, for the relevant
23 accounting or privilege period, as appropriate, subject to the
24 limitations of subsection b. of this section. In the case of a taxpayer
25 receiving partnership income, an offset against that income subject to
26 the limitations in paragraph (5) of subsection b. of this section shall be
27 considered the credit.

28 b. (1) The credit granted a taxpayer for an accounting or privilege
29 period shall not exceed the per employee limit multiplied by the
30 number of employees participating in alternative means of commuting
31 at the work location. The per employee limit shall be \$36 for the
32 accounting or privilege periods beginning on and after January 1, 1994
33 but before January 1, 1995, \$72 for the accounting or privilege period
34 beginning on or after January 1, 1995 but before January 1, 1997
35 [and], \$100 for accounting or privilege periods beginning on or after
36 January 1, 1997 but before January 1, 2002, and \$120 for those
37 periods thereafter. Notwithstanding the provisions of this section to
38 the contrary, the per employee limit for a taxpayer which filed a
39 certified compliance plan with the Department of Transportation
40 required by section 5 of P.L.1992, c.32 (C.27:26A-5) on or before the
41 plan submittal date established by the department and which was filed
42 on or before May 31, 1996, shall be \$150 for the accounting or
43 privilege periods ending on or after July 31, 1996 but ending not later
44 than June 30, 1997. For those periods beginning on or after
45 January 1, 1995, the Director of the Division of Taxation, in the
46 Department of the Treasury, shall adjust the limit, rounded down to

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

6 (2) The taxpayer may only claim a credit for providing commuter
7 transportation benefits if those benefits are provided in addition to and
8 not in lieu of compensation and those benefits are based upon a direct
9 expenditure made after the taxpayer has registered with the
10 Department of Transportation and the taxpayer's employer trip
11 reduction program has been certified for providing commuter
12 transportation benefits by the Department of Transportation as
13 prescribed in section 3 of P.L.1996, c.121 (C.27:26A-4.3).
14 Notwithstanding any provisions of P.L.1996, c.121 (C.27:26A-4.1 et
15 al.) to the contrary, the tax credit eligibility and reporting requirements
16 found at N.J.A.C.16:50-15 shall remain in effect until such time as the
17 Department of Transportation adopts new regulations pursuant to
18 section 3 of P.L.1996, c.121 (C.27:26A-4.3).

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

28 (4) A taxpayer having liability for more than one of the taxes
29 enumerated in subsection a. of this section for an accounting or
30 privilege period shall allocate the credit amount available for that
31 period to the liabilities for that period in the proportion that each
32 liability bears to the total of the liabilities for that period, and each
33 apportioned amount of credit shall be applied to only one amount of
34 liability.

35 (5) A partnership shall not be allowed a credit under this section
36 directly. A partnership shall be entitled to reduce total partnership
37 income distributed to the partners and subject to tax under subsection
38 k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of
39 commuter transportation benefits provided pursuant to law or \$515 for
40 each employee receiving such benefits. For accounting and privilege
41 periods beginning on or after January 1, 1995, but ending no later than
42 December 31, [2007] 2001, the reduction to partnership income
43 allowed under this section shall be the lesser of 143 percent of the cost
44 of commuter transportation benefits provided or \$1,030, and for
45 accounting and privilege periods beginning on or after January 1, 2002
46 the reduction to partnership income allowed under this section shall be

1 the lesser of 157 percent of the cost of commuter transportation
2 benefits provided or \$1,884, for each employee receiving such benefits
3 for the relevant accounting or privilege period, as appropriate, subject
4 to the limitations of subsection b. of this section.

5 c. Each employee who receives money towards commuter
6 transportation benefits from the employee's employer as an advance,
7 a reimbursement, or both, shall furnish suitable proof to the employer,
8 in the form of receipts, ticket stubs or the like, that the employee
9 utilized monies provided by the employer for an alternative means of
10 commuting, as defined pursuant to section 3 of P.L.1992, c.32
11 (C.27:26A-3).

12 d. For the purposes of verifying eligibility for the credit, the
13 Commissioner of Transportation shall certify to the Director of the
14 Division of Taxation a list of those employers which have registered
15 with the department and have a certified voluntary employer trip
16 reduction program. An employer trip reduction program of an
17 employer who is a member of a TMA shall be considered certified by
18 the department. "A member of a TMA" shall be defined in regulations
19 promulgated by the department pursuant to section 3 of P.L.1996,
20 c.121 (C.27:26A-4.3). The list shall be provided to the Director of the
21 Division of Taxation within 90 days of registration.

22 e. The taxpayer shall file with the department a schedule of the
23 expenditures for which the taxpayer has claimed a credit pursuant to
24 this section on any tax return filed with the Director of the Division of
25 Taxation, in such form and pursuant to such rules as shall be
26 prescribed by the commissioner in consultation with the Director of
27 the Division of Taxation.

28 (cf: P.L.1996, c.121, s.6)

29

30 4. Section 2 of P.L.1993, c.150 is amended to read as follows:

31 2. This act shall take effect immediately and be applicable to
32 accounting and privilege periods beginning on and after January 1,
33 1994 [and the provisions of this act shall apply to accounting or
34 privilege periods ending after December 1, 2004].

35 (cf: P.L.1993, c.150, s.2)

36

37 5. This act shall take effect immediately.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1051**

STATE OF NEW JERSEY

DATED: MAY 31, 2001

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1051 SCS.

This substitute bill allows State government and independent State authority, commission, corporation and agency employers to offer qualified transportation fringe benefits to their own employees as an employee set-aside program. As a result, this bill provides the full advantage under the Federal Internal Revenue Code of the tax incentives for qualified transportation fringe benefits recently extended under federal tax law in the federal Transportation Equity Act for the 21st Century (TEA-21), Title IX of Pub. L.105-178.

TEA-21 allows employees to make agreements with their employers to reduce their salaries by up to \$65 per month for transit benefits (scheduled to increase to \$100 per month in 2002) and up to \$175 per month for parking benefits that are excluded from the federal wage tax base of the employers and employees (employer and employee each pay half of 15.3% of nonexcluded wages, up to \$67,000 annually, as FICA and Medicaid taxes) and are excluded from the federal taxable income of the employee.

This bill allows the employees to choose to have the benefit deducted from their salary, receive any combination of the transportation benefits, or continue to receive the amount as salary, and allows the employers and the employees to take advantage of the federal tax benefits.

The bill also amends the Travel Demand Management Program in the Department of Transportation (DOT) so that the DOT program has a greater similarity to (but is not the same as) the federal program and make some technical updates to that program.

The bill makes the DOT trip reduction tax benefits (which, unlike the federal benefits, allow an employee to exclude the benefits from income only when the benefits are offered in addition to, rather than instead of, cash salary) comply with the same annual levels as the federal benefits, effective for 2002. The current New Jersey gross income tax exclusion is up to \$1,000 annually, more than the current \$780 annual federal exclusion. So as not to take away any current State benefits, but also to allow the State and federal benefits at the

same levels, the State benefits are increased to \$1,200 annually beginning in 2002, when the federal transit benefits are also scheduled to increase to \$1,200 annually. Although the DOT program is independent, has different qualifications and applies to significantly more items, these changes are expected to reduce user compliance confusion.

The bill clarifies an important part of the New Jersey gross income tax effects of the 1998 TEA-21 tax changes, which allow the "flip-side" of salary reductions: employers can save money by paying their employees not to take employer-provided parking. Usually the election of this option by one employee would have the tax effect of making every other employee's parking taxable, but the same provision that allows the salary reductions also permits the non-taxation of employees who don't cash out of their parking. Early studies of parking cashouts have actually been shown that they significantly reduce single occupancy transit to the workplace, and the bill clarifies that parking cashouts do not negatively impact nonelecting employees.

The provisions of this bill are identical to those of Assembly Bill No. 190 (1R), which the committee also reports this day.

FISCAL IMPACT

The Department of the Treasury has estimated the State share of the federal FICA reductions for State employees making salary reductions for federally qualified transportation benefits at \$367,000 annually. The Department notes that the increase in the per-employee employer tax benefits from \$115 annually to \$120 annually is indistinguishable from the anticipated next inflation adjustment, and that the impact of that change is, if any, minimal.

The Office of Legislative Services (OLS) believes that the department's estimate of the State share of the federal FICA reductions for State employees is reasonable. The OLS notes, however, that the Treasury estimate appears to be based solely on the more commonly used transit benefits, and that to the extent that employees use salary reductions for the less commonly used parking benefits, there are potential further State savings.

The OLS concurs in the department's conclusion that the increase in the employer tax benefits will have minimal impact on the several taxes affected.

The OLS notes that the \$200 increase in the maximum employee tax benefit, with a gross income tax maximum impact of \$12.74 per participating employee, is not expected to have a significant revenue impact.

FISCAL NOTE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1051
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JUNE 14, 2001

SUMMARY

- Synopsis:** Permits a State employees' salary reduction program for federal qualified transportation benefits and increases the Travel Demand Management Program gross income tax exclusions for commuter transportation benefits.
- Type of Impact:** Decrease in State's federal FICA and Medicaid payments; decrease various tax revenues to the General Fund and Property Tax Relief Fund due to increased Travel Demand Management Program credits.
- Agencies Affected:** Department of the Treasury, Division of Taxation; Department of Transportation (DOT).

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$367,000	\$367,000	\$367,000
Avoidance			
State Revenue	\$367,000	\$367,000	\$367,000

- ! The Office of Legislative Services (OLS) **concurs** with the Department of the Treasury estimate that anticipated State savings from its share of the federal FICA reductions of State employees making salary reductions for federally qualified transportation transit benefits would be \$367,000 annually, and notes that the State's share of the reductions from employees making salary reductions for qualified parking benefits could increase the State savings.
- ! OLS **concurs** with the conclusion that the increases in the Department of Transportation (DOT) Travel Demand Management Program tax benefits will have minimal impact on the several taxes affected.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 1051 of 2000 allows the State to offer federal qualified transportation fringe benefits to its employees as a salary reduction program.

The federal Transportation Equity Act for the 21st Century (TEA-21), Title IX of Pub. L. 105-178, allows employees to make agreements with their employers to reduce their salaries by up to \$65 per month for transit benefits (scheduled to increase to \$100 per month in 2002) and up to \$175 month for parking benefits that are excluded from the federal wage tax base of the employers and employees (employer and employee each pay half of 15.3 percent of nonexcluded wages, up to \$76,200 annually for 2000, as FICA and Medicaid taxes) and are excluded from the federal taxable income of the employee. This bill allows State employees to chose to have the benefit deducted from their salary, and allows the State and its employees to take advantage of the federal tax benefits.

The bill also amends the Travel Demand Management Program in the Department of Transportation (DOT). Under that program, an employer may register with the DOT as a participant in a voluntary employer trip reduction program, to meet departmental criteria to implement an employer trip reduction program using alternative means of commuting to receive certification for the employer's and its employees' commuter transportation tax benefits. Of fiscal significance the bill increases the DOT trip reduction employee gross income tax benefit limits from \$1,000 annually to \$1,200 annually beginning in 2002, and increases the per-employee employer tax benefits from \$115 annually (the statutory \$100, increased for inflation) to \$120 annually.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of the Treasury has estimated the State share of the federal FICA reductions of State employees making salary reductions for federally qualified transportation benefits at \$367,000 annually.

The Department notes that the increase in the per-employee employer tax benefits from \$115 annually to \$120 annually is indistinguishable from the anticipated next inflation adjustment, and that the impact of that change is, if any, minimal.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) has no information available to it that would lead it to any other estimate of the State share of the federal FICA reductions of State employees; however, the Treasury estimate appears to be based solely on the more commonly used transit benefits: to the extent that employees use salary reductions for the less commonly used parking benefits, there are potential further State savings.

OLS concurs in the conclusion that the increase in the employer tax benefits will have minimal impact on the several taxes affected.

OLS notes that the \$200 increase in the maximum employee tax benefit beginning in 2002, with a gross income tax maximum impact of \$12.74 per participating employee, is not expected to have a significant revenue impact.

SCS for S1051

3

Section: *Revenue, Finance and Appropriations*

Analyst: *Philip N. Liloia*
Lead Counsel

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

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

P.L. 2001, CHAPTER 162, *approved July 17, 2001*
Assembly, No. 190 (*First Reprint*)

1 AN ACT ¹[excluding from New Jersey gross income taxation
2 employer-provided qualified transportation fringe benefits and]¹
3 allowing State payroll deductions for State employee salary
4 reduction agreements for ¹[such] qualified transportation fringe¹
5 benefits and ¹modifying the Travel Demand Management Program.¹
6 supplementing Title 52 of the Revised Statutes and ¹[Title 54A of
7 the New Jersey Statutes] amending P.L.1993, c.108 and P.L.1993,
8 c.150 ¹.

9
10 **BE IT ENACTED** *by the Senate and General Assembly of the State*
11 *of New Jersey:*

12
13 1. ¹ (New section)¹ Notwithstanding the provisions of any other
14 law to the contrary, the State Treasurer, on behalf of the State, and the
15 governing body of an independent State authority, board, commission,
16 corporation, agency or organization may offer as an employer to an
17 employee the option for a reduction in the employee's salary, through
18 payroll deductions or otherwise, in exchange for the payment by the
19 employer of a qualified transportation fringe benefit, as defined in
20 ¹[section 2 of P.L. , c. (C.)]¹, and otherwise consistent with
21 the provisions and limits of ¹,¹ section 132 of the federal Internal
22 Revenue Code of 1986, 26 U.S.C. s.132. The amount of any
23 reduction in an employee's salary for the purpose of contributing to the
24 payment of the qualified transportation fringe benefit shall continue to
25 be treated as regular compensation for all other purposes, including
26 the calculation of pension contributions and the amount of any
27 retirement allowance, but, to the extent permitted by the federal
28 Internal Revenue Code ¹[, and to the same extent permitted under the
29 New Jersey gross income tax]¹, shall not be included in the
30 computation of federal taxes ¹[and New Jersey gross income taxes]¹
31 withheld from the employee's salary.

32
33 ¹[2. Gross income shall not include any qualified transportation
34 fringe benefit provided by an employer of the taxpayer to the taxpayer
35 which qualifies as a transit pass or transportation in a commuter
36 highway vehicle to the extent and in the amount allowed to be
37 excluded from the taxpayer's federal gross income under section 132
38 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. No
39 amount shall be included in the New Jersey gross income of an

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted March 20, 2000.

1 employee solely because the employee may choose between any
2 qualified transportation fringe benefit and compensation which would
3 otherwise be includible within the New Jersey gross income of the
4 employee.]]¹

5
6 ¹2. Section 1 of P.L.1993, c.108 (C.54A:6-23) is amended to read
7 as follows:

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

22 b. (1) The limit per taxable year per employee shall be \$720 for
23 the taxable years beginning on and after January 1, 1993 but before
24 January 1, 1997.

25 (2) The limit per taxable year per employee shall be \$1,000 for the
26 taxable years beginning on and after January 1, 1997 but before
27 January 1, 2002. For taxable years beginning on or after January 1,
28 1994 but before January 1, 2002, the director shall adjust the limit,
29 rounded down to the nearest \$5, in proportion to the change in the
30 average consumer price index for all urban consumers in the New
31 York and Northeastern New Jersey and the Philadelphia areas, as
32 reported by the United States Department of Labor, from calendar
33 year 1993 to the calendar year ending immediately before the taxable
34 year.

35 (3) The limit per taxable year per employee shall be \$1,200 for the
36 taxable years beginning on or after January 1, 2002, provided however
37 that in the case of any taxable year beginning in a calendar year after
38 2002 the director shall adjust the limit for inflation in parallel with the
39 adjustment pursuant to paragraph (6) of subsection (f) of section 132
40 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132, so that
41 the taxable year limit pursuant to this paragraph is equal to 12 times
42 the adjusted federal monthly limit pursuant subparagraph (A) of
43 paragraph (2) of subsection (f) of section 132 of the federal Internal
44 Revenue Code of 1986, 26 U.S.C. s.132.

45 c. The exclusion provided by subsection a. of this section shall not
46 apply to any commuter transportation benefit unless such benefit is

1 provided in addition to and not in lieu of any compensation otherwise
2 payable to the employee.

3 d. Acceptance of the cash value of qualified parking, pursuant to
4 section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C.
5 s.132, on the part of one employee of an employer in place of qualified
6 parking fringe benefits provided to the other employees of the
7 employer in addition to and not in lieu of compensation, shall not
8 cause the qualified parking fringe to become a taxable benefit for
9 employees who do not accept the cash value.¹

10 (cf: P.L.1996, c.121, s.7)

11

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

14 1. a. An employer that is a taxpayer subject to the provisions of
15 the Corporation Business Tax Act (1945), P.L.1945, c.162
16 (C.54:10A-1 et seq.), the "Financial Business Tax Law (1946),"
17 P.L.1946, c.174 (C.54:10B-1 et seq.), "The Savings Institution Tax
18 Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on marine
19 insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed
20 on fire insurance companies pursuant to R.S.54:17-4 et al., the tax
21 imposed on insurers generally, pursuant to P.L.1945, c.132
22 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
23 gross receipts tax and public utility excise tax imposed pursuant to
24 [P.L.1940, c.4, and] P.L.1940, c.5 ([C.54:30A-16 et seq. and]
25 C.54:30A-49 et seq.), or that is a taxpayer in respect of a distributive
26 share of partnership income under the "New Jersey Gross Income Tax
27 Act," N.J.S.54A:1-1 et seq., which provides commuter transportation
28 benefits as defined in section 3 of P.L.1992, c.32 (C.27:26A-3) shall
29 be allowed a credit against that tax equal to 5% of the cost of
30 commuter transportation benefits for the accounting or privilege
31 period, beginning on or after January 1, 1994 and ending not later than
32 January 1, 1995 subject to the limitations of subsection b. of this
33 section. For accounting or privilege periods beginning on or after
34 January 1, 1995, but ending not later than December 31, 2007, the
35 credit allowed under this section shall be 10% of the cost of commuter
36 transportation benefits for the relevant accounting or privilege period,
37 as appropriate, subject to the limitations of subsection b. of this
38 section. Notwithstanding the provisions of this section to the
39 contrary, a taxpayer which filed a certified compliance plan with the
40 Department of Transportation required by section 5 of P.L.1992, c.32
41 (C.27:26A-5) on or before May 31, 1996, shall be allowed a credit
42 against that tax equal to 15% of the cost of commuter transportation
43 benefits for the accounting or privilege periods ending on and after
44 July 31, 1996 but ending not later than June 30, 1997, for the relevant
45 accounting or privilege period, as appropriate, subject to the
46 limitations of subsection b. of this section. In the case of a taxpayer

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

4 b. (1) The credit granted a taxpayer for an accounting or privilege
5 period shall not exceed the per employee limit multiplied by the
6 number of employees participating in alternative means of commuting
7 at the work location. The per employee limit shall be \$36 for the
8 accounting or privilege periods beginning on and after January 1, 1994
9 but before January 1, 1995, \$72 for the accounting or privilege period
10 beginning on or after January 1, 1995 but before January 1, 1997
11 [and], \$100 for accounting or privilege periods beginning on or after
12 January 1, 1997 but before January 1, 2002, and \$120 for those
13 periods thereafter. Notwithstanding the provisions of this section to
14 the contrary, the per employee limit for a taxpayer which filed a
15 certified compliance plan with the Department of Transportation
16 required by section 5 of P.L.1992, c.32 (C.27:26A-5) on or before the
17 plan submittal date established by the department and which was filed
18 on or before May 31, 1996, shall be \$150 for the accounting or
19 privilege periods ending on or after July 31, 1996 but ending not later
20 than June 30, 1997. For those periods beginning on or after January
21 1, 1995, the Director of the Division of Taxation, in the Department
22 of the Treasury, shall adjust the limit, rounded down to the nearest
23 dollar, in proportion to the change in the average consumer price index
24 for all urban consumers in the New York and Northeastern New Jersey
25 and the Philadelphia areas, as reported by the United States
26 Department of Labor, from calendar year 1994 to the calendar year
27 ending immediately before the appropriate period.

28 (2) The taxpayer may only claim a credit for providing commuter
29 transportation benefits if those benefits are provided in addition to and
30 not in lieu of compensation and those benefits are based upon a direct
31 expenditure made after the taxpayer has registered with the
32 Department of Transportation and the taxpayer's employer trip
33 reduction program has been certified for providing commuter
34 transportation benefits by the Department of Transportation as
35 prescribed in section 3 of P.L.1996, c.121 (C.27:26A-4.3).
36 Notwithstanding any provisions of P.L.1996, c.121 (C.27:26A-4.1 et
37 al.) to the contrary, the tax credit eligibility and reporting requirements
38 found at N.J.A.C.16:50-15 shall remain in effect until such time as the
39 Department of Transportation adopts new regulations pursuant to
40 section 3 of P.L.1996, c.121 (C.27:26A-4.3).

41 (3) The amount of the credit allowed under this section for an
42 accounting or privilege period shall not exceed 50% of the tax liability
43 which would be otherwise due for any one of the taxes enumerated in
44 subsection a. of this section after first applying the credits, if any,
45 allowed under any other law and shall not reduce the amount of tax
46 liability to less than the statutory minimum provided in subsection (e)

1 of section 5 of P.L.1945, c.162 (C.54:10A-5), section 3 of P.L.1946,
2 c.174 (C.54:10B-3) or section 3 of P.L.1973, c.31 (C.54:10D-3), as
3 may be applicable.

4 (4) A taxpayer having liability for more than one of the taxes
5 enumerated in subsection a. of this section for an accounting or
6 privilege period shall allocate the credit amount available for that
7 period to the liabilities for that period in the proportion that each
8 liability bears to the total of the liabilities for that period, and each
9 apportioned amount of credit shall be applied to only one amount of
10 liability.

11 (5) A partnership shall not be allowed a credit under this section
12 directly. A partnership shall be entitled to reduce total partnership
13 income distributed to the partners and subject to tax under subsection
14 k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of
15 commuter transportation benefits provided pursuant to law or \$515 for
16 each employee receiving such benefits. For accounting and privilege
17 periods beginning on or after January 1, 1995, but ending no later than
18 December 31, [2007] 2001, the reduction to partnership income
19 allowed under this section shall be the lesser of 143 percent of the cost
20 of commuter transportation benefits provided or \$1,030, and for
21 accounting and privilege periods beginning on or after January 1, 2002
22 the reduction to partnership income allowed under this section shall be
23 the lesser of 157 percent of the cost of commuter transportation
24 benefits provided or \$1,884, for each employee receiving such benefits
25 for the relevant accounting or privilege period, as appropriate, subject
26 to the limitations of subsection b. of this section.

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

34 d. For the purposes of verifying eligibility for the credit, the
35 Commissioner of Transportation shall certify to the Director of the
36 Division of Taxation a list of those employers which have registered
37 with the department and have a certified voluntary employer trip
38 reduction program. An employer trip reduction program of an
39 employer who is a member of a TMA shall be considered certified by
40 the department. "A member of a TMA" shall be defined in regulations
41 promulgated by the department pursuant to section 3 of P.L.1996,
42 c.121 (C.27:26A-4.3). The list shall be provided to the Director of the
43 Division of Taxation within 90 days of registration.

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

1 Taxation, in such form and pursuant to such rules as shall be
2 prescribed by the commissioner in consultation with the Director of
3 the Division of Taxation.¹

4 (cf: P.L.1996, c.121, s.6)

5

6 ¹4. Section 2 of P.L.1993, c.150 is amended to read as follows:

7 2. This act shall take effect immediately and be applicable to
8 accounting and privilege periods beginning on and after January 1,
9 1994 [and the provisions of this act shall not apply to accounting or
10 privilege periods ending after December 31, 2004].¹

11 (cf: P.L.1993, c.150, s.2)

12

13 ¹[3.] 5.¹ This act shall take effect immediately ¹[and section 2
14 shall apply to taxable years ending after enactment]¹.

15

16

17

18

19 _____
20 Permits a State employees' salary reduction program for qualified
21 transportation benefits and increases the Travel Demand Management
22 Program gross income tax exclusions for commuter transportation
benefits.

CHAPTER 162

AN ACT allowing State payroll deductions for State employee salary reduction agreements for qualified transportation fringe benefits and modifying the Travel Demand Management Program, supplementing Title 52 of the Revised Statutes and amending P.L.1993, c.108 and P.L.1993, c.150 .

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

C.52:14-15.1b Qualified transportation fringe benefits, payroll deductions.

1. Notwithstanding the provisions of any other law to the contrary, the State Treasurer, on behalf of the State, and the governing body of an independent State authority, board, commission, corporation, agency or organization may offer as an employer to an employee the option for a reduction in the employee's salary, through payroll deductions or otherwise, in exchange for the payment by the employer of a qualified transportation fringe benefit, as defined in, and otherwise consistent with the provisions and limits of, section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132. The amount of any reduction in an employee's salary for the purpose of contributing to the payment of the qualified transportation fringe benefit shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the federal Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

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

C.54A:6-23 Commuter transportation benefits not considered gross income.

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

b. (1) The limit per taxable year per employee shall be \$720 for the taxable years beginning on and after January 1, 1993 but before January 1, 1997.

(2) The limit per taxable year per employee shall be \$1,000 for the taxable years beginning on and after January 1, 1997 but before January 1, 2002. For taxable years beginning on or after January 1, 1994 but before January 1, 2002, the director shall adjust the limit, rounded down to the nearest \$5, in proportion to the change in the average consumer price index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas, as reported by the United States Department of Labor, from calendar year 1993 to the calendar year ending immediately before the taxable year.

(3) The limit per taxable year per employee shall be \$1,200 for the taxable years beginning on or after January 1, 2002, provided however that in the case of any taxable year beginning in a calendar year after 2002 the director shall adjust the limit for inflation in parallel with the adjustment pursuant to paragraph (6) of subsection (f) of section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132, so that the taxable year limit pursuant to this paragraph is equal to 12 times the adjusted federal monthly limit pursuant to subparagraph (A) of paragraph (2) of subsection (f) of section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132.

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

d. Acceptance of the cash value of qualified parking, pursuant to section 132 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.132, on the part of one employee of an employer

in place of qualified parking fringe benefits provided to the other employees of the employer in addition to and not in lieu of compensation, shall not cause the qualified parking fringe to become a taxable benefit for employees who do not accept the cash value.

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

C.27:26A-15 Tax credit for providing commuter transportation benefits.

1. a. An employer that is a taxpayer subject to the provisions of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the "Financial Business Tax Law (1946)," P.L.1946, c.174 (C.54:10B-1 et seq.), "The Savings Institution Tax Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire insurance companies pursuant to R.S.54:17-4 et al., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), or that is a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., which provides commuter transportation benefits as defined in section 3 of P.L.1992, c.32 (C.27:26A-3) shall be allowed a credit against that tax equal to 5% of the cost of commuter transportation benefits for the accounting or privilege period, beginning on or after January 1, 1994 and ending not later than January 1, 1995 subject to the limitations of subsection b. of this section. For accounting or privilege periods beginning on or after January 1, 1995, but ending not later than December 31, 2007, the credit allowed under this section shall be 10% of the cost of commuter transportation benefits for the relevant accounting or privilege period, as appropriate, subject to the limitations of subsection b. of this section. Notwithstanding the provisions of this section to the contrary, a taxpayer which filed a certified compliance plan with the Department of Transportation required by section 5 of P.L.1992, c.32 (C.27:26A-5) on or before May 31, 1996, shall be allowed a credit against that tax equal to 15% of the cost of commuter transportation benefits for the accounting or privilege periods ending on and after July 31, 1996 but ending not later than June 30, 1997, for the relevant accounting or privilege period, as appropriate, subject to the limitations of subsection b. of this section. In the case of a taxpayer receiving partnership income, an offset against that income subject to the limitations in paragraph (5) of subsection b. of this section shall be considered the credit.

b. (1) The credit granted a taxpayer for an accounting or privilege period shall not exceed the per employee limit multiplied by the number of employees participating in alternative means of commuting at the work location. The per employee limit shall be \$36 for the accounting or privilege periods beginning on and after January 1, 1994 but before January 1, 1995, \$72 for the accounting or privilege period beginning on or after January 1, 1995 but before January 1, 1997, \$100 for accounting or privilege periods beginning on or after January 1, 1997 but before January 1, 2002, and \$120 for those periods thereafter. Notwithstanding the provisions of this section to the contrary, the per employee limit for a taxpayer which filed a certified compliance plan with the Department of Transportation required by section 5 of P.L.1992, c.32 (C.27:26A-5) on or before the plan submittal date established by the department and which was filed on or before May 31, 1996, shall be \$150 for the accounting or privilege periods ending on or after July 31, 1996 but ending not later than June 30, 1997. For those periods beginning on or after January 1, 1995, the Director of the Division of Taxation, in the Department of the Treasury, shall adjust the limit, rounded down to the nearest dollar, in proportion to the change in the average consumer price index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas, as reported by the United States Department of Labor, from calendar year 1994 to the calendar year ending immediately before the appropriate period.

(2) The taxpayer may only claim a credit for providing commuter transportation benefits if those benefits are provided in addition to and not in lieu of compensation and those benefits are based upon a direct expenditure made after the taxpayer has registered with the Department of Transportation and the taxpayer's employer trip reduction program has been certified for providing commuter transportation benefits by the Department of Transportation as prescribed in section 3 of P.L.1996, c.121 (C.27:26A-4.3). Notwithstanding any provisions of P.L.1996,

c.121 (C.27:26A-4.1 et al.) to the contrary, the tax credit eligibility and reporting requirements found at N.J.A.C.16:50-15 shall remain in effect until such time as the Department of Transportation adopts new regulations pursuant to section 3 of P.L.1996, c.121 (C.27:26A-4.3).

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

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

(5) A partnership shall not be allowed a credit under this section directly. A partnership shall be entitled to reduce total partnership income distributed to the partners and subject to tax under subsection k. of N.J.S.54A:5-1 by the lesser of 71.5 percent of the amount of commuter transportation benefits provided pursuant to law or \$515 for each employee receiving such benefits. For accounting and privilege periods beginning on or after January 1, 1995, but ending no later than December 31, 2001, the reduction to partnership income allowed under this section shall be the lesser of 143 percent of the cost of commuter transportation benefits provided or \$1,030, and for accounting and privilege periods beginning on or after January 1, 2002 the reduction to partnership income allowed under this section shall be the lesser of 157 percent of the cost of commuter transportation benefits provided or \$1,884, for each employee receiving such benefits for the relevant accounting or privilege period, as appropriate, subject to the limitations of subsection b. of this section.

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

d. For the purposes of verifying eligibility for the credit, the Commissioner of Transportation shall certify to the Director of the Division of Taxation a list of those employers which have registered with the department and have a certified voluntary employer trip reduction program. An employer trip reduction program of an employer who is a member of a TMA shall be considered certified by the department. "A member of a TMA" shall be defined in regulations promulgated by the department pursuant to section 3 of P.L.1996, c.121 (C.27:26A-4.3). The list shall be provided to the Director of the Division of Taxation within 90 days of registration.

e. The taxpayer shall file with the department a schedule of the expenditures for which the taxpayer has claimed a credit pursuant to this section on any tax return filed with the Director of the Division of Taxation, in such form and pursuant to such rules as shall be prescribed by the commissioner in consultation with the Director of the Division of Taxation.

4. Section 2 of P.L.1993, c.150 is amended to read as follows:

2. This act shall take effect immediately and be applicable to accounting and privilege periods beginning on and after January 1, 1994.

5. This act shall take effect immediately.

Approved July 17, 2001.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

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RELEASE: July 17 , 2001

Acting Governor Donald T. DiFrancesco signed the following legislation today:

A-190/SCS for S-1051, sponsored by Assemblyman Reed Gusciora (D-Mercer) and Assemblyman Leonard Lance (R-Warren/Hunterdon/Mercer) and Senator Peter Inverso (R-Mercer/Middlesex) and Senator Shirley Tuner (D-Mercer), permits a state employee's salary reduction program for qualified transportation benefits and increases the Travel Demand Management Program gross income tax exclusions for commuter transportation benefits.

A-2460/S-1267, sponsored by Assemblyman Steve Corodemus (R-Monmouth) and Assemblyman Alex DeCroce (R-Essex/Morris/Passaic) and Senator Henry McNamara (R-Bergen/Passaic), authorizes North Jersey district water supply commission to participate in certain flood protection projects; requires state to indemnify commission.

A-3235/S-2433, sponsored by Assemblyman Alex DeCroce (R-Essex/Morris/Passaic) and Assemblyman Joe Doria (D-Hudson) and Senator Andrew Ciesla (R-Monmouth/Ocean), establishes organ donor license plates.

S-1078/A-2249, sponsored by Senator Robert Singer (R-Burlington/Monmouth/Ocean) and Assemblyman Joseph Malone (R-Burlington/Monmouth/Ocean), requires the Department of Community Affairs to establish procedures for electronic tax lien sales by municipalities.

S-1867/A-2487, sponsored by Senator Martha Bark (D-Atlantic/Burlington/Camden) and Senator John Bennett (R-Monmouth) and Assemblyman Christopher Bateman (R-Morris/Somerset) and Assemblyman John Wisniewski (D-Middlesex), requires cell phone use to be noted in traffic accidents.