

ASSEMBLY, No. 11

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED JUNE 20, 2016

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Adjusts certain State taxes to support strengthened investments in public, private, and charitable assets in this State.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2016)

1 AN ACT adjusting certain State taxes to support strengthened
2 investments in public, private, and charitable assets in this State,
3 amending and supplementing various parts of the statutory law
4 pertaining to taxes of this State.

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

8
9 1. R.S.54:38-1 is amended to read as follows:

10 54:38-1. a. In addition to the inheritance, succession or legacy
11 taxes imposed by this State under authority of chapters 33 to 36 of
12 this title (R.S.54:33-1 et seq.), or hereafter imposed under authority
13 of any subsequent enactment, there is hereby imposed an estate or
14 transfer tax:

15 (1) Upon the transfer of the estate of every resident decedent
16 dying before January 1, 2002 which is subject to an estate tax
17 payable to the United States under the provisions of the federal
18 revenue act of one thousand nine hundred and twenty-six and the
19 amendments thereof and supplements thereto or any other federal
20 revenue act in effect as of the date of death of the decedent, the
21 amount of which tax shall be the sum by which the maximum credit
22 allowable against any federal estate tax payable to the United States
23 under any federal revenue act on account of taxes paid to any state
24 or territory of the United States or the District of Columbia, shall
25 exceed the aggregate amount of all estate, inheritance, succession or
26 legacy taxes actually paid to any state or territory of the United
27 States or the District of Columbia, including inheritance, succession
28 or legacy taxes actually paid this State, in respect to any property
29 owned by such decedent or subject to such taxes as a part of or in
30 connection with the estate; and

31 (2) (a) Upon the transfer of the estate of every resident decedent
32 dying after December 31, 2001, but after December 31, 2016, which
33 would have been subject to an estate tax payable to the United
34 States under the provisions of the federal Internal Revenue Code of
35 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, the
36 amount of which tax shall be, at the election of the person or
37 corporation liable for the payment of the tax under this chapter,
38 either

39 (i) the maximum credit that would have been allowable under
40 the provisions of that federal Internal Revenue Code in effect on
41 that date against the federal estate tax that would have been payable
42 under the provisions of that federal Internal Revenue Code in effect
43 on that date on account of taxes paid to any state or territory of the
44 United States or the District of Columbia, or

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

Matter underlined thus is new matter.

1 (ii) determined pursuant to the simplified tax system as may be
 2 prescribed by the Director of the Division of Taxation in the
 3 Department of the Treasury to produce a liability similar to the
 4 liability determined pursuant to clause (i) of this paragraph reduced
 5 pursuant to paragraph (b) of this subsection.

6 (b) The amount of tax liability determined pursuant to
 7 subparagraph (a) of this paragraph shall be reduced by the
 8 aggregate amount of all estate, inheritance, succession or legacy
 9 taxes actually paid to any state or territory of the United States or
 10 the District of Columbia, including inheritance, succession or
 11 legacy taxes actually paid this State, in respect to any property
 12 owned by such decedent or subject to such taxes as a part of or in
 13 connection with the estate; provided however, that the amount of
 14 the reduction shall not exceed the proportion of the tax otherwise
 15 due under this subsection that the amount of the estates's property
 16 subject to tax by other jurisdictions bears to the entire estate taxable
 17 under this chapter.

18 (3) (a) Upon the transfer of the estate of each resident decedent
 19 dying on or after January 1, 2017, but before January 1, 2020,
 20 whether or not subject to an estate tax payable to the United States
 21 under the provisions of the federal Internal Revenue Code (26
 22 U.S.C. s.1 et seq.), the amount of the taxable estate, determined
 23 pursuant to section 2051 of the federal Internal Revenue Code (26
 24 U.S.C. s.2051), shall be subject to tax pursuant to the following
 25 schedule:

26

<u>On any amount up to \$100,000</u>	<u>0.0%</u>
<u>On any amount in excess of \$100,000,</u> <u>up to \$150,000</u>	<u>0.8% of the excess over</u> <u>\$100,000</u>
<u>On any amount in excess of \$150,000,</u> <u>up to \$200,000.</u>	<u>\$400 plus 1.6% of the excess</u> <u>over \$150,000</u>
<u>On any amount in excess of \$200,000,</u> <u>up to \$300,000.</u>	<u>\$1,200 plus 2.4% of the</u> <u>excess over \$200,000</u>
<u>On any amount in excess of \$300,000,</u> <u>up to \$500,000.</u>	<u>\$3,600 plus 3.2% of the</u> <u>excess over \$300,000</u>
<u>On any amount in excess of \$500,000,</u> <u>up to \$700,000.</u>	<u>\$10,000 plus 4.0% of the</u> <u>excess over \$500,000</u>

A11 PRIETO, MCKEON

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<u>On any amount in excess of \$700,000, up to \$900,000.</u>	<u>\$18,000 plus 4.8% of the excess over \$700,000</u>
<u>On any amount in excess of \$900,000, up to \$1,100,000.</u>	<u>\$27,600 plus 5.6% of the excess over \$900,000</u>
<u>On any amount in excess of \$1,100,000, up to \$1,600,000.</u>	<u>\$38,800 plus 6.4% of the excess over \$1,100,000</u>
<u>On any amount in excess of \$1,600,000, up to \$2,100,000.</u>	<u>\$70,800 plus 7.2% of the excess over \$1,600,000</u>
<u>On any amount in excess of \$2,100,000, up to \$2,600,000.</u>	<u>\$106,800 plus 8.0% of the excess over \$2,100,000</u>
<u>On any amount in excess of \$2,600,000, up to \$3,100,000.</u>	<u>\$146,800 plus 8.8% of the excess over \$2,600,000</u>
<u>On any amount in excess of \$3,100,000, up to \$3,600,000.</u>	<u>\$190,800 plus 9.6% of the excess over \$3,100,000</u>
<u>On any amount in excess of \$3,600,000, up to \$4,100,000.</u>	<u>\$238,800 plus 10.4% of the excess over \$3,600,000</u>
<u>On any amount in excess of \$4,100,000, up to \$5,100,000.</u>	<u>\$290,800 plus 11.2% of the excess over \$4,100,000</u>
<u>On any amount in excess of \$5,100,000, up to \$6,100,000.</u>	<u>\$402,800 plus 12.0% of the excess over \$5,100,000</u>
<u>On any amount in excess of \$6,100,000, up to \$7,100,000.</u>	<u>\$522,800 plus 12.8% of the excess over \$6,100,000</u>
<u>On any amount in excess of \$7,100,000, up to \$8,100,000.</u>	<u>\$650,800 plus 13.6% of the excess over \$7,100,000</u>
<u>On any amount in excess of \$8,100,000, up to \$9,100,000.</u>	<u>\$786,800 plus 14.4% of the excess over \$8,100,000</u>

On any amount in excess of
\$9,100,000, up to \$10,100,000 \$930,800 plus 15.2% of the
excess over \$9,100,000

On any amount in excess of
\$10,100,000. \$1,082,800 plus 16.0% of
the excess over \$10,100,000

1 (b) A credit shall be allowed against the tax imposed pursuant to
2 subparagraph (a) of this paragraph equal to the amount of tax which
3 would be determined by subparagraph (a) of this paragraph if the
4 amount of the taxable estate were equal to the exclusion amount.

5 For the transfer of the estate of each resident decedent dying on
6 or after January 1, 2017, but before January 1, 2018, the exclusion
7 amount is \$1,000,000.

8 For the transfer of the estate of each resident decedent dying on
9 or after January 1, 2018, but before January 1, 2019, the exclusion
10 amount is \$2,000,000.

11 For the transfer of the estate of each resident decedent dying on
12 or after January 1, 2019, but before January 1, 2020, the exclusion
13 amount is \$3,000,000.

14 (c) The amount of tax liability of a resident decedent determined
15 pursuant to subparagraphs (a) and (b) of this paragraph shall be
16 reduced by the aggregate amount of all estate, inheritance,
17 succession or legacy taxes actually paid to any state of the United
18 States, including inheritance taxes actually paid this State, in
19 respect to any property owned by that decedent or subject to those
20 taxes as a part of or in connection with the estate; provided
21 however, that the amount of the reduction shall not exceed the
22 proportion of the tax otherwise due under this subsection that the
23 amount of the estate's property subject to tax by other jurisdictions
24 bears to the entire estate taxable under this chapter.

25 (4) For the transfer of the estate of each resident decedent dying
26 on or after January 1, 2020, there shall be no tax imposed.

27 (5) Upon the transfer of the real or tangible personal property
28 within New Jersey of each nonresident decedent dying on or after
29 January 1, 2017, but before January 1, 2020, which tax shall bear
30 the same ratio to the entire tax which that estate would have been
31 subject to pursuant to subparagraphs (a) and (b) of paragraph (3) of
32 this subsection if that nonresident decedent had been a resident of
33 this State, and all of the decedent's property, real and personal, had
34 been located within this State, as the taxable property within this
35 State bears to the entire estate, wherever situated.

36 b. (1) In the case of the estate of a decedent dying before
37 January 1, 2002 where no inheritance, succession or legacy tax is
38 due this State under the provisions of chapters 33 to 36 of this title
39 or under authority of any subsequent enactment imposing taxes of a
40 similar nature, but an estate tax is due the United States under the
41 provisions of any federal revenue act in effect as of the date of

1 death, wherein provision is made for a credit on account of taxes
2 paid the several states or territories of the United States, or the
3 District of Columbia, the tax imposed by this chapter shall be the
4 maximum amount of such credit less the aggregate amount of such
5 estate, inheritance, succession or legacy taxes actually paid to any
6 state or territory of the United States or the District of Columbia.

7 (2) In the case of the estate of a decedent dying after December
8 31, 2001, but before December 31, 2016, where no inheritance,
9 succession or legacy tax is due this State under the provisions of
10 chapters 33 to 36 of this title or under authority of any subsequent
11 enactment imposing taxes of a similar nature, the tax imposed by
12 this chapter shall be determined pursuant to paragraph (2) of
13 subsection a. of this section.

14 (3) In the case of the estate of a decedent dying on or after
15 January 1, 2017 the tax imposed by this chapter shall be determined
16 pursuant to paragraphs (3), (4), and (5) of subsection a. of this
17 section.

18 c. For the purposes of this section, a "simplified tax system" to
19 produce a liability similar to the liability determined pursuant to
20 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of
21 this section is a tax system that is based upon the \$675,000 unified
22 estate and gift tax applicable exclusion amount in effect under the
23 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
24 s.1 et seq.) in effect on December 31, 2001, and results in general in
25 the determination of a similar amount of tax but which will enable
26 the person or corporation liable for the payment of the tax to
27 calculate an amount of tax notwithstanding the lack or paucity of
28 information for compliance due to such factors as the absence of an
29 estate valuation made for federal estate tax purposes, the absence of
30 a measure of the impact of gifts made during the lifetime of the
31 decedent in the absence of federal gift tax information, and any
32 other information compliance problems as the director determines
33 are the result of the phased repeal of the federal estate tax.

34 (cf: P.L.2002, c.31, s.1)

35
36 2. N.J.S.54A:6-10 is amended to read as follows:

37 54A:6-10. Pensions and annuities.

38 a. Gross income shall not include that part of any amount
39 received as an annuity under an annuity, endowment, or life
40 insurance contract which bears the same ratio to such amount as the
41 investment in the contract as of the annuity starting date bears to the
42 expected return under the contract as of such date. Where (1) part
43 of the consideration for an annuity, endowment, or life insurance
44 contract is contributed by the employer, and (2) during the three-
45 year period beginning on the date on which an amount is first
46 received under the contract as an annuity, the aggregate amount
47 receivable by the employee under the terms of the contract is equal
48 to or greater than the consideration for the contract contributed by

1 the employee, then all amounts received as an annuity under the
2 contract shall be excluded from gross income until there has been so
3 excluded an amount equal to the consideration for the contract
4 contributed by the employee.

5 b. (1) In addition to that part of any amount received as an
6 annuity which is excludable from gross income as herein provided,
7 gross income shall not include payments:

8 for taxable years beginning before January 1, 2000, of up to
9 \$10,000 for a married couple filing jointly, \$5,000 for a married
10 person filing separately, or \$7,500 for an individual filing as a
11 single taxpayer or an individual determining tax pursuant to
12 subsection a. of N.J.S.54A:2-1;

13 for the taxable year beginning on or after January 1, 2000, but
14 before January 1, 2001, of up to \$12,500 for a married couple filing
15 jointly, \$6,250 for a married person filing separately, or \$9,375 for
16 an individual filing as a single taxpayer or an individual
17 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

18 for the taxable year beginning on or after January 1, 2001, but
19 before January 1, 2002, of up to \$15,000 for a married couple filing
20 jointly, \$7,500 for a married person filing separately, or \$11,250 for
21 an individual filing as a single taxpayer or an individual
22 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

23 for the taxable year beginning on or after January 1, 2002, but
24 before January 1, 2003, of up to \$17,500 for a married couple filing
25 jointly, \$8,750 for a married person filing separately, or \$13,125 for
26 an individual filing as a single taxpayer or an individual
27 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

28 for taxable years beginning on or after January 1, 2003, but
29 before January 1, 2017, of up to \$20,000 for a married couple filing
30 jointly, \$10,000 for a married person filing separately, or \$15,000
31 for an individual filing as a single taxpayer or an individual
32 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

33 for taxable years beginning on or after January 1, 2017, but
34 before January 1, 2018, of up to \$40,000 for a married couple filing
35 jointly, \$20,000 for a married person filing separately, or \$30,000
36 for an individual filing as a single taxpayer or an individual
37 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

38 for taxable years beginning on or after January 1, 2018, but
39 before January 1, 2019, gross income shall not include income of up
40 to \$60,000 for a married couple filing jointly, \$30,000 for a married
41 person filing separately, or \$50,000 for an individual filing as a
42 single taxpayer or an individual determining tax pursuant to
43 subsection a. of N.J.S.54A:2-1;

44 for taxable years beginning on or after January 1, 2019, but
45 before January 1, 2020, of up to \$80,000 for a married couple filing
46 jointly, \$40,000 for a married person filing separately, or \$60,000
47 for an individual filing as a single taxpayer or an individual
48 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

1 for taxable years beginning on or after January 1, 2020, of up to
2 \$100,000 for a married couple filing jointly, \$50,000 for a married
3 person filing separately, or \$75,000 for an individual filing as a
4 single taxpayer or an individual determining tax pursuant to
5 subsection a. of N.J.S.54A:2-1,

6 which are received as an annuity, endowment or life insurance
7 contract, or payments of any such amounts which are received as
8 pension, disability, or retirement benefits, under any public or
9 private plan, whether the consideration therefor is contributed by
10 the employee or employer or both, by any person who is 62 years of
11 age or older or who, by virtue of disability, is or would be eligible
12 to receive payments under the federal Social Security Act **【**, but
13 for**】**.

14 (2) For taxable years beginning on or after January 1, 2005, but
15 before January 1, 2021, the exclusion provided by this subsection
16 shall only be allowed if the taxpayer has gross income for the
17 taxable year of not more than \$100,000;

18 for taxable years beginning on or after January 1, 2021, if the
19 taxpayer has gross income for the taxable year of not more than
20 \$100,000 the exclusion provided by this subsection shall be fully
21 allowed, if the taxpayer has gross income for the taxable year in
22 excess of \$100,000 but not more than \$125,000 then the taxpayer
23 may exclude 50 percent of the amount otherwise allowed, and if the
24 taxpayer has gross income for the taxable year in excess of
25 \$125,000 but not more than \$150,000 then the taxpayer may
26 exclude 25 percent of the amount otherwise allowed.

27 c. Gross income shall not include any amount received under
28 any public or private plan by reason of a permanent and total
29 disability.

30 d. Gross income shall not include distributions from an
31 employees' trust described in section 401(a) of the Internal Revenue
32 Code of 1986, as amended (hereinafter referred to as "the Code"),
33 which is exempt from tax under section 501(a) of the Code if the
34 distribution, except the portion representing the employees'
35 contributions, is rolled over in accordance with section 402(a)(5) or
36 section 403(a)(4) of the Code. The distribution shall be paid in one
37 or more installments which constitute a lump-sum distribution
38 within the meaning of section 402(e)(4)(A) (determined without
39 reference to subsection (e)(4)(B)), or be on account of a termination
40 of a plan of which the trust is a part or, in the case of a profit-
41 sharing or stock bonus plan, a complete discontinuance of
42 contributions under such plan.

43 (cf: P.L.2005, c.130, s.1)

44
45 3. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to read
46 as follows:

47 3. Other retirement income. a. (1) Gross income shall not
48 include income:

1 for taxable years beginning before January 1, 2000, of up to
2 \$10,000 for a married couple filing jointly, \$5,000 for a married
3 person filing separately, or \$7,500 for an individual filing as a
4 single taxpayer or an individual determining tax pursuant to
5 subsection a. of N.J.S.54A:2-1;

6 for the taxable year beginning on or after January 1, 2000, but
7 before January 1, 2001, of up to \$12,500 for a married couple filing
8 jointly, \$6,250 for a married person filing separately, or \$9,375 for
9 an individual filing as a single taxpayer or an individual
10 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

11 for the taxable year beginning on or after January 1, 2001, but
12 before January 1, 2002, of up to \$15,000 for a married couple filing
13 jointly, \$7,500 for a married person filing separately, or \$11,250 for
14 an individual filing as a single taxpayer or an individual
15 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

16 for the taxable year beginning on or after January 1, 2002, but
17 before January 1, 2003, of up to \$17,500 for a married couple filing
18 jointly, \$8,750 for a married person filing separately, or \$13,125 for
19 an individual filing as a single taxpayer or an individual
20 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

21 for taxable years beginning on or after January 1, 2003, but
22 before January 1, 2017, gross income shall not include income of up
23 to \$20,000 for a married couple filing jointly, \$10,000 for a married
24 person filing separately, or \$15,000 for an individual filing as a
25 single taxpayer or an individual determining tax pursuant to
26 subsection a. of N.J.S.54A:2-1;

27 for taxable years beginning on or after January 1, 2017 but
28 before January 1, 2018, gross income shall not include income of up
29 to \$40,000 for a married couple filing jointly, \$20,000 for a married
30 person filing separately, or \$30,000 for an individual filing as a
31 single taxpayer or an individual determining tax pursuant to
32 subsection a. of N.J.S.54A:2-1;

33 for taxable years beginning on or after January 1, 2018, but
34 before January 1, 2019, gross income shall not include income of up
35 to \$60,000 for a married couple filing jointly, \$30,000 for a married
36 person filing separately, or \$50,000 for an individual filing as a
37 single taxpayer or an individual determining tax pursuant to
38 subsection a. of N.J.S.54A:2-1;

39 for taxable years beginning on or after January 1, 2019, but
40 before January 1, 2020, gross income shall not include income of up
41 to \$80,000 for a married couple filing jointly, \$40,000 for a married
42 person filing separately, or \$60,000 for an individual filing as a
43 single taxpayer or an individual determining tax pursuant to
44 subsection a. of N.J.S.54A:2-1;

45 for taxable years beginning on or after January 1, 2020, gross
46 income shall not include income of up to \$100,000 for a married
47 couple filing jointly, \$50,000 for a married person filing separately,
48 or \$75,000 for an individual filing as a single taxpayer or an

1 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
2 1,

3 when received in any tax year by a person aged 62 years or older
4 who received no income in excess of \$3,000 from one or more of
5 the sources enumerated in subsections a., b., k. and p. of
6 N.J.S.54A:5-1 **【, but for】** .

7 (2) For taxable years beginning on or after January 1, 2005, but
8 before January 1, 2021, the exclusion provided by this subsection
9 shall only be allowed if the taxpayer has gross income for the
10 taxable year of not more than \$100,000 **【, provided, however, that**
11 **the】** ;

12 for taxable years beginning on or after January 1, 2021, if the
13 taxpayer has gross income for the taxable year of not more than
14 \$100,000 the exclusion provided by this subsection shall be fully
15 allowed, if the taxpayer has gross income for the taxable year in
16 excess of \$100,000 but not more than \$125,000 then the taxpayer
17 may exclude 50 percent of the amount otherwise allowed, and if the
18 taxpayer has gross income for the taxable year in excess of
19 \$125,000 but not more than \$150,000 then the taxpayer may
20 exclude 25 percent of the amount otherwise allowed.

21 (3) The total exclusion under this subsection and that allowable
22 under N.J.S.54A:6-10 shall not exceed the amounts of the
23 exclusions set forth in this subsection.

24 b. In addition to the exclusion provided under N.J.S.54A:6-10
25 and subsection a. of this section, gross income shall not include
26 income of up to \$6,000 for a married couple filing jointly or an
27 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
28 1, or \$3,000 for a single person or a married person filing
29 separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-
30 3, but who would be eligible in any year to receive payments under
31 either section if he or she were covered thereby.

32 (cf: P.L.2005, c.130, s.2)

33

34 4. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read
35 as follows:

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

39 a. (1) A resident individual who is eligible for a credit under
40 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
41 s.32) shall be allowed a credit for the taxable year equal to a
42 percentage, as provided in paragraph (2) of this subsection, of the
43 federal earned income tax credit that would be allowed to the
44 individual or the married individuals filing a joint return under
45 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
46 s.32) for the same taxable year for which a credit is claimed
47 pursuant to this section, subject to the restrictions of this subsection
48 and subsections b., c., d. and e. of this section.

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

4 (a) 10% for the taxable year beginning on or after January 1,
5 2000, but before January 1, 2001;

6 (b) 15% for the taxable year beginning on or after January 1,
7 2001, but before January 1, 2002;

8 (c) 17.5% for the taxable year beginning on or after January 1,
9 2002, but before January 1, 2003;

10 (d) 20% for taxable years beginning on or after January 1, 2003,
11 but before January 1, 2008;

12 (e) 22.5% for taxable years beginning on or after January 1,
13 2008 but before January 1, 2009;

14 (f) 25% for taxable years beginning on or after January 1, 2009
15 but before January 1, 2010;

16 (g) 20% for taxable years beginning on or after January 1, 2010,
17 but before January 1, 2015; **[and]**

18 (h) 30% for taxable years beginning on or after January 1, 2015,
19 but before January 1, 2016; and

20 (i) 40% for taxable years beginning on or after January 1, 2016.

21 (3) To qualify for the New Jersey earned income tax credit, if
22 the claimant is married, except for a claimant who files as a head of
23 household or surviving spouse for federal income tax purposes for
24 the taxable year, the claimant shall file a joint return or claim for
25 the credit.

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

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

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

46 e. Any earned income tax credit pursuant to this section shall
47 not be taken into account as income or receipts for purposes of
48 determining the eligibility of an individual for benefits or assistance

1 or the amount or extent of benefits or assistance under any State
2 program and, to the extent permitted by federal law, under any State
3 program financed in whole or in part with federal funds.

4 (cf: P.L.2015, c.73, s.1)

5
6 5. (New section) a. A taxpayer shall be allowed to deduct from
7 gross income the amount of charitable contributions of money made
8 to a qualified charitable agency or a qualified charitable fund-
9 raising organization in the taxable year equal to the amount that is
10 allowed as a deduction from federal adjusted gross income for the
11 federal taxable year pursuant to section 170 of the federal Internal
12 Revenue Code (26 U.S.C. s.170) or the amount that the taxpayer
13 would have been allowed to deduct from federal adjusted gross
14 income for the federal taxable year pursuant to section 170 of the
15 federal Internal Revenue Code (26 U.S.C. s.170) if the taxpayer had
16 claimed that deduction on that taxpayer's federal income tax return.
17 Provided however, that the taxpayer shall not be allowed to deduct
18 from gross income an amount in excess of 50 percent of the
19 taxpayer's gross income for the taxable year, determined before any
20 other adjustments on account of other deductions, exclusions, or
21 credits.

22 b. For the purposes of this section:

23 "qualified charitable agency" means an agency that is a
24 volunteer, not-for-profit organization that primarily provides health,
25 welfare, or human care services to individuals in New Jersey that
26 has been determined to meet the eligibility criteria pursuant to
27 section 8 of P.L.1985, c.140 (C.52:14-15.9c8) to participate in a
28 charitable fund raising campaign pursuant to the "Public Employee
29 Charitable Fund-Raising Act," P.L.1985, c.140 (C.52:14-15.9c1 et
30 seq.), and the regulations as may be applicable thereunder, for the
31 taxable year, provided however, that "qualified charitable agency"
32 shall not include an agency that is primarily affiliated with an
33 institution of higher education that is exempt from the registration
34 requirements of subsection b. of section 9 of P.L.1994, c.16
35 (C.45:17A-26); and

36 "qualified charitable fund-raising organization" means a
37 voluntary not-for-profit organization that receives voluntary
38 charitable contributions and distributes those contributions
39 primarily to qualified charitable agencies, and that has been
40 determined to meet the eligibility criteria pursuant to section 7 of
41 P.L.1985, c.140 (C.52:14-15.9c7) to participate in a charitable fund
42 raising campaign pursuant to the "Public Employee Charitable
43 Fund-Raising Act," P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and
44 the regulations as may be applicable thereunder, for the taxable
45 year, provided however, that "qualified charitable organization"
46 shall not include an organization that is primarily affiliated with an
47 institution of higher education that is exempt from the registration

1 requirements of subsection b. of section 9 of P.L.1994, c.16 (C.
2 (C.45:17A-26).

3 c. The director shall provide each taxpayer with an opportunity
4 to claim the taxpayer's deduction amount on the taxpayer's tax
5 return, which may include on the return the amounts of charitable
6 contributions claimed and indicated by numerical designation
7 coding for each qualified charitable agency and qualified charitable
8 fund-raising organization as are limited and defined pursuant to the
9 provisions of this section and as also may be available pursuant to
10 the "Public Employee Charitable Fund-Raising Act," P.L.1985,
11 c.140 (C.52:14-15.9c1 et seq.), the regulations as may be applicable
12 thereunder, and the advice of the council established pursuant to
13 subsection d. of this section, for the taxable year. The director shall
14 make available on a taxpayer accessible searchable website on or
15 before January 1 of a taxable year, only the relevant portions of the
16 annual New Jersey employees charitable campaign resources and
17 reference guide code book prepared pursuant to P.L.1985, c.140
18 (C.52:14-15.9c1 et seq.) that the director shall determine, with the
19 advice of the council established pursuant to subsection d. of this
20 section, are applicable in the administration of this section, and the
21 regulations as may be applicable thereunder, provided however, that
22 no costs of administering this section shall be allowed as costs
23 subject to section 12 of P.L.1985, c.140 (C.52:14-15.9c12).

24 d. There is established in the Department of the Treasury the
25 "Charity Advisory Council" which shall consist of eight members,
26 four of whom shall be the Commissioner Human Services, the
27 Commissioner of Children and Families, the Commissioner of
28 Health and the Commissioner of Community Affairs, or their
29 designees, and four public members who shall be individuals
30 actively engaged in providing health, welfare, or human care
31 services to individuals in New Jersey. Of the four public members,
32 one shall be appointed by the Senate President, one shall be
33 appointed by the Speaker of the General Assembly, one shall be
34 appointed by the Senate Minority Leader, and one shall be
35 appointed by the Assembly Minority Leader. The public members
36 shall serve for terms of three years. Vacancies among the public
37 members shall be filled in the same manner as the original
38 appointments were made.

39 The council shall organize upon appointment of a quorum and
40 shall meet regularly as it may determine, and shall also meet at the
41 call of the director.

42 The council shall appoint a chairperson from among its
43 members.

44 Members of the council shall serve without compensation, but
45 the council may, within the limits of funds appropriated or
46 otherwise made available for such purposes, reimburse its members
47 for necessary expenses incurred in the discharge of their official
48 duties.

1 The council shall annually advise the director on the qualified
2 charitable agencies and the qualified charitable fund-raising
3 organizations that conform to the criteria of subsection b. of this
4 section. The advisory council may consult with the State charitable
5 fund-raising campaign steering committee established pursuant to
6 section 4 of P.L. 1985, c. 140 (C.52:14-15.9c4) for any assistance in
7 the administration of this section as the director deems necessary.

8
9 6. Section 2 of P.L.1990, c. 42 (C.54:15B-2) is amended to read
10 as follows:

11 2. For the purposes of this act:

12 "Aviation fuel" means aviation gasoline or aviation grade
13 kerosene or any other fuel that is used in aircraft.

14 "Aviation gasoline" means fuel specifically compounded for use
15 in reciprocating aircraft engines.

16 "Aviation grade kerosene" means any kerosene type jet fuel
17 covered by ASTM Specification D 1655 or meeting specification
18 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

19 "Blended fuel" means a mixture composed of gasoline, diesel
20 fuel, kerosene or blended fuel and another liquid, including blend
21 stock other than a de minimis amount of a product such as
22 carburetor detergent or oxidation inhibitor, that can be used as a
23 fuel in a highway vehicle. "Blended fuel" includes but is not
24 limited to gasohol, biobased liquid fuel, biodiesel fuel, ethanol,
25 methanol, fuel grade alcohol, diesel fuel enhancers and resulting
26 blends.

27 "Company" includes a corporation, partnership, limited
28 partnership, limited liability company, association, individual, or
29 any fiduciary thereof.

30 "Diesel fuel" means a liquid that is commonly or commercially
31 known or sold as a fuel that is suitable for use in a diesel-powered
32 highway vehicle. A liquid meets this requirement if, without
33 further processing or blending, the liquid has practical and
34 commercial fitness for use in the propulsion engine of a diesel-
35 powered highway vehicle. "Diesel fuel" includes biobased liquid
36 fuel, biodiesel fuel, and number 1 and number 2 diesel.

37 "Director" means the Director of the Division of Taxation in the
38 Department of the Treasury.

39 "First sale of petroleum products within this State" means the
40 initial sale of a petroleum product delivered to a location in this
41 State. A "first sale of petroleum products within this State" does
42 not include a book or exchange transfer of petroleum products if
43 such products are intended to be sold in the ordinary course of
44 business.

45 "Gasoline" means all products commonly or commercially
46 known or sold as gasoline that are suitable for use as a motor fuel.
47 "Gasoline" does not include products that have an ASTM octane
48 number of less than 75 as determined by the "motor method,"

1 ASTM D2700-92. The term does not include racing gasoline or
2 aviation gasoline, but for administrative purposes does include fuel
3 grade alcohol.

4 "Gross receipts" means all consideration derived from the first
5 sale of petroleum products within this State except sales of:

6 a. asphalt;

7 b. petroleum products sold pursuant to a written contract
8 extending one year or longer to nonprofit entities qualifying under
9 subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
10 evidenced by an invoice in form prescribed by subsection b. of
11 section 3 of P.L.1991, c.19 (C.54:15B-10);

12 c. petroleum products sold to governmental entities qualifying
13 under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
14 evidenced by an invoice in form prescribed by subsection b. of
15 section 3 of P.L.1991, c.19 (C.54:15B-10); and

16 d. polymer grade propylene used in the manufacture of
17 polypropylene.

18 "Highway fuel" means gasoline, blended fuel that contains
19 gasoline or is intended for use as gasoline, liquefied petroleum gas,
20 and diesel fuel, blended fuel that contains diesel fuel or is intended
21 for use as diesel fuel, and kerosene, other than aviation grade
22 kerosene.

23 "Kerosene" means the petroleum fraction containing
24 hydrocarbons that are slightly heavier than those found in gasoline
25 and naphtha, with a boiling range of 149 to 300 degrees Celsius.

26 "Petroleum products" means refined products made from crude
27 petroleum and its fractionation products, through straight
28 distillation of crude oil or through redistillation of unfinished
29 derivatives, but shall not mean the products commonly known as
30 number 2 heating oil, number 4 heating oil, number 6 heating oil,
31 kerosene and propane gas to be used exclusively for residential use.

32 "Quarterly period" means a period of three calendar months
33 commencing on the first day of January, April, July or October and
34 ending on the last day of March, June, September or December,
35 respectively.

36 **["Retail gasoline price survey" means a Statewide representative**
37 **random sample of retail gasoline prices conducted by the Board of**
38 **Public Utilities, Office of the Economist, or its successor, that shall**
39 **be completed for the month of November and May of each year.]**

40 "Retail price per gallon" means the price **【posted by gasoline】**
41 charged by retailers in the State for 【unleaded regular gasoline】 a
42 gallon of the petroleum product dispensed into the fuel tanks of
43 motor vehicles without State or federal tax included.

44 "Unleaded regular gasoline" means gasoline of the octane rating
45 equal to the lowest octane rated gasoline offered for sale at a
46 majority of the gasoline retailers in the State.

47 (cf: P.L.1991, c.181, s.1)

1 7. Section 7 of P.L.1991, c.181 (C.54:15B-2.1) is amended to
2 read as follows:

3 7. a. "Gross receipts," as otherwise defined by section 2 of
4 P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales
5 of petroleum products used by marine vessels engaged in interstate
6 or foreign commerce [and sales of aviation fuels used by common
7 carriers in interstate or foreign commerce other than the "burnout"
8 portion which shall be taxable pursuant to rules promulgated by the
9 director].

10 b. Motor fuel used for the following purposes is exempt from
11 the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3), and a
12 refund of the tax imposed by that section may be claimed by the
13 consumer providing proof the tax has been paid and no refund has
14 been previously issued:

15 (1) autobuses while being operated over the highways of this
16 State in those municipalities to which the operator has paid a
17 monthly franchise tax for the use of the streets therein under the
18 provisions of R.S.48:16-25 and autobuses while being operated over
19 the highways of this State in a regular route bus operation as
20 defined in R.S.48:4-1 and under operating authority conferred
21 pursuant to R.S.48:4-3, or while providing bus service under a
22 contract with the New Jersey Transit Corporation or under a
23 contract with a county for special or rural transportation bus service
24 subject to the jurisdiction of the New Jersey Transit Corporation
25 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses
26 providing commuter bus service which receive or discharge
27 passengers in New Jersey. For the purpose of this paragraph
28 "commuter bus service" means regularly scheduled passenger
29 service provided by motor vehicles whether within or across the
30 geographical boundaries of New Jersey and utilized by passengers
31 using reduced fare, multiple ride, or commutation tickets and shall
32 not include charter bus operations for the transportation of enrolled
33 children and adults referred to in subsection c. of R.S.48:4-1 and
34 "regular route service" does not mean a regular route in the nature
35 of special bus operation or a casino bus operation;

36 (2) agricultural tractors not operated on a public highway;

37 (3) farm machinery;

38 (4) ambulances;

39 (5) rural free delivery carriers in the dispatch of their official
40 business;

41 (6) vehicles that run only on rails or tracks, and such vehicles as
42 run in substitution therefor;

43 (7) highway motor vehicles that are operated exclusively on
44 private property;

45 (8) motor boats or motor vessels used exclusively for or in the
46 propagation, planting, preservation and gathering of oysters and
47 clams in the tidal waters of this State;

- 1 (9) motor boats or motor vessels used exclusively for
2 commercial fishing;
3 (10) motor boats or motor vessels, while being used for hire for
4 fishing parties or being used for sightseeing or excursion parties;
5 (11) fire engines and fire-fighting apparatus;
6 (12) stationary machinery and vehicles or implements not
7 designed for the use of transporting persons or property on the
8 public highways;
9 (13) heating and lighting devices;
10 (14) motor boats or motor vessels used exclusively for Sea Scout
11 training by a duly chartered unit of the Boy Scouts of America; and
12 (15) emergency vehicles used exclusively by volunteer first-aid
13 or rescue squads.
14 (cf: P.L.1991, c.181, s.7)

15
16 8. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read
17 as follows:

18 3. a. (1) (a) There is imposed on each company which is
19 engaged in the refining or distribution, or both, of petroleum
20 products other than highway fuel and which distributes such
21 products in this State a tax at the rate of [two and three-quarters
22 percent (2 3/4%)] seven percent of its gross receipts derived from
23 the first sale of petroleum products within this State and there is
24 imposed on each company which is engaged in the refining or
25 distribution, or both, of highway fuel a tax at the rate of 12.5
26 percent of its gross receipts derived from the first sale of those
27 products within this State. [; provided however, that the]

28 (b) The applicable tax rate for [fuel oils, aviation fuels and
29 motor fuels subject to tax under R.S.54:39-1 et seq.] gasoline,
30 blended fuel that contains gasoline or is intended for use as
31 gasoline, and liquefied petroleum gas, which are taxed as a highway
32 fuel pursuant to subparagraph (a) of this paragraph, shall be
33 converted to a cents-per-gallon rate, rounded to the nearest tenth of
34 a cent, [that shall be calculated by the use of] and adjusted
35 quarterly by the director, effective on July 1, October 1, January 1,
36 and April 1, based on the average retail price per gallon of unleaded
37 regular gasoline [in December 1990,] in the State, as determined in
38 [a] the most recent survey of the retail price per gallon of gasoline
39 [prices] that [included] includes a Statewide representative
40 random sample conducted [in December 1990 for that month] by
41 the Board of Public Utilities, Office of the Economist, [and shall be
42 effective for the tax due for months ending after that date; and] or
43 its successor.

44 (c) The cents-per-gallon rate determined pursuant to
45 subparagraph (b) of this paragraph shall not be less than the rate
46 determined for the quarter beginning July 1, 2016 and shall not

1 exceed a rate reflecting more than an average retail price per gallon
2 of gasoline of \$3.

3 (d) The applicable tax rate for diesel fuel, blended fuel that
4 contains diesel fuel or is intended for use as diesel fuel, and
5 kerosene, other than aviation grade kerosene, which are taxed as a
6 highway fuel pursuant to subparagraph (a) of this paragraph, shall
7 be converted to a cents-per-gallon rate, rounded to the nearest tenth
8 of a cent, and adjusted quarterly by the director, effective on July 1,
9 October 1, January 1, and April 1, based on the average retail price
10 per gallon of number 2 diesel in the State, as determined in the most
11 recent survey of retail diesel fuel prices that includes a Statewide
12 representative random sample conducted by the Board of Public
13 Utilities, Office of the Economist, or its successor.

14 Notwithstanding the provisions of subparagraph (a) of this
15 paragraph to the contrary, for the period from July 1, 2016 through
16 December 31, 2016, no rate of tax shall be applied to diesel fuel,
17 blended fuel that contains diesel fuel or is intended for use as diesel
18 fuel, or kerosene, other than aviation grade kerosene; for the period
19 from January 1, 2017 through June 30, 2017, the applicable rate for
20 those fuels shall be 70 percent of the rate otherwise determined
21 pursuant to subparagraph (a) of this paragraph, and for July 1, 2017
22 and thereafter the applicable rate for those fuels determined
23 pursuant to subparagraph (a) of this paragraph.

24 (e) The cents-per-gallon rate determined pursuant to
25 subparagraph (d) of this paragraph shall not be less than the rate
26 determined for the quarter beginning July 1, 2016 and shall not
27 exceed a rate reflecting more than an average retail price per gallon
28 of number 2 diesel of \$3.

29 (f) The applicable tax rate for aviation fuel, determined pursuant
30 to subparagraph (a) of this paragraph shall be converted to a cents-
31 per-gallon rate, rounded to the nearest tenth of a cent, based on the
32 average price per gallon, without State or federal tax included, of
33 aviation grade kerosene in the State, effective July 1, 2016, as
34 determined in the most recent survey of aviation grade kerosene
35 prices paid by commercial consumers that includes a Statewide
36 representative random sample conducted by the Board of Public
37 Utilities, Office of the Economist, or its successor.

38 (g) Each year as of January 1, the rate for aviation fuel in effect
39 on the immediately preceding December 31 shall be adjusted as
40 follows: the rate shall be multiplied by a fraction, the numerator of
41 which is the sum of the monthly producer price index (unadjusted)
42 published by the Bureau of Labor Statistics of the United States
43 Department of Labor for the category of commodities designated
44 “petroleum products, refined,” or its successor series, for the 12
45 consecutive months ending with the month of August of the
46 immediately preceding year and the denominator of which is the
47 sum of the monthly producer price index (unadjusted) published by
48 the Bureau of Labor Statistics of the United States Department of

1 Labor for the category of commodities designated “petroleum
2 products, refined,” or its successor series, for the 12 consecutive
3 months ending with the month of August in the year prior to that
4 immediately preceding year, and rounded to the nearest tenth of a
5 cent; provided however, that the adjusted rate shall not increase
6 above or decrease below the rate in effect on the immediately
7 preceding December 31 by more than five percent.

8 (h) The applicable tax rate for fuel oil determined pursuant to
9 subparagraph (a) of this paragraph shall be converted to a cents-per-
10 gallon rate, rounded to the nearest tenth of a cent, and adjusted
11 quarterly by the director, effective on July 1, October 1, January 1,
12 and April 1, to reflect the average price per gallon, without State or
13 federal tax included, of retail sales of number 4 fuel oil in the State,
14 as determined in the most recent survey of retail diesel fuel prices
15 that included a Statewide representative random sample conducted
16 by the Board of Public Utilities, Office of the Economist, or its
17 successor.

18 (i) The cents-per-gallon rate determined pursuant to
19 subparagraph (h) of this paragraph shall not be less than the rate
20 determined for the quarter beginning July 1, 2016.

21 (j) On and after the 10th day following a certification by the
22 review council pursuant to subsection c. of section 13 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill), no tax shall
24 be imposed pursuant to this paragraph.

25 (2) (a) In addition to the tax, if any, imposed by paragraph (1) of
26 this subsection, a cents-per-gallon tax is imposed on each
27 company’s gross receipts derived from the first sale of petroleum
28 products within this State on gasoline, blended fuel that contains
29 gasoline or that is intended for use as gasoline, and liquefied
30 petroleum gas at the rate of four cents per gallon; and

31 (b) In addition to the tax, if any, imposed by paragraph (1) of
32 this subsection, a cents-per-gallon tax is imposed on each
33 company’s gross receipts derived from the first sale of petroleum
34 products within this State on diesel fuel, blended fuel that contains
35 diesel fuel or is intended for use as diesel fuel, and kerosene, other
36 than aviation grade kerosene, at the rate of four cents per gallon
37 before July 1, 2017 and at the rate of eight cents per gallon on and
38 after July 1, 2017.

39 b. There is imposed on each company that imports or causes to
40 be imported, other than by a company subject to and having paid
41 the tax on those imported petroleum products that have generated
42 gross receipts taxable under subsection a. of this section, petroleum
43 products for use or consumption by it within this State a tax at the
44 rate **【of two and three-quarters percent (2 3/4%)】** or rates of the
45 consideration given or contracted to be given and the gallonage,
46 determined pursuant to subsection a. of this section, for such
47 petroleum products if the consideration given or contracted to be
48 given for all such deliveries made during a quarterly period exceeds

1 \$5,000]; provided however, that the applicable tax rate for fuel oils,
2 aviation fuels and motor fuels subject to tax under R.S.54:39-1 et
3 seq. shall be converted to a cents per gallon rate, rounded to the
4 nearest cent, that shall be calculated by the use of the average retail
5 price per gallon of unleaded regular gasoline in December 1990, as
6 determined in a survey of retail gasoline prices that included a
7 Statewide representative random sample conducted in December
8 1990 for that month by the Board of Public Utilities, Office of the
9 Economist, and shall be effective for the tax due for months ending
10 after that date].

11 (cf: P.L.2000, c.48, s.1)

12

13 9. Section 2 of P.L.1991, c.19 (C.54:15B-9) is amended to read
14 as follows:

15 2. a. A person who shall purchase or otherwise acquire
16 petroleum products, upon which the petroleum products gross
17 receipts tax has not been paid and is not due pursuant to subsection
18 b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a
19 reimbursement payment has been paid pursuant to section 3 of [this
20 act] P.L.1991, c.19 (C.54:15B-10), from a federal government
21 department, agency or instrumentality, or any agent or officer
22 thereof, for use not specifically associated with any federal
23 government function or operation, shall pay to the State a tax
24 [equivalent to two and three-quarters percent (2 3/4%)] at the rate
25 or rates of the consideration given or contracted to be given for the
26 purchase or acquisition of the petroleum products and the
27 gallage, determined pursuant to subsection a. of section 3 of
28 P.L.1990, c.42 (C.54:15B-3) in accordance with the procedures set
29 forth in the "Petroleum Products Gross Receipts Tax Act,"
30 P.L.1990, c.42 (C.54:15B-1 et seq.).

31 b. A person who knowingly uses, or who conspires with an
32 official, agent or employee of a federal government department,
33 agency or instrumentality, for the use of, a requisition, purchase
34 order, or a card or an authority to which the person is not
35 specifically entitled by government regulations, with the intent to
36 obtain petroleum products from a federal government department,
37 agency or instrumentality for a use not specifically associated with
38 a federal government function or operation, upon which the
39 petroleum products gross receipts tax has not been paid, is guilty of
40 a crime of the fourth degree.

41 (cf: P.L.1991, c.19, s.2)

42

43 10. Section 3 of P.L.1991, c.19 (C.54:15B-10) is amended to
44 read as follows:

45 a. A federal government department, agency or instrumentality,
46 that purchases petroleum products other than by the first sale of that
47 product in this State for use in a federal government function or
48 operation, upon which petroleum products the petroleum products

1 gross receipts tax has been paid or is due and payable, shall be
2 reimbursed and paid an amount **【equivalent to two and three-**
3 **quarters percent (2 3/4%)】** at the rate or rates of the consideration
4 given or contracted to be given **【by the federal government**
5 **department, agency or instrumentality for the purchase of the**
6 **petroleum products】** , and the gallonage, determined pursuant to
7 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3).

8 b. The reimbursement shall be claimed by presenting to the
9 Director of the Division of Taxation in the Department of the
10 Treasury an application for the reimbursement, on a form prescribed
11 by the director, which application shall be verified by a declaration
12 of the applicant that the statements contained therein are true. Such
13 application for reimbursement shall be supported by an invoice, or
14 invoices, showing the name and address of the person from whom
15 the petroleum products were purchased, the name of the purchaser,
16 the date of purchase, the quantity of the product purchased, the
17 price paid for the purchase of the product, and an acknowledgment
18 by the seller that payment of the cost of the product to the seller,
19 including the petroleum gross receipts tax due thereon, has been
20 made. Such invoice, or invoices, shall be legibly written and shall
21 be void if any corrections or erasures shall appear on the face
22 thereof.

23 c. If petroleum products are sold to a federal government
24 department, agency or instrumentality that shall be entitled to a
25 reimbursement under this act, the seller of the petroleum products
26 shall supply the purchaser with an invoice that conforms with the
27 requirements of subsection b. of this section.

28 (cf: P.L.1991, c.19, s.3)

29

30 11. (New section) a. There is levied a tax on persons, other than
31 licensed companies pursuant to section 6 of P.L.1991, c.181
32 (C.54:15B-12), holding the fuels enumerated in subparagraph (a) of
33 paragraph (2) of subsection a. of section 3 of P.L.1990, c.42
34 (C.54:15B-3) in storage for sale as of the close of the first business
35 day following the date of enactment of P.L. , c. (C.) (pending
36 before the Legislature as this bill) by fifteen days on which tax has
37 previously been paid. The amount of tax shall be the difference
38 between the tax per gallon specified by subsection a. of section 3 of
39 P.L.1990, c.42 (C.54:15B-3) for the type of fuel and the tax
40 previously paid per gallon, multiplied by the gallons in storage of
41 that type of fuel as of the close of the business day on that day.

42 b. Persons in possession of those fuels in storage as of the close
43 of the first business day following the date of enactment of P.L. ,

44 c. (C.) (pending before the Legislature as this bill) by fifteen
45 days shall:

46 (1) take an inventory at the close of the business day on that
47 day;

1 (2) report the gallons listed in paragraph (1) of this subsection
2 on forms provided by the director, not later than 45 days following
3 the date of enactment of P.L. , c. (C.) (pending before the
4 Legislature as this bill) by fifteen days; and

5 (3) Remit the tax levied under this section to the director no
6 later than February 1, 2017.

7 c. Fuel not reflected in the inventory taken pursuant to
8 subsection b. of this section is deemed to be previously untaxed,
9 except to the extent that it is invoiced as delivered tax-paid on or
10 after July 1, 2016.

11 d. There is levied a tax on persons, other than licensed
12 companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),
13 holding the fuels enumerated in subparagraph (b) of paragraph (2)
14 of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in
15 storage for sale as of the close of the business day on December 31,
16 2016 on which tax has previously been paid. The amount of tax
17 shall be the difference between the tax per gallon specified by
18 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) for the
19 type of fuel and the tax previously paid per gallon, multiplied by the
20 gallons in storage of that type of fuel as of the close of the business
21 day on December 31, 2016.

22 e. Persons in possession of those fuels in storage as of the close
23 of the business day on December 31, 2016 shall:

24 (1) take an inventory at the close of the business day on
25 December 31, 2016;

26 (2) report the gallons listed in paragraph (1) of this subsection
27 on forms provided by the director, not later than January 31, 2017;
28 and

29 (3) Remit the tax levied under this section to the director no
30 later than August 1, 2017.

31 f. Fuel not reflected in the inventory taken pursuant to
32 subsection b. of this section is deemed to be previously untaxed,
33 except to the extent that it is invoiced as delivered tax-paid on or
34 after January 1, 2017.

35 g. In determining the amount of tax due under this section, a
36 person may exclude the amount of fuel in dead storage in each
37 storage tank

38 h. As used in this section:

39 "Close of the business day" means the time at which the last
40 transaction has occurred for that day.

41 "Dead storage" means the amount of fuel that cannot be pumped
42 out of a fuel storage tank because the motor fuel is below the mouth
43 of the draw pipe. The amount of motor fuel in dead storage is 200
44 gallons for a tank with a capacity of less than 10,000 gallons and
45 400 gallons for a tank with a capacity of 10,000 gallons or more.

46
47 12. (New section) Notwithstanding any provision of the
48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.) to the contrary, the director may adopt immediately upon
2 filing with the Office of Administrative Law such regulations as the
3 director deems necessary to implement the provisions of sections 6
4 through 11 of P.L. , c. (pending before the Legislature as this
5 bill), which regulations shall be effective for a period not to exceed
6 360 days following the date of enactment of P.L. , c. (pending
7 before the Legislature as this bill) and may thereafter be amended,
8 adopted, or readopted by the director in accordance with the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.).

11

12 13. (New section) a. The State Treasurer, and the Legislative
13 Budget and Finance Officer, together with a third public member
14 who shall be jointly selected thereby, shall constitute the review
15 council.

16 b. The review council shall, on or before January 15, 2020,
17 provide the Governor and the Legislature with an advisory report of
18 their consensus estimate of the increase or decrease in State
19 revenues pursuant to each section of P.L. , c. (C.) (pending
20 before the Legislature as this bill), and pursuant to this act as a
21 whole, during the preceding three State fiscal years, including a
22 comparison of those estimates to the legislative fiscal estimate or
23 fiscal note published contemporaneous with the enactment of this
24 act prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

25 c. The review council shall conduct an ongoing review of the
26 application of each section of P.L. , c. (C.) (pending before
27 the Legislature as this bill).

28 The review council shall, not later than five days after any
29 Legislative action that halts, delays, or reverses the implementation
30 of those sections as scheduled on the date of enactment of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), certify to
32 the Director of the Division of Taxation that the scheduled
33 implementation of P.L. , c. (C.) had been impeded.

34

35 14. This act shall take effect immediately, section 5 shall apply
36 to taxable years beginning on or after January 1, 2017, and sections
37 6 through 10 shall apply to first sales of petroleum products within
38 this State and to deliveries of petroleum products for use or
39 consumption within this State made on or after July 1, 2016.

40

41

42

STATEMENT

43

44 This bill adjusts various State taxes towards the end of
45 supporting strengthened investments in public, private and
46 charitable assets in this State.

47

The various changes in State taxes are described as follows:

- 1 • Section 1: Phases out the estate tax over four years, first by
2 replacing the current \$675,000 threshold with a \$1,000,000
3 exclusion, and then increasing that exclusion amount until
4 the tax is eliminated.

5 The current New Jersey estate tax is determined by reference to a
6 repealed federal credit against a system of federal estate taxation
7 that no longer exists. The former federal credit was part of a
8 national revenue-sharing policy, no longer in effect, that was
9 originally designed to provide a portion to states of what would
10 otherwise have been a high-rate federal tax. Because the mechanics
11 of the current tax are a remnant of that former federal imposition,
12 the New Jersey estate tax is initially imposed at a rate of 37 percent
13 until all the tax that would have been imposed on the value of the
14 estate below \$675,000 is made up. Under the current tax, that
15 highest rate is imposed on even the smallest estates subject to tax.

16 This bill eliminates that tax rate “bump” by abandoning the
17 references to the old federal credit and establishing the necessary
18 mechanics under New Jersey law. This allows the bill to replace
19 the former \$675,000 tax threshold with a true tax exclusion, initially
20 set at \$1,000,000 for the estates of resident decedents dying on or
21 after January 1, 2017. The bill increases the exclusion amount to
22 \$2,000,000 for 2018, and \$3,000,000 for 2019. For decedents dying
23 on or after January 1, 2020, the bill provides that there will be no
24 tax imposed.

25 The bill imposes the estate tax on the New Jersey property of
26 nonresident decedents. Currently, the estate tax is only imposed on
27 the property of resident decedents. The bill uses a “ratio” method:
28 the estate of a nonresident computes estate tax as though a State
29 resident, then pays the proportion of that liability that the estate’s
30 New Jersey property is of the estate’s total property. This change
31 takes effect for nonresident decedent estates January 1, 2017, and
32 ceases on January 1, 2020 along with the tax on resident estates.

33

- 34 • Sections 2 and 3: Increase the New Jersey gross income tax
35 pension and retirement income exclusions fivefold over four
36 years. This is intended to reduce the capacity of the State’s
37 personal income tax to diminish the after-tax retirement
38 income available to retired taxpayers in this State.

39 Generally under current law, taxpayers with \$100,000 or less of
40 annual income, who are at least 62 years old, may claim a pension
41 and retirement income exclusion of up to \$20,000 for joint filers,
42 \$15,000 for individuals, and \$10,000 for married but filing
43 separately.

44 This bill increases the personal income tax’s pension and
45 retirement income exclusion to \$100,000 for joint filers, \$75,000
46 for individuals, and \$50,000 for married but filing separately. The
47 bill phases in the five-fold exclusion increase over four years as
48 follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

1 Currently, the pension and retirement income exclusions are not
 2 allowed to a taxpayer who has gross income of more than \$100,000
 3 for the taxable year. For taxable years beginning on or after
 4 January 1, 2021, the bill allows a taxpayer with income of more
 5 than \$100,000 but not over \$125,000 to exclude 50 percent of the
 6 amount of pension and retirement income otherwise allowed and a
 7 taxpayer with more than \$125,000 but not more than \$150,000 of
 8 gross income to exclude 25 percent of the amount otherwise
 9 allowed.

10

- 11 • Section 4: Increases the New Jersey Earned Income Tax
 12 Credit (NJ EITC) to 40 percent of the federal benefit amount
 13 beginning in Tax Year 2016. The NJ EITC program, which
 14 piggy-backs on the federal EITC program, currently
 15 provides a refundable earned income tax credit under the
 16 State gross income tax equal to 30 percent of the federal
 17 benefit amount.

18 The federal and State EITC programs are intended to “make
 19 work pay” by offsetting the burden of payroll taxes for low and
 20 moderate income workers.

21 To claim a credit, taxpayers must first file for the federal EITC.
 22 Eligibility for the program is determined by taxpayer income, filing
 23 status, and the number of qualifying children. For Tax Year 2016,
 24 the federal Internal Revenue Service has indicated, the following
 25 program limits:

26

Maximum Income Eligibility Levels				
If filing ...	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	\$14,880	\$39,296	\$44,648	\$47,955
Married Filing Jointly	\$20,430	\$44,846	\$50,198	\$53,505

27

28 According to the New Jersey Department of the Treasury, it is
 29 estimated that some 552,900 taxpayers claimed a credit during TY
 30 2014, the most recent year for which data are available. Based on
 31 available federal Internal Revenue Service data, it is estimated that
 32 under the bill, the average NJ EITC benefit amount will increase by
 33 \$255, from \$708 in TY 2015 to approximately \$963 in TY 2016.

- 1 • Section 5: Allows a New Jersey gross income tax deduction
2 for cash charitable contributions that are made to certain
3 charitable agencies and organizations that primarily provide
4 health, welfare, or human care services to individuals in
5 New Jersey and that are eligible to participate in annual
6 State charitable fund-raising campaigns in this State.

7 New Jersey gross income taxpayers will be allowed to deduct from
8 gross income cash charitable contributions that are made during the
9 taxable year to a qualified charitable agency or fund-raising
10 organization. The agencies and organization will be those that are
11 already qualified and participating in the annual New Jersey
12 Employees Charitable Campaign under current law and regulations
13 but will only include those groups that primarily provide health,
14 welfare, or human care services to individuals in this State.

15 To assist the Director of the Division of Taxation in determining
16 which agencies and organizations meet those criteria, the bill
17 establishes a “Charity Advisory Council” comprising the
18 Commissioners of Human Services, Children and Families, Health
19 and Community Affairs (or their designees) and four public
20 members, individuals actively engaged in providing health, welfare,
21 or human care services to individuals in New Jersey, one each
22 appointed by the Senate President, the Speaker of the General
23 Assembly, the Senate Minority Leader, and the Assembly Minority
24 Leader. The council will annually advise the director.

25

- 26 • Sections 6 through 12: Concern an increase in the petroleum
27 products gross receipts tax rates, which, either by statutory
28 or constitutional dedication, will finance funding for the
29 State’s transportation infrastructure.

30 Currently, the petroleum products tax is imposed at the rate of
31 2¾ percent on gross receipts from the first sale of petroleum
32 products in New Jersey. In the case of motor fuels, aviation fuels,
33 and heating fuels (home heating fuels are exempt) this rate is
34 converted to \$0.04 per gallon.

35 This bill increases the base rate on petroleum products other than
36 highway fuels to 7 percent of gross receipts, and increases the base
37 rate on highway fuels to 12.5 percent of gross receipts.

38 The 12.5 percent tax on gasoline, gasoline equivalents and
39 liquefied petroleum gas is converted to a cents-per-gallon rate based
40 on the retail price of gasoline before the imposition of State and
41 federal tax. The 12.5 percent tax on diesel fuel, diesel fuel
42 equivalents and kerosene (other than aviation grade kerosene, which
43 is treated separately), is converted to a cents-per-gallon rate based
44 on the retail price of number 2 diesel before tax. Initially, the diesel
45 and kerosene rate will be zero; on and after January 1, 2017 it will
46 be 70 percent of the 12.5 percent rate, and on and after July 1, 2017
47 it will be taxed at the 12.5 percent rate. These rates can be adjusted
48 quarterly, but cannot fall below the rates determined for the quarter

1 beginning July 1, 2016, and cannot exceed a rate based of a pretax
2 cost of \$3 per gallon.

3 The 7 percent tax on fuel oil is converted to a cents-per-gallon
4 rate based on the pretax retail price of number 4 fuel oil. These
5 rates can be adjusted quarterly, but cannot fall below the rates
6 determined for the quarter beginning July 1, 2016.

7 Initially, the highway fuels will be subject to an additional cents-
8 per-gallon rate of four cents. On and after July 1, 2017 the
9 additional rate on diesel fuel and kerosene will be raised to eight
10 cents per gallon.

11 Aviation fuel (aviation gasoline and aviation grade kerosene) is
12 currently subject to tax but use of the fuel by common carriers in
13 interstate commerce is exempt except for the “burnout” portion
14 used in takeoff. This bill eliminates that exemption for common
15 carriers and imposes tax on all aviation fuel. The 7 percent tax on
16 aviation fuel is converted to a cents-per-gallon rate based on the
17 pretax prices paid by commercial consumers. This rate can be
18 adjusted annually, but cannot change more than 5 percent from the
19 previous year.

20

- 21 • Section 13: Establishes a three-member review council,
22 composed of the State Treasurer, the Legislative Budget and
23 Finance Officer, and a third public member selected by both.
- 24 • Requires that the Governor and the Legislature receive by
25 January 15, 2020, the council’s report of the consensus
26 estimate of the increase or decrease in State revenues caused
27 by each section of this bill during the three prior fiscal years
28 compared to the estimates at the time of enactment.
- 29 • Requires the review council to monitor the actions
30 Legislature on an ongoing basis for interference with the
31 implementation of the provisions of the bill. If
32 implementation is impeded, (by, for example, extending a
33 phase-in, freezing a phase-out at a particular level, or
34 repealing one of the bill’s provisions), the council would
35 certify this interference to the Director of the Division of
36 Taxation. This certification triggers the cessation of
37 imposition of one of the components of the petroleum
38 products gross receipts tax, and collection of that part of the
39 tax ends.