Sponsored by:
Senator STEVEN V. OROHO
District 24 (Morris, Sussex and Warren)
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District 36 (Bergen and Passaic)

Co-Sponsored by:
Senators O'Scanlon, Singleton and Testa

SYNOPSIS
Requires State Treasurer to issue report concerning New York’s taxation of New Jersey residents’ income.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT requiring the State Treasurer to issue a report concerning New York’s taxation of New Jersey residents’ income.

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

1. The Legislature finds and declares that:
   a. Thousands of New Jersey residents, many of whom work from home, have New York income taxes taken from their paychecks because their employers are located in the State of New York.
   b. New Jersey allows those residents to claim a tax credit against their New Jersey income tax liability for the taxes they paid to New York, so that their income is not taxed again.
   c. It is grossly inequitable that the State of New York receives and retains income tax revenue from New Jersey residents who may only infrequently and sporadically travel to New York to conduct business.
   d. The inequity extends to New Jersey residents who may be required to pay higher New York income tax rates.
   e. Current inequities have been growing over time as technology improvements have allowed New York businesses to decrease office space available to New Jersey residents working in New York and effectively use New Jersey’s infrastructure and services as support for their employees.
   f. Current inequities have further been exacerbated by COVID-19, which is hastening the trend of New Jersey residents no longer truly working in New York and New York businesses downsizing New York office space available to New Jersey residents.
   g. With creativity and affirmative steps, the State Treasurer and the Division of Taxation could increase revenues available to the State of New Jersey and reduce New Jersey residents’ income tax liabilities if New Jersey aggressively sought to protect against the State of New York from gaming the tax system in a manner that drains revenue from the pockets of the New Jersey residents and syphons money away from the State of New Jersey’s budget.

2. Within six months following the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), the State Treasurer shall submit a report to the Legislature in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1) concerning New York’s taxation of New Jersey residents’ income. The State Treasurer may contract with a third party to prepare all or a portion of the report.

   a. an explanation of efforts the State has taken to address the inequity of New York’s taxation of New Jersey resident’s income, including any State efforts to educate New Jersey residents and New York employers of the possible illegality of New York’s taxation of
New Jersey residents who, because of necessity and as required by their employers, are working from their homes in New Jersey;

b. the estimated total credits the State has granted, or will grant, to New Jersey residents for income taxes paid to New York and its political subdivision in each tax year beginning with Tax Year 2011 and ending with Tax Year 2020;

c. a discussion of steps that the State may take to protect the State of New Jersey’s public fisc, and the paychecks of New Jersey residents, from New York and its political subdivisions’ taxing authority;

d. an estimate of New Jersey residents’ tax savings should the State be able to shift residents’ income tax payments from New York and its political subdivisions to New Jersey;

e. a discussion of any New Jersey, New York, or other state or federal statutory or case law impediments to successfully achieving equitable taxation of New Jersey commuters working for employers in New York;

f. an analysis of how other states and jurisdictions address the tax implications of residents living in one state and commuting to another;

g. a discussion of the State’s efforts to participate in the litigation between the State of New Hampshire and the Commonwealth of Massachusetts concerning Massachusetts’ taxation of New Hampshire residents, or if no efforts have been made, an explanation of why not; and

h. recommendations as to how the State may resolve the inequitable tax treatment of New Jersey commuters working for employers in New York.

3. This act shall take effect immediately.

STATEMENT

This bill requires the State Treasurer to issue a report to the Legislature concerning New York’s taxation of New Jersey resident’s income. The report is required to include:

(1) an explanation of efforts the State has taken to address the inequity of New York’s taxation of New Jersey residents’ income,

(2) the estimated total credits the State has granted, or will grant, to New Jersey residents for income taxes paid to New York in each tax year beginning with Tax Year 2011 and ending with an estimate for Tax Year 2020,

(3) a discussion of steps that the State may take to protect the State of New Jersey’s public fisc, and the paychecks of New Jersey residents, from New York and its political subdivisions taxing authority,
(4) an estimate of New Jersey residents’ tax savings should the
State be able to shift residents’ income tax payments from New York
and its political subdivisions to New Jersey,
(5) a discussion of any state or federal statutory or case law
impediments to successfully achieving equitable taxation of New
Jersey commuters working for employers in New York,
(6) an analysis of how other states and jurisdictions address the tax
implications of residents living in one state and commuting to another,
(7) a discussion of the State’s efforts to participate in the litigation
between the State of New Hampshire and the Commonwealth of
Massachusetts concerning Massachusetts’ taxation of New Hampshire
residents, and
(8) recommendations as to how the State may resolve the
inequitable tax treatment of New Jersey commuters working for
employers in New York.
The State Treasurer is permitted to contract with a third party to
prepare all or a portion of the report. The report is to be delivered
within six months of the bill’s enactment.