

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

July 2, 2012

ASSEMBLY BILL NO. 3201

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3201 with my recommendations for reconsideration.

For the third time in three years, the Legislature has wasted valuable time pursuing a misguided policy for our State: raising income taxes on individuals and businesses, instead of lowering them as dictated by common sense. As I vowed during my candidacy, reaffirmed after my election, wrote in my Absolute Veto of Assembly Bill No. 10 two years ago, and reiterated in my Absolute Veto of Assembly Bill No. 4202 last year, I will not permit the State to relapse by succumbing to the legislative majority's enduring addiction to profligate taxing and spending. Those policies ended with my election and they certainly will not be returning again while I am Governor.

Like a rite of summer, this year's bill attempts to increase the tax rate imposed upon individuals and businesses with taxable gross incomes exceeding \$1,000,000 from the current rate of 8.97% to a new rate of 10.75% beginning with taxable year 2012. Not satisfied with a "temporary" tax increase as in the past, this bill - if signed into law - would effectuate a non-expiring, permanent rate increase, conditioned upon the enactment of separate legislation, Assembly Bill No. 3202, which I am separately vetoing today. I also have vetoed Assembly Bill No. 3029, which would have increased the Earned Income Tax Credit to provide relief to only a subset of New Jersey's overburdened taxpayers.

I take these actions because all of our taxpayers are already subject to one of the highest state income tax rates in the nation. New Jersey residents saw their taxes and fees raised 115 times over the eight years prior to my taking office.

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No sensibly crafted economic policy would continue to compel the exodus of our strongest businesses and most successful individuals to states all across America with more competitive tax environments. I cannot allow this job-killing tax increase on high earners and small businesses.

Instead, we should be lowering taxes for all New Jerseyans. To that end, I am recommending that this bill be amended and broadened in order to more appropriately and responsibly stimulate New Jersey's economy, improve its tax climate, and build upon the momentum that has already begun to manifest itself as the New Jersey Comeback. The tax cut proposal I recommend should have bipartisan appeal, as it extends tax relief broadly through a refundable gross income tax credit available to resident homeowners with \$400,000 or less of taxable income. For purposes of the income cap calculation, income from small businesses such as that declared on Schedule C of the federal 1040 gross income tax form is excluded.

Under my recommendations, the credit would be phased in over four taxable years. For taxable years beginning in 2012, the credit will be set at \$100, while for taxable years beginning in 2013 the credit will be four percent of the first \$10,000 of property tax paid on the qualified homeowner's principal residence. For taxable years beginning in 2014, the credit will be eight percent of the first \$10,000 of property tax paid on the qualified homeowner's principal residence, and for taxable years beginning in 2015 or thereafter the credit will be ten percent of the first \$10,000 of property tax paid on the qualified homeowner's principal residence.

Additionally, effective taxable year 2013, the benefit amounts provided under the New Jersey Earned Income Credit (EIC) program will be increased from 20 percent to 25 percent of the

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federal Earned Income Tax Credit (EITC) amounts. Finally, my recommendations include increasing the value of the current gross income tax credit for homestead property taxes, which is sometimes referred to as the "renter's credit," from \$50 to \$100 for taxable years beginning in 2013; to \$150 for taxable years beginning in 2014; and to \$200 for taxable years beginning in 2015 and thereafter.

I believe that the taxpayers of the State of New Jersey have earned and deserve broad-based tax relief now. Accordingly, I herewith return Assembly Bill No. 3201 and recommend that it be amended as follows:

Page 2, Title, Line 1:
After "AN ACT" insert
"concerning property tax
relief,"

Page 2, Title, Lines 1-2:
Delete "the gross income tax
rate on taxable income
exceeding \$1,000,000,
amending N.J.S.54A:2-1" and
insert "benefit amounts under
the New Jersey earned income
credit program, amending
P.L.1996, c.60 and P.L.2000,
c.80,"

Page 2, Section 1, Lines 8-44:
Delete in their entirety

Page 3, Section 1, Lines 1-48:
Delete in their entirety

Page 4, Section 1, Lines 1-45:
Delete in their entirety

Page 5, Section 1, Lines 1-47:
Delete in their entirety

Page 6, Section 1, Lines 1-47:
Delete in their entirety

Page 7, Section 1, Lines 1-48:
Delete in their entirety

Page 8, Section 1, Lines 1-48:
Delete in their entirety

Page 9, Section 1, Lines 1-8:
Delete in their entirety and
insert "1. Section 6 of
P.L.1996, c.60 (C.54A:3A-20)
is amended to read as
follows: 6. a. (1)
Notwithstanding any provision
of this act to the contrary,
commencing with the
taxpayer's taxable year
beginning on or after January
1, 1996: (a) a taxpayer; or
(b) a resident of this State
who is 65 years of age or
older at the close of the
taxable year or who is
allowed to claim a personal
deduction as a blind or

disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1 but who, pursuant to N.J.S.54A:2-4, is not subject to tax; and, who paid property taxes or rent constituting property taxes on a homestead during the calendar year may elect to take a credit instead of the deduction provided pursuant to [section] sections 3, 4, or 5 of P.L.1996, c.60 (C.54A:3A-17 et seq.) in the amount of \$50, subject to the provisions of [paragraph] paragraphs (2) and (3) of this subsection. (2)

Notwithstanding the provisions of paragraph (1) of this subsection, the amount of tax liability reduction or credit allowed for the taxpayer's taxable year beginning during 1996 shall be \$25 and the amount of tax liability reduction or credit allowed for the taxpayer's taxable year beginning during 1997 shall be \$37.50. (3)

Notwithstanding the provisions of paragraph (1) of this subsection, for taxable years beginning on or after January 1, 2013, but before January 1, 2014 the amount of the credit allowed pursuant to this section shall be \$100. For taxable years beginning on or after January 1, 2014, but before January 1, 2015 the amount of the credit allowed pursuant to this section shall be \$150. For taxable years beginning on or after January 1, 2015, the amount of the credit allowed pursuant to this section shall be \$200.

b. A husband and wife who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall each be entitled to one-half of the credit allowed pursuant to subsection a. of this section.

c. The credit shall be paid to the taxpayer as a refund of overpayment pursuant to N.J.S.54A:9-7, provided however, that subsection (f) of that section shall not apply. The credit for a claimant qualified under subsection a. of this section

who, pursuant to N.J.S.54A:2-4, is not subject to tax, shall be applied for annually on an application as shall be made available by the director, to be filed with the director on or before the date for filing annual gross income tax returns. The director shall determine the form and manner by which a qualified applicant shall apply for a refund of an overpayment pursuant to this section, and the time of the refund of the overpayment. For the purposes of this section, refunds of overpayments may be combined with payments of rebates pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.).

d. Notwithstanding the provisions of subsection a. of this section, for taxable years beginning on or after January 1, 2012 no taxpayer or resident that is allowed a New Jersey direct property tax relief credit pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) for the taxable year shall be allowed a credit pursuant to this section for the taxable year. (cf: P.L.1996, c.60, s.6)"

Page 9, Section 2, Lines 10-46:

Delete in their entirety and insert: "2. (New section) a. There is established the New Jersey Direct Property Tax Relief Program. For taxable years beginning on or after January 1, 2012, a qualified homeowner shall be allowed a New Jersey direct property tax relief credit against the tax liability otherwise due for the taxable year pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and payments. If the New Jersey direct property tax relief credit exceeds the amount of tax liability otherwise due, that amount of excess shall be refunded as an overpayment pursuant to N.J.S.54A:9-7, provided, however, that subsection (f) of N.J.S.54A:9-7, concerning interest shall not apply.

b. For taxable years beginning on or after January 1, 2012, but before January 1, 2013, a qualified

homeowner with \$400,000 or less of taxable income for the taxable year shall be allowed a New Jersey direct property tax relief credit in the amount of \$100.

c. For taxable years beginning on or after January 1, 2013, a qualified homeowner with \$400,000 or less of taxable income for the taxable year shall be allowed a New Jersey direct property tax relief credit in an amount equal to a percentage of the amount of property tax due and paid by the qualified homeowner for the qualified homeowner's home in the taxable year. Provided, however, that the amount of property tax due and paid that is considered for purposes of calculating the amount of the New Jersey direct property tax relief credit for the taxable year shall not exceed \$10,000 per qualified homeowner and the individual, if any, with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1.

For taxable years beginning on or after January 1, 2013, but before January 1, 2014, the percentage of the amount of property tax due and paid for purposes of calculating the amount of the New Jersey direct property tax relief credit shall be four percent.

For taxable years beginning on or after January 1, 2014, but before January 1, 2015, the percentage of the amount of property tax due and paid for purposes of calculating the amount of the New Jersey direct property tax relief credit shall be eight percent.

For taxable years beginning on or after January 1, 2015, the percentage of the amount of property tax due and paid for purposes of calculating the amount of the New Jersey direct property tax relief credit shall be ten percent.

d. (1) For purposes of determining a qualified

homeowner's eligibility for a New Jersey direct property tax relief credit pursuant to this section and relative to the limits on taxable income for the taxable year:

taxable income shall be calculated without the net profits from a business that would otherwise be included in that calculation pursuant to subsection b. of N.J.S. 54A:5-1;

a qualified homeowner's taxable income for the taxable year shall be deemed to include the taxable income for the taxable year of an individual with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1; and

if the individual with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1, is not a resident, the qualified homeowner's taxable income for the taxable year shall be calculated as if the individual with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1, were a resident for the taxable year.

(2) A New Jersey direct property tax relief credit allowed pursuant to subsection c. of this section shall be allowed in relation to the amount of the property taxes actually paid by or allocable to a qualified homeowner who has more than one home, but the aggregate amount of the property taxes claimed shall not exceed the total of the proportionate amounts of property taxes assessed and levied against or allocable to each home for the portion of the taxable year for which the qualified

homeowner occupied the home as the qualified homeowner's principal residence.

(3) If title to a home is held by more than one individual as joint tenants or tenants in common, each qualified homeowner shall be allowed a New Jersey direct property tax relief credit only in relation to the qualified homeowner's proportionate share of the property taxes assessed and levied against the home. The proportionate share shall be equal to that of all other individuals who hold the title, but if the conveyance under which the title is held provides for unequal interests therein, a qualified homeowner's share of the property taxes shall be in proportion to the qualified homeowner's interest in the title.

(4) If title to a home is held by a husband and wife who own the home as tenants by the entirety, or if that husband and wife are both residential shareholders of a cooperative or mutual housing corporation and occupy the same home therein, and who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that husband and wife shall each be entitled to one-half of the New Jersey direct property tax relief credit for which they may be jointly eligible pursuant to this section.

(5) If a qualified homeowner's home consists of more than one unit, the qualified homeowner's New Jersey direct property tax relief credit allowed pursuant to subsection c. of this section shall be allowed only in relation to the proportionate share of the property taxes assessed and levied against the residential unit occupied by the qualified homeowner, as determined by the local tax assessor.

e. The Director of the Division of Taxation in the Department of the Treasury shall adopt rules and

regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as the director determines is necessary to implement P.L. , c. (pending before the Legislature as this bill).

The director shall implement a simplified application process for the New Jersey direct property tax relief credit for qualified homeowners that are not required to file a gross income tax return pursuant to N.J.S.54A:8-3.1.

f. As used in this section:

"Condominium" means the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

"Continuing care retirement community" means a residential facility primarily for retired persons where lodging and nursing, medical or other health related services at the same or another location are provided as continuing care to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges.

"Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association.

"Dwelling house" means any residential property assessed as real property which consists of not more than four units, of which not more than one may be used for commercial purposes, but shall not include a unit in a condominium, cooperative,

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horizontal property regime,
or mutual housing
corporation.

"Home" means a qualified
homeowner's principal
residence in New Jersey that
qualifies as one of the
following types of
homesteads:

(1) a dwelling house and the
land on which that dwelling
house is located;

(2) a dwelling house situated
on land owned by a person
other than the qualified
homeowner which constitutes
the place of the qualified
homeowner's dwelling house;

(3) a condominium unit or a
unit in a horizontal property
regime which constitutes the
place of the qualified
homeowner's condominium unit
or unit in a horizontal
property regime;

(4) a homestead where
ownership is represented by
the qualified homeowner's
interest as a tenant for life
or a tenant under a lease for
99 years or more and the
qualified homeowner is
entitled to and actually
takes possession of the
homestead under an executory
contract for the sale thereof
or under an agreement with a
lending institution which
holds title as security for a
loan, or a resident of a
continuing care retirement
community pursuant to a
contract for continuing care
for the life of that person
which requires the resident
to bear, separately from any
other charges, the
proportionate share of
property taxes attributable
to the unit that the resident
occupies; and

(5) a unit in a cooperative
or mutual housing corporation
which constitutes the place
of domicile of a residential
shareholder or lessee
therein, or of a lessee or
shareholder who is not a
residential shareholder
therein.

"Horizontal property regime"
means the form of real
property ownership provided
for under the "Horizontal

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Property Act," P.L.1963,
c.168 (C.46:8A-1 et seq.).

"Mutual housing corporation" means a corporation not-for-profit, incorporated under the laws of this State on a mutual or cooperative basis within the scope of section 607 of the Lanham Public War Housing Act ("National Defense Housing Act"), Pub.L. 76-849 (42 U.S.C. s.1587), as amended, which acquired a National Defense Housing Project pursuant to that act.

"Principal residence" means a home actually and continually occupied by a qualified homeowner as the qualified homeowner's residence, as distinguished from a "vacation home," property owned and rented or offered for rent by the qualified homeowner, and other secondary real property holdings.

"Property tax" means payments to a municipality for which an assessment by a municipality has been made on an ad valorem basis on land and improvements, and shall not include payments made in lieu of taxes.

"Qualified homeowner" means a resident of the State that owns a home in New Jersey which is the resident's principal residence.

"Residential shareholder" means a tenant or holder of a membership interest in a cooperative or mutual housing corporation and who may deduct real property taxes for purposes of federal income tax pursuant to section 216 of the federal Internal Revenue Code (26 U.S.C. s.216)."

Page 10, Line 1:
Insert new Section 3: "3. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read as follows: 2. There is established the New Jersey Earned Income Tax Credit program in the Division of Taxation in the Department of the Treasury.

a. (1) A resident individual who is eligible for a credit under section 32 of the federal Internal Revenue Code

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

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

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

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

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

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

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

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

(g) 20% for taxable years beginning on or after January 1, 2010 but before January 1, 2013; and

(h) 25% for taxable years beginning on or after January 1, 2013.

(3) To qualify for the New Jersey earned income tax credit, if the claimant is

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

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

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

d. The Director of the Division of Taxation in the Department of the Treasury shall have discretion to establish a program for the distribution of earned income

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tax credits pursuant to the provisions of this section.

e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance or the amount or extent of benefits or assistance under any State program and, to the extent permitted by federal law, under any State program financed in whole or in part with federal funds. (cf: P.L.2010, c.27. s.1)"

Page 10, Section 3, Line 1:

Delete "3." and insert "4."

Page 10, Section 3, Line 1:

Delete ", but shall remain" and insert "."

Page 10, Section 3, Lines 2-4:

Delete in their entirety

Respectfully,

/s/ Chris Christie

[seal]

Governor

Attest:

/s/ Charles B. McKenna

Chief Counsel to the Governor