

AMENDED IN ASSEMBLY MAY 3, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2128**

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**Introduced by Assembly Member Torrico**

February 21, 2006

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An act to add and repeal Sections 17053.67 and 23601 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2128, as amended, Torrico. Tax: credits: commuter benefits.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2007, and before January 1, ~~2017~~, for 2018, the costs incurred by a qualified taxpayer, as defined, to provide commuter benefits, as defined, to its employees.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.67 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.67. (a) For each taxable year beginning on or after
- 4 January 1, 2007, and before January 1, ~~2017~~ 2018, there shall be

1 allowed as a credit against the “net tax,” as defined in Section  
 2 17039, an amount equal to 60 percent of the costs incurred by a  
 3 qualified taxpayer in providing commuter benefits, as defined in  
 4 paragraph (1) of subdivision (d), to the qualified taxpayer’s  
 5 employees, subject to the limitations set forth in subdivision (b).

6 (b) (1) The credit allowed by subdivision (a) shall not apply to  
 7 any amount of commuter benefits paid for by a qualified  
 8 passenger of the qualified taxpayer, even if the taxpayer later  
 9 chooses to reimburse the qualified passenger for that amount.

10 (2) ~~The qualified~~ amount spent by a qualified taxpayer on  
 11 commuter benefits for each qualified passenger shall not exceed  
 12 the amount allowed under Section 132(f) of the Internal Revenue  
 13 Code and the regulations promulgated thereunder, excluding the  
 14 required qualified passenger contribution.

15 (c) A qualified passenger of a qualified taxpayer shall  
 16 contribute towards the purchase price of a mass transit pass at  
 17 least 20 percent of the total price of the mass transit pass. That  
 18 amount shall be paid electronically to the owner of a qualified  
 19 mass transit or his or her authorized agent.

20 (d) For purposes of this section:

21 (1) “Commuter benefits” means the cost of a transit pass,  
 22 commuter voucher, or similar item issued by a privately or  
 23 publicly owned ~~qualified~~ mass transit to a qualified taxpayer  
 24 entitling a qualified passenger, who works for the qualified  
 25 taxpayer, to transportation to and from work.

26 (2) “Commuter route” means a path used at a specific time by  
 27 a qualified passenger to travel to the place of employment at the  
 28 beginning of a workday and to travel back home at the end of the  
 29 workday.

30 ~~(3) “Commuter” means an individual driving, riding, or~~  
 31 ~~performing other physical means of transportation from an initial~~  
 32 ~~start location of their residence to the final destination of their~~  
 33 ~~place of employment.~~

34 ~~(4)~~

35 (3) “Qualified mass transit” means a motorized vehicle  
 36 designed to carry, and capable of carrying, 16 or more  
 37 commuters.

38 ~~(5) (A)~~

39 (4) “Owner of qualified mass transit” means an individual,  
 40 organization, or company that operates or manages the operation

1 of a motorized vehicle designed to carry, and capable of carrying,  
2 16 or more passengers for a specific commuter route that satisfies  
3 all of the following:

4 (i)

5 (A) The owner provides proof to the qualified taxpayer that the  
6 motorized vehicle is capable of carrying 16 or more passengers  
7 and does not violate ~~clause (v) of this subparagraph~~  
8 *subparagraph (E)*.

9 (ii)

10 (B) The owner does not receive funds from state or local  
11 government for the qualified mass transit.

12 (iii)

13 (C) The owner participates in the commuter benefits credit  
14 program.

15 (iv)

16 (D) The owner is not the qualified taxpayer claiming the credit  
17 under this section.

18 (v)

19 (E) The owner does not operate a commuter route on an  
20 “existing publicly funded mass transit commuter route” as  
21 defined in ~~paragraph (9) (8)~~.

22 (F) *The motorized vehicle that is used as the qualified mass*  
23 *transit is registered annually with the Department of Motor*  
24 *Vehicles as a qualified mass transit as it pertains to this section.*

25 (G) *The owner is the titleholder, possessor, or otherwise*  
26 *maintains ownership of the motorized vehicle that is used as the*  
27 *qualified mass transit.*

28 (vi)

29 (H) The owner of a qualified mass transit, or his or her  
30 authorized agent, ~~annually, on or before April 15 of each~~  
31 ~~calendar year, remits to the Franchise Tax Board as a condition~~  
32 ~~of annual registration with the Department of Motor Vehicles,~~  
33 ~~remits to the Department of Motor Vehicles the lesser of the~~  
34 following:

35 (i)

36 (i) The amount equal to the amount of tax credit claimed by a  
37 qualified taxpayer under this section in that taxable year with  
38 respect to the commuter benefits paid by the qualified taxpayer to  
39 the owner of the qualified mass transit or his or her authorized  
40 agent.

1     ~~(H)~~  
 2     (ii) The amount equal to the applicable percentage of the  
 3 commuter benefits paid by all participating qualified taxpayers to  
 4 the owner of the qualified mass transit or his or her authorized  
 5 agent.

6     ~~(6)~~  
 7     (5) (A) “Applicable percentage” means the total number of  
 8 qualified passengers per commuter route using the service  
 9 provided by the owner of the qualified mass transit for services  
 10 during the specified calendar month, according to the table  
 11 below:

	# of Qualified Passengers	Applicable Percentage
13	16	2.0%
14	17	4.6%
15	18	9.5%
16	19	14.0%
17	20	18.0%
18	21	21.5%
19	22	25.0%
20	23	28.0%
21	24	31.0%
22	25	34.0%
23	26	37.0%
24	27	40.0%
25	28	42.0%
26	29	44.0%
27	30	49.0%
28	31	54.0%
29	32	55.0%
30	33	56.0%
31	34	57.0%
32	35	58.0%
33	36	59.0%
34	37	60.0%
35	38	61.0%
36	39	63.0%
37	40	64.0%
38	41	65.0%
39		
40		

1	42	66.0%
2	43	67.0%
3	44	68.0%
4	45	69.0%
5	46	70.0%
6	47	71.0%
7	48	72.0%
8	49 or more	75.0%

10 (B) The number of qualified passengers shall be calculated  
 11 based on the actual number of qualified passengers that paid for  
 12 the services provided by the owner of the qualified mass transit  
 13 for a definite commuter route over a reported calendar month.

14 (C) The state shall not be required to reimburse the owner of a  
 15 qualified mass transit or his or her authorized agent for any  
 16 amount that was remitted by the owner of the qualified mass  
 17 transit to the state but was not claimed by the qualified taxpayer  
 18 as a tax credit under this section.

19 ~~(7)~~

20 (6) “Qualified passenger” means an employee of a qualified  
 21 taxpayer who receives a commuter benefit from the qualified  
 22 taxpayer and uses the services of an owner of a qualified mass  
 23 transit for commuting *to* and from work and their residence.

24 ~~(8)~~

25 (7) “Qualified taxpayer” means a taxpayer that satisfies all of  
 26 the following conditions:

- 27 (A) Is an employer.
- 28 (B) Provides commuter benefits for qualified passengers.
- 29 (C) Pays directly to the owner of a qualified mass transit or his  
 30 or her authorized agent for the cost of a transit pass, commuter  
 31 voucher, or similar item for a qualified passenger.
- 32 (D) Distributes payment by the qualified passenger for the  
 33 mass transit pass in combination with the commuter benefits  
 34 issued by the qualified taxpayer.
- 35 (E) Makes payment to the owner of a qualified mass transit in  
 36 electronic format.
- 37 (F) (i) Subsidizes the costs of publicly funded mass transit  
 38 passes, of equal value, for those employees who utilize publicly  
 39 funded mass transit.

1 (ii) The subsidy shall be remitted electronically by a qualified  
2 taxpayer and a qualified passenger to the owner of a publicly  
3 funded mass transit or his or her authorized agent.

4 (iii) If the owner of a publicly funded mass transit or his or her  
5 authorized agent is unable to receive the payment electronically,  
6 the *qualified* taxpayer shall not be required to provide subsidies  
7 for the qualified passengers who utilize publicly funded mass  
8 transit ~~but may still claim the credit under this section.~~

9 ~~(9)~~  
10 (8) “Existing publicly funded mass transit commuter route”  
11 means a mass transit system that meets all of the following:

12 (A) Has operated since January 1, 2007.

13 (B) Has a start destination within two miles of the qualified  
14 passenger’s residence and a final destination that is within a  
15 quarter-mile of the qualified passenger’s worksite.

16 (C) Has a schedule within a one-hour time period of the  
17 commuter route offered by the owner of a qualified mass transit.

18 (e) (1) If requested by the Franchise Tax Board *or the*  
19 *Department of Motor Vehicles*, the owner of a qualified mass  
20 transit shall report to the state, within 60 days, the number of  
21 qualified passengers who paid for its service per commuter route  
22 per calendar month for the last 12 months or for the time period  
23 requested by the state. This report shall include all of the  
24 following:

25 (A) The names of qualified taxpayers making payments on  
26 behalf of qualified passengers.

27 (B) The federal identification numbers of the qualified  
28 taxpayers making payments on behalf of qualified passengers.

29 (C) The amount paid by each qualified taxpayer to the  
30 qualified mass transit.

31 (D) The amount paid by each qualified passenger to the  
32 qualified mass transit.

33 (E) The total number of qualified passengers subsidized by  
34 each qualified taxpayer.

35 (F) The total number of qualified passengers on each  
36 commuter route.

37 (2) If the owner of a qualified mass transit is required to  
38 provide the information outlined in paragraph (1) to the state, the  
39 owner shall notify the qualified taxpayer of the report at least 30  
40 days prior to submitting the report to the state.

1 (3) If requested by a qualified taxpayer, the owner of a  
2 qualified mass transit shall provide to the qualified taxpayer the  
3 required information outlined in paragraph (1).

4 (4) If the owner of a mass transit does not meet the minimum  
5 requirements of subparagraph (A) of paragraph (4) of subdivision  
6 (d) *over a seven-day period in a calendar month*, the owner shall  
7 notify each qualified taxpayer making payments to the owner that  
8 the qualified taxpayer is not eligible to receive the benefits of this  
9 section. The owner shall notify the qualified taxpayer in writing  
10 within ~~20~~ 30 days of becoming ineligible.

11 (f) For auditing purposes, a qualified taxpayer shall do the  
12 following:

13 (1) Retain personal information regarding each qualified  
14 passenger who receives a mass transit pass or voucher, including  
15 his or her social security number and residence address.

16 (2) Identify, preferably by a federal tax identification number,  
17 each owner of a qualified mass transit that receives the funds on  
18 which the credit allowed to the taxpayer under this section is  
19 based.

20 (3) Verify in accordance with rules adopted by the ~~Franchise~~  
21 ~~Tax Board~~ *Department of Motor Vehicles*, that each qualified  
22 mass transit operates a qualified motorized vehicle.

23 (g) A qualified taxpayer may allow a qualified passenger to  
24 contribute to a prepayroll tax deduction program, as authorized  
25 by Section 132 of the Internal Revenue Code.

26 (h) The portion of the credit not used for the taxable year, if  
27 any, may not be carried over to succeeding taxable years.

28 (i) This section shall not preclude a qualified taxpayer from  
29 claiming a deduction pursuant to Sections 17149 and 24343.5.

30 (j) If an owner of a qualified mass transit ~~violates is not in~~  
31 ~~compliance with~~ any provision of this section, that owner ~~shall~~  
32 ~~may be prohibited from participating in the commuter benefits~~  
33 ~~credit program as an owner of a qualified mass transit for two~~  
34 ~~years from the date of the violation and shall noncompliance and~~  
35 ~~may be required to reimburse the state for the amount claimed as~~  
36 ~~a tax credit under this section, plus an amount equal to 150~~  
37 ~~percent of the credit claimed by the taxpayer with the state. Any~~  
38 ~~person may report violations noncompliance~~ by an owner of a  
39 qualified mass transit to the ~~Franchise Tax Board~~ *Department of*

1 *Motor Vehicles* who, in turn, may request documentation from  
2 the qualified mass transit for proof of compliance.

3 (k) A qualified taxpayer shall not preclude an owner of a  
4 qualified mass transit selected by the qualified passenger from  
5 participating in the commuter benefits undertaken by the  
6 taxpayer. This subdivision shall not apply if any of the following  
7 occurs:

8 (1) The owner of the qualified mass transit has violated any  
9 provision of this section.

10 (2) The owner of the qualified mass transit has imposed a fee  
11 on the qualified taxpayer above and beyond the costs of a transit  
12 pass.

13 (3) The owner of the qualified mass transit cannot provide  
14 evidence of meeting the qualifications required under this  
15 section.

16 ~~(l) No taxpayer shall claim any deduction, either on the  
17 original or amended tax return, for commuter subsidies,  
18 employee transit to work, or other commuter-type benefits for its  
19 employees under Section 162(a) of the Internal Revenue Code,  
20 unless otherwise allowable under Section 162(a) of the Internal  
21 Revenue Code.~~

22 ~~(m)~~

23 (l) Any deduction otherwise allowed under this part for any  
24 amount paid or incurred by the taxpayer upon which the credit is  
25 based shall be reduced by the amount of the credit allowed under  
26 this section.

27 ~~(n)~~

28 (m) This section shall remain in effect until December 1, 2017  
29 2018, and as of that date is repealed.

30 SEC. 2 Section 23601 is added to the Revenue and Taxation  
31 Code, to read:

32 23601. (a) For each taxable year beginning on or after  
33 January 1, 2007, and before January 1, 2017 2018, there shall be  
34 allowed as a credit against the "tax," as defined in Section 23036,  
35 an amount equal to 60 percent of the costs incurred by a qualified  
36 taxpayer in providing commuter benefits, as defined in paragraph  
37 (1) of subdivision (d), to the qualified taxpayer's employees,  
38 subject to the limitation set forth in subdivision (b).

39 (b) (1) The credit allowed by subdivision (a) shall not apply to  
40 any amount of commuter benefits paid for by a qualified

1 passenger of the qualified taxpayer, even if the taxpayer later  
2 chooses to reimburse the qualified passenger for that amount.

3 (2) The ~~qualified~~ amount spent by a qualified taxpayer on  
4 commuter benefits for each qualified passenger shall not exceed  
5 the amount allowed under Section 132(f) of the Internal Revenue  
6 Code and the regulations promulgated thereunder, excluding the  
7 required qualified passenger contribution.

8 (c) A qualified passenger of a qualified taxpayer shall  
9 contribute towards the purchase price of a mass transit pass at  
10 least 20 percent of the total price of the mass transit pass. That  
11 amount shall be paid electronically to the owner of a qualified  
12 mass transit or his or her authorized agent.

13 (d) For purposes of this section:

14 (1) "Commuter benefits" means the cost of a transit pass,  
15 commuter voucher, or similar item issued by a privately or  
16 publicly owned ~~qualified~~ mass transit to a qualified taxpayer  
17 entitling a qualified passenger, who works for the qualified  
18 taxpayer, to transportation to and from work.

19 (2) "Commuter route" means a path used at a specific time by  
20 a qualified passenger to travel to the place of employment at the  
21 beginning of a workday and to travel back home at the end of the  
22 workday.

23 ~~(3) "Commuter" means an individual driving, riding, or~~  
24 ~~performing other physical means of transportation from an initial~~  
25 ~~start location of their residence to the final destination of their~~  
26 ~~place of employment.~~

27 (4)

28 (3) "Qualified mass transit" means a motorized vehicle  
29 designed to carry, and capable of carrying, 16 or more  
30 commuters.

31 ~~(5) (A)~~

32 (4) "Owner of qualified mass transit" means an individual,  
33 organization, or company that operates or manages the operation  
34 of a motorized vehicle designed to carry, and capable of carrying,  
35 16 or more passengers for a specific commuter route that satisfies  
36 all of the following:

37 (i)

38 (A) The owner provides proof to the qualified taxpayer that the  
39 motorized vehicle is capable of carrying 16 or more passengers

1 and does not violate ~~clause (v) of this subparagraph~~  
2 *subparagraph (E)*.

3 ~~(ii)~~

4 (B) The owner does not receive funds from state or local  
5 government for the qualified mass transit.

6 ~~(iii)~~

7 (C) The owner participates in the commuter benefits credit  
8 program.

9 ~~(iv)~~

10 (D) The owner is not the qualified taxpayer claiming the credit  
11 under this section.

12 ~~(v)~~

13 (E) The owner does not operate a commuter route on an  
14 “existing publicly funded mass transit commuter route” as  
15 defined in paragraph ~~(9)~~ (8).

16 (F) *The motorized vehicle that is used as the qualified mass*  
17 *transit is registered annually with the Department of Motor*  
18 *Vehicles as a qualified mass transit as it pertains to this section.*

19 (G) *The owner is the titleholder, possessor, or otherwise*  
20 *maintains ownership of the motorized vehicle that is used as the*  
21 *qualified mass transit.*

22 ~~(vi)~~

23 (H) The owner of a qualified mass transit, or his or her  
24 authorized agent, ~~annually, on or before April 15 of each~~  
25 ~~calendar year, remits to the Franchise Tax Board as a condition~~  
26 ~~of annual registration with the Department of Motor Vehicles,~~  
27 ~~remits to the Department of Motor Vehicles~~ the lesser of the  
28 following:

29 ~~(i)~~

30 (i) The amount equal to the amount of tax credit claimed by a  
31 qualified taxpayer under this section in that taxable year with  
32 respect to the commuter benefits paid by the qualified taxpayer to  
33 the owner of the qualified mass transit or his or her authorized  
34 agent.

35 ~~(ii)~~

36 (ii) The amount equal to the applicable percentage of the  
37 commuter benefits paid by all participating qualified taxpayers to  
38 the owner of the qualified mass transit or his or her authorized  
39 agent.

40 ~~(6)~~

1 (5) (A) “Applicable percentage” means the total number of  
2 qualified passengers per commuter route using the service  
3 provided by the owner of the qualified mass transit for services  
4 during the specified calendar month, according to the table  
5 below:  
6

7	# of Qualified	Applicable
8	Passengers	Percentage
9	16	2.0%
10	17	4.6%
11	18	9.5%
12	19	14.0%
13	20	18.0%
14	21	21.5%
15	22	25.0%
16	23	28.0%
17	24	31.0%
18	25	34.0%
19	26	37.0%
20	27	40.0%
21	28	42.0%
22	29	44.0%
23	30	49.0%
24	31	54.0%
25	32	55.0%
26	33	56.0%
27	34	57.0%
28	35	58.0%
29	36	59.0%
30	37	60.0%
31	38	61.0%
32	39	63.0%
33	40	64.0%
34	41	65.0%
35	42	66.0%
36	43	67.0%
37	44	68.0%
38	45	69.0%
39	46	70.0%
40	47	71.0%

1	48	72.0%
2	49 or more	75.0%

3

4 (B) The number of qualified passengers shall be calculated  
5 based on the actual number of qualified passengers that paid for  
6 the services provided by the owner of the qualified mass transit  
7 for a definite commuter route over a reported calendar month.

8 (C) The state shall not be required to reimburse the owner of a  
9 qualified mass transit or his or her authorized agent for any  
10 amount that was remitted by the owner of the qualified mass  
11 transit to the state but was not claimed by the qualified taxpayer  
12 as a tax credit under this section.

13 ~~(7)~~

14 (6) "Qualified passenger" means an employee of a qualified  
15 taxpayer who receives a commuter benefit from the qualified  
16 taxpayer and uses the services of an owner of a qualified mass  
17 transit for commuting to and from work and their residence.

18 ~~(8)~~

19 (7) "Qualified taxpayer" means a taxpayer that satisfies all of  
20 the following conditions:

21 (A) Is an employer.

22 (B) Provides commuter benefits for qualified passengers.

23 (C) Pays directly to the owner of a qualified mass transit or his  
24 or her authorized agent for the cost of a transit pass, commuter  
25 voucher, or similar item for a qualified passenger.

26 (D) Distributes payment by the qualified passenger for the  
27 mass transit pass in combination with the commuter benefits  
28 issued by the qualified taxpayer.

29 (E) Makes payment to the owner of a qualified mass transit in  
30 electronic format.

31 (F) (i) Subsidizes the costs of publicly funded mass transit  
32 passes, of equal value, for those employees who utilize publicly  
33 funded mass transit.

34 (ii) The subsidy shall be remitted electronically by a qualified  
35 taxpayer and a qualified passenger to the owner of a publicly  
36 funded mass transit or his or her authorized agent.

37 (iii) If the owner of a publicly funded mass transit or his or her  
38 authorized agent is unable to receive the payment electronically,  
39 the *qualified* taxpayer shall not be required to provide subsidies

1 for the qualified passengers who utilize publicly funded mass  
2 transit ~~but may still claim the credit under this section.~~

3 ~~(9)~~

4 (8) “Existing publicly funded mass transit commuter route”  
5 means a mass transit system that meets all of the following:

6 (A) Has operated since January 1, 2007.

7 (B) Has a start destination within two miles of the qualified  
8 passenger’s residence and a final destination that is within a  
9 quarter-mile of the qualified passenger’s worksite.

10 (C) Has a schedule within a one-hour time period of the  
11 commuter route offered by the owner of a qualified mass transit.

12 (e) (1) If requested by the Franchise Tax Board *or the*  
13 *Department of Motor Vehicles*, the owner of a qualified mass  
14 transit shall report to the state, within 60 days, the number of  
15 qualified passengers who paid for its service per commuter route  
16 per calendar month for the last 12 months or for the time period  
17 requested by the state. This report shall include all of the  
18 following:

19 (A) The names of qualified taxpayers making payments on  
20 behalf of qualified passengers.

21 (B) The federal identification numbers of the qualified  
22 taxpayers making payments on behalf of qualified passengers.

23 (C) The amount paid by each qualified taxpayer to the  
24 qualified mass transit.

25 (D) The amount paid by each qualified passenger to the  
26 qualified mass transit.

27 (E) The total number of qualified passengers subsidized by  
28 each qualified taxpayer.

29 (F) The total number of qualified passengers on each  
30 commuter route.

31 (2) If the owner of a qualified mass transit is required to  
32 provide the information outlined in paragraph (1) of this  
33 subdivision to the state, the owner shall notify the qualified  
34 taxpayer of the report at least 30 days prior to submitting the  
35 report to the state.

36 (3) If requested by a qualified taxpayer, the owner of a  
37 qualified mass transit shall provide to the qualified taxpayer the  
38 required information outlined in paragraph (1).

39 (4) If the owner of a mass transit does not meet the minimum  
40 requirements of subparagraph (A) of paragraph (4) of subdivision

1 (d) *over a seven-day period in a calendar month*, the owner shall  
 2 notify each qualified taxpayer making payments to the owner that  
 3 the qualified taxpayer is not eligible to receive the benefits of this  
 4 section. The owner shall notify the qualified taxpayer in writing  
 5 within ~~20~~ 30 days of becoming ineligible.

6 (f) For auditing purposes, a qualified taxpayer shall do the  
 7 following:

8 (1) Retain personal information regarding each qualified  
 9 passenger who receives a mass transit pass or voucher, including  
 10 his or her social security number and residence address.

11 (2) Identify, preferably by a federal tax identification number,  
 12 each owner of a qualified mass transit that receives the funds on  
 13 which the credit allowed to the taxpayer under this section is  
 14 based.

15 (3) Verify in accordance with rules adopted by the ~~Franchise~~  
 16 ~~Tax Board~~ *Department of Motor Vehicles*, that each qualified  
 17 mass transit operates a qualified motorized vehicle.

18 (g) A qualified taxpayer may allow a qualified passenger to  
 19 contribute to a prepayroll tax deduction program, as authorized  
 20 by Section 132 of the Internal Revenue Code.

21 (h) The portion of the credit not used for the taxable year, if  
 22 any, may not be carried over to succeeding taxable years.

23 (i) This section shall not preclude a qualified taxpayer from  
 24 claiming a deduction pursuant to Sections 17149 and 24343.5.

25 (j) If an owner of a qualified mass transit ~~violates is not in~~  
 26 ~~compliance with~~ any provision of this section, that owner ~~shall~~  
 27 ~~may~~ be prohibited from participating in the ~~commuter benefits~~  
 28 ~~credit program as an owner of a qualified mass transit~~ for two  
 29 years from the date of the ~~violation and shall noncompliance and~~  
 30 ~~may~~ be required to reimburse the state for the amount claimed as  
 31 a tax credit under this section, plus an amount equal to 150  
 32 percent of the credit claimed by the taxpayer with the state. Any  
 33 person may report ~~violations noncompliance~~ by an owner of a  
 34 qualified mass transit to the ~~Franchise Tax Board~~ *Department of*  
 35 *Motor Vehicles* who, in turn, may request documentation from  
 36 the qualified mass transit for proof of compliance.

37 (k) A qualified taxpayer shall not preclude an owner of a  
 38 qualified mass transit selected by the qualified passenger from  
 39 participating in the commuter benefits undertaken by the

1 taxpayer. This subdivision shall not apply if any of the following  
2 occurs:

3 (1) The owner of the qualified mass transit has violated any  
4 provision of this section.

5 (2) The owner of the qualified mass transit has imposed a fee  
6 on the qualified taxpayer above and beyond the costs of a transit  
7 pass.

8 (3) The owner of the qualified mass transit cannot provide  
9 evidence of meeting the qualifications required under this  
10 section.

11 ~~(l) No taxpayer shall claim any deduction, either on the~~  
12 ~~original or amended tax return, for commuter subsidies,~~  
13 ~~employee transit to work, or other commuter-type benefits for its~~  
14 ~~employees under Section 162(a) of the Internal Revenue Code,~~  
15 ~~unless otherwise allowable under Section 162(a) of the Internal~~  
16 ~~Revenue Code.~~

17 ~~(m)~~

18 (l) Any deduction otherwise allowed under this part for any  
19 amount paid or incurred by the taxpayer upon which the credit is  
20 based shall be reduced by the amount of the credit allowed under  
21 this section.

22 ~~(n)~~

23 (m) This section shall remain in effect until December 1, 2017  
24 2018, and as of that date is repealed.

25 SEC. 3. This act provides for a tax levy within the meaning of  
26 Article IV of the Constitution and shall go into immediate effect.

O