

ASSEMBLY, No. 483

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman VANDERVALK and Assemblyman BAGGER

1 AN ACT concerning promotion of the use of alternative fuels by motor  
2 vehicles in the State, amending P.L.1940, c.5, and supplementing  
3 chapter 2C of Title 26 and chapter 27D of Title 52 of the Revised  
4 Statutes.

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

8  
9 1. (New section) This act shall be known and may be cited as the  
10 "Comprehensive Alternative Motor Fuels Promotion Act."

11  
12 2. (New section) a. The Legislature finds and declares:  
13 (1) The vast majority of motor vehicles in use in the United States  
14 are totally dependent on petroleum-based fuels such as gasoline and  
15 diesel fuels; the use of such fuels contributes to air pollution problems  
16 across the nation; and the reliable supply of these fuels from primarily  
17 foreign sources constitutes a national security concern;

18 (2) The use of nonpetroleum alternative fuels could contribute to  
19 a Statewide air pollution control strategy to achieve the air quality  
20 standards and goals of the recently enacted amendments to the federal  
21 "Clean Air Act," 42 U.S.C. §7401 et seq., curb imported oil demand,  
22 restrain oil price rises, and help assure a reliable supply of motor fuel;  
23 and

24 (3) It is in the public interest and would further the public health,  
25 safety, and welfare for the Legislature to facilitate improvement of the  
26 State's air quality through promotion of the use of alternative fuels in  
27 general, but especially in those types of vehicles that are engaged in  
28 fleet or central motor fuel operations, and thus by their nature lend  
29 themselves to such technology.

30 b. The Legislature recognizes that:

31 (1) The Department of Environmental Protection, in cooperation  
32 with private industry, has undertaken an alternative fuels

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

**Matter underlined thus is new matter.**

1 demonstration project to evaluate the environmental, economic, and  
2 social impacts of the use of alternative fuel vehicles; and

3 (2) The Department of Environmental Protection maintains a  
4 Business Energy Improvement Program designed to assist eligible  
5 applicants by providing grants and loans to further energy  
6 conservation practices and promote the development and use of  
7 alternative energy sources.

8

9 3. (New section) As used in this act:

10 "Alternative fuel" means methanol, ethanol, or other alcohols,  
11 natural gas, compressed natural gas, propane, liquefied petroleum gas,  
12 hydrogen, coal-derived liquid fuels, electricity, or any other fuel  
13 substantially composed of nonpetroleum substances that is used in a  
14 clean-fuel vehicle that complies with the standards and requirements  
15 applicable to such vehicles under the federal "Clean Air Act," 42  
16 U.S.C. §7401 et seq.

17 "Alternative fuel vehicle" means a motor vehicle that is a dedicated  
18 alternative fuel vehicle or a flexi-fuel vehicle.

19 "Conversion" or "converted" means the alteration, change,  
20 reconstruction, transmutation, transconfiguration, or  
21 transmogrification of a motor vehicle propelled solely by means of a  
22 fuel that is not an alternative fuel into an alternative fuel vehicle.

23 "Dedicated alternative fuel vehicle" means a motor vehicle  
24 constructed or converted to operate solely on alternative fuel.

25 "Flexi-fuel vehicle" means a motor vehicle that can operate on  
26 alternative fuel and on a fuel that is not an alternative fuel.

27 "Local unit" means a county, municipality, or school district, or any  
28 political subdivision, authority, or agency thereof.

29 "Motor vehicle" means all vehicles propelled otherwise than by  
30 muscular power, except those vehicles that run only upon rails or  
31 tracks and motorized bicycles.

32

33 4. (New section) Any State agency or authority or any local unit  
34 engaged in motor vehicle fleet or central motor fuel operations shall,  
35 to the greatest extent possible, purchase, lease, and use alternative fuel  
36 vehicles.

37

38 5. (New section) No local unit may limit, restrict, or prohibit the  
39 use or transportation of any alternative fuel for alternative fuel vehicles  
40 except as authorized pursuant to law.

41

42 6. (New section) The Department of Transportation, in  
43 consultation with the Department of Environmental Protection and any  
44 other appropriate State agencies, shall adopt, pursuant to the  
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), rules and regulations consistent with the purposes of this act  
2 concerning the transportation of alternative fuels in the State.

3

4 7. (New section) In addition to any other authority or power  
5 conferred upon the Department of Transportation, the Department of  
6 Transportation may:

7 a. Acquire by purchase, lease, gift or otherwise, on terms and  
8 conditions and in the manner the Department of Transportation deems  
9 proper, any land or property, real or personal, tangible or intangible,  
10 for the purpose of establishing or facilitating alternative fuel refueling  
11 and other facilities as needed to facilitate the use of alternative fuel  
12 vehicles;

13 b. Acquire by purchase, lease, gift or otherwise, on terms and  
14 conditions and in the manner the Department of Transportation deems  
15 proper, alternative fuel vehicles and related equipment or facilities, for  
16 the purpose of promoting and facilitating the use of alternative fuel  
17 vehicles;

18 c. Plan, design, construct, equip, operate, improve or maintain,  
19 either directly, by contract, or by grant with any public or private  
20 entity, alternative fuel vehicles, refueling stations, and related  
21 equipment or facilities for the purposes of facilitating their use;

22 d. Lease as lessor, sell or otherwise dispose of, on terms and conditions  
23 that the Department of Transportation may prescribe as appropriate,  
24 real and personal property, including tangible or intangible property  
25 and consumable goods, or any interest therein, to any public or private  
26 entity in the exercise of its powers and the performance of its duties  
27 under this section, and may, in order to provide or encourage adequate  
28 and efficient use of alternative fuel vehicles, refueling stations, and  
29 related equipment and facilities, lease or otherwise permit the use or  
30 occupancy of property without cost or at a nominal rental.

31

32 8. (New section) Within 18 months of the date of enactment of  
33 this act, the Department of Environmental Protection, in consultation  
34 with the Department of Community Affairs, the Department of  
35 Transportation, the Department of the Treasury, and any other  
36 appropriate State agencies, shall prepare and submit to the Legislature,  
37 including the chairpersons of the Senate Environment Committee and  
38 the Assembly Environment and Energy Committee, or their successors  
39 as designated respectively by the President of the Senate and the  
40 Speaker of the General Assembly, a progress report concerning  
41 implementation of this act, which report shall also include  
42 recommendations on the progress of instituting a fuel distribution  
43 system for alternative fuel vehicles in the State and any  
44 recommendations for legislative or administrative action that the  
45 department deems appropriate.

1 9. (New section) a. The Department of Community Affairs, in  
2 consultation with the Department of Environmental Protection, the  
3 Department of Transportation, and any other appropriate State  
4 agencies, shall adopt, pursuant to the "Administrative Procedure Act,"  
5 P.L.1968, c.410 (C.52:14B-1 et seq.) and within 180 days of the date  
6 of enactment of this act, rules and regulations amending the State  
7 Uniform Construction Code concerning the construction of alternative  
8 fuel refueling stations for alternative fuel vehicles.

9 (1) In adopting the rules and regulations prescribed pursuant to  
10 this section with respect to the construction of VNG refueling  
11 facilities, the Department of Community Affairs shall consider any  
12 rules and regulations concerning natural gas and compressed natural  
13 gas usage adopted by the United States Department of Transportation,  
14 and shall make use of the recommendations and standard procedures  
15 of the following organizations:

16 (a) The National Fire Protection Association (NFPA), One  
17 Batterymarch Park, Quincy, Massachusetts;

18 (b) The Compressed Gas Association (CGA), 1725 Jefferson Davis  
19 Highway, Arlington, Virginia; and

20 (c) The American Gas Association (AGA), 1515 Wilson  
21 Boulevard, Arlington, Virginia.

22 (2) In adopting the rules and regulations prescribed pursuant to  
23 this section with respect to the construction of propane refueling  
24 facilities, the Department of Community Affairs shall make use of the  
25 recommendations and standard procedures of the New Jersey Propane  
26 Gas Association.

27 b. As used in this section:

28 "Alternative fuel" means methanol, ethanol, or other alcohols,  
29 natural gas, compressed natural gas, propane, liquefied petroleum gas,  
30 hydrogen, coal-derived liquid fuels, electricity, or any other fuel  
31 substantially composed of nonpetroleum substances that is used in a  
32 clean-fuel vehicle that complies with the standards and requirements  
33 applicable to such vehicles under the federal "Clean Air Act," 42  
34 U.S.C. §7401 et seq.

35 "Alternative fuel vehicle" means a motor vehicle that is a dedicated  
36 alternative fuel vehicle or a flexi-fuel vehicle.

37 "Conversion" or "converted" means the alteration, change,  
38 reconstruction, transmutation, transconfiguration, or  
39 transmogrification of a motor vehicle propelled solely by means of a  
40 fuel that is not an alternative fuel into an alternative fuel vehicle.

41 "Dedicated alternative fuel vehicle" means a motor vehicle  
42 constructed or converted to operate solely on alternative fuel.

43 "Flexi-fuel vehicle" means a motor vehicle that can operate on  
44 alternative fuel and on a fuel that is not an alternative fuel.

45 "Motor vehicle" means all vehicles propelled otherwise than by  
46 muscular power, except those vehicles that run only upon rails or

1 tracks and motorized bicycles.

2 "VNG" means vehicular natural gas.

3

4 10. Section 2 of P.L.1940, c.5 (C.54:30A-50) is amended to read  
5 as follows:

6 2. Definitions: As used in this act--unless the context otherwise  
7 requires:

8 (a) "Taxpayer" means any corporation subject to taxation under the  
9 provisions of this act. A person or business entity owning or operating  
10 a cogeneration facility as defined in subsection (j) of this section shall  
11 not be deemed a corporation subject to taxation under this act unless  
12 it shall be a public utility as specifically enumerated in sections 1 and  
13 6 of P.L.1940, c.5 (C.54:30A-49 and C.54:30A-54).

14 (b) "Real estate" means lands and buildings, but it does not include  
15 railways, tracks, ties, lines, wires, cables, poles, pipes, conduits,  
16 bridges, viaducts, dams and reservoirs (except that the lands upon  
17 which dams and reservoirs are situated are real estate), machinery,  
18 apparatus and equipment, notwithstanding any attachment thereof to  
19 lands or buildings.

20 (c) "Gross receipts" means all receipts from the taxpayer's business  
21 over, in, through or from the whole of its lines or mains but does not  
22 include any sum or sums of money received by the taxpayer in payment  
23 for gas or electrical energy or water sold and furnished to another  
24 public utility which is also subject to the payment of a tax based upon  
25 its gross receipts, nor any sum or sums of money received by the  
26 taxpayer from a cogenerator in payment for cogenerated electrical  
27 energy resold by the taxpayer to the producing cogenerator where  
28 produced, nor any sum or sums of money received by the taxpayer  
29 from a cogenerator in payment for natural gas sold by the taxpayer to  
30 the cogenerator and separately metered for use in a cogeneration  
31 facility, nor in the case of a street railway or traction corporation, the  
32 receipts from the operation of autobuses or vehicles of the character  
33 described in R.S.48:15-41 through R.S.48:15-56, inclusive, nor in the  
34 case of a sewerage corporation, an amount equal to any sum or sums  
35 of money payable by such sewerage corporation to any board,  
36 commission, department, branch, agency or authority of the State or  
37 of any county or municipality, for the treatment, purification or  
38 disposal of sewage or other wastes, nor in the case of a water  
39 purveyor, the amount which represents the water tax imposed by  
40 section 11 of P.L.1983, c.443 (C.58:12A-21) and which is included in  
41 the tariff altered pursuant to section 6 of P.L.1983, c.443  
42 (C.58:12A-17) , nor any sum or sums of money received by the  
43 taxpayer in payment for natural gas or electricity or any other  
44 alternative fuel sold by the taxpayer and separately metered for use as  
45 a fuel for motor vehicles. For the purposes of this subsection,  
46 "alternative fuel" and "motor vehicle" mean the same as those terms

1 are respectively defined pursuant to section 3 of P.L. , c. (C. )  
2 (now before the Legislature as this bill).

3 (d) "Scheduled property" means only those classes or types of  
4 property of a taxpayer set forth in section 10 of this act and which are  
5 to be used in computing the apportionment value as herein defined.

6 (e) "Unit value" means the value set forth in section 10 of this act  
7 to be uniformly applied to each of the several classes or types of  
8 scheduled property in computing the apportionment value.

9 (f) "Apportionment value" or "apportionment valuation" means the  
10 result obtained by multiplying the quantities of each class or type of  
11 scheduled property of a taxpayer by the applicable unit value, and the  
12 addition of such results.

13 (g) "Public street, highway, road or other public place" includes  
14 any street, highway, road or other public place which is open and used  
15 by the public, even though the same has not been formally accepted as  
16 a public street, highway, road, or other public place. However, for  
17 purposes of computing the tax in connection with lines or mains  
18 installed prior to February 19, 1991, "public street, highway, road or  
19 other public place" shall not mean or include non-restricted roadways,  
20 such as extended residential, commercial or recreational facility  
21 driveways, or dead end streets, [cul-de-sacs] culs-de-sac or alleys  
22 which are connected to public roadways and are for access to or the  
23 use of supermarkets, shopping malls, planned communities and the  
24 connecting roads within or around the above facilities whether these  
25 roadways shall be located on public or private property, unless such  
26 shall have been determined a "public street, highway, road or other  
27 public place" for the purposes of P.L.1940, c.5 (C.54:30A-49 et seq.)  
28 prior to February 19, 1991.

29 (h) "Service connections" means the wires or pipes connecting the  
30 building or place where the service or commodity supplied by the  
31 taxpayer is used or delivered, or is made available for use or delivery,  
32 with a supply line or supply main in the street, highway, road, or other  
33 public place, or with such supply line or supply main on private  
34 property.

35 (i) "State Tax Commissioner" or "director" means the Director of  
36 the Division of Taxation in the Department of the Treasury.

37 (j) "Cogenerator" means a person or business entity which owns or  
38 operates a cogeneration facility in the State of New Jersey, which  
39 facility is a plant, installation or other structure whose primary  
40 purpose is the sequential production of electricity and steam or other  
41 forms of useful energy which are used for industrial, commercial,  
42 heating or cooling purposes; and which is designated by the Federal  
43 Energy Regulatory Commission, or its successor, as a "qualifying  
44 facility" pursuant to the provisions of the "Public Utility Regulatory  
45 Policies Act of 1978," Pub.L.95-617 (16 U.S.C. §2601 et al).

1 (k) "Corresponding therms of gas" or "corresponding  
2 kilowatthours of electricity" means all therms of gas or kilowatthours  
3 of electricity from the taxpayer's business over, on, in, through or from  
4 the whole of its lines or mains, excluding therefrom, however, (1) any  
5 therms of gas or kilowatthours of electricity as may have been sold and  
6 furnished to another public utility which is also subject to either the  
7 payment of a tax based upon gross receipts or the payment of a  
8 unit-based tax applied to therms of gas or kilowatthours of electricity;  
9 (2) any kilowatthours of cogenerated electrical energy resold by the  
10 taxpayer to a producing cogenerator where produced; [and] (3) any  
11 therms of natural gas sold by the taxpayer to a cogenerator and  
12 separately metered for use in a cogeneration facility ; and (4) any  
13 therms of natural gas or kilowatthours of electricity or any other  
14 alternative fuel sold by the taxpayer and separately metered for use as  
15 a fuel for motor vehicles. For the purposes of this subsection,  
16 "alternative fuel" and "motor vehicle" mean the same as those terms  
17 are respectively defined pursuant to section 3 of P.L. , c. (C. )  
18 (now before the Legislature as this bill).

19 (l) "Class" means any segment, grouping or other division of an  
20 electric company's or gas company's customers which is established for  
21 the purpose of charging rates for electric or gas service. For the  
22 purposes of this act, any such class shall be designated to be in the  
23 residential class category or non-residential class category.

24 (m) With respect to electric companies, (1) "residential class  
25 category" means any class established by an electric company which  
26 generally includes customers taking electric service under rate  
27 schedules that are primarily residential in nature; and (2)  
28 "non-residential class category" means any class established by an  
29 electric company which generally includes customers taking electric  
30 service under rate schedules that are primarily non-residential in  
31 nature.

32 (n) With respect to gas companies, (1) "residential class category"  
33 means any class established by a gas company which generally includes  
34 customers taking natural gas service under rate schedules that are  
35 primarily residential in nature; and (2) "non-residential class category"  
36 means any class established by a gas company which generally includes  
37 customers taking gas service under rate schedules that are primarily  
38 non-residential in nature.

39 (cf: P.L.1991, c.184, s.8)

40

41 11. This act shall take effect immediately.

42

43

#### 44 STATEMENT

45

46 This bill would exempt the sale of natural gas and electricity and  
any other alternative fuels from public utility taxes imposed pursuant

1 to P.L.1940, c.5 (C.54:30A-49 et seq.) if the fuel is separately metered  
2 for use as a motor vehicle fuel. This provision would prevent any  
3 current or possible future double taxation of these alternative fuels.  
4 Currently, natural gas used to power vehicles is subject both to public  
5 utility taxes imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.)  
6 and to the motor fuels tax. The motor fuels tax for natural gas and  
7 liquefied petroleum gas used to power motor vehicles is one-half the  
8 rate of taxation assessed traditional motor vehicle fuels under the  
9 motor fuels tax.

10 The bill would also direct the Department of Community Affairs, in  
11 consultation with the Department of Environmental Protection, the  
12 Department of Transportation, and any other appropriate State  
13 agencies, and within 180 days of enactment of the legislation, to adopt  
14 rules and regulations, as part of the State Uniform Construction Code,  
15 concerning the construction of alternative fuel refueling stations for  
16 alternative fuel vehicles, and in doing so, to make use of the  
17 recommendations and standard procedures of the National Fire  
18 Protection Association, the Compressed Gas Association, the  
19 American Gas Association, and the New Jersey Propane Gas  
20 Association.

21 The bill would provide that any State agency or authority or any  
22 local government unit engaged in motor vehicle fleet or central motor  
23 fuel operations shall, to the greatest extent possible, purchase, lease,  
24 and use alternative fuel vehicles. The bill would also provide that no  
25 local government unit may limit, restrict, or prohibit the use or  
26 transportation of any alternative fuel for alternative fuel vehicles  
27 except as authorized pursuant to law.

28 The bill would direct the Department of Transportation, in  
29 consultation with the Department of Environmental Protection and any  
30 other appropriate State agencies, to adopt rules and regulations  
31 consistent with the purposes of the legislation concerning the  
32 transportation of alternative fuels in the State.

33 The bill would also authorize the Department of Transportation to:

34 (1) Acquire by purchase, lease, gift or otherwise on terms and  
35 conditions and in the manner the Department of Transportation deems  
36 proper, any land or property, real or personal, tangible or intangible,  
37 for the purpose of establishing or facilitating alternative fuel refueling  
38 and other facilities as needed to facilitate the use of alternative fuel  
39 vehicles;

40 (2) Acquire by purchase, lease, gift or otherwise, on terms and  
41 conditions and in the manner the Department of Transportation deems  
42 proper, alternative fuel vehicles and related equipment or facilities, for  
43 the purpose of promoting and facilitating the use of alternative fuel  
44 vehicles;

45 (3) Plan, design, construct, equip, operate, improve or maintain,  
46 either directly, by contract, or by grant with any public or private



1 entity, alternative fuel vehicles, refueling stations, and related  
2 equipment or facilities for the purposes of facilitating their use;

3 (4) Lease as lessor, sell or otherwise dispose of, on terms and conditions  
4 that the Department of Transportation may prescribe as appropriate,  
5 real and personal property, including tangible or intangible property  
6 and consumable goods, or any interest therein, to any public or private  
7 entity in the exercise of its powers and the performance of its duties  
8 under this section, and may, in order to provide or encourage adequate  
9 and efficient use of alternative fuel vehicles, refueling stations, and  
10 related facilities and equipment, lease or otherwise permit the use or  
11 occupancy of property without cost or at a nominal rental.

12 Finally, the bill would require the Department of Environmental  
13 Protection, within 18 months of the date of enactment of the  
14 legislation and in consultation with the Department of Community  
15 Affairs, the Department of Transportation, the Department of the  
16 Treasury, and any other appropriate State agencies, to prepare and  
17 submit a progress report concerning implementation of the legislation,  
18 which report would include recommendations on the progress of  
19 instituting a fuel distribution system for alternative fuel vehicles in the  
20 State and any recommendations for legislative or administrative action  
21 that the department deems appropriate.

22

23

24

25

26 The "Comprehensive Alternative Motor Fuels Promotion Act."