54:32B-1 et seq.

April 21, 1967

LEGISLATIVE HISTORY OF R.S. 54:32B-1 et seq
(Sales and Use Tax)

L. 1966, Chapter 30 - A700
April 18 - Introduced by Assemblymen Halpin, Davis and Bateman.
Not amended during passage.
No statement on bill.
April 27 - Approved by Governor. Fiscal Note and Governor's message on signing attached.

COPY NO. 1

L. 1966, Chapter 53 - A751
May 9 - Introduced by Assemblymen Halpin, Davis and Bateman.
[redacted] amended during passage.
No statement on bill.
May 25 - Approved by Governor.
~~Fiscal note and Governor's statement attached~~

L. 1967, Chapter 25 - A705
March 6 - Introduced by Assemblymen Halpin, Bateman and Davis.
Amended during passage. (COPY OF AMENDMENTS ENCLOSED)
Statement on bill. (COPY ENCLOSED)
April 18 - Approved by Governor.

Public hearings on these bills were not held.

For background information, see the following: (Books preceded by an asterisk are not available on loan but must be used in the library or obtained from another library. All other books are enclosed). The library also maintains a vertical file on the N.J. Sales Tax, which may be used at the Library. Selected clippings are enclosed.

CK/PC

Public Hearing on raising the sales tax:

974.90
T235
1970B

N.J. Leg. Assy. Committee on Taxation.
Public hearing on A416
Held Jan 28, 1970

974.90
T235
1968a

NJ Commission on State Tax Policy
Tax Equity and Tax Relief
see pg 23-

Chandler, Lester U. "An income tax or a sales tax for New Jersey?" A report to Governor Richard J. Hughes. n.p., 1965. — 974.90 T235 1965ad

* Clark, Mrs. John R. A study of the efforts from 1947 to 1962 ~~to 1962~~ to obtain a broad-based state tax for New Jersey. Nutley, N.J., 1963. — J336.2 C593

League of Women Voters of New Jersey. ABC's of New Jersey tax facts. Montclair, N.J., 1964. — J336.2 L434a

League of Women Voters of New Jersey. New Jersey taxes, facts and conclusions. Montclair, N.J., 1959. — J336.2 L434n

N.J. Commission on State Tax Policy. Fifth report ... Taxation and public policy in New Jersey. Trenton, 1950. — 974.90 T235 1950

N.J. Commission on State Tax Policy. Tenth report ... Increased state aid to public schools and distribution of the cost of expanding public services. Trenton, 1963. — 974.90 T235 1963

N.J. Commission to Study Laws Affecting Industrial Development. Report ... (and) recommendations on taxation, social insurance, water supply, planning and zoning, transportation, political climate. Trenton, June 1957. — 974.90 I42 1957

* Princeton Research Service. New Jersey appraises proposed new taxes; an opinion study for the New Jersey Education Association. Princeton, 1960. — J336.2 P95

Stellenwerf, William. Three alternative New Jersey sales tax bases ... Newark, 1966. — J336.2 S824

R.S. 54:32B-1 et seq.

April 28, 1967



LEGISLATIVE HISTORY OF R.S. 54:32B-1 et seq
(Sales and Use Tax)

The Sales Tax Act (Chapter 30 of 1966) and amendments thereto were introduced and passed within a short period after a state income tax failed of passage. There were no public hearings on these bills and the library has no reports or other studies which consider the bills section by section. For more than a decade, studies had been issued recommending changes in New Jersey's tax system. The library can make these reports available; but we do not believe they will reveal information helpful in interpreting specific sections of the Sales Tax Act. The library will also make available to searchers its extensive newspaper clipping file on the N.J. Sales Tax and its amendments.

RS/PC

FISCAL NOTE TO

# ASSEMBLY, No. 700

# STATE OF NEW JERSEY

DATED: APRIL 25, 1966

Assembly Bill No. 700 imposes a 3% tax on retail sales, storage and use of tangible personal property and on the sales of certain services within the State; provides for the licensing of retailers; defines certain words for the purpose of this act; provides a method of collecting taxes imposed; provides penalties for violations and makes appropriations for the enforcement thereof. The bill specifically exempts retail sales of specified items and services.

Based upon estimates of the Division of Taxation, it is believed that the salaries for required personnel during the next fiscal year will aggregate the sum of $1,700,000.00 and that the purchase of necessary equipment and purchase and/or rental of electronic data processing installations will involve an expenditure of $800,000.00. Total expenditures, therefore, are estimated at $2,500,000.00.

It is further estimated by the Division that the gross revenue that will accrue to the State during the next fiscal year (11 months) will amount to $182,500,000.00, leaving a net revenue to the State of $180,000,000.00. It is estimated that for the next fiscal year the revenue will amount to the sum of $209,200,000.00, and that the salary requirements will involve the expenditure of $2,400,000.00 and that all other items will cost $400,000.00, making the necessary total expenditures in the sum of $2,800,000.00, and leaving a net surplus to the State in the sum of $206,400,000.00.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

A 700

ASSEMBLY BILL NO. 700, 1966

FOR IMMEDIATE RELEASE
APRIL 27, 1966

STATEMENT BY GOVERNOR RICHARD J. HUGHES ON SIGNING A SALES TAX INTO LAW

This legislation marks the fulfillment of a public responsibility by public men. It is easy to be a legislator or a Governor when the going is easy and pleasant. The adoption of a broad-based tax, of one type or another, is not an easy decision to make, but one springing from conscience and of such magnitude as to invoke the highest type of political courage. And this Legislature will be remembered in history as one which made the big decision to turn New Jersey's face to the future, not let us fall back into inaction and mediocrity.

So as Governor I sign into law a revenue measure which I would have avoided had any other solution been possible. I would have preferred a tax based more closely on ability to pay, but this measure, at least, has been made as humane as possible in its exemption of basic necessities of life such as food and most clothing and shelter. And it was our last recourse in meeting the problems of our increasingly urbanized, industrialized economy.

This measure signifies many things. First, that the people and their elected leaders are in agreement that New Jersey can no longer go on being affluent as a State but poor and stinting in its public services. Second, the bi-partisan nature of the vote in both houses underscores a legislative decision rather than a political decision, a bi-partisan solution to a bi-partisan problem.

Together we have now resolved that past neglect will be turned into future achievement. Those of both parties who have demonstrated a cooperative responsibility to this end should be complimented. They have done well for the people of New Jersey.

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**CORRECTED COPY**

# ASSEMBLY, No. 751

# STATE OF NEW JERSEY

INTRODUCED MAY 9, 1966

By Assemblymen HALPIN, DAVIS and BATEMAN

(Without Reference)

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1. Section 3 of the act of which this act is amendatory is amended to read as follows:

3. Imposition of sales tax.—On and after July 1, 1966 there is hereby imposed and there shall be paid a tax of 3% upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any

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

tangible personal property is transferred in conjunction therewith, except such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, and except any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining, and except for installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business, parking of motor vehicles *when the parking charge is in excess of $0.75* and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, property or land, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property, property or land, by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding interior cleaning and maintenance services performed on a regular contractual basis for a term of not less than 30 days, other than window cleaning, *and* rodent and pest control [and trash removal from buildings].

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection *(b)*.

(c) Receipts from the sale of food and drink except alcoholic beverages as defined in the Alcoholic Beverage Tax Law, in or by restaurants, taverns or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

(1) in all instances where the sale is for consumption on the premises where sold;

(2) in those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink; and

(3) in those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods.

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an air line for consumption while in flight.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of $2.00 per day.

(e) (1) Any admission charge where such admission charge is in excess of $0.75 to or for the use of any place of amusement in the State, including charges for admission to race tracks, [boxing,] baseball, football, [sparring or wrestling matches] *basketball* or exhibitions, dramatic or musical arts performances, motion picture theatres, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a license, other than a season ticket, for the use of a box seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

2. Section 5 of the act of which this act is amendatory is amended to read as follows:

5. Transitional provisions.—(a) The taxes imposed under subsections (a), (b) and (c) of section 3 shall be paid upon *receipts received on or after July 1, 1966 from* all sales made and services rendered [on or after July 1, 1966] although made on or rendered under a [prior] contract *entered into prior to said date*, except that *in the case of payment for* a delivery or transfer of possession of tangible personal property made after [said date] *July 1, 1966* pursuant to an agreement for the sale of said property made before [the effective date of this act] *May 9, 1966 such receipts* shall not be subject to tax if; (1) such agreement for the sale of said property was made in writing, (2) the particular item or items of property so sold or agreed to be sold were segregated, before the effective date of this act, from any other similar property in the possession of the vendor and identified as having been appropriated to such sale or agreement of sale, and (3) the purchaser, before July 1, 1966 shall have paid to the vendor not less than 10% of the sale price of said property. *Upon written application, made in accordance with applicable rules and regulations, the director may waive the requirement for segregation where it is demonstrated to the satisfaction of the director that in view of the nature of the transaction such segregation would have been impossible.*

(b) The tax imposed under subsection (d) of section 3 shall be paid upon any occupancy on and after July 1, 1966, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed under such subsection (d) to the extent that it covers any period on and after July 1, 1966 and such rent shall be apportioned on the basis of the ratio of the number of days falling within said period to the total number of days covered thereby.

(c) Except as otherwise hereinafter provided, the tax imposed under subsection (e) of section 3 shall be applicable to any admission to or the use of facilities of a place of amusement occurring on or after July 1, 1966, whether or not the admission charge has been paid prior to such date unless the tickets were actually sold and delivered (other than for resale) prior to July 1, 1966.

*(d) Sales made to contractors, subcontractors or repairmen of materials, supplies, or services for use in erecting structures for others, or building on, or otherwise improving, altering or repairing real property or others shall be exempt from the taxes imposed by subsections (a) and (b) of section 3 and section 6 hereof, provided such structure, building, improvement, alteration or repair is the subject of a written bid or contract duly tendered or entered into by such contractor, subcontractor, or repairman before May 9, 1966, provided, further, that the director shall be empowered to promulgate rules and regulations and procedures to be followed by persons seeking to qualify for this exemption.*

3. Section 8 of the act of which act is amendatory is amended to read as follows:

8. Exempt sales. Receipts from the following shall be exempt from the tax on retail sales imposed under subsection (a) of section 3 and the use tax imposed under section 6:

(a) Sales of medicine, drugs, crutches, artificial limbs, artificial eyes, artificial hearing devices, corrective eyeglasses, *prosthetic aids, artificial teeth or dentures,* braces, and orthopedic appliances, sold pursuant to a doctor's prescription for human use, and wheel chairs;

(b) Sales of food, food products, beverages except liquors, wines and sparkling wines as defined in the Alcoholic Beverage Tax Law, dietary foods and health supplements, sold for human consumption off the premises where sold but not including (i) candy and confectionery, (ii) fruit drinks which contain less than 70% of natural fruit juice and (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under subsection (c) of section 3;

(c) Sales of food sold in an elementary or secondary school cafeteria, sales of food sold in an institution of higher education *or in a fraternity, sorority or eating club operated in connection therewith,* to students of such an institution;

(d) Sales of [articles of children's clothing and footwear, classified as such in accordance with the recognized standards of the trade, for the express and exclusive use of children where the sales price is not more than $50.00; and sales of other] articles of clothing and footwear for human use where the sales price is not more than *$50.00* [$25.00]. Articles of clothing customarily sold in combination such as, but not limited to, a suit of men's clothing consisting of a coat and trousers shall, for the purpose of determining the dollar limitation herein, be treated as a single sale. The director shall prescribe regulations to carry out the provisions of this subsection[.]*;*

(e) Sales of newspapers, magazines and periodicals;

(f) Casual sales except as to sales of motor vehicles, whether for use on the highways or otherwise, and except as to sales of boats or vessels registered or subject to registration under the New Jersey Boat Act of 1962 (chapter 73, laws of 1962 and all amendments thereto);

(g) Sales of gas, water, *steam, fuel,* electricity, telephone or telegraph services delivered to consumers through mains, lines, [or] pipe, [and fuel for cooking and heating delivered] *or* in containers or bulk;

(h) Sales of motor fuels as motor fuels are defined for purposes of the New Jersey Motor Fuel Tax Law; *and sales of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives;*

(i) Tangible personal property sold through coin-operated vending machines at $0.10 or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the director;

(j) Sales not within the taxing power of this State under the Constitution of the United States;

(k) The transportation of persons or property;

(l) Sales, repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce, *and of governmentally-owned ships, barges and other vessels* and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship);

(m) (1) Sales of machinery, *apparatus* or equipment for use or consumption directly and *primarily* [exclusively] in the production of tangible personal property by manufacturing, processing, assembling or refining;

(2) Sales of machinery, *apparatus* or equipment for use or consumption directly and *primarily* [exclusively] in the production*, generation, transmission or distribution* of gas, electricity, [or] steam *or water* for sale;

(3) Sales of telephone *lines, cables,* central office equipment or station apparatus*, or other machinery, equipment or apparatus,* or comparable telegraph equipment, for use directly and *primarily* [exclusively] in receiving at destination or initiating, *transmitting* and switching telephone or telegraph communication;

(4) The exemptions granted under this subsection shall not be construed to apply to sales, otherwise taxable, of machinery, equipment or apparatus whose use is incidental to the activities described in paragraphs (1), (2) and (3) of this subsection.

(5) The exemptions granted in this subsection (m) shall not apply to motor vehicles or to parts with a useful life of 1 year or less or tools or supplies used in connection with the machinery, equipment or apparatus described in this subsection.

(n) Sales of tangible personal property purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

(o) Sales or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers, *reusable milk containers* and all other wrapping supplies when such use is incidental to the delivery of any personal property.

(p) Sales of tangible personal property (except automobiles, trucks, trailers, and truck-trailer combinations, and except property incorporated in a building or structure) for use and consumption directly and exclusively in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(q) Sales of tangible personal property sold by a mortician, undertaker or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale and shall not be exempt from the tax imposed by this act;

(r) Sales of films, records, *tapes* or any type of *visual or* sound transcribing to theatres and radio and television broadcasting stations *or networks*;

(s) Sales of tangible personal property and services taxable under any municipal ordinance heretofore adopted pursuant to chapter 71, laws of 1947, which is in effect on *April 27, 1966* **[**the effective date of this act**]**, but only to the extent such sales are taxable under said ordinance**[.]***;*

*(t) Sales of materials, such as chemicals and catalysts, used to induce or cause a refining or chemical process, where such materials are an integral or essential part of the processing operation, but do not become a component part of the finished product.*

*(u) Sales of school textbooks for use by students in a school, college, university or other educational institution, approved as such by the Department of Education, when the educational institution, upon forms and pursuant*

*to regulations prescribed by the director, has declared the books are required for school purposes and the purchaser has supplied the vendor with the form at the time of the sale.*

*(v) Sales not for resale of catalogs, sales price lists, point of purchase advertising, sales pamphlets or handbills, commonly known as commercial advertising, when produced upon special order of the purchaser.*

4. Section 9 of the act of which this act is amendatory is amended to read as follows:

9. Exempt organizations.—(a) Except as to motor vehicles sold by any of the following, any sale, *service* or amusement charge by or to any of the following *or any use or occupancy by any of the following* shall not be subject to the sales and use taxes imposed under this act:

(1) The State of New Jersey, or any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another State) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.

(b) Except as otherwise provided in this section any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and use taxes imposed under this act:

(1) Any corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(c) Nothing in this section shall exempt the sale of a motor vehicle by an organization described in subsection (b) (1) of this section or retail sales of tangible personal property by any shop or store operated by such organization from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section.

(d) Any organization enumerated in subsection (b) (1) hereof shall not be entitled to the exemption herein granted unless it has complied with such requirements for obtaining a tax immunity authorization as may be provided in this act.

(e) Where any organization described in subsection (b) (1) hereof carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

(f) (1) Except as provided in paragraph (2) of this subsection, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subsection (e) of section 3.

(A) an organization described in subsection (b) (1) of this section;

(B) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions;

(C) national guard organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in this State, and if no part of their net earnings inures to the benefit of any private stockholder or individual; or

(D) a police or fire department of a political subdivision of the State, or a voluntary fire or ambulance company, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under paragraph (1) of this subsection shall not apply in the case of admissions to:

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between 2 elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in subsection (b) (1) of this section;

(B) Carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation;

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under subsection (e) of section 3:

(A) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same; provided the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(B) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(C) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

5. Section 11 of the act of which this act is amendatory is amended to read as follows:

11. Exemptions from use tax.—The following uses of property shall not be subject to the compensating use tax imposed under this act:

(1) In respect to the use of property used by the purchaser in this State prior to July 1, 1966.

(2) In respect to the use of property purchased by the user while a nonresident of this State, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the State. A person while engaged in any manner in carrying on in this State any employment, trade, business or profession, shall not be deemed a nonresident with respect to the use in this State of property in such employment, trade, business or profession.

(3) In respect to the use of property or services upon the sale of which the purchaser would be expressly exempt from the taxes imposed under subsection (a) or (b) of section 3.

(4) In respect to the use of property which is converted into or becomes a component part of a product produced for sale *or for market sampling* by the purchaser.

(5) In respect to the use of paper in the application of newspapers and periodicals.

(6) In respect to the use of property or services to the extent that a retail sales or use tax was legally due and paid thereon, without any right to a refund or credit thereof, to any other State or jurisdiction within any other State but only when it is shown that such other State or jurisdiction allows a

corresponding exemption with respect to the sale or use of tangible personal property or services upon which such a sales tax or compensating use tax was paid to this State. To the extent that the tax imposed by this act is at a higher rate than the rate of tax in the first taxing jurisdiction, this exemption shall be inapplicable and the tax imposed by section 6 of this act shall apply to the extent of the difference in such rates.

6. Section 14 of the act of which this act is amendatory is amended to read as follows:

14. Liability for the tax.—(a) Every person required to collect any tax imposed by this act shall be personally liable for the tax imposed, collected or required to be collected under this act. Any such person shall have the same right in respect to collecting the tax from his customer or in respect to nonpayment of the tax by the customer as if the tax were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided, however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

(b) Where any customer has failed to pay a tax imposed by this act to the person required to collect the same, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the customer directly to the director and it shall be the duty of the customer to file a return with the director and to pay the tax to him within 30 days of the date the tax was required to be paid.

(c) The director may, whenever he deems it necessary for the proper enforcement of this act, provide by regulation that customers shall file returns and pay directly to the director any tax herein imposed, at such times as returns are required to be filed and payment over made by persons required to collect the tax.

(d) No person required to collect any tax imposed by this act shall advertise or hold out to *any person or* to the public *in general,* in any manner, directly or indirectly, that the tax is not considered as an element in the price, amusement charge or rent payable by customer, *or that he will pay the tax,* *that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer. Upon written application duly made and proof duly presented to the satisfaction of the director showing that in his particular business it would be impractical for the vendor to separately charge the tax to the customer, the director may waive the application of the requirement herein as to such vendor.*

7. Section 17 of the act of which this act is amendatory is amended to read as follows:

17. Returns.—(a) Every person required to collect or pay tax under this act shall on or before [August 20, 1966] *August 28, 1966*, and on or before the [twentieth] *twenty-eighth* day of each month thereafter, make and file a return for the preceding month with the director. The return of a vendor of tangible personal property or services shall show his receipts from sales and also the aggregate value of tangible personal property and services sold by him, the use of which is subject to tax under this act, and the amount of taxes required to be collected with respect to such sales and use. The return of a recipient of amusement charges shall show all such charges and the amount of tax thereon, and the return of a person required to collect tax on rents shall show all rents received or charged and the amount of tax thereon.

(b) The director may permit or require returns to be made covering other periods and upon such dates as he may specify. In prescribing such other periods, the director may take into account the dollar volume of tax involved as well as the need for insuring the prompt and orderly collection of the taxes imposed.

(c) The form of returns shall be prescribed by the director and shall contain such information as he may deem necessary for the proper administration of this act. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

8. Section 24 of the act of which this act is amendatory is amended to read as follows:

24. General powers of the director.—In addition to the powers granted to the director in this act, he is hereby authorized and empowered:

1. To make, adopt and amend rules and regulations appropriate to the carrying out of this act and the purposes thereof;

2. To extend, for cause shown by general regulation or individual authorization, the time of filing any return for a period not exceeding 3 months on such terms and conditions as he may require; and for cause shown, to remit penalties but not interest computed at the rate of 6% per annum;

3. To delegate his functions hereunder to any officer or employee of his division such of his powers as he may deem necessary to carry out efficiently the provisions of this act, and the person or persons to whom such power has been delegated shall possess and may exercise all of the power and perform all of the duties herein conferred and imposed upon the director;

4. To prescribe methods for determining the amount of receipt, amusement charges, or rents and for determining which of them are taxable and which are nontaxable;

5. To require any person required to collect tax to keep detailed records of all receipts, amusement charges, or rents received, charged or accrued, including those claimed to be nontaxable, and also of the nature, type, value and amount of all purchases, sales, services rendered, admissions, occupancies, names and addresses of customers, and other facts relevant in determining the amount of tax due and to furnish such information upon request to the director;

6. To assess, determine, revise and readjust the taxes imposed by this act;

7. To publish and maintain, as he deems necessary, lists of specific items of tangible personal property which are found to be foods and drugs exempt from tax under section 8.

*8. To enter into agreements with other States and the District of Columbia, providing for the reciprocal enforcement of the sales and use* *tax laws imposed by the States entering into such an agreement. Such agreement may empower the duly authorized officer of any contracting State, which extends like authority to officers or employees of this State, to sue for the collection of that State's sales and use taxes in the courts of this State.*

9. This act shall take effect immediately.

LH 54:32B-1 et seq

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ASSEMBLY AMENDMENTS TO

# ASSEMBLY, No. 751

# STATE OF NEW JERSEY

ADOPTED MAY 16, 1966

Amend page 2, section 1, lines 26 and 27, delete ", parking of motor vehicles when the parking charge is in excess of $0.75".

Amend page 4, section 2, line 13, delete "the effective date of this act", and insert in lieu thereof "May 9, 1966".

Amend page 5, section 2, line 38, after "property", delete "or", and insert in lieu thereof "of".

Amend page 5, section 2, line 45, after subsection (d), insert the following new subsection:

"(e) No tax shall be imposed under subsections (a), (b) and (c) of section 3 upon receipts received on or after July 1, 1966 in the case of sales made or services rendered, where delivery of the property which was the subject matter of the sale has been completed or such services have been entirely rendered, prior to July 1, 1966.".

Amend page 5, section 2, line 45, after line 45, insert the following:

"3. Section 6 of the act of which this act is amendatory is amended to read as follows:

6. Imposition of compensating use tax.—Unless property or services have already been or will be subject to the sales tax under this act, there is hereby imposed on every person a use tax for the use within this State on and after July 1, 1966, except as otherwise exempted under this act, (A) of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him in the regular course of business, and (C) of any tangible personal property, however, acquired, where not acquired for purposes of resale, upon which any

taxable services described in subsections [(c)] *(b)* (1) and [(c)] *(b)* (2) of section 3 have been performed. For purposes of clause (A) of this section, the tax shall be at the rate of 3% of the consideration given or contracted to be given for such property or for the use of such property, but excluding any credit for property of the same kind accepted in part payment and intended for resale, plus the cost of transportation except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of clause (B) of this section, the tax shall be at the rate of 3% of the price at which items of the same kind of tangible personal property are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the rate of 3% of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser.".

Amend page 5, section 3, line 1, delete "3", and insert "4".

Amend page 9, section 3, line 116, after line 116, insert the following new subsection:

"(w) Sales made to contractors, subcontractors or repairmen of materials, supplies or services for exclusive use in erecting structures, or building on, or otherwise improving, altering or repairing real property of organizations described in subsections (a) and (b) of section 9 of this act, provided any person seeking to qualify for this exemption shall do so pursuant to such rules and regulations and upon such forms as shall be prescribed by the director.".

Amend page 9, section 4, line 1, delete "4", and insert "5".

Amend page 12, section 5, line 1, delete "5", and insert "6".

Amend page 13, section 6, line 1, delete "6", and insert "7".

Amend page 14, section 7, line 1, delete "7", and insert "8".

Amend page 14, section 8, line 1, delete "8", and insert "9".

Amend page 16, section 9, line 1, delete "9", and insert "10".

the director on the date limited for the filing of the return for such period, *or on the date limited for such lesser interval as the director has designated,* without regard to whether a return is filed or whether the return which is filed correctly shows the amount of receipts, amusement charges or rents or the value of property or services sold or purchased or the taxes due thereon. Where the director, in his discretion, deems it necessary to protect the revenues to be obtained under this act, he may require any person required to collect the tax imposed by this act to file with him a bond, issued by a surety company authorized to transact business in this State and approved by the Commissioner of *Banking and* Insurance of this State as to solvency and responsibility, in such amount as the director may fix, to secure the payment of any tax or penalties or interest due or which may become due from such person under this act. In the event that the director determines that a vendor is to file such bond, he shall give notice to him to that effect, specifying the amount of the bond required. Such person shall file such bond within 5 days after the giving of such notice unless within such 5 days he shall request in writing a hearing before the director at which the necessity, propriety and amount of the bond shall be determined by the director. Such determination shall be final and shall be complied with within 15 days after the giving of notice thereof. In lieu of such bond, securities approved by the director or cash in such amount as he may prescribe, may be deposited, which shall be kept in the custody of the director which may at any time without notice to the depositor apply them to any tax or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

6. This act shall take effect on April 1, 1967 if approved on or before April 1, 1967 and, if approved subsequent to April 1, 1967 but prior to July 1, 1967, this act shall take effect on July 1, 1967.

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Sponsors' STATEMENT to A 705 (1967)

This bill is designed to amend the New Jersey Sales and Use Tax Act (N. J. S. A. 54:32B-1, et seq.). The amendments relate mainly to additional exemptions of limited revenue impact.

I. General Comment

The New Jersey Sales and Use Tax has rightly been called a "humane tax." No other State, of the more than 40 which impose a general sales tax, exceeds New Jersey in the extent to which the major necessities of the average family are excluded from the tax. Just a partial list will illustrate the wide scope of the exemptions initially incorporated into the law: rent, food purchased at the market for consumption at home, clothing and footwear, prescription medicines and drugs, dentures, eyeglasses, hearing aids, prosthetic and orthopedic devices, utility services such as light, heat, telephone, water, sewer, transportation, etc.

II. Proposals Incorporated In This Bill

A. Additional Exemptions

| Exemption | Estimated Revenue Loss |
|---|---|
| 1. Amendment of section 3 (b) (2) —Services rendered to orthopedic appliances and prosthetic aids exempt from taxation under section 8(a). | $185,000.00 |
| 2. Amendment of section 3(b) (4) —Services to heating systems in a house or building occupied as the home of not more than 3 families living independently of each other. | 435,000.00 |
| 3. Amendment of section 3(b) (4) —Garbage removal and sewer services. | —0— |
| 4. Amendment of section 8(a)— Sales of tampons and like products. | 400,000.00 |
| 5. Amendment of section 8(a)— Sales of artificial devices, with or without prescription, designed to alleviate physical incapacity, medical oxygen, human blood, etc. | Nominal * |
| 6. Amendment of section 8(b)— Sales of non-carbonated soft drinks. | 540,000.00 |
| 7. Amendment of section 8(d)— Sales of component materials, to be incorporated into home-made wearing apparel. | 1,300,000.00 |

| Exemption | Estimated Revenue Loss |
|---|---|
| 8. Amendment of section 8(m) (2) —Sales of machinery and equipment used in the operation of sewerage systems. . . . . . . . . . . . . | 45,000.00 |
| 9. Amendment of section 8(r)— Sales of films, records, tapes or any type of visual or sound transcriptions to, or produced for exhibition in or use through the medium of, theatres and radio and television broadcasting stations or networks. . . . . . . . . . . . . . . | No estimate available* |
| 10. Addition of section 8(z)— Sales of the Bible or similar sacred scripture. . . . . . . . . . . . . . . | Nominal * |
| 11. Addition of section 8(aa)— Sales of national or state flags. . . | Nominal * |
| 12. Addition of section 8(bb)— Sales of rolling stock, locomotives, et cetera, and replacement parts to a railroad whose rates are fixed by the United States or the State of New Jersey. . . . . . . | No estimate available* |
| 13. Addition of section 8(cc)— Sales of buses and repair parts to public utility bus companies and common or contract carriers of school children. . . . . . . . . . . . | 575,000.00 |
| 14. Amendment of section 9(b) (1) —Sales or amusement charges by or to volunteer fire company, rescue, ambulance, first aid or emergency company or squad, and an association of parents and teachers of an elementary or secondary public or private school. . . . . . . . . . . . . . . . . . . . . . . . | Nominal * |
| 15. Amendment of section 9(f) (1) —Technical change to make certain that admissions to events sponsored for the benefit of public schools will be exempt. . . . . . . | Nominal * |

| Exemption | Estimated Revenue Loss |
|---|---|
| 16. Amendment of section 8(x)—Exemption of interchangeable leasing within the trucking industry. .......................... | Nominal * |

* It has not been possible to make reliable or precise estimates with respect to the revenue impact for some of these items. However, the Sales Tax Bureau estimates that the total revenue loss that may result from all the items enumerated above will be approximately $4 million.

B. Administrative Amendments

1. *Frequency of Filing*—Presently, vendors are required to file a return and pay the tax every month. It is proposed to amend sections 17 and 18 of the Sales and Use Tax Act so as to permit the Division of Taxation to establish reporting and payment paying periods of longer duration. It is contemplated that under the authority conferred by the proposed amendments, the division will establish a quarterly reporting period for all taxpayers. At the same time, and in order to maintain essential cash flow into the State Treasury, taxpayers with a monthly tax liability in excess of $100.00 will be required to remit the tax on a monthly basis with appropriate reconciliation upon filing of the quarterly return.

   There are approximately 150,000 taxpayers. All of them will be required to file quarterly instead of monthly. This will bring substantial savings of compliance costs to the taxpayer as well as administrative costs to the Division of Taxation. Approximately 16% of all taxpayers have a monthly tax liability in excess of $100.00 and will, therefore, be required to continue monthly tax remittances. Inasmuch as this 16% group accounts for about 88% of all sales tax revenue, the essential revenue cash flow will thus be maintained. Conversely, it can be noted that 84% of all the taxpayers will convert to a quarterly basis both as to the filing of the return and the tax payment.

2. *Amendment of Section 9(b)*—

   Makes clear that the exempt treatment accorded to the non-profit organizations listed in section 9(b) (1) shall be limited to items directly related to the purposes for which the organization was formed.

III. Exemptions Effected by Administrative Ruling But Not Incorporated In This Bill

Several proposals have been advanced which, in the light of existing regulations and rulings of the Division of Taxation, have not been included in this bill.

1. *Insulin*—The Division of Taxation has ruled that purchases of insulin are not subject to the sales tax.
2. *Room Occupancy*—Proposals have been made to exempt receipts from boarding house room occupancies. Existing regulations exempt receipts from boarding houses having less than 8 units.
3. *Exempt Organizations*—Various proposals have been advanced which would extend exempt status to certain specific organizations. The Division of Taxation has issued approximately 7,000 Exempt Organization Permits in implementation of the general provisions of section 9(b) (1). The Division reports that the major categories of organizations which have been deemed exempt include:

    Churches
    Synagogues
    Non-profit Private Schools
    4-H Clubs
    Boy Scouts of America
    Girl Scouts of America
    Opportunity Corps
    YMCA
    YMHA
    YWCA
    YWHA
    Little Leagues
    Babe Ruth Leagues
    Midget Football Leagues
    Non-profit Nursery Schools
    Non-profit Literary, Symphony, Historical, Opera Groups, Museums
    Community Chests, United Funds
    American Red Cross
    Heart Fund, Cancer Fund, etc.
    Salvation Army
    Non-profit Hospitals, Women's Auxiliaries thereto
    Visiting Nurse Associations
    Non-profit Cemeteries
    Coast Guard Auxiliaries

IV. Referral To The Commission On State Tax Policy

Several proposals have been advanced which, because of their complexity, or because of revenue implications, should not be acted upon without further study. Accordingly, it is being recommended that the following proposals be referred to the Commission on State Tax Policy for their consideration and report:

1. The exemption of household supplies.
2. The exemption of veterinary drugs.
3. The exemption of organizations such as civic service clubs, veterans', fraternal and social organizations, and women's clubs.
4. The exemption of nonprescription drugs.
5. The treatment of sales of building materials to contractors, subcontractors or repairmen.

SENATE COMMITTEE AMENDMENTS TO

# ASSEMBLY, No. 705

# STATE OF NEW JERSEY

ADOPTED APRIL 3, 1967

Amend page 2, section 1, line 7, after the words "real property", insert ", property or land".

Amend page 7, section 2, line 25, after "New Jersey", insert "or to an affiliate of said bus companies".

Amend page 7, section 2, line 27, after "school", insert a new sentence as follows: "For the purposes of this subsection 'affiliate' shall mean a corporation whose stock is wholly owned by the regulated bus company or whose stock is wholly owned by the same persons who own all of the stock of the regulated bus company.".

Amend page 9, section 3, line 42, delete "(c)", and insert "(C)".

Amend page 11, section 5, line 26, delete "which", and insert "who" before "may".

Amend page 11, section 6, lines 30 to 32, after the words "effect on", delete "April 1, 1967 if approved on or before April 1, 1967 and, if approved, subsequent to April 1, 1967 but prior to July 1, 1967, this act shall take effect on July 1, 1967.", and insert in lieu thereof "the first day of the month following the month of enactment except that if this act is enacted on the first day of a month it shall be effective on that date; provided, that sections 4 and 5 shall take effect and shall have application as of April 1, 1967.".