

54.32B-2 ~

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Sales tax--increase to 7%)

JSA: 54:32B-2 et seq.

LAWS OF: 1990 CHAPTER: 40

BILL NO: A3610

SPONSOR(S): Bryant

DATE INTRODUCED: May 24, 1990

COMMITTEE: ASSEMBLY: Appropriations
SENATE: ---

AMENDED DURING PASSAGE: No Assembly Committee Substitute enacted

DATE OF PASSAGE: ASSEMBLY: June 19, 1990
SENATE: June 20, 1990

DATE OF APPROVAL: June 27, 1990

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

LEGISLATIVE HISTORY COPY
Do Not Remove From Library

- "Assembly sales tax vote near," 6-20-90, Trenton Times.
- "Assembly Dems labor to pass sales tax hike," 6-20-90, Star Ledger.
- "Quietly, governor signs budget, sales-tax hike," 6-28-90, Bergen Record.
- "Florio signs into law sales tax hike, budget," 6-28-90, Philadelphia Inquirer.
- "Assembly weighs 7 pct. Tax for 'on the spot' sale of liquor," 5-22-1990
- "Lawmakers ok \$2.8B tax hike," 6-20-90, Trenton Times.
- "Support lags for sales-tax increase," 6-20-1990, Home News
- "Gov inks sales-tax hike," 6-20-1990, Home News
- "New taxes backed by Assembly," Philadelphia Inquirer

NOT
OAG

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3610

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1990

Sponsored by Assemblyman BRYANT

1 AN ACT concerning the sales and use tax, amending and
2 supplementing P.L.1966, c.30, amending P.L.1980, c.105 and
3 P.L.1983, c.303, and repealing parts of the statutory law.

4

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

7 1. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read
8 as follows:

9 2. Unless the context in which they occur requires otherwise,
10 the following terms when used in this act shall mean:

11 (a) Person. Person includes an individual, partnership, society,
12 association, joint stock company, corporation, public corporation
13 or public authority, estate, receiver, trustee, assignee, referee,
14 and any other person acting in a fiduciary or representative
15 capacity, whether appointed by a court or otherwise, and any
16 combination of the foregoing.

17 (b) Purchase at retail. A purchase by any person at a retail
18 sale.

19 (c) Purchaser. A person who purchases property or who
20 receives services.

21 (d) Receipt. The amount of the sales price of any property and
22 the charge for any service taxable under this act, valued in
23 money, whether received in money or otherwise, including any
24 amount for which credit is allowed by the vendor to the
25 purchaser, without any deduction for expenses or early payment
26 discounts, but excluding any credit for property of the same kind
27 that is not tangible personal property purchased for lease
28 accepted in part payment and intended for resale, excluding the
29 cost of transportation where such cost is separately stated in the
30 written contract, if any, and on the bill rendered to the
31 purchaser, and excluding the amount of the sales price for which
32 food stamps have been properly tendered in full or part payment
33 pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7
34 U.S.C. § 2011 et seq.).

35 (e) Retail sale. (1) A sale of tangible personal property to any
36 person for any purpose, other than (A) for resale either as such or
37 as converted into or as a component part of a product produced
38 for sale by the purchaser, or (B) for use by that person in
39 performing the services subject to tax under subsection (b) of
40 section 3 where the property so sold becomes a physical

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

Matter underlined thus is new matter.

1 component part of the property upon which the services are
2 performed or where the property so sold is later actually
3 transferred to the purchaser of the service in conjunction with
4 the performance of the service subject to tax.

5 (2) For the purposes of this act, the term retail sales includes:

6 Sales of tangible personal property to all contractors,
7 subcontractors or repairmen of materials and supplies for use by
8 them in erecting structures for others, or building on, or
9 otherwise improving, altering, or repairing real property of others.

10 (3) For the purposes of this act, the term retail sale includes
11 the purchase of tangible personal property for lease.

12 (4) The term retail sales does not include:

13 (A) Professional, insurance, or personal service transactions
14 which involve the transfer of tangible personal property as an
15 inconsequential element, for which no separate charges are made.

16 (B) The transfer of tangible personal property to a corporation,
17 solely in consideration for the issuance of its stock, pursuant to a
18 merger or consolidation effected under the laws of New Jersey or
19 any other jurisdiction.

20 (C) The distribution of property by a corporation to its
21 stockholders as a liquidating dividend.

22 (D) The distribution of property by a partnership to its
23 partners in whole or partial liquidation.

24 (E) The transfer of property to a corporation upon its
25 organization in consideration for the issuance of its stock.

26 (F) The contribution of property to a partnership in
27 consideration for a partnership interest therein.

28 (G) The sale of tangible personal property where the purpose
29 of the vendee is to hold the thing transferred as security for the
30 performance of an obligation of the vendor.

31 (f) Sale, selling or purchase. Any transfer of title or
32 possession or both, exchange or barter, rental, lease or license to
33 use or consume, conditional or otherwise, in any manner or by any
34 means whatsoever for a consideration, or any agreement
35 therefor, including the rendering of any service, taxable under
36 this act, for a consideration or any agreement therefor.

37 (g) Tangible personal property. Corporeal personal property of
38 any nature.

39 (h) Use. The exercise of any right or power over tangible
40 personal property by the purchaser thereof and includes, but is
41 not limited to, the receiving, storage or any keeping or retention
42 for any length of time, withdrawal from storage, any installation,
43 any affixation to real or personal property, or any consumption of
44 such property. Use also includes the exercise of any right or
45 power over intrastate or interstate telecommunications and the
46 benefit of advertising space in a telecommunications user or
47 provider directory or index.

48 (i) Vendor. (1) The term "vendor" includes:

49 (A) A person making sales of tangible personal property or

1 services, the receipts from which are taxed by this act;

2 (B) A person maintaining a place of business in the State and
3 making sales, whether at such place of business or elsewhere, to
4 persons within the State of tangible personal property or services,
5 the use of which is taxed by this act;

6 (C) A person who solicits business either by employees,
7 independent contractors, agents or other representatives or by
8 distribution of catalogs or other advertising matter and by reason
9 thereof makes sales to persons within the State of tangible
10 personal property or services, the use of which is taxed by this
11 act;

12 (D) Any other person making sales to persons within the State
13 of tangible personal property or services, the use of which is
14 taxed by this act, who may be authorized by the director to
15 collect the tax imposed by this act; and

16 (E) The State of New Jersey, any of its agencies,
17 instrumentalities, public authorities, public corporations
18 (including a public corporation created pursuant to agreement or
19 compact with another state) or political subdivisions when such
20 entity sells services or property of a kind ordinarily sold by
21 private persons.

22 (F) A person who purchases tangible personal property for
23 lease, whether in this State or elsewhere. For the purposes of
24 Title 54 of the Revised Statutes, the presence of leased tangible
25 personal property in this State is deemed to be a place of business
26 in this State.

27 (2) In addition, when in the opinion of the director it is
28 necessary for the efficient administration of this act to treat any
29 salesman, representative, peddler or canvasser as the agent of
30 the vendor, distributor, supervisor or employer under whom he
31 operates or from whom he obtains tangible personal property sold
32 by him or for whom he solicits business, the director may, in his
33 discretion, treat such agent as the vendor jointly responsible with
34 his principal, distributor, supervisor or employer for the
35 collection and payment over of the tax.

36 (j) Hotel. A building or portion of it which is regularly used
37 and kept open as such for the lodging of guests. The term "hotel"
38 includes an apartment hotel, a motel, boarding house or club,
39 whether or not meals are served.

40 (k) Occupancy. The use or possession or the right to the use or
41 possession, of any room in a hotel.

42 (l) Occupant. A person who, for a consideration, uses,
43 possesses, or has the right to use or possess, any room in a hotel
44 under any lease, concession, permit, right of access, license to
45 use or other agreement, or otherwise.

46 (m) Permanent resident. Any occupant of any room or rooms
47 in a hotel for at least 90 consecutive days shall be considered a
48 permanent resident with regard to the period of such occupancy.

49 (n) Room. Any room or rooms of any kind in any part or

1 portion of a hotel, which is available for or let out for any
2 purpose other than a place of assembly.

3 (o) Admission charge. The amount paid for admission,
4 including any service charge and any charge for entertainment or
5 amusement or for the use of facilities therefor.

6 (p) Amusement charge. Any admission charge, dues or charge
7 of roof garden, cabaret or other similar place.

8 (q) Charge of a roof garden, cabaret or other similar place.
9 Any charge made for admission, refreshment, service, or
10 merchandise at a roof garden, cabaret or other similar place.

11 (r) Dramatic or musical arts admission charge. Any admission
12 charge paid for admission to a theatre, opera house, concert hall
13 or other hall or place of assembly for a live, dramatic,
14 choreographic or musical performance.

15 (s) Lessor. Any person who is the owner, licensee, or lessee of
16 any premises or tangible personal property which he leases,
17 subleases, or grants a license to use to other persons.

18 (t) Place of amusement. Any place where any facilities for
19 entertainment, amusement, or sports are provided.

20 (u) Casual sale. Casual sale means an isolated or occasional
21 sale of an item of tangible personal property by a person who is
22 not regularly engaged in the business of making sales at retail
23 where such property was obtained by the person making the sale,
24 through purchase or otherwise, for his own use in this State.

25 (v) Motor vehicle. Motor vehicle shall include all vehicles
26 propelled otherwise than by muscular power (excepting such
27 vehicles as run only upon rails or tracks), trailers, semitrailers,
28 housetrailers, or any other type of vehicle drawn by a
29 motor-driven vehicle, and motorcycles, designed for operation on
30 the public highways.

31 (w) "Persons required to collect tax" or "persons required to
32 collect any tax imposed by this act" shall include: every vendor
33 of tangible personal property or services; every recipient of
34 amusement charges; every operator of a hotel; [and] every lessor;
35 and every vendor of telecommunications. Said terms shall also
36 include any officer or employee of a corporation or of a dissolved
37 corporation who as such officer or employee is under a duty to
38 act for such corporation in complying with any requirement of
39 this act and any member of a partnership. Provided, however, the
40 vendor of tangible personal property to all contractors,
41 subcontractors or repairmen, consisting of materials and supplies
42 for use by them in erecting structures for others, or building on,
43 or otherwise improving, altering or repairing real property of
44 others, shall not be deemed a person required to collect tax, and
45 the tax imposed by any section of this act shall be paid directly
46 to the director by such contractors, subcontractors or repairmen.

47 (x) "Customer" shall include: every purchaser of tangible
48 personal property or services; every patron paying or liable for
49 the payment of any amusement charge; and every occupant of a

1 room or rooms in a hotel.

2 (y) "Property and services the use of which is subject to tax"
3 shall include: [(a)] (1) all property sold to a person within the
4 State, whether or not the sale is made within the State, the use
5 of which property is subject to tax under section 6 or will become
6 subject to tax when such property is received by or comes into
7 the possession or control of such person within the State; [and (b)]
8 (2) all services rendered to a person within the State, whether or
9 not such services are performed within the State, upon tangible
10 personal property the use of which is subject to tax under section
11 6 or will become subject to tax when such property is received by
12 or comes into possession or control of such person within the
13 State; (3) intrastate or interstate telecommunications charged to
14 a service address in this State; and (4) advertising space in a
15 telecommunications user or provider directory or index
16 distributed in this State.

17 (z) Director. Director means the Director of the Division of
18 Taxation of the State Department of the Treasury, or any officer,
19 employee or agency of the Division of Taxation in the
20 Department of the Treasury duly authorized by the director
21 (directly, or indirectly by one or more redelegations of authority)
22 to perform the functions mentioned or described in this act.

23 (aa) "Lease" means the possession or control of tangible
24 personal property by an agreement, not transferring sole title, as
25 may be evidenced by a contract, contracts, or by implication
26 from other circumstances including course of dealing or usage of
27 trade or course of performance, for a period of more than 28 days.

28 (bb) "The amount of the sales price" of tangible personal
29 property purchased for lease means, at the election of the lessor,
30 either (1) the amount of the lessor's purchase price or (2) the
31 amount of the total of the lease payments attributable to the
32 lease of such property. Tangible personal property purchased for
33 lease is subject to the provisions of subsection (a) of section 3 of
34 P.L.1966, c.30 (C.54:32B-3).

35 (cc) "Telecommunications" means the act or privilege of
36 originating or receiving messages or information through the use
37 of any kind of one-way or two-way communication; including but
38 not limited to voice, video, facsimile, teletypewriter, computer,
39 cellular mobile or portable telephone, specialized mobile or
40 portable pager or paging service, or any other type of
41 communication; using electronic or electromagnetic methods, and
42 all services and equipment provided in connection therewith or by
43 means thereof. "Telecommunications" shall not include:

44 (1) one-way radio or television broadcasting transmissions
45 available universally to the general public without a fee;

46 (2) purchases of telecommunications by a telecommunications
47 provider for use as a component part of telecommunications
48 provided to an ultimate retail consumer who originates or
49 terminates the taxable end-to-end communications;

1 (3) services provided by a person, or by that person's wholly
2 owned subsidiary, not engaged in the business of rendering or
3 offering telecommunications services to the public, for private
4 and exclusive use within its organization, provided however, that
5 "telecommunications" shall include the sale of
6 telecommunications services attributable to the excess unused
7 telecommunications capacity of that person to another; and

8 (4) charges in the nature of subscription fees paid by subscribers
9 for cable television service.

10 (dd) "Interstate telecommunication" means any
11 telecommunication that originates or terminates inside this
12 State, including international telecommunication.

13 (ee) "Intrastate telecommunication" means any
14 telecommunication that originates and terminates within this
15 State.

16 (cf: P.L.1989, c.123, s.1)

17 2. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read
18 as follows:

19 3. [On and after July 1, 1966 and continuing through February
20 28, 1970, there is hereby imposed and there shall be paid a tax of
21 3%; on and after March 1, 1970 and continuing through January 2,
22 1983 there is hereby imposed and there shall be paid a tax of 5%;
23 and on and after January 3, 1983, there] There is imposed and
24 there shall be paid a tax of [6%,] 7% upon:

25 (a) The receipts from every retail sale of tangible personal
26 property, except as otherwise provided in this act. If the lessor
27 of tangible personal property purchased for lease elects to pay
28 tax on the amount of the sales price as provided in paragraph (2)
29 of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any
30 and each subsequent lease or rental is a retail sale, and a
31 subsequent sale of such property is a retail sale.

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

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

39 (2) Installing tangible personal property, or maintaining,
40 servicing, repairing tangible personal property not held for sale in
41 the regular course of business, whether or not the services are
42 performed directly or by means of coin-operated equipment or by
43 any other means, and whether or not any tangible personal
44 property is transferred in conjunction therewith, except (i) such
45 services rendered by an individual who is engaged directly by a
46 private homeowner or lessee in or about his residence and who is
47 not in a regular trade or business offering his services to the
48 public, (ii) such services rendered with respect to personal
49 property exempt from taxation hereunder pursuant to section 13

1 of P.L.1980, c.105 (C.54:32B-8.1), (iii) [services rendered with
2 respect to trucks, tractors, trailers or semitrailers by a person
3 who is not engaged, directly or indirectly through subsidiaries,
4 parents, affiliates or otherwise, in a regular trade or business
5 offering such services to the public] [Deleted by amendment,
6 P.L. , c.], (iv) any receipts from laundering, dry cleaning,
7 tailoring, weaving, pressing, shoe repairing and shoeshining and
8 (v) services rendered in installing property which, when installed,
9 will constitute an addition or capital improvement to real
10 property, property or land.

11 (3) Storing all tangible personal property not held for sale in
12 the regular course of business and the rental of safe deposit boxes
13 or similar space.

14 (4) Maintaining, servicing or repairing real property, other
15 than a residential heating system unit serving not more than
16 three families living independently of each other and doing their
17 cooking on the premises, whether the services are performed in
18 or outside of a building, as distinguished from adding to or
19 improving such real property by a capital improvement, but
20 excluding services rendered by an individual who is not in a
21 regular trade or business offering his services to the public, and
22 excluding [interior cleaning and maintenance services,] garbage
23 removal and sewer services performed on a regular contractual
24 basis for a term not less than 30 days[, other than window
25 cleaning, and rodent and pest control].

26 (5) Advertising services, except advertising services for use
27 directly and primarily for publication in newspapers and
28 magazines and except for direct-mail advertising processing
29 services in connection with distribution to out-of-State
30 recipients.

31 (6) Advertising space in a telecommunications user or provider
32 directory or index distributed in this State.

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

37 Services otherwise taxable under paragraph (1) or (2) of this
38 subsection (b) are not subject to the taxes imposed under this
39 subsection, where the tangible personal property upon which the
40 services were performed is delivered to the purchaser outside this
41 State for use outside this State.

42 (c) Receipts from the sale of food and drink in or by
43 restaurants, taverns, vending machines or other establishments in
44 this State, or by caterers, including in the amount of such
45 receipts any cover, minimum, entertainment or other charge
46 made to patrons or customers:

47 (1) In all instances where the sale is for consumption on the
48 premises where sold;

49 (2) In those instances where the vendor or any person whose

1 services are arranged for by the vendor, after the delivery of the
2 food or drink by or on behalf of the vendor for consumption off
3 the premises of the vendor, serves or assists in serving, cooks,
4 heats or provides other services with respect to the food or drink,
5 except for meals especially prepared for and delivered to
6 homebound elderly, age 60 or older, and to disabled persons, or
7 meals prepared and served at a group-sitting at a location outside
8 of the home to otherwise homebound elderly persons, age 60 or
9 older, and otherwise homebound disabled persons, as all or part of
10 any food service project funded in whole or in part by government
11 or as part of a private, nonprofit food service project available to
12 all such elderly or disabled persons residing within an area of
13 service designated by the private nonprofit organization; and

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

22 (4) Sales of food and beverages sold through coin-operated
23 vending machines, at the wholesale price of such sale, which shall
24 be defined as 70% of the retail vending machine selling price,
25 except sales of milk, which shall not be taxed. Nothing herein
26 contained shall affect other sales through coin-operated vending
27 machines taxable pursuant to subsection (a) above or the
28 exemption thereto provided by section 21 of P.L.1980, c.105
29 (C.54:32B-8.9).

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

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

36 (e) (1) Any admission charge, where such admission charge is in
37 excess of \$0.75 to or for the use of any place of amusement in
38 the State, including charges for admission to race tracks,
39 baseball, football, basketball or exhibitions, dramatic or musical
40 arts performances, motion picture theatres, except charges for
41 admission to boxing, wrestling, kick boxing or combative sports
42 exhibitions, events, performances or contests which charges are
43 taxed under any other law of this State or under section 20 of
44 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
45 admission to, or use of, facilities for sporting activities in which
46 such patron is to be a participant, such as bowling alleys and
47 swimming pools. For any person having the permanent use or
48 possession of a box or seat or lease or a license, other than a
49 season ticket, for the use of a box or seat at a place of

1 amusement, the tax shall be upon the amount for which a similar
 2 box or seat is sold for each performance or exhibition at which
 3 the box or seat is used or reserved by the holder, licensee or
 4 lessee, and shall be paid by the holder, licensee or lessee.

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

8 (f) The receipts from every sale, except for resale, of
 9 intrastate or interstate telecommunications charged to an
 10 address in this State, regardless of where the services are billed
 11 or paid.

12 (cf: P.L.1989, c.123, s.2)

13 3. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read
 14 as follows:

15 4. Tax bracket schedule. For the purpose of adding and
 16 collecting the tax imposed by this act, or an amount equal as
 17 nearly as possible or practicable to the average equivalent
 18 thereof, to be reimbursed to the vendor by the purchaser, the
 19 following formulas shall be in force and effect:

20 [(a) For the period July 1, 1966 through February 28, 1970,
 21 inclusive:

22	23 Amount of Sale	Amount of Tax
24	\$0.01 to \$0.16	No Tax
25	0.17 to 0.40	\$0.01
26	0.41 to 0.70	0.02
27	0.71 to 1.16	0.03

28
 29 In addition to a tax of \$0.03 on each full dollar, a
 30 tax shall be collected on each part of a dollar in excess
 31 of a full dollar, in accordance with the above formula.

32 (b) For the period March 1, 1970 through January 2,
 33 1983, inclusive:

34	35 Amount of Sale	Amount of Tax
36	\$0.01 to \$0.10	No Tax
37	0.11 to 0.25	\$0.01
38	0.26 to 0.46	0.02
39	0.47 to 0.67	0.03
40	0.68 to 0.88	0.04
41	0.89 to 1.10	0.05

42
 43 In addition to a tax of \$0.05 on each full dollar, a
 44 tax shall be collected on each part of a dollar in excess
 45 of a full dollar, in accordance with the above formula.

1	Amount of Sale	Amount of Tax
2	(c) For the period on and after January 3, 1983:	
3	\$0.01 to \$0.10	No Tax
4	0.11 to 0.22	\$0.01
5	0.23 to 0.38	0.02
6	0.39 to 0.56	0.03
7	0.57 to 0.72	0.04
8	0.73 to 0.88	0.05
9	0.89 to 1.10	0.06]

10

11	<u>Amount of Sale</u>	<u>Amount of Tax</u>
12	<u>\$0.01 to \$0.10</u>	<u>No tax</u>
13	<u>0.11 to 0.21</u>	<u>\$0.01</u>
14	<u>0.22 to 0.35</u>	<u>0.02</u>
15	<u>0.36 to 0.50</u>	<u>0.03</u>
16	<u>0.51 to 0.64</u>	<u>0.04</u>
17	<u>0.65 to 0.78</u>	<u>0.05</u>
18	<u>0.79 to 0.92</u>	<u>0.06</u>
19	<u>0.93 to \$1.00</u>	<u>0.07</u>

20

21 In addition to a tax of [\$0.06] \$0.07 on each full dollar, a tax
 22 shall be collected on each part of a dollar in excess of a full
 23 dollar, in accordance with the [above] following formula.

24

25	<u>Amount of Sale</u>	<u>Amount of Tax</u>
26	<u>\$0.01 to \$0.07</u>	<u>No additional tax</u>
27	<u>0.08 to 0.21</u>	<u>\$0.01</u>
28	<u>0.22 to 0.35</u>	<u>0.02</u>
29	<u>0.36 to 0.50</u>	<u>0.03</u>
30	<u>0.51 to 0.64</u>	<u>0.04</u>
31	<u>0.65 to 0.78</u>	<u>0.05</u>
32	<u>0.79 to 0.92</u>	<u>0.06</u>
33	<u>0.93 to \$1.07</u>	<u>0.07</u>

34

35 (cf: P.L.1982, c.227, s.2)

36 4. Section 5 of P.L.1966, c.30 (C.54:32B-5) is amended to read
 37 as follows:

38 5. Transitional provisions. [(a)(1) The taxes imposed under
 39 subsections (a), (b) and (c) of section 3 shall be paid upon receipts
 40 received on or after July 1, 1966 from all sales made and services
 41 rendered, although made on or rendered under a contract entered
 42 into prior to said date, except that in the case of payment for a
 43 delivery or transfer of possession of tangible personal property
 44 made after July 1, 1966 pursuant to an agreement for the sale of
 45 said property made before May 9, 1966, such receipts shall not
 46 be subject to tax if: (A) such agreement for the sale of said
 47 property was made in writing, (B) the particular item or items of
 48 property so sold or agreed to be sold were segregated, before May
 49 9, 1966, from any other similar property in the possession of the

1 vendor and identified as having been appropriated to such sale or
2 agreement of sale, and (C) the purchaser, before July 1, 1966,
3 shall have paid to the vendor not less than 10% of the sales price
4 of said property. Upon written application, made in accordance
5 with applicable rules and regulations, the director may waive the
6 requirement for segregation, where it is demonstrated to the
7 satisfaction of the director that in view of the nature of the
8 transaction such segregation would have been impossible.

9 (2) Except as otherwise provided in this act, receipts received
10 from all sales made and services rendered on and after July 1,
11 1966 but prior to March 1, 1970, are subject to the taxes imposed
12 under subsections (a), (b), and (c) of section 3 of this act at the
13 rate of 3%, except where the property so sold is delivered or the
14 services so sold are rendered on or after March 1, 1970 but prior
15 to January 3, 1983, in which case the tax shall be computed and
16 paid at the rate of 5%, provided, however, that where a service
17 or maintenance agreement taxable under this act covers any
18 period commencing on or after July 1, 1966 and ending after
19 February 28, 1970, the receipts from such agreement are subject
20 to tax at the rate applicable to each period as set forth
21 hereinabove and shall be apportioned on the basis of the ratio of
22 the number of days falling within each of the said periods to the
23 total number of days covered thereby.

24 (3) Except as otherwise provided in this act, receipts received
25 from all sales made and services rendered on and after March 1,
26 1970 but prior to January 3, 1983, are subject to the taxes
27 imposed under subsections (a), (b), and (c) of section 3 of this act
28 at the rate of 5%, except where the property so sold is delivered
29 or the services so sold are rendered on or after January 3, 1983,
30 in which case the tax shall be computed and paid at the rate of
31 6%; provided, however, that where a service or maintenance
32 agreement taxable under this act covers any period commencing
33 on or after March 1, 1970 and ending after January 2, 1983, the
34 receipts from such agreement are subject to tax at the rate
35 applicable to each period as set forth hereinabove and shall be
36 apportioned on the basis of the ratio of the number of days falling
37 within each of the said periods to the total number of days
38 covered thereby.

39 (b)(1) The tax imposed under subsection (d) of section 3 shall be
40 paid at the rate of 5% upon any occupancy on and after March 1,
41 1970 but prior to January 3, 1983, although such occupancy is
42 pursuant to a prior contract, lease or other arrangement. Where
43 an occupancy, taxable under this act, covers any period on or
44 after July 1, 1966 but prior to March 1, 1970, the rent for the
45 period of occupancy prior to March 1, 1970 shall be taxed at the
46 rate of 3%. Where rent is paid on a weekly, monthly or other
47 term basis, the rent applicable to each period as set forth
48 hereinabove shall be apportioned on the basis of the ratio of the
49 number of days falling within each of the said periods to the

1 total number of days covered thereby.

2 (2) The tax imposed under subsection (d) of section 3 shall be
3 paid at the rate of 6% upon any occupancy on and after January
4 3, 1983, although such occupancy is pursuant to a prior contract,
5 lease or other arrangement. Where an occupancy, taxable under
6 this act, covers any period on or after March 1, 1970 but prior to
7 January 2, 1983, the rent for the period of occupancy prior to
8 January 2, 1983 shall be taxed at the rate of 5%. Where rent is
9 paid on a weekly, monthly or other term basis, the rent applicable
10 to each period as set forth hereinabove shall be apportioned on
11 the basis of the ratio of the number of days falling within each of
12 the said periods to the total number of days covered thereby.

13 (c)(1) Except as otherwise hereinafter provided, the tax
14 imposed under subsection (e) of section 3 shall be applicable at
15 the rate of 5% to any admission to or for the use of facilities of a
16 place of amusement occurring on or after March 1, 1970 but prior
17 to January 3, 1983, whether or not the admission charge has been
18 paid prior to such date, unless the tickets were actually sold and
19 delivered (other than for resale) prior to March 1, 1970 and the
20 tax imposed under this act during the period July 1, 1966 through
21 February 28, 1970 shall have been paid.

22 (2) Except as otherwise hereinafter provided, the tax imposed
23 under subsection (e) of section 3 shall be applicable at the rate of
24 6% to any admission to or for the use of facilities of a place of
25 amusement occurring on or after January 3, 1983, whether or not
26 the admission charge has been paid prior to that date, unless the
27 tickets were actually sold and delivered, other than for resale,
28 prior to January 3, 1983 and the tax imposed under this act
29 during the period March 1, 1970 through January 2, 1983 shall
30 have been paid.

31 (d)(1) Sales made to contractors, subcontractors or repairmen
32 of materials, supplies, or services for use in erecting structures
33 for others, or building on, or otherwise improving, altering or
34 repairing real property of others shall be exempt from the taxes
35 imposed by subsections (a) and (b) of section 3 and section 6
36 hereof, provided such structure, building, improvement,
37 alteration or repair is the subject of a written bid or contract
38 duly tendered or entered into by such contractor, subcontractor,
39 or repairman before May 9, 1966.

40 (2) Sales made on or after March 1, 1970 but prior to January 3,
41 1983 to contractors, subcontractors or repairmen of materials,
42 supplies, or services for use in erecting structures for others, or
43 building on, or otherwise improving, altering or repairing real
44 property of others shall be subject to the taxes imposed by
45 subsections (a) and (b) of section 3 and section 6 hereof at the
46 rate of 5%; provided, however, that when such sales are made for
47 use in performance of a contract which is either at a fixed price
48 not subject to change or modification, or entered into pursuant to
49 the obligation of a formal written bid which cannot be altered or

1 withdrawn, and, in either case, such contract was entered into or
2 such bid was made on or after May 9, 1966 but prior to March 1,
3 1970, such sales shall be subject to tax at the rate of 3%, but the
4 vendor shall charge and collect from the purchaser a tax on such
5 sales at the rate of 5%, which tax shall be reduced to the rate of
6 3% only by a claim for refund filed by the purchaser with the
7 director pursuant to the provisions of section 20 of this act.

8 (3) As to sales other than those referred to in (2) above, the
9 taxes imposed under subsections (a) and (b) of section 3 and
10 section 6 hereof upon receipts received on or after March 1,
11 1970 and on or before December 31, 1970 shall be at the rate in
12 effect on February 9, 1970 in case of sales made or services
13 rendered pursuant to a written contract entered into on or after
14 May 9, 1966 but prior to February 9, 1970 and accompanied by a
15 deposit or partial payment of the contract price, except in the
16 case of a contract which, in the usage of trade, is not
17 customarily accompanied by a deposit or partial payment of the
18 contract price, but the vendor shall charge and collect from the
19 purchaser a tax on such sales at the rate of 5%, which tax shall
20 be refunded, if such receipts were not subject to tax on February
21 9, 1970, or reduced to the rate of 3%, as the case may be, only
22 by a claim for refund filed by the purchaser with the director
23 within 90 days after receipt of said receipts and otherwise
24 pursuant to the provisions of section 20 of this act. A claim for
25 refund where there has been no deposit or partial payment of the
26 contract price shall not be allowed unless the claimant shall
27 establish by clear and convincing evidence that, in the usage of
28 trade, such contracts are not customarily accompanied by a
29 deposit or partial payment of the contract price.

30 (4) Sales made on and after January 3, 1983 to contractors,
31 subcontractors or repairmen of materials, supplies, or services
32 for use in erecting structures for others, or building on, or
33 otherwise improving, altering or repairing real property of others
34 shall be subject to the taxes imposed by subsections (a) and (b) of
35 section 3 and section 6 hereof at the rate of 6%; provided,
36 however, that when such sales are made for use in performance
37 of a contract which is either of a fixed price not subject to
38 change or modification, or entered into pursuant to the obligation
39 of a formal written bid which cannot be altered or withdrawn,
40 and, in either case, such contract was entered into or such bid
41 was made on or after March 1, 1970 but prior to January 3, 1983,
42 such sales shall be subject to tax at the rate of 5%, but the
43 vendor shall charge and collect from the purchaser a tax on such
44 sales at the rate of 6%.

45 (5) As to sales other than those referred to in (4) above, the
46 taxes imposed under subsections (a) and (b) of section 3 and
47 section 6 hereof upon receipts received on or after January 3,
48 1983 and on or before June 30, 1983 shall be at the rate in effect
49 on January 2, 1983 in case of sales made or services rendered

1 pursuant to a written contract entered on or after March 1, 1970
2 but prior to January 2, 1983 and accompanied by a deposit or
3 partial payment of the contract price, except in the case of a
4 contract which, in the usage of trade, is not customarily
5 accompanied by a deposit or partial payment of the contract
6 price, but the vendor shall charge and collect from the purchaser
7 on such sales at the rate of 6%, which tax shall be refunded, if
8 such receipts were not subject to tax on January 2, 1983, or
9 reduced to the rate of 5%, as the case may be, only by a claim
10 for refund filed by the purchaser with the director within 90 days
11 after receipt of said receipts and otherwise pursuant to the
12 provisions of section 20 of this act (C. 54:32B-20). A claim for
13 refund where there has been no deposit or partial payment of the
14 contract price shall not be allowed unless the claimant shall
15 establish by clear and convincing evidence that, in the usage of
16 trade, such contracts are not customarily accompanied by a
17 deposit or partial payment of the contract price.

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

24 (2) The taxes imposed under subsections (a), (b) and (c) of
25 section 3 upon receipts received on or after March 1, 1970 but
26 prior to January 3, 1983 shall be at the rate of 3% in the case of
27 sales made or services rendered, where delivery of the property
28 which was the subject matter of the sale has been completed or
29 such services have been entirely rendered prior to March 1, 1970.

30 (3) The taxes imposed under subsections (a), (b) and (c) of
31 section 3 upon receipts received on or after January 3, 1983 shall
32 be at the rate of 5% in the case of sales made or services
33 rendered, where delivery of the property which was the subject
34 matter of the sale has been completed or such services have been
35 entirely rendered prior to January 3, 1983.]

36 a. Except as otherwise provided in this act, receipts received
37 from all sales made and services rendered on and after January 3,
38 1983 but prior to July 1, 1990, are subject to the taxes imposed
39 under subsections (a), (b), (c), and (f) of section 3 of this act at
40 the rate, if any, in effect for such sales and services on June 30,
41 1990, except if the property so sold is delivered or the services so
42 sold are rendered on or after July 1, 1990, in which case the tax
43 shall be computed and paid at the rate of 7%; provided, however,
44 that if a service or maintenance agreement taxable under this act
45 covers any period commencing on or after January 3, 1983 and
46 ending after June 30, 1990, the receipts from such agreement are
47 subject to tax at the rate, if any, applicable to each period as set
48 forth hereinabove and shall be apportioned on the basis of the
49 ratio of the number of days falling within each of the said periods

1 to the total number of days covered thereby.

2 b. The tax imposed under subsection (d) of section 3 shall be
3 paid at the rate of 7% upon any occupancy on and after July 1,
4 1990, although such occupancy is pursuant to a prior contract,
5 lease or other arrangement. If an occupancy, taxable under this
6 act, covers any period on or after January 3, 1983 but prior to
7 July 1, 1990, the rent for the period of occupancy prior to July 1,
8 1990 shall be taxed at the rate of 6%. If rent is paid on a weekly,
9 monthly or other term basis, the rent applicable to each period as
10 set forth hereinabove shall be apportioned on the basis of the
11 ratio of the number of days falling within each of the said periods
12 to the total number of days covered thereby.

13 c. Except as otherwise hereinafter provided, the tax imposed
14 under subsection (e) of section 3 shall be applicable at the rate of
15 7% to any admission to or for the use of facilities of a place of
16 amusement occurring on or after July 1, 1990, whether or not the
17 admission charge has been paid prior to that date, unless the
18 tickets were actually sold and delivered, other than for resale,
19 prior to July 1, 1990 and the tax imposed under this act during
20 the period January 3, 1983 through June 30, 1990 shall have been
21 paid.

22 d. Sales made on and after July 1, 1990 to contractors,
23 subcontractors or repairmen of materials, supplies, or services
24 for use in erecting structures for others, or building on, or
25 otherwise improving, altering or repairing real property of others
26 shall be subject to the taxes imposed by subsections (a) and (b) of
27 section 3 and section 6 hereof at the rate of 7%; provided,
28 however, that if such sales are made for use in performance of a
29 contract which is either of a fixed price not subject to change or
30 modification, or entered into pursuant to the obligation of a
31 formal written bid which cannot be altered or withdrawn, and, in
32 either case, such contract was entered into or such bid was made
33 on or after January 3, 1983 but prior to July 1, 1990, such sales
34 shall be subject to tax at the rate of 6%, but the vendor shall
35 charge and collect from the purchaser a tax on such sales at the
36 rate of 7%.

37 e. As to sales other than those referred to in d. above, the
38 taxes imposed under subsections (a) and (b) of section 3 and
39 section 6 hereof, and the taxes imposed under subsection (f) of
40 section 3 and section 6 hereof, upon receipts received on or after
41 July 1, 1990 and on or before December 31, 1990, shall be at the
42 rate in effect on June 30, 1990, in case of sales made or services
43 rendered pursuant to a written contract entered on or after
44 January 3, 1983 but prior to July 1, 1990, and accompanied by a
45 deposit or partial payment of the contract price, except in the
46 case of a contract which, in the usage of trade, is not customarily
47 accompanied by a deposit or partial payment of the contract
48 price, but the vendor shall charge and collect from the purchaser
49 on such sales at the rate of 7%, which tax shall be reduced to the

1 rate, if any, in effect on June 30, 1990, only by a claim for refund
2 filed by the purchaser with the director within 90 days after
3 receipt of said receipts and otherwise pursuant to the provisions
4 of section 20 of P.L.1966, c.30 (C.54:32B-20). A claim for refund
5 shall not be allowed if there has been no deposit or partial
6 payment of the contract price unless the claimant shall establish
7 by clear and convincing evidence that, in the usage of trade, such
8 contracts are not customarily accompanied by a deposit or partial
9 payment of the contract price.

10 f. The taxes imposed under subsections (a), (b), (c) and (f) of
11 section 3 upon receipts received on or after July 1, 1990 shall be
12 at the rate, if any, in effect on June 30, 1990 in the case of sales
13 made or services rendered, if delivery of the property which was
14 the subject matter of the sale has been completed or such
15 services have been entirely rendered prior to July 1, 1990.

16 [(f)] g. The director [shall be] is empowered to promulgated
17 rules and regulations to implement the provisions of this section.
18 (cf: P.L.1982, c.227, s.3)

19 5. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read
20 as follows:

21 6. Imposition of compensating use tax. Unless property or
22 services have already been or will be subject to the sales tax
23 under this act, there is hereby imposed on and there shall be paid
24 by every person a use tax for the use within this State of [3% on
25 and after July 1, 1966 and continuing through February 28, 1970,
26 and of 5% on and after March 1, 1970 and continuing through
27 January 2, 1983, and of 6% on and after January 3, 1983] 7%,
28 except as otherwise exempted under this act, (A) of any tangible
29 personal property purchased at retail, (B) of any tangible personal
30 property manufactured, processed or assembled by the user, if
31 items of the same kind of tangible personal property are offered
32 for sale by him in the regular course of business, or if items of
33 the same kind of tangible personal property are not offered for
34 sale by him in the regular course of business and are used as such
35 or incorporated into a structure, building or real property, [and]
36 (C) of any tangible personal property, however acquired, where
37 not acquired for purposes of resale, upon which any taxable
38 services described in [subsection (b)(1)] paragraphs (1) and (2) of
39 subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have
40 been performed, (D) of interstate or intrastate
41 telecommunications described in subsection (f) of section 3 of
42 P.L.1966, c.30, and (E) of advertising space in a
43 telecommunications user or provider directory or index. For
44 purposes of clause (A) of this section, the tax shall be at the
45 applicable rate, as set forth hereinabove, of the consideration
46 given or contracted to be given for such property or for the use
47 of such property, but excluding any credit for property of the
48 same kind accepted in part payment and intended for resale, plus
49 the cost of transportation, except where such cost is separately

1 stated in the written contract, if any, and on the bill rendered to
2 the purchaser. For the purposes of clause (B) of this section, the
3 tax shall be at the applicable rate, as set forth hereinabove, of
4 the price at which items of the same kind of tangible personal
5 property are offered for sale by the user, or if items of the same
6 kind of tangible personal property are not offered for sale by the
7 user in the regular course of business and are used as such or
8 incorporated into a structure, building or real property the tax
9 shall be at the applicable rate, as set forth hereinabove, of the
10 consideration given or contracted to be given for the tangible
11 personal property manufactured, processed or assembled by the
12 user into the tangible personal property the use of which is
13 subject to use tax pursuant to this section, and the mere storage,
14 keeping, retention or withdrawal from storage of tangible
15 personal property by the person who manufactured, processed or
16 assembled such property shall not be deemed a taxable use by
17 him. For purposes of clause (C) of this section, the tax shall be
18 at the applicable rate, as set forth hereinabove, of the
19 consideration given or contracted to be given for the service,
20 including the consideration for any tangible personal property
21 transferred in conjunction with the performance of the service,
22 plus the cost of transportation, except where such cost is
23 separately stated in the written contract, if any, and on the bill
24 rendered to the purchaser. For the purposes of clause (D) of this
25 section, the tax shall be at the applicable rate on the charge
26 made by the telecommunication service provider. For the
27 purposes of clause (E) of this section, the tax shall be at the
28 applicable rate on the charge made by the advertising space
29 provider.

30 (cf: P.L.1989, c.350, s.1)

31 6. Section 19 of P.L.1980, c.105 (C.54:32B-8.7) is amended to
32 read as follows:

33 19. Receipts from the following are exempt from the tax
34 imposed under the Sales and Use Tax Act: sales of gas, water,
35 steam, fuel [,] or electricity [, telephone or telegraph services]
36 delivered to consumers through mains, lines, pipe, or in
37 containers or bulk.

38 (cf: P.L.1980, c. 105, s.19)

39 7. Section 31 of P.L.1980, c.105 (C.54:32B-8.19) is amended to
40 read as follows:

41 31. Receipts from sales of tangible personal property and
42 services taxable under any municipal ordinance which was
43 adopted pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) and was
44 in effect on April 27, 1966 are exempt from the tax imposed
45 under the Sales and Use Tax Act, subject to the following
46 conditions:

47 a. To the extent that the tax is or would be imposed under
48 section 3 of P.L.1966, c.30 (C.54:32B-3) is greater than the tax
49 imposed by such ordinance, such sales shall not be exempt

1 under this section; and

2 b. [To the extent permitted in the following schedule,
3 irrespective] Irrespective of the rate of tax imposed by such
4 ordinance [:

5 (1) From July 1, 1981 through December 31, 1981, such sales
6 shall not be exempt from this act;

7 (2) From January 1, 1982, through August 31, 1982, such sales
8 shall be exempt only to the extent that the rate of taxation
9 imposed by the ordinance exceeds the rate of taxation otherwise
10 imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.); and

11 (3) From September 1, 1982 and thereafter], such sales shall be
12 exempt only to the extent that the rate of taxation imposed by
13 the ordinance exceeds 6%, except that the combined rate of
14 taxation imposed under the ordinance and under this section shall
15 not exceed [12%] 13%.

16 (cf: P.L.1982, c.227, s.6)

17 8. (New section) A person required to collect the tax imposed
18 by subsection (f) of section 3 of P.L.1966, c.30 (C.54:32B-3) shall
19 within 30 days of the operative date of this section, and annually
20 as prescribed by the director thereafter, file with the director a
21 list of the known names and addresses of persons that the person
22 required to collect the tax provides telecommunications excluded
23 from taxation pursuant to paragraph (2) of subsection (cc) of
24 section 2 of P.L.1966, c.30 (C.54:32B-2).

25 9. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to
26 read as follows:

27 20. Retail sales of tangible personal property (except motor
28 vehicles) and sales of services (except telecommunications) to a
29 qualified business for the exclusive use or consumption of such
30 business within an enterprise zone are exempt from the taxes
31 imposed under the "Sales and Use Tax Act," P.L.1966, c.30
32 (C.54:32B-1 et seq.).

33 (cf: P.L.1983, c.303, s.20)

34 10. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to
35 read as follows:

36 21. Receipts of retail sales, except retail sales of motor
37 vehicles, of alcoholic beverages as defined in the "Alcoholic
38 beverage tax law, R.S.54:41-1 et seq., cigarettes as defined in
39 the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) and
40 of manufacturing machinery, equipment or apparatus, made by a
41 certified vendor from a place of business owned or leased and
42 regularly operated by the vendor for the purpose of making retail
43 sales, and located in a designated enterprise zone established
44 pursuant to the "New Jersey Urban Enterprise Zones Act,"
45 P.L.1983, c.303 (C.52:27H-60 et seq.), are exempt to the extent
46 of 50% of the tax imposed under the "Sales and Use Tax Act,"
47 P.L.1966, c.30 (C.54:32B-1 et seq.).

48 Any vendor, which is a qualified business having a place of
49 business located in a designated enterprise zone, may apply to the

1 Director of the Division of Taxation in the Department of the
2 Treasury for certification pursuant to this section. The director
3 shall certify a vendor if he shall find that the vendor owns or
4 leases and regularly operates a place of business located in the
5 designated enterprise zone for the purpose of making retail sales,
6 that items are regularly exhibited and offered for retail sale at
7 that location, and that the place of business is not utilized
8 primarily for the purpose of catalogue or mail order sales. The
9 certification under this section shall remain in effect during the
10 time the business retains its status as a qualified business
11 meeting the eligibility criteria of section 27 of P.L.1983, c.303
12 (C.52:27H-86). However, the director may at any time revoke a
13 certification granted pursuant to this section if he shall
14 determine that the vendor no longer complies with the provisions
15 of this section.

16 Notwithstanding the provisions of this act to the contrary, the
17 authority may, in its discretion, determine whether or not the
18 provisions of this section shall apply to any enterprise zone
19 designated after the effective date of P.L.1985, c.142
20 (C.52:27H-66 et seq.); provided, however, that the authority may
21 make such a determination only where the authority finds that
22 the award of an exemption of 50 percent of the tax imposed
23 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et
24 seq.) will not have any adverse economic impact upon any other
25 urban enterprise zone. Notwithstanding any other provisions of
26 law to the contrary, all revenues received from the taxation of
27 retail sales made by certified vendors from business locations in
28 designated enterprise zones to which this exemption shall apply,
29 shall be deposited immediately upon collection by the
30 Department of the Treasury, as follows:

31 a. In the first five year period of the enterprise zone
32 designation, all such revenues shall be deposited in the enterprise
33 zone assistance fund created pursuant to section 29 of this act;

34 b. In the second five year period of the enterprise zone
35 designation, 66 2/3% of all those revenues shall be deposited in
36 the enterprise zone assistance fund, and 33 1/3% shall be
37 deposited in the General Fund;

38 c. In the third five year period of the enterprise zone
39 designation, 33 1/3% of all those revenues shall be deposited in
40 the enterprise zone assistance fund, and 66 2/3% shall be
41 deposited in the General Fund;

42 d. In the final five year period of the enterprise zone
43 designation, all those revenues shall be deposited in the General
44 Fund.

45 The revenues required to be deposited in the enterprise zone
46 assistance fund under this section shall be used for the purposes
47 of that fund and for the uses prescribed in section 29 of this act,
48 subject to annual appropriations being made for those purposes
49 and uses.

50 (cf: P.L.1988, c.93, s.6)

1 11. Sections 35, 36 and 43 of P.L.1980, c.105 (C.54:32B-8.23,
2 54:32B-8.24 and 54:32B-8.31), section 3 of P.L.1980, c.107
3 (C.54:32B-8.34) and sections 7 and 8 of P.L.1982, c.227
4 (C.54:32B-8.37 and 54:32B-8.38) are repealed.

5 12. This act shall take effect immediately but shall remain
6 inoperative until July 1, 1990.

7

8

9

STATE TAXATION

10

11 Increases the sales and use tax rate to 7%, subjects
12 telecommunications and telecommunications index advertising
13 space to that tax, amends and repeals certain exemptions.

ASSEMBLY, No. 3610

STATE OF NEW JERSEY

INTRODUCED MAY 24, 1990

By Assemblyman BRYANT

1 AN ACT concerning the sales and use tax, amending P.L.1966,
2 c.30, P.L.1980, c.105, P.L.1983, c.303 and repealing parts of
3 the statutory law.

4

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

7 1. Section 2 of P.L.1966, c.30 (C. 54:32B-2) is amended to read
8 as follows:

9 2. Unless the context in which they occur requires otherwise,
10 the following terms when used in this act shall mean:

11 (a) Person. Person includes an individual, partnership, society,
12 association, joint stock company, corporation, public corporation
13 or public authority, estate, receiver, trustee, assignee, referee,
14 and any other person acting in a fiduciary or representative
15 capacity, whether appointed by a court or otherwise, and any
16 combination of the foregoing.

17 (b) Purchase at retail. A purchase by any person at a retail
18 sale.

19 (c) Purchaser. A person who purchases property or who
20 receives services.

21 (d) Receipt. The amount of the sales price of any property and
22 the charge for any service taxable under this act, valued in
23 money, whether received in money or otherwise, including any
24 amount for which credit is allowed by the vendor to the
25 purchaser, without any deduction for expenses or early payment
26 discounts, but excluding any credit for property of the same kind
27 that is not tangible personal property purchased for lease
28 accepted in part payment and intended for resale, excluding the
29 cost of transportation where such cost is separately stated in the
30 written contract, if any, and on the bill rendered to the
31 purchaser, and excluding the amount of the sales price for which
32 food stamps have been properly tendered in full or part payment
33 pursuant to the federal Food Stamp Act of 1977, Pub.L. 95-113 (7
34 U.S.C. § 2011 et seq.).

35 (e) Retail sale. (1) A sale of tangible personal property to any
36 person for any purpose, other than (A) for resale either as such or
37 as converted into or as a component part of a product produced
38 for sale by the purchaser, or (B) for use by that person in
39 performing the services subject to tax under subsection (b) of

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

Matter underlined thus is new matter.

1 section 3 where the property so sold becomes a physical
2 component part of the property upon which the services are
3 performed or where the property so sold is later actually
4 transferred to the purchaser of the service in conjunction with
5 the performance of the service subject to tax.

6 (2) For the purposes of this act, the term retail sales includes:

7 Sales of tangible personal property to all contractors,
8 subcontractors or repairmen of materials and supplies for use by
9 them in erecting structures for others, or building on, or
10 otherwise improving, altering, or repairing real property of others.

11 (3) For the purposes of this act, the term retail sale includes
12 the purchase of tangible personal property for lease.

13 (4) The term retail sales does not include:

14 (A) Professional, insurance, or personal service transactions
15 which involve the transfer of tangible personal property as an
16 inconsequential element, for which no separate charges are made.

17 (B) The transfer of tangible personal property to a corporation,
18 solely in consideration for the issuance of its stock, pursuant to a
19 merger or consolidation effected under the laws of New Jersey or
20 any other jurisdiction.

21 (C) The distribution of property by a corporation to its
22 stockholders as a liquidating dividend.

23 (D) The distribution of property by a partnership to its
24 partners in whole or partial liquidation.

25 (E) The transfer of property to a corporation upon its
26 organization in consideration for the issuance of its stock.

27 (F) The contribution of property to a partnership in
28 consideration for a partnership interest therein.

29 (G) The sale of tangible personal property where the purpose
30 of the vendee is to hold the thing transferred as security for the
31 performance of an obligation of the vendor.

32 (f) Sale, selling or purchase. Any transfer of title or
33 possession or both, exchange or barter, rental, lease or license to
34 use or consume, conditional or otherwise, in any manner or by any
35 means whatsoever for a consideration, or any agreement
36 therefor, including the rendering of any service, taxable under
37 this act, for a consideration or any agreement therefor.

38 (g) Tangible personal property. Corporeal personal property of
39 any nature.

40 (h) Use. The exercise of any right or power over tangible
41 personal property by the purchaser thereof and includes, but is
42 not limited to, the receiving, storage or any keeping or retention
43 for any length of time, withdrawal from storage, any installation,
44 any affixation to real or personal property, or any consumption of
45 such property. Use also includes the exercise of any right or
46 power over telecommunications.

47 (i) Vendor. (1) The term "vendor" includes:

48 (A) A person making sales of tangible personal property or

1 services, the receipts from which are taxed by this act;

2 (B) A person maintaining a place of business in the State and
3 making sales, whether at such place of business or elsewhere, to
4 persons within the State of tangible personal property or services,
5 the use of which is taxed by this act;

6 (C) A person who solicits business either by employees,
7 independent contractors, agents or other representatives or by
8 distribution of catalogs or other advertising matter and by reason
9 thereof makes sales to persons within the State of tangible
10 personal property or services, the use of which is taxed by this
11 act;

12 (D) Any other person making sales to persons within the State
13 of tangible personal property or services, the use of which is
14 taxed by this act, who may be authorized by the director to
15 collect the tax imposed by this act; and

16 (E) The State of New Jersey, any of its agencies,
17 instrumentalities, public authorities, public corporations
18 (including a public corporation created pursuant to agreement or
19 compact with another state) or political subdivisions when such
20 entity sells services or property of a kind ordinarily sold by
21 private persons.

22 (F) A person who purchases tangible personal property for
23 lease, whether in this State or elsewhere. For the purposes of
24 Title 54 of the Revised Statutes, the presence of leased tangible
25 personal property in this State is deemed to be a place of business
26 in this State.

27 (2) In addition, when in the opinion of the director it is
28 necessary for the efficient administration of this act to treat any
29 salesman, representative, peddler or canvasser as the agent of
30 the vendor, distributor, supervisor or employer under whom he
31 operates or from whom he obtains tangible personal property sold
32 by him or for whom he solicits business, the director may, in his
33 discretion, treat such agent as the vendor jointly responsible with
34 his principal, distributor, supervisor or employer for the
35 collection and payment over of the tax.

36 (j) Hotel. A building or portion of it which is regularly used
37 and kept open as such for the lodging of guests. The term "hotel"
38 includes an apartment hotel, a motel, boarding house or club,
39 whether or not meals are served.

40 (k) Occupancy. The use or possession or the right to the use or
41 possession, of any room in a hotel.

42 (l) Occupant. A person who, for a consideration, uses,
43 possesses, or has the right to use or possess, any room in a hotel
44 under any lease, concession, permit, right of access, license to
45 use or other agreement, or otherwise.

46 (m) Permanent resident. Any occupant of any room or rooms
47 in a hotel for at least 90 consecutive days shall be considered a
48 permanent resident with regard to the period of such occupancy.

- 1 (n) Room. Any room or rooms of any kind in any part or
2 portion of a hotel, which is available for or let out for any
3 purpose other than a place of assembly.
- 4 (o) Admission charge. The amount paid for admission,
5 including any service charge and any charge for entertainment or
6 amusement or for the use of facilities therefor.
- 7 (p) Amusement charge. Any admission charge, dues or charge
8 of roof garden, cabaret or other similar place.
- 9 (q) Charge of a roof garden, cabaret or other similar place.
10 Any charge made for admission, refreshment, service, or
11 merchandise at a roof garden, cabaret or other similar place.
- 12 (r) Dramatic or musical arts admission charge. Any admission
13 charge paid for admission to a theatre, opera house, concert hall
14 or other hall or place of assembly for a live, dramatic,
15 choreographic or musical performance.
- 16 (s) Lessor. Any person who is the owner, licensee, or lessee of
17 any premises or tangible personal property which he leases,
18 subleases, or grants a license to use to other persons.
- 19 (t) Place of amusement. Any place where any facilities for
20 entertainment, amusement, or sports are provided.
- 21 (u) Casual sale. Casual sale means an isolated or occasional
22 sale of an item of tangible personal property by a person who is
23 not regularly engaged in the business of making sales at retail
24 where such property was obtained by the person making the sale,
25 through purchase or otherwise, for his own use in this State.
- 26 (v) Motor vehicle. Motor vehicle shall include all vehicles
27 propelled otherwise than by muscular power (excepting such
28 vehicles as run only upon rails or tracks), trailers, semitrailers,
29 housetrailer, or any other type of vehicle drawn by a
30 motor-driven vehicle, and motorcycles, designed for operation on
31 the public highways.
- 32 (w) "Persons required to collect tax" or "persons required to
33 collect any tax imposed by this act" shall include: every vendor
34 of tangible personal property or services; every recipient of
35 amusement charges; every operator of a hotel; and every lessor.
36 Said terms shall also include any officer or employee of a
37 corporation or of a dissolved corporation who as such officer or
38 employee is under a duty to act for such corporation in complying
39 with any requirement of this act and any member of a
40 partnership. Provided, however, the vendor of tangible personal
41 property to all contractors, subcontractors or repairmen,
42 consisting of materials and supplies for use by them in erecting
43 structures for others, or building on, or otherwise improving,
44 altering or repairing real property of others, shall not be deemed
45 a person required to collect tax, and the tax imposed by any
46 section of this act shall be paid directly to the director by such
47 contractors, subcontractors or repairmen.
- 48 (x) "Customer" shall include: every purchaser of tangible

1 personal property or services; every patron paying or liable for
2 the payment of any amusement charge; and every occupant of a
3 room or rooms in a hotel.

4 (y) "Property and services the use of which is subject to tax"
5 shall include: (a) all property sold to a person within the State,
6 whether or not the sale is made within the State, the use of which
7 property is subject to tax under section 6 or will become subject
8 to tax when such property is received by or comes into the
9 possession or control of such person within the State; [and] (b) all
10 services rendered to a person within the State, whether or not
11 such services are performed within the State, upon tangible
12 personal property the use of which is subject to tax under section
13 6 or will become subject to tax when such property is received by
14 or comes into possession or control of such person within the
15 State; and c) telecommunications charged to a service address in
16 this State.

17 (z) Director. Director means the Director of the Division of
18 Taxation of the State Department of the Treasury, or any officer,
19 employee or agency of the Division of Taxation in the
20 Department of the Treasury duly authorized by the director
21 (directly, or indirectly by one or more redelegations of authority)
22 to perform the functions mentioned or described in this act.

23 (aa) "Lease" means the possession or control of tangible
24 personal property by an agreement, not transferring sole title, as
25 may be evidenced by a contract, contracts, or by implication
26 from other circumstances including course of dealing or usage of
27 trade or course of performance, for a period of more than 29 days.

28 (bb) "The amount of the sales price" of tangible personal
29 property purchased for lease means, at the election of the lessor,
30 either (1) the amount of the lessor's purchase price or (2) the
31 amount of the total of the lease payments attributable to the
32 lease of such property. Tangible personal property purchased for
33 lease is subject to the provisions of subsection (a) of section 3 of
34 P.L.1966, c.30 (C.54:32B-3).

35 (cc) "Telecommunications," in addition to the meaning
36 ordinarily and popularly ascribed to it, includes, without
37 limitation, messages or information transmitted through use of
38 local, toll and wide area telephone service; private line services;
39 channel services; telegraph services; teletypewriter; computer
40 exchange services; cellular mobile telecommunications service;
41 specialized mobile radio; stationary two-way radio; paging
42 service; or any other form of mobile and portable one-way or
43 two-way communications; cable or satellite television services;
44 or any other transmission of messages or information by
45 electronic or similar means, between or among points by wire,
46 cable, fiber-optics, laser, microwave, radio, satellite or similar
47 facilities; and services provided in connection therewith. The
48 definition of "telecommunication" shall not include value added

1 services in which computer processing applications are used to
2 act on the form, content, code and protocol of the information
3 for purposes other than transmission. "Telecommunication" shall
4 not include purchases of telecommunications service by a
5 telecommunications service provider for use as a component part
6 of the service provided by him to the ultimate retail consumer
7 who originates or terminates the taxable end-to-end
8 communications. Carrier access charges, right of access charges,
9 charges for use of inter-company facilities, and all
10 telecommunications resold in the subsequent provision of, used as
11 a component of, or integrated into end-to-end
12 telecommunications service shall be non-taxable as sales for
13 resale.

14 (dd) "Interstate telecommunication" means any
15 telecommunication that originates or terminates inside this
16 State, including international telecommunication.

17 (ee) "Intrastate telecommunication" means any
18 telecommunication that originates and terminates within this
19 State.

20 (cf: P.L.1989, c.123, s.1)

21 2. Section 3 of P.L.1966, c.30 (C. 54:32B-3) is amended to read
22 as follows:

23 3. [On and after July 1, 1966 and continuing through February
24 28, 1970, there is hereby imposed and there shall be paid a tax of
25 3%; on and after March 1, 1970 and continuing through January 2,
26 1987 there is hereby imposed and there shall be paid a tax of 5%;
27 and on and after January 3, 1983, there] There is imposed and
28 there shall be paid a tax of [6%,] 7% upon:

29 (a) The receipts from every retail sale of tangible personal
30 property, except as otherwise provided in this act. If the lessor
31 of tangible personal property purchased for lease elects to pay
32 tax on the amount of the sales price as provided in paragraph (2)
33 of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any
34 and each subsequent lease or rental is a retail sale, and a
35 subsequent sale of such property is a retail sale.

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

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

43 (2) Installing tangible personal property, or maintaining,
44 servicing, repairing tangible personal property not held for sale in
45 the regular course of business, whether or not the services are
46 performed directly or by means of coin-operated equipment or by
47 any other means, and whether or not any tangible personal
48 property is transferred in conjunction therewith, except (i) such

1 services rendered by an individual who is engaged directly by a
2 private homeowner or lessee in or about his residence and who is
3 not in a regular trade or business offering his services to the
4 public, (ii) such services rendered with respect to personal
5 property exempt from taxation hereunder pursuant to section 13
6 of P.L.1980, c.105 (C.54:32B-8.1), (iii) [services rendered with
7 respect to trucks, tractors, trailers or semitrailers by a person
8 who is not engaged, directly or indirectly through subsidiaries,
9 parents, affiliates or otherwise, in a regular trade or business
10 offering such services to the public] (Deleted by amendment,
11 P.L. , c.), (iv) any receipts from laundering, dry cleaning,
12 tailoring, weaving, pressing, shoe repairing and shoeshining and
13 (v) services rendered in installing property which, when installed,
14 will constitute an addition or capital improvement to real
15 property, property or land.

16 (3) Storing all tangible personal property not held for sale in
17 the regular course of business and the rental of safe deposit boxes
18 or similar space.

19 (4) Maintaining, servicing or repairing real property, other
20 than a residential heating system unit serving not more than
21 three families living independently of each other and doing their
22 cooking on the premises, whether the services are performed in
23 or outside of a building, as distinguished from adding to or
24 improving such real property by a capital improvement, but
25 excluding services rendered by an individual who is not in a
26 regular trade or maintenance services, garbage removal and
27 sewer services performed on a regular contractual basis for a
28 term not less than 30 days, other than window cleaning, and
29 rodent and pest control.

30 (5) Advertising services, except advertising services for use
31 directly and primarily for publication in newspapers and
32 magazines and except for direct-mail advertising processing
33 services in connection with distribution to out-of-State
34 recipients.

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

39 Services otherwise taxable under paragraph (1) or (2) of this
40 subsection (b) are not subject to the taxes imposed under this
41 subsection, where the tangible personal property upon which the
42 services were performed is delivered to the purchaser outside this
43 State for use outside this State.

44 (c) Receipts from the sale of food and drink in or by
45 restaurants, taverns, vending machines or other establishments in
46 this State, or by caterers, including in the amount of such
47 receipts any cover, minimum, entertainment or other charge
48 made to patrons or customers:

- 1 (1) In all instances where the sale is for consumption on the
2 premises where sold;
- 3 (2) In those instances where the vendor or any person whose
4 services are arranged for by the vendor, after the delivery of the
5 food or drink by or on behalf of the vendor for consumption off
6 the premises of the vendor, serves or assists in serving, cooks,
7 heats or provides other services with respect to the food or drink,
8 except for meals especially prepared for and delivered to
9 homebound elderly, age 60 or older, and to disabled persons, or
10 meals prepared and served at a group-sitting at a location outside
11 of the home to otherwise homebound elderly persons, age 60 or
12 older, and otherwise homebound disabled persons, as all or part of
13 any food service project funded in whole or in part by government
14 or as part of a private, nonprofit food service project available to
15 all such elderly or disabled persons residing within an area of
16 service designated by the private nonprofit organization; and
- 17 (3) In those instances where the sale is for consumption off the
18 premises of the vendor, and consists of a meal, or food prepared
19 and ready to be eaten, of a kind obtainable in restaurants as the
20 main course of a meal, including a sandwich, except where food
21 other than sandwiches is sold in an unheated state and is of a type
22 commonly sold in the same form and condition in food stores
23 other than those which are principally engaged in selling prepared
24 foods;
- 25 (4) Sales of food and beverages sold through coin-operated
26 vending machines, at the wholesale price of such sale, which shall
27 be defined as 70% of the retail vending machine selling price,
28 except sales of milk, which shall not be taxed. Nothing herein
29 contained shall affect other sales through coin-operated vending
30 machines taxable pursuant to subsection (a) above or the
31 exemption thereto provided by section 21 of P.L.1980, c.105
32 (C.54:32B-8.9).
- 33 The tax imposed by this subsection (c) shall not apply to food or
34 drink which is sold to an airline for consumption while in flight.
- 35 (d) The rent for every occupancy of a room or rooms in a hotel
36 in this State, except that the tax shall not be imposed upon (1) a
37 permanent resident, or (2) where the rent is not more than at the
38 rate of \$2.00 per day.
- 39 (e) (1) Any admission charge, where such admission charge is in
40 excess of \$0.75 to or for the use of any place of amusement in
41 the State, including charges for admission to race tracks,
42 baseball, football, basketball or exhibitions, dramatic or musical
43 arts performances, motion picture theatres, except charges for
44 admission to boxing, wrestling, kick boxing or combative sports
45 exhibitions, events, performances or contests which charges are
46 taxed under any other law of this State or under section 20 of
47 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
48 admission to, or use of, facilities for sporting activities in which

1 such patron is to be a participant, such as bowling alleys and
 2 swimming pools. For any person having the permanent use or
 3 possession of a box or seat or lease or a license, other than a
 4 season ticket, for the use of a box or seat at a place of
 5 amusement, the tax shall be upon the amount for which a similar
 6 box or seat is sold for each performance or exhibition at which
 7 the box or seat is used or reserved by the holder, licensee or
 8 lessee, and shall be paid by the holder, licensee or lessee.

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

12 (f) The receipts from every sale, except for resale, of
 13 intrastate or interstate telecommunications charged to an
 14 address in this State, regardless of where the services are billed
 15 or paid.

16 (cf: P.L.1989, c.123, s.2)

17 3. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read
 18 as follows:

19 4. Tax bracket schedule. For the purpose of adding and
 20 collecting the tax imposed by this act, or an amount equal as
 21 nearly as possible or practicable to the average equivalent
 22 thereof, to be reimbursed to the vendor by the purchaser, the
 23 following formulas shall be in force and effect:

24 [(a) For the period July 1, 1966 through February 28, 1970,
 25 inclusive:

27	Amount of Sale	Amount of Tax
28	\$0.01 to \$0.16	No Tax
29	0.17 to 0.40	\$0.01
30	0.41 to 0.70	0.02
31	0.71 to 1.16	0.03

32
 33 In addition to a tax of \$0.03 on each full dollar, a
 34 tax shall be collected on each part of a dollar in excess
 35 of a full dollar, in accordance with the above formula.

36 (b) For the period March 1, 1970 through January 2,
 37 1983, inclusive:

39	Amount of Sale	Amount of Tax
40	\$0.01 to \$0.10	No Tax
41	0.11 to 0.25	\$0.01
42	0.26 to 0.46	0.02
43	0.47 to 0.67	0.03
44	0.68 to 0.88	0.04
45	0.89 to 1.10	0.05

46
 47 In addition to a tax of \$0.05 on each full dollar, a
 48 tax shall be collected on each part of a dollar in excess

1 of a full dollar, in accordance with the above formula.

2

3

4 (c) For the period on and after January 3, 1983:

5	Amount of Sale	Amount of Tax
6	\$0.01 to \$0.10	No Tax
7	0.11 to 0.22	\$0.01
8	0.23 to 0.38	0.02
9	0.39 to 0.56	0.03
10	0.57 to 0.72	0.04
11	0.73 to 0.88	0.05
12	0.89 to 1.10	0.06]

13	<u>Amount of Sale</u>	<u>Amount of Tax</u>
14	<u>\$0.01 to \$0.10</u>	<u>No tax</u>
15	<u>0.11 to 0.21</u>	<u>\$0.01</u>
16	<u>0.22 to 0.35</u>	<u>0.02</u>
17	<u>0.36 to 0.50</u>	<u>0.03</u>
18	<u>0.51 to 0.64</u>	<u>0.04</u>
19	<u>0.65 to 0.78</u>	<u>0.05</u>
20	<u>0.79 to 0.92</u>	<u>0.06</u>
21	<u>0.93 to \$1.07</u>	<u>0.07</u>

22

23 In addition to a tax of [\$0.06] \$0.07 on each full dollar, a tax

24 shall be collected on each part of a dollar in excess of a full

25 dollar, in accordance with the [above] following formula.

26

27	<u>Amount of Sale</u>	<u>Amount of Tax</u>
28	<u>\$0.01 to \$0.07</u>	<u>No additional tax</u>
29	<u>0.08 to 0.21</u>	<u>\$0.01</u>
30	<u>0.22 to 0.35</u>	<u>0.02</u>
31	<u>0.36 to 0.50</u>	<u>0.03</u>
32	<u>0.51 to 0.64</u>	<u>0.04</u>
33	<u>0.65 to 0.78</u>	<u>0.05</u>
34	<u>0.79 to 0.92</u>	<u>0.06</u>
35	<u>0.93 to \$1.07</u>	<u>0.07</u>

36

37 (cf: P.L.1982, c.227, s.2)

38 4. Section 5 of P.L.1966, c.30 (C. 54:32B-5) is amended to read

39 as follows:

40 5. Transitional provisions. [(a)(1) The taxes imposed under

41 subsections (a), (b) and (c) of section 3 shall be paid upon receipts

42 received on or after July 1, 1966 from all sales made and services

43 rendered, although made on or rendered under a contract entered

44 into prior to said date, except that in the case of payment for a

45 delivery or transfer of possession of tangible personal property

46 made after July 1, 1966 pursuant to an agreement for the sale of

47 said property made before May 9, 1966, such receipts shall not

48 be subject to tax if: (A) such agreement for the sale of said

1 property was made in writing, (B) the particular item or items of
2 property so sold or agreed to be sold were segregated, before May
3 9, 1966, from any other similar property in the possession of the
4 vendor and identified as having been appropriated to such sale or
5 agreement of sale, and (C) the purchaser, before July 1, 1966,
6 shall have paid to the vendor not less than 10% of the sales price
7 of said property. Upon written application, made in accordance
8 with applicable rules and regulations, the director may waive the
9 requirement for segregation, where it is demonstrated to the
10 satisfaction of the director that in view of the nature of the
11 transaction such segregation would have been impossible.

12 (2) Except as otherwise provided in this act, receipts received
13 from all sales made and services rendered on and after July 1,
14 1966 but prior to March 1, 1970, are subject to the taxes imposed
15 under subsections (a), (b), and (c) of section 3 of this act at the
16 rate of 3%, except where the property so sold is delivered or the
17 services so sold are rendered on or after March 1, 1970 but prior
18 to January 3, 1983, in which case the tax shall be computed and
19 paid at the rate of 5%, provided, however, that where a service
20 or maintenance agreement taxable under this act covers any
21 period commencing on or after July 1, 1966 and ending after
22 February 28, 1970, the receipts from such agreement are subject
23 to tax at the rate applicable to each period as set forth
24 hereinabove and shall be apportioned on the basis of the ratio of
25 the number of days falling within each of the said periods to the
26 total number of days covered thereby.

27 (3) Except as otherwise provided in this act, receipts received
28 from all sales made and services rendered on and after March 1,
29 1970 but prior to January 3, 1983, are subject to the taxes
30 imposed under subsections (a), (b), and (c) of section 3 of this act
31 at the rate of 5%, except where the property so sold is delivered
32 or the services so sold are rendered on or after January 3, 1983,
33 in which case the tax shall be computed and paid at the rate of
34 6%; provided, however, that where a service or maintenance
35 agreement taxable under this act covers any period commencing
36 on or after March 1, 1970 and ending after January 2, 1983, the
37 receipts from such agreement are subject to tax at the rate
38 applicable to each period as set forth hereinabove and shall be
39 apportioned on the basis of the ratio of the number of days falling
40 within each of the said periods to the total number of days
41 covered thereby.

42 (b)(1) The tax imposed under subsection (d) of section 3 shall be
43 paid at the rate of 5% upon any occupancy on and after March 1,
44 1970 but prior to January 3, 1983, although such occupancy is
45 pursuant to a prior contract, lease or other arrangement. Where
46 an occupancy, taxable under this act, covers any period on or
47 after July 1, 1966 but prior to March 1, 1970, the rent for the
48 period of occupancy prior to March 1, 1970 shall be taxed at the

1 rate of 3%. Where rent is paid on a weekly, monthly or other
2 term basis, the rent applicable to each period as set forth
3 hereinabove shall be apportioned on the basis of the ratio of the
4 number of days falling within each of the said periods to the
5 total number of days covered thereby.

6 (2) The tax imposed under subsection (d) of section 3 shall be
7 paid at the rate of 6% upon any occupancy on and after January
8 3, 1983, although such occupancy is pursuant to a prior contract,
9 lease or other arrangement. Where an occupancy, taxable under
10 this act, covers any period on or after March 1, 1970 but prior to
11 January 2, 1983, the rent for the period of occupancy prior to
12 January 2, 1983 shall be taxed at the rate of 5%. Where rent is
13 paid on a weekly, monthly or other term basis, the rent applicable
14 to each period as set forth hereinabove shall be apportioned on
15 the basis of the ratio of the number of days falling within each of
16 the said periods to the total number of days covered thereby.

17 (c)(1) Except as otherwise hereinafter provided, the tax
18 imposed under subsection (e) of section 3 shall be applicable at
19 the rate of 5% to any admission to or for the use of facilities of a
20 place of amusement occurring on or after March 1, 1970 but prior
21 to January 3, 1983, whether or not the admission charge has been
22 paid prior to such date, unless the tickets were actually sold and
23 delivered (other than for resale) prior to March 1, 1970 and the
24 tax imposed under this act during the period July 1, 1966 through
25 February 28, 1970 shall have been paid.

26 (2) Except as otherwise hereinafter provided, the tax imposed
27 under subsection (e) of section 3 shall be applicable at the rate of
28 6% to any admission to or for the use of facilities of a place of
29 amusement occurring on or after January 3, 1983, whether or not
30 the admission charge has been paid prior to that date, unless the
31 tickets were actually sold and delivered, other than for resale,
32 prior to January 3, 1983 and the tax imposed under this act
33 during the period March 1, 1970 through January 2, 1983 shall
34 have been paid.

35 (d)(1) Sales made to contractors, subcontractors or repairmen
36 of materials, supplies, or services for use in erecting structures
37 for others, or building on, or otherwise improving, altering or
38 repairing real property of others shall be exempt from the taxes
39 imposed by subsections (a) and (b) of section 3 and section 6
40 hereof, provided such structure, building, improvement,
41 alteration or repair is the subject of a written bid or contract
42 duly tendered or entered into by such contractor, subcontractor,
43 or repairman before May 9, 1966.

44 (2) Sales made on or after March 1, 1970 but prior to January 3,
45 1983 to contractors, subcontractors or repairmen of materials,
46 supplies, or services for use in erecting structures for others, or
47 building on, or otherwise improving, altering or repairing real
48 property of others shall be subject to the taxes imposed by

1 subsections (a) and (b) of section 3 and section 6 hereof at the
2 rate of 5%; provided, however, that when such sales are made for
3 use in performance of a contract which is either at a fixed price
4 not subject to change or modification, or entered into pursuant to
5 the obligation of a formal written bid which cannot be altered or
6 withdrawn, and, in either case, such contract was entered into or
7 such bid was made on or after May 9, 1966 but prior to March 1,
8 1970, such sales shall be subject to tax at the rate of 3%, but the
9 vendor shall charge and collect from the purchaser a tax on such
10 sales at the rate of 5%, which tax shall be reduced to the rate of
11 3% only by a claim for refund filed by the purchaser with the
12 director pursuant to the provisions of section 20 of this act.

13 (3) As to sales other than those referred to in (2) above, the
14 taxes imposed under subsections (a) and (b) of section 3 and
15 section 6 hereof upon receipts received on or after March 1,
16 1970 and on or before December 31, 1970 shall be at the rate in
17 effect on February 9, 1970 in case of sales made or services
18 rendered pursuant to a written contract entered into on or after
19 May 9, 1966 but prior to February 9, 1970 and accompanied by a
20 deposit or partial payment of the contract price, except in the
21 case of a contract which, in the usage of trade, is not
22 customarily accompanied by a deposit or partial payment of the
23 contract price, but the vendor shall charge and collect from the
24 purchaser a tax on such sales at the rate of 5%, which tax shall
25 be refunded, if such receipts were not subject to tax on February
26 9, 1970, or reduced to the rate of 3%, as the case may be, only
27 by a claim for refund filed by the purchaser with the director
28 within 90 days after receipt of said receipts and otherwise
29 pursuant to the provisions of section 20 of this act. A claim for
30 refund where there has been no deposit or partial payment of the
31 contract price shall not be allowed unless the claimant shall
32 establish by clear and convincing evidence that, in the usage of
33 trade, such contracts are not customarily accompanied by a
34 deposit or partial payment of the contract price.

35 (4) Sales made on and after January 3, 1983 to contractors,
36 subcontractors or repairmen of materials, supplies, or services
37 for use in erecting structures for others, or building on, or
38 otherwise improving, altering or repairing real property of others
39 shall be subject to the taxes imposed by subsections (a) and (b) of
40 section 3 and section 6 hereof at the rate of 6%; provided,
41 however, that when such sales are made for use in performance
42 of a contract which is either of a fixed price not subject to
43 change or modification, or entered into pursuant to the obligation
44 of a formal written bid which cannot be altered or withdrawn,
45 and, in either case, such contract was entered into or such bid
46 was made on or after March 1, 1970 but prior to January 3, 1983,
47 such sales shall be subject to tax at the rate of 5%, but the
48 vendor shall charge and collect from the purchaser a tax on such

1 sales at the rate of 6%.

2 (5) As to sales other than those referred to in (4) above, the
3 taxes imposed under subsections (a) and (b) of section 3 and
4 section 6 hereof upon receipts received on or after January 3,
5 1983 and on or before June 30, 1983 shall be at the rate in effect
6 on January 2, 1983 in case of sales made or services rendered
7 pursuant to a written contract entered on or after March 1, 1970
8 but prior to January 2, 1983 and accompanied by a deposit or
9 partial payment of the contract price, except in the case of a
10 contract which, in the usage of trade, is not customarily
11 accompanied by a deposit or partial payment of the contract
12 price, but the vendor shall charge and collect from the purchaser
13 on such sales at the rate of 6%, which tax shall be refunded, if
14 such receipts were not subject to tax on January 2, 1983, or
15 reduced to the rate of 5%, as the case may be, only by a claim
16 for refund filed by the purchaser with the director within 90 days
17 after receipt of said receipts and otherwise pursuant to the
18 provisions of section 20 of this act (C. 54:32B-20). A claim for
19 refund where there has been no deposit or partial payment of the
20 contract price shall not be allowed unless the claimant shall
21 establish by clear and convincing evidence that, in the usage of
22 trade, such contracts are not customarily accompanied by a
23 deposit or partial payment of the contract price.

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

30 (2) The taxes imposed under subsections (a), (b) and (c) of
31 section 3 upon receipts received on or after March 1, 1970 but
32 prior to January 3, 1983 shall be at the rate of 3% in the case of
33 sales made or services rendered, where delivery of the property
34 which was the subject matter of the sale has been completed or
35 such services have been entirely rendered prior to March 1, 1970.

36 (3) The taxes imposed under subsections (a), (b) and (c) of
37 section 3 upon receipts received on or after January 3, 1983 shall
38 be at the rate of 5% in the case of sales made or services
39 rendered, where delivery of the property which was the subject
40 matter of the sale has been completed or such services have been
41 entirely rendered prior to January 3, 1983.]

42 a. Except as otherwise provided in this act, receipts received
43 from all sales made and services rendered on and after January 3,
44 1983 but prior to July 1, 1990, are subject to the taxes imposed
45 under subsections (a), (b), (c), and (f) of section 3 of this act at
46 the rate of 6%, except where the property so sold is delivered or
47 the services so sold are rendered on or after July 1, 1990, in
48 which case the tax shall be computed and paid at the rate of 7%;

1 provided, however, that where a service or maintenance
2 agreement taxable under this act covers any period commencing
3 on or after January 3, 1983 and ending after June 30, 1990, the
4 receipts from such agreement are subject to tax at the rate
5 applicable to each period as set forth hereinabove and shall be
6 apportioned on the basis of the ratio of the number of days falling
7 within each of the said periods to the total number of days
8 covered thereby.

9 b. The tax imposed under subsection (d) of section 3 shall be
10 paid at the rate of 7% upon any occupancy on and after July 1,
11 1990, although such occupancy is pursuant to a prior contract,
12 lease or other arrangement. Where an occupancy, taxable under
13 this act, covers any period on or after January 3, 1983 but prior
14 to July 1, 1990, the rent for the period of occupancy prior to July
15 1, 1990 shall be taxed at the rate of 6%. Where rent is paid on a
16 weekly, monthly or other term basis, the rent applicable to each
17 period as set forth hereinabove shall be apportioned on the basis
18 of the ratio of the number of days falling within each of the said
19 periods to the total number of days covered thereby.

20 c. Except as otherwise hereinafter provided, the tax imposed
21 under subsection (e) of section 3 shall be applicable at the rate of
22 7% to any admission to or for the use of facilities of a place of
23 amusement occurring on or after July 1, 1990, whether or not the
24 admission charge has been paid prior to that date, unless the
25 tickets were actually sold and delivered, other than for resale,
26 prior to July 1, 1990 and the tax imposed under this act during
27 the period January 3, 1983 through June 30, 1990 shall have been
28 paid.

29 d. Sales made on and after July 1, 1990 to contractors,
30 subcontractors or repairmen of materials, supplies, or services
31 for use in erecting structures for others, or building on, or
32 otherwise improving, altering or repairing real property of others
33 shall be subject to the taxes imposed by subsections (a) and (b) of
34 section 3 and section 6 hereof at the rate of 7%; provided,
35 however, that when such sales are made for use in performance
36 of a contract which is either of a fixed price not subject to
37 change or modification, or entered into pursuant to the obligation
38 of a formal written bid which cannot be altered or withdrawn,
39 and, in either case, such contract was entered into or such bid
40 was made on or after January 3, 1983 but prior to July 1, 1990,
41 such sales shall be subject to tax at the rate of 6%, but the
42 vendor shall charge and collect from the purchaser a tax on such
43 sales at the rate of 7%.

44 e. As to sales other than those referred to in d. above, the
45 taxes imposed under subsections (a) and (b) of section 3 and
46 section 6 hereof, and the taxes imposed under subsection (f) of
47 section 3 and section 6 hereof, upon receipts received on or after
48 July 1, 1990 and on or before November 30, 1990 shall be at the

1 rate in effect on June 30, 1990 in case of sales made or services
2 rendered pursuant to a written contract entered on or after
3 January 3, 1983 but prior to July 1, 1990 and accompanied by a
4 deposit or partial payment of the contract price, except in the
5 case of a contract which, in the usage of trade, is not customarily
6 accompanied by a deposit or partial payment of the contract
7 price, but the vendor shall charge and collect from the purchaser
8 on such sales at the rate of 7%, which tax shall be reduced to the
9 rate of 6% only by a claim for refund filed by the purchaser with
10 the director within 90 days after receipt of said receipts and
11 otherwise pursuant to the provisions of section 20 of this act (C.
12 54:32B-20). A claim for refund where there has been no deposit
13 or partial payment of the contract price shall not be allowed
14 unless the claimant shall establish by clear and convincing
15 evidence that, in the usage of trade, such contracts are not
16 customarily accompanied by a deposit or partial payment of the
17 contract price.

18 f. The taxes imposed under subsections (a), (b), (c) and (f) of
19 section 3 upon receipts received on or after July 1, 1990 shall be
20 at the rate of 6% in the case of sales made or services rendered,
21 where delivery of the property which was the subject matter of
22 the sale has been completed or such services have been entirely
23 rendered prior to July 1, 1990.

24 [(f)] g. The director shall be empowered to promulgated rules
25 and regulations to implement the provisions of this section.
26 (cf: P.L.1982, c.227, s.3)

27 5. Section 6 of P.L.1966, c.30 (C. 54:32B-6) is amended to read
28 as follows:

29 6. Imposition of compensating use tax. Unless property or
30 services have already been or will be subject to the sales tax
31 under this act, there is hereby imposed on and there shall be paid
32 by every person a use tax for the use within this State of [3% on
33 and after July 1, 1966 and continuing through February 28, 1970,
34 and of 5% on and after March 1, 1970 and continuing through
35 January 2, 1983, and of 6% on and after January 3, 1983] 7%,
36 except as otherwise exempted under this act, (A) of any tangible
37 personal property purchased at retail, (B) of any tangible personal
38 property manufactured, processed or assembled by the user, if
39 items of the same kind of tangible personal property are offered
40 for sale by him in the regular course of business, or if items of
41 the same kind of tangible personal property are not offered for
42 sale by him in the regular course of business and are used as such
43 or incorporated into a structure, building or real property, [and]
44 (C) of any tangible personal property, however acquired, where
45 not acquired for purposes of resale, upon which any taxable
46 services described in [subsection (b)(1)] paragraphs (1) and (2) of
47 subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have
48 been performed, and (D) of interstate or intrastate

1 telecommunications described in subsection (f) of section 3 of
2 P.L.1966, c.30. For purposes of clause (A) of this section, the tax
3 shall be at the applicable rate, as set forth hereinabove, of the
4 consideration given or contracted to be given for such property or
5 for the use of such property, but excluding any credit for
6 property of the same kind accepted in part payment and intended
7 for resale, plus the cost of transportation, except where such cost
8 is separately stated in the written contract, if any, and on the bill
9 rendered to the purchaser. For the purposes of clause (B) of this
10 section, the tax shall be at the applicable rate, as set forth
11 hereinabove, of the price at which items of the same kind of
12 tangible personal property are offered for sale by the user, or if
13 items of the same kind of tangible personal property are not
14 offered for sale by the user in the regular course of business and
15 are used as such or incorporated into a structure, building or real
16 property the tax shall be at the applicable rate, as set forth
17 hereinabove, of the consideration given or contracted to be given
18 for the tangible personal property manufactured, processed or
19 assembled by the user into the tangible personal property the use
20 of which is subject to use tax pursuant to this section, and the
21 mere storage, keeping, retention or withdrawal from storage of
22 tangible personal property by the person who manufactured,
23 processed or assembled such property shall not be deemed a
24 taxable use by him. For purposes of clause (C) of this section,
25 the tax shall be at the applicable rate, as set forth hereinabove,
26 of the consideration given or contracted to be given for the
27 service, including the consideration for any tangible personal
28 property transferred in conjunction with the performance of the
29 service, plus the cost of transportation, except where such cost is
30 separately stated in the written contract, if any, and on the bill
31 rendered to the purchaser. For the purposes of clause (D) of this
32 section, the tax shall be at the applicable rate on the charge
33 made by the telecommunication service provider.

34 (cf: P.L.1989, c.350, s.1)

35 6. Section 13 of P.L.1980, c.105 (C. 54:32B-8.1) is amended to
36 read as follows:

37 13. Receipts from the following are exempt from the tax
38 imposed under the Sales and Use Tax Act: sales of medicines and
39 drugs sold pursuant to a doctor's prescription for human use;
40 [over the counter drugs recommended and generally sold for the
41 relief of pain, ailments, distresses or disorders of the human
42 body;] diabetic supplies; crutches, artificial limbs, artificial eyes,
43 artificial hearing devices, corrective eyeglasses, prosthetic aids,
44 artificial teeth or dentures, braces, tampons or like products,
45 orthopedic appliances and artificial devices designed to correct
46 or alleviate physical incapacity, medical oxygen, respiratory
47 equipment, human blood and its derivatives when sold for human
48 use, wheelchairs, transcutaneous electro-neuro stimulators (TENS

1 units), durable medical equipment, and replacement parts for any
2 of the foregoing.

3 As used in this section, durable medical equipment means
4 equipment that: a. can withstand repeated use, b. is primarily and
5 customarily used to serve a medical purpose, c. is generally not
6 useful to a person in the absence of illness or injury, and d. is
7 appropriate for use in the home.

8 Receipts from sales of medical equipment, durable medical
9 equipment, and supplies, other than medicines and drugs,
10 purchased for use in providing medical services for compensation,
11 but not transferred to the purchaser of the service in conjunction
12 with the performance of the service, shall be considered taxable
13 receipts from retail sales notwithstanding the exemption from
14 the sales and use tax provided under this section.

15 (cf: P.L.1987, c.383, s.1)

16 7. Section 19 of P.L.1980, c.105 (C. 54:32B-8.7) is amended to
17 read as follows:

18 19. Receipts from the following are exempt from the tax
19 imposed under the Sales and Use Tax Act: sales of gas, water,
20 steam, fuel [,] or electricity [, telephone or telegraph services]
21 delivered to consumers through mains, lines, pipe, or in
22 containers or bulk.

23 (cf P.L.1980, c. 105, s.19)

24 8. Section 31 of P.L.1980, c.105 (C. 54:32B-8.19) is amended
25 to read as follows:

26 31. Receipts from sales of tangible personal property and
27 services taxable under any municipal ordinance which was
28 adopted pursuant to P.L.1947, c. 71 (C. 40:48-8.15 et seq.) and
29 was in effect on April 27, 1966 are exempt from the tax imposed
30 under the Sales and Use Tax Act, subject to the following
31 conditions:

32 a. To the extent that the tax is or would be imposed under
33 section 3 of P.L.1966, c. 30 (C. 54:32B-3) is greater than the tax
34 imposed by such ordinance, such sales shall not be exempt under
35 this section; and

36 b. To the extent permitted in the following schedule,
37 irrespective of the rate of tax imposed by such ordinance [:

38 (1) From July 1, 1981 through December 31, 1981, such sales
39 shall not be exempt from this act;

40 (2) From January 1, 1982, through August 31, 1982, such sales
41 shall be exempt only to the extent that the rate of taxation
42 imposed by the ordinance exceeds the rate of taxation otherwise
43 imposed pursuant to P.L.1966, c. 30 (C. 54:32B-1 et seq.); and

44 (3) From September 1, 1982 and thereafter,] such sales shall be
45 exempt only to the extent that the rate of taxation imposed by
46 the ordinance exceeds 6%, except that the combined rate of
47 taxation imposed under the ordinance and under this section shall
48 not exceed [12%] 13%.

49 (cf: P.L.1982, c.227, s.6)

(1990)

1 9. Sections 35 and 43 of P.L.1980, c.105 (C. 54:32B-8.23 and
2 54:32B-8.31) and sections 7 and 8 of P.L.1982, c.227 (C.
3 54:32B-8.37 and 54:32B-8.38) are repealed.

4 10. Section 20 of P.L.1983, c.303 (C. 52:27H-79) is amended to
5 read as follows:

6 20. Retail sales of tangible personal property (except motor
7 vehicles) and sales of services (except telecommunications) to a
8 qualified business for the exclusive use or consumption of such
9 business within an enterprise zone are exempt from the taxes
10 imposed under the "Sales and Use Tax Act," P.L.1966, c. 30 (C.
11 54:32B-1 et seq.).

12 (P.L.1983, c.303, s.20)

13 11. This act shall take effect immediately, but sections 1
14 through 10 inclusive shall remain inoperative until July 1, 1990.

15
16
17 *SPONSOR'S* STATEMENT

18
19 This bill increases the sales and use tax rate from 6% to 7%,
20 effective July 1, 1990.

21 The bill also subjects telecommunications, including interstate
22 and intrastate telephone service, wide area (WATS) calls,
23 telegraph service, cellular mobile telecommunications services,
24 paging services, cable satellite and closed-circuit television
25 services to the sales and use tax.

26 The bill also repeals the current exemptions from the tax for
27 the sale of non-prescription drugs, household soaps and paper
28 products, and for the purchase, lease or repair of commercial
29 trucks and trailers.

30
31
32 STATE TAXATION

33
34 Increases the sales and use tax rate to 7%, subjects
35 telecommunications to that tax, increases and repeals certain
36 exemptions.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3610

STATE OF NEW JERSEY

DATED: JUNE 14, 1990

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3610.

The Assembly Committee Substitute for Assembly Bill No. 3610 increases the sales and use tax from 6% to 7%, effective July 1, 1990, and removes certain exemptions and exclusions from the tax for selected products and services.

The following products and services are made subject to taxation under the sales and use tax:

(1) Telecommunications. Telecommunications is defined as the origination or reception of messages or information through the use of any kind of one-way or two-way electronic or electromagnetic communication; it includes all services and equipment provided in connection with or by means of telecommunications and refers to both intrastate and interstate telecommunications. Examples of taxable services include, but are not limited to, voice, video, facsimile, teletypewriter, computer, cellular mobile or portable telephone, specialized mobile or portable pager or paging service telecommunications.

The following telecommunications sales or uses would be exempt from taxation.

- One-way radio or television broadcasting transmissions available universally to the general public without a fee;

- Purchases of telecommunications by a telecommunications provider for resale to a retail consumer;

- "Private" telecommunications services internal to a business organization and for its exclusive use; and

- Charges in the nature of subscription fees paid by subscribers for cable television service.

Business purchases of telecommunications within an urban enterprise zone will not be considered as eligible sales to qualified businesses for purposes of exemption from the sales tax under section 20 of P.L.1983, c.303 (C.52:27H-79).

(2) Advertising space in a telecommunications user or provider directory or index distributed in New Jersey.

(3) Interior cleaning and maintenance (janitorial) services.

(4) Alcoholic beverages (on and off premises).

(5) Cigarettes.

Retail sales of alcoholic beverages and cigarettes in a designated urban enterprise zone are not eligible for the 50% exemption of the sales and use tax pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80).

(6) Household soaps and detergents.

(7) Disposable household paper products.

(8) Sales, renting, leasing, repair and replacement parts for commercial trucks and trailers and certain commercial vehicles operated under an Interstate Commerce Commission certificate or permit.

The committee substitute establishes transitional regulations and procedures to assure proper collection processing at the time of the rate and tax coverage changes. Finally, the "Sales and Use Tax Act" is amended to assure that the Atlantic City luxury sales tax is not affected by this substitute.

COMMITTEE SUBSTITUTE

Assembly Bill No. 3610, as it was referred to the committee, increased the sales and use tax to 7% and imposed the tax on previously excluded or exempted sales of telecommunications, household soaps and detergents, disposable paper products, non-prescription drugs and the sales, leasing and repair of certain commercial vehicles (including heavy trucks and trailers). This committee substitute for A-3610 imposes the sales tax on the above items with the exception of non-prescription drugs, for which an exemption is maintained. In addition, the committee substitute imposes the sales tax on the following: advertising space in telecommunications directories ("yellow pages"), janitorial services, alcoholic beverages and cigarettes. Finally, the committee substitute makes various changes in the definition and description of telecommunications subject to taxation.

This substitute is identical to the Senate Committee Substitute for Senate Bill No. 2727 adopted June 14, 1990.

FISCAL IMPACT

A fiscal note has not been completed on this committee substitute. However, the committee has adopted the following revenue estimates related to the bill's provisions:

	FY 1991 REVENUE <u>ESTIMATE</u> (\$Millions)
Sales Tax	
Rate increase, 6% to 7%	\$ 550.0
New Coverage:	
Telecommunications	325.0
Commercial motor vehicles over 18,000 lbs. and truck/trailer leasing	44.0
Household soaps, detergents	64.0
Disposable paper products	30.0
Janitorial services	33.0
Alcoholic beverages	182.0
Cigarettes	<u>75.0</u>
 TOTAL	 \$1,303.0