

54:32B-8.13

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:32B-8.13 et al

(Telecommunications companies--alternative methods for taxing)

LAWS OF: 1989

CHAPTER: 2

Bill No: A135

Sponsor(s): Penn

Date Introduced: Pre-filed

Committee: Assembly: Transportation & Communications

Senate: Transportation & Communications

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 23, 1988

Senate: December 23, 1988

Date of Approval: January 18, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: ~~Yes~~

Veto Message: No

Message on signing: ~~Yes~~

Following were printed:

Reports: No

Hearings: No

(over)

See newspaper clipping--attached:

"Assembly oks bills to cut AT&T taxes..."6-24-88 Trenton Times
"Unwrapping the new phone tax package" 4-2-89 Philadelphia Inquirer

Similar bill and public hearing

974.90 New Jersey. Legislature. Assembly. Transportation Committee.
C758 Public hearing on ACR 30 (amends
1988b State Constitution by dedicating
 sales tax revenue...and compensating municipalities for loss of
 certain business tax revenues), held 6-23-88. Trenton, 1988.

§5-C. 54:30A-24.2
§6-C. 54:4-2.49a
§7-C. 54:11A-6.1
§8-C. 54:10A-15.5
§9-Repealer
§10-Note to §§1-9

P.L. 1989, CHAPTER 2, *approved January 18, 1989*

1988 Assembly No. 135 (*Third Reprint*)

1 **AN ACT** concerning the taxation of certain telecommunications
companies ³[, amending various sections of statutory law] and
3 equipment, providing for the distribution of certain State
revenues, amending P.L.1980, c.105, P.L.1940, c.4 and
5 R.S.54:4-1³, supplementing Title 54 of the Revised Statutes,
and repealing R.S.54:13-11 ¹, R.S.54:13-12, R.S.54:13-15 and
7 P.L.1952, c.349¹.

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

11 1. Section 25 of P.L.1980, c.105 (C.54:32B-8.13) is amended to
read as follows:

13 25. Receipts from the following are exempt from the tax
imposed under the Sales and Use Tax Act:

15 a. Sales of machinery, apparatus or equipment for use or
consumption directly and primarily in the production of tangible
17 personal property by manufacturing, processing, assembling or
refining;

19 b. Sales of machinery, apparatus or equipment for use or
consumption directly and primarily in the production, generation,
21 transmission or distribution of gas, electricity, refrigeration,
steam or water for sale or in the operation of sewerage systems;

23 c. Sales ³[to a provider of telecommunications services to the
general public for a fee]³ of telephones, telephone lines, cables,
25 central office equipment or station apparatus, or other
machinery, equipment or apparatus, or comparable telegraph
27 equipment ³to a service provider subject to the jurisdiction of the
Board of Public Utilities or the Federal Communications
29 Commission³, for use directly and primarily in receiving at

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ATC committee amendments adopted January 21, 1988.

² Assembly AAP committee amendments adopted May 23, 1988.

³ Senate SRF committee amendments adopted October 20, 1988.

1 destination or initiating, transmitting and switching telephone
 2 ³[or],³ telegraph ³[communication] or interactive
 3 telecommunications service for sale to the general public³;

4 d. Sales of machinery, apparatus, equipment, building
 5 materials, or structures or portions thereof, used directly and
 6 primarily for cogeneration in a cogeneration facility. As used in
 7 this subsection, "cogeneration facility" means a facility the
 8 primary purpose of which is the sequential production of
 9 electricity and steam or other forms of useful energy which are
 10 used for industrial or commercial heating or cooling purposes and
 11 which is designated by the Federal Energy Regulatory
 12 Commission, or its successor, as a "qualifying facility" pursuant
 13 to the provisions of the "Public Utility Regulatory Policies Act of
 14 1978," Pub. L. 95-617. The ²[Commissioner of the Department
 15 of Energy] Director of the Division of Energy Planning and
 16 Conservation in the Department of Commerce, Energy and
 17 Economic Development², in consultation with the Director of the
 18 Division of Taxation, shall adopt, pursuant to the "Administrative
 19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
 20 regulations establishing technical specifications for eligibility for
 21 the exemption provided in this subsection.

22 The exemptions granted under this section shall not be
 23 construed to apply to sales, otherwise taxable, of machinery,
 24 equipment or apparatus whose use is incidental to the activities
 25 described in subsections a., b., c., and d. of this section.

26 The exemptions granted in this section shall not apply to motor
 27 vehicles or to parts with a useful life of one year or less or tools
 28 or supplies used in connection with the machinery, equipment or
 29 apparatus described in this section.

(cf: P.L.1985, c.266, s.1)

30 2. Section 2 of P.L.1940, c.4 (C.54:30A-17) is amended to read
 31 as follows:

32 2. Definitions: As used in this act, unless the context
 33 otherwise requires,

34 (a) "Taxpayer" means any person, copartnership, association or
 35 corporation subject to taxation under the provisions of this act.

36 (b) "Gross receipts" means all ¹intestate¹ receipts from the
 37 taxpayer's business over, on, in, through or from the whole of its
 38 lines or mains ¹in this State¹, excluding therefrom, however, any
 39

1 sum or sums of money received by any taxpayer in payment for
such portion of its products as may have been sold and furnished
3 to another public utility which is also subject to the payment of
a tax based upon gross receipts, ¹[and excluding also]¹ receipts
5 from the operation of autobuses¹. Gross receipts shall not
7 include any amounts paid by a telecommunications carrier to a
local exchange telephone company for connecting fees, switching
9 charges and carrier access charges or receipts from the provision
of interexchange telecommunications service., receipts paid by a
11 telecommunications carrier to a local exchange telephone
company for connecting fees, switching charges, and carrier
13 access charges, and receipts from the provisioning of interLATA
telecommunication services.¹

(c) "Scheduled property" means only those classes or types of
15 property of a taxpayer set forth in section 7 of this act, and
which are to be used in computing the apportionment valuation
17 herein defined.

(d) "Unit value" means the value set forth in section 7 of this
19 act, to be uniformly applied to each of the several classes or
types of scheduled property in computing the apportionment
21 value.

(e) "Apportionment value" or "apportionment valuation"
23 means the result obtained by multiplying the quantities of each
class or type of scheduled property of a taxpayer by the
25 applicable unit value, and the addition of such results.

(f) "Public street, highway, road or other public place"
27 includes any street highway, road or other public place which is
open and used by the public, even though the same has not been
29 formally accepted as a public street, highway, road, or other
public place.

(g) "Service connections"-

(1) in the case of telephone, telegraph or other wire
33 communication facilities, means the wires connecting the
instrument or instruments in the building or at the place where
35 the service supplied by the taxpayer is used or delivered or is
made available for use or delivery with a pole line, conduit line or
37 cable line in the street, highway, road or other public place, or
with such a pole line, conduit line or cable line on private
39 property;

1 (2) in the case of facilities of taxpayers subject to this act,
other than service connections as defined in (1) of this subsection,
3 means the wires or pipes connecting the building or place where
the service or commodity supplied by the taxpayer is used or
5 delivered, or is made available for use or delivered with a supply
line or supply main.

7 (h) "State Tax Commissioner" or "director" means the
Director of the Division of Taxation in the Department of the
9 Treasury.

¹[i] (j)¹ "Local exchange telephone company" means a
11 telecommunications carrier providing dial tone and access to
substantially all of a local telephone exchange.

13 ¹(j) "LATA" means a local access and transport area within
which a local exchange telephone company is permitted to
15 provide telecommunications service.¹

(cf: P.L.1963, c.41, s.2)

17 3. Section 3 of P.L.1940, c.4 (C.54:30A-18) is amended to read
as follows:

19 3. (a) Every person, copartnership, association or corporation,
other than street railway, traction, sewerage, water, gas and
21 electric light, heat and power corporations, telecommunications
carriers other than local exchange telephone companies,
23 municipal corporations and corporations which are taxable under
chapter 291 of the laws of 1941, using or occupying public
25 streets, highways, roads or other public places by virtue of a
franchise or authority or permission from the State or any
27 municipality thereof, except consent, authority or permission for
the operation of autobuses or autocabs commonly called taxicabs,
29 shall, in the year 1941 and annually thereafter, pay for the
franchise to use such public streets, highways, roads or other
31 public places in this State an excise tax which shall, except as in
this act may be otherwise provided, be in lieu of any and all other
33 tax or taxes upon the franchise or franchises of such taxpayer.
The annual excise tax imposed on each taxpayer shall be a sum
35 equal to 5% of such portion of the taxpayer's gross receipts as
the length of the lines or mains of such taxpayer in this State
37 along, in or over any public street, highway, road or other public
place, exclusive of service connections, bears to the whole length
39 of its lines or mains in this State¹, exclusive of service

1 connections. In case the gross receipts of any such taxpayer for
any calendar year shall not exceed the sum of \$50,000.00 the tax
3 of such taxpayer for such calendar year shall be computed at the
rate of 2% instead of at the rate of 5%. Where any taxpayer
5 hereunder owns all of the capital stock of a subsidiary
corporation taxable under the Corporation Business Tax Act
7 (1945), the taxpayer may deduct from the tax otherwise payable
under this subsection (a) such proportion, not exceeding 50%, of
9 the franchise tax payable by the subsidiary for the same year as
the subsidiary's taxable net worth is to its entire net worth under
11 said act.

(b) In addition to the excise tax imposed in subsection (a)
13 hereof, every taxpayer hereunder shall also pay annually to the
State for the franchise to operate and conduct business within the
15 State and to use the public streets, highways, roads or other
public places in this State, excise taxes as follows:

17 (1) A tax computed at the rate of 0.625% of such proportion of
the gross receipts of such taxpayer for the preceding calendar
19 year as the length of the lines or mains in this State, located
along, in or over any public street, highway, road or other public
21 place, exclusive of service connections, bears to the whole length
of its lines or mains ¹in this State¹, exclusive of service
23 connections. In case the gross receipts of any such taxpayer for
any calendar year shall not exceed \$50,000.00 the tax on such
25 taxpayer for such calendar year shall be computed at the rate of
0.25% instead of at the rate of 0.625%.

27 (2) A tax at the rate of 0.5% upon the gross receipts of such
taxpayer for the preceding calendar year from its business over,
29 on, in, through or from its lines or mains in the State of New
Jersey.

31 (cf: P.L.1963, c.41, s.3)

4. R.S.54:4-1 is amended to read as follows:

33 54:4-1. All property real and personal within the jurisdiction
of this State not expressly exempted from taxation or expressly
36 excluded from the operation of this chapter shall be subject to
taxation annually under this chapter. Such property shall be
37 valued and assessed at the taxable value prescribed by law. Land
in agricultural or horticultural use which is being taxed under the
39 Farmland Assessment Act of 1964, chapter 48, laws of 1964, shall

1 be valued and assessed as provided by said act. An executory
contract for the sale of land, under which the vendee is entitled
3 to or does take possession thereof, shall be deemed, for the
purpose of this act, a mortgage of said land for the unpaid
5 balance of purchase price. Personal property taxable under this
chapter shall include, however, only tangible goods and chattels,
7 exclusive of inventories, used in business of local exchange
telephone, telegraph and messenger systems, companies,
9 corporations or associations subject to tax under chapter 4, laws
of 1940, as amended, and shall not include any intangible personal
11 property whatsoever whether or not such personalty is evidenced
by a tangible or intangible chose in action except as otherwise
13 provided by section 54:4-20 hereof. ¹As used in this section,
"local exchange telephone company" means a
15 telecommunications carrier providing dial tone and access to
substantially all of a local telephone exchange.¹ Property
17 omitted from any assessment may be assessed by the county
board of taxation, or otherwise, within such time and in such
19 manner as shall be provided by law. ¹Real property taxable under
this chapter means all land and improvements thereon and
21 includes personal property affixed to the real property or an
appurtenance thereto, unless:

23 a. (1) The personal property so affixed can be removed or
severed without material injury to the real property;

25 (2) The personal property so affixed can be removed or severed
without material injury to the personal property itself; and

27 (3) The personal property so affixed is not ordinarily intended
to be affixed permanently to real property; or

29 b. The personal property so affixed is machinery, apparatus, or
equipment which is neither functionally essential to a structure
31 the personal property is within or to which the personal property
is affixed nor constitutes a structure itself.

33 Real property, as defined herein, shall not be construed to
affect any transaction or security interest provided for under the
35 provisions of chapter 9 of Title 12A of the New Jersey Statutes
(N.J.S.12A:9-101 et seq.). The provisions of this section shall not
37 be construed to repeal or in any way alter any exemption from, or
any exception to, real property taxation or any definition of
39 personal property otherwise provided by statutory

1 law.

3 The Director of the Division of Taxation in the Department of
5 the Treasury may adopt rules and regulations pursuant to the
7 provisions of the "Administrative Procedure Act," P.L.1968,
9 c.410 (C.52:14B-1 et seq.) as may be deemed necessary to
11 implement and administer the provisions of this act.¹

13 (cf: P.L.1986, c.117, s.1)

15 ¹[5. (New section) Chapter 4 of Title 54 of the Revised
17 Statutes is supplemented as follows:

19 As used in this chapter, "local exchange telephone company"
21 means a telecommunications carrier providing dial tone and
23 access to substantially all of a local telephone exchange.]¹

25 ¹[6.] 5.¹ (New section) The Legislature shall appropriate
27 annually ²[.] the ³[amount] amounts³ hereinafter provided² for
29 payment to ³[the]³ municipalities of this State in replacement of
31 certain tax revenues previously paid to those municipalities
33 ²[the]. The² amount ²to be distributed to each municipality² as
35 ²[hereinafter] provided for in this section² shall be determined
37 and certified by the Director of the Division of Taxation:

39 a. ¹[An amount equal to the amount derived by subtracting
41 from the aggregate amount of local property taxes paid on
43 tangible personal property used in the business of telephone,
45 telegraph and messenger systems, companies, corporations or
47 associations subject to tax under P.L.1940, c.4 (C.54:30A-16 et
49 seq.) to the several municipalities of this State pursuant to
51 R.S.54:4-1 in 1984, the aggregate amount of local property taxes
53 derived therefrom and paid the several municipalities in 1985.]
55 ²[Each municipality shall receive an amount equal to the amount
57 derived by subtracting from the aggregate amount of local
59 property taxes paid to it on tangible personal property used in the
61 business of telephone, telegraph and messenger systems,
63 companies, corporations or associations subject to tax under
65 P.L.1940, c.4 (C.54:30A-16 et seq.) pursuant to R.S.54:4-1 in
67 1984, the aggregate amount of local property taxes derived
69 therefrom and paid to it in 1985¹.] There shall be annually
71 appropriated from the General Fund \$16,500,000 to be distributed
73 to municipalities in the same manner ³[and] ³ the same
75 proportion ³and at the same time³ as State general revenue
77 sharing moneys are distributed pursuant to the provisions of

1 section 4 of P.L.1976, c.73 (C.54A:10-4) or pursuant to the
2 provisions of the annual appropriation act, as the case may be. If
3 the amount due any municipality is less than \$1,000 then that
4 amount shall not be distributed to that municipality and such
5 amount shall be redistributed in the same manner and proportion
6 among the remaining municipalities receiving payments.²

7 b. ¹[An amount equal to the amount derived by subtracting
8 from the amount allocated to the several municipalities of this
9 State pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et
10 seq.) in 1985, the aggregate amount so allocated pursuant thereto
11 in 1986.] An amount equal to \$6,500,000 for the purpose of
12 reimbursing municipalities for the loss of revenues from the
13 franchise tax ³apportioned³ under P.L.1940, c.4 (C.54:30A-16 et
14 seq.) ³,as a result of the amendments to sections 2 and 3 of
15 P.L.1940, c.4 (C.54:30A-17 and 54:30A-18) made in sections 2
16 and 3 of this amendatory and supplementary act³. This amount
17 shall be distributed to the municipalities ³[as provided in
18 P.L.1940, c.4 (C.54:30A-16 et seq.)] in the same proportion as the
19 franchise tax collected from telecommunications carriers other
20 than local exchange telephone companies under subsection (a) of
21 section 3 of P.L.1940, c.4 (C.54:30A-18) was apportioned to
22 municipalities pursuant to section 9 of P.L.1940, c.4
23 (C.54:30A-24) and section 2 of P.L.1980, c.10 (C.54:30A-24.1), in
24 the year prior to the year in which this section takes effect³.¹

25 c. An amount equal to the aggregate amount of local property
26 taxes paid on tangible personal property used in the business of
27 telephone, telegraph and messenger systems by companies,
28 corporations or associations, other than local exchange telephone
29 companies, to the several municipalities of this State ¹[in the
30 year immediately preceding the year in which this amendatory
31 and supplementary act becomes effective] during the 1987
32 calendar year¹. ³This amount shall be annually distributed to
33 those municipalities on or before August 1 of each year.³

34 ³[16. (New section) Of the revenue derived from the sales and
35 use tax imposed on the sales of telephones, telephone lines,
36 cables, central office equipment or station apparatus, or other
37 machinery, equipment or apparatus, or comparable telegraph
38 equipment, not for use directly and primarily by a provider of
39 telecommunications services to the general public for a fee, in

1 receiving at destination or initiating, transmitting and switching
 2 telephone or telegraph communication, the amount to be used for
 3 the enhanced 9-1-1 network as set forth in Assembly Bill No.
 4 1576 of 1988 shall not exceed \$9,000,000.00 annually. If the rates
 5 approved by the Board of Public Utilities result in charges to the
 6 State in excess of this allocation, it shall be adjusted
 7 accordingly.]³

8 ³[7. (New section) In making his certification of the amounts
 9 required pursuant to section ¹[6] 5¹ of this amendatory and
 10 supplementary act, the director shall determine the amount to
 11 which each municipality is entitled in replacement of the
 12 revenues derived by those municipalities from the local taxation
 13 of certain tangible personal property pursuant to R.S.54:4-1 and
 14 allocated thereto pursuant to the provisions of P.L.1940, c.4
 15 (C.54:30A-16 et seq.) ¹[prior to the effective date of this
 16 amendatory and supplementary act]¹.]³

17 ³[8. (New section) ¹[On or before October 15 of each year,
 18 the] The¹ director shall certify to the State Treasurer the
 19 entitlement due each municipality pursuant to the provisions of
 20 this amendatory and supplementary act. The State Treasurer,
 21 upon the warrant of the Director of the Division of Budget and
 22 Accounting in the Department of the Treasury, shall annually pay
 23 and distribute to each municipality its certified entitlement in
 24 four equal installments. The installments shall be payable
 25 annually on March 1, May 1, August 1, and November 1 of each
 26 year.]³

27 ³[9.] 6.³ (New section) Notwithstanding the provisions of
 28 chapter 4 of Title 54 of the Revised Statutes, there shall be no
 29 payment of the personal property taxes required by
 30 telecommunications carriers other than local exchange telephone
 31 companies that would be paid during the year in which this ¹[act]
 32 section³ takes effect, based on the prior January 1 assessment
 33 date of that property.

34 ³7. (New section) Telecommunications carriers other than
 35 local exchange telephone companies shall be subject to any
 36 liability that may be imposed pursuant to the "Business Personal
 37 Property Tax Act," P.L.1986 c.136 (C.54:11A-1 et seq.) on or
 38 after October 1 of the year prior to the year in which this section
 39 takes effect.³

1 ³8. (New section) Telecommunications carriers other than
 2 local exchange telephone companies shall be required to file and
 3 remit installment payments of franchise tax pursuant to
 4 subsection (f) of section 15 of the Corporation Business Tax Act
 5 (1945), P.L.1945 c.162 (C.54:10A-15) during the calendar year in
 6 which this section takes effect and the provisions of subsection d.
 7 of section 5 of P.L.1981 c.184 (C.54:10A-15.4) shall not apply to
 8 such taxpayers during that year.³

9 ¹[9.] ³[10.¹] ^{9.}³ R.S.54:13-11 ¹[is]¹ , R.S.54:13-12,
 10 R.S.54:13-15 and P.L.1952, c.349 (C.54:13-16) are¹ repealed.

11 ¹[10.] ³[11.¹] This] 10. Section 1 of this act shall take effect on
 12 the first day of the third month following enactment of P.L.
 13 c. (now pending before the Legislature as Senate Bill No. 1511
 14 or Assembly Bill No. 1576) and sections 2 through 9 of this³ act
 15 shall take effect January 1 next following enactment ³of P.L.
 16 c. (now pending before the Legislature as Senate Bill No. 1511
 17 or Assembly Bill No. 1576) and this section shall take effect
 18 immediately upon enactment of that act³.

19

21

PROPERTY TAXES

Communications and Broadcasting

23

24 **Relieves certain telecommunications companies and other**
 25 **businesses from certain business taxes, taxes certain sales of**
 26 **telecommunications equipment and establishes a State aid**
 27 **program to "hold-harmless" certain municipalities.**

ASSEMBLY, No. 135

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman PENN

1 **AN ACT** concerning the taxation of certain telecommunications
companies, amending various sections of statutory law,
3 supplementing Title 54 of the Revised Statutes, and repealing
R.S. 54:13-11.

5

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

1. Section 25 of P. L. 1980, c. 105 (C. 54:32B-8.13) is
9 amended to read as follows:

25. Receipts from the following are exempt from the tax
11 imposed under the Sales and Use Tax Act:

a. Sales of machinery, apparatus or equipment for use or
13 consumption directly and primarily in the production of tangible
personal property by manufacturing, processing, assembling or
15 refining;

b. Sales of machinery, apparatus or equipment for use or
17 consumption directly and primarily in the production,
generation, transmission or distribution of gas, electricity,
19 refrigeration, steam or water for sale or in the operation of
sewerage systems;

c. Sales to a provider of telecommunications services to the
21 general public for a fee of telephones, telephone lines, cables,
23 central office equipment or station apparatus, or other
machinery, equipment or apparatus, or comparable telegraph
25 equipment, for use directly and primarily in receiving at
destination or initiating, transmitting and switching telephone or
27 telegraph communication;

d. Sales of machinery, apparatus, equipment, building
29 materials, or structures or portions thereof, used directly and
primarily for cogeneration in a cogeneration facility. As used in

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 this subsection, "cogeneration facility" means a facility the
2 primary purpose of which is the sequential production of
3 electricity and steam or other forms of useful energy which are
4 used for industrial or commercial heating or cooling, purposes
5 and which is designated by the federal Energy Regulatory
6 Commission, or its successor, as a "qualifying facility" pursuant
7 to the provisions of the "Public Utility Regulatory Policies Act
8 of 1978," Pub. L. 95-617. The Commissioner of the Department
9 of Energy, in consultation with the Director of the Division of
10 Taxation, shall adopt, pursuant to the "Administrative
11 Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), rules
12 and regulations establishing technical specifications for
13 eligibility for the exemption provided in this subsection. The
14 exemptions granted under this section shall not be construed to
15 apply to sales, otherwise taxable, of machinery, equipment or
16 apparatus whose use is incidental to the activities described in
17 subsections a., b., c., and d. of this section.

18 The exemptions granted in this section shall not apply to
19 motor vehicles or to parts with a useful life of one year or less
20 or tools or supplies used in connection with the machinery,
21 equipment or apparatus described in this section.

22 2. Section 2 of P.L. 1940, c. 4 (C. 54:30A-17) is amended to
23 read as follows:

24 2. Definitions: As used in this act, unless the context
25 otherwise requires,

26 (a) "Taxpayer" means any person, copartnership, association
27 or corporation subject to taxation under the provisions of this
28 act.

29 (b) "Gross receipts" means all receipts from the taxpayer's
30 business over, on, in, through or from the whole of its lines or
31 mains, excluding therefrom, however, any sum or sums of money
32 received by any taxpayer in payment for such portion of its
33 products as may have been sold and furnished to another public
34 utility which is also subject to the payment of a tax based upon
35 gross receipts, and excluding also receipts from the operation of
36 autobuses. Gross receipts shall not include any amounts paid by
37 a telecommunications carrier to a local exchange telephone
company for connecting fees, switching charges and carrier

1 access charges or receipts from the provision of interexchange
2 telecommunications service.

3 (c) "Scheduled property" means only those classes or types of
4 property of a taxpayer set forth in section 7 of this act, and
5 which are to be used in computing the apportionment valuation
6 herein defined.

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

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

15 (f) "Public street, highway, road or other public place"
16 includes any street highway, road or other public place which is
17 open and used by the public, even though the same has not been
18 formally accepted as a public street, highway, road, or other
19 public place.

(g) "Service connections"-

21 (1) in the case of telephone, telegraph or other wire
22 communication facilities, means the wires connecting the
23 instrument or instruments in the building or at the place where
24 the service supplied by the taxpayer is used or delivered or is
25 made available for use or delivery with a pole line, conduit line
26 or cable line in the street, highway, road or other public place,
27 or with such a pole line, conduit line or cable line on private
28 property;

29 (2) in the case of facilities of taxpayers subject to
30 this act, other than service connections as defined in (1) of this
31 subsection, means the wires or pipes connecting the building or
32 place where the service or commodity supplied by the taxpayer
33 is used or delivered, or is made available for use or delivered
34 with a supply line or supply main.

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

38 (i) "Local exchange telephone company" means a
39 telecommunications carrier providing dial tone and access to
substantially all of a local telephone exchange.

1 **3. Section 3 of P.L. 1940, c. 4 (C. 54:30A-18) is amended to**
2 **read as follows:**

3 **3. (a) Every person, copartnership, association or corporation,**
4 **other than street railway, traction, sewerage, water, gas and**
5 **electric light, heat and power corporations, telecommunications**
6 **carriers other than local exchange telephone companies,**
7 **municipal corporations and corporations which are taxable under**
8 **chapter 291 of the laws of 1941, using or occupying public**
9 **streets, highways, roads or other public places by virtue of a**
10 **franchise or authority or permission from the State or any**
11 **municipality thereof, except consent, authority or permission**
12 **for the operation of autobuses or autocabs commonly called**
13 **taxicabs, shall, in the year 1941 and annually thereafter, pay for**
14 **the franchise to use such public streets, highways, roads or other**
15 **public places in this State an excise tax which shall, except as in**
16 **this act may be otherwise provided, be in lieu of any and all**
17 **other tax or taxes upon the franchise or franchises of such**
18 **taxpayer. The annual excise tax imposed on each taxpayer shall**
19 **be a sum equal to 5% of such portion of the taxpayer's gross**
20 **receipts as the length of the lines or means of such taxpayer in**
21 **this State along, in or over any public street, highway, road or**
22 **other public place, exclusive of service connections, bears to the**
23 **whole length of its lines or means, exclusive of service**
24 **connections. In case the gross receipts of any such taxpayer for**
25 **any calendar year shall not exceed the sum of \$50,000.00 the tax**
26 **of such taxpayer for such calendar year shall be computed at the**
27 **rate of 2% instead of at the rate of 5%. Where any taxpayer**
28 **hereunder owns all of the capital stock of a subsidiary**
29 **corporation taxable under the Corporation Business Tax Act**
30 **(1945), the taxpayer may deduct from the tax otherwise payable**
31 **under this subsection (a) such proportion, not exceeding 50%, of**
32 **the franchise tax payable by the subsidiary for the same year as**
33 **the subsidiary's taxable net worth is to its entire net worth**
34 **under said act.**

35 **(b) In addition to the excise tax imposed in subsection (a)**
36 **hereof, every taxpayer hereunder shall also pay annually to the**
37 **State for the franchise to operate and conduct business within**
38 **the State and to use the public streets, highways, roads or other**
39 **public places in this State, excise taxes as follows:**

1 (1) A tax computed at the rate of 0.625% of such proportion
3 of the gross receipts of such taxpayer for the preceding calendar
5 year as the length of the lines or mains in this State, located
7 along, in or over any public street, highway, road or other public
9 place, exclusive of service connections, bears to the whole
length of its lines or mains, exclusive of service connections. In
case the gross receipts of any such taxpayer for any calendar
year shall not exceed \$50,000.00 the tax on such taxpayer for
such calendar year shall be computed at the rate of 0.25%
instead of at the rate of 0.625%.

11 (2) A tax at the rate of 0.5% upon the gross receipts of such
13 taxpayer for the preceding calendar year from its business over,
on, in, through or from its lines or mains in the State of New
Jersey.

15 4. R.S. 54:4-1 is amended to read as follows:

17 54:4-1. All property real and personal within the jurisdiction
19 of this State not expressly exempted from taxation or expressly
21 excluded from the operation of this chapter shall be subject to
23 taxation annually under this chapter. Such property shall be
25 valued and assessed at the taxable value prescribed by law.
27 Land in agricultural or horticultural use which is being taxed
29 under the Farmland Assessment Act of 1964, chapter 48, laws of
31 1964, shall be valued and assessed as provided by said act. An
33 executory contract for the sale of land, under which the vendee
35 is entitled to or does take possession thereof, shall be deemed,
37 for the purpose of this act, a mortgage of said land for the
unpaid balance of purchase price. Personal property taxable
under this chapter shall include, however, only tangible goods
and chattels, exclusive of inventories, used in business of local
exchange telephone, telegraph and messenger systems,
companies, corporations or associations subject to tax under
chapter 4, laws of 1940, as amended, and shall not include any
intangible personal property whatsoever whether or not such
personalty is evidenced by a tangible or intangible chose in
action except as otherwise provided by section 54:4-20 hereof.
Property omitted from any assessment may be assessed by the
county board of taxation, or otherwise, within such time and in
such manner as shall be provided by law.

1 **5. (New section) Chapter 4 of Title 54 of the Revised**
2 **Statutes is supplemented as follows:**

3 **As used in this chapter, "local exchange telephone company"**
4 **means a telecommunications carrier providing dial tone and**
5 **access to substantially all of a local telephone exchange.**

6 **6. (New section) The Legislature shall appropriate annually,**
7 **for payment to the municipalities of this State in replacement**
8 **of certain tax revenues previously paid to those municipalities**
9 **the amount as hereinafter determined and certified by the**
10 **Director of the Division of Taxation:**

11 **a. An amount equal to the amount derived by subtracting**
12 **from the aggregate amount of local property taxes paid on**
13 **tangible personal property used in the business of telephone,**
14 **telegraph and messenger systems, companies, corporations or**
15 **associations subject to tax under P. L. 1940, c. 4 (C. 52:30A-16**
16 **et seq.) to the several municipalities of this State pursuant to R.**
17 **S. 54:4-1 in 1984, the aggregate amount of local property taxes**
18 **derived therefrom and paid the several municipalities in 1985.**

19 **b. An amount equal to the amount derived by subtracting**
20 **from the amount allocated to the several municipalities of this**
21 **State pursuant to the provisions of P.L. 1940, c. 4 (C. 54:30A-16**
22 **et seq.) in 1985, the aggregate amount so allocated pursuant**
23 **thereto in 1986.**

24 **c. An amount equal to the aggregate amount of local**
25 **property taxes paid on tangible personal property used in the**
26 **business of telephone, telegraph and messenger systems by**
27 **companies, corporations or associations, other than local**
28 **exchange telephone companies, to the several municipalities of**
29 **this State in the year immediately preceding the year in which**
30 **this amendatory and supplementary act becomes effective.**

31 **7. (New section) In making his certification of the amounts**
32 **required pursuant to section 6 of this amendatory and**
33 **supplementary act, the director shall determine the amount to**
34 **which each municipality is entitled in replacement of the**
35 **revenues derived by those municipalities from the local taxation**
36 **of certain tangible personal property pursuant to R.S. 54:4-1 and**
37 **allocated thereto pursuant to the provisions of P.L. 1940, c. 4**
38 **(C. 54:30A-16 et seq.) prior to the effective date of this**
39 **amendatory and supplementary act.**

1 **8. (New section) On or before October 15 of each year, the**
2 **director shall certify to the State Treasurer the entitlement due**
3 **each municipality pursuant to the provisions of this amendatory**
4 **and supplementary act. The State Treasurer, upon the warrant**
5 **of the State Comptroller, shall annually pay and distribute to**
6 **each municipality its certified entitlement in four equal**
7 **installments. The installments shall be payable annually on**
8 **March 1, May 1, August 1, and November 1 of each year.**

9 **9. R.S. 54:13-11 is repealed.**

10 **10. This act shall take effect January 1 next following**
11 **enactment.**

13

SPONSOR'S **STATEMENT**

15

16 **The purpose of this bill is to restructure the method of taxing**
17 **the telecommunications industry in New Jersey to reflect the**
18 **dramatic changes, both technological and structural, that have**
19 **occurred in that industry.**

20 **The provisions of the bill are fourfold. First, the current**
21 **exemption afforded the sale or leasing of telephone or**
22 **telecommunications equipment is eliminated. Second, certain**
23 **interexchange telecommunications companies would no longer**
24 **be subject to the gross receipts and franchise tax. Third, the**
25 **business personal property of certain interexchange and**
26 **interstate telecommunications companies would no longer be**
27 **subject to local taxation. Fourth, a revenue replacement**
28 **program, funded by annual State appropriations, would**
29 **"hold-harmless" the municipalities of this State from suffering**
30 **any loss in revenues as a result of the tax changes undertaken**
31 **pursuant to the provisions of the bill.**

33

PROPERTY TAXES

35

Communications and Broadcasting

36 **Provides for an alternative method of taxing certain**
37 **telecommunications companies and establishes a revenue**
38 **program to "hold-harmless" municipalities.**
39

**ASSEMBLY TRANSPORTATION AND
COMMUNICATIONS COMMITTEE**

STATEMENT TO

ASSEMBLY, No. 135

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 21, 1988

The Assembly Transportation and Communications Committee favorably reports Assembly Bill No. 135 with amendments.

As amended, this bill would restructure the method of taxing the telecommunications industry in New Jersey to reflect the dramatic changes, both technological and structural, that have occurred in that industry.

The provisions of the bill are fourfold. First, the current exemption afforded the sale or leasing of telephone or telecommunications equipment is eliminated. Second, certain interexchange telecommunications companies would no longer be subject to the gross receipts and franchise tax. Third, the business personal property of certain interexchange and interstate telecommunications companies would no longer be subject to local taxation. Fourth, a revenue replacement program, funded by annual State appropriations, would "hold-harmless" the municipalities of this State from suffering any loss in revenues as a result of the tax changes undertaken pursuant to the provisions of the bill.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

{FIRST REPRINT}

ASSEMBLY, No. 135

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 23, 1988

The Assembly Appropriations Committee favorably reports Assembly Bill No. 135 (1R) with committee amendments.

Assembly Bill No. 135 (1R), as amended, has several major provisions that restructure the method of taxing the telecommunications industry in New Jersey. First, the current exemption for the sale or leasing of telephone or telecommunications equipment to the general public is eliminated. Second, certain interexchange telecommunications companies would no longer be subject to the public utility gross receipts and franchise tax. Third, the business personal property of certain interexchange and interstate telecommunications companies would no longer be subject to local property tax on tangible personal property. Fourth, a revenue replacement program, funded by annual State appropriations, would make a per capita distribution to municipalities as well as a distribution for any loss in revenues as a result of the changes of local property taxes paid on tangible personal property and changes in the public utility franchise tax base. Finally, a tax on certain public utility corporations, not subject to the public utility gross receipts tax, is repealed.

FISCAL IMPACT

In a fiscal note on this bill, the Division of Taxation estimates that the bill provides for annual net revenue increases of \$29.0 million to the State and annual revenue losses of \$21.0 million to municipalities. The revenue changes are as follows:

<u>Revenue Change (\$ millions)</u>	<u>State</u>	<u>Local</u>
1. Corporation Business Tax	\$ 3.5	\$ -
2. State Business Personal Property Tax	1.0	-
3. Eliminate Telephone Sales Tax Exemption	32.0	-
4. Public Utility Taxes	-7.5	-14.5
5. Local Business Personal Property Tax	-	-6.5
Net Revenue Changes	\$29.0	\$-21.0

The division estimates that the telecommunications companies would be subject to the corporation business tax as they would become exempt from certain public utility taxes.

The annual mandated revenue replacement by the State to municipalities, as provided for in the bill, as amended, is estimated to be \$29.5 million.

COMMITTEE AMENDMENTS

The committee amendments allow \$16.5 million to be distributed to municipalities in the same manner and the same proportion as moneys distributed as State general revenue sharing.

**FISCAL NOTE TO
[FIRST REPRINT]
ASSEMBLY, No. 135
STATE OF NEW JERSEY**

DATED: MAY 11, 1988

Assembly Bill No. 135 (1R) of 1988 has several provisions that restructure the method of taxing the telecommunications industry in New Jersey. The bill allows for the elimination of the sales tax exemption on the sale or leasing of telephone or telecommunication equipment to the general public. In addition, interstate telecommunications companies would no longer be subject to certain public utility taxes nor be subject to the local property tax on tangible personal property. The bill provides for a revenue replacement program, funded by annual appropriations, that would "hold harmless" municipalities from revenue losses as a result of the changes in local personal property tax and the public utility tax bases provided for in this bill, as well as changes in the local personal property tax base which occurred in 1985.

The Division of Taxation estimates that the bill provides for annual net revenue increases of \$29.0 million to the State and annual revenue losses of \$21.0 million to municipalities. The revenue changes are as follows:

<u>Revenue Change (\$ millions)</u>	<u>State</u>	<u>Local</u>
1. Corporation Business Tax	\$ 3.5	\$ -
2. State Business Personal Property Tax	1.0	-
3. Repeal Telephone Sales Tax Exemption	32.0	-
4. Public Utility Taxes	-7.5	-14.5
5. Local Business Personal Property Tax	-	-6.5
Net Revenue Changes	\$29.0	\$-21.0

The division estimates that the telecommunications companies would be subject to the corporation business tax as they would become exempt from certain public utility taxes. The division states that the estimated increase in the State business personal property tax represents information furnished by the industry, but notes that the tax does not apply to property acquired after 1/1/77. The annual mandated revenue replacement by the State to municipalities, as provided for in the bill, is estimated to be \$20.8 million.

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P.L. 1980, c. 67.

**SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE**

STATEMENT TO

[SECOND REPRINT]

ASSEMBLY, No. 135

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Senate Revenue, Finance and Appropriations Committee reported Assembly Bill 135 (2R), with committee amendments, favorably.

Assembly Bill No. 135 (2R), as amended, has several major provisions that restructure the method of taxing the telecommunications industry in New Jersey. First, the current exemption from the sales and use tax for the sale or leasing of telephone or telecommunications equipment to the general public is eliminated. Second, certain interexchange telecommunications companies would no longer be subject to the public utility gross receipts and franchise tax. Third, the business personal property of certain interexchange and interstate telecommunications companies would no longer be subject to local property tax on tangible personal property. Fourth, a revenue replacement program totalling \$29.5 million, funded by annual State appropriations, would make a per capita distribution to municipalities, as well as a distribution for any loss in revenues as a result of the changes of local property taxes paid on tangible personal property and changes in the public utility franchise tax base. Finally, a tax on certain public utility corporations, not subject to the public utility gross receipts tax, is repealed.

This bill, as amended, is identical to S-2162, as amended.

COMMITTEE AMENDMENTS

The committee amendments are technical in nature, clarifying the removal of the sales tax exemption for telephone equipment and clarifying the distribution methodology for the State aid payments to municipalities. The committee amendments also add provisions at the request of the Division of Taxation to clarify the initial tax treatment of certain telecommunications carriers under the State business personal property tax and the corporation business tax.

FISCAL IMPACT

In a fiscal note on this bill, the Division of Taxation estimates that the tax restructuring and municipal revenue replacement provides for an annual net revenue increase of \$100,000 to the State and \$16.5 million to municipalities. The revenue changes are as follows:

<u>Revenue Change (\$ millions)</u>	<u>State</u>	<u>Local</u>
1. Corporation Business Tax	\$ 3.5	\$ -0-
2. State Business Personal Property Tax	1.0	-0-
3. Repeal Telephone Sales Tax Exemption	36.0	-0-
4. Public Utility Taxes	-3.6	-6.5
5. Local Business Personal Property Tax	-0-	4.8
6. Reimbursement to Municipalities	-11.3	11.3
7. Shortfall Distribution	<u>-16.5</u>	<u>16.5</u>
Net Revenue Changes	\$ 9.1	\$16.5
9-1-1 General Fund Account (up to \$9.0 million)	<u>-9.0</u>	—
Net Revenue Changes (Including 9-1-1 Account)	<u>\$ 0.1</u>	<u>\$16.5</u>

The division estimates that the telecommunications companies would be subject to the corporation business tax as they would become exempt from certain public utility taxes.

[CORRECTED COPY]
SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

[SECOND REPRINT]
ASSEMBLY, No. 135

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Senate Revenue, Finance and Appropriations Committee reported Assembly Bill No. 135 (2R), with committee amendments, favorably.

Assembly Bill No. 135 (2R), as amended, has several major provisions that restructure the method of taxing the telecommunications industry in New Jersey. First, the current exemption from the sales and use tax for the sale or leasing of telephone or telecommunications equipment to the general public is eliminated. Second, certain interexchange telecommunications companies would no longer be subject to the public utility gross receipts and franchise tax. Third, the business personal property of certain interexchange and interstate telecommunications companies would no longer be subject to local property tax on tangible personal property. Fourth, a revenue replacement program totalling \$20.5 million, funded by annual State appropriations, would make a per capita distribution to municipalities, as well as a distribution for any loss in revenues as a result of the changes of local property taxes paid on tangible personal property and changes in the public utility franchise tax base. Finally, a tax on certain public utility corporations, not subject to the public utility gross receipts tax, is repealed.

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1. Corporation Business Tax	\$ 3.5	\$ -0-
2. State Business Personal Property Tax	1.0	-0-
3. Repeal Telephone Sales Tax Exemption	36.0	-0-
4. Public Utility Taxes	-3.6	-6.5
5. Local Business Personal Property Tax	-0-	-4.6
6. Reimbursement to Municipalities	-11.3	11.3
7. Shortfall Distribution	<u>-16.5</u>	<u>16.5</u>
Net Revenue Changes	\$ 9.1	\$16.5
9-1-1 General Fund Account (up to \$9.0 million)	<u>-9.0</u>	—
Net Revenue Changes (including 9-1-1 Account)	<u>\$ 0.1</u>	<u>\$16.5</u>

The division estimates that the telecommunications companies would be subject to the corporation business tax as they would become exempt from certain public utility taxes.



OFFICE OF THE GOVERNOR

NEWS RELEASE

A 135
Governor Thomas H. Kean
TRENTON, N.J. 08625
Release:

CN-001

Contact: **JOHN SAMERJAN**
609-292-8956 OR 609-292-6000 EXT. 207

THURS., 1/19/89

Governor Thomas H. Kean yesterday signed a two-bill package establishing a statewide emergency 911 telephone system which will greatly enhance the state's emergency response capabilities.

"I applaud the sponsors of this important legislation," Governor Kean stated, "A 911 system will simply save lives. New Jerseyans in distress will now have a statewide response system in place in case of emergency."

The system will utilize a network of "Public Safety Answering Points" with specialized computers to receive 911 calls and locate their source. The call will then be routed to the appropriate emergency response agency nearest to the location of the call.

The system will be paid for, a cost of \$9.25 million, by imposing a six percent sales tax on telephones.

A-135, sponsored by Assemblyman John Penn R-Somerset and Senator John Lynch, D-Middlesex imposes the sales tax on telephones to pay for the system.

A-1576, sponsored by Assemblyman John Bennett, R-Monmouth, Assemblyman D. Bennett Mazur, D-Bergen and Senator Daniel Dalton, D-Camden, appropriates \$9.25 million from the phone tax to establish the 911 system.

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