54:15B-2.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 156

NJSA: 54:15B-2.2 (Phases out petroleum gross receipts tax)

BILL NO: A857 (Substituted for S360)

SPONSOR(S): Bagger and Charles

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Appropriations
SENATE: Economic Growth; Budget and Appropriation

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** October 5, 2000
SENATE: September 21, 2000

DATE OF APPROVAL: November 16, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL 1st reprint enacted
(Amendments during passage denoted by superscript numbers)

A857

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes
SENATE: Yes 5-4-2000 (Ec. Growth)
5-25-2000 (Budget)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: Yes

FISCAL NOTE: Yes

S360

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes
Bill and Sponsors Statement identical to A857

COMMITTEE STATEMENT: **ASSEMBLY**: No
SENATE: Yes 5-4-2000 (Ec. Growth)
5-25-2000 (Budget)
Identical to Assembly Statements for A857

FLOOR AMENDMENT STATEMENTS: No

FISCAL NOTE: Yes
Identical to fiscal note for S360

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

ASSEMBLY, No. 857

STATE OF NEW JERSEY

209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:
Assemblyman RICHARD H. BAGGER
District 22 (Middlesex, Morris, Somerset and Union)
Assemblyman JOSEPH CHARLES, JR.
District 31 (Hudson)

SYNOPSIS

Phases out the petroleum products gross receipts tax for fuel used to generate certain electricity.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT phasing out the petroleum products gross receipts tax for fuel used to generate certain electricity, supplementing P.L.1990, c.42 (C.54:15B-1 et seq.).

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

1. a. "Gross receipts" shall not include that percent of receipts, as provided in subsection b. of this section, from sales of petroleum products used by a utility, a co-generation facility or a wholesale generation facility to generate electricity that is sold for resale or to an end user other than the end user upon whose property is located the co-generation facility that generated the electricity or upon the property purchased or leased from the end user by the person owning the co-generation facility if such property is contiguous to the user's property and is the property upon which is located a co-generation facility that generated the electricity.

b. (1) For the first twelve calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 25% of those receipts;

(2) For the thirteenth through twenty-fourth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 50% of those receipts;

(3) For the twenty-fifth through the thirty-sixth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 75% of those receipts; and

(4) After the last day of the thirty-sixth calendar month in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made after that date shall not include any of those receipts.

c. For the purposes of P.L.1990, c.42 (C.54:15B-1 et seq.):

"Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy that are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L. 95-617.

"Wholesale generation facility" means a facility the primary purpose of which is the sequential production of electricity to be sold exclusively at wholesale as determined by the Federal Energy Regulatory Commission, or its successor, as an "exempt wholesale generator" pursuant to the provisions of section 32 of the "Public Utility Holding Company Act of 1935," (15 U.S.C. s.79z-5a).

2. This act shall take effect January 1, 2000.

STATEMENT

The petroleum products gross receipts tax is imposed on most first sales and uses of petroleum products in this State at a rate of 2.75% of the purchase price of the petroleum products. Fuel oils, such as diesel fuel, that are also taxable under the motor fuels tax are taxed under the petroleum products gross receipts tax at a four cents-per-gallon rate based on the price of gasoline. This tax rate method results in a rate which is currently higher than 2.75% of the purchase price on diesel fuel.

This bill phases out over three years the petroleum products gross receipts tax imposed on fuel oil purchased by electric utilities and industrial and commercial co-generators and wholesale generators for use to generate electricity sold at wholesale or at certain retail sales.

This phase out will eventually provide tax parity with the natural gas sales tax exemption provided since 1998 for natural gas purchases made by producers of electricity to generate electricity for resale to an end user that is not located at the generator's facility.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 857

STATE OF NEW JERSEY

DATED: JANUARY 27, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 857.

Assembly Bill No. 857 phases out over three years the petroleum products gross receipts tax imposed on fuel oil purchased by electric utilities, industrial and commercial co-generators, and wholesale generators for use to generate electricity sold at wholesale or at certain retail sales.

The petroleum products gross receipts tax is imposed on most first sales and uses of petroleum products in this State at a rate of 2.75% of the purchase price of the petroleum products. Fuel oils, such as diesel fuel, that are also taxable under the motor fuels tax are taxed under the petroleum products gross receipts tax at a four cents-per-gallon rate based on the price of gasoline. This tax rate method results in a rate on diesel fuel which is currently higher than 2.75% of its purchase price.

The eventual phase-out under this bill will provide tax parity with the natural gas sales tax exemption provided since 1998 for natural gas purchases made by producers of electricity to generate electricity for resale to end users that are not located at the generator's facility.

The Assembly Appropriations Committee reports favorably Assembly Bill No. 857.

This bill was pre-filed for introduction in the 2000-2001 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

FISCAL IMPACT:

The Office of Legislative Services (OLS) has estimated, based on consumption data obtained from the electric generating public utilities and four major independent power producers, that the annual State revenue impact of the full tax phase-out is a revenue loss likely to vary in the range of $1.4 million to $4.2 million annually.

The OLS has noted that its estimate has a wide range because the largest beneficiaries of this tax exemption primarily use petroleum products to produce electricity when other fuels are not available. During periods of extreme cold weather, interruptible supplies of natural gas must be replaced by alternative fuels. Accordingly, the cost of this bill will vary with annual climactic conditions.

The OLS has also noted that data are not available on the numerous small electricity generators some of whom may also benefit from this tax exemption. The actual revenue loss may be somewhat greater than that projected from the major consumers.

ASSEMBLY, No. 857

STATE OF NEW JERSEY

209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:
Assemblyman RICHARD H. BAGGER
District 22 (Middlesex, Morris, Somerset and Union)
Assemblyman JOSEPH CHARLES, JR.
District 31 (Hudson)

Co-Sponsored by:
Assemblymen Gregg, Gusciora, O'Toole and Weingarten

SYNOPSIS

Phases out the petroleum products gross receipts tax for fuel used to generate certain electricity.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee with technical review.

(Sponsorship Updated As Of: 2/25/2000)

AN ACT phasing out the petroleum products gross receipts tax for fuel used to generate certain electricity, supplementing P.L.1990, c.42 (C.54:15B-1 et seq.).

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

1. a. "Gross receipts" shall not include that percent of receipts, as provided in subsection b. of this section, from sales of petroleum products used by a utility, a co-generation facility or a wholesale generation facility to generate electricity that is sold for resale or to an end user other than the end user upon whose property is located the co-generation facility that generated the electricity or upon the property purchased or leased from the end user by the person owning the co-generation facility if such property is contiguous to the user's property and is the property upon which is located a co-generation facility that generated the electricity.

b. (1) For the first twelve calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 25% of those receipts;

(2) For the thirteenth through twenty-fourth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 50% of those receipts;

(3) For the twenty-fifth through the thirty-sixth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 75% of those receipts; and

(4) After the last day of the thirty-sixth calendar month in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made after that date shall not include any of those receipts.

c. For the purposes of P.L.1990, c.42 (C.54:15B-1 et seq.):

"Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy that are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L. 95-617.

"Wholesale generation facility" means a facility the primary purpose of which is the sequential production of electricity to be sold exclusively at wholesale as determined by the Federal Energy Regulatory Commission, or its successor, as an "exempt wholesale generator" pursuant to the provisions of section 32 of the "Public Utility Holding Company Act of 1935," (15 U.S.C. s.79z-5a).

2. This act shall take effect January 1, 2000.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 857
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: FEBRUARY 24, 2000

SUMMARY

Synopsis: Phases out the petroleum products gross receipts tax for fuel used to generate certain electricity.

Type of Impact: A loss of General Fund revenue.

Agencies Affected: Department of the Treasury

Office of Legislative Services Estimate

Fiscal Impact	CY 2000	CY 2001	CY 2002	CY 2003 & Thereafter
State Revenue	-$350,000 to -$1,050,000	-$700,000 to -$2,100,000	-$1,050,000 to -$3,150,000	-$1,400,000 to -$4,200,000

- The annual loss of State revenue is likely to vary in the range of $1.4 million to $4.2 million after the phaseout of the tax is complete.
- Annual variability is based on petroleum products consumption patterns for exempt users during years of both above average and below average climate temperatures.

BILL DESCRIPTION

Assembly Bill No. 857 of 2000 would phase out the petroleum products gross receipts tax levied on the purchases of petroleum fuels, fuel oils or propane, by regulated electric utilities, cogenerators and wholesale generators for the generation of electricity. The tax would be reduced by 25 percent in calendar year 2000, 50 percent in calendar year 2001, 75 percent in calendar year 2002 and eliminated for calendar year 2003 and thereafter.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative (OLS) Services' estimate has a wide range because the largest beneficiaries of this tax exemption use petroleum products to produce electricity primarily when

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State House Annex
P.O. Box 068
Trenton, New Jersey 08625

– OLS –

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other fuels are not available. During periods of extreme cold weather, interruptible supplies of natural gas must be replaced by alternative fuels. Accordingly the cost of this bill will vary with annual climactic conditions. The OLS has received consumption data from the electric generating public utilities and four major independent power producers. Based on these data, if the tax exemption had been in effect during 1998 (a warm year) the State's revenue loss would have been $1.4 million. However, the loss in 1994 (a cold year) would have been $4.2 million.

The OLS notes that data are not available on the numerous small electricity generators some of whom may also benefit from this tax exemption. Accordingly the actual revenue loss may be somewhat greater than that projected from the major consumers.

Section:	*Revenue, Finance and Appropriations Section*
Analyst:	*Maurice S. Shier* *Senior Fiscal Analyst*
Approved:	*Alan R. Kooney* *Legislative Budget and Finance Officer*

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

SENATE ECONOMIC GROWTH, AGRICULTURE AND TOURISM COMMITTEE

STATEMENT TO

ASSEMBLY, No. 857

STATE OF NEW JERSEY

DATED: MAY 4, 2000

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably Assembly Bill No. 857.

This bill phases out over three years the petroleum products gross receipts tax imposed on fuel oil purchased by electric utilities, industrial and commercial co-generators, and wholesale generators for use to generate electricity sold at wholesale or at certain retail sales.

The petroleum products gross receipts tax is imposed on most first sales and uses of petroleum products in this State at a rate of 2.75% of the purchase price of the petroleum products. Fuel oils, such as diesel fuel, that are also taxable under the motor fuels tax are taxed under the petroleum products gross receipts tax at a four cents-per-gallon rate based on the price of gasoline. This tax rate method results in a rate on diesel fuel which is currently higher than 2.75% of its purchase price.

The eventual phase-out under this bill will provide tax parity with the natural gas sales tax exemption provided since 1998 for natural gas purchases made by producers of electricity to generate electricity for resale to end users that are not located at the generator's facility.

As reported by the committee, Assembly Bill No. 857 is identical to Senate Bill No. 360.

FISCAL NOTE
ASSEMBLY, No. 857
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: MAY 18, 2000

SUMMARY

Synopsis: Phases out the petroleum products gross receipts tax for fuel used to generate certain electricity.

Type of Impact: A loss of General Fund revenue.

Agencies Affected: Department of the Treasury

Executive Estimate

Fiscal Impact	CY 2000	CY 2001	CY 2002
State Revenue	($1,500,000)	($3,000,000)	($4,500,000)

Office of Legislative Services Estimate

Fiscal Impact	CY 2000	CY 2001	CY 2002
State Revenue	($1,050,000)	($2,100,000)	($3,150,000)

! The annual loss of revenue is likely to vary in the range of $1.5 million to $4.2 million after the phaseout of the tax is complete and may vary up or down depending on weather conditions.

! The annual variability is based on petroleum products consumption patterns for exempt users during years of both above average and below average climate temperatures.

BILL DESCRIPTION

Assembly Bill No. 857 of 2000 would phase out the petroleum products gross receipts tax (PPGRT) levied on the purchase of petroleum fuels and lubricants by regulated electric utilities, cogenerators and wholesale generators for the generation of electricity. The electricity would have to be sold as a sale for resale or sold to an end user other than the end user upon whose property is located the cogeneration facility. The cogeneration facility could be located on land purchased or leased from the end user or be contiguous to the end user's property. The phase out of the tax would occur in equal twelve month cumulative increments for thirty-six months after which the proceeds from the sales would be fully exempt from the tax. The bill would be effective retroactively on January 1, 2000.

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FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive estimate is based on information reported in the Monthly Energy Profile by the New Jersey Board of Public Utilities covering generating stations operating in the State during the period August 1, 1997 to July 1, 1998. The gallons of petroleum fuels purchased totaled 40.7 million. The tax paid totaled $1.6 million. The Executive notes the estimate does not include petroleum fuels purchased by non-utility generators and lubricants purchased from secondary suppliers who remit the PPGRT separately. It was assumed by the Executive these latter users and sources would at least double the potential revenue loss to the State. The Executive commented the $1.6 million cost shown above was a year of unusually warm weather. When the temperature falls below 20 degrees fahrenheit, annual temperature readings will produce variability in the cost of this bill. Natural gas sold at interruptible rates is curtailed to large users. The users who continuously generate electricity have to switch to petroleum fuel.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services(OLS) as shown in the table on the prior page essentially is agreeing with the Executive. Its own data obtained from the regulated utility industry and from four large independent power producers yields somewhat lesser figures than the estimates prepared by Executive. Both the Executive and OLS lack data for smaller cogeneration facilities scattered around the State or data on the amount of petroleum lubricants used that could be affected by the proposed legislation. For these categories, the Executive and OLS each have assumed a cost at the high end of the potential range.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Maurice S. Shier* *Senior Fiscal Analyst*
Approved:	*Alan R. Kooney* *Legislative Budget and Finance Officer*

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

[First Reprint]

ASSEMBLY, No. 857

STATE OF NEW JERSEY

209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:
Assemblyman RICHARD H. BAGGER
District 22 (Middlesex, Morris, Somerset and Union)
Assemblyman JOSEPH CHARLES, JR.
District 31 (Hudson)

Co-Sponsored by:
Assemblymen Gregg, Gusciora, O'Toole, Weingarten, Senators Kenny and Littell

SYNOPSIS

Phases out the petroleum products gross receipts tax for fuel used to generate certain electricity.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on May 25, 2000, with amendments.

(Sponsorship Updated As Of: 9/22/2000)

AN ACT phasing out the petroleum products gross receipts tax for fuel used to generate certain electricity, supplementing P.L.1990, c.42 (C.54:15B-1 et seq.).

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

1. a. "Gross receipts" shall not include that percent of receipts, as provided in subsection b. of this section, from sales of petroleum products used by a utility, a co-generation facility or a wholesale generation facility to generate electricity that is sold for resale or to an end user other than the end user upon whose property is located the co-generation facility that generated the electricity or upon the property purchased or leased from the end user by the person owning the co-generation facility if such property is contiguous to the user's property and is the property upon which is located a co-generation facility that generated the electricity.

b. (1) For the first twelve calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 25% of those receipts;

(2) For the thirteenth through twenty-fourth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 50% of those receipts;

(3) For the twenty-fifth through the thirty-sixth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 75% of those receipts; and

(4) After the last day of the thirty-sixth calendar month in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made after that date shall not include any of those receipts.

c. For the purposes of P.L.1990, c.42 (C.54:15B-1 et seq.):

"Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy that are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L. 95-617.

"Wholesale generation facility" means a facility the primary purpose

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SBA committee amendments adopted May 25, 2000.

of which is the sequential production of electricity to be sold exclusively at wholesale as determined by the Federal Energy Regulatory Commission, or its successor, as an "exempt wholesale generator" pursuant to the provisions of section 32 of the "Public Utility Holding Company Act of 1935," (15 U.S.C.s.79z-5a).

2. This act shall take effect January 1, [1]**[**2000**]** 2001[1].

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 857

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 25, 2000

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 857.

This bill phases out, over three years, the applicability of the petroleum products gross receipts tax to the sale of fuel oil used by any utility, co-generation facility, or wholesale generation facility to generate electricity sold at wholesale or at certain retail sales.

The petroleum products gross receipts tax applies to the first sale or use in this State of most petroleum products, other than residential heating fuel, by any business that imports into the State, refines, or distributes such products. For taxable petroleum products other than motor fuels, the tax is imposed at a rate of 2.75% of the purchase price of those products. (In the case of motor fuels, which are separately taxable at the retail level as well under the motor fuels tax, the petroleum products gross receipts tax is imposed at a rate of 4¢ per gallon based on the price of gasoline; this conversion of the tax into a levy on gallonage results in a petroleum products tax rate on motor fuel that, based on current prices, exceeds 2.75% of the purchase price of such fuel.)

Upon full implementation of the phase-out for which this bill provides, tax treatment of the affected fuel products will attain parity with the treatment accorded since 1998 to natural gas purchased by producers of electricity to generate electricity for resale to end users that are not located at the generator's facility.

The provisions of this bill are identical to those of Senate Bill No. 360 Sca, which the committee also reports this day.

COMMITTEE AMENDMENTS

Committee amendments to this bill delay the effective date of the legislation from January 1, 2000, to January 1, 2001.

FISCAL IMPACT

The Office of Legislative Services (OLS) has estimated, based on consumption data obtained from the electricity-generating public utilities and four major independent power producers, that the annual State revenue impact of the full tax phase-out is a revenue loss likely to vary in the range of $1.4 million to $4.2 million annually.

The OLS has noted that its estimate has a wide range because the largest beneficiaries of this tax exemption primarily use petroleum products to produce electricity when other fuels are not available. During periods of extreme cold weather, interruptible supplies of natural gas must be replaced by alternative fuels. Accordingly, the cost of this bill will vary with annual climatic conditions.

The OLS has also noted that data are not available on the numerous small electricity generators some of whom may also benefit from this tax exemption. The overall revenue loss may be somewhat greater than that projected above with respect to the major consumers.

§1 - C.54:15B-2.2
§2 - Note

P.L. 2000, CHAPTER 156, ***approved November 16, 2000***
Assembly, No. 857 ***(First Reprint)***

AN ACT phasing out the petroleum products gross receipts tax for fuel used to generate certain electricity, supplementing P.L.1990, c.42 (C.54:15B-1 et seq.).

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

1. a. "Gross receipts" shall not include that percent of receipts, as provided in subsection b. of this section, from sales of petroleum products used by a utility, a co-generation facility or a wholesale generation facility to generate electricity that is sold for resale or to an end user other than the end user upon whose property is located the co-generation facility that generated the electricity or upon the property purchased or leased from the end user by the person owning the co-generation facility if such property is contiguous to the user's property and is the property upon which is located a co-generation facility that generated the electricity.

b. (1) For the first twelve calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 25% of those receipts;

(2) For the thirteenth through twenty-fourth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 50% of those receipts;

(3) For the twenty-fifth through the thirty-sixth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 75% of those receipts; and

(4) After the last day of the thirty-sixth calendar month in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made after that date shall not include any of those receipts.

c. For the purposes of P.L.1990, c.42 (C.54:15B-1 et seq.):

"Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy that are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying

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

Matter underlined <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SBA committee amendments adopted May 25, 2000.

facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L. 95-617.

"Wholesale generation facility" means a facility the primary purpose of which is the sequential production of electricity to be sold exclusively at wholesale as determined by the Federal Energy Regulatory Commission, or its successor, as an "exempt wholesale generator" pursuant to the provisions of section 32 of the "Public Utility Holding Company Act of 1935," (15 U.S.C.s.79z-5a).

2. This act shall take effect January 1, [1][2000] 2001[1].

Phases out the petroleum products gross receipts tax for fuel used to generate certain electricity.

CHAPTER 156

AN ACT phasing out the petroleum products gross receipts tax for fuel used to generate certain electricity, supplementing P.L.1990, c.42 (C.54:15B-1 et seq.).

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

C.54:15B-2.2 Definitions; phase out of petroleum products gross receipts tax.

1. a. "Gross receipts" shall not include that percent of receipts, as provided in subsection b. of this section, from sales of petroleum products used by a utility, a co-generation facility or a wholesale generation facility to generate electricity that is sold for resale or to an end user other than the end user upon whose property is located the co-generation facility that generated the electricity or upon the property purchased or leased from the end user by the person owning the co-generation facility if such property is contiguous to the user's property and is the property upon which is located a co-generation facility that generated the electricity.

b. (1) For the first twelve calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 25% of those receipts;

(2) For the thirteenth through twenty-fourth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 50% of those receipts;

(3) For the twenty-fifth through the thirty-sixth calendar months in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made in those months shall not include 75% of those receipts; and

(4) After the last day of the thirty-sixth calendar month in which this section shall apply, "gross receipts" from sales of petroleum products as described in subsection a. of this section made after that date shall not include any of those receipts.

c. For the purposes of P.L.1990, c.42 (C.54:15B-1 et seq.):

"Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy that are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L. 95-617.

"Wholesale generation facility" means a facility the primary purpose of which is the sequential production of electricity to be sold exclusively at wholesale as determined by the Federal Energy Regulatory Commission, or its successor, as an "exempt wholesale generator" pursuant to the provisions of section 32 of the "Public Utility Holding Company Act of 1935," (15 U.S.C.s.79z-5a).

2. This act shall take effect January 1, 2001.

Approved November 16, 2000.

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TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Laura Otterbourg
609-777-2600

RELEASE: November 16, 2000

Governor Phases Out Energy Tax on Fuel to Generate Electricity

Governor Christie Whitman today signed legislation [**A-857**] that will end over a three-year period the petroleum products gross receipts tax for fuel used to generate certain electricity. The bill phases out the application of this tax to the sale of fuel used by a utility, co-generation facility or wholesale generation facility to generate electricity sold at wholesale or through certain retail sales channels.

"This bill again demonstrates that because of our record of fiscal responsibility over the past almost seven years," said Gov. Whitman, "we are able to continue doing a whole host of good things for residents, from saving more open space than ever before, improving the health of our families, and cutting taxes."

"We have an unprecedented opportunity and one that I often refer to as New Jersey's 'Prosperity Dividend' - to build on what we have accomplished and make New Jersey an even better place in which to live, work and raise a family," said the Governor.

Gov. Whitman explained that the Energy Tax Reform Act of 1997, which eliminated the "double tax" on fuels (natural gas, coal and nuclear) to generate electricity, did not include petroleum fuels. Under current law, two taxes are levied on the purchase of energy produced with petroleum fuels - first, the generators of electric power are taxed at the wholesale level and secondly, retail customers are taxed on electricity purchased.

According to the Governor, this new piece of legislation ends the first, entry-level tax over a period of three years to provide tax parity with those fuels already receiving a tax exemption under the Energy Tax Reform Act of 1997.

The bill, **A-857**, was sponsored by Assembly Members Bagger (R-Middlesex/ Morris/ Somerset/Union) and Charles (D-Hudson) and Senators Kenny (D-Hudson) and Littell (R-Sussex/Hunterdon/ Morris).