

# 54:32B-44

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001                      **CHAPTER:** 431  
**NJSA:** 54:32B-44                (Sales & use tax - reduce burden of compliance)  
**BILL NO:** A4024                    (Substituted for S2770)

**SPONSOR(S):** Bagger and Lance

**DATE INTRODUCED:** December 6, 2001

**COMMITTEE:**                    **ASSEMBLY:** Appropriations

**SENATE:** ----

**AMENDED DURING PASSAGE:**                      No

**DATE OF PASSAGE:**                      **ASSEMBLY:** December 17, 2001

**SENATE:** January 7, 2002

**DATE OF APPROVAL:** January 8, 2002

### FOLLOWING ARE ATTACHED IF AVAILABLE:

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

#### A4024

**SPONSORS STATEMENT:** (Begins on page 6 of original bill) Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** Yes

**SENATE:** No

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

#### S2770

**SPONSORS STATEMENT:** (Begins on page 6 of original bill) Yes  
(Bill and Sponsors Statement identical to A4024)

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

### FOLLOWING WERE PRINTED:

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

# ASSEMBLY, No. 4024

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED DECEMBER 6, 2001

**Sponsored by:**

**Assemblyman RICHARD H. BAGGER**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Assemblyman LEONARD LANCE**

**District 23 (Warren, Hunterdon and Mercer)**

**Co-Sponsored by:**

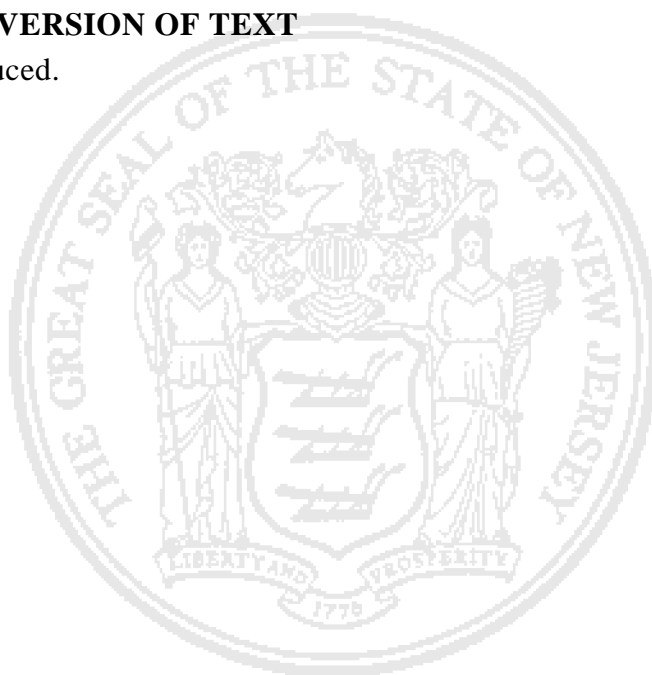
**Senators Inverso and Matheussen**

**SYNOPSIS**

Authorizes Executive and Legislative participation in multistate discussions of an agreement to simplify and modernize sales and use tax administration and substantially reduce the burden of sales and use tax compliance.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/8/2002)**

1 AN ACT authorizing members of the Executive and Legislative  
2 Branches of State government to enter into multistate discussions  
3 of an agreement to simplify and modernize sales and use tax  
4 administration in order to substantially reduce the burden of sales  
5 and use tax compliance for all sellers and all types of commerce,  
6 supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).  
7

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

10

11 1. This act shall be known and may be cited as the "Uniform Sales  
12 and Use Tax Administration Act."  
13

14 2. As used in this Act:

15 "Agreement" means the Streamlined Sales and Use Tax Agreement;

16 "Certified automated system" means software certified jointly by the  
17 states that are signatories to the Agreement to calculate the tax  
18 imposed by each jurisdiction on a transaction, determine the amount  
19 of tax to remit to the appropriate state, and maintain a record of the  
20 transaction;

21 "Certified service provider" means an agent certified jointly by the  
22 states that are signatories to the Agreement to perform all of the  
23 seller's sales tax functions;

24 "Person" means an individual, trust, estate, fiduciary, partnership,  
25 limited liability company, limited liability partnership, corporation, or  
26 any other legal entity;

27 "Sales and use tax" means the tax imposed pursuant to P.L.1966,  
28 c.30 (C.54:32B-1 et seq.);

29 "Seller" means a person making sales, leases, or rentals of personal  
30 property or services; and

31 "State" means a state of the United States and the District of  
32 Columbia.  
33

34 3. The Legislature finds that this State should enter into an  
35 Agreement with one or more states to simplify and modernize sales  
36 and use tax administration in order to substantially reduce the burden  
37 of tax compliance for all sellers and for all types of commerce.  
38

39 4. For the purposes of reviewing, amending, or reviewing and  
40 amending the Agreement embodying the simplification requirements  
41 in section 7 of this act, the State shall enter into multistate discussions.  
42 For purposes of such discussions, the State shall be represented by the  
43 following four delegates or their designees: the State Treasurer, the  
44 Director of the Division of Taxation in the Department of Treasury, a  
45 member of the Senate, as determined by the Senate President, and a  
46 member of the General Assembly, as determined by the Speaker of the  
47 General Assembly.

1       5. The State Treasurer is authorized and directed to enter into the  
2 Streamlined Sales and Use Tax Agreement with one or more states to  
3 simplify and modernize sales and use tax administration in order to  
4 substantially reduce the burden of tax compliance for all sellers and for  
5 all types of commerce. In furtherance of the Agreement, the State  
6 Treasurer is authorized to act jointly with other states that are  
7 members of the Agreement to establish standards for certification of  
8 a certified service provider and certified automated system and  
9 establish performance standards for multistate sellers.

10       The State Treasurer is further authorized to take other actions  
11 reasonably required to implement the provisions set forth in this act.  
12 Other actions authorized by this section include, but are not limited to,  
13 the adoption of rules and regulations and the joint procurement, with  
14 other member states, of goods and services in furtherance of the  
15 cooperative agreement.

16       The State Treasurer or the State Treasurer's designee is authorized  
17 to represent this State before the other states that are signatories to  
18 the Agreement.

19

20       6. No provision of the Agreement authorized by this act in whole  
21 or part shall invalidate or amend any provision of the law of this State.  
22 Adoption of the Agreement by this State shall not be deemed to amend  
23 or modify any law of this State. Implementation of any condition of  
24 the Agreement in this State, whether adopted before, at, or after  
25 membership of this State in the Agreement, shall be by the action of  
26 this State.

27

28       7. The State Treasurer shall not enter into the Streamlined Sales  
29 and Use Tax Agreement unless the Agreement requires each state to  
30 abide by the following requirements:

31       a. Uniform State Rate. The Agreement shall set restrictions to  
32 achieve more uniform state rates through the following:

33       (1) Limiting the number of state rates.

34       (2) Limiting the application of maximums on the amount of state  
35 tax that is due on a transaction.

36       (3) Limiting the application of thresholds on the application of state  
37 tax.

38       b. Uniform Standards. The Agreement shall establish uniform  
39 standards for the following:

40       (1) The sourcing of transactions to taxing jurisdictions.

41       (2) The administration of exempt sales.

42       (3) The allowances a seller can take for bad debts.

43       (4) Sales and use tax returns and remittances.

44       c. Uniform Definitions. The Agreement shall require states to  
45 develop and adopt uniform definitions of sales and use tax terms. The  
46 definitions shall enable a state to preserve its ability to make policy

1 choices not inconsistent with the uniform definitions.

2 d. Central Registration. The Agreement shall provide a central,  
3 electronic registration system that allows a seller to register to collect  
4 and remit sales and use taxes for all signatory states.

5 e. No Nexus Attribution. The Agreement shall provide that  
6 registration with the central registration system and the collection of  
7 sales and use taxes in the signatory states will not be used as a factor  
8 in determining whether the seller has nexus with a state for any tax.

9 f. Local Sales and Use Taxes. The Agreement shall provide for  
10 reduction of the burdens of complying with local sales and use taxes  
11 through the following:

12 (1) Restricting and eliminating variances between the state and  
13 local tax bases.

14 (2) Requiring states to administer any sales and use taxes levied by  
15 local jurisdictions within the state so that sellers collecting and  
16 remitting these taxes will not have to register or file returns with, remit  
17 funds to, or be subject to independent audits from local taxing  
18 jurisdictions.

19 (3) Restricting the frequency of changes in the local sales and use  
20 tax rates and setting effective dates for the application of local  
21 jurisdictional boundary changes to local sales and use taxes.

22 (4) Providing notice of changes in local sales and use tax rates and  
23 of changes in the boundaries of local taxing jurisdictions.

24 g. Monetary Allowances. The Agreement shall outline any  
25 monetary allowances that are to be provided by the states to sellers or  
26 certified service providers.

27 h. State Compliance. The Agreement shall require each state to  
28 certify compliance with the terms of the Agreement prior to joining  
29 and to maintain compliance, under the laws of the member state, with  
30 all provisions of the Agreement while a member.

31 i. Consumer Privacy. The Agreement shall require each state to  
32 adopt a uniform policy for Certified Service Providers that protects the  
33 privacy of consumers and maintains the confidentiality of tax  
34 information.

35 j. Advisory Councils. The Agreement shall provide for the  
36 appointment of an advisory council of private sector representatives  
37 and an advisory council of non-member state representatives to consult  
38 with in the administration of the Agreement.

39  
40 8. The Agreement authorized by this Act is an accord among  
41 individual cooperating sovereigns in furtherance of their governmental  
42 functions. The Agreement provides a mechanism among the member  
43 states to establish and maintain a cooperative, simplified system for the  
44 application and administration of sales and use taxes under the duly  
45 adopted law of each member state.

1       9. a. The Agreement authorized by this act binds and inures only  
2 to the benefit of this State and the other member states. No person,  
3 other than a member state, is an intended beneficiary of the  
4 Agreement. Any benefit to a person other than a state shall be  
5 established by the law of this State and the other member states and  
6 not by the terms of the Agreement.

7       b. Consistent with subsection a. of this section, no person shall  
8 have any cause of action or defense under the Agreement or by virtue  
9 of this State's approval of the Agreement. No person shall challenge,  
10 in any action brought under any provision of law, any action or  
11 inaction by any department, agency, or other instrumentality of this  
12 State, or any political subdivision of this State on the ground that the  
13 action or inaction is inconsistent with the Agreement.

14       c. No law of this State, or the application thereof, shall be declared  
15 invalid as to any person or circumstance on the ground that the  
16 provision or application is inconsistent with the Agreement.

17

18       10. a. A certified service provider is the agent of a seller, with  
19 whom the certified service provider has contracted, for the collection  
20 and remittance of sales and use taxes. As the seller's agent, the  
21 certified service provider shall be liable for sales and use tax due each  
22 member state on all sales transactions it processes for the seller except  
23 as otherwise provided in this section.

24       A seller that contracts with a certified service provider shall not be  
25 liable to the state for sales or use tax due on transactions processed by  
26 the certified service provider unless the seller misrepresented the type  
27 of items it sells or committed fraud. In the absence of probable cause  
28 to believe that the seller has committed fraud or made a material  
29 misrepresentation, the seller shall not be subject to audit on the  
30 transactions processed by the certified service provider. A seller shall  
31 be subject to audit for transactions not processed by the certified  
32 service provider. The member states acting jointly may perform a  
33 system check of the seller and review the seller's procedures to  
34 determine if the certified service provider's system is functioning  
35 properly and the extent to which the seller's transactions are being  
36 processed by the certified service provider.

37       b. A person that provides a certified automated system shall be  
38 responsible for the proper functioning of that system and shall be liable  
39 to the state for underpayments of tax attributable to errors in the  
40 functioning of the certified automated system. A seller that uses a  
41 certified automated system remains responsible and shall be liable to  
42 the state for reporting and remitting tax.

43       c. A seller that has a proprietary system for determining the  
44 amount of tax due on transactions and has signed an agreement  
45 establishing a performance standard for that system shall be liable for  
46 the failure of the system to meet the performance standard.

1 11. This act shall take effect immediately.

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STATEMENT

5

6 The bill authorizes New Jersey participation in the discussions of  
7 the Streamlined Sales Tax Project.

8 The Streamlined Sales Tax Project is an effort created by state  
9 governments, with input from local governments and the private  
10 sector, to simplify and modernize sales and use tax collection and  
11 administration. The project's proposals will incorporate uniform  
12 definitions within tax bases, simplified audit and administrative  
13 procedures, and emerging technologies to substantially reduce the  
14 burdens of tax collection. Thirty-eight states are currently involved in  
15 the project. Thirty-three states are voting participants in the project  
16 because their legislatures have enacted enabling legislation or their  
17 governors have issued executive orders or a similar authorization.

18 This bill is the enabling legislation for New Jersey's participation.

19 The key features of the Streamlined Sales Tax System include:

20 ! Uniform definitions within tax bases. Legislatures still choose  
21 what is taxable and exempt but will use the common definitions  
22 for key items in the tax base.

23 ! Simplified exemption administration for use- and entity-based  
24 exemptions. Sellers are relieved of the "good faith"  
25 requirements that exist in current law and will not be liable for  
26 uncollected tax. Purchasers will be responsible for incorrect  
27 exemptions claimed.

28 ! Rate simplification. States will be responsible for the  
29 administration of all state and local taxes and the distribution  
30 of the local taxes to the local governments. State and local  
31 governments will use common tax bases and accept  
32 responsibility for notice of rate and boundary changes. States  
33 will be encouraged to simplify their own state and local tax  
34 rates.

35 ! Uniform sourcing rules. The states will have uniform sourcing  
36 rules for all property and services.

37 ! Uniform audit procedures. Sellers who participate in one of  
38 the certified Streamlined Sales Tax System technology models  
39 will either not be audited or will have a limited scope audit,  
40 depending on the technology model used.

41 ! Paying for the system. To reduce the financial burdens on  
42 sellers, states will assume the responsibility for implementing  
43 the Streamlined Sales Tax System.

44 Participation in the system by both vendors and states is voluntary.  
45 Registration by vendors in the Streamlined Sales Tax System does not  
46 imply "nexus" for subjectivity to business activity or income taxes.



**A4024 BAGGER, LANCE**

7

1       Enactment of this bill authorizes four delegates (the State  
2       Treasurer, the Director of the Division of Taxation in the Department  
3       of Treasury, a member of the Senate, as determined by the Senate  
4       President, and a member of the General Assembly, as determined by  
5       the Speaker of the General Assembly or their designees) to enter into  
6       multistate discussions to review and amend the Agreement embodying  
7       the simplification requirements. Actual adoption of the simplification  
8       requirements for New Jersey to participate in the multistate  
9       administration of the taxes will require further legislation.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4024

# STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4024.

Assembly Bill No. 4024 authorizes New Jersey participation in the discussions of the Streamlined Sales Tax Project.

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The project's proposals will incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. Thirty-eight states are currently involved in the project.

This bill is the enabling legislation for New Jersey's participation in the next phase of the project.

The key features of the Streamlined Sales Tax System include:

- ! Uniform definitions within tax bases. Legislatures still choose what is taxable and exempt but will use the common definitions for key items in the tax base.
- ! Simplified exemption administration for use- and entity-based exemptions. Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for incorrect exemptions claimed.
- ! Rate simplification. States will be responsible for the administration of all state and local taxes and the distribution of the local taxes to the local governments. State and local governments will use common tax bases and accept responsibility for notice of rate and boundary changes. States will be encouraged to simplify their own state and local tax rates.
- ! Uniform sourcing rules. The states will have uniform sourcing rules for all property and services.
- ! Uniform audit procedures. Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have a limited scope audit, depending on the technology model used.
- ! Paying for the system. To reduce the financial burdens on

sellers, states will assume the responsibility for implementing the Streamlined Sales Tax System.

Participation in the system by both vendors and states is voluntary. Registration by vendors in the Streamlined Sales Tax System does not imply "nexus" for subjectivity to business activity or income taxes.

Enactment of this bill authorizes four delegates (the State Treasurer, the Director of the Division of Taxation in the Department of the Treasury, a member of the Senate, as determined by the Senate President, and a member of the General Assembly, as determined by the Speaker of the General Assembly or their designees) to enter into multistate discussions to review and amend the Agreement embodying the simplification requirements. Actual adoption of the simplification requirements for New Jersey to participate in the multistate administration of the taxes will require further legislation.

**FISCAL IMPACT:**

The Office of Legislative Services cannot estimate the possible revenue gain from increased sales and use tax collections because an interstate agreement has not yet been reached. The potential for State sales and use tax revenue gains in future years is contingent upon the adoption of future legislation setting out the simplification requirements for New Jersey to participate in the multistate administration of the taxes. Only after such measures are enacted, and assuming the successful operation of a Streamlined Sales Tax System under an interstate agreement, as well as the extension by Congress of an expanded legal duty for multistate vendors to collect use tax on remote sales, would there be a potential for future revenue gains. It has been estimated in various studies that the potential for future revenue gains for New Jersey would be between approximately \$130 to \$180 million given estimated levels of taxable, remote e-commerce sales projected for 2003. These studies rely upon the current State sales tax base and do not assume that there may be changes in the tax base necessitated under the agreement.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4024**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: JANUARY 22, 2002

**SUMMARY**

- Synopsis:** Authorizes Executive and Legislative participation in multistate discussions of an agreement to simplify and modernize sales and use tax administration and substantially reduce the burden of sales and use tax compliance.
- Type of Impact:** Possible future sales and use tax revenue gain contingent upon future enactments adopting a Streamlined Sales Tax System.
- Agencies Affected:** Division of Taxation; Department of the Treasury

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Annually in Future Years</b></u>
<b>State Revenue</b>	Possible Indeterminate Gain

- ! Authorizes New Jersey to join in discussions with other states to establish an interstate agreement to streamline and simply state sales and use tax collection systems.
- ! An interstate agreement would be a preliminary step that will require additional legislation to adopt a Streamlined Sales Tax System under which volunteer, out-of-State vendors will begin collecting use tax revenue that is currently uncollectible.
- ! Possible General Fund revenue gains in future years, contingent upon the successful operation of a Streamlined Sales Tax System, and the extension by Congress of an expanded duty for multistate vendors to collect use tax on remote sales, have been estimated in various studies at between approximately \$130 to \$180 million given estimated levels of taxable, remote e-commerce sales projected for 2003.

**BILL DESCRIPTION**

Assembly Bill No. 4024 of 2001 authorizes New Jersey participation in the discussions of the Streamlined Sales Tax Project which is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The project's proposals will incorporate uniform definitions within

tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. Thirty-eight states are currently involved in the project. Thirty-three states are voting participants in the project because their legislatures have enacted enabling legislation or their governors have issued executive orders or a similar authorization. This bill is the enabling legislation for New Jersey's participation.

The bill authorizes four delegates (the State Treasurer, the Director of the Division of Taxation in the Department of Treasury, a member of the Senate, as determined by the Senate President, and a member of the General Assembly, as determined by the Speaker of the General Assembly or their designees) to enter into multistate discussions to review and amend an interstate agreement embodying the sales tax simplification requirements. Actual adoption of the simplification requirements for New Jersey to participate in the multistate administration of the taxes will require further legislation.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

This bill authorizes New Jersey to join in discussions with other states to establish an interstate agreement to streamline and simplify state sales and use tax collection systems. New Jersey is currently an observer state in discussions to establish an interstate agreement.

This interstate agreement would be a preliminary step that will require additional legislation to adopt a Streamlined Sales Tax System. Since 2000, 33 states have been engaged in multistate discussions on how to design and adopt, throughout the states with sales and use taxes, a uniform system that will simplify and modernize sales and use tax collection and administration. The project's proposals attempt to incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. One of the principal goals of such a system would be to promote competitive "tax neutrality" under which all transaction involving goods and services, including electronic commerce, would be subject to sales and use tax collection in a competitively neutral manner. Participation in the system by both vendors and states is voluntary. Under a Streamlined Sales Tax System, it is anticipated that out-of-State vendors will voluntarily begin collecting use tax revenue that is currently uncollectible.

Indeterminate General Fund revenue gains in future years would be contingent upon the successful operation of a Streamlined Sales Tax System in New Jersey and the other states. It is also anticipated by the state participants that with the successful of a Streamlined Sales Tax System in operation in several states, that Congress may be persuaded to exercise its federal Commerce Clause power to expand the legal duty of multistate vendors to collect. Remote, out-of-state e-commerce vendors can currently avoid state use tax collection responsibilities under Supreme Court dormant Commerce Clause decisions if they do not have a substantial physical presence in the state in which the use tax would be due from the customer. State use taxes on remote e-commerce sales that are not being collected have been estimated in various studies at between approximately \$130 to \$180 million for projected levels of taxable, remote e-commerce sales for 2003.

Section: *Revenue, Finance and Appropriations Section*

Analyst: *Howard K. Rotblat*  
*Principal Counsel*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

**SENATE, No. 2770**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED DECEMBER 6, 2001

**Sponsored by:**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**Senator JOHN J. MATHEUSSEN**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Authorizes Executive and Legislative participation in multistate discussions of an agreement to simplify and modernize sales and use tax administration and substantially reduce the burden of sales and use tax compliance.

**CURRENT VERSION OF TEXT**

As introduced.



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14 (1) Restricting and eliminating variances between the state and  
15 local tax bases.

16 (2) Requiring states to administer any sales and use taxes levied by  
17 local jurisdictions within the state so that sellers collecting and  
18 remitting these taxes will not have to register or file returns with, remit  
19 funds to, or be subject to independent audits from local taxing  
20 jurisdictions.

21 (3) Restricting the frequency of changes in the local sales and use  
22 tax rates and setting effective dates for the application of local  
23 jurisdictional boundary changes to local sales and use taxes.

24 (4) Providing notice of changes in local sales and use tax rates and  
25 of changes in the boundaries of local taxing jurisdictions.

26 g. Monetary Allowances. The Agreement shall outline any  
27 monetary allowances that are to be provided by the states to sellers or  
28 certified service providers.

29 h. State Compliance. The Agreement shall require each state to  
30 certify compliance with the terms of the Agreement prior to joining  
31 and to maintain compliance, under the laws of the member state, with  
32 all provisions of the Agreement while a member.

33 i. Consumer Privacy. The Agreement shall require each state to  
34 adopt a uniform policy for Certified Service Providers that protects the  
35 privacy of consumers and maintains the confidentiality of tax  
36 information.

37 j. Advisory Councils. The Agreement shall provide for the  
38 appointment of an advisory council of private sector representatives  
39 and an advisory council of non-member state representatives to consult  
40 with in the administration of the Agreement.

41

42 8. The Agreement authorized by this Act is an accord among  
43 individual cooperating sovereigns in furtherance of their governmental  
44 functions. The Agreement provides a mechanism among the member  
45 states to establish and maintain a cooperative, simplified system for the  
46 application and administration of sales and use taxes under the duly

1 adopted law of each member state.

2

3 9. a. The Agreement authorized by this act binds and inures only  
4 to the benefit of this State and the other member states. No person,  
5 other than a member state, is an intended beneficiary of the  
6 Agreement. Any benefit to a person other than a state shall be  
7 established by the law of this State and the other member states and  
8 not by the terms of the Agreement.

9 b. Consistent with subsection a. of this section, no person shall  
10 have any cause of action or defense under the Agreement or by virtue  
11 of this State's approval of the Agreement. No person shall challenge,  
12 in any action brought under any provision of law, any action or  
13 inaction by any department, agency, or other instrumentality of this  
14 State, or any political subdivision of this State on the ground that the  
15 action or inaction is inconsistent with the Agreement.

16 c. No law of this State, or the application thereof, shall be declared  
17 invalid as to any person or circumstance on the ground that the  
18 provision or application is inconsistent with the Agreement.

19

20 10. a. A certified service provider is the agent of a seller, with  
21 whom the certified service provider has contracted, for the collection  
22 and remittance of sales and use taxes. As the seller's agent, the  
23 certified service provider shall be liable for sales and use tax due each  
24 member state on all sales transactions it processes for the seller except  
25 as otherwise provided in this section.

26 A seller that contracts with a certified service provider shall not be  
27 liable to the state for sales or use tax due on transactions processed by  
28 the certified service provider unless the seller misrepresented the type  
29 of items it sells or committed fraud. In the absence of probable cause  
30 to believe that the seller has committed fraud or made a material  
31 misrepresentation, the seller shall not be subject to audit on the  
32 transactions processed by the certified service provider. A seller shall  
33 be subject to audit for transactions not processed by the certified  
34 service provider. The member states acting jointly may perform a  
35 system check of the seller and review the seller's procedures to  
36 determine if the certified service provider's system is functioning  
37 properly and the extent to which the seller's transactions are being  
38 processed by the certified service provider.

39 b. A person that provides a certified automated system shall be  
40 responsible for the proper functioning of that system and shall be liable  
41 to the state for underpayments of tax attributable to errors in the  
42 functioning of the certified automated system. A seller that uses a  
43 certified automated system remains responsible and shall be liable to  
44 the state for reporting and remitting tax.

45 c. A seller that has a proprietary system for determining the  
46 amount of tax due on transactions and has signed an agreement

1 establishing a performance standard for that system shall be liable for  
2 the failure of the system to meet the performance standard.

3  
4 11. This act shall take effect immediately.

5  
6  
7 STATEMENT

8  
9 The bill authorizes New Jersey participation in the discussions of  
10 the Streamlined Sales Tax Project.

11 The Streamlined Sales Tax Project is an effort created by state  
12 governments, with input from local governments and the private  
13 sector, to simplify and modernize sales and use tax collection and  
14 administration. The project's proposals will incorporate uniform  
15 definitions within tax bases, simplified audit and administrative  
16 procedures, and emerging technologies to substantially reduce the  
17 burdens of tax collection. Thirty-eight states are currently involved in  
18 the project. Thirty-three states are voting participants in the project  
19 because their legislatures have enacted enabling legislation or their  
20 governors have issued executive orders or a similar authorization.  
21 This bill is the enabling legislation for New Jersey's participation.

22 The key features of the Streamlined Sales Tax System include:

23 ! Uniform definitions within tax bases. Legislatures still choose  
24 what is taxable and exempt but will use the common definitions  
25 for key items in the tax base.

26 ! Simplified exemption administration for use- and entity-based  
27 exemptions. Sellers are relieved of the "good faith"  
28 requirements that exist in current law and will not be liable for  
29 uncollected tax. Purchasers will be responsible for incorrect  
30 exemptions claimed.

31 ! Rate simplification. States will be responsible for the  
32 administration of all state and local taxes and the distribution  
33 of the local taxes to the local governments. State and local  
34 governments will use common tax bases and accept  
35 responsibility for notice of rate and boundary changes. States  
36 will be encouraged to simplify their own state and local tax  
37 rates.

38 ! Uniform sourcing rules. The states will have uniform sourcing  
39 rules for all property and services.

40 ! Uniform audit procedures. Sellers who participate in one of  
41 the certified Streamlined Sales Tax System technology models  
42 will either not be audited or will have a limited scope audit,  
43 depending on the technology model used.

44 ! Paying for the system. To reduce the financial burdens on  
45 sellers, states will assume the responsibility for implementing  
46 the Streamlined Sales Tax System.

**S2770 INVERSO, MATHEUSSEN**

7

1       Participation in the system by both vendors and states is voluntary.  
2       Registration by vendors in the Streamlined Sales Tax System does not  
3       imply "nexus" for subjectivity to business activity or income taxes.  
4       Enactment of this bill authorizes four delegates (the State  
5       Treasurer, the Director of the Division of Taxation in the Department  
6       of Treasury, a member of the Senate, as determined by the Senate  
7       President, and a member of the General Assembly, as determined by  
8       the Speaker of the General Assembly or their designees) to enter into  
9       multistate discussions to review and amend the Agreement embodying  
10      the simplification requirements. Actual adoption of the simplification  
11      requirements for New Jersey to participate in the multistate  
12      administration of the taxes will require further legislation.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2770

# STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2770.

The bill authorizes New Jersey's participation in the discussions of the Streamlined Sales Tax Project, which is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The project's proposals will incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. Thirty-eight states are currently involved in the project. Thirty-three states are voting participants in the project because their legislatures have enacted enabling legislation or their governors have issued executive orders or a similar authorization. This bill is the enabling legislation for New Jersey's participation.

The bill authorizes four delegates (the State Treasurer, the Director of the Division of Taxation in the Department of the Treasury, a member of the Senate, as determined by the Senate President, and a member of the General Assembly, as determined by the Speaker of the General Assembly or their designees) to enter into multistate discussions to review and amend an interstate agreement embodying the sales tax simplification requirements. Actual adoption of the simplification requirements for New Jersey to participate in the multistate administration of the taxes will require further legislation.

#### FISCAL IMPACT:

The Office of Legislative Services cannot estimate the possible revenue gain from increased sales and use tax collections because an interstate agreement has not yet been reached. The potential for State sales and use tax revenue gains in future years is contingent upon the adoption of future legislation setting out the simplification requirements for New Jersey to participate in the multistate administration of the taxes. Only after such measures are enacted, and assuming the successful operation of a Streamlined Sales Tax System under an interstate agreement, as well as the extension by Congress of an expanded legal duty for multistate vendors to collect use tax on remote sales, would there be a potential for future revenue gains. It has been estimated in various studies that the potential revenue gains

for New Jersey would range between roughly \$130 and \$180 million, given estimated levels of taxable, remote e-commerce sales projected for 2003. These studies rely upon the current State sales tax base and do not assume that there may be changes in the tax base necessitated under the agreement.

P.L. 2001, CHAPTER 431, *approved January 8, 2002*  
Assembly, No. 4024

1 **AN ACT** authorizing members of the Executive and Legislative  
2 Branches of State government to enter into multistate discussions  
3 of an agreement to simplify and modernize sales and use tax  
4 administration in order to substantially reduce the burden of sales  
5 and use tax compliance for all sellers and all types of commerce,  
6 supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).  
7

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

10

11 1. This act shall be known and may be cited as the "Uniform Sales  
12 and Use Tax Administration Act."  
13

14

15 2. As used in this Act:

16 "Agreement" means the Streamlined Sales and Use Tax Agreement;

17 "Certified automated system" means software certified jointly by the  
18 states that are signatories to the Agreement to calculate the tax  
19 imposed by each jurisdiction on a transaction, determine the amount  
20 of tax to remit to the appropriate state, and maintain a record of the  
21 transaction;

22 "Certified service provider" means an agent certified jointly by the  
23 states that are signatories to the Agreement to perform all of the  
24 seller's sales tax functions;

25 "Person" means an individual, trust, estate, fiduciary, partnership,  
26 limited liability company, limited liability partnership, corporation, or  
27 any other legal entity;

28 "Sales and use tax" means the tax imposed pursuant to P.L.1966,  
29 c.30 (C.54:32B-1 et seq.);

30 "Seller" means a person making sales, leases, or rentals of personal  
31 property or services; and

32 "State" means a state of the United States and the District of  
33 Columbia.

34

35 3. The Legislature finds that this State should enter into an  
36 Agreement with one or more states to simplify and modernize sales  
37 and use tax administration in order to substantially reduce the burden  
38 of tax compliance for all sellers and for all types of commerce.

39

40 4. For the purposes of reviewing, amending, or reviewing and  
41 amending the Agreement embodying the simplification requirements  
42 in section 7 of this act, the State shall enter into multistate discussions.  
43 For purposes of such discussions, the State shall be represented by the  
44 following four delegates or their designees: the State Treasurer, the  
Director of the Division of Taxation in the Department of Treasury, a



1 member of the Senate, as determined by the Senate President, and a  
2 member of the General Assembly, as determined by the Speaker of the  
3 General Assembly.

4  
5 5. The State Treasurer is authorized and directed to enter into the  
6 Streamlined Sales and Use Tax Agreement with one or more states to  
7 simplify and modernize sales and use tax administration in order to  
8 substantially reduce the burden of tax compliance for all sellers and for  
9 all types of commerce. In furtherance of the Agreement, the State  
10 Treasurer is authorized to act jointly with other states that are  
11 members of the Agreement to establish standards for certification of  
12 a certified service provider and certified automated system and  
13 establish performance standards for multistate sellers.

14 The State Treasurer is further authorized to take other actions  
15 reasonably required to implement the provisions set forth in this act.  
16 Other actions authorized by this section include, but are not limited to,  
17 the adoption of rules and regulations and the joint procurement, with  
18 other member states, of goods and services in furtherance of the  
19 cooperative agreement.

20 The State Treasurer or the State Treasurer's designee is authorized  
21 to represent this State before the other states that are signatories to  
22 the Agreement.

23  
24 6. No provision of the Agreement authorized by this act in whole  
25 or part shall invalidate or amend any provision of the law of this State.  
26 Adoption of the Agreement by this State shall not be deemed to amend  
27 or modify any law of this State. Implementation of any condition of  
28 the Agreement in this State, whether adopted before, at, or after  
29 membership of this State in the Agreement, shall be by the action of  
30 this State.

31  
32 7. The State Treasurer shall not enter into the Streamlined Sales  
33 and Use Tax Agreement unless the Agreement requires each state to  
34 abide by the following requirements:

35 a. Uniform State Rate. The Agreement shall set restrictions to  
36 achieve more uniform state rates through the following:

37 (1) Limiting the number of state rates.

38 (2) Limiting the application of maximums on the amount of state  
39 tax that is due on a transaction.

40 (3) Limiting the application of thresholds on the application of state  
41 tax.

42 b. Uniform Standards. The Agreement shall establish uniform  
43 standards for the following:

44 (1) The sourcing of transactions to taxing jurisdictions.

45 (2) The administration of exempt sales.

46 (3) The allowances a seller can take for bad debts.

1 (4) Sales and use tax returns and remittances.

2 c. Uniform Definitions. The Agreement shall require states to  
3 develop and adopt uniform definitions of sales and use tax terms. The  
4 definitions shall enable a state to preserve its ability to make policy  
5 choices not inconsistent with the uniform definitions.

6 d. Central Registration. The Agreement shall provide a central,  
7 electronic registration system that allows a seller to register to collect  
8 and remit sales and use taxes for all signatory states.

9 e. No Nexus Attribution. The Agreement shall provide that  
10 registration with the central registration system and the collection of  
11 sales and use taxes in the signatory states will not be used as a factor  
12 in determining whether the seller has nexus with a state for any tax.

13 f. Local Sales and Use Taxes. The Agreement shall provide for  
14 reduction of the burdens of complying with local sales and use taxes  
15 through the following:

16 (1) Restricting and eliminating variances between the state and  
17 local tax bases.

18 (2) Requiring states to administer any sales and use taxes levied by  
19 local jurisdictions within the state so that sellers collecting and  
20 remitting these taxes will not have to register or file returns with, remit  
21 funds to, or be subject to independent audits from local taxing  
22 jurisdictions.

23 (3) Restricting the frequency of changes in the local sales and use  
24 tax rates and setting effective dates for the application of local  
25 jurisdictional boundary changes to local sales and use taxes.

26 (4) Providing notice of changes in local sales and use tax rates and  
27 of changes in the boundaries of local taxing jurisdictions.

28 g. Monetary Allowances. The Agreement shall outline any  
29 monetary allowances that are to be provided by the states to sellers or  
30 certified service providers.

31 h. State Compliance. The Agreement shall require each state to  
32 certify compliance with the terms of the Agreement prior to joining  
33 and to maintain compliance, under the laws of the member state, with  
34 all provisions of the Agreement while a member.

35 i. Consumer Privacy. The Agreement shall require each state to  
36 adopt a uniform policy for Certified Service Providers that protects the  
37 privacy of consumers and maintains the confidentiality of tax  
38 information.

39 j. Advisory Councils. The Agreement shall provide for the  
40 appointment of an advisory council of private sector representatives  
41 and an advisory council of non-member state representatives to consult  
42 with in the administration of the Agreement.

43

44 8. The Agreement authorized by this Act is an accord among  
45 individual cooperating sovereigns in furtherance of their governmental  
46 functions. The Agreement provides a mechanism among the member

1 states to establish and maintain a cooperative, simplified system for the  
2 application and administration of sales and use taxes under the duly  
3 adopted law of each member state.

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5 9. a. The Agreement authorized by this act binds and inures only  
6 to the benefit of this State and the other member states. No person,  
7 other than a member state, is an intended beneficiary of the  
8 Agreement. Any benefit to a person other than a state shall be  
9 established by the law of this State and the other member states and  
10 not by the terms of the Agreement.

11 b. Consistent with subsection a. of this section, no person shall  
12 have any cause of action or defense under the Agreement or by virtue  
13 of this State's approval of the Agreement. No person shall challenge,  
14 in any action brought under any provision of law, any action or  
15 inaction by any department, agency, or other instrumentality of this  
16 State, or any political subdivision of this State on the ground that the  
17 action or inaction is inconsistent with the Agreement.

18 c. No law of this State, or the application thereof, shall be declared  
19 invalid as to any person or circumstance on the ground that the  
20 provision or application is inconsistent with the Agreement.

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22 10. a. A certified service provider is the agent of a seller, with  
23 whom the certified service provider has contracted, for the collection  
24 and remittance of sales and use taxes. As the seller's agent, the  
25 certified service provider shall be liable for sales and use tax due each  
26 member state on all sales transactions it processes for the seller except  
27 as otherwise provided in this section.

28 A seller that contracts with a certified service provider shall not be  
29 liable to the state for sales or use tax due on transactions processed by  
30 the certified service provider unless the seller misrepresented the type  
31 of items it sells or committed fraud. In the absence of probable cause  
32 to believe that the seller has committed fraud or made a material  
33 misrepresentation, the seller shall not be subject to audit on the  
34 transactions processed by the certified service provider. A seller shall  
35 be subject to audit for transactions not processed by the certified  
36 service provider. The member states acting jointly may perform a  
37 system check of the seller and review the seller's procedures to  
38 determine if the certified service provider's system is functioning  
39 properly and the extent to which the seller's transactions are being  
40 processed by the certified service provider.

41 b. A person that provides a certified automated system shall be  
42 responsible for the proper functioning of that system and shall be liable  
43 to the state for underpayments of tax attributable to errors in the  
44 functioning of the certified automated system. A seller that uses a  
45 certified automated system remains responsible and shall be liable to  
46 the state for reporting and remitting tax.

1 c. A seller that has a proprietary system for determining the  
2 amount of tax due on transactions and has signed an agreement  
3 establishing a performance standard for that system shall be liable for  
4 the failure of the system to meet the performance standard.

5  
6 11. This act shall take effect immediately.

7  
8  
9 STATEMENT

10  
11 The bill authorizes New Jersey participation in the discussions of  
12 the Streamlined Sales Tax Project.

13 The Streamlined Sales Tax Project is an effort created by state  
14 governments, with input from local governments and the private  
15 sector, to simplify and modernize sales and use tax collection and  
16 administration. The project's proposals will incorporate uniform  
17 definitions within tax bases, simplified audit and administrative  
18 procedures, and emerging technologies to substantially reduce the  
19 burdens of tax collection. Thirty-eight states are currently involved in  
20 the project. Thirty-three states are voting participants in the project  
21 because their legislatures have enacted enabling legislation or their  
22 governors have issued executive orders or a similar authorization.

23 This bill is the enabling legislation for New Jersey's participation.  
24 The key features of the Streamlined Sales Tax System include:

25 ! Uniform definitions within tax bases. Legislatures still choose  
26 what is taxable and exempt but will use the common definitions  
27 for key items in the tax base.

28 ! Simplified exemption administration for use- and entity-based  
29 exemptions. Sellers are relieved of the "good faith"  
30 requirements that exist in current law and will not be liable for  
31 uncollected tax. Purchasers will be responsible for incorrect  
32 exemptions claimed.

33 ! Rate simplification. States will be responsible for the  
34 administration of all state and local taxes and the distribution  
35 of the local taxes to the local governments. State and local  
36 governments will use common tax bases and accept  
37 responsibility for notice of rate and boundary changes. States  
38 will be encouraged to simplify their own state and local tax  
39 rates.

40 ! Uniform sourcing rules. The states will have uniform sourcing  
41 rules for all property and services.

42 ! Uniform audit procedures. Sellers who participate in one of  
43 the certified Streamlined Sales Tax System technology models  
44 will either not be audited or will have a limited scope audit,  
45 depending on the technology model used.

46 ! Paying for the system. To reduce the financial burdens on

1 sellers, states will assume the responsibility for implementing  
2 the Streamlined Sales Tax System.

3 Participation in the system by both vendors and states is voluntary.  
4 Registration by vendors in the Streamlined Sales Tax System does not  
5 imply "nexus" for subjectivity to business activity or income taxes.

6 Enactment of this bill authorizes four delegates (the State  
7 Treasurer, the Director of the Division of Taxation in the Department  
8 of Treasury, a member of the Senate, as determined by the Senate  
9 President, and a member of the General Assembly, as determined by  
10 the Speaker of the General Assembly or their designees) to enter into  
11 multistate discussions to review and amend the Agreement embodying  
12 the simplification requirements. Actual adoption of the simplification  
13 requirements for New Jersey to participate in the multistate  
14 administration of the taxes will require further legislation.

15

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17

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19 \_\_\_\_\_  
19 Authorizes Executive and Legislative participation in multistate  
20 discussions of an agreement to simplify and modernize sales and use  
21 tax administration and substantially reduce the burden of sales and use  
22 tax compliance.

## CHAPTER 431

**AN ACT** authorizing members of the Executive and Legislative Branches of State government to enter into multistate discussions of an agreement to simplify and modernize sales and use tax administration in order to substantially reduce the burden of sales and use tax compliance for all sellers and all types of commerce, supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).

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

C.54:32B-44 Short title.

1. This act shall be known and may be cited as the "Uniform Sales and Use Tax Administration Act."

C.54:32B-45 Definitions relative to "Uniform Sales and Tax Administration Act.

2. As used in this Act:

"Agreement" means the Streamlined Sales and Use Tax Agreement;

"Certified automated system" means software certified jointly by the states that are signatories to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;

"Certified service provider" means an agent certified jointly by the states that are signatories to the Agreement to perform all of the seller's sales tax functions;

"Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity;

"Sales and use tax" means the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.);

"Seller" means a person making sales, leases, or rentals of personal property or services; and

"State" means a state of the United States and the District of Columbia.

C.54:32B-46 Legislative findings.

3. The Legislature finds that this State should enter into an Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

C.54:32B-47 Entry into multistate discussions.

4. For the purposes of reviewing, amending, or reviewing and amending the Agreement embodying the simplification requirements in section 7 of this act, the State shall enter into multistate discussions. For purposes of such discussions, the State shall be represented by the following four delegates or their designees: the State Treasurer, the Director of the Division of Taxation in the Department of the Treasury, a member of the Senate, as determined by the Senate President, and a member of the General Assembly, as determined by the Speaker of the General Assembly.

C.54:32B-48 Entry into Streamlined Sales and Use Tax Agreement authorized.

5. The State Treasurer is authorized and directed to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the Agreement, the State Treasurer is authorized to act jointly with other states that are members of the Agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

The State Treasurer is further authorized to take other actions reasonably required to implement the provisions set forth in this act. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

The State Treasurer or the State Treasurer's designee is authorized to represent this State before the other states that are signatories to the Agreement.

C.54:32B-49 Existing law unaffected.

6. No provision of the Agreement authorized by this act in whole or part shall invalidate or amend any provision of the law of this State. Adoption of the Agreement by this State shall not

be deemed to amend or modify any law of this State. Implementation of any condition of the Agreement in this State, whether adopted before, at, or after membership of this State in the Agreement, shall be by the action of this State.

C.54:32B-50 Requirements for entry into agreement.

7. The State Treasurer shall not enter into the Streamlined Sales and Use Tax Agreement unless the Agreement requires each state to abide by the following requirements:

a. Uniform State Rate. The Agreement shall set restrictions to achieve more uniform state rates through the following:

(1) Limiting the number of state rates.

(2) Limiting the application of maximums on the amount of state tax that is due on a transaction.

(3) Limiting the application of thresholds on the application of state tax.

b. Uniform Standards. The Agreement shall establish uniform standards for the following:

(1) The sourcing of transactions to taxing jurisdictions.

(2) The administration of exempt sales.

(3) The allowances a seller can take for bad debts.

(4) Sales and use tax returns and remittances.

c. Uniform Definitions. The Agreement shall require states to develop and adopt uniform definitions of sales and use tax terms. The definitions shall enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

d. Central Registration. The Agreement shall provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

e. No Nexus Attribution. The Agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

f. Local Sales and Use Taxes. The Agreement shall provide for reduction of the burdens of complying with local sales and use taxes through the following:

(1) Restricting and eliminating variances between the state and local tax bases.

(2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.

(3) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.

(4) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

g. Monetary Allowances. The Agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

h. State Compliance. The Agreement shall require each state to certify compliance with the terms of the Agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the Agreement while a member.

i. Consumer Privacy. The Agreement shall require each state to adopt a uniform policy for Certified Service Providers that protects the privacy of consumers and maintains the confidentiality of tax information.

j. Advisory Councils. The Agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the Agreement.

C.54:32B-51 Purpose of Agreement.

8. The Agreement authorized by this Act is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member

state.

C.54:32B-52 Agreement binds, inures to benefit of member states.

9. a. The Agreement authorized by this act binds and inures only to the benefit of this State and the other member states. No person, other than a member state, is an intended beneficiary of the Agreement. Any benefit to a person other than a state shall be established by the law of this State and the other member states and not by the terms of the Agreement.

b. Consistent with subsection a. of this section, no person shall have any cause of action or defense under the Agreement or by virtue of this State's approval of the Agreement. No person shall challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this State, or any political subdivision of this State on the ground that the action or inaction is inconsistent with the Agreement.

c. No law of this State, or the application thereof, shall be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement.

C.54:32B-53 Certified service provider serves as agent of a seller.

10. a. A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider shall be liable for sales and use tax due each member state on all sales transactions it processes for the seller except as otherwise provided in this section.

A seller that contracts with a certified service provider shall not be liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller shall not be subject to audit on the transactions processed by the certified service provider. A seller shall be subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

b. A person that provides a certified automated system shall be responsible for the proper functioning of that system and shall be liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and shall be liable to the state for reporting and remitting tax.

c. A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system shall be liable for the failure of the system to meet the performance standard.

11. This act shall take effect immediately.

Approved January 8, 2002.