

54:15B-13 et al.
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2016 **CHAPTER:** 57

NJSA: 54:15B-13 et al. (Adjusts certain State taxes to support strengthened investments in public and private assets in this State.)

BILL NO: A12 (Substituted for S2411)

SPONSOR(S) Prieto and others

DATE INTRODUCED: June 27, 2016

COMMITTEE: **ASSEMBLY:** ---

SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** October 7, 2016

SENATE: October 7, 2016

DATE OF APPROVAL: October 14, 2016

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted)

A12

SPONSOR'S STATEMENT: (Begins on page 30 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	Yes	
LEGISLATIVE FISCAL ESTIMATE:	Yes	July 1, 2016 August 4, 2016 October 12, 2016

S2411

SPONSOR'S STATEMENT: (Begins on page 23 of introduced bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY: No	
	SENATE: Yes	June 23, 2016 July 29, 2016

(continued)

FLOOR AMENDMENT STATEMENT: Yes
LEGISLATIVE FISCAL ESTIMATE: Yes June 30, 2016
August 4, 2016
October 12, 2016

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Your money what the recent change in N.J. legislation means for death taxes," The Times (Trenton, NJ), October 16, 2016
"Gas tax goes up Nov. 1," Jersey Journal, October 15, 2016
"New Jersey gas tax up 23 cents, from US' 49th highest to 6th," Associated Press Wire: New Jersey, October 14, 2016
"New Jersey gas tax goes up 23 cents with Christie approval," Associated Press State Wire: New Jersey, October 14, 2016
"Statehouse 23¢ gas tax hike starts on Nov. 1," The Times (Trenton, NJ), October 15, 2016
"Christie Oks hike in gas tax of 23¢ a gallon – road, bridge work can resume," The Record, October 15, 2016
"Christie signs TTF bill; gas tax to rise 23 cents on Nov. 1," NJBIZ, October 14, 2016
"Trenton here's how 8 new laws might affect you," Ledger Local January 5, 2017
"Christie signs gas tax hike! Prepare to pay 23 cents more per gallon," New Jersey 101.5, October 14, 2016
"Christie signs 23-cent gas tax hike into law, lifts transportation project shutdown," Burlington County Times, October 14, 2016
"Christie signs gas tax bill into law," Courier-Post, October 14, 2016
"New Jersey gas tax goes up 23 cents with Christie approval," Courier-Post, October 14, 2016
"Christie signs TTF bill; gas tax to rise 23 cents on Nov. 1," NJBIZ, October 14, 2016
"Christie signs bill raising N.J. gas tax 23 cents a gallon," nj.com, October 14, 2016
"Christie signs legislation raising gas tax by 23 cents per gallon," NorthJersey.com, October 14, 2016
"New Jersey Governor Christie signs gas tax hike, restarts halted transportation projects," The New York Times, October 14, 2016
"New Jersey gas tax up 23 cents, from US' 49th highest to 6th," The New York Times, October 14, 2016
"N.J. gas tax to rise 23 cents a gallon on Nov. 1," Philadelphia Inquirer, October 14, 2016
"Gov. Christie signs 23 cent gas hike into law that will take effect Nov. 1," The Trentonian, October 14, 2016
"N.J. 23 cent gas tax hike deal: Tough on motorists but a windfall for retirees," nj.com, October 17, 2016

RWH/JA

§17 –
C.54:15B-13
§18 - T&E &
Note to §§12-17
§19 –
C.52:18A-257
§20 - Note

P.L.2016, CHAPTER 57, *approved October 14, 2016*
Assembly, No. 12 (*Second Reprint*)

1 AN ACT adjusting certain State taxes ¹to support strengthened
2 investments in public and private assets in this State¹, amending
3 and supplementing various parts of the statutory law pertaining
4 to taxes of this State.

5

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

8

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

11 3. There is imposed and there shall be paid a tax of **7%** 7
12 percent on or before December 31, 2016, 6.5 percent on and after
13 January 1, 2017 but before January 1, 2018, and 6 percent on and
14 after January 1, 2018 upon:

15 (a) The receipts from every retail sale of tangible personal
16 property or a specified digital product for permanent use or less
17 than permanent use, and regardless of whether continued payment is
18 required, except as otherwise provided in this act.

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

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

26 (2) Installing tangible personal property or a specified digital
27 product, or maintaining, servicing, repairing tangible personal
28 property or a specified digital product not held for sale in the
29 regular course of business, whether or not the services are
30 performed directly or by means of coin-operated equipment or by
31 any other means, and whether or not any tangible personal property
32 or specified digital product is transferred in conjunction therewith,
33 except (i) such services rendered by an individual who is engaged
34 directly by a private homeowner or lessee in or about his residence
35 and who is not in a regular trade or business offering his services to
36 the public, (ii) such services rendered with respect to personal
37 property exempt from taxation hereunder pursuant to section 13 of
38 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,

1 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
2 tailoring, weaving, or pressing clothing, and shoe repairing and
3 shoeshining and (v) services rendered in installing property which,
4 when installed, will constitute an addition or capital improvement to
5 real property, property or land, other than landscaping services and
6 other than installing carpeting and other flooring.

7 (3) Storing all tangible personal property not held for sale in the
8 regular course of business; the rental of safe deposit boxes or
9 similar space; and the furnishing of space for storage of tangible
10 personal property by a person engaged in the business of furnishing
11 space for such storage.

12 "Space for storage" means secure areas, such as rooms, units,
13 compartments or containers, whether accessible from outside or
14 from within a building, that are designated for the use of a customer
15 and wherein the customer has free access within reasonable
16 business hours, or upon reasonable notice to the furnisher of space
17 for storage, to store and retrieve property. Space for storage shall
18 not include the lease or rental of an entire building, such as a
19 warehouse or airplane hangar.

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

30 (5) Mail processing services for printed advertising material,
31 except for mail processing services in connection with distribution
32 of printed advertising material to out-of-State recipients.

33 (6) (Deleted by amendment, P.L.1995, c.184).

34 (7) Utility service provided to persons in this State, any right or
35 power over which is exercised in this State.

36 (8) Tanning services, including the application of a temporary
37 tan provided by any means.

38 (9) Massage, bodywork or somatic services, except such
39 services provided pursuant to a doctor's prescription.

40 (10) Tattooing, including all permanent body art and permanent
41 cosmetic make-up applications, except such services provided
42 pursuant to a doctor's prescription in conjunction with
43 reconstructive breast surgery.

44 (11) Investigation and security services.

45 (12) Information services.

46 (13) Transportation services originating in this State and
47 provided by a limousine operator, as permitted by law, except such
48 services provided in connection with funeral services.

1 (14) Telephone answering services.

2 (15) Radio subscription services.

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

7 Services otherwise taxable under paragraph (1) or (2) of this
8 subsection (b) are not subject to the taxes imposed under this
9 subsection, where the tangible personal property or specified digital
10 product upon which the services were performed is delivered to the
11 purchaser outside this State for use outside this State.

12 (c) (1) Receipts from the sale of prepared food in or by
13 restaurants, taverns, or other establishments in this State, or by
14 caterers, including in the amount of such receipts any cover,
15 minimum, entertainment or other charge made to patrons or
16 customers, except for meals especially prepared for and delivered to
17 homebound elderly, age 60 or older, and to disabled persons, or
18 meals prepared and served at a group-sitting at a location outside of
19 the home to otherwise homebound elderly persons, age 60 or older,
20 and otherwise homebound disabled persons, as all or part of any
21 food service project funded in whole or in part by government or as
22 part of a private, nonprofit food service project available to all such
23 elderly or disabled persons residing within an area of service
24 designated by the private nonprofit organization; and

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

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

34 (3) For the purposes of this subsection:

35 "Food and beverages sold through vending machines" means
36 food and beverages dispensed from a machine or other mechanical
37 device that accepts payment; and

38 "Prepared food" means:

39 (i) A. food sold in a heated state or heated by the seller; or

40 B. two or more food ingredients mixed or combined by the
41 seller for sale as a single item, but not including food that is only
42 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
43 poultry, and foods containing these raw animal foods requiring
44 cooking by the consumer as recommended by the Food and Drug
45 Administration in Chapter 3, part 401.11 of its Food Code so as to
46 prevent food borne illnesses; or

47 C. food sold with eating utensils provided by the seller,
48 including plates, knives, forks, spoons, glasses, cups, napkins, or

1 straws. A plate does not include a container or packaging used to
2 transport the food;

3 provided however, that

4 (ii) "prepared food" does not include the following sold without
5 eating utensils:

6 A. food sold by a seller whose proper primary NAICS
7 classification is manufacturing in section 311, except subsector
8 3118 (bakeries);

9 B. food sold in an unheated state by weight or volume as a
10 single item; or

11 C. bakery items, including bread, rolls, buns, biscuits, bagels,
12 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
13 muffins, bars, cookies, and tortillas.

14 (d) The rent for every occupancy of a room or rooms in a hotel
15 in this State, except that the tax shall not be imposed upon a
16 permanent resident.

17 (e) (1) Any admission charge to or for the use of any place of
18 amusement in the State, including charges for admission to race
19 tracks, baseball, football, basketball or exhibitions, dramatic or
20 musical arts performances, motion picture theaters, except charges
21 for admission to boxing, wrestling, kick boxing or combative sports
22 exhibitions, events, performances or contests which charges are
23 taxed under any other law of this State or under section 20 of
24 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
25 admission to, or use of, facilities for sporting activities in which
26 such patron is to be a participant, such as bowling alleys and
27 swimming pools. For any person having the permanent use or
28 possession of a box or seat or lease or a license, other than a season
29 ticket, for the use of a box or seat at a place of amusement, the tax
30 shall be upon the amount for which a similar box or seat is sold for
31 each performance or exhibition at which the box or seat is used or
32 reserved by the holder, licensee or lessee, and shall be paid by the
33 holder, licensee or lessee.

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

37 (f) (1) The receipts from every sale, except for resale, of
38 intrastate, interstate, or international telecommunications services
39 and ancillary services sourced to this State in accordance with
40 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

41 (2) (Deleted by amendment, P.L.2008, c.123)

42 (g) (Deleted by amendment, P.L.2008, c.123)

43 (h) Charges in the nature of initiation fees, membership fees or
44 dues for access to or use of the property or facilities of a health and
45 fitness, athletic, sporting or shopping club or organization in this
46 State, except for: (1) membership in a club or organization whose
47 members are predominantly age 18 or under; and (2) charges in the
48 nature of membership fees or dues for access to or use of the

1 property or facilities of a health and fitness, athletic, sporting or
 2 shopping club or organization that is exempt from taxation pursuant
 3 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30
 4 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph
 5 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that
 6 has complied with subsection (d) of section 9 of P.L.1966, c.30.

7 (i) The receipts from parking, storing or garaging a motor
 8 vehicle, excluding charges for the following: residential parking;
 9 employee parking, when provided by an employer or at a facility
 10 owned or operated by the employer; municipal parking, storing or
 11 garaging; receipts from charges or fees imposed pursuant to section
 12 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
 13 between the Casino Reinvestment Development Authority and a
 14 casino operator in effect on the date of enactment of P.L.2007,
 15 c.105; and receipts from parking, storing or garaging a motor
 16 vehicle subject to tax pursuant to any other law or ordinance.

17 For the purposes of this subsection, "municipal parking, storing
 18 or garaging" means any motor vehicle parking, storing or garaging
 19 provided by a municipality or county, or a parking authority
 20 thereof.

21 (cf: P.L.2013, c.193, s.1)¹

22
 23 ¹[2. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to
 24 read as follows:

25 4. a. For the purpose of adding and collecting the tax imposed
 26 by this act, or an amount equal as nearly as possible or practicable
 27 to the average equivalent thereof, to be reimbursed to the seller by
 28 the purchaser, a seller shall use one of the two following options:

29 (1) (a) on or before December 31, 2016, a tax shall be calculated
 30 based on the following formula:

31 Amount of Sale	Amount of Tax
32 \$0.01 to \$0.10	No Tax
33 0.11 to 0.19	\$0.01
34 0.20 to 0.32	0.02
35 0.33 to 0.47	0.03
36 0.48 to 0.62	0.04
37 0.63 to 0.77	0.05
38 0.78 to 0.90	0.06
39 0.91 to \$1.10	0.07

40 and in addition to a tax of \$0.07 on each full dollar, a tax shall be
 41 collected on each part of a dollar in excess of a full dollar, in
 42 accordance with the above formula;

43 (b) on and after January 1, 2017, but before January 1, 2018, a
 44 tax shall be calculated based on the following formula:

45 <u>Amount of Sale</u>	<u>Amount of Tax</u>
46 <u>\$0.01 to \$0.06</u>	<u>No Tax</u>
47 <u>0.07 to 0.22</u>	<u>\$0.01</u>
48 <u>0.23 to 0.37</u>	<u>0.02</u>

1	<u>0.38 to 0.53</u>	<u>0.03</u>
2	<u>0.54 to 0.68</u>	<u>0.04</u>
3	<u>0.69 to 0.83</u>	<u>0.05</u>
4	<u>0.84 to 0.99</u>	<u>0.06</u>
5	<u>1.00 to 1.14</u>	<u>0.07</u>
6	<u>1.15 to 1.29</u>	<u>0.08</u>
7	<u>1.30 to 1.45</u>	<u>0.09</u>
8	<u>1.46 to 1.60</u>	<u>0.10</u>
9	<u>1.61 to 1.76</u>	<u>0.11</u>
10	<u>1.77 to 1.91</u>	<u>0.12</u>
11	<u>1.92 to 2.06</u>	<u>0.13</u>

12 and in addition to a tax of \$0.13 on each two dollars, a tax shall
 13 be collected on each part of a dollar in excess of a full dollar, in
 14 accordance with the above formula;

15 (c) on and after January 1, 2018, a tax shall be calculated based
 16 on the following formula:

17	<u>Amount of Sale</u>	<u>Amount of Tax</u>
18	<u>\$0.01 to \$0.10</u>	<u>No Tax</u>
19	<u>0.11 to 0.22</u>	<u>\$0.01</u>
20	<u>0.23 to 0.38</u>	<u>0.02</u>
21	<u>0.39 to 0.56</u>	<u>0.03</u>
22	<u>0.57 to 0.72</u>	<u>0.04</u>
23	<u>0.73 to 0.88</u>	<u>0.05</u>
24	<u>0.89 to 1.10</u>	<u>0.06</u>

25 and in addition to a tax of \$0.06 on each full dollar, a tax shall be
 26 collected on each part of a dollar in excess of a full dollar, in
 27 accordance with the above formula; or

28 (2) tax shall be calculated to the third decimal place. One-half
 29 cent (\$0.005) or higher shall be rounded up to the next cent; less
 30 than \$0.005 shall be dropped in order to round the result down.

31 Sellers may compute the tax due on a transaction on either an
 32 item or an invoice basis.

33 b. (Deleted by amendment, P.L.2008, c.123)

34 (cf: P.L. 2008, c.123, s.4)】¹

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

38 5. a. (1) Except as otherwise provided in this act, receipts
 39 received from all sales made and services rendered on and after
 40 January 3, 1983 but prior to July 1, 1990, are subject to the taxes
 41 imposed under subsections (a), (b), (c), and (f) of section 3 of this
 42 act at the rate, if any, in effect for such sales and services on June
 43 30, 1990, except if the property so sold is delivered or the services
 44 so sold are rendered on or after July 1, 1990 but prior to July 1,
 45 1992, in which case the tax shall be computed and paid at the rate
 46 of 7%; provided, however, that if a service or maintenance
 47 agreement taxable under this act covers any period commencing on
 48 or after January 3, 1983 and ending after June 30, 1990 but prior to

1 July 1, 1992, the receipts from such agreement are subject to tax at
2 the rate, if any, applicable to each period as set forth hereinabove
3 and shall be apportioned on the basis of the ratio of the number of
4 days falling within each of the said periods to the total number of
5 days covered thereby.

6 (2) Except as otherwise provided in this act, receipts received
7 from all sales made and services rendered on and after July 1, 1990
8 but prior to July 1, 1992, are subject to the taxes imposed under
9 subsections (a), (b), (c) and (f) of section 3 of this act at the rate of
10 7%, except if the property so sold is delivered or the services so
11 sold are rendered on or after July 1, 1992 but prior to July 15, 2006,
12 in which case the tax shall be computed and paid at the rate of 6%,
13 provided, however, that if a service or maintenance agreement
14 taxable under this act covers any period commencing on or after
15 July 1, 1990, and ending after July 1, 1992, the receipts from such
16 agreement are subject to tax at the rate applicable to each period as
17 set forth hereinabove and shall be apportioned on the basis of the
18 ratio of the number of days falling within each of the said periods to
19 the total number of days covered thereby.

20 (3) Except as otherwise provided in this act, receipts received
21 from all sales made and services rendered on and after July 1, 1992
22 but prior to July 15, 2006, are subject to the taxes imposed under
23 subsections (a), (b), (c), (f) and (g) of section 3 of P.L.1966, c.30
24 (C.54:32B-3) at the rate of 6%, except if the property so sold is
25 delivered or the services so sold are rendered on or after July 15,
26 2006, in which case the tax shall be computed and paid at the rate
27 of 7%, provided, however, that if a service or maintenance
28 agreement taxable under this act covers any period commencing on
29 or after July 1, 1992, and ending after July 15, 2006, the receipts
30 from such agreement are subject to tax at the rate applicable to each
31 period as set forth hereinabove and shall be apportioned on the
32 basis of the ratio of the number of days falling within each of the
33 said periods to the total number of days covered thereby; provided
34 however, if a service or maintenance agreement in effect on July 14,
35 2006 covers billing periods ending after July 15, 2006, the seller
36 shall charge and collect from the purchaser a tax on such sales at
37 the rate of 6%, unless the billing period starts on or after July 15,
38 2006 in which case the seller shall charge and collect a tax at the
39 rate of 7%.

40 b. (1) The tax imposed under subsection (d) of section 3 shall
41 be paid at the rate of 7% upon any occupancy on and after July 1,
42 1990 but prior to July 1, 1992, although such occupancy is pursuant
43 to a prior contract, lease or other arrangement. If an occupancy,
44 taxable under this act, covers any period on or after January 3, 1983
45 but prior to July 1, 1990, the rent for the period of occupancy prior
46 to July 1, 1990 shall be taxed at the rate of 6%. If rent is paid on a
47 weekly, monthly or other term basis, the rent applicable to each
48 period as set forth hereinabove shall be apportioned on the basis of

1 the ratio of the number of days falling within each of the said
2 periods to the total number of days covered thereby.

3 (2) The tax imposed under subsection (d) of section 3 shall be
4 paid at the rate of 6% upon any occupancy on and after July 1, 1992
5 but prior to July 15, 2006, although such occupancy is pursuant to a
6 prior contract, lease or other arrangement. If an occupancy, taxable
7 under this act, covers any period on or after July 1, 1990 but prior
8 to July 1, 1992, the rent for the period of occupancy prior to July 1,
9 1992 shall be taxed at the rate of 7%. If rent is paid on a weekly,
10 monthly or other term basis, the rent applicable to each period as set
11 forth hereinabove shall be apportioned on the basis of the ratio of
12 the number of days falling within each of the said periods to the
13 total number of days covered thereby.

14 (3) The tax imposed under subsection (d) of section 3 shall be
15 paid at the rate of 7% upon any occupancy on and after July 15,
16 2006, although such occupancy is pursuant to a prior contract, lease
17 or other arrangement. If an occupancy, taxable under this act,
18 covers any period on or after July 1, 1992 but prior to July 15,
19 2006, the rent for the period of occupancy prior to July 15, 2006
20 shall be taxed at the rate of 6%. If rent is paid on a weekly,
21 monthly or other term basis, the rent applicable to each period as set
22 forth hereinabove shall be apportioned on the basis of the ratio of
23 the number of days falling within each of the said periods to the
24 total number of days covered thereby.

25 c. (1) Except as otherwise hereinafter provided, the tax
26 imposed under subsection (e) of section 3 shall be applicable at the
27 rate of 7% to any admission to or for the use of facilities of a place
28 of amusement occurring on or after July 1, 1990 but prior to July 1,
29 1992, whether or not the admission charge has been paid prior to
30 July 1, 1990, unless the tickets were actually sold and delivered,
31 other than for resale, prior to July 1, 1990 and the tax imposed
32 under this act during the period January 3, 1983 through June 30,
33 1990 shall have been paid.

34 (2) Except as otherwise hereinafter provided, the tax imposed
35 under subsection (e) of section 3 shall be applicable at the rate of
36 6% to any admission to or for the use of facilities of a place of
37 amusement occurring on or after July 1, 1992 but prior to July 15,
38 2006, whether or not the admission charge has been paid prior to
39 July 1, 1992, unless the tickets were actually sold and delivered,
40 other than for resale, prior to July 1, 1992 and the tax imposed
41 under this act during the period July 1, 1990 through December 31,
42 1990 shall have been paid.

43 (3) Except as otherwise hereinafter provided, the tax imposed
44 under subsection (e) of section 3 shall be applicable at the rate of
45 7% to any admission to or for the use of facilities of a place of
46 amusement occurring on or after July 15, 2006, whether or not the
47 admission charge has been paid prior to that date, unless the tickets
48 were actually sold and delivered, other than for resale, prior to July

1 15, 2006 and the tax imposed under this act during the period July
2 1, 1992 through July 14, 2006 shall have been paid.

3 d. (1) Sales made on and after July 1, 1990 but prior to July 1,
4 1992 to contractors, subcontractors or repairmen of materials,
5 supplies, or services for use in erecting structures for others, or
6 building on, or otherwise improving, altering or repairing real
7 property of others shall be subject to the taxes imposed by
8 subsections (a) and (b) of section 3 and section 6 hereof at the rate
9 of 7%; provided, however, that if such sales are made for use in
10 performance of a contract which is either of a fixed price not
11 subject to change or modification, or entered into pursuant to the
12 obligation of a formal written bid which cannot be altered or
13 withdrawn, and, in either case, such contract was entered into or
14 such bid was made on or after January 3, 1983 but prior to July 1,
15 1990, such sales shall be subject to tax at the rate of 6%, but the
16 vendor shall charge and collect from the purchaser a tax on such
17 sales at the rate of 7%.

18 (2) Sales made on or after July 1, 1992 but prior to July 15,
19 2006 to contractors, subcontractors or repairmen of materials,
20 supplies, or services for use in erecting structures for others, or
21 building on, or otherwise improving, altering or repairing real
22 property of others shall be subject to the taxes imposed by
23 subsections (a) and (b) of section 3 and section 6 hereof at the rate
24 of 6%; provided, however, that if such sales are made for use in
25 performance of a contract which is either of a fixed price not
26 subject to change or modification, or entered into pursuant to the
27 obligation of a formal written bid which cannot be altered or
28 withdrawn, and, in either case, such contract was entered into or
29 such bid was made on or after July 1, 1990, but prior to July 1,
30 1992, such sales shall be subject to tax at the rate of 7%.

31 (3) Sales made on or after July 15, 2006 to contractors,
32 subcontractors or repairmen of materials, supplies, or services for
33 use in erecting structures for others, or building on, or otherwise
34 improving, altering or repairing real property of others shall be
35 subject to the taxes imposed by subsections (a) and (b) of section 3
36 and section 6 hereof at the rate of 7%; provided, however, that if
37 such sales are made for use in performance of a contract which is
38 either of a fixed price not subject to change or modification, or
39 entered into pursuant to the obligation of a formal written bid which
40 cannot be altered or withdrawn, and, in either case, such contract
41 was entered into or such bid was made on or after July 1, 1992, but
42 prior to July 15, 2006, such sales shall be subject to tax at the rate
43 of 6%, but the seller shall charge and collect from the purchaser a
44 tax on such sales at the rate of 7%.

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

1 and on or before December 31, 1990, shall be at the rate in effect on
2 June 30, 1990, in case of sales made or services rendered pursuant
3 to a written contract entered on or after January 3, 1983 but prior to
4 July 1, 1990, and accompanied by a deposit or partial payment of
5 the contract price, except in the case of a contract which, in the
6 usage of trade, is not customarily accompanied by a deposit or
7 partial payment of the contract price, but the vendor shall charge
8 and collect from the purchaser on such sales at the rate of 7%,
9 which tax shall be reduced to the rate, if any, in effect on June 30,
10 1990, only by a claim for refund filed by the purchaser with the
11 director within 90 days after receipt of said receipts and otherwise
12 pursuant to the provisions of section 20 of P.L.1966, c.30
13 (C.54:32B-20). A claim for refund shall not be allowed if there has
14 been no deposit or partial payment of the contract price unless the
15 claimant shall establish by clear and convincing evidence that, in
16 the usage of trade, such contracts are not customarily accompanied
17 by a deposit or partial payment of the contract price.

18 (2) As to sales other than those referred to in d. above, the taxes
19 imposed under subsections (a) and (b) of section 3 and section 6
20 hereof, and the taxes imposed under subsections (f) and (g) of
21 section 3 and section 6 hereof, upon receipts received on or after
22 July 15, 2006 and on or before December 31, 2006, shall be at the
23 rate in effect on July 14, 2006, in case of sales made or services
24 rendered pursuant to a written contract entered on or after July 1,
25 1992 but prior to July 15, 2006, and accompanied by a deposit or
26 partial payment of the contract price, except in the case of a
27 contract which, in the usage of trade, is not customarily
28 accompanied by a deposit or partial payment of the contract price,
29 but the seller shall charge and collect from the purchaser on such
30 sales at the rate of 7%, which tax shall be reduced to the rate, if any,
31 in effect on July 14, 2006, only by a claim for refund filed by the
32 purchaser with the director within 90 days after receipt of said
33 receipts and otherwise pursuant to the provisions of section 20 of
34 P.L.1966, c.30 (C.54:32B-20). A claim for refund shall not be
35 allowed if there has been no deposit or partial payment of the
36 contract price unless the claimant shall establish by clear and
37 convincing evidence that, in the usage of trade, such contracts are
38 not customarily accompanied by a deposit or partial payment of the
39 contract price.

40 f. (1) The taxes imposed under subsections (a), (b), (c) and (f)
41 of section 3 upon receipts received on or after July 1, 1990 but prior
42 to July 1, 1992 shall be at the rate, if any, in effect on June 30, 1990
43 in the case of sales made or services rendered, if delivery of the
44 property which was the subject matter of the sale has been
45 completed or such services have been entirely rendered prior to July
46 1, 1990.

47 (2) The taxes imposed under subsections (a), (b), (c) and (f) of
48 section 3 upon receipts received on or after July 1, 1992 but prior to

1 July 15, 2006 shall be at the rate of 7% in the case of sales made or
 2 services rendered, where delivery of the property which was the
 3 subject matter of the sale has been completed or such services have
 4 been entirely rendered on or after July 1, 1990 but prior to July 1,
 5 1992.

6 (3) The taxes imposed under subsections (a), (b), (c), (f) and (g)
 7 of section 3 upon receipts received on or after July 15, 2006 shall be
 8 at the rate of 6% in the case of sales made or services rendered,
 9 where delivery of the property which was the subject matter of the
 10 sale has been completed or such services have been entirely
 11 rendered on or after July 1, 1992 but prior to July 15, 2006.

12 g. The director is empowered to promulgate rules and
 13 regulations to implement the provisions of this section.

14 h. The transitional provisions for sales made and services rendered
 15 on and after the rate decrease to 6.5 percent on and after January 1,
 16 2017, but before January 1, 2018 and the rate decrease to 6 percent on
 17 and after January 1, 2018 pursuant to P.L. , c. (C.)(pending
 18 before the Legislature as this bill), shall be implemented in a manner
 19 analogous to each paragraph (2) of subsection a., b., c., d., and f. of
 20 this section.

21 (cf: P.L. 2011, c.49, s.3)]¹

22

23 ¹[4. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to
 24 read as follows:

25 6. Unless property or services have already been or will be
 26 subject to the sales tax under this act, there is hereby imposed on
 27 and there shall be paid by every person a use tax for the use within
 28 this State of **[7%]** 7 percent on or before December 31, 2016, 6.5
 29 percent on and after January 1, 2017 but before January 1, 2018,
 30 and 6 percent on and after January 1, 2018, except as otherwise
 31 exempted under this act, (A) of any tangible personal property or
 32 specified digital product purchased at retail, including energy,
 33 provided however, that electricity consumed by the generating
 34 facility that produced it shall not be subject to tax, (B) of any
 35 tangible personal property or specified digital product
 36 manufactured, processed or assembled by the user, if items of the
 37 same kind of tangible personal property or specified digital
 38 products are offered for sale by him in the regular course of
 39 business, or if items of the same kind of tangible personal property
 40 are not offered for sale by him in the regular course of business and
 41 are used as such or incorporated into a structure, building or real
 42 property, (C) of any tangible personal property or specified digital
 43 product, however acquired, where not acquired for purposes of
 44 resale, upon which any taxable services described in paragraphs (1)
 45 and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-
 46 3) have been performed, (D) of intrastate, interstate, or international
 47 telecommunications services described in subsection (f) of section 3
 48 of P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184),

1 (F) of utility service provided to persons in this State for use in this
2 State, provided however, that utility service used by the facility that
3 provides the service shall not be subject to tax, (G) of mail
4 processing services described in paragraph (5) of subsection (b) of
5 section 3 of P.L.1966, c.30 (C.54:32B-3), (H) (Deleted by
6 amendment, P.L.2008, c.123), (I) of any services subject to tax
7 pursuant to subsection (11), (12), (13), (14) or (15) of subsection
8 (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), and (J) of access to
9 or use of the property or facilities of a health and fitness, athletic,
10 sporting or shopping club or organization in this State. For
11 purposes of clause (A) of this section, the tax shall be at the
12 applicable rate, as set forth hereinabove, of the consideration given
13 or contracted to be given for such property or for the use of such
14 property including delivery charges made by the seller, but
15 excluding any credit for property of the same kind accepted in part
16 payment and intended for resale. For the purposes of clause (B) of
17 this section, the tax shall be at the applicable rate, as set forth
18 hereinabove, of the price at which items of the same kind of
19 tangible personal property or specified digital products are offered
20 for sale by the user, or if items of the same kind of tangible personal
21 property are not offered for sale by the user in the regular course of
22 business and are used as such or incorporated into a structure,
23 building or real property the tax shall be at the applicable rate, as
24 set forth hereinabove, of the consideration given or contracted to be
25 given for the tangible personal property manufactured, processed or
26 assembled by the user into the tangible personal property the use of
27 which is subject to use tax pursuant to this section, and the mere
28 storage, keeping, retention or withdrawal from storage of tangible
29 personal property or specified digital products by the person who
30 manufactured, processed or assembled such property shall not be
31 deemed a taxable use by him. For purposes of clause (C) of this
32 section, the tax shall be at the applicable rate, as set forth
33 hereinabove, of the consideration given or contracted to be given
34 for the service, including the consideration for any tangible personal
35 property or specified digital product transferred in conjunction with
36 the performance of the service, including delivery charges made by
37 the seller. For the purposes of clause (D) of this section, the tax
38 shall be at the applicable rate on the charge made by the
39 telecommunications service provider; provided however, that for
40 prepaid calling services and prepaid wireless calling services the tax
41 shall be at the applicable rate on the consideration given or
42 contracted to be given for the prepaid calling service or prepaid
43 wireless calling service or the recharge of the prepaid calling
44 service or prepaid wireless calling service. For purposes of clause
45 (F) of this section, the tax shall be at the applicable rate on the
46 charge made by the utility service provider. For purposes of clause
47 (G) of this section, the tax shall be at the applicable rate on that
48 proportion of the amount of all processing costs charged by a mail

1 processing service provider that is attributable to the service
2 distributed in this State. For purposes of clause (I) of this section,
3 the tax shall be at the applicable rate on the charge made by the
4 service provider. For purposes of clause (J) of this section, the tax
5 shall be at the applicable rate on the charges in the nature of
6 initiation fees, membership fees or dues.
7 (cf: P.L.2011, c.49, s.4)】¹

8
9 ¹【5. Section 31 of P.L.1980, c.105 (C.54:32B-8.19) is amended
10 to read as follows:

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

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

20 b. Irrespective of the rate of tax imposed by such ordinance,
21 such sales shall be exempt only to the extent that the rate of taxation
22 imposed by the ordinance exceeds 6%, except that the combined
23 rate of taxation imposed under the ordinance and under this section
24 shall not exceed ~~【13%】~~ 13 percent on or before December 31,
25 2016, 12.5 percent on and after January 1, 2017 but before January
26 1, 2018, and 12 percent on and after January 1, 2018.

27 (cf: P.L.2006, c.44, s.10)】¹

28
29 ¹【6. Section 1 of P.L.2003, c.114 (C.54:32D-1) is amended to
30 read as follows:

31 1. a. In addition to any other tax, assessment or use fee
32 authorized by law, there is imposed and shall be paid a hotel and
33 motel occupancy fee of 7% for occupancies on and after August 1,
34 2003 but before July 1, 2004, and of 5% for occupancies on and
35 after July 1, 2004, upon the rent for every occupancy of a room or
36 rooms in a hotel subject to taxation pursuant to subsection (d) of
37 section 3 of P.L. 1966, c.30 (C:54:32B-3), which every person
38 required to collect tax shall collect from the customer when
39 collecting the rent to which it applies; provided however, that on
40 and after the tenth day following a certification by the Director of
41 the Division of Budget and Accounting in the Department of the
42 Treasury pursuant to subsection d. of section 2 of P.L.2003, c.114
43 (C.54:32D-2), no such fee shall be paid or collected; and provided
44 further that:

45 (1) the combined rates of the fee imposed under this section,
46 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
47 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
48 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on

1 or before December 31, 2016, 13.5% on and after January 1, 2017
2 but before January 1, 2018, and 13% on and after January 1, 2018,
3 and to the extent that the total combined rate of taxation for the
4 listed fees and taxes would exceed 14% on or before December 31,
5 2016, 13.5% on and after January 1, 2017 but before January 1,
6 2018, and 13% on and after January 1, 2018, the fee imposed under
7 this section shall be reduced so that the total combined rate equals
8 14% on or before December 31, 2016, 13.5% on and after January
9 1, 2017 but before January 1, 2018, and 13% on and after January 1,
10 2018;

11 (2) the combined rates of the fee imposed under this section,
12 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
13 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed
14 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
15 total rate of 14% on or before December 31, 2016, 13.5% on and
16 after January 1, 2017 but before January 1, 2018, and 13% on and
17 after January 1, 2018, and to the extent that the total combined rate
18 of taxation for the listed fees and taxes would exceed 14% on or
19 before December 31, 2016, 13.5% on and after January 1, 2017 but
20 before January 1, 2018, and 13% on and after January 1, 2018, the
21 fee imposed under this section shall be reduced so that the total
22 combined rate equals 14% on or before December 31, 2016, 13.5%
23 on and after January 1, 2017 but before January 1, 2018, and 13%
24 on and after January 1, 2018; and

25 (3) the fee imposed under this section shall be at the rate of 1%
26 in a city in which the tax authorized under P.L.1981, c.77
27 (C.40:48E-1 et seq.) is imposed.

28 b. The hotel and motel occupancy fee imposed by subsection a.
29 of this section shall not be imposed on the rent for an occupancy if
30 the purchaser, user or consumer is an entity exempt from the tax
31 imposed on an occupancy under the "Sales and Use Tax Act"
32 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
33 9).

34 c. Terms used in this section shall have the meaning given
35 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

36 (cf: P.L.2006, c.44, s.18)]¹

37

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

40 3. There is imposed and there shall be paid a tax of 7% on or
41 before December 31, 2016, 6.875% on and after January 1, 2017 but
42 before January 1, 2018, and 6.625% on and after January 1, 2018
43 upon:

44 (a) The receipts from every retail sale of tangible personal
45 property or a specified digital product for permanent use or less
46 than permanent use, and regardless of whether continued payment is
47 required, except as otherwise provided in this act.

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

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

8 (2) Installing tangible personal property or a specified digital
9 product, or maintaining, servicing, repairing tangible personal
10 property or a specified digital product not held for sale in the
11 regular course of business, whether or not the services are
12 performed directly or by means of coin-operated equipment or by
13 any other means, and whether or not any tangible personal property
14 or specified digital product is transferred in conjunction therewith,
15 except (i) such services rendered by an individual who is engaged
16 directly by a private homeowner or lessee in or about his residence
17 and who is not in a regular trade or business offering his services to
18 the public, (ii) such services rendered with respect to personal
19 property exempt from taxation hereunder pursuant to section 13 of
20 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,
21 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
22 tailoring, weaving, or pressing clothing, and shoe repairing and
23 shoeshining and (v) services rendered in installing property which,
24 when installed, will constitute an addition or capital improvement to
25 real property, property or land, other than landscaping services and
26 other than installing carpeting and other flooring.

27 (3) Storing all tangible personal property not held for sale in the
28 regular course of business; the rental of safe deposit boxes or
29 similar space; and the furnishing of space for storage of tangible
30 personal property by a person engaged in the business of furnishing
31 space for such storage.

32 "Space for storage" means secure areas, such as rooms, units,
33 compartments or containers, whether accessible from outside or
34 from within a building, that are designated for the use of a customer
35 and wherein the customer has free access within reasonable
36 business hours, or upon reasonable notice to the furnisher of space
37 for storage, to store and retrieve property. Space for storage shall
38 not include the lease or rental of an entire building, such as a
39 warehouse or airplane hangar.

40 (4) Maintaining, servicing or repairing real property, other than
41 a residential heating system unit serving not more than three
42 families living independently of each other and doing their cooking
43 on the premises, whether the services are performed in or outside of
44 a building, as distinguished from adding to or improving such real
45 property by a capital improvement, but excluding services rendered
46 by an individual who is not in a regular trade or business offering
47 his services to the public, and excluding garbage removal and sewer

1 services performed on a regular contractual basis for a term not less
2 than 30 days.

3 (5) Mail processing services for printed advertising material,
4 except for mail processing services in connection with distribution
5 of printed advertising material to out-of-State recipients.

6 (6) (Deleted by amendment, P.L.1995, c.184).

7 (7) Utility service provided to persons in this State, any right or
8 power over which is exercised in this State.

9 (8) Tanning services, including the application of a temporary
10 tan provided by any means.

11 (9) Massage, bodywork or somatic services, except such
12 services provided pursuant to a doctor's prescription.

13 (10) Tattooing, including all permanent body art and permanent
14 cosmetic make-up applications, except such services provided
15 pursuant to a doctor's prescription in conjunction with
16 reconstructive breast surgery.

17 (11) Investigation and security services.

18 (12) Information services.

19 (13) Transportation services originating in this State and
20 provided by a limousine operator, as permitted by law, except such
21 services provided in connection with funeral services.

22 (14) Telephone answering services.

23 (15) Radio subscription services.

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

28 Services otherwise taxable under paragraph (1) or (2) of this
29 subsection (b) are not subject to the taxes imposed under this
30 subsection, where the tangible personal property or specified digital
31 product upon which the services were performed is delivered to the
32 purchaser outside this State for use outside this State.

33 (c) (1) Receipts from the sale of prepared food in or by
34 restaurants, taverns, or other establishments in this State, or by
35 caterers, including in the amount of such receipts any cover,
36 minimum, entertainment or other charge made to patrons or
37 customers, except for meals especially prepared for and delivered to
38 homebound elderly, age 60 or older, and to disabled persons, or
39 meals prepared and served at a group-sitting at a location outside of
40 the home to otherwise homebound elderly persons, age 60 or older,
41 and otherwise homebound disabled persons, as all or part of any
42 food service project funded in whole or in part by government or as
43 part of a private, nonprofit food service project available to all such
44 elderly or disabled persons residing within an area of service
45 designated by the private nonprofit organization; and

46 (2) Receipts from sales of food and beverages sold through
47 vending machines, at the wholesale price of such sale, which shall
48 be defined as 70% of the retail vending machine selling price,

1 except sales of milk, which shall not be taxed. Nothing herein
2 contained shall affect other sales through coin-operated vending
3 machines taxable pursuant to subsection (a) above or the exemption
4 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

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

7 (3) For the purposes of this subsection:

8 "Food and beverages sold through vending machines" means
9 food and beverages dispensed from a machine or other mechanical
10 device that accepts payment; and

11 "Prepared food" means:

12 (i) A. food sold in a heated state or heated by the seller; or

13 B. two or more food ingredients mixed or combined by the
14 seller for sale as a single item, but not including food that is only
15 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
16 poultry, and foods containing these raw animal foods requiring
17 cooking by the consumer as recommended by the Food and Drug
18 Administration in Chapter 3, part 401.11 of its Food Code so as to
19 prevent food borne illnesses; or

20 C. food sold with eating utensils provided by the seller,
21 including plates, knives, forks, spoons, glasses, cups, napkins, or
22 straws. A plate does not include a container or packaging used to
23 transport the food;
24 provided however, that

25 (ii) "prepared food" does not include the following sold without
26 eating utensils:

27 A. food sold by a seller whose proper primary NAICS
28 classification is manufacturing in section 311, except subsector
29 3118 (bakeries);

30 B. food sold in an unheated state by weight or volume as a
31 single item; or

32 C. bakery items, including bread, rolls, buns, biscuits, bagels,
33 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
34 muffins, bars, cookies, and tortillas.

35 (d) The rent for every occupancy of a room or rooms in a hotel
36 in this State, except that the tax shall not be imposed upon a
37 permanent resident.

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

1 possession of a box or seat or lease or a license, other than a season
2 ticket, for the use of a box or seat at a place of amusement, the tax
3 shall be upon the amount for which a similar box or seat is sold for
4 each performance or exhibition at which the box or seat is used or
5 reserved by the holder, licensee or lessee, and shall be paid by the
6 holder, licensee or lessee.

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

10 (f) (1) The receipts from every sale, except for resale, of
11 intrastate, interstate, or international telecommunications services
12 and ancillary services sourced to this State in accordance with
13 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

14 (2) (Deleted by amendment, P.L.2008, c.123)

15 (g) (Deleted by amendment, P.L.2008, c.123)

16 (h) Charges in the nature of initiation fees, membership fees or
17 dues for access to or use of the property or facilities of a health and
18 fitness, athletic, sporting or shopping club or organization in this
19 State, except for: (1) membership in a club or organization whose
20 members are predominantly age 18 or under; and (2) charges in the
21 nature of membership fees or dues for access to or use of the
22 property or facilities of a health and fitness, athletic, sporting or
23 shopping club or organization that is exempt from taxation pursuant
24 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30
25 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph
26 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that
27 has complied with subsection (d) of section 9 of P.L.1966, c.30.

28 (i) The receipts from parking, storing or garaging a motor
29 vehicle, excluding charges for the following: residential parking;
30 employee parking, when provided by an employer or at a facility
31 owned or operated by the employer; municipal parking, storing or
32 garaging; receipts from charges or fees imposed pursuant to section
33 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
34 between the Casino Reinvestment Development Authority and a
35 casino operator in effect on the date of enactment of P.L.2007,
36 c.105; and receipts from parking, storing or garaging a motor
37 vehicle subject to tax pursuant to any other law or ordinance.

38 For the purposes of this subsection, "municipal parking, storing
39 or garaging" means any motor vehicle parking, storing or garaging
40 provided by a municipality or county, or a parking authority
41 thereof.²

42 (cf: P.L.2013, c.193, s.1)

43

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

46 4. a. For the purpose of adding and collecting the tax imposed
47 by this act, or an amount equal as nearly as possible or practicable
48 to the average equivalent thereof, to be reimbursed to the seller by

1 the purchaser, on or before December 31, 2016 a seller shall use
2 one of the two following options:

3 (1) a tax shall be calculated based on the following formula:

4	Amount of Sale	Amount of Tax
5	\$0.01 to \$0.10	No Tax
6	0.11 to 0.19	\$0.01
7	0.20 to 0.32	0.02
8	0.33 to 0.47	0.03
9	0.48 to 0.62	0.04
10	0.63 to 0.77	0.05
11	0.78 to 0.90	0.06
12	0.91 to \$1.10	0.07

13 and in addition to a tax of \$0.07 on each full dollar, a tax shall be
14 collected on each part of a dollar in excess of a full dollar, in
15 accordance with the above formula; or

16 (2) tax shall be calculated to the third decimal place. One-half
17 cent (\$0.005) or higher shall be rounded up to the next cent; less
18 than \$0.005 shall be dropped in order to round the result down.

19 Sellers may compute the tax due on a transaction on either an
20 item or an invoice basis.

21 b. (Deleted by amendment, P.L.2008, c.123)

22 c. For the purpose of adding and collecting the tax imposed by
23 this act, or an amount equal as nearly as possible or practicable to
24 the average equivalent thereof, to be reimbursed to the seller by the
25 purchaser, on or after January 1, 2017 a seller shall use one of the
26 two following options:

27 (1) a tax shall be calculated based on any tax collection schedule
28 as may be prescribed by the director; or

29 (2) a tax shall be calculated to the third decimal place. One-half
30 cent (\$0.005) or higher shall be rounded up to the next cent; less
31 than \$0.005 shall be dropped to round the result down.

32 Sellers may compute the tax due on a transaction on either an
33 item or an invoice basis.²

34 (cf: P.L.2008, c.123, s.4)

35
36 ²3. Section 5 of P.L.1966, c.30 (C.54:32B-5) is amended to read
37 as follows:

38 5. a. (1) Except as otherwise provided in this act, receipts
39 received from all sales made and services rendered on and after
40 January 3, 1983 but prior to July 1, 1990, are subject to the taxes
41 imposed under subsections (a), (b), (c), and (f) of section 3 of this
42 act at the rate, if any, in effect for such sales and services on June
43 30, 1990, except if the property so sold is delivered or the services
44 so sold are rendered on or after July 1, 1990 but prior to July 1,
45 1992, in which case the tax shall be computed and paid at the rate
46 of 7%; provided, however, that if a service or maintenance
47 agreement taxable under this act covers any period commencing on
48 or after January 3, 1983 and ending after June 30, 1990 but prior to

1 July 1, 1992, the receipts from such agreement are subject to tax at
2 the rate, if any, applicable to each period as set forth hereinabove
3 and shall be apportioned on the basis of the ratio of the number of
4 days falling within each of the said periods to the total number of
5 days covered thereby.

6 (2) Except as otherwise provided in this act, receipts received
7 from all sales made and services rendered on and after July 1, 1990
8 but prior to July 1, 1992, are subject to the taxes imposed under
9 subsections (a), (b), (c) and (f) of section 3 of this act at the rate of
10 7%, except if the property so sold is delivered or the services so
11 sold are rendered on or after July 1, 1992 but prior to July 15, 2006,
12 in which case the tax shall be computed and paid at the rate of 6%,
13 provided, however, that if a service or maintenance agreement
14 taxable under this act covers any period commencing on or after
15 July 1, 1990, and ending after July 1, 1992, the receipts from such
16 agreement are subject to tax at the rate applicable to each period as
17 set forth hereinabove and shall be apportioned on the basis of the
18 ratio of the number of days falling within each of the said periods to
19 the total number of days covered thereby.

20 (3) Except as otherwise provided in this act, receipts received
21 from all sales made and services rendered on and after July 1, 1992
22 but prior to July 15, 2006, are subject to the taxes imposed under
23 subsections (a), (b), (c), (f) and (g) of section 3 of P.L.1966, c.30
24 (C.54:32B-3) at the rate of 6%, except if the property so sold is
25 delivered or the services so sold are rendered on or after July 15,
26 2006 but prior to January 1, 2017, in which case the tax shall be
27 computed and paid at the rate of 7%, provided, however, that if a
28 service or maintenance agreement taxable under this act covers any
29 period commencing on or after July 1, 1992, and ending after July
30 15, 2006 but prior to January 1, 2017, the receipts from such
31 agreement are subject to tax at the rate applicable to each period as
32 set forth hereinabove and shall be apportioned on the basis of the
33 ratio of the number of days falling within each of the said periods to
34 the total number of days covered thereby; provided however, if a
35 service or maintenance agreement in effect on July 14, 2006 covers
36 billing periods ending after July 15, 2006 but prior to January 1,
37 2017, the seller shall charge and collect from the purchaser a tax on
38 such sales at the rate of 6%, unless the billing period starts on or
39 after July 15, 2006 but prior to January 1, 2017 in which case the
40 seller shall charge and collect a tax at the rate of 7%.

41 (4) Except as otherwise provided in this act, receipts received
42 from all sales made and services rendered on or after July 15, 2006
43 but prior to January 1, 2017, are subject to the taxes imposed under
44 subsections (a), (b), (c), (f), and (i) of section 3 of P.L.1966, c.30
45 (C.54:32B-3) at the rate of 7%, except if the property so sold is
46 delivered or the services so sold are rendered on or after January 1,
47 2017 but prior to January 1, 2018, in which case the tax shall be
48 computed and paid at the rate of 6.875%; provided, however, that if

1 a service or maintenance agreement taxable under this act covers
2 any period commencing on or after July 15, 2006 and ending after
3 January 1, 2017 but prior to January 1, 2018, the receipts from such
4 agreement are subject to tax at the rate applicable to each period as
5 set forth hereinabove and shall be apportioned on the basis of the
6 ratio of the number of days falling within each of the said periods to
7 the total number of days covered thereby; provided, further, if a
8 service or maintenance agreement in effect on December 31, 2016
9 covers billing periods ending after January 1, 2017 but prior to
10 January 1, 2018, the seller shall charge and collect from the
11 purchaser a tax on such sales at the rate of 7%, unless the bill for
12 such service or maintenance agreement is rendered on or after
13 January 1, 2017 but prior to January 1, 2018 in which case the seller
14 shall charge and collect a tax at a rate of 6.875%.

15 (5) Except as otherwise provided in this act, receipts received
16 from all sales made and services rendered on or after January 1,
17 2017 but prior to January 1, 2018, are subject to the taxes imposed
18 under subsections (a), (b), (c), (f), and (i) of section 3 of P.L.1966,
19 c.30 (C.54:32B-3) at the rate of 6.875%, except if the property so
20 sold is delivered or the services so sold are rendered on or after
21 January 1, 2018, in which case the tax shall be computed and paid
22 at the rate of 6.625%; provided, however, that if a service or
23 maintenance agreement taxable under this act covers any period
24 commencing on or after January 1, 2017 and ending after January 1,
25 2018, the receipts from such agreement are subject to tax at the rate
26 applicable to each period as set forth hereinabove and shall be
27 apportioned on the basis of the ratio of the number of days falling
28 within each of the said periods to the total number of days covered
29 thereby; provided, further, if a service or maintenance agreement in
30 effect on December 31, 2017 covers billing periods ending after
31 January 1, 2018, the seller shall charge and collect from the
32 purchaser a tax on such sales at the rate of 6.875%, unless the bill
33 for such service or maintenance agreement is rendered on or after
34 January 1, 2018 in which case the seller shall charge and collect a
35 tax at a rate of 6.625%.

36 b. (1) The tax imposed under subsection (d) of section 3 shall
37 be paid at the rate of 7% upon any occupancy on and after July 1,
38 1990 but prior to July 1, 1992, although such occupancy is pursuant
39 to a prior contract, lease or other arrangement. If an occupancy,
40 taxable under this act, covers any period on or after January 3, 1983
41 but prior to July 1, 1990, the rent for the period of occupancy prior
42 to July 1, 1990 shall be taxed at the rate of 6%. If rent is paid on a
43 weekly, monthly or other term basis, the rent applicable to each
44 period as set forth hereinabove shall be apportioned on the basis of
45 the ratio of the number of days falling within each of the said
46 periods to the total number of days covered thereby.

47 (2) The tax imposed under subsection (d) of section 3 shall be
48 paid at the rate of 6% upon any occupancy on and after July 1, 1992

1 but prior to July 15, 2006, although such occupancy is pursuant to a
2 prior contract, lease or other arrangement. If an occupancy, taxable
3 under this act, covers any period on or after July 1, 1990 but prior
4 to July 1, 1992, the rent for the period of occupancy prior to July 1,
5 1992 shall be taxed at the rate of 7%. If rent is paid on a weekly,
6 monthly or other term basis, the rent applicable to each period as set
7 forth hereinabove shall be apportioned on the basis of the ratio of
8 the number of days falling within each of the said periods to the
9 total number of days covered thereby.

10 (3) The tax imposed under subsection (d) of section 3 shall be
11 paid at the rate of 7% upon any occupancy on and after July 15,
12 2006 but prior to January 1, 2017, although such occupancy is
13 pursuant to a prior contract, lease or other arrangement. If an
14 occupancy, taxable under this act, covers any period on or after July
15 1, 1992 but prior to July 15, 2006, the rent for the period of
16 occupancy prior to July 15, 2006 shall be taxed at the rate of 6%. If
17 rent is paid on a weekly, monthly or other term basis, the rent
18 applicable to each period as set forth hereinabove shall be
19 apportioned on the basis of the ratio of the number of days falling
20 within each of the said periods to the total number of days covered
21 thereby.

22 (4) The tax imposed under subsection (d) of section 3 shall be
23 paid at the rate of 6.875% upon any occupancy on or after January
24 1, 2017 but prior to January 1, 2018, although such occupancy is
25 pursuant to a prior contract, lease, or other arrangement. If an
26 occupancy, taxable under this act, covers any period on or after July
27 15, 2006 but prior to January 1, 2017, the rent for the period of
28 occupancy prior to January 1, 2017 shall be taxed at the rate of 7%.
29 If rent is paid on a weekly, monthly, or other term basis, the rent
30 applicable to each period as set forth hereinabove shall be
31 apportioned on the basis of the ratio of the number of days falling
32 within each of the said periods to the total number of days covered
33 thereby.

34 (5) The tax imposed under subsection (d) of section 3 shall be
35 paid at the rate of 6.625% upon any occupancy on or after January
36 1, 2018, although such occupancy is pursuant to a prior contract,
37 lease, or other arrangement. If an occupancy, taxable under this act,
38 covers any period on or after January 1, 2017 but prior to January 1,
39 2018, the rent for the period of occupancy prior to January 1, 2018
40 shall be taxed at the rate of 6.875%. If rent is paid on a weekly,
41 monthly, or other term basis, the rent applicable to each period as
42 set forth hereinabove shall be apportioned on the basis of the ratio
43 of the number of days falling within each of the said periods to the
44 total number of days covered thereby.

45 c. (1) Except as otherwise hereinafter provided, the tax imposed
46 under subsection (e) of section 3 shall be applicable at the rate of
47 7% to any admission to or for the use of facilities of a place of
48 amusement occurring on or after July 1, 1990 but prior to July 1,

1 1992, whether or not the admission charge has been paid prior to
2 July 1, 1990, unless the tickets were actually sold and delivered,
3 other than for resale, prior to July 1, 1990 and the tax imposed
4 under this act during the period January 3, 1983 through June 30,
5 1990 shall have been paid.

6 (2) Except as otherwise hereinafter provided, the tax imposed
7 under subsection (e) of section 3 shall be applicable at the rate of
8 6% to any admission to or for the use of facilities of a place of
9 amusement occurring on or after July 1, 1992 but prior to July 15,
10 2006, whether or not the admission charge has been paid prior to
11 July 1, 1992, unless the tickets were actually sold and delivered,
12 other than for resale, prior to July 1, 1992 and the tax imposed
13 under this act during the period July 1, 1990 through December 31,
14 1990 shall have been paid.

15 (3) Except as otherwise hereinafter provided, the tax imposed
16 under subsection (e) of section 3 shall be applicable at the rate of
17 7% to any admission to or for the use of facilities of a place of
18 amusement occurring on or after July 15, 2006 but prior to January
19 1, 2017, whether or not the admission charge has been paid prior to
20 **[that date]** July 15, 2006, unless the tickets were actually sold and
21 delivered, other than for resale, prior to July 15, 2006 and the tax
22 imposed under this act during the period July 1, 1992 through July
23 14, 2006 shall have been paid.

24 (4) Except as otherwise hereinafter provided, the tax imposed
25 under subsection (e) of section 3 shall be applicable at the rate of
26 6.875% to any admission to or for the use of facilities of a place of
27 amusement occurring on or after January 1, 2017 but prior to
28 January 1, 2018, whether or not the admission charge has been paid
29 prior to January 1, 2017, unless the tickets were actually sold and
30 delivered, other than for resale, prior to January 1, 2017 and the tax
31 imposed under this act during the period July 15, 2006 through
32 December 31, 2016 shall have been paid.

33 (5) Except as otherwise hereinafter provided, the tax imposed
34 under subsection (e) of section 3 shall be applicable at the rate of
35 6.625% to any admission to or for the use of facilities of a place of
36 amusement occurring on or after January 1, 2018, whether or not
37 the admission charge has been paid prior to that date, unless the
38 tickets were actually sold and delivered, other than for resale, prior
39 to January 1, 2018 and the tax imposed under this act during the
40 period January 1, 2017 through December 31, 2017 shall have been
41 paid.

42 d. (1) Sales made on and after July 1, 1990 but prior to July 1,
43 1992 to contractors, subcontractors or repairmen of materials,
44 supplies, or services for use in erecting structures for others, or
45 building on, or otherwise improving, altering or repairing real
46 property of others shall be subject to the taxes imposed by
47 subsections (a) and (b) of section 3 and section 6 hereof at the rate
48 of 7%; provided, however, that if such sales are made for use in

1 performance of a contract which is either of a fixed price not
2 subject to change or modification, or entered into pursuant to the
3 obligation of a formal written bid which cannot be altered or
4 withdrawn, and, in either case, such contract was entered into or
5 such bid was made on or after January 3, 1983 but prior to July 1,
6 1990, such sales shall be subject to tax at the rate of 6%, but the
7 vendor shall charge and collect from the purchaser a tax on such
8 sales at the rate of 7%.

9 (2) Sales made on or after July 1, 1992 but prior to July 15,
10 2006 to contractors, subcontractors or repairmen of materials,
11 supplies, or services for use in erecting structures for others, or
12 building on, or otherwise improving, altering or repairing real
13 property of others shall be subject to the taxes imposed by
14 subsections (a) and (b) of section 3 and section 6 hereof at the rate
15 of 6%; provided, however, that if such sales are made for use in
16 performance of a contract which is either of a fixed price not
17 subject to change or modification, or entered into pursuant to the
18 obligation of a formal written bid which cannot be altered or
19 withdrawn, and, in either case, such contract was entered into or
20 such bid was made on or after July 1, 1990, but prior to July 1,
21 1992, such sales shall be subject to tax at the rate of 7%.

22 (3) Sales made on or after July 15, 2006 but prior to January 1,
23 2017 to contractors, subcontractors or repairmen of materials,
24 supplies, or services for use in erecting structures for others, or
25 building on, or otherwise improving, altering or repairing real
26 property of others shall be subject to the taxes imposed by
27 subsections (a) and (b) of section 3 and section 6 hereof at the rate
28 of 7%; provided, however, that if such sales are made for use in
29 performance of a contract which is either of a fixed price not
30 subject to change or modification, or entered into pursuant to the
31 obligation of a formal written bid which cannot be altered or
32 withdrawn, and, in either case, such contract was entered into or
33 such bid was made on or after July 1, 1992, but prior to July 15,
34 2006, such sales shall be subject to tax at the rate of 6%, but the
35 seller shall charge and collect from the purchaser a tax on such sales
36 at the rate of 7%.

37 (4) Sales made on or after January 1, 2017 but prior to January
38 1, 2018 to contractors, subcontractors, or repairmen of materials,
39 supplies, or services for use in erecting structures for others, or
40 building on, or otherwise improving, altering or repairing real
41 property of others shall be subject to the taxes imposed by
42 subsections (a) and (b) of section 3 and section 6 hereof at the rate
43 of 6.875%; provided, however, that if such sales are made for use in
44 the performance of a contract which is either of a fixed price not
45 subject to change or modification, or entered into pursuant to the
46 obligation of a formal written bid which cannot be altered or
47 withdrawn, and, in either case, such contract was entered into or

1 such bid was made on or after July 15, 2006, but prior to January 1,
2 2017, such sales shall be subject to tax at the rate of 7%.

3 (5) Sales made on or after January 1, 2018 to contractors,
4 subcontractors, or repairmen of materials, supplies, or services for
5 use in erecting structures for others, or building on, or otherwise
6 improving, altering or repairing real property of others shall be
7 subject to the taxes imposed by subsections (a) and (b) of section 3
8 and section 6 hereof at the rate of 6.625%; provided, however, that
9 if such sales are made for use in the performance of a contract
10 which is either of a fixed price not subject to change or
11 modification, or entered into pursuant to the obligation of a formal
12 written bid which cannot be altered or withdrawn, and, in either
13 case, such contract was entered into or such bid was made prior to
14 January 1, 2018, such sales shall be subject to tax at the rate in
15 effect during the time period in which such contract was entered
16 into or such bid was made.

17 e. (1) As to sales other than those referred to in d. above, the
18 taxes imposed under subsections (a) and (b) of section 3 and section
19 6 hereof, and the taxes imposed under subsection (f) of section 3
20 and section 6 hereof, upon receipts received on or after July 1, 1990
21 and on or before December 31, 1990, shall be at the rate in effect on
22 June 30, 1990, in case of sales made or services rendered pursuant
23 to a written contract entered on or after January 3, 1983 but prior to
24 July 1, 1990, and accompanied by a deposit or partial payment of
25 the contract price, except in the case of a contract which, in the
26 usage of trade, is not customarily accompanied by a deposit or
27 partial payment of the contract price, but the vendor shall charge
28 and collect from the purchaser on such sales at the rate of 7%,
29 which tax shall be reduced to the rate, if any, in effect on June 30,
30 1990, only by a claim for refund filed by the purchaser with the
31 director within 90 days after receipt of said receipts and otherwise
32 pursuant to the provisions of section 20 of P.L.1966, c.30
33 (C.54:32B-20). A claim for refund shall not be allowed if there has
34 been no deposit or partial payment of the contract price unless the
35 claimant shall establish by clear and convincing evidence that, in
36 the usage of trade, such contracts are not customarily accompanied
37 by a deposit or partial payment of the contract price.

38 (2) As to sales other than those referred to in d. above, the taxes
39 imposed under subsections (a) and (b) of section 3 and section 6
40 hereof, and the taxes imposed under subsections (f) and (g) of
41 section 3 and section 6 hereof, upon receipts received on or after
42 July 15, 2006 and on or before December 31, 2006, shall be at the
43 rate in effect on July 14, 2006, in case of sales made or services
44 rendered pursuant to a written contract entered on or after July 1,
45 1992 but prior to July 15, 2006, and accompanied by a deposit or
46 partial payment of the contract price, except in the case of a
47 contract which, in the usage of trade, is not customarily
48 accompanied by a deposit or partial payment of the contract price,

1 but the seller shall charge and collect from the purchaser on such
2 sales at the rate of 7%, which tax shall be reduced to the rate, if any,
3 in effect on July 14, 2006, only by a claim for refund filed by the
4 purchaser with the director within 90 days after receipt of said
5 receipts and otherwise pursuant to the provisions of section 20 of
6 P.L.1966, c.30 (C.54:32B-20). A claim for refund shall not be
7 allowed if there has been no deposit or partial payment of the
8 contract price unless the claimant shall establish by clear and
9 convincing evidence that, in the usage of trade, such contracts are
10 not customarily accompanied by a deposit or partial payment of the
11 contract price.

12 f. (1) The taxes imposed under subsections (a), (b), (c) and (f) of
13 section 3 upon receipts received on or after July 1, 1990 but prior to
14 July 1, 1992 shall be at the rate, if any, in effect on June 30, 1990 in
15 the case of sales made or services rendered, if delivery of the
16 property which was the subject matter of the sale has been
17 completed or such services have been entirely rendered prior to July
18 1, 1990.

19 (2) The taxes imposed under subsections (a), (b), (c) and (f) of
20 section 3 upon receipts received on or after July 1, 1992 but prior to
21 July 15, 2006 shall be at the rate of 7% in the case of sales made or
22 services rendered, where delivery of the property which was the
23 subject matter of the sale has been completed or such services have
24 been entirely rendered on or after July 1, 1990 but prior to July 1,
25 1992.

26 (3) The taxes imposed under subsections (a), (b), (c), (f) and (g)
27 of section 3 upon receipts received on or after July 15, 2006 shall be
28 at the rate of 6% in the case of sales made or services rendered,
29 where delivery of the property which was the subject matter of the
30 sale has been completed or such services have been entirely
31 rendered on or after July 1, 1992 but prior to July 15, 2006.

32 (4) The taxes imposed under subsections (a), (b), (c), (f), and (i)
33 of section 3 upon receipts received on or after January 1, 2017 shall
34 be at the rate of 7% in the case of sales made or services rendered,
35 where delivery of the property which was the subject matter of the
36 sale has been completed or such services have been entirely
37 rendered on or after July 15, 2006 but prior to January 1, 2017.

38 (5) The taxes imposed under subsections (a), (b), (c), (f), and (i)
39 of section 3 upon receipts received on or after January 1, 2018 shall
40 be at the rate of 6.875% in the case of sales made or services
41 rendered, where delivery of the property which was the subject
42 matter of the sale has been completed or such services have been
43 entirely rendered on or after January 1, 2017 but prior to January 1,
44 2018.

45 g. (1) Except as otherwise hereinafter provided, the taxes
46 imposed by subsection (h) of section 3 of P.L.1966, c.30
47 (C.54:32B-3) and clause (J) of section 6 of P.L.1966, c.30
48 (C.54:32B-6) shall be imposed and paid at the rate of 6.875% upon

1 all charges in the nature of initiation fees, membership fees, or dues
2 paid on or after January 1, 2017 but before January 1, 2018. All
3 charges in the nature of initiation fees, membership fees, or dues
4 paid on or after October 1, 2006 but before January 1, 2017 shall be
5 imposed and paid at the rate of 7%; provided, however, that any
6 charges in the nature of membership fees and dues paid on or after
7 October 1, 2006 but before January 1, 2017 that allow a member
8 access to or use of the property or facilities of a health and fitness,
9 athletic, sporting, or shopping club or organization in this State for
10 any period beginning on or after October 1, 2006 but before January
11 1, 2017 and ending on or after January 1, 2017 but before January
12 1, 2018 shall be subject to tax at the rate applicable to each period
13 as set forth hereinabove and shall be apportioned on the basis of the
14 ratio of the number of days falling within each of the said periods to
15 the total number of days covered thereby.

16 (2) Except as otherwise hereinafter provided, the taxes imposed
17 by subsection (h) of section 3 of P.L.1966, c.30 (C.54:32B-3) and
18 clause (J) of section 6 of P.L.1966, c.30 (C.54:32B-6) shall be
19 imposed and paid at the rate of 6.625% upon all charges in the
20 nature of initiation fees, membership fees, or dues paid on or after
21 January 1, 2018. All charges in the nature of initiation fees,
22 membership fees, or dues paid on or after January 1, 2017 but
23 before January 1, 2018 shall be imposed and paid at the rate of
24 6.875%; provided, however, that any charges in the nature of
25 membership fees and dues paid on or after January 1, 2017 but
26 before January 1, 2018 that allow a member access to or use of the
27 property or facilities of a health and fitness, athletic, sporting, or
28 shopping club or organization in this State for any period beginning
29 on or after January 1, 2017 but before January 1, 2018 and ending
30 on or after January 1, 2018 shall be subject to tax at the rate
31 applicable to each period as set forth hereinabove and shall be
32 apportioned on the basis of the ratio of the number of days falling
33 within each of the said periods to the total number of days covered
34 thereby.

35 **[g]** h. The director is empowered to promulgate rules and
36 regulations to implement the provisions of this section.²
37 (cf: P.L.2011, c.49, s.3)

38

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

41 6. Unless property or services have already been or will be
42 subject to the sales tax under this act, there is hereby imposed on
43 and there shall be paid by every person a use tax for the use within
44 this State of 7% on or before December 31, 2016, 6.875% on and
45 after January 1, 2017 but before January 1, 2018, and 6.625% on
46 and after January 1, 2018, except as otherwise exempted under this
47 act, (A) of any tangible personal property or specified digital
48 product purchased at retail, including energy, provided however,

1 that electricity consumed by the generating facility that produced it
2 shall not be subject to tax, (B) of any tangible personal property or
3 specified digital product manufactured, processed or assembled by
4 the user, if items of the same kind of tangible personal property or
5 specified digital products are offered for sale by him in the regular
6 course of business, or if items of the same kind of tangible personal
7 property are not offered for sale by him in the regular course of
8 business and are used as such or incorporated into a structure,
9 building or real property, (C) of any tangible personal property or
10 specified digital product, however acquired, where not acquired for
11 purposes of resale, upon which any taxable services described in
12 paragraphs (1) and (2) of subsection (b) of section 3 of P.L.1966,
13 c.30 (C.54:32B-3) have been performed, (D) of intrastate, interstate,
14 or international telecommunications services described in
15 subsection (f) of section 3 of P.L.1966, c.30, (E) (Deleted by
16 amendment, P.L.1995, c.184), (F) of utility service provided to
17 persons in this State for use in this State, provided however, that
18 utility service used by the facility that provides the service shall not
19 be subject to tax, (G) of mail processing services described in
20 paragraph (5) of subsection (b) of section 3 of P.L.1966, c.30
21 (C.54:32B-3), (H) (Deleted by amendment, P.L.2008, c.123), (I) of
22 any services subject to tax pursuant to subsection (11), (12), (13),
23 (14) or (15) of subsection (b) of section 3 of P.L.1966, c.30
24 (C.54:32B-3), and (J) of access to or use of the property or facilities
25 of a health and fitness, athletic, sporting or shopping club or
26 organization in this State. For purposes of clause (A) of this
27 section, the tax shall be at the applicable rate, as set forth
28 hereinabove, of the consideration given or contracted to be given
29 for such property or for the use of such property including delivery
30 charges made by the seller, but excluding any credit for property of
31 the same kind accepted in part payment and intended for resale. For
32 the purposes of clause (B) of this section, the tax shall be at the
33 applicable rate, as set forth hereinabove, of the price at which items
34 of the same kind of tangible personal property or specified digital
35 products are offered for sale by the user, or if items of the same
36 kind of tangible personal property are not offered for sale by the
37 user in the regular course of business and are used as such or
38 incorporated into a structure, building or real property the tax shall
39 be at the applicable rate, as set forth hereinabove, of the
40 consideration given or contracted to be given for the tangible
41 personal property manufactured, processed or assembled by the user
42 into the tangible personal property the use of which is subject to use
43 tax pursuant to this section, and the mere storage, keeping, retention
44 or withdrawal from storage of tangible personal property or
45 specified digital products by the person who manufactured,
46 processed or assembled such property shall not be deemed a taxable
47 use by him. For purposes of clause (C) of this section, the tax shall
48 be at the applicable rate, as set forth hereinabove, of the

1 consideration given or contracted to be given for the service,
2 including the consideration for any tangible personal property or
3 specified digital product transferred in conjunction with the
4 performance of the service, including delivery charges made by the
5 seller. For the purposes of clause (D) of this section, the tax shall
6 be at the applicable rate on the charge made by the
7 telecommunications service provider; provided however, that for
8 prepaid calling services and prepaid wireless calling services the tax
9 shall be at the applicable rate on the consideration given or
10 contracted to be given for the prepaid calling service or prepaid
11 wireless calling service or the recharge of the prepaid calling
12 service or prepaid wireless calling service. For purposes of clause
13 (F) of this section, the tax shall be at the applicable rate on the
14 charge made by the utility service provider. For purposes of clause
15 (G) of this section, the tax shall be at the applicable rate on that
16 proportion of the amount of all processing costs charged by a mail
17 processing service provider that is attributable to the service
18 distributed in this State. For purposes of clause (I) of this section,
19 the tax shall be at the applicable rate on the charge made by the
20 service provider. For purposes of clause (J) of this section, the tax
21 shall be at the applicable rate on the charges in the nature of
22 initiation fees, membership fees or dues.²

23 (cf: P.L.2011, c.49, s.4)

24

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

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

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

36 b. Irrespective of the rate of tax imposed by such ordinance,
37 such sales shall be exempt only to the extent that the rate of taxation
38 imposed by the ordinance exceeds 6%, except that the combined
39 rate of taxation imposed under the ordinance and under this section
40 shall not exceed 13% on or before December 31, 2016, 12.875% on
41 and after January 1, 2017 but before January 1, 2018, and 12.625%
42 on and after January 1, 2018.²

43 (cf: P.L.2006, c.44, s.10)

44 ²⁶. Section 1 of P.L.2003, c.114 (C.54:32D-1) is amended to
45 read as follows:

46 1. a. In addition to any other tax, assessment or use fee
47 authorized by law, there is imposed and shall be paid a hotel and
48 motel occupancy fee of 7% for occupancies on and after August 1,

1 2003 but before July 1, 2004, and of 5% for occupancies on and
2 after July 1, 2004, upon the rent for every occupancy of a room or
3 rooms in a hotel subject to taxation pursuant to subsection (d) of
4 section 3 of P.L.1966, c.30 (C.54:32B-3), which every person
5 required to collect tax shall collect from the customer when
6 collecting the rent to which it applies; provided however, that on
7 and after the tenth day following a certification by the Director of
8 the Division of Budget and Accounting in the Department of the
9 Treasury pursuant to subsection d. of section 2 of P.L.2003, c.114
10 (C.54:32D-2), no such fee shall be paid or collected; and provided
11 further that:

12 (1) the combined rates of the fee imposed under this section,
13 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
14 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
15 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on
16 or before December 31, 2016, 13.875% on and after January 1,
17 2017 but before January 1, 2018, and 13.625% on and after January
18 1, 2018, and to the extent that the total combined rate of taxation for
19 the listed fees and taxes would exceed 14% on or before December
20 31, 2016, 13.875% on and after January 1, 2017 but before January
21 1, 2018, and 13.625% on and after January 1, 2018, the fee imposed
22 under this section shall be reduced so that the total combined rate
23 equals 14% on or before December 31, 2016, 13.875% on and after
24 January 1, 2017 but before January 1, 2018, and 13.625% on and
25 after January 1, 2018;

26 (2) the combined rates of the fee imposed under this section,
27 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
28 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed
29 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
30 total rate of 14% on or before December 31, 2016, 13.875% on and
31 after January 1, 2017 but before January 1, 2018, and 13.625% on
32 and after January 1, 2018, and to the extent that the total combined
33 rate of taxation for the listed fees and taxes would exceed 14% on
34 or before December 31, 2016, 13.875% on and after January 1,
35 2017 but before January 1, 2018, and 13.625% on and after January
36 1, 2018, the fee imposed under this section shall be reduced so that
37 the total combined rate equals 14% on or before December 31,
38 2016, 13.875% on and after January 1, 2017 but before January 1,
39 2018, and 13.625% on and after January 1, 2018; and

40 (3) the fee imposed under this section shall be at the rate of 1%
41 in a city in which the tax authorized under P.L.1981, c.77
42 (C.40:48E-1 et seq.) is imposed.

43 b. The hotel and motel occupancy fee imposed by subsection a.
44 of this section shall not be imposed on the rent for an occupancy if
45 the purchaser, user or consumer is an entity exempt from the tax
46 imposed on an occupancy under the "Sales and Use Tax Act"
47 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
48 9).

1 c. Terms used in this section shall have the meaning given
2 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).²
3 (cf: P.L.2006, c.44, s.18)
4

5 ²[¹1.] 7.² R.S.54:38-1 is amended to read as follows:

6 54:38-1. a. In addition to the inheritance, succession or legacy
7 taxes imposed by this State under authority of chapters 33 to 36 of
8 this title (R.S.54:33-1 et seq.), or hereafter imposed under authority
9 of any subsequent enactment, there is hereby imposed an estate or
10 transfer tax:

11 (1) Upon the transfer of the estate of every resident decedent
12 dying before January 1, 2002 which is subject to an estate tax
13 payable to the United States under the provisions of the federal
14 revenue act of one thousand nine hundred and twenty-six and the
15 amendments thereof and supplements thereto or any other federal
16 revenue act in effect as of the date of death of the decedent, the
17 amount of which tax shall be the sum by which the maximum credit
18 allowable against any federal estate tax payable to the United States
19 under any federal revenue act on account of taxes paid to any state
20 or territory of the United States or the District of Columbia, shall
21 exceed the aggregate amount of all estate, inheritance, succession or
22 legacy taxes actually paid to any state or territory of the United
23 States or the District of Columbia, including inheritance, succession
24 or legacy taxes actually paid this State, in respect to any property
25 owned by such decedent or subject to such taxes as a part of or in
26 connection with the estate; and

27 (2) (a) Upon the transfer of the estate of every resident
28 decedent dying after December 31, 2001, but before January 1,
29 2017, which would have been subject to an estate tax payable to the
30 United States under the provisions of the federal Internal Revenue
31 Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31,
32 2001, the amount of which tax shall be, at the election of the person
33 or corporation liable for the payment of the tax under this chapter,
34 either

35 (i) the maximum credit that would have been allowable under
36 the provisions of that federal Internal Revenue Code in effect on
37 that date against the federal estate tax that would have been payable
38 under the provisions of that federal Internal Revenue Code in effect
39 on that date on account of taxes paid to any state or territory of the
40 United States or the District of Columbia, or

41 (ii) determined pursuant to the simplified tax system as may be
42 prescribed by the Director of the Division of Taxation in the
43 Department of the Treasury to produce a liability similar to the
44 liability determined pursuant to clause (i) of this paragraph reduced
45 pursuant to paragraph (b) of this subsection.

46 (b) The amount of tax liability determined pursuant to
47 subparagraph (a) of this paragraph shall be reduced by the
48 aggregate amount of all estate, inheritance, succession or legacy

1 taxes actually paid to any state or territory of the United States or
 2 the District of Columbia, including inheritance, succession or
 3 legacy taxes actually paid this State, in respect to any property
 4 owned by such decedent or subject to such taxes as a part of or in
 5 connection with the estate; provided however, that the amount of
 6 the reduction shall not exceed the proportion of the tax otherwise
 7 due under this subsection that the amount of the estates's property
 8 subject to tax by other jurisdictions bears to the entire estate taxable
 9 under this chapter.

10 (3) (a) Upon the transfer of the estate of each resident decedent
 11 dying on or after January 1, 2017, whether or not subject to an
 12 estate tax payable to the United States under the provisions of the
 13 federal Internal Revenue Code (26 U.S.C. s.1 et seq.), the amount of
 14 the taxable estate, determined pursuant to section 2051 of the
 15 federal Internal Revenue Code (26 U.S.C. s.2051), shall be subject
 16 to tax pursuant to the following schedule:

17

<u>On any amount up to \$100,000</u>	<u>0.0%</u>
<u>On any amount in excess of \$100,000,</u> <u>up to \$150,000</u>	<u>0.8% of the excess over</u> <u>\$100,000</u>
<u>On any amount in excess of \$150,000,</u> <u>up to \$200,000.</u>	<u>\$400 plus 1.6% of the excess</u> <u>over \$150,000</u>
<u>On any amount in excess of \$200,000,</u> <u>up to \$300,000.</u>	<u>\$1,200 plus 2.4% of the</u> <u>excess over \$200,000</u>
<u>On any amount in excess of \$300,000,</u> <u>up to \$500,000.</u>	<u>\$3,600 plus 3.2% of the</u> <u>excess over \$300,000</u>
<u>On any amount in excess of \$500,000,</u> <u>up to \$700,000.</u>	<u>\$10,000 plus 4.0% of the</u> <u>excess over \$500,000</u>
<u>On any amount in excess of \$700,000,</u> <u>up to \$900,000.</u>	<u>\$18,000 plus 4.8% of the</u> <u>excess over \$700,000</u>
<u>On any amount in excess of \$900,000,</u> <u>up to \$1,100,000.</u>	<u>\$27,600 plus 5.6% of the</u> <u>excess over \$900,000</u>
<u>On any amount in excess of</u> <u>\$1,100,000, up to \$1,600,000.</u>	<u>\$38,800 plus 6.4% of the</u>

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	<u>excess over \$1,100,000</u>
<u>On any amount in excess of</u> <u>\$1,600,000, up to \$2,100,000.</u>	<u>\$70,800 plus 7.2% of the</u> <u>excess over \$1,600,000</u>
<u>On any amount in excess of</u> <u>\$2,100,000, up to \$2,600,000.</u>	<u>\$106,800 plus 8.0% of the</u> <u>excess over \$2,100,000</u>
<u>On any amount in excess of</u> <u>\$2,600,000, up to \$3,100,000.</u>	<u>\$146,800 plus 8.8% of the</u> <u>excess over \$2,600,000</u>
<u>On any amount in excess of</u> <u>\$3,100,000, up to \$3,600,000.</u>	<u>\$190,800 plus 9.6% of the</u> <u>excess over \$3,100,000</u>
<u>On any amount in excess of</u> <u>\$3,600,000, up to \$4,100,000.</u>	<u>\$238,800 plus 10.4% of the</u> <u>excess over \$3,600,000</u>
<u>On any amount in excess of</u> <u>\$4,100,000, up to \$5,100,000.</u>	<u>\$290,800 plus 11.2% of the</u> <u>excess over \$4,100,000</u>
<u>On any amount in excess of</u> <u>\$5,100,000, up to \$6,100,000</u>	<u>\$402,800 plus 12.0% of the</u> <u>excess over \$5,100,000</u>
<u>On any amount in excess of</u> <u>\$6,100,000, up to \$7,100,000</u>	<u>\$522,800 plus 12.8% of the</u> <u>excess over \$6,100,000</u>
<u>On any amount in excess of</u> <u>\$7,100,000, up to \$8,100,000</u>	<u>\$650,800 plus 13.6% of the</u> <u>excess over \$7,100,000</u>
<u>On any amount in excess of</u> <u>\$8,100,000, up to \$9,100,000</u>	<u>\$786,800 plus 14.4% of the</u> <u>excess over \$8,100,000</u>
<u>On any amount in excess of</u> <u>\$9,100,000, up to \$10,100,000</u>	<u>\$930,800 plus 15.2% of the</u> <u>excess over \$9,100,000</u>
<u>On any amount in excess of</u> <u>\$10,100,000.</u>	<u>\$1,082,800 plus 16.0% of</u> <u>the excess over \$10,100,000</u>

1 **(b) A credit shall be allowed against the tax imposed pursuant to**
2 **subparagraph (a) of this paragraph equal to the amount of tax which**
3 **would be determined by subparagraph (a) of this paragraph if the**
4 **amount of the taxable estate were equal to the exclusion amount.**

5 **For the transfer of the estate of each resident decedent dying on**
6 **or after January 1, 2017, but before January 1, 2018, the exclusion**
7 **amount is \$2,000,000.**

8 ²**For the transfer of the estate of each resident decedent dying**
9 **on or after January 1, 2018, but before January 1, 2020, the tax**
10 **imposed by this section shall be based upon the applicable**
11 **exclusion amount determined pursuant to subsection (c) of section**
12 **2010 of the federal Internal Revenue Code (26 U.S.C. s.2010), as**
13 **amended or adjusted by federal law, rule or regulation.**²

14 **(c) The amount of tax liability of a resident decedent determined**
15 **pursuant to subparagraphs (a) and (b) of this paragraph shall be**
16 **reduced by the aggregate amount of all estate, inheritance,**
17 **succession or legacy taxes actually paid to any state of the United**
18 **States, including inheritance taxes actually paid this State, in**
19 **respect to any property owned by that decedent or subject to those**
20 **taxes as a part of or in connection with the estate; provided**
21 **however, that the amount of the reduction shall not exceed the**
22 **proportion of the tax otherwise due under this subsection that the**
23 **amount of the estate's property subject to tax by other jurisdictions**
24 **bears to the entire estate taxable under this chapter.**

25 **(4) For the transfer of the estate of each resident decedent dying**
26 **on or after January 1, ²[2020] 2018², there shall be no tax imposed.**

27 ²**(5) Upon the transfer of the real or tangible personal property**
28 **within New Jersey of each nonresident decedent dying on or after**
29 **January 1, 2017, but before January 1, 2020, which tax shall bear**
30 **the same ratio to the entire tax which that estate would have been**
31 **subject to pursuant to subparagraphs (a) and (b) of paragraph (3)**
32 **and paragraph (4) of this subsection if that nonresident decedent**
33 **had been a resident of this State, and all of the decedent's property,**
34 **real and personal, had been located within this State, as the taxable**
35 **property within this State bears to the entire estate, wherever**
36 **situated.**²

37 b. (1) In the case of the estate of a decedent dying before
38 January 1, 2002 where no inheritance, succession or legacy tax is
39 due this State under the provisions of chapters 33 to 36 of this title
40 or under authority of any subsequent enactment imposing taxes of a
41 similar nature, but an estate tax is due the United States under the
42 provisions of any federal revenue act in effect as of the date of
43 death, wherein provision is made for a credit on account of taxes
44 paid the several states or territories of the United States, or the
45 District of Columbia, the tax imposed by this chapter shall be the
46 maximum amount of such credit less the aggregate amount of such
47 estate, inheritance, succession or legacy taxes actually paid to any
48 state or territory of the United States or the District of Columbia.

1 (2) In the case of the estate of a decedent dying after December
 2 31, 2001, but before January 1, 2017, where no inheritance,
 3 succession or legacy tax is due this State under the provisions of
 4 chapters 33 to 36 of this title or under authority of any subsequent
 5 enactment imposing taxes of a similar nature, the tax imposed by
 6 this chapter shall be determined pursuant to paragraph (2) of
 7 subsection a. of this section.

8 (3) In the case of the estate of a decedent dying on or after
 9 January 1, 2017 the tax imposed by this chapter shall be determined
 10 pursuant to paragraphs (3) ²[.] and² (4) ²[and (5)]² of subsection a.
 11 of this section.

12 c. For the purposes of this section, a "simplified tax system" to
 13 produce a liability similar to the liability determined pursuant to
 14 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of
 15 this section is a tax system that is based upon the \$675,000 unified
 16 estate and gift tax applicable exclusion amount in effect under the
 17 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
 18 s.1 et seq.) in effect on December 31, 2001, and results in general in
 19 the determination of a similar amount of tax but which will enable
 20 the person or corporation liable for the payment of the tax to
 21 calculate an amount of tax notwithstanding the lack or paucity of
 22 information for compliance due to such factors as the absence of an
 23 estate valuation made for federal estate tax purposes, the absence of
 24 a measure of the impact of gifts made during the lifetime of the
 25 decedent in the absence of federal gift tax information, and any
 26 other information compliance problems as the director determines
 27 are the result of the phased repeal of the federal estate tax.¹
 28 (cf: P.L.2002, c.31, s.1)

29
 30 ²[¹2.] ²8.² N.J.S.54A:3-1 is amended to read as follows:

31 54A:3-1. Personal exemptions and deductions. Each taxpayer
 32 shall be allowed personal exemptions and deductions against his
 33 gross income as follows:

34 (a) Taxpayer. Each taxpayer shall be allowed a personal
 35 exemption of \$1,000.00 which may be taken as a deduction from his
 36 New Jersey gross income.

37 (b) Additional exemptions. In addition to the personal
 38 exemptions allowed in (a), the following additional personal
 39 exemptions shall be allowed as a deduction from gross income:

40 1. For the taxpayer's spouse, or domestic partner as defined in
 41 section 3 of P.L.2003, c.246 (C.26:8A-3), who does not file
 42 separately - \$1,000.00.

43 2. For each dependent who qualifies as a dependent of the
 44 taxpayer during the taxable year for federal income tax purposes -
 45 \$1,500.00.

46 3. Taxpayer 65 years of age or over at the close of the taxable
 47 year - \$1,000.00.

1 4. Taxpayer's spouse 65 years of age or over at the close of the
2 taxable year - \$1,000.00.

3 5. Blind or disabled taxpayer - \$1,000.00.

4 6. Blind or disabled spouse - \$1,000.00.

5 7. Taxpayer who is a veteran honorably discharged or released
6 under honorable circumstances from active duty in the Armed
7 Forces of the United States, a reserve component thereof, or the
8 National Guard of New Jersey in a federal active duty status, as
9 those terms are used in N.J.S.38A:1-1 - \$3,000.

10 (c) Special Rule. The personal exemptions allowed under this
11 section shall be limited to that percentage which the total number of
12 months within a taxpayer's taxable year under this act bears to 12.
13 For this purpose 15 days or more shall constitute a month.

14 (d) (Deleted by amendment, P.L.1993, c.178).

15 (e) Nonresidents. For taxable years to which a certification
16 pursuant to section 3 of P.L.1993, c.320 (C.54A:2-1.2) applies, a
17 nonresident taxpayer shall be allowed the same deduction for
18 personal exemptions as a resident taxpayer. However, if (1) the
19 nonresident taxpayer's gross income which is subject to tax under
20 this act is exceeded by (2) the gross income which the nonresident
21 taxpayer would be required to report under this act if the taxpayer
22 were a resident by more than \$100.00, the taxpayer's deduction for
23 personal exemptions shall be limited by the percentage which (1) is
24 to (2).¹

25 (cf: P.L.2003, c.246, s.40)

26

27 ²[13. (New section) a. A taxpayer who has gross income for the
28 taxable year of not more than \$100,000, including a married couple
29 filing jointly, a married person filing separately, or an individual
30 filing as a single taxpayer or an individual determining tax pursuant
31 to subsection a. of N.J.S.54A:2-1, may deduct from the taxpayer's
32 gross income reported pursuant to the "New Jersey Gross Income
33 Tax Act," N.J.S.54A:1-1 et seq., an amount equal to the State taxes
34 paid on purchases of motor fuel for the operation for personal use of
35 the taxpayer's motor vehicles during the taxable year.

36 b. An amount shall not be deductible under subsection a. of this
37 section if the amount is:

38 (1) reimbursed to the taxpayer by or for the taxpayer's employer;

39 (2) deductible in determining net profits from business pursuant
40 to subsection b. of N.J.S.54A:5-1, even if not so deducted;

41 (3) deductible in determining net gains or net income derived
42 from or in the form of rents, royalties, patents, and copyrights
43 pursuant to subsection d. of N.J.S.A.54A:5-1, even if not so
44 deducted;

45 (4) deductible in determining distributive share of partnership
46 income pursuant to subsection k. of N.J.S.54A:5-1, even if not so
47 deducted;

1 (5) deductible in determining net pro rata share of S corporation
2 income pursuant to subsection p. of N.J.S.54A:5-1, even if not so
3 deducted; or

4 (6) deductible as a medical expense pursuant to N.J.S.54A:3-3,
5 even if not so deducted, or paid or distributed out of a medical
6 savings account excluded from gross income pursuant to section 5
7 of P.L.1997, c.414 (C.54A:6-27).

8 c. The deduction allowed under this section shall not exceed
9 the amount of \$250 for the taxpayer's taxable year beginning on or
10 after January 1, 2016 but before January 1, 2017, and shall not
11 exceed the amount of \$500 for the taxpayer's taxable years
12 beginning on or after January 1, 2017.

13 d. For the purposes of this section "State taxes paid on
14 purchases of motor fuel" means the taxes imposed by the
15 "Petroleum Products Gross Receipts Tax Act," P.L.1990, c.42
16 (C.54:15B-1 et seq.) and the "Motor Fuel Tax Act," P.L.2010, c.22
17 (C.54:39-101 et seq.).¹²

18
19 ¹~~[7.]~~ ²~~[4.]~~ ^{9.} N.J.S.54A:6-10 is amended to read as follows:
20 54A:6-10. Pensions and annuities.

21 a. Gross income shall not include that part of any amount
22 received as an annuity under an annuity, endowment, or life
23 insurance contract which bears the same ratio to such amount as the
24 investment in the contract as of the annuity starting date bears to the
25 expected return under the contract as of such date. Where (1) part
26 of the consideration for an annuity, endowment, or life insurance
27 contract is contributed by the employer, and (2) during the three-
28 year period beginning on the date on which an amount is first
29 received under the contract as an annuity, the aggregate amount
30 receivable by the employee under the terms of the contract is equal
31 to or greater than the consideration for the contract contributed by
32 the employee, then all amounts received as an annuity under the
33 contract shall be excluded from gross income until there has been so
34 excluded an amount equal to the consideration for the contract
35 contributed by the employee.

36 b. (1) In addition to that part of any amount received as an
37 annuity which is excludable from gross income as herein provided,
38 gross income shall not include payments:

39 for taxable years beginning before January 1, 2000, of up to
40 \$10,000 for a married couple filing jointly, \$5,000 for a married
41 person filing separately, or \$7,500 for an individual filing as a
42 single taxpayer or an individual determining tax pursuant to
43 subsection a. of N.J.S.54A:2-1;

44 for the taxable year beginning on or after January 1, 2000, but
45 before January 1, 2001, of up to \$12,500 for a married couple filing
46 jointly, \$6,250 for a married person filing separately, or \$9,375 for
47 an individual filing as a single taxpayer or an individual
48 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

1 for the taxable year beginning on or after January 1, 2001, but
2 before January 1, 2002, of up to \$15,000 for a married couple filing
3 jointly, \$7,500 for a married person filing separately, or \$11,250 for
4 an individual filing as a single taxpayer or an individual
5 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

6 for the taxable year beginning on or after January 1, 2002, but
7 before January 1, 2003, of up to \$17,500 for a married couple filing
8 jointly, \$8,750 for a married person filing separately, or \$13,125 for
9 an individual filing as a single taxpayer or an individual
10 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

11 for taxable years beginning on or after January 1, 2003, but
12 before January 1, 2017 of up to \$20,000 for a married couple filing
13 jointly, \$10,000 for a married person filing separately, or \$15,000
14 for an individual filing as a single taxpayer or an individual
15 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

16 for taxable years beginning on or after January 1, 2017, but
17 before January 1, 2018, of up to \$40,000 for a married couple filing
18 jointly, \$20,000 for a married person filing separately, or \$30,000
19 for an individual filing as a single taxpayer or an individual
20 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

21 for taxable years beginning on or after January 1, 2018, but
22 before January 1, 2019, ²[gross income shall not include income]²
23 of up to \$60,000 for a married couple filing jointly, \$30,000 for a
24 married person filing separately, or ²[\$50,000] \$45,000² for an
25 individual filing as a single taxpayer or an individual determining
26 tax pursuant to subsection a. of N.J.S.54A:2-1;

27 for taxable years beginning on or after January 1, 2019, but
28 before January 1, 2020, of up to \$80,000 for a married couple filing
29 jointly, \$40,000 for a married person filing separately, or \$60,000
30 for an individual filing as a single taxpayer or an individual
31 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

32 for taxable years beginning on or after January 1, 2020, of up to
33 \$100,000 for a married couple filing jointly, \$50,000 for a married
34 person filing separately, or \$75,000 for an individual filing as a
35 single taxpayer or an individual determining tax pursuant to
36 subsection a. of N.J.S.54A:2-1,

37 which are received as an annuity, endowment or life insurance
38 contract, or payments of any such amounts which are received as
39 pension, disability, or retirement benefits, under any public or
40 private plan, whether the consideration therefor is contributed by
41 the employee or employer or both, by any person who is 62 years of
42 age or older or who, by virtue of disability, is or would be eligible
43 to receive payments under the federal Social Security Act **[**, but
44 for**]** .

45 (2) For taxable years beginning on or after January 1, 2005,
46 ²[but before January 1, 2021,]² the exclusion provided by this
47 subsection shall only be allowed if the taxpayer has gross income
48 for the taxable year of not more than \$100,000 ²;

1 for taxable years beginning on or after January 1, 2021, if the
 2 taxpayer has gross income for the taxable year of not more than
 3 \$100,000 the exclusion provided by this subsection shall be fully
 4 allowed, if the taxpayer has gross income for the taxable year in
 5 excess of \$100,000 but not more than \$125,000 then the taxpayer
 6 may exclude 50 percent of the amount otherwise allowed, and if the
 7 taxpayer has gross income for the taxable year in excess of
 8 \$125,000 but not more than \$150,000 then the taxpayer may
 9 exclude 25 percent of the amount otherwise allowed】².

10 c. Gross income shall not include any amount received under
 11 any public or private plan by reason of a permanent and total
 12 disability.

13 d. Gross income shall not include distributions from an
 14 employees' trust described in section 401(a) of the Internal Revenue
 15 Code of 1986, as amended (hereinafter referred to as "the Code"),
 16 which is exempt from tax under section 501(a) of the Code if the
 17 distribution, except the portion representing the employees'
 18 contributions, is rolled over in accordance with section 402(a)(5) or
 19 section 403(a)(4) of the Code. The distribution shall be paid in one
 20 or more installments which constitute a lump-sum distribution
 21 within the meaning of section 402(e)(4)(A) (determined without
 22 reference to subsection (e)(4)(B)), or be on account of a termination
 23 of a plan of which the trust is a part or, in the case of a profit-
 24 sharing or stock bonus plan, a complete discontinuance of
 25 contributions under such plan.

26 (cf: P.L.2005, c.130, s.1)

27
 28 ¹**[8.]** ²**[5.]** ¹**10.**² Section 3 of P.L.1977, c.273 (C.54A:6-15) is
 29 amended to read as follows:

30 3. Other retirement income. a. (1) Gross income shall not
 31 include income:

32 for taxable years beginning before January 1, 2000, of up to
 33 \$10,000 for a married couple filing jointly, \$5,000 for a married
 34 person filing separately, or \$7,500 for an individual filing as a
 35 single taxpayer or an individual determining tax pursuant to
 36 subsection a. of N.J.S.54A:2-1;

37 for the taxable year beginning on or after January 1, 2000, but
 38 before January 1, 2001, of up to \$12,500 for a married couple filing
 39 jointly, \$6,250 for a married person filing separately, or \$9,375 for
 40 an individual filing as a single taxpayer or an individual
 41 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

42 for the taxable year beginning on or after January 1, 2001, but
 43 before January 1, 2002, of up to \$15,000 for a married couple filing
 44 jointly, \$7,500 for a married person filing separately, or \$11,250 for
 45 an individual filing as a single taxpayer or an individual
 46 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

47 for the taxable year beginning on or after January 1, 2002, but
 48 before January 1, 2003, of up to \$17,500 for a married couple filing

1 jointly, \$8,750 for a married person filing separately, or \$13,125 for
 2 an individual filing as a single taxpayer or an individual
 3 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

4 for taxable years beginning on or after January 1, 2003, but
 5 before January 1, 2017, gross income shall not include income of up
 6 to \$20,000 for a married couple filing jointly, \$10,000 for a married
 7 person filing separately, or \$15,000 for an individual filing as a
 8 single taxpayer or an individual determining tax pursuant to
 9 subsection a. of N.J.S.54A:2-1;

10 for taxable years beginning on or after January 1, 2017 but
 11 before January 1, 2018, gross income shall not include income of up
 12 to \$40,000 for a married couple filing jointly, \$20,000 for a married
 13 person filing separately, or \$30,000 for an individual filing as a
 14 single taxpayer or an individual determining tax pursuant to
 15 subsection a. of N.J.S.54A:2-1;

16 for taxable years beginning on or after January 1, 2018, but
 17 before January 1, 2019, gross income shall not include income of up
 18 to \$60,000 for a married couple filing jointly, \$30,000 for a married
 19 person filing separately, or ²[\$50,000] \$45,000² for an individual
 20 filing as a single taxpayer or an individual determining tax pursuant
 21 to subsection a. of N.J.S.54A:2-1;

22 for taxable years beginning on or after January 1, 2019, but
 23 before January 1, 2020, gross income shall not include income of up
 24 to \$80,000 for a married couple filing jointly, \$40,000 for a married
 25 person filing separately, or \$60,000 for an individual filing as a
 26 single taxpayer or an individual determining tax pursuant to
 27 subsection a. of N.J.S.54A:2-1;

28 for taxable years beginning on or after January 1, 2020, gross
 29 income shall not include income of up to \$100,000 for a married
 30 couple filing jointly, \$50,000 for a married person filing separately,
 31 or \$75,000 for an individual filing as a single taxpayer or an
 32 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
 33 1,

34 when received in any tax year by a person aged 62 years or older
 35 who received no income in excess of \$3,000 from one or more of
 36 the sources enumerated in subsections a., b., k. and p. of
 37 N.J.S.54A:5-1 **[, but for]** .

38 (2) For taxable years beginning on or after January 1, 2005,
 39 ²[but before January 1, 2021,]² the exclusion provided by this
 40 subsection shall only be allowed if the taxpayer has gross income
 41 for the taxable year of not more than \$100,000 **[, provided,**
 42 **however, that the]** ²**[;**

43 for taxable years beginning on or after January 1, 2021, if the
 44 taxpayer has gross income for the taxable year of not more than
 45 \$100,000 the exclusion provided by this subsection shall be fully
 46 allowed, if the taxpayer has gross income for the taxable year in
 47 excess of \$100,000 but not more than \$125,000 then the taxpayer
 48 may exclude 50 percent of the amount otherwise allowed, and if the

1 taxpayer has gross income for the taxable year in excess of
2 \$125,000 but not more than \$150,000 then the taxpayer may
3 exclude 25 percent of the amount otherwise allowed】².

4 (3) The total exclusion under this subsection and that allowable
5 under N.J.S.54A:6-10 shall not exceed the amounts of the
6 exclusions set forth in this subsection.

7 b. In addition to the exclusion provided under N.J.S.54A:6-10
8 and subsection a. of this section, gross income shall not include
9 income of up to \$6,000 for a married couple filing jointly or an
10 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
11 1, or \$3,000 for a single person or a married person filing
12 separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-
13 3, but who would be eligible in any year to receive payments under
14 either section if he or she were covered thereby.

15 (cf: P.L.2005, c.130, s.2)

16

17 ²【¹6.】 11.² Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended
18 to read as follows:

19 2. There is established the New Jersey Earned Income Tax
20 Credit program in the Division of Taxation in the Department of the
21 Treasury.

22 a. (1) A resident individual who is eligible for a credit under
23 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
24 s.32) shall be allowed a credit for the taxable year equal to a
25 percentage, as provided in paragraph (2) of this subsection, of the
26 federal earned income tax credit that would be allowed to the
27 individual or the married individuals filing a joint return under
28 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
29 s.32) for the same taxable year for which a credit is claimed
30 pursuant to this section, subject to the restrictions of this subsection
31 and subsections b., c., d. and e. of this section.

32 (2) For the purposes of the calculation of the New Jersey earned
33 income tax credit, the percentage of the federal earned income tax
34 credit referred to in paragraph (1) of this subsection shall be:

35 (a) 10% for the taxable year beginning on or after January 1,
36 2000, but before January 1, 2001;

37 (b) 15% for the taxable year beginning on or after January 1,
38 2001, but before January 1, 2002;

39 (c) 17.5% for the taxable year beginning on or after January 1,
40 2002, but before January 1, 2003;

41 (d) 20% for taxable years beginning on or after January 1, 2003,
42 but before January 1, 2008;

43 (e) 22.5% for taxable years beginning on or after January 1,
44 2008 but before January 1, 2009;

45 (f) 25% for taxable years beginning on or after January 1, 2009
46 but before January 1, 2010;

47 (g) 20% for taxable years beginning on or after January 1, 2010,
48 but before January 1, 2015; **【and】**

1 (h) 30% for taxable years beginning on or after January 1, 2015,
2 but before January 1, 2016; and

3 (i) ²~~40%~~ ²35%² for taxable years beginning on or after
4 January 1, 2016.

5 (3) To qualify for the New Jersey earned income tax credit, if
6 the claimant is married, except for a claimant who files as a head of
7 household or surviving spouse for federal income tax purposes for
8 the taxable year, the claimant shall file a joint return or claim for
9 the credit.

10 b. In the case of a part-year resident claimant, the amount of
11 the credit allowed pursuant to this section shall be pro-rated, based
12 upon that proportion which the total number of months of the
13 claimant's residency in the taxable year bears to 12 in that period.
14 For this purpose, 15 days or more shall constitute a month.

15 c. The amount of the credit allowed pursuant to this section
16 shall be applied against the tax otherwise due under N.J.S.54A:1-1
17 et seq., after all other credits and payments. If the credit exceeds the
18 amount of tax otherwise due, that amount of excess shall be an
19 overpayment for the purposes of N.J.S.54A:9-7; provided however,
20 that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit
21 provided under this section as a credit against the tax otherwise due
22 and the amount of the credit treated as an overpayment shall be
23 treated as a credit towards or overpayment of gross income tax,
24 subject to all provisions of N.J.S.54A:1-1 et seq., except as may be
25 otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

26 d. The Director of the Division of Taxation in the Department
27 of the Treasury shall **[have discretion to]** establish a program for
28 the distribution of earned income tax credits pursuant to the
29 provisions of this section.

30 e. Any earned income tax credit pursuant to this section shall
31 not be taken into account as income or receipts for purposes of
32 determining the eligibility of an individual for benefits or assistance
33 or the amount or extent of benefits or assistance under any State
34 program and, to the extent permitted by federal law, under any State
35 program financed in whole or in part with federal funds.¹

36 (cf: P.L.2015, c.73, s.1)

37

38 ¹~~9.~~ ²~~7.1~~ ²12.² Section 2 of P.L.1990, c. 42 (C.54:15B-2) is
39 amended to read as follows:

40 2. For the purposes of this act:

41 "Aviation fuel" means aviation gasoline or aviation grade
42 kerosene or any other fuel that is used in aircraft.

43 "Aviation gasoline" means fuel specifically compounded for use
44 in reciprocating aircraft engines.

45 "Aviation grade kerosene" means any kerosene type jet fuel
46 covered by ASTM Specification D 1655 or meeting specification
47 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

1 "Blended fuel" means a mixture composed of gasoline, diesel
2 fuel, kerosene or blended fuel and another liquid, including blend
3 stock other than a de minimis amount of a product such as
4 carburetor detergent or oxidation inhibitor, that can be used as a
5 fuel in a highway vehicle. "Blended fuel" includes but is not
6 limited to gasohol, biobased liquid fuel, biodiesel fuel, ethanol,
7 methanol, fuel grade alcohol, diesel fuel enhancers and resulting
8 blends.

9 "Company" includes a corporation, partnership, limited
10 partnership, limited liability company, association, individual, or
11 any fiduciary thereof.

12 "Diesel fuel" means a liquid that is commonly or commercially
13 known or sold as a fuel that is suitable for use in a diesel-powered
14 highway vehicle. A liquid meets this requirement if, without
15 further processing or blending, the liquid has practical and
16 commercial fitness for use in the propulsion engine of a diesel-
17 powered highway vehicle. "Diesel fuel" includes biobased liquid
18 fuel, biodiesel fuel, and number 1 and number 2 diesel.

19 "Director" means the Director of the Division of Taxation in the
20 Department of the Treasury.

21 "First sale of petroleum products within this State" means the
22 initial sale of a petroleum product delivered to a location in this
23 State. A "first sale of petroleum products within this State" does
24 not include a book or exchange transfer of petroleum products if
25 such products are intended to be sold in the ordinary course of
26 business.

27 "Gasoline" means all products commonly or commercially
28 known or sold as gasoline that are suitable for use as a motor fuel.
29 "Gasoline" does not include products that have an ASTM octane
30 number of less than 75 as determined by the "motor method,"
31 ASTM D2700-92. The term does not include racing gasoline or
32 aviation gasoline, but for administrative purposes does include fuel
33 grade alcohol.

34 "Gross receipts" means all consideration derived from the first
35 sale of petroleum products within this State except sales of:

36 a. asphalt;

37 b. petroleum products sold pursuant to a written contract
38 extending one year or longer to nonprofit entities qualifying under
39 subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
40 evidenced by an invoice in form prescribed by subsection b. of
41 section 3 of P.L.1991, c.19 (C.54:15B-10);

42 c. petroleum products sold to governmental entities qualifying
43 under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
44 evidenced by an invoice in form prescribed by subsection b. of
45 section 3 of P.L.1991, c.19 (C.54:15B-10); and

46 d. polymer grade propylene used in the manufacture of
47 polypropylene.

1 "Highway fuel" means gasoline, blended fuel that contains
 2 gasoline or is intended for use as gasoline, liquefied petroleum gas,
 3 and diesel fuel, blended fuel that contains diesel fuel or is intended
 4 for use as diesel fuel, and kerosene, other than aviation grade
 5 kerosene.

6 "Kerosene" means the petroleum fraction containing
 7 hydrocarbons that are slightly heavier than those found in gasoline
 8 and naphtha, with a boiling range of 149 to 300 degrees Celsius.

9 "Petroleum products" means refined products made from crude
 10 petroleum and its fractionation products, through straight
 11 distillation of crude oil or through redistillation of unfinished
 12 derivatives, but shall not mean the products commonly known as
 13 number 2 heating oil, number 4 heating oil, number 6 heating oil,
 14 kerosene and propane gas to be used exclusively for residential use.

15 "Quarterly period" means a period of three calendar months
 16 commencing on the first day of January, April, July or October and
 17 ending on the last day of March, June, September or December,
 18 respectively.

19 **["Retail gasoline price survey" means a Statewide representative**
 20 **random sample of retail gasoline prices conducted by the Board of**
 21 **Public Utilities, Office of the Economist, or its successor, that shall**
 22 **be completed for the month of November and May of each year.]**

23 "Retail price per gallon" means the price **【posted by gasoline】**
 24 **charged by** retailers in the State for **【unleaded regular gasoline】** a
 25 gallon of the petroleum product dispensed into the fuel tanks of
 26 motor vehicles without State or federal tax included.

27 "Unleaded regular gasoline" means gasoline of the octane rating
 28 equal to the lowest octane rated gasoline offered for sale at a
 29 majority of the gasoline retailers in the State.

30 ¹"2016 implementation date" means the later of ²【September】
 31 November² 1, 2016 or the 15th day after the date of enactment of
 32 P.L. , c. (pending before the Legislature as this bill).¹
 33 (cf: P.L.1991, c.181, s.1)

34
 35 ¹**【10.】** ²**【8.1】** ^{13.2} Section 7 of P.L.1991, c.181 (C.54:15B-2.1)
 36 is amended to read as follows:

37 7. a. "Gross receipts," as otherwise defined by section 2 of
 38 P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales
 39 of petroleum products used by marine vessels engaged in interstate
 40 or foreign commerce and ¹receipts from¹ sales of aviation fuels
 41 used by common carriers in interstate or foreign commerce other
 42 than the "burnout" portion which shall be taxable pursuant to rules
 43 promulgated by the director.

44 b. ¹【Motor fuel】 Highway fuel¹ used for the following purposes
 45 is exempt from the tax imposed by section 3 of P.L.1990, c.42
 46 (C.54:15B-3), and a refund of the tax imposed by that section may

1 be claimed by the consumer providing proof the tax has been paid
2 and no refund has been previously issued:

3 (1) autobuses while being operated over the highways of this
4 State in those municipalities to which the operator has paid a
5 monthly franchise tax for the use of the streets therein under the
6 provisions of R.S.48:16-25 and autobuses while being operated over
7 the highways of this State in a regular route bus operation as
8 defined in R.S.48:4-1 and under operating authority conferred
9 pursuant to R.S.48:4-3, or while providing bus service under a
10 contract with the New Jersey Transit Corporation or under a
11 contract with a county for special or rural transportation bus service
12 subject to the jurisdiction of the New Jersey Transit Corporation
13 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses
14 providing commuter bus service which receive or discharge
15 passengers in New Jersey. For the purpose of this paragraph
16 "commuter bus service" means regularly scheduled passenger
17 service provided by motor vehicles whether within or across the
18 geographical boundaries of New Jersey and utilized by passengers
19 using reduced fare, multiple ride, or commutation tickets and shall
20 not include charter bus operations for the transportation of enrolled
21 children and adults referred to in subsection c. of R.S.48:4-1 and
22 "regular route service" does not mean a regular route in the nature
23 of special bus operation or a casino bus operation;

24 (2) agricultural tractors not operated on a public highway;

25 (3) farm machinery;

26 (4) ambulances;

27 (5) rural free delivery carriers in the dispatch of their official
28 business;

29 (6) vehicles that run only on rails or tracks, and such vehicles as
30 run in substitution therefor;

31 (7) highway motor vehicles that are operated exclusively on
32 private property;

33 (8) motor boats or motor vessels used exclusively for or in the
34 propagation, planting, preservation and gathering of oysters and
35 clams in the tidal waters of this State;

36 (9) motor boats or motor vessels used exclusively for
37 commercial fishing;

38 (10) motor boats or motor vessels, while being used for hire for
39 fishing parties or being used for sightseeing or excursion parties;

40 (11) fire engines and fire-fighting apparatus;

41 (12) stationary machinery and vehicles or implements not
42 designed for the use of transporting persons or property on the
43 public highways;

44 (13) heating and lighting devices;

45 (14) motor boats or motor vessels used exclusively for Sea Scout
46 training by a duly chartered unit of the Boy Scouts of America; and

47 (15) emergency vehicles used exclusively by volunteer first-aid
48 or rescue squads.

1 (cf: P.L.1991, c.181, s.7)

2

3 ¹~~11.1~~ ²~~9.1~~ ~~14.2~~ Section 3 of P.L.1990, c.42 (C.54:15B-3) is
4 amended to read as follows:

5 3. a. (1) (a) There is imposed on each company which is
6 engaged in the refining or distribution, or both, of petroleum
7 products other than highway fuel and aviation fuel and which
8 distributes such products in this State a tax at the rate of ~~two and~~
9 ~~three-quarters percent (2 3/4%)~~ seven percent of its gross receipts
10 derived from the first sale of petroleum products within this State
11 and there is imposed on each company which is engaged in the
12 refining or distribution, or both, of highway fuel a tax at the rate of
13 ¹~~12.5~~ ¹~~12.85~~ percent, as adjusted pursuant to subsection c. of this
14 section, of its gross receipts derived from the first sale of those
15 products within this State. [; provided however, that the]

16 (b) The applicable tax rate for [fuel oils, aviation fuels and
17 motor fuels subject to tax under R.S.54:39-1 et seq.] gasoline,
18 blended fuel that contains gasoline or is intended for use as
19 gasoline, and liquefied petroleum gas, which are taxed as a highway
20 fuel pursuant to subparagraph (a) of this paragraph, shall be
21 converted to a cents-per-gallon rate, rounded to the nearest tenth of
22 a cent, [that shall be calculated by the use of] and adjusted
23 quarterly by the director, effective on July 1, October 1, January 1,
24 and April 1, based on the average retail price per gallon of unleaded
25 regular gasoline [in December 1990,] in the State, as determined in
26 [a] the most recent survey of the retail price per gallon of gasoline
27 [prices] that [included] includes a Statewide representative
28 random sample conducted [in December 1990 for that month] by
29 the Board of Public Utilities, Office of the Economist, [and shall be
30 effective for the tax due for months ending after that date; and] or
31 its successor.

32 (c) The cents-per-gallon rate determined pursuant to
33 subparagraph (b) of this paragraph shall not be less than the rate
34 determined for the ¹[quarter beginning] average retail price per
35 gallon of unleaded gasoline in the State on¹ July 1, 2016.

36 (d) The applicable tax rate for diesel fuel, blended fuel that
37 contains diesel fuel or is intended for use as diesel fuel, and
38 kerosene, other than aviation grade kerosene, which are taxed as a
39 highway fuel pursuant to subparagraph (a) of this paragraph, shall
40 be converted to a cents-per-gallon rate, rounded to the nearest tenth
41 of a cent, and adjusted quarterly by the director, effective on July 1,
42 October 1, January 1, and April 1, based on the average retail price
43 per gallon of number 2 diesel in the State, as determined in the most
44 recent survey of retail diesel fuel prices that includes a Statewide
45 representative random sample conducted by the Board of Public
46 Utilities, Office of the Economist, or its successor.

1 Notwithstanding the provisions of subparagraph (a) of this
2 paragraph to the contrary, for the period from ¹July 1, 2016] the
3 2016 implementation date¹ through December 31, 2016, no rate of
4 tax shall be applied to diesel fuel, blended fuel that contains diesel
5 fuel or is intended for use as diesel fuel, or kerosene, other than
6 aviation grade kerosene; for the period from January 1, 2017
7 through June 30, 2017, the applicable rate for those fuels shall be 70
8 percent of the rate otherwise determined pursuant to subparagraph
9 (a) of this paragraph, and for July 1, 2017 and thereafter the
10 applicable rate for those fuels determined pursuant to subparagraph
11 (a) of this paragraph.

12 (e) The cents-per-gallon rate determined pursuant to
13 subparagraph (d) of this paragraph shall not be less than the rate
14 determined for the ¹quarter beginning] average retail price per
15 gallon of number 2 diesel in the State on¹ July 1, 2016.

16 (f) The applicable tax rate for fuel oil determined pursuant to
17 subparagraph (a) of this paragraph shall be converted to a cents-per-
18 gallon rate, rounded to the nearest tenth of a cent, and adjusted
19 quarterly by the director, effective on July 1, October 1, January 1,
20 and April 1, to reflect the average price per gallon, without State or
21 federal tax included, of retail sales of number 2 fuel oil in the State,
22 as determined in the most recent survey of retail diesel fuel prices
23 that included a Statewide representative random sample conducted
24 by the Board of Public Utilities, Office of the Economist, or its
25 successor.

26 (g) The cents-per-gallon rate determined pursuant to
27 subparagraph (f) of this paragraph shall not be less than the rate
28 determined for the ¹quarter beginning] average price per gallon,
29 without State or federal tax included, of retail sales of number 2
30 fuel oil in the State on¹ July 1, 2016.

31 (h) On and after the 10th day following a certification by the
32 review council pursuant to subsection c. of section ¹[16] ²[14¹
33 19² of P.L. , c. (C.) (pending before the Legislature as this
34 bill), no tax shall be imposed pursuant to this paragraph.

35 (2) (a) In addition to the tax, if any, imposed by paragraph (1)
36 of this subsection, a cents-per-gallon tax is imposed on each
37 company's gross receipts derived from the first sale of petroleum
38 products within this State on gasoline, blended fuel that contains
39 gasoline or that is intended for use as gasoline, liquefied petroleum
40 gas ^{2,2} and aviation fuel at the rate of four cents per gallon; and

41 (b) In addition to the tax, if any, imposed by paragraph (1) of
42 this subsection, a cents-per-gallon tax is imposed on each
43 company's gross receipts derived from the first sale of petroleum
44 products within this State on diesel fuel, blended fuel that contains
45 diesel fuel or is intended for use as diesel fuel, and kerosene ^{2,2}
46 other than aviation grade kerosene ^{2,2} at the rate of four cents per

1 gallon before July 1, 2017 and at the rate of eight cents per gallon
2 on and after July 1, 2017.

3 b. There is imposed on each company that imports or causes to
4 be imported, other than by a company subject to and having paid
5 the tax on those imported petroleum products that have generated
6 gross receipts taxable under subsection a. of this section, petroleum
7 products for use or consumption by it within this State a tax at the
8 rate ~~of two and three-quarters percent (2 3/4%)~~ or rates ²of],
9 determined pursuant to subsection a. of this section, on² the
10 consideration given or contracted to be given and the gallonage ²[,
11 determined pursuant to subsection a. of this section,]² for such
12 petroleum products if the consideration given or contracted to be
13 given for all such deliveries made during a quarterly period exceeds
14 \$5,000 ~~];~~ provided however, that the applicable tax rate for fuel
15 oils, aviation fuels and motor fuels subject to tax under R.S.54:39-1
16 et seq. shall be converted to a cents per gallon rate, rounded to the
17 nearest cent, that shall be calculated by the use of the average retail
18 price per gallon of unleaded regular gasoline in December 1990, as
19 determined in a survey of retail gasoline prices that included a
20 Statewide representative random sample conducted in December
21 1990 for that month by the Board of Public Utilities, Office of the
22 Economist, and shall be effective for the tax due for months ending
23 after that date].

24 c. (1) For State fiscal years 2018 through 2026, the rate of tax
25 imposed on highway fuel pursuant to subsection a. of this section
26 shall be adjusted annually so that the total revenue derived from
27 highway fuel shall not exceed the highway fuel cap amount.

28 (2) The State Treasurer shall, on or before December 31, 2016,
29 determine the highway fuel cap amount as the sum of:

30 (a) the taxes collected for State Fiscal Year 2016 pursuant to
31 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
32 c.22 (C.54:39-103) on highway fuel,

33 (b) the amount derived from taxing the gallonage of highway
34 fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of
35 four cents per gallon, and

36 (c) the amount that would have been derived from taxing the
37 gallonage of highway fuel subject to motor fuel tax in State Fiscal
38 Year 2016 at the rate of 23 cents per gallon.

39 (3) On or before August 15 of each State Fiscal Year following
40 State Fiscal Year 2017, the State Treasurer and the Legislative
41 Budget and Finance Officer shall determine the total revenue
42 derived from:

43 (a) the taxes collected for the prior State Fiscal Year pursuant to
44 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
45 c.22 (C.54:39-103) on highway fuel,

46 (b) the revenue that would be derived from imposing the tax
47 pursuant to paragraph (2) of subsection a. of this section on
48 highway fuel at the rate of four cents per gallon, and

1 (c) the revenue derived from the taxation of highway fuel
 2 pursuant to paragraph (1) of subsection a. of this section.

3 (4) Upon consideration of the result of the determination
 4 pursuant to paragraph (3) of this subsection, and consultation with
 5 the Legislative Budget and Finance Officer, the State Treasurer
 6 shall determine the rate of tax to be imposed on highway fuel
 7 pursuant to subsection a. of this section that will result in revenue
 8 from:

9 (a) the taxes collected on highway fuel for the current State
 10 Fiscal Year pursuant to paragraphs (1) and (2) of subsection a. of
 11 section 3 of P.L.2010, c.22 (C.54:39-103),

12 (b) the revenue derived from the tax imposed pursuant to
 13 paragraph (2) of subsection a. of this section on highway fuel at the
 14 rate of four cents per gallon for the current State Fiscal Year, and

15 (c) the revenue derived from the taxation of highway fuel
 16 pursuant to paragraph (1) of subsection a. of this section

17 equaling the highway fuel cap amount determined pursuant to
 18 paragraph (2) of this subsection, as adjusted pursuant to paragraph
 19 (5) of this subsection;

20 and that rate shall take effect on ²[the]² October 1 of that year.

21 (5) If the actual revenue determined pursuant to paragraph (3) of
 22 this subsection exceeds the highway fuel cap amount determined
 23 pursuant to paragraph (2) of this subsection, then the highway fuel
 24 cap amount for the succeeding year shall be decreased by the
 25 amount of the excess in setting the rate pursuant to paragraph (4) of
 26 this subsection. If the actual revenue determined pursuant to
 27 paragraph (3) of this subsection is less than the highway fuel cap
 28 amount determined pursuant to paragraph (2) of this subsection,
 29 then the highway fuel cap amount for the succeeding year shall be
 30 increased by the amount of the shortfall in setting the rate pursuant
 31 to paragraph (4) of this subsection.

32 (cf: P.L.2000, c.48, s.1)

33
 34 ¹[12.] ²[10.¹] ² 15.² Section 2 of P.L.1991, c.19 (C.54:15B-9) is
 35 amended to read as follows:

36 2. a. A person who shall purchase or otherwise acquire
 37 petroleum products, upon which the petroleum products gross
 38 receipts tax has not been paid and is not due pursuant to subsection
 39 b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a
 40 reimbursement payment has been paid pursuant to section 3 of **[this**
 41 **act]** P.L.1991, c.19 (C.54:15B-10), from a federal government
 42 department, agency or instrumentality, or any agent or officer
 43 thereof, for use not specifically associated with any federal
 44 government function or operation, shall pay to the State a tax
 45 **[equivalent to two and three-quarters percent (2 3/4%)]** at the rate
 46 or rates of the consideration given or contracted to be given for the
 47 purchase or acquisition of the petroleum products and the
 48 gallage, determined pursuant to subsection a. of section 3 of

1 P.L.1990, c.42 (C.54:15B-3) in accordance with the procedures set
2 forth in the "Petroleum Products Gross Receipts Tax Act,"
3 P.L.1990, c.42 (C.54:15B-1 et seq.).

4 b. A person who knowingly uses, or who conspires with an
5 official, agent or employee of a federal government department,
6 agency or instrumentality, for the use of, a requisition, purchase
7 order, or a card or an authority to which the person is not
8 specifically entitled by government regulations, with the intent to
9 obtain petroleum products from a federal government department,
10 agency or instrumentality for a use not specifically associated with
11 a federal government function or operation, upon which the
12 petroleum products gross receipts tax has not been paid, is guilty of
13 a crime of the fourth degree.

14 (cf: P.L.1991, c.19, s.2)

15

16 ¹~~13.~~ ²~~11.1~~ ^{16.}² Section 3 of P.L.1991, c.19 (C.54:15B-10)
17 is amended to read as follows:

18 a. A federal government department, agency or instrumentality,
19 that purchases petroleum products other than by the first sale of that
20 product in this State for use in a federal government function or
21 operation, upon which petroleum products the petroleum products
22 gross receipts tax has been paid or is due and payable, shall be
23 reimbursed and paid an amount **【equivalent to two and three-**
24 **quarters percent (2 3/4%)】** at the rate or rates of the consideration
25 given or contracted to be given **【by the federal government**
26 **department, agency or instrumentality for the purchase of the**
27 **petroleum products】** , and the gallonage, determined pursuant to
28 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3).

29 b. The reimbursement shall be claimed by presenting to the
30 Director of the Division of Taxation in the Department of the
31 Treasury an application for the reimbursement, on a form prescribed
32 by the director, which application shall be verified by a declaration
33 of the applicant that the statements contained therein are true. Such
34 application for reimbursement shall be supported by an invoice, or
35 invoices, showing the name and address of the person from whom
36 the petroleum products were purchased, the name of the purchaser,
37 the date of purchase, the quantity of the product purchased, the
38 price paid for the purchase of the product, and an acknowledgment
39 by the seller that payment of the cost of the product to the seller,
40 including the petroleum gross receipts tax due thereon, has been
41 made. Such invoice, or invoices, shall be legibly written and shall
42 be void if any corrections or erasures shall appear on the face
43 thereof.

44 c. If petroleum products are sold to a federal government
45 department, agency or instrumentality that shall be entitled to a
46 reimbursement under this act, the seller of the petroleum products
47 shall supply the purchaser with an invoice that conforms with the
48 requirements of subsection b. of this section.

1 (cf: P.L.1991, c.19, s.3)

2

3 ¹[14. (New section) a. There is levied a tax on persons, other
4 than licensed companies pursuant to section 6 of P.L.1991, c.181
5 (C.54:15B-12), holding the fuels enumerated in subparagraph (a) of
6 paragraph (2) of subsection a. of section 3 of P.L.1990, c.42
7 (C.54:15B-3) in storage for sale as of the close of the first business
8 day following the date of enactment of P.L. , c. (C.) (pending
9 before the Legislature as this bill) by fifteen days on which tax has
10 previously been paid. The amount of tax shall be the difference
11 between the tax per gallon specified by subsection a. of section 3 of
12 P.L.1990, c.42 (C.54:15B-3) for the type of fuel and the tax
13 previously paid per gallon, multiplied by the gallons in storage of
14 that type of fuel as of the close of the business day on that day.

15 b. Persons in possession of those fuels in storage as of the close
16 of the first business day following the date of enactment of P.L. ,
17 c. (C.) (pending before the Legislature as this bill) by fifteen
18 days shall:

19 (1) take an inventory at the close of the business day on that
20 day;

21 (2) report the gallons listed in paragraph (1) of this subsection
22 on forms provided by the director, not later than 45 days following
23 the date of enactment of P.L. , c. (C.) (pending before the
24 Legislature as this bill) by fifteen days; and

25 (3) Remit the tax levied under this section to the director no
26 later than February 1, 2017.

27 c. Fuel not reflected in the inventory taken pursuant to
28 subsection b. of this section is deemed to be previously untaxed,
29 except to the extent that it is invoiced as delivered tax-paid on or
30 after July 1, 2016.

31 d. There is levied a tax on persons, other than licensed
32 companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),
33 holding the fuels enumerated in subparagraph (b) of paragraph (2)
34 of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in
35 storage for sale as of the close of the business day on December 31,
36 2016 on which tax has previously been paid. The amount of tax
37 shall be the difference between the tax per gallon specified by
38 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) for the
39 type of fuel and the tax previously paid per gallon, multiplied by the
40 gallons in storage of that type of fuel as of the close of the business
41 day on December 31, 2016.

42 e. Persons in possession of those fuels in storage as of the close
43 of the business day on December 31, 2016 shall:

44 (1) take an inventory at the close of the business day on
45 December 31, 2016;

46 (2) report the gallons listed in paragraph (1) of this subsection
47 on forms provided by the director, not later than January 31, 2017;
48 and

1 (3) Remit the tax levied under this section to the director no
2 later than August 1, 2017.

3 f. Fuel not reflected in the inventory taken pursuant to
4 subsection b. of this section is deemed to be previously untaxed,
5 except to the extent that it is invoiced as delivered tax-paid on or
6 after January 1, 2017.

7 g. In determining the amount of tax due under this section, a
8 person may exclude the amount of fuel in dead storage in each
9 storage tank

10 h. As used in this section:

11 "Close of the business day" means the time at which the last
12 transaction has occurred for that day.

13 "Dead storage" means the amount of fuel that cannot be pumped
14 out of a fuel storage tank because the motor fuel is below the mouth
15 of the draw pipe. The amount of motor fuel in dead storage is 200
16 gallons for a tank with a capacity of less than 10,000 gallons and
17 400 gallons for a tank with a capacity of 10,000 gallons or more. **1**¹

18

19 **2[12.] 17.2** (New section) a. There is levied a tax on persons,
20 other than licensed companies pursuant to section 6 of P.L.1991,
21 c.181 (C.54:15B-12), holding the fuels enumerated in subparagraph
22 (a) of paragraph (2) of subsection a. of section 3 of P.L.1990, c.42
23 (C.54:15B-3) in storage for sale as of the close of the last business
24 day before the 2016 implementation date on which tax has
25 previously been paid. The amount of tax shall be the difference
26 between the tax per gallon specified by subsection a. of section 3 of
27 P.L.1990, c.42 (C.54:15B-3) for the type of fuel sold on or after the
28 2016 implementation date and the tax previously paid per gallon,
29 multiplied by the gallons in storage of that type of fuel as of the
30 close of the business day on that day.

31 b. Persons in possession of those fuels in storage as of the close
32 of the last business day before the 2016 implementation date shall:

33 (1) take an inventory at the close of the business day on that
34 day;

35 (2) report the gallons listed in paragraph (1) of this subsection
36 on forms provided by the director, not later than 45 days following
37 the 2016 implementation date; and

38 (3) remit the tax levied under subsection a. of this section to the
39 director no later than February 1, 2017.

40 c. Fuel not reflected in the inventory taken pursuant to
41 subsection b. of this section is deemed to be previously untaxed,
42 except to the extent that it is invoiced as delivered tax-paid on or
43 after the 2016 implementation date.

44 d. There is levied a tax on persons, other than licensed
45 companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),
46 holding the fuels enumerated in subparagraph (b) of paragraph (2)
47 of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in
48 storage for sale as of the close of the business day on December 31,

1 2016 on which tax has previously been paid. The amount of tax
2 shall be the difference between the tax per gallon specified by
3 subsection a. of section 3 of P.L1990, c.42 (C.54:15B-3) for the
4 type of fuel sold on or after January 1, 2017 and the tax previously
5 paid per gallon, multiplied by the gallons in storage of that type of
6 fuel as of the close of the business day on December 31, 2016.

7 e. Persons in possession of those fuels in storage as of the close
8 of the business day on December 31, 2016 shall:

9 (1) take an inventory at the close of the business day on
10 December 31, 2016;

11 (2) report the gallons listed in paragraph (1) of this subsection
12 on forms provided by the director, not later than January 31, 2017;
13 and

14 (3) remit the tax levied under subsection d. of this section to the
15 director no later than June 1, 2017.

16 f. Fuel not reflected in the inventory taken pursuant to
17 subsection e. of this section is deemed to be previously untaxed,
18 except to the extent that it is invoiced as delivered tax-paid on or
19 after January 1, 2017.

20 g. There is levied a tax on persons, other than licensed
21 companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),
22 holding the fuels enumerated in subparagraph (b) of paragraph (2)
23 of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in
24 storage for sale as of the close of the business day on June 30, 2017
25 on which tax has previously been paid. The amount of tax shall be
26 the difference between the tax per gallon specified by subsection a.
27 of section 3 of P.L1990, c.42 (C.54:15B-3) for the type of fuel sold
28 on or after July 1, 2017 and the tax previously paid per gallon,
29 multiplied by the gallons in storage of that type of fuel as of the
30 close of the business day on June 30, 2017.

31 h. Persons in possession of those fuels in storage as of the close
32 of the business day on June 30, 2017 shall:

33 (1) take an inventory at the close of the business day on June 30,
34 2017;

35 (2) report the gallons listed in paragraph (1) of this subsection
36 on forms provided by the director, not later than July 31, 2017; and

37 (3) remit the tax levied under subsection g. of this section to the
38 director no later than December 1, 2017.

39 i. Fuel not reflected in the inventory taken pursuant to
40 subsection e. of this section is deemed to be previously untaxed,
41 except to the extent that it is invoiced as delivered tax-paid on or
42 after July 1, 2017.

43 j. In determining the amount of tax due under this section, a
44 person may exclude the amount of fuel in dead storage in each
45 storage tank.

46 k. As used in this section:

47 "Close of the business day" means the time at which the last
48 transaction has occurred for that day.

1 "Dead storage" means the amount of fuel that cannot be pumped
 2 out of a fuel storage tank because the motor fuel is below the mouth
 3 of the draw pipe. The amount of motor fuel in dead storage is 200
 4 gallons for a tank with a capacity of less than 10,000 gallons and
 5 400 gallons for a tank with a capacity of 10,000 gallons or more.¹

6
 7 ¹[15.] ²[13.1] ^{18.}² (New section) Notwithstanding any
 8 provision of the "Administrative Procedure Act," P.L.1968, c.410
 9 (C.52:14B-1 et seq.) to the contrary, the director may adopt
 10 immediately upon filing with the Office of Administrative Law
 11 such regulations as the director deems necessary to implement the
 12 provisions of sections ¹[9.] ²[7¹] ¹²² through ¹[14.] ²[12¹] ¹⁷² of
 13 P.L. , c. (pending before the Legislature as this bill), which
 14 regulations shall be effective for a period not to exceed 360 days
 15 following the date of enactment of P.L. , c. (pending before the
 16 Legislature as this bill) and may thereafter be amended, adopted, or
 17 readopted by the director in accordance with the "Administrative
 18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

19
 20 ¹[16.] ²[14.1] ^{19.}² (New section) a. The State Treasurer, and
 21 the Legislative Budget and Finance Officer, together with a third
 22 public member who shall be jointly selected thereby, shall
 23 constitute the review council.

24 b. The review council shall, on or before January 15, 2020,
 25 provide the Governor and the Legislature with an advisory report of
 26 their consensus estimate of the increase or decrease in State
 27 revenues pursuant to each section of P.L. , c. (C.) (pending
 28 before the Legislature as this bill), and pursuant to this act as a
 29 whole, during the preceding three State fiscal years, including a
 30 comparison of those estimates to the legislative fiscal estimate or
 31 fiscal note published contemporaneous with the enactment of this
 32 act prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

33 c. The review council shall conduct an ongoing review of the
 34 application of each section of P.L. , c. (C.) (pending before
 35 the Legislature as this bill).

36 The review council shall, not later than five days after any
 37 Legislative action that halts, delays, or reverses the implementation
 38 of those sections as scheduled on the date of enactment of P.L. ,
 39 c. (C.) (pending before the Legislature as this bill), certify
 40 for the purposes of subparagraph (h) of paragraph (1) of subsection
 41 a. of section 3. of P.L.1990, c.42 (C.54:15B-3) to the Director of the
 42 Division of Taxation that the scheduled implementation of P.L. ,
 43 c. (C.) had been impeded.

1 ¹~~17.~~ ²~~15.~~¹ 20.² This act shall take effect immediately,
2 ¹~~section~~ ²~~2~~ ⁸² shall apply to taxable years beginning on or after
3 January 1, 2017,¹ and sections ¹~~9.~~ ²~~7~~¹ 12² through ¹~~14.~~
4 ²~~11~~¹ 16² shall apply to first sales of petroleum products within
5 this State and to deliveries of petroleum products for use or
6 consumption within this State made on or after ¹~~July 1, 2016~~ the
7 2016 implementation date¹.

8

9

10

11

12 Adjusts certain State taxes to support strengthened investments
13 in public and private assets in this State.

ASSEMBLY, No. 12

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED JUNE 27, 2016

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblyman DAVID P. RIBLE

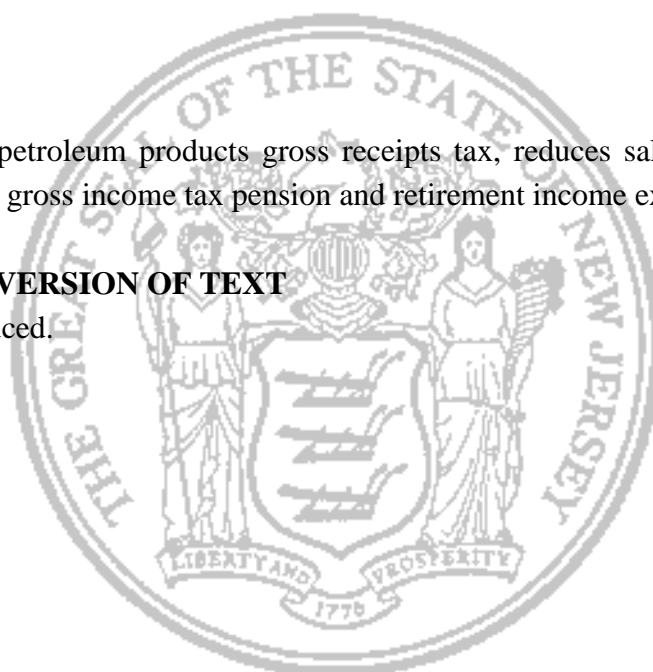
District 30 (Monmouth and Ocean)

SYNOPSIS

Increases petroleum products gross receipts tax, reduces sales and use tax and increases gross income tax pension and retirement income exclusion.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2016)

1 AN ACT adjusting certain State taxes, amending and supplementing
2 various parts of the statutory law pertaining to taxes of this State.

3

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

6

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

9 3. There is imposed and there shall be paid a tax of **[7%]** 7
10 percent on or before December 31, 2016, 6.5 percent on and after
11 January 1, 2017 but before January 1, 2018, and 6 percent on and
12 after January 1, 2018 upon:

13 (a) The receipts from every retail sale of tangible personal
14 property or a specified digital product for permanent use or less
15 than permanent use, and regardless of whether continued payment is
16 required, except as otherwise provided in this act.

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

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

24 (2) Installing tangible personal property or a specified digital
25 product, or maintaining, servicing, repairing tangible personal
26 property or a specified digital product not held for sale in the
27 regular course of business, whether or not the services are
28 performed directly or by means of coin-operated equipment or by
29 any other means, and whether or not any tangible personal property
30 or specified digital product is transferred in conjunction therewith,
31 except (i) such services rendered by an individual who is engaged
32 directly by a private homeowner or lessee in or about his residence
33 and who is not in a regular trade or business offering his services to
34 the public, (ii) such services rendered with respect to personal
35 property exempt from taxation hereunder pursuant to section 13 of
36 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,
37 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
38 tailoring, weaving, or pressing clothing, and shoe repairing and
39 shoeshining and (v) services rendered in installing property which,
40 when installed, will constitute an addition or capital improvement to
41 real property, property or land, other than landscaping services and
42 other than installing carpeting and other flooring.

43 (3) Storing all tangible personal property not held for sale in the
44 regular course of business; the rental of safe deposit boxes or
45 similar space; and the furnishing of space for storage of tangible

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

Matter underlined thus is new matter.

1 personal property by a person engaged in the business of furnishing
2 space for such storage.

3 "Space for storage" means secure areas, such as rooms, units,
4 compartments or containers, whether accessible from outside or
5 from within a building, that are designated for the use of a customer
6 and wherein the customer has free access within reasonable
7 business hours, or upon reasonable notice to the furnisher of space
8 for storage, to store and retrieve property. Space for storage shall
9 not include the lease or rental of an entire building, such as a
10 warehouse or airplane hangar.

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

21 (5) Mail processing services for printed advertising material,
22 except for mail processing services in connection with distribution
23 of printed advertising material to out-of-State recipients.

24 (6) (Deleted by amendment, P.L.1995, c.184).

25 (7) Utility service provided to persons in this State, any right or
26 power over which is exercised in this State.

27 (8) Tanning services, including the application of a temporary
28 tan provided by any means.

29 (9) Massage, bodywork or somatic services, except such
30 services provided pursuant to a doctor's prescription.

31 (10) Tattooing, including all permanent body art and permanent
32 cosmetic make-up applications, except such services provided
33 pursuant to a doctor's prescription in conjunction with
34 reconstructive breast surgery.

35 (11) Investigation and security services.

36 (12) Information services.

37 (13) Transportation services originating in this State and
38 provided by a limousine operator, as permitted by law, except such
39 services provided in connection with funeral services.

40 (14) Telephone answering services.

41 (15) Radio subscription services.

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

46 Services otherwise taxable under paragraph (1) or (2) of this
47 subsection (b) are not subject to the taxes imposed under this
48 subsection, where the tangible personal property or specified digital

1 product upon which the services were performed is delivered to the
2 purchaser outside this State for use outside this State.

3 (c) (1) Receipts from the sale of prepared food in or by
4 restaurants, taverns, or other establishments in this State, or by
5 caterers, including in the amount of such receipts any cover,
6 minimum, entertainment or other charge made to patrons or
7 customers, except for meals especially prepared for and delivered to
8 homebound elderly, age 60 or older, and to disabled persons, or
9 meals prepared and served at a group-sitting at a location outside of
10 the home to otherwise homebound elderly persons, age 60 or older,
11 and otherwise homebound disabled persons, as all or part of any
12 food service project funded in whole or in part by government or as
13 part of a private, nonprofit food service project available to all such
14 elderly or disabled persons residing within an area of service
15 designated by the private nonprofit organization; and

16 (2) Receipts from sales of food and beverages sold through
17 vending machines, at the wholesale price of such sale, which shall
18 be defined as 70% of the retail vending machine selling price,
19 except sales of milk, which shall not be taxed. Nothing herein
20 contained shall affect other sales through coin-operated vending
21 machines taxable pursuant to subsection (a) above or the exemption
22 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

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

25 (3) For the purposes of this subsection:

26 "Food and beverages sold through vending machines" means
27 food and beverages dispensed from a machine or other mechanical
28 device that accepts payment; and

29 "Prepared food" means:

30 (i) A. food sold in a heated state or heated by the seller; or

31 B. two or more food ingredients mixed or combined by the
32 seller for sale as a single item, but not including food that is only
33 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
34 poultry, and foods containing these raw animal foods requiring
35 cooking by the consumer as recommended by the Food and Drug
36 Administration in Chapter 3, part 401.11 of its Food Code so as to
37 prevent food borne illnesses; or

38 C. food sold with eating utensils provided by the seller,
39 including plates, knives, forks, spoons, glasses, cups, napkins, or
40 straws. A plate does not include a container or packaging used to
41 transport the food;

42 provided however, that

43 (ii) "prepared food" does not include the following sold without
44 eating utensils:

45 A. food sold by a seller whose proper primary NAICS
46 classification is manufacturing in section 311, except subsector
47 3118 (bakeries);

1 B. food sold in an unheated state by weight or volume as a
2 single item; or

3 C. bakery items, including bread, rolls, buns, biscuits, bagels,
4 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
5 muffins, bars, cookies, and tortillas.

6 (d) The rent for every occupancy of a room or rooms in a hotel
7 in this State, except that the tax shall not be imposed upon a
8 permanent resident.

9 (e) (1) Any admission charge to or for the use of any place of
10 amusement in the State, including charges for admission to race
11 tracks, baseball, football, basketball or exhibitions, dramatic or
12 musical arts performances, motion picture theaters, except charges
13 for admission to boxing, wrestling, kick boxing or combative sports
14 exhibitions, events, performances or contests which charges are
15 taxed under any other law of this State or under section 20 of
16 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
17 admission to, or use of, facilities for sporting activities in which
18 such patron is to be a participant, such as bowling alleys and
19 swimming pools. For any person having the permanent use or
20 possession of a box or seat or lease or a license, other than a season
21 ticket, for the use of a box or seat at a place of amusement, the tax
22 shall be upon the amount for which a similar box or seat is sold for
23 each performance or exhibition at which the box or seat is used or
24 reserved by the holder, licensee or lessee, and shall be paid by the
25 holder, licensee or lessee.

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

29 (f) (1) The receipts from every sale, except for resale, of
30 intrastate, interstate, or international telecommunications services
31 and ancillary services sourced to this State in accordance with
32 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

33 (2) (Deleted by amendment, P.L.2008, c.123)

34 (g) (Deleted by amendment, P.L.2008, c.123)

35 (h) Charges in the nature of initiation fees, membership fees or
36 dues for access to or use of the property or facilities of a health and
37 fitness, athletic, sporting or shopping club or organization in this
38 State, except for: (1) membership in a club or organization whose
39 members are predominantly age 18 or under; and (2) charges in the
40 nature of membership fees or dues for access to or use of the
41 property or facilities of a health and fitness, athletic, sporting or
42 shopping club or organization that is exempt from taxation pursuant
43 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30
44 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph
45 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that
46 has complied with subsection (d) of section 9 of P.L.1966, c.30.

47 (i) The receipts from parking, storing or garaging a motor
48 vehicle, excluding charges for the following: residential parking;

1 employee parking, when provided by an employer or at a facility
 2 owned or operated by the employer; municipal parking, storing or
 3 garaging; receipts from charges or fees imposed pursuant to section
 4 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
 5 between the Casino Reinvestment Development Authority and a
 6 casino operator in effect on the date of enactment of P.L.2007,
 7 c.105; and receipts from parking, storing or garaging a motor
 8 vehicle subject to tax pursuant to any other law or ordinance.

9 For the purposes of this subsection, "municipal parking, storing
 10 or garaging" means any motor vehicle parking, storing or garaging
 11 provided by a municipality or county, or a parking authority
 12 thereof.

13 (cf: P.L.2013, c.193, s.1)

14

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

17 4. a. For the purpose of adding and collecting the tax imposed
 18 by this act, or an amount equal as nearly as possible or practicable
 19 to the average equivalent thereof, to be reimbursed to the seller by
 20 the purchaser, a seller shall use one of the two following options:

21 (1) (a) on or before December 31, 2016, a tax shall be calculated
 22 based on the following formula:

Amount of Sale	Amount of Tax
\$0.01 to \$0.10	No Tax
0.11 to 0.19	\$0.01
0.20 to 0.32	0.02
0.33 to 0.47	0.03
0.48 to 0.62	0.04
0.63 to 0.77	0.05
0.78 to 0.90	0.06
0.91 to \$1.10	0.07

32 and in addition to a tax of \$0.07 on each full dollar, a tax shall be
 33 collected on each part of a dollar in excess of a full dollar, in
 34 accordance with the above formula;

35 (b) on and after January 1, 2017, but before January 1, 2018, a
 36 tax shall be calculated based on the following formula:

<u>Amount of Sale</u>	<u>Amount of Tax</u>
<u>\$0.01 to \$0.06</u>	<u>No Tax</u>
<u>0.07 to 0.22</u>	<u>\$0.01</u>
<u>0.23 to 0.37</u>	<u>0.02</u>
<u>0.38 to 0.53</u>	<u>0.03</u>
<u>0.54 to 0.68</u>	<u>0.04</u>
<u>0.69 to 0.83</u>	<u>0.05</u>
<u>0.84 to 0.99</u>	<u>0.06</u>
<u>1.00 to 1.14</u>	<u>0.07</u>
<u>1.15 to 1.29</u>	<u>0.08</u>
<u>1.30 to 1.45</u>	<u>0.09</u>
<u>1.46 to 1.60</u>	<u>0.10</u>

48

1	<u>1.61 to 1.76</u>	<u>0.11</u>
2	<u>1.77 to 1.91</u>	<u>0.12</u>
3	<u>1.92 to 2.06</u>	<u>0.13</u>

4 and in addition to a tax of \$0.13 on each two dollars, a tax shall
 5 be collected on each part of a dollar in excess of a full dollar, in
 6 accordance with the above formula;

7 (c) on and after January 1, 2018, a tax shall be calculated based
 8 on the following formula:

9	<u>Amount of Sale</u>	<u>Amount of Tax</u>
10	<u>\$0.01 to \$0.10</u>	<u>No Tax</u>
11	<u>0.11 to 0.22</u>	<u>\$0.01</u>
12	<u>0.23 to 0.38</u>	<u>0.02</u>
13	<u>0.39 to 0.56</u>	<u>0.03</u>
14	<u>0.57 to 0.72</u>	<u>0.04</u>
15	<u>0.73 to 0.88</u>	<u>0.05</u>
16	<u>0.89 to 1.10</u>	<u>0.06</u>

17 and in addition to a tax of \$0.06 on each full dollar, a tax shall be
 18 collected on each part of a dollar in excess of a full dollar, in
 19 accordance with the above formula; or

20 (2) tax shall be calculated to the third decimal place. One-half
 21 cent (\$0.005) or higher shall be rounded up to the next cent; less
 22 than \$0.005 shall be dropped in order to round the result down.

23 Sellers may compute the tax due on a transaction on either an
 24 item or an invoice basis.

25 b. (Deleted by amendment, P.L.2008, c.123)
 26 (cf: P.L. 2008, c.123, s.4)

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

30 5. a. (1) Except as otherwise provided in this act, receipts
 31 received from all sales made and services rendered on and after
 32 January 3, 1983 but prior to July 1, 1990, are subject to the taxes
 33 imposed under subsections (a), (b), (c), and (f) of section 3 of this
 34 act at the rate, if any, in effect for such sales and services on June
 35 30, 1990, except if the property so sold is delivered or the services
 36 so sold are rendered on or after July 1, 1990 but prior to July 1,
 37 1992, in which case the tax shall be computed and paid at the rate
 38 of 7%; provided, however, that if a service or maintenance
 39 agreement taxable under this act covers any period commencing on
 40 or after January 3, 1983 and ending after June 30, 1990 but prior to
 41 July 1, 1992, the receipts from such agreement are subject to tax at
 42 the rate, if any, applicable to each period as set forth hereinabove
 43 and shall be apportioned on the basis of the ratio of the number of
 44 days falling within each of the said periods to the total number of
 45 days covered thereby.

46 (2) Except as otherwise provided in this act, receipts received
 47 from all sales made and services rendered on and after July 1, 1990
 48 but prior to July 1, 1992, are subject to the taxes imposed under

1 subsections (a), (b), (c) and (f) of section 3 of this act at the rate of
2 7%, except if the property so sold is delivered or the services so
3 sold are rendered on or after July 1, 1992 but prior to July 15, 2006,
4 in which case the tax shall be computed and paid at the rate of 6%,
5 provided, however, that if a service or maintenance agreement
6 taxable under this act covers any period commencing on or after
7 July 1, 1990, and ending after July 1, 1992, the receipts from such
8 agreement are subject to tax at the rate applicable to each period as
9 set forth hereinabove and shall be apportioned on the basis of the
10 ratio of the number of days falling within each of the said periods to
11 the total number of days covered thereby.

12 (3) Except as otherwise provided in this act, receipts received
13 from all sales made and services rendered on and after July 1, 1992
14 but prior to July 15, 2006, are subject to the taxes imposed under
15 subsections (a), (b), (c), (f) and (g) of section 3 of P.L.1966, c.30
16 (C.54:32B-3) at the rate of 6%, except if the property so sold is
17 delivered or the services so sold are rendered on or after July 15,
18 2006, in which case the tax shall be computed and paid at the rate
19 of 7%, provided, however, that if a service or maintenance
20 agreement taxable under this act covers any period commencing on
21 or after July 1, 1992, and ending after July 15, 2006, the receipts
22 from such agreement are subject to tax at the rate applicable to each
23 period as set forth hereinabove and shall be apportioned on the
24 basis of the ratio of the number of days falling within each of the
25 said periods to the total number of days covered thereby; provided
26 however, if a service or maintenance agreement in effect on July 14,
27 2006 covers billing periods ending after July 15, 2006, the seller
28 shall charge and collect from the purchaser a tax on such sales at
29 the rate of 6%, unless the billing period starts on or after July 15,
30 2006 in which case the seller shall charge and collect a tax at the
31 rate of 7%.

32 b. (1) The tax imposed under subsection (d) of section 3 shall
33 be paid at the rate of 7% upon any occupancy on and after July 1,
34 1990 but prior to July 1, 1992, although such occupancy is pursuant
35 to a prior contract, lease or other arrangement. If an occupancy,
36 taxable under this act, covers any period on or after January 3, 1983
37 but prior to July 1, 1990, the rent for the period of occupancy prior
38 to July 1, 1990 shall be taxed at the rate of 6%. If rent is paid on a
39 weekly, monthly or other term basis, the rent applicable to each
40 period as set forth hereinabove shall be apportioned on the basis of
41 the ratio of the number of days falling within each of the said
42 periods to the total number of days covered thereby.

43 (2) The tax imposed under subsection (d) of section 3 shall be
44 paid at the rate of 6% upon any occupancy on and after July 1, 1992
45 but prior to July 15, 2006, although such occupancy is pursuant to a
46 prior contract, lease or other arrangement. If an occupancy, taxable
47 under this act, covers any period on or after July 1, 1990 but prior
48 to July 1, 1992, the rent for the period of occupancy prior to July 1,

1 1992 shall be taxed at the rate of 7%. If rent is paid on a weekly,
2 monthly or other term basis, the rent applicable to each period as set
3 forth hereinabove shall be apportioned on the basis of the ratio of
4 the number of days falling within each of the said periods to the
5 total number of days covered thereby.

6 (3) The tax imposed under subsection (d) of section 3 shall be
7 paid at the rate of 7% upon any occupancy on and after July 15,
8 2006, although such occupancy is pursuant to a prior contract, lease
9 or other arrangement. If an occupancy, taxable under this act,
10 covers any period on or after July 1, 1992 but prior to July 15,
11 2006, the rent for the period of occupancy prior to July 15, 2006
12 shall be taxed at the rate of 6%. If rent is paid on a weekly,
13 monthly or other term basis, the rent applicable to each period as set
14 forth hereinabove shall be apportioned on the basis of the ratio of
15 the number of days falling within each of the said periods to the
16 total number of days covered thereby.

17 c. (1) Except as otherwise hereinafter provided, the tax imposed
18 under subsection (e) of section 3 shall be applicable at the rate of
19 7% to any admission to or for the use of facilities of a place of
20 amusement occurring on or after July 1, 1990 but prior to July 1,
21 1992, whether or not the admission charge has been paid prior to
22 July 1, 1990, unless the tickets were actually sold and delivered,
23 other than for resale, prior to July 1, 1990 and the tax imposed
24 under this act during the period January 3, 1983 through June 30,
25 1990 shall have been paid.

26 (2) Except as otherwise hereinafter provided, the tax imposed
27 under subsection (e) of section 3 shall be applicable at the rate of
28 6% to any admission to or for the use of facilities of a place of
29 amusement occurring on or after July 1, 1992 but prior to July 15,
30 2006, whether or not the admission charge has been paid prior to
31 July 1, 1992, unless the tickets were actually sold and delivered,
32 other than for resale, prior to July 1, 1992 and the tax imposed
33 under this act during the period July 1, 1990 through December 31,
34 1990 shall have been paid.

35 (3) Except as otherwise hereinafter provided, the tax imposed
36 under subsection (e) of section 3 shall be applicable at the rate of
37 7% to any admission to or for the use of facilities of a place of
38 amusement occurring on or after July 15, 2006, whether or not the
39 admission charge has been paid prior to that date, unless the tickets
40 were actually sold and delivered, other than for resale, prior to July
41 15, 2006 and the tax imposed under this act during the period July
42 1, 1992 through July 14, 2006 shall have been paid.

43 d. (1) Sales made on and after July 1, 1990 but prior to July 1,
44 1992 to contractors, subcontractors or repairmen of materials,
45 supplies, or services for use in erecting structures for others, or
46 building on, or otherwise improving, altering or repairing real
47 property of others shall be subject to the taxes imposed by
48 subsections (a) and (b) of section 3 and section 6 hereof at the rate

1 of 7%; provided, however, that if such sales are made for use in
2 performance of a contract which is either of a fixed price not
3 subject to change or modification, or entered into pursuant to the
4 obligation of a formal written bid which cannot be altered or
5 withdrawn, and, in either case, such contract was entered into or
6 such bid was made on or after January 3, 1983 but prior to July 1,
7 1990, such sales shall be subject to tax at the rate of 6%, but the
8 vendor shall charge and collect from the purchaser a tax on such
9 sales at the rate of 7%.

10 (2) Sales made on or after July 1, 1992 but prior to July 15,
11 2006 to contractors, subcontractors or repairmen of materials,
12 supplies, or services for use in erecting structures for others, or
13 building on, or otherwise improving, altering or repairing real
14 property of others shall be subject to the taxes imposed by
15 subsections (a) and (b) of section 3 and section 6 hereof at the rate
16 of 6%; provided, however, that if such sales are made for use in
17 performance of a contract which is either of a fixed price not
18 subject to change or modification, or entered into pursuant to the
19 obligation of a formal written bid which cannot be altered or
20 withdrawn, and, in either case, such contract was entered into or
21 such bid was made on or after July 1, 1990, but prior to July 1,
22 1992, such sales shall be subject to tax at the rate of 7%.

23 (3) Sales made on or after July 15, 2006 to contractors,
24 subcontractors or repairmen of materials, supplies, or services for
25 use in erecting structures for others, or building on, or otherwise
26 improving, altering or repairing real property of others shall be
27 subject to the taxes imposed by subsections (a) and (b) of section 3
28 and section 6 hereof at the rate of 7%; provided, however, that if
29 such sales are made for use in performance of a contract which is
30 either of a fixed price not subject to change or modification, or
31 entered into pursuant to the obligation of a formal written bid which
32 cannot be altered or withdrawn, and, in either case, such contract
33 was entered into or such bid was made on or after July 1, 1992, but
34 prior to July 15, 2006, such sales shall be subject to tax at the rate
35 of 6%, but the seller shall charge and collect from the purchaser a
36 tax on such sales at the rate of 7%.

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

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

10 (2) As to sales other than those referred to in d. above, the taxes
11 imposed under subsections (a) and (b) of section 3 and section 6
12 hereof, and the taxes imposed under subsections (f) and (g) of
13 section 3 and section 6 hereof, upon receipts received on or after
14 July 15, 2006 and on or before December 31, 2006, shall be at the
15 rate in effect on July 14, 2006, in case of sales made or services
16 rendered pursuant to a written contract entered on or after July 1,
17 1992 but prior to July 15, 2006, and accompanied by a deposit or
18 partial payment of the contract price, except in the case of a
19 contract which, in the usage of trade, is not customarily
20 accompanied by a deposit or partial payment of the contract price,
21 but the seller shall charge and collect from the purchaser on such
22 sales at the rate of 7%, which tax shall be reduced to the rate, if any,
23 in effect on July 14, 2006, only by a claim for refund filed by the
24 purchaser with the director within 90 days after receipt of said
25 receipts and otherwise pursuant to the provisions of section 20 of
26 P.L.1966, c.30 (C.54:32B-20). A claim for refund shall not be
27 allowed if there has been no deposit or partial payment of the
28 contract price unless the claimant shall establish by clear and
29 convincing evidence that, in the usage of trade, such contracts are
30 not customarily accompanied by a deposit or partial payment of the
31 contract price.

32 f. (1) The taxes imposed under subsections (a), (b), (c) and (f)
33 of section 3 upon receipts received on or after July 1, 1990 but prior
34 to July 1, 1992 shall be at the rate, if any, in effect on June 30, 1990
35 in the case of sales made or services rendered, if delivery of the
36 property which was the subject matter of the sale has been
37 completed or such services have been entirely rendered prior to July
38 1, 1990.

39 (2) The taxes imposed under subsections (a), (b), (c) and (f) of
40 section 3 upon receipts received on or after July 1, 1992 but prior to
41 July 15, 2006 shall be at the rate of 7% in the case of sales made or
42 services rendered, where delivery of the property which was the
43 subject matter of the sale has been completed or such services have
44 been entirely rendered on or after July 1, 1990 but prior to July 1,
45 1992.

46 (3) The taxes imposed under subsections (a), (b), (c), (f) and (g)
47 of section 3 upon receipts received on or after July 15, 2006 shall be
48 at the rate of 6% in the case of sales made or services rendered,

1 where delivery of the property which was the subject matter of the
2 sale has been completed or such services have been entirely
3 rendered on or after July 1, 1992 but prior to July 15, 2006.

4 g. The director is empowered to promulgate rules and
5 regulations to implement the provisions of this section.

6 h. The transitional provisions for sales made and services rendered
7 on and after the rate decrease to 6.5 percent on and after January 1,
8 2017, but before January 1, 2018 and the rate decrease to 6 percent on
9 and after January 1, 2018 pursuant to P.L. , c. (C.)(pending
10 before the Legislature as this bill), shall be implemented in a manner
11 analogous to each paragraph (2) of subsection a., b., c., d., and f. of
12 this section.

13 (cf: P.L. 2011, c.49, s.3)

14
15 4. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read
16 as follows:

17 6. Unless property or services have already been or will be
18 subject to the sales tax under this act, there is hereby imposed on
19 and there shall be paid by every person a use tax for the use within
20 this State of **【7%】** 7 percent on or before December 31, 2016, 6.5
21 percent on and after January 1, 2017 but before January 1, 2018,
22 and 6 percent on and after January 1, 2018, except as otherwise
23 exempted under this act, (A) of any tangible personal property or
24 specified digital product purchased at retail, including energy,
25 provided however, that electricity consumed by the generating
26 facility that produced it shall not be subject to tax, (B) of any
27 tangible personal property or specified digital product
28 manufactured, processed or assembled by the user, if items of the
29 same kind of tangible personal property or specified digital
30 products are offered for sale by him in the regular course of
31 business, or if items of the same kind of tangible personal property
32 are not offered for sale by him in the regular course of business and
33 are used as such or incorporated into a structure, building or real
34 property, (C) of any tangible personal property or specified digital
35 product, however acquired, where not acquired for purposes of
36 resale, upon which any taxable services described in paragraphs (1)
37 and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-
38 3) have been performed, (D) of intrastate, interstate, or international
39 telecommunications services described in subsection (f) of section 3
40 of P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184),
41 (F) of utility service provided to persons in this State for use in this
42 State, provided however, that utility service used by the facility that
43 provides the service shall not be subject to tax, (G) of mail
44 processing services described in paragraph (5) of subsection (b) of
45 section 3 of P.L.1966, c.30 (C.54:32B-3), (H) (Deleted by
46 amendment, P.L.2008, c.123), (I) of any services subject to tax
47 pursuant to subsection (11), (12), (13), (14) or (15) of subsection
48 (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), and (J) of access to

1 or use of the property or facilities of a health and fitness, athletic,
2 sporting or shopping club or organization in this State. For
3 purposes of clause (A) of this section, the tax shall be at the
4 applicable rate, as set forth hereinabove, of the consideration given
5 or contracted to be given for such property or for the use of such
6 property including delivery charges made by the seller, but
7 excluding any credit for property of the same kind accepted in part
8 payment and intended for resale. For the purposes of clause (B) of
9 this section, the tax shall be at the applicable rate, as set forth
10 hereinabove, of the price at which items of the same kind of
11 tangible personal property or specified digital products are offered
12 for sale by the user, or if items of the same kind of tangible personal
13 property are not offered for sale by the user in the regular course of
14 business and are used as such or incorporated into a structure,
15 building or real property the tax shall be at the applicable rate, as
16 set forth hereinabove, of the consideration given or contracted to be
17 given for the tangible personal property manufactured, processed or
18 assembled by the user into the tangible personal property the use of
19 which is subject to use tax pursuant to this section, and the mere
20 storage, keeping, retention or withdrawal from storage of tangible
21 personal property or specified digital products by the person who
22 manufactured, processed or assembled such property shall not be
23 deemed a taxable use by him. For purposes of clause (C) of this
24 section, the tax shall be at the applicable rate, as set forth
25 hereinabove, of the consideration given or contracted to be given
26 for the service, including the consideration for any tangible personal
27 property or specified digital product transferred in conjunction with
28 the performance of the service, including delivery charges made by
29 the seller. For the purposes of clause (D) of this section, the tax
30 shall be at the applicable rate on the charge made by the
31 telecommunications service provider; provided however, that for
32 prepaid calling services and prepaid wireless calling services the tax
33 shall be at the applicable rate on the consideration given or
34 contracted to be given for the prepaid calling service or prepaid
35 wireless calling service or the recharge of the prepaid calling
36 service or prepaid wireless calling service. For purposes of clause
37 (F) of this section, the tax shall be at the applicable rate on the
38 charge made by the utility service provider. For purposes of clause
39 (G) of this section, the tax shall be at the applicable rate on that
40 proportion of the amount of all processing costs charged by a mail
41 processing service provider that is attributable to the service
42 distributed in this State. For purposes of clause (I) of this section,
43 the tax shall be at the applicable rate on the charge made by the
44 service provider. For purposes of clause (J) of this section, the tax
45 shall be at the applicable rate on the charges in the nature of
46 initiation fees, membership fees or dues.
47 (cf: P.L.2011, c.49, s.4)

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

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

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

12 b. Irrespective of the rate of tax imposed by such ordinance,
13 such sales shall be exempt only to the extent that the rate of taxation
14 imposed by the ordinance exceeds 6%, except that the combined
15 rate of taxation imposed under the ordinance and under this section
16 shall not exceed **【13%】** 13 percent on or before December 31,
17 2016, 12.5 percent on and after January 1, 2017 but before January
18 1, 2018, and 12 percent on and after January 1, 2018.

19 (cf: P.L.2006, c.44, s.10)

20

21 6. Section 1 of P.L.2003, c.114 (C.54:32D-1) is amended to read
22 as follows:

23 1. a. In addition to any other tax, assessment or use fee
24 authorized by law, there is imposed and shall be paid a hotel and
25 motel occupancy fee of 7% for occupancies on and after August 1,
26 2003 but before July 1, 2004, and of 5% for occupancies on and
27 after July 1, 2004, upon the rent for every occupancy of a room or
28 rooms in a hotel subject to taxation pursuant to subsection (d) of
29 section 3 of P.L. 1966, c.30 (C.54:32B-3), which every person
30 required to collect tax shall collect from the customer when
31 collecting the rent to which it applies; provided however, that on
32 and after the tenth day following a certification by the Director of
33 the Division of Budget and Accounting in the Department of the
34 Treasury pursuant to subsection d. of section 2 of P.L.2003, c.114
35 (C.54:32D-2), no such fee shall be paid or collected; and provided
36 further that:

37 (1) the combined rates of the fee imposed under this section,
38 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
39 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
40 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on
41 or before December 31, 2016, 13.5% on and after January 1, 2017
42 but before January 1, 2018, and 13% on and after January 1, 2018,
43 and to the extent that the total combined rate of taxation for the
44 listed fees and taxes would exceed 14% on or before December 31,
45 2016, 13.5% on and after January 1, 2017 but before January 1,
46 2018, and 13% on and after January 1, 2018, the fee imposed under
47 this section shall be reduced so that the total combined rate equals
48 14% on or before December 31, 2016, 13.5% on and after January

1 1, 2017 but before January 1, 2018, and 13% on and after January 1,
2 2018;

3 (2) the combined rates of the fee imposed under this section,
4 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
5 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed
6 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
7 total rate of 14% on or before December 31, 2016, 13.5% on and
8 after January 1, 2017 but before January 1, 2018, and 13% on and
9 after January 1, 2018, and to the extent that the total combined rate
10 of taxation for the listed fees and taxes would exceed 14% on or
11 before December 31, 2016, 13.5% on and after January 1, 2017 but
12 before January 1, 2018, and 13% on and after January 1, 2018, the
13 fee imposed under this section shall be reduced so that the total
14 combined rate equals 14% on or before December 31, 2016, 13.5%
15 on and after January 1, 2017 but before January 1, 2018, and 13%
16 on and after January 1, 2018; and

17 (3) the fee imposed under this section shall be at the rate of 1%
18 in a city in which the tax authorized under P.L.1981, c. 77
19 (C.40:48E-1 et seq.) is imposed.

20 b. The hotel and motel occupancy fee imposed by subsection a.
21 of this section shall not be imposed on the rent for an occupancy if
22 the purchaser, user or consumer is an entity exempt from the tax
23 imposed on an occupancy under the "Sales and Use Tax Act"
24 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
25 9).

26 c. Terms used in this section shall have the meaning given
27 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).
28 (cf: P.L.2006, c.44, s.18)

29

30 7. N.J.S.54A:6-10 is amended to read as follows:

31 54A:6-10. Pensions and annuities.

32 a. Gross income shall not include that part of any amount
33 received as an annuity under an annuity, endowment, or life
34 insurance contract which bears the same ratio to such amount as the
35 investment in the contract as of the annuity starting date bears to the
36 expected return under the contract as of such date. Where (1) part
37 of the consideration for an annuity, endowment, or life insurance
38 contract is contributed by the employer, and (2) during the three-
39 year period beginning on the date on which an amount is first
40 received under the contract as an annuity, the aggregate amount
41 receivable by the employee under the terms of the contract is equal
42 to or greater than the consideration for the contract contributed by
43 the employee, then all amounts received as an annuity under the
44 contract shall be excluded from gross income until there has been so
45 excluded an amount equal to the consideration for the contract
46 contributed by the employee.

- 1 b. (1) In addition to that part of any amount received as an
2 annuity which is excludable from gross income as herein provided,
3 gross income shall not include payments:
- 4 for taxable years beginning before January 1, 2000, of up to
5 \$10,000 for a married couple filing jointly, \$5,000 for a married
6 person filing separately, or \$7,500 for an individual filing as a
7 single taxpayer or an individual determining tax pursuant to
8 subsection a. of N.J.S.54A:2-1;
- 9 for the taxable year beginning on or after January 1, 2000, but
10 before January 1, 2001, of up to \$12,500 for a married couple filing
11 jointly, \$6,250 for a married person filing separately, or \$9,375 for
12 an individual filing as a single taxpayer or an individual
13 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
- 14 for the taxable year beginning on or after January 1, 2001, but
15 before January 1, 2002, of up to \$15,000 for a married couple filing
16 jointly, \$7,500 for a married person filing separately, or \$11,250 for
17 an individual filing as a single taxpayer or an individual
18 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
- 19 for the taxable year beginning on or after January 1, 2002, but
20 before January 1, 2003, of up to \$17,500 for a married couple filing
21 jointly, \$8,750 for a married person filing separately, or \$13,125 for
22 an individual filing as a single taxpayer or an individual
23 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
- 24 for taxable years beginning on or after January 1, 2003, but
25 before January 1, 2017 of up to \$20,000 for a married couple filing
26 jointly, \$10,000 for a married person filing separately, or \$15,000
27 for an individual filing as a single taxpayer or an individual
28 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
- 29 for taxable years beginning on or after January 1, 2017, but
30 before January 1, 2018, of up to \$40,000 for a married couple filing
31 jointly, \$20,000 for a married person filing separately, or \$30,000
32 for an individual filing as a single taxpayer or an individual
33 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
- 34 for taxable years beginning on or after January 1, 2018, but
35 before January 1, 2019, gross income shall not include income of up
36 to \$60,000 for a married couple filing jointly, \$30,000 for a married
37 person filing separately, or \$50,000 for an individual filing as a
38 single taxpayer or an individual determining tax pursuant to
39 subsection a. of N.J.S.54A:2-1;
- 40 for taxable years beginning on or after January 1, 2019, but
41 before January 1, 2020, of up to \$80,000 for a married couple filing
42 jointly, \$40,000 for a married person filing separately, or \$60,000
43 for an individual filing as a single taxpayer or an individual
44 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
- 45 for taxable years beginning on or after January 1, 2020, of up to
46 \$100,000 for a married couple filing jointly, \$50,000 for a married
47 person filing separately, or \$75,000 for an individual filing as a

1 single taxpayer or an individual determining tax pursuant to
2 subsection a. of N.J.S.54A:2-1,

3 which are received as an annuity, endowment or life insurance
4 contract, or payments of any such amounts which are received as
5 pension, disability, or retirement benefits, under any public or
6 private plan, whether the consideration therefor is contributed by
7 the employee or employer or both, by any person who is 62 years of
8 age or older or who, by virtue of disability, is or would be eligible
9 to receive payments under the federal Social Security Act [, but
10 for] .

11 (2) For taxable years beginning on or after January 1, 2005, but
12 before January 1, 2021, the exclusion provided by this subsection
13 shall only be allowed if the taxpayer has gross income for the
14 taxable year of not more than \$100,000;

15 for taxable years beginning on or after January 1, 2021, if the
16 taxpayer has gross income for the taxable year of not more than
17 \$100,000 the exclusion provided by this subsection shall be fully
18 allowed, if the taxpayer has gross income for the taxable year in
19 excess of \$100,000 but not more than \$125,000 then the taxpayer
20 may exclude 50 percent of the amount otherwise allowed, and if the
21 taxpayer has gross income for the taxable year in excess of
22 \$125,000 but not more than \$150,000 then the taxpayer may
23 exclude 25 percent of the amount otherwise allowed.

24 c. Gross income shall not include any amount received under
25 any public or private plan by reason of a permanent and total
26 disability.

27 d. Gross income shall not include distributions from an
28 employees' trust described in section 401(a) of the Internal Revenue
29 Code of 1986, as amended (hereinafter referred to as "the Code"),
30 which is exempt from tax under section 501(a) of the Code if the
31 distribution, except the portion representing the employees'
32 contributions, is rolled over in accordance with section 402(a)(5) or
33 section 403(a)(4) of the Code. The distribution shall be paid in one
34 or more installments which constitute a lump-sum distribution
35 within the meaning of section 402(e)(4)(A) (determined without
36 reference to subsection (e)(4)(B)), or be on account of a termination
37 of a plan of which the trust is a part or, in the case of a profit-
38 sharing or stock bonus plan, a complete discontinuance of
39 contributions under such plan.

40 (cf: P.L.2005, c.130, s.1)

41

42 8. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to read
43 as follows:

44 3. Other retirement income. a. (1) Gross income shall not
45 include income:

46 for taxable years beginning before January 1, 2000, of up to
47 \$10,000 for a married couple filing jointly, \$5,000 for a married
48 person filing separately, or \$7,500 for an individual filing as a

1 single taxpayer or an individual determining tax pursuant to
2 subsection a. of N.J.S.54A:2-1;
3 for the taxable year beginning on or after January 1, 2000, but
4 before January 1, 2001, of up to \$12,500 for a married couple filing
5 jointly, \$6,250 for a married person filing separately, or \$9,375 for
6 an individual filing as a single taxpayer or an individual
7 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
8 for the taxable year beginning on or after January 1, 2001, but
9 before January 1, 2002, of up to \$15,000 for a married couple filing
10 jointly, \$7,500 for a married person filing separately, or \$11,250 for
11 an individual filing as a single taxpayer or an individual
12 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
13 for the taxable year beginning on or after January 1, 2002, but
14 before January 1, 2003, of up to \$17,500 for a married couple filing
15 jointly, \$8,750 for a married person filing separately, or \$13,125 for
16 an individual filing as a single taxpayer or an individual
17 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
18 for taxable years beginning on or after January 1, 2003, but
19 before January 1, 2017, gross income shall not include income of up
20 to \$20,000 for a married couple filing jointly, \$10,000 for a married
21 person filing separately, or \$15,000 for an individual filing as a
22 single taxpayer or an individual determining tax pursuant to
23 subsection a. of N.J.S.54A:2-1;
24 for taxable years beginning on or after January 1, 2017 but
25 before January 1, 2018, gross income shall not include income of up
26 to \$40,000 for a married couple filing jointly, \$20,000 for a married
27 person filing separately, or \$30,000 for an individual filing as a
28 single taxpayer or an individual determining tax pursuant to
29 subsection a. of N.J.S.54A:2-1;
30 for taxable years beginning on or after January 1, 2018, but
31 before January 1, 2019, gross income shall not include income of up
32 to \$60,000 for a married couple filing jointly, \$30,000 for a married
33 person filing separately, or \$50,000 for an individual filing as a
34 single taxpayer or an individual determining tax pursuant to
35 subsection a. of N.J.S.54A:2-1;
36 for taxable years beginning on or after January 1, 2019, but
37 before January 1, 2020, gross income shall not include income of up
38 to \$80,000 for a married couple filing jointly, \$40,000 for a married
39 person filing separately, or \$60,000 for an individual filing as a
40 single taxpayer or an individual determining tax pursuant to
41 subsection a. of N.J.S.54A:2-1;
42 for taxable years beginning on or after January 1, 2020, gross
43 income shall not include income of up to \$100,000 for a married
44 couple filing jointly, \$50,000 for a married person filing separately,
45 or \$75,000 for an individual filing as a single taxpayer or an
46 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
47 1,

1 when received in any tax year by a person aged 62 years or older
2 who received no income in excess of \$3,000 from one or more of
3 the sources enumerated in subsections a., b., k. and p. of
4 N.J.S.54A:5-1 **], but for]** .

5 (2) For taxable years beginning on or after January 1, 2005, but
6 before January 1, 2021, the exclusion provided by this subsection
7 shall only be allowed if the taxpayer has gross income for the
8 taxable year of not more than \$100,000 **], provided, however, that**
9 the] ;

10 for taxable years beginning on or after January 1, 2021, if the
11 taxpayer has gross income for the taxable year of not more than
12 \$100,000 the exclusion provided by this subsection shall be fully
13 allowed, if the taxpayer has gross income for the taxable year in
14 excess of \$100,000 but not more than \$125,000 then the taxpayer
15 may exclude 50 percent of the amount otherwise allowed, and if the
16 taxpayer has gross income for the taxable year in excess of
17 \$125,000 but not more than \$150,000 then the taxpayer may
18 exclude 25 percent of the amount otherwise allowed.

19 (3) The total exclusion under this subsection and that allowable
20 under N.J.S.54A:6-10 shall not exceed the amounts of the
21 exclusions set forth in this subsection.

22 b. In addition to the exclusion provided under N.J.S.54A:6-10
23 and subsection a. of this section, gross income shall not include
24 income of up to \$6,000 for a married couple filing jointly or an
25 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
26 1, or \$3,000 for a single person or a married person filing
27 separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-
28 3, but who would be eligible in any year to receive payments under
29 either section if he or she were covered thereby.

30 (cf: P.L.2005, c.130, s.2)

31
32 9. Section 2 of P.L.1990, c. 42 (C.54:15B-2) is amended to read
33 as follows:

34 2. For the purposes of this act:

35 "Aviation fuel" means aviation gasoline or aviation grade
36 kerosene or any other fuel that is used in aircraft.

37 "Aviation gasoline" means fuel specifically compounded for use
38 in reciprocating aircraft engines.

39 "Aviation grade kerosene" means any kerosene type jet fuel
40 covered by ASTM Specification D 1655 or meeting specification
41 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

42 "Blended fuel" means a mixture composed of gasoline, diesel
43 fuel, kerosene or blended fuel and another liquid, including blend
44 stock other than a de minimis amount of a product such as
45 carburetor detergent or oxidation inhibitor, that can be used as a
46 fuel in a highway vehicle. "Blended fuel" includes but is not
47 limited to gasohol, biobased liquid fuel, biodiesel fuel, ethanol,

1 methanol, fuel grade alcohol, diesel fuel enhancers and resulting
2 blends.

3 "Company" includes a corporation, partnership, limited
4 partnership, limited liability company, association, individual, or
5 any fiduciary thereof.

6 "Diesel fuel" means a liquid that is commonly or commercially
7 known or sold as a fuel that is suitable for use in a diesel-powered
8 highway vehicle. A liquid meets this requirement if, without
9 further processing or blending, the liquid has practical and
10 commercial fitness for use in the propulsion engine of a diesel-
11 powered highway vehicle. "Diesel fuel" includes biobased liquid
12 fuel, biodiesel fuel, and number 1 and number 2 diesel.

13 "Director" means the Director of the Division of Taxation in the
14 Department of the Treasury.

15 "First sale of petroleum products within this State" means the
16 initial sale of a petroleum product delivered to a location in this
17 State. A "first sale of petroleum products within this State" does
18 not include a book or exchange transfer of petroleum products if
19 such products are intended to be sold in the ordinary course of
20 business.

21 "Gasoline" means all products commonly or commercially
22 known or sold as gasoline that are suitable for use as a motor fuel.
23 "Gasoline" does not include products that have an ASTM octane
24 number of less than 75 as determined by the "motor method,"
25 ASTM D2700-92. The term does not include racing gasoline or
26 aviation gasoline, but for administrative purposes does include fuel
27 grade alcohol.

28 "Gross receipts" means all consideration derived from the first
29 sale of petroleum products within this State except sales of:

30 a. asphalt;

31 b. petroleum products sold pursuant to a written contract
32 extending one year or longer to nonprofit entities qualifying under
33 subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
34 evidenced by an invoice in form prescribed by subsection b. of
35 section 3 of P.L.1991, c.19 (C.54:15B-10);

36 c. petroleum products sold to governmental entities qualifying
37 under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
38 evidenced by an invoice in form prescribed by subsection b. of
39 section 3 of P.L.1991, c.19 (C.54:15B-10); and

40 d. polymer grade propylene used in the manufacture of
41 polypropylene.

42 "Highway fuel" means gasoline, blended fuel that contains
43 gasoline or is intended for use as gasoline, liquefied petroleum gas,
44 and diesel fuel, blended fuel that contains diesel fuel or is intended
45 for use as diesel fuel, and kerosene, other than aviation grade
46 kerosene.

1 "Kerosene" means the petroleum fraction containing
2 hydrocarbons that are slightly heavier than those found in gasoline
3 and naphtha, with a boiling range of 149 to 300 degrees Celsius.

4 "Petroleum products" means refined products made from crude
5 petroleum and its fractionation products, through straight
6 distillation of crude oil or through redistillation of unfinished
7 derivatives, but shall not mean the products commonly known as
8 number 2 heating oil, number 4 heating oil, number 6 heating oil,
9 kerosene and propane gas to be used exclusively for residential use.

10 "Quarterly period" means a period of three calendar months
11 commencing on the first day of January, April, July or October and
12 ending on the last day of March, June, September or December,
13 respectively.

14 **["Retail gasoline price survey" means a Statewide representative**
15 **random sample of retail gasoline prices conducted by the Board of**
16 **Public Utilities, Office of the Economist, or its successor, that shall**
17 **be completed for the month of November and May of each year.]**

18 "Retail price per gallon" means the price **【posted by gasoline】**
19 charged by retailers in the State for **【unleaded regular gasoline】** a
20 gallon of the petroleum product dispensed into the fuel tanks of
21 motor vehicles without State or federal tax included.

22 "Unleaded regular gasoline" means gasoline of the octane rating
23 equal to the lowest octane rated gasoline offered for sale at a
24 majority of the gasoline retailers in the State.

25 (cf: P.L.1991, c.181, s.1)

26

27 10. Section 7 of P.L.1991, c.181 (C.54:15B-2.1) is amended to
28 read as follows:

29 7. a. "Gross receipts," as otherwise defined by section 2 of
30 P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales
31 of petroleum products used by marine vessels engaged in interstate
32 or foreign commerce and sales of aviation fuels used by common
33 carriers in interstate or foreign commerce other than the "burnout"
34 portion which shall be taxable pursuant to rules promulgated by the
35 director.

36 b. Motor fuel used for the following purposes is exempt from
37 the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3), and a
38 refund of the tax imposed by that section may be claimed by the
39 consumer providing proof the tax has been paid and no refund has
40 been previously issued:

41 (1) autobuses while being operated over the highways of this
42 State in those municipalities to which the operator has paid a
43 monthly franchise tax for the use of the streets therein under the
44 provisions of R.S.48:16-25 and autobuses while being operated over
45 the highways of this State in a regular route bus operation as
46 defined in R.S.48:4-1 and under operating authority conferred
47 pursuant to R.S.48:4-3, or while providing bus service under a
48 contract with the New Jersey Transit Corporation or under a

1 contract with a county for special or rural transportation bus service
2 subject to the jurisdiction of the New Jersey Transit Corporation
3 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses
4 providing commuter bus service which receive or discharge
5 passengers in New Jersey. For the purpose of this paragraph
6 "commuter bus service" means regularly scheduled passenger
7 service provided by motor vehicles whether within or across the
8 geographical boundaries of New Jersey and utilized by passengers
9 using reduced fare, multiple ride, or commutation tickets and shall
10 not include charter bus operations for the transportation of enrolled
11 children and adults referred to in subsection c. of R.S.48:4-1 and
12 "regular route service" does not mean a regular route in the nature
13 of special bus operation or a casino bus operation;

14 (2) agricultural tractors not operated on a public highway;

15 (3) farm machinery;

16 (4) ambulances;

17 (5) rural free delivery carriers in the dispatch of their official
18 business;

19 (6) vehicles that run only on rails or tracks, and such vehicles as
20 run in substitution therefor;

21 (7) highway motor vehicles that are operated exclusively on
22 private property;

23 (8) motor boats or motor vessels used exclusively for or in the
24 propagation, planting, preservation and gathering of oysters and
25 clams in the tidal waters of this State;

26 (9) motor boats or motor vessels used exclusively for
27 commercial fishing;

28 (10) motor boats or motor vessels, while being used for hire for
29 fishing parties or being used for sightseeing or excursion parties;

30 (11) fire engines and fire-fighting apparatus;

31 (12) stationary machinery and vehicles or implements not
32 designed for the use of transporting persons or property on the
33 public highways;

34 (13) heating and lighting devices;

35 (14) motor boats or motor vessels used exclusively for Sea Scout
36 training by a duly chartered unit of the Boy Scouts of America; and

37 (15) emergency vehicles used exclusively by volunteer first-aid
38 or rescue squads.

39 (cf: P.L.1991, c.181, s.7)

40
41 11. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read
42 as follows:

43 3. a. (1) (a) There is imposed on each company which is
44 engaged in the refining or distribution, or both, of petroleum
45 products other than highway fuel and aviation fuel and which
46 distributes such products in this State a tax at the rate of **two and**
47 **three-quarters percent (2 3/4%)** seven percent of its gross receipts
48 derived from the first sale of petroleum products within this State

1 and there is imposed on each company which is engaged in the
2 refining or distribution, or both, of highway fuel a tax at the rate of
3 12.5 percent, as adjusted pursuant to subsection c. of this section, of
4 its gross receipts derived from the first sale of those products within
5 this State. [; provided however, that the]

6 (b) The applicable tax rate for [fuel oils, aviation fuels and
7 motor fuels subject to tax under R.S.54:39-1 et seq.] gasoline,
8 blended fuel that contains gasoline or is intended for use as
9 gasoline, and liquefied petroleum gas, which are taxed as a highway
10 fuel pursuant to subparagraph (a) of this paragraph, shall be
11 converted to a cents-per-gallon rate, rounded to the nearest tenth of
12 a cent, [that shall be calculated by the use of] and adjusted
13 quarterly by the director, effective on July 1, October 1, January 1,
14 and April 1, based on the average retail price per gallon of unleaded
15 regular gasoline [in December 1990,] in the State, as determined in
16 [a] the most recent survey of the retail price per gallon of gasoline
17 [prices] that [included] includes a Statewide representative
18 random sample conducted [in December 1990 for that month] by
19 the Board of Public Utilities, Office of the Economist, [and shall be
20 effective for the tax due for months ending after that date; and] or
21 its successor.

22 (c) The cents-per-gallon rate determined pursuant to
23 subparagraph (b) of this paragraph shall not be less than the rate
24 determined for the quarter beginning July 1, 2016.

25 (d) The applicable tax rate for diesel fuel, blended fuel that
26 contains diesel fuel or is intended for use as diesel fuel, and
27 kerosene, other than aviation grade kerosene, which are taxed as a
28 highway fuel pursuant to subparagraph (a) of this paragraph, shall
29 be converted to a cents-per-gallon rate, rounded to the nearest tenth
30 of a cent, and adjusted quarterly by the director, effective on July 1,
31 October 1, January 1, and April 1, based on the average retail price
32 per gallon of number 2 diesel in the State, as determined in the most
33 recent survey of retail diesel fuel prices that includes a Statewide
34 representative random sample conducted by the Board of Public
35 Utilities, Office of the Economist, or its successor.

36 Notwithstanding the provisions of subparagraph (a) of this
37 paragraph to the contrary, for the period from July 1, 2016 through
38 December 31, 2016, no rate of tax shall be applied to diesel fuel,
39 blended fuel that contains diesel fuel or is intended for use as diesel
40 fuel, or kerosene, other than aviation grade kerosene; for the period
41 from January 1, 2017 through June 30, 2017, the applicable rate for
42 those fuels shall be 70 percent of the rate otherwise determined
43 pursuant to subparagraph (a) of this paragraph, and for July 1, 2017
44 and thereafter the applicable rate for those fuels determined
45 pursuant to subparagraph (a) of this paragraph.

1 (e) The cents-per-gallon rate determined pursuant to
2 subparagraph (d) of this paragraph shall not be less than the rate
3 determined for the quarter beginning July 1, 2016.

4 (f) The applicable tax rate for fuel oil determined pursuant to
5 subparagraph (a) of this paragraph shall be converted to a cents-per-
6 gallon rate, rounded to the nearest tenth of a cent, and adjusted
7 quarterly by the director, effective on July 1, October 1, January 1,
8 and April 1, to reflect the average price per gallon, without State or
9 federal tax included, of retail sales of number 2 fuel oil in the State,
10 as determined in the most recent survey of retail diesel fuel prices
11 that included a Statewide representative random sample conducted
12 by the Board of Public Utilities, Office of the Economist, or its
13 successor.

14 (g) The cents-per-gallon rate determined pursuant to
15 subparagraph (f) of this paragraph shall not be less than the rate
16 determined for the quarter beginning July 1, 2016.

17 (h) On and after the 10th day following a certification by the
18 review council pursuant to subsection c. of section 16 of P.L. , c.
19 (C.) (pending before the Legislature as this bill), no tax shall be
20 imposed pursuant to this paragraph.

21 (2) (a) In addition to the tax, if any, imposed by paragraph (1)
22 of this subsection, a cents-per-gallon tax is imposed on each
23 company's gross receipts derived from the first sale of petroleum
24 products within this State on gasoline, blended fuel that contains
25 gasoline or that is intended for use as gasoline, liquefied petroleum
26 gas and aviation fuel at the rate of four cents per gallon; and

27 (b) In addition to the tax, if any, imposed by paragraph (1) of
28 this subsection, a cents-per-gallon tax is imposed on each
29 company's gross receipts derived from the first sale of petroleum
30 products within this State on diesel fuel, blended fuel that contains
31 diesel fuel or is intended for use as diesel fuel, and kerosene other
32 than aviation grade kerosene at the rate of four cents per gallon
33 before July 1, 2017 and at the rate of eight cents per gallon on and
34 after July 1, 2017.

35 b. There is imposed on each company that imports or causes to
36 be imported, other than by a company subject to and having paid
37 the tax on those imported petroleum products that have generated
38 gross receipts taxable under subsection a. of this section, petroleum
39 products for use or consumption by it within this State a tax at the
40 rate **【of two and three-quarters percent (2 3/4%)】** or rates of the
41 consideration given or contracted to be given and the gallonage,
42 determined pursuant to subsection a. of this section, for such
43 petroleum products if the consideration given or contracted to be
44 given for all such deliveries made during a quarterly period exceeds
45 \$5,000**【**; provided however, that the applicable tax rate for fuel oils,
46 aviation fuels and motor fuels subject to tax under R.S.54:39-1 et
47 seq. shall be converted to a cents per gallon rate, rounded to the
48 nearest cent, that shall be calculated by the use of the average retail

1 price per gallon of unleaded regular gasoline in December 1990, as
2 determined in a survey of retail gasoline prices that included a
3 Statewide representative random sample conducted in December
4 1990 for that month by the Board of Public Utilities, Office of the
5 Economist, and shall be effective for the tax due for months ending
6 after that date】.

7 c. (1) For State fiscal years 2018 through 2026, the rate of tax
8 imposed on highway fuel pursuant to subsection a. of this section
9 shall be adjusted annually so that the total revenue derived from
10 highway fuel shall not exceed the highway fuel cap amount.

11 (2) The State Treasurer shall, on or before December 31, 2016,
12 determine the highway fuel cap amount as the sum of:

13 (a) the taxes collected for State Fiscal Year 2016 pursuant to
14 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
15 c.22 (C.54:39-103) on highway fuel,

16 (b) the amount derived from taxing the gallonage of highway
17 fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of
18 four cents per gallon, and

19 (c) the amount that would have been derived from taxing the
20 gallonage of highway fuel subject to motor fuel tax in State Fiscal
21 Year 2016 at the rate of 23 cents per gallon.

22 (3) On or before August 15 of each State Fiscal Year following
23 State Fiscal Year 2017, the State Treasurer and the Legislative
24 Budget and Finance Officer shall determine the total revenue
25 derived from:

26 (a) the taxes collected for the prior State Fiscal Year pursuant to
27 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
28 c.22 (C.54:39-103) on highway fuel,

29 (b) the revenue that would be derived from imposing the tax
30 pursuant to paragraph (2) of subsection a. of this section on
31 highway fuel at the rate of four cents per gallon, and

32 (c) the revenue derived from the taxation of highway fuel
33 pursuant to paragraph (1) of subsection a. of this section.

34 (4) Upon consideration of the result of the determination
35 pursuant to paragraph (3) of this subsection, and consultation with
36 the Legislative Budget and Finance Officer, the State Treasurer
37 shall determine the rate of tax to be imposed on highway fuel
38 pursuant to subsection a. of this section that will result in revenue
39 from:

40 (a) the taxes collected on highway fuel for the current State
41 Fiscal Year pursuant to paragraphs (1) and (2) of subsection a. of
42 section 3 of P.L.2010, c.22 (C.54:39-103),

43 (b) the revenue derived from the tax imposed pursuant to
44 paragraph (2) of subsection a. of this section on highway fuel at the
45 rate of four cents per gallon for the current State Fiscal Year, and

46 (c) the revenue derived from the taxation of highway fuel
47 pursuant to paragraph (1) of subsection a. of this section

1 equaling the highway fuel cap amount determined pursuant to
2 paragraph (2) of this subsection, as adjusted pursuant to paragraph
3 (5) of this subsection;

4 and that rate shall take effect on the October 1 of that year.

5 (5) If the actual revenue determined pursuant to paragraph (3) of
6 this subsection exceeds the highway fuel cap amount determined
7 pursuant to paragraph (2) of this subsection, then the highway fuel
8 cap amount for the succeeding year shall be decreased by the
9 amount of the excess in setting the rate pursuant to paragraph (4) of
10 this subsection. If the actual revenue determined pursuant to
11 paragraph (3) of this subsection is less than the highway fuel cap
12 amount determined pursuant to paragraph (2) of this subsection,
13 then the highway fuel cap amount for the succeeding year shall be
14 increased by the amount of the shortfall in setting the rate pursuant
15 to paragraph (4) of this subsection.

16 (cf: P.L.2000, c.48, s.1)

17
18 12. Section 2 of P.L.1991, c.19 (C.54:15B-9) is amended to read
19 as follows:

20 2. a. A person who shall purchase or otherwise acquire
21 petroleum products, upon which the petroleum products gross
22 receipts tax has not been paid and is not due pursuant to subsection
23 b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a
24 reimbursement payment has been paid pursuant to section 3 of **【this**
25 **act】** P.L.1991, c.19 (C.54:15B-10), from a federal government
26 department, agency or instrumentality, or any agent or officer
27 thereof, for use not specifically associated with any federal
28 government function or operation, shall pay to the State a tax
29 **【equivalent to two and three-quarters percent (2 3/4%)】** at the rate
30 or rates of the consideration given or contracted to be given for the
31 purchase or acquisition of the petroleum products and the
32 gallorage, determined pursuant to subsection a. of section 3 of
33 P.L.1990, c.42 (C.54:15B-3) in accordance with the procedures set
34 forth in the "Petroleum Products Gross Receipts Tax Act,"
35 P.L.1990, c.42 (C.54:15B-1 et seq.).

36 b. A person who knowingly uses, or who conspires with an
37 official, agent or employee of a federal government department,
38 agency or instrumentality, for the use of, a requisition, purchase
39 order, or a card or an authority to which the person is not
40 specifically entitled by government regulations, with the intent to
41 obtain petroleum products from a federal government department,
42 agency or instrumentality for a use not specifically associated with
43 a federal government function or operation, upon which the
44 petroleum products gross receipts tax has not been paid, is guilty of
45 a crime of the fourth degree.

46 (cf: P.L.1991, c.19, s.2)

1 13. Section 3 of P.L.1991, c.19 (C.54:15B-10) is amended to
2 read as follows:

3 a. A federal government department, agency or instrumentality,
4 that purchases petroleum products other than by the first sale of that
5 product in this State for use in a federal government function or
6 operation, upon which petroleum products the petroleum products
7 gross receipts tax has been paid or is due and payable, shall be
8 reimbursed and paid an amount **【equivalent to two and three-**
9 **quarters percent (2 3/4%)】** at the rate or rates of the consideration
10 given or contracted to be given **【by the federal government**
11 **department, agency or instrumentality for the purchase of the**
12 **petroleum products】** , and the gallonage, determined pursuant to
13 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3).

14 b. The reimbursement shall be claimed by presenting to the
15 Director of the Division of Taxation in the Department of the
16 Treasury an application for the reimbursement, on a form prescribed
17 by the director, which application shall be verified by a declaration
18 of the applicant that the statements contained therein are true. Such
19 application for reimbursement shall be supported by an invoice, or
20 invoices, showing the name and address of the person from whom
21 the petroleum products were purchased, the name of the purchaser,
22 the date of purchase, the quantity of the product purchased, the
23 price paid for the purchase of the product, and an acknowledgment
24 by the seller that payment of the cost of the product to the seller,
25 including the petroleum gross receipts tax due thereon, has been
26 made. Such invoice, or invoices, shall be legibly written and shall
27 be void if any corrections or erasures shall appear on the face
28 thereof.

29 c. If petroleum products are sold to a federal government
30 department, agency or instrumentality that shall be entitled to a
31 reimbursement under this act, the seller of the petroleum products
32 shall supply the purchaser with an invoice that conforms with the
33 requirements of subsection b. of this section.

34 (cf: P.L.1991, c.19, s.3)

35

36 14. (New section) a. There is levied a tax on persons, other
37 than licensed companies pursuant to section 6 of P.L.1991, c.181
38 (C.54:15B-12), holding the fuels enumerated in subparagraph (a) of
39 paragraph (2) of subsection a. of section 3 of P.L.1990, c.42
40 (C.54:15B-3) in storage for sale as of the close of the first business
41 day following the date of enactment of P.L. , c. (C.) (pending
42 before the Legislature as this bill) by fifteen days on which tax has
43 previously been paid. The amount of tax shall be the difference
44 between the tax per gallon specified by subsection a. of section 3 of
45 P.L.1990, c.42 (C.54:15B-3) for the type of fuel and the tax
46 previously paid per gallon, multiplied by the gallons in storage of
47 that type of fuel as of the close of the business day on that day.

1 b. Persons in possession of those fuels in storage as of the close
2 of the first business day following the date of enactment of P.L. ,
3 c. (C.) (pending before the Legislature as this bill) by fifteen
4 days shall:

5 (1) take an inventory at the close of the business day on that
6 day;

7 (2) report the gallons listed in paragraph (1) of this subsection
8 on forms provided by the director, not later than 45 days following
9 the date of enactment of P.L. , c. (C.) (pending before the
10 Legislature as this bill) by fifteen days; and

11 (3) Remit the tax levied under this section to the director no
12 later than February 1, 2017.

13 c. Fuel not reflected in the inventory taken pursuant to
14 subsection b. of this section is deemed to be previously untaxed,
15 except to the extent that it is invoiced as delivered tax-paid on or
16 after July 1, 2016.

17 d. There is levied a tax on persons, other than licensed
18 companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),
19 holding the fuels enumerated in subparagraph (b) of paragraph (2)
20 of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in
21 storage for sale as of the close of the business day on December 31,
22 2016 on which tax has previously been paid. The amount of tax
23 shall be the difference between the tax per gallon specified by
24 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) for the
25 type of fuel and the tax previously paid per gallon, multiplied by the
26 gallons in storage of that type of fuel as of the close of the business
27 day on December 31, 2016.

28 e. Persons in possession of those fuels in storage as of the close
29 of the business day on December 31, 2016 shall:

30 (1) take an inventory at the close of the business day on
31 December 31, 2016;

32 (2) report the gallons listed in paragraph (1) of this subsection
33 on forms provided by the director, not later than January 31, 2017;
34 and

35 (3) Remit the tax levied under this section to the director no
36 later than August 1, 2017.

37 f. Fuel not reflected in the inventory taken pursuant to
38 subsection b. of this section is deemed to be previously untaxed,
39 except to the extent that it is invoiced as delivered tax-paid on or
40 after January 1, 2017.

41 g. In determining the amount of tax due under this section, a
42 person may exclude the amount of fuel in dead storage in each
43 storage tank

44 h. As used in this section:

45 "Close of the business day" means the time at which the last
46 transaction has occurred for that day.

47 "Dead storage" means the amount of fuel that cannot be pumped
48 out of a fuel storage tank because the motor fuel is below the mouth

1 of the draw pipe. The amount of motor fuel in dead storage is 200
2 gallons for a tank with a capacity of less than 10,000 gallons and
3 400 gallons for a tank with a capacity of 10,000 gallons or more.

4
5 15. (New section) Notwithstanding any provision of the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.) to the contrary, the director may adopt immediately upon
8 filing with the Office of Administrative Law such regulations as the
9 director deems necessary to implement the provisions of sections
10 through 14 of P.L. , c. (pending before the Legislature as this
11 bill), which regulations shall be effective for a period not to exceed
12 360 days following the date of enactment of P.L. , c. (pending
13 before the Legislature as this bill) and may thereafter be amended,
14 adopted, or readopted by the director in accordance with the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.).

17
18 16. (New section) a. The State Treasurer, and the Legislative
19 Budget and Finance Officer, together with a third public member
20 who shall be jointly selected thereby, shall constitute the review
21 council.

22 b. The review council shall, on or before January 15, 2020,
23 provide the Governor and the Legislature with an advisory report of
24 their consensus estimate of the increase or decrease in State
25 revenues pursuant to each section of P.L. , c. (C.) (pending
26 before the Legislature as this bill), and pursuant to this act as a
27 whole, during the preceding three State fiscal years, including a
28 comparison of those estimates to the legislative fiscal estimate or
29 fiscal note published contemporaneous with the enactment of this
30 act prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

31 c. The review council shall conduct an ongoing review of the
32 application of each section of P.L. , c. (C.) (pending before
33 the Legislature as this bill).

34 The review council shall, not later than five days after any
35 Legislative action that halts, delays, or reverses the implementation
36 of those sections as scheduled on the date of enactment of P.L. , c.
37 (C.) (pending before the Legislature as this bill), certify for the
38 purposes of subparagraph (h) of paragraph (1) of subsection a. of
39 section 3. of P.L.1990, c.42 (C.54:15B-3) to the Director of the
40 Division of Taxation that the scheduled implementation of P.L. ,
41 c. (C.) had been impeded.

42
43 17. This act shall take effect immediately, and sections 9
44 through 14 shall apply to first sales of petroleum products within
45 this State and to deliveries of petroleum products for use or
46 consumption within this State made on or after July 1, 2016.

STATEMENT

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This bill adjusts certain State taxes. The various changes in State taxes are described as follows:

The bill reduces the New Jersey sales and use tax rate from 7% to 6.5% on January 1, 2017 and to 6% on January 1, 2018. The bill includes special transition provisions for taxing sales transactions which in one way or another stretch across the tax change date (e.g., contractor purchases, installment purchases, leases, and goods or services with delayed delivery or payment).

The bill provides for increases in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of $2\frac{3}{4}$ percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products, other than highway fuel and other than aviation fuel, to 7 percent of gross receipts, and increases the base rate on highway fuel to 12.5 percent of gross receipts.

The 12.5 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.5 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate will be zero; on and after January 1, 2017 it will be 70 percent of the 12.5 percent rate, and on and after July 1, 2017 it will be taxed at the 12.5 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap for the total tax on highway fuel, under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This is the highway fuel cap amount.

Each 2017 through 2026 the Treasurer, using U.S. Energy Administration projections for gasoline price and consumption in New Jersey and other data, determines what tax rate should be imposed under the petroleum products tax on highway fuel so that the revenues from the motor fuels tax on highway fuel, the 4 cent

1 per gallon petroleum tax and the percentage rate petroleum tax will
 2 result in the State receiving the highway fuel cap amount for the
 3 fiscal year, and the new rate takes effect on October 1. The bill also
 4 has a “true-up” provision: if the rate is too high and the State
 5 overcollects, then in the next year the rate must be adjusted down to
 6 account for the overcollection, and if the State undercollects then
 7 the rate is increased to account for the undercollection.

8 The 7 percent tax on fuel oil is converted to a cents-per-gallon
 9 rate based on the pretax retail price of number 2 fuel oil. These
 10 rates can be adjusted quarterly, but cannot fall below the rates
 11 determined for the quarter beginning July 1, 2016.

12 Initially, the highway fuels will be subject to an additional cents-
 13 per-gallon rate of four cents. On and after July 1, 2017 the
 14 additional rate on diesel fuel and kerosene will be raised to eight
 15 cents per gallon.

16 Aviation fuel will be subject to a 4 cents per gallon tax, and
 17 taxation of common carriers in interstate and foreign commerce will
 18 be limited to the “burnout” portion, both of which are identical to
 19 practice under current law.

20 The bill increases the New Jersey gross income tax pension and
 21 retirement income exclusions fivefold over four years. This is
 22 intended to reduce the capacity of the State’s personal income tax to
 23 diminish the after-tax retirement income available to retired
 24 taxpayers in this State.

25 Generally under current law, taxpayers with \$100,000 or less of
 26 annual income, who are at least 62 years old, may claim a pension
 27 and retirement income exclusion of up to \$20,000 for joint filers,
 28 \$15,000 for individuals, and \$10,000 for married but filing
 29 separately.

30 This bill increases the personal income tax’s pension and
 31 retirement income exclusion to \$100,000 for joint filers, \$75,000
 32 for individuals, and \$50,000 for married but filing separately. The
 33 bill phases in the five-fold exclusion increase over four years as
 34 follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

35
 36 Currently, the pension and retirement income exclusions are not
 37 allowed to a taxpayer who has gross income of more than \$100,000
 38 for the taxable year. For taxable years beginning on or after
 39 January 1, 2021, the bill allows a taxpayer with income of more
 40 than \$100,000 but not over \$125,000 to exclude 50 percent of the
 41 amount of pension and retirement income otherwise allowed and a
 42 taxpayer with more than \$125,000 but not more than \$150,000 of
 43 gross income to exclude 25 percent of the amount otherwise
 44 allowed.

1 The bill establishes a three-member review council, composed of
2 the State Treasurer, the Legislative Budget and Finance Officer, and
3 a third public member selected by both. The review council will
4 report to the Governor and the Legislature by January 15, 2020, on
5 the council's consensus estimate of the increase or decrease in State
6 revenues caused by each section of this bill during the three prior
7 fiscal years compared to the estimates at the time of enactment.

8 The review council will monitor the actions of the Legislature on
9 an ongoing basis for interference with the implementation of the
10 provisions of the bill. If implementation is impeded, (by, for
11 example, delaying a phase-in of an increased tax exclusion, freezing
12 a scheduled rate reduction, or repealing one of the bill's
13 provisions), the council will certify this interference to the Director
14 of the Division of Taxation. This certification triggers the cessation
15 of imposition of one of the components of the petroleum products
16 gross receipts tax, and collection of that part of the tax ends.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO ASSEMBLY, No. 12

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 29, 2016

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 12, with committee amendments.

As amended, this bill adjusts certain State taxes to support strengthened investments in public and private assets in this State.

Estate Tax

The bill phases out the New Jersey estate tax over four years by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current \$675,000 threshold with a “true” exclusion amount initially established at \$2.0 million for decedents dying on or after January 1, 2017, and incorporating the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for decedents dying on or after January 1, 2018, and finally eliminating the estate tax for decedents dying on and after January 1, 2020. Although the federal exclusion amount for calendar year 2016 is \$5,450,000, that exclusion amount will increase in calendar year 2018 and 2019 as it is subject to annual cost - of - living adjustments determined pursuant to the current federal estate law.

The current New Jersey estate tax is determined by reference to a repealed federal credit against a system of federal estate taxation that no longer exists. The former federal credit was part of a national revenue-sharing policy, no longer in effect, that was originally designed to provide to states a portion of what would otherwise have been a high-rate federal tax. Because the mechanics of the current tax are a remnant of that former federal imposition, the New Jersey estate tax is initially imposed at a rate of 37 percent until all the tax that would have been imposed on the value of the estate below \$675,000 is made up. This bill eliminates that tax rate “bump” and provides a true exclusion amount by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law to eliminate the tax imposed on estate values below the statutory exclusion amount.

Under this bill, until the estate tax expires, the estate tax will be imposed on the New Jersey property of nonresident decedents. Currently, the estate tax is only imposed on the property of resident

decedents. The amendment uses a “ratio” method: the estate of a nonresident computes estate tax as though a State resident, then pays the proportion of that liability that the estate’s New Jersey property is of the estate’s total property. This change takes effect for nonresident decedent estates on January 1, 2017.

Veteran’s Personal Exemption

The bill provides an additional annual personal exemption under the New Jersey gross income tax of \$3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

Personal Motor Vehicle Fuel Tax Deduction

The bill provides for an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer’s motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than \$100,000, and will be capped at \$250 for the 2016 taxable year and at \$500 for each taxable year thereafter.

Pension and Retirement Income Exclusion

The bill increases the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This will reduce the State’s personal income tax on retirement income of certain retired taxpayers in this State.

Generally under current law, taxpayers with \$100,000 or less of annual income, who are at least 62 years old, may claim a pension and retirement income exclusion of up to \$20,000 for joint filers, \$15,000 for individuals, and \$10,000 for married but filing separately.

This bill increases the gross income tax pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than \$100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the

amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

Earned Income Tax Credit

The bill increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount. To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status and the number of qualifying dependents.

Petroleum Products Gross Receipts Tax

The bill provides for increases in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2.75 percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products, other than highway fuel and other than aviation fuel, from 2.75 percent to 7 percent of gross receipts, and increases the base rate on highway fuel from 2.75 percent to 12.85 percent of gross receipts. Under the petroleum products gross receipts tax provisions "highway fuel" means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene. The starting date of the new petroleum products gross receipts tax rates for highway fuel, other than diesel fuel, will be the "2016 implementation date," defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. The rate increase on diesel fuel will occur in two steps: (1) with 70% of the rate increase taking effect on January 1, 2017, and (2) the full rate increase effective on July 1, 2017.

The 12.85 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.85 percent tax on diesel fuel, diesel fuel equivalents and kerosene

(other than aviation grade kerosene), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate increase will be zero; on and after January 1, 2017 it will be 70 percent of the 12.85 percent rate, and on and after July 1, 2017 it will be taxed at the 12.85 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined on July 1, 2016.

The bill provides a cap for the total tax on highway fuel under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer will calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This calculated amount is designated as the highway fuel cap amount.

Each fiscal year from 2018 through 2026 the State Treasurer will determine an adjusted tax rate to be imposed beginning each October 1 so that taxes collected from the motor fuels tax on highway fuel and petroleum products tax on highway fuel do not exceed the highway fuel cap amount for any fiscal year. This “true-up” provision will ensure that if the tax rates are too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil (exclusive of fuel oil used for home heating use) is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined on July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene), currently subject to a 4 cents per gallon tax, and imposed on common carriers in interstate and foreign commerce only on the “burnout” portion, will remain unchanged as imposed under current law.

Review Council

The bill establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both. The review council will report to the Governor and the Legislature by January 15, 2020, on the council’s consensus estimate of the increase or decrease in State

revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.

The review council will monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, delaying a phase-in of an increased tax exclusion, freezing a scheduled rate reduction, or repealing one of the bill's provisions), the council will certify this interference to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

As amended and reported, this bill is identical to Senate Bill No. 2411 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) Delete the sections of the bill concerning the sales and use tax rate changes and provides for the following:

(2) Phase out the New Jersey estate tax over four years by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current \$675,000 threshold with a "true" exclusion amount initially established at \$2.0 million for decedents dying on or after January 1, 2017, and incorporating the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for decedents dying on or after January 1, 2018, and finally eliminating the estate tax for decedents dying on and after January 1, 2020. The federal exclusion amount for calendar year 2016 is \$5,450,000, but that exclusion amount will increase in calendar year 2018 and 2019 as it is subject to annual cost - of - living adjustments determined pursuant to the current federal estate tax. For decedents dying on or after January 1, 2020, there will be no tax imposed. This amendment eliminates the current 37% tax rate "bump" and provides a true exclusion amount by abandoning the references to the former federal credit amounts and establishing the necessary mechanics under New Jersey law to eliminate the tax imposed on estate values below the statutory exclusion amount.

The amendment to the estate tax will impose the estate tax on the New Jersey property of nonresident decedents until the estate tax expires. Currently, the estate tax is only imposed on the property of resident decedents. The amendment uses a "ratio" method: the estate of a nonresident computes estate tax as though a State resident, then pays the proportion of that liability that the estate's New Jersey property is of the estate's total property. This change takes effect for nonresident decedent estates on January 1, 2017.

(3) Add to the bill a section that provides under the New Jersey gross income tax an additional annual personal exemption of \$3,000

for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

(4) Add to the bill a section that provides an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer's motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than \$100,000 and will be capped at \$250 for the 2016 taxable year and at \$500 for each taxable year thereafter.

(5) Add to the bill a section that increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount.

(6) Change the following petroleum products gross receipts tax provisions: The amendments change the starting date of the new petroleum products gross receipts tax rates for most highway fuels from July 1, 2016 to the "2016 implementation date," defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. The amendment changes the new tax rate on highway fuel from the 12.5 percent rate in the bill to 12.85 percent. The amendment makes a technical change to the petroleum products exemption section, replacing the undefined term "motor fuel" with the defined term "highway fuel."

FISCAL IMPACT:

The Office of Legislative Services estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between \$848,200,000 to \$852,700,000 in FY 2017, declining thereafter to an estimated gain of between \$279,600,000 to \$346,600,000 in FY 2022. The revenue reductions will be phased in over time, starting with an estimated range of revenue losses between \$145,500,000 to \$150,000,000 in FY 2017 and rising to an estimated range of revenue losses between \$862,000,000 to \$929,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$998,200,000 and stabilizing to an estimated gain of \$1,208,600,000 in FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State Revenue Losses to General Fund (Estate Tax) and Property Tax Relief Fund:						
Estate Tax	(\$16,000,000)	(\$109,000,000)	(\$273,000,000)	(\$377,000,000)	(\$459,000,000)	(\$552,000,000)
<u>GIT (PTRF)</u>						
Vet's Excl.	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
Fuel Tax Deduction	(\$7,500,000) to (\$12,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)
Retirement Income	\$0	(\$60,000,000) to (\$90,000,000)	(\$70,000,000) to (\$105,000,000)	(\$80,000,000) to (\$120,000,000)	(\$85,000,000) to (\$130,000,000)	(\$135,000,000) to (\$193,000,000)
EITC	(\$122,000,000)	(\$124,000,000)	(\$127,000,000)	(\$130,000,000)	(\$133,000,000)	(\$137,000,000)
Total Loss	(\$145,500,000) to (\$150,000,000)	(\$331,000,000) to (\$370,000,000)	(\$508,000,000) to (\$552,000,000)	(\$625,000,000) to (\$674,000,000)	(\$715,000,000) to (\$769,000,000)	(\$862,000,000) to (\$929,000,000)
State Revenue Gain to General Fund:						
12.85% PPGR	\$947,600,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000
7% Non-Motor	\$25,900,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$24,700,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain	\$998,200,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000
Net Total State Revenue	\$852,700,000	\$838,600,000	\$656,600,000	\$534,600,000	\$439,600,000	\$279,600,000
All Funds	\$848,200,000	\$877,600,000	\$700,600,000	\$583,600,000	\$493,600,000	\$346,600,000

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 12

with Senate Floor Amendments
(Proposed by Senators SARLO and OROHO)

ADOPTED: OCTOBER 5, 2016

These Senate amendments reduce the *sales and use tax* rate from 7 percent to 6.875 percent on January 1, 2017 and reduce the rate from 6.875 percent to 6.625 percent on January 1, 2018. The amendments revise the special transition provisions for taxing sales transactions that extend across the tax rate change dates.

The amendments phase out the *estate tax* over two rather than four years, by first replacing the current \$675,000 threshold with a “true” exclusion amount established at \$2.0 million for decedents dying on or after January 1, 2017, and then eliminating the estate tax for decedents dying on and after January 1, 2018. The amendments also eliminate provisions of the bill that provided for the imposition of the estate tax on the New Jersey property of nonresident decedents.

The amendments eliminate provisions of the bill that allowed an annual *gross income tax* deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer’s motor vehicles and not otherwise reimbursed.

The amendments cap the proposed increase in the *gross income tax* pension and retirement income exclusions to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately upon the full, four-year phase-in, by January 1, 2020, of the enhanced exclusion. Under the amendments, the phase in of the increase is as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$45,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

The amendments also eliminate the provision, for taxable years beginning on or after January 1, 2021, that allowed a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

The amendments provide for an increase in the New Jersey Earned Income Tax Credit (NJ EITC) under the *gross income tax* to 35 percent, rather than 40 percent, of the federal benefit amount

beginning in Tax Year 2016. The current statutory benefit amount under the NJ EITC is equal to 30 percent of the federal benefit amount.

The amendments change the “2016 implementation date” for the new *petroleum products gross receipts tax* rates for most highway fuels to the later of November 1, 2016, or the 15th day after the date of enactment of the bill. The bill previously had anticipated a 2016 implementation date of September 1, 2016 or the 15th day after the date of enactment.

The amendments make certain other technical corrections as to punctuation, grammar, and internal cross references contained in the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates this bill, as amended, will significantly reduce sales and use tax, estate tax, and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$544,440,000 in FY 2017, and a gain of between \$555,200,000 and \$585,200,000 in FY 2018. In FY 2019, a smaller net gain of between \$124,500,000 and \$159,500,000 is estimated. Thereafter, the OLS estimates that the bill will result in an annual net revenue decline of between \$23,200,000 and \$63,200,000 in FY 2020, rising to an estimated loss of between \$168,050,000 to \$214,400,000 by FY 2022. The revenue decreases will be phased in over time, starting with an estimated \$170,400,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$1,398,350,000 to \$1,444,700,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$714,840,000 stabilizing to an estimated gain of \$1,230,300,000 for FY 2018 and thereafter from the various fuels tax increases.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State Revenue Loss:						
<u>General Fund</u>						
Sales & Use Tax	(\$92,400,000)	(\$382,200,000)	(\$592,800,000)	(\$613,900,000)	(\$633,800,000)	(\$655,400,000)
Estate Tax	(\$16,000,000)	(\$116,400,000)	(\$320,000,000)	(\$470,100,000)	(\$521,900,000)	(\$561,900,000)
<u>PTRF</u>		(\$60,000,000)	(\$70,000,000)	(\$80,000,000)	(\$85,000,000)	(\$87,550,000)
Pensions	\$0	to (\$90,000,000)	to (\$105,000,000)	to (\$120,000,000)	to (\$130,000,000)	to (\$133,900,000)
Veterans' Exclusion	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
EITC	(\$62,000,000)	(\$63,500,000)	(\$65,000,000)	(\$66,500,000)	(\$68,500,000)	(\$70,500,000)
Total Loss in GF and PTRF	(\$170,400,000)	(\$645,100,000) to (\$675,100,000)	(\$1,070,800,000) to (\$1,105,800,000)	(\$1,253,500,000) to (\$1,293,500,000)	(\$1,332,200,000) to (\$1,377,200,000)	(\$1,398,350,000) to (\$1,444,700,000)
State Revenue Gain:						
12.5% PPGR	\$694,120,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000
7% Non-Motor	\$20,720,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$0	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain, Fuels Taxes	\$714,840,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000
Net Total State Revenue All Funds	\$544,440,000	\$585,200,000 to \$555,200,000	\$159,500,000 to \$124,500,000	(\$23,200,000) to (\$63,200,000)	(\$101,900,000) to (\$146,900,000)	(\$168,050,000) to (\$214,400,000)

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. EITC is Earned Income Tax Credit. PPRG is Petroleum Products Gross Receipts tax.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 12
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JULY 1, 2016

SUMMARY

Synopsis: Increases petroleum products gross receipts tax, reduces sales and use tax and increases gross income tax pension and retirement income exclusion.

Type of Impact: Annual loss of revenue from the Property Tax Relief Fund; annual loss in General Fund revenue.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
State Revenue Loss:						
Sales and Use Tax (GF)	(\$376,000,000)	(\$1,161,000,000)	(\$1,594,000,000)	(\$1,642,000,000)	(\$1,691,000,000)	(\$1,742,000,000)
GIT Pensions (PTRF)	\$0	(\$60,000,000) to (\$90,000,000)	(\$70,000,000) to (\$105,000,000)	(\$80,000,000) to (\$120,000,000)	(\$85,000,000) to (\$130,000,000)	(\$135,000,000) to (\$193,000,000)
Total Loss in GF and PTRF	(\$376,000,000)	(\$1,221,000,000) to (\$1,251,000,000)	(\$1,664,000,000) to (\$1,699,000,000)	(\$1,722,000,000) to (\$1,762,000,000)	(\$1,776,000,000) to (\$1,821,000,000)	(\$1,877,000,000) to (\$1,935,000,000)
State Revenue Gain:						
12.5% PPGR	\$1,029,400,000	\$1,106,900,000	\$1,106,900,000	\$1,106,900,000	\$1,106,900,000	\$1,106,900,000
7% Non-Motor	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$29,700,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain from Fuels Taxes	\$1,090,200,000	\$1,177,600,000	\$1,177,600,000	\$1,177,600,000	\$1,177,600,000	\$1,177,600,000
Net Total State Revenue All Funds	\$714,200,000	(\$43,400,000) to (\$73,400,000)	(\$486,400,000) to (\$521,400,000)	(\$544,400,000) to (\$584,400,000)	(\$598,400,000) to (\$643,400,000)	(\$699,400,000) to (\$757,400,000)

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. PPGR is Petroleum Products Gross Receipts tax.

- The Office of Legislative Services (OLS) estimates this bill will significantly reduce sales and use tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$714,200,000 in FY 2017, reversing to a State revenue loss of between \$43,400,000 to \$73,400,000 in FY 2018, and increasing to an estimated revenue loss of between \$699,400,000 to \$757,400,000 in FY 2022.
- The revenue decreases will be phased in over time, starting with an estimated \$376,000,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$1,877,000,000 to \$1,935,000,000 in FY 2022.
- The revenue increases begin in FY 2017 with an estimated \$1,090,200,000, stabilizing to an estimated \$1,177,600,000 for FY 2018 and thereafter from the various fuels tax increases.

BILL DESCRIPTION

Assembly Bill No. 12 of 2016 bill adjusts various State taxes as follows:

The bill reduces the New Jersey sales and use tax rate from 7% to 6.5% on January 1, 2017 and to 6% on January 1, 2018. The bill includes special transition provisions for taxing sales transactions which in one way or another stretch across the tax change date (e.g., contractor purchases, installment purchases, leases, and goods or services with delayed delivery or payment).

The bill provides for increases in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of $2\frac{3}{4}$ percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products, other than highway fuel and other than aviation fuel, to 7 percent of gross receipts, and increases the base rate on highway fuel to 12.5 percent of gross receipts.

The 12.5 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.5 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate will be zero; on and after January 1, 2017 it will be 70 percent of the 12.5 percent rate, and on and after July 1, 2017 it will be taxed at the 12.5 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap for the total tax on highway fuel, under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon

petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This is the highway fuel cap amount.

Each year from 2017 through 2026 the Treasurer, using U.S. Energy Administration projections for gasoline price and consumption in New Jersey and other data, determines what tax rate should be imposed under the petroleum products tax on highway fuel so that the revenues from the motor fuels tax on highway fuel, the 4 cent per gallon petroleum tax and the percentage rate petroleum tax will result in the State receiving the highway fuel cap amount for the fiscal year, and the new rate takes effect on October 1. The bill also has a “true-up” provision: if the rate is too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel will be subject to a 4 cents per gallon tax, and taxation of common carriers in interstate and foreign commerce will be limited to the “burnout” portion, both of which are identical to practice under current law.

The bill increases the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This is intended to reduce the capacity of the State’s personal income tax to diminish the after-tax retirement income available to retired taxpayers in this State.

Generally under current law, taxpayers with \$100,000 or less of annual income, who are at least 62 years old, may claim a pension and retirement income exclusion of up to \$20,000 for joint filers, \$15,000 for individuals, and \$10,000 for married but filing separately.

This bill increases the personal income tax’s pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than \$100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

The bill establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both. The review council will report to the Governor and the Legislature by January 15, 2020, on the council’s consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.

The review council will monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded,

(by, for example, delaying a phase-in of an increased tax exclusion, freezing a scheduled rate reduction, or repealing one of the bill's provisions), the council will certify this interference to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates this bill will significantly reduce sales and use tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$714,200,000 in FY 2017, reversing to a State revenue loss of between \$43,400,000 to \$73,400,000 in FY 2018, and increasing to an estimated revenue loss of between \$699,400,000 to \$757,400,000 in FY 2022. The revenue decreases will be phased in over time, starting with an estimated \$376,000,000 loss in FY 2017 and rising to an estimated range of between \$1,877,000,000 to \$1,935,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated \$1,090,200,000, stabilizing to an estimated \$1,177,600,000 for FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Sales and Use Tax (GF)

The OLS estimates this bill would reduce annual sales and use tax revenues deposited into the General Fund by \$376 million in FY 2017, \$1.161 billion in FY 2018, \$1.594 billion in FY 2019, \$1.642 billion in FY 2020, \$1.691 billion in FY 2021, and \$1.742 billion in FY 2022.

This estimate is based on OLS projections utilizing the Treasurer's revised revenue estimates for FY 2017, as presented to the Senate and Assembly budget committees in May 2016. The Treasurer estimated sales and use tax revenues of \$9.597.4 billion, plus \$164.2 million from the sales tax on energy, plus \$753.5 million from the municipal share of the sales tax on energy, for total sales and use tax collections of \$10.515 billion for FY 2017. Accordingly, each 1.0 cent of the current 7.0 cent sales and use tax is worth approximately \$1.502 billion. In FY 2017, a six month revenue loss from a 0.5 cent tax reduction would equal an estimated \$376.0 million.

In FY 2018, assuming revenue growth of 3.0%, the total revenue loss would equal approximately \$1.161 billion, including \$387 million attributable to the six month revenue loss from a 0.5 cent tax reduction plus the six month impact of a 1.0 cent tax reduction equal to approximately \$774.0 million. FY 2019 would forego sales and use tax revenues equal to 12 months from a 1.0 cent tax rate decrease, or \$1.594 billion. Thereafter, assuming continued annual growth of 3.0%, the FY 2020 revenue loss would increase to \$1.642 billion, growing to \$1.691 billion in FY 2021, and an estimated \$1.742 billion by FY 2022.

The OLS also notes that the constitutionally required annual transfer of certain dedicated revenues from the sales and use tax to the Property Tax Relief Fund will be unaffected by the sales and use tax revenue reductions under this bill.

Gross Income Tax – Pension and Retirement Income (PTRF)

The OLS estimates the increase in the pension and retirement exclusion will yield a range of potential annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the bill may reduce FY 2018 revenues by between \$60 million and \$90 million, FY 2019 revenues by between \$70 million and \$105 million, FY 2020 revenues by between \$80 million and \$120 million, FY 2021 revenues by between \$85 million and \$130 million, and FY 2022 revenues by between \$135 million and \$193 million. Thereafter revenue losses may grow by between 3.0% and 4.0% annually.

Precise estimates are not possible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under the bill.

The OLS notes that average pension income for senior returns in gross income brackets under \$100,000 varies from approximately \$18,000 at the lower income levels to about \$45,000 at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough pension and retirement income to claim an exclusion near the new maximum levels proposed under this bill. Accordingly, most of the estimated revenue loss from this bill will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under \$100,000 will have maximized their exclusion amount, followed by a larger increase in the fifth year as taxpayer with gross income between \$100,000 and \$150,000 become eligible for a partial exclusion for the first time.

In comparison to the overall revenue losses estimated under this bill, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated \$125.5 million annually. While this bill will increase the current maximum exclusion levels fivefold, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under \$100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels under this bill. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all their pension and other retirement income under current law will see no benefit from this bill. Taxpayers with gross income between \$100,000 and \$150,000 will see a substantial tax benefit on income that is fully taxable under current law but will be partially excluded under the bill.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayer's quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Motor Fuels and Petroleum Taxes

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of three major components: (1) an increase in the tax rate on motor fuels by 12.5 percent with a gradual phase-in of the diesel component; (2) increasing the tax on non-motor fuels

subject to the PPGRT from 2.75% to 7%; and (3) an increase in the tax on diesel fuels by 3 cents per gallon in the first year and 4 cents per gallon in future years. The estimated amounts for these four components are shown in the table below.

Estimated Impact of Various Fuels Tax Changes						
<i>\$ in Millions</i>						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
12.5% PPGR Tax	\$1,029.4	\$1,106.9	\$1,106.9	\$1,106.9	\$1,106.9	\$1,106.9
7% Tax on Non-Motor Fuels PPGR	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1
4 Cent/gal Tax on Diesel PPGR	\$29.7	\$39.6	\$39.6	\$39.6	\$39.6	\$39.6
Total Fuel Taxes	\$1,090.2	\$1,177.6	\$1,177.6	\$1,177.6	\$1,177.6	\$1,177.6

These tax changes are expected to increase PPGRT revenue by \$1.09 billion in FY 2017 and \$1.18 billion per year for FY 2018 and beyond. The bill is structured in a manner that adjusts the cents-per-gallon 12.5% PPGRT tax rate annually to target the amount of revenue generated in FY 2016 when using 23 cents-per-gallon as the 12.5% cents-per-gallon equivalent. This will result in variation of the cents-per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately \$49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The 12.5% rate applied to the current average retail price of \$1.79 after subtracting existing taxes, results in a cents-per-gallon rate of 22.375 cents. This results in revenues of \$1.107 billion. The amount for FY 2017 needs to be reduced according to the phase in schedule for the diesel component. The distribution of motor fuel sales in the State is approximately 80% gasoline and 20% diesel. Applying that ratio to the phase in schedule and reducing the revenue accordingly nets a FY 2017 revenue of \$1.029 billion.

(2) After multiplying the \$49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon, the motor fuels component of the PPGRT is calculated to be \$197.88 million. Subtracting that from the \$218 million in total current PPGRT revenues, the non-motor fuel revenue is calculated to generate \$20.12 million at the 2.75% rate. Using these same ratios, an increase to 7% is likely to generate an additional \$31.1 million in additional revenue per year.

(3) Using the above motor fuel distribution and applying it to the \$49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in \$9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result the FY 2017 revenue from this provision will generate \$29.7 million at the 3 cents-per-gallon rate and \$39.6 million in FY 2018 and beyond from the 4 cents-per-gallon rate.

Review Council

Lastly, the OLS notes that the legislation requires the review council, established in section 13 of the bill, to monitor the actions of the Legislature on an ongoing basis for interference

with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this interference to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases estimated above under the bill, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

Section: Revenue, Finance, and Appropriations

*Analysts: Martin Poethke
Principal Revenue Analyst
Patrick Brennan
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 12

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: AUGUST 4, 2016

SUMMARY

Synopsis: Adjusts certain State taxes to support strengthened investments in public and private assets in this State.

Type of Impact: Annual loss of revenue to the Property Tax Relief Fund; annual gain in General Fund revenue.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
State Revenue Losses to General Fund (Estate Tax) and Property Tax Relief Fund:						
Estate Tax	(\$16,000,000)	(\$109,000,000)	(\$273,000,000)	(\$377,000,000)	(\$459,000,000)	(\$552,000,000)
<u>GIT (PTRF)</u>						
Vet's Excl.	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
Fuel Tax Deduction	(\$7,500,000) to (\$12,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)
Retirement Income	\$0	(\$60,000,000) to (\$90,000,000)	(\$70,000,000) to (\$105,000,000)	(\$80,000,000) to (\$120,000,000)	(\$85,000,000) to (\$130,000,000)	(\$135,000,000) to (\$193,000,000)
EITC	(\$122,000,000)	(\$124,000,000)	(\$127,000,000)	(\$130,000,000)	(\$133,000,000)	(\$137,000,000)
Total Loss	(\$145,500,000) to (\$150,000,000)	(\$331,000,000) to (\$370,000,000)	(\$508,000,000) to (\$552,000,000)	(\$625,000,000) to (\$674,000,000)	(\$715,000,000) to (\$769,000,000)	(\$862,000,000) to (\$929,000,000)
State Revenue Gain to General Fund:						
12.85% PPGR	\$947,600,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000
7% Non-Motor	\$25,900,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$24,700,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain	\$998,200,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000
Net Total State Revenue All Funds	\$848,200,000 to \$852,700,000	\$838,600,000 to \$877,600,000	\$656,600,000 to \$700,600,000	\$534,600,000 to \$583,600,000	\$439,600,000 to \$493,600,000	\$279,600,000 to \$346,600,000

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. EITC is Earned Income Tax Credit. PPGR is Petroleum Products Gross Receipts tax.

- The Office of Legislative Services (OLS) estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between \$848,200,000 to \$852,700,000 in FY 2017, declining thereafter to an estimated gain of between \$279,600,000 to \$346,600,000 in FY 2022.
- The revenue reductions will be phased in over time, starting with an estimated range of revenue losses between \$145,500,000 to \$150,000,000 in FY 2017 and rising to an estimated range of revenue losses between \$862,000,000 to \$929,000,000 in FY 2022.
- The revenue increases begin in FY 2017 with an estimated gain of \$998,200,000 and stabilizing to an estimated gain of \$1,208,600,000 in FY 2018 and thereafter from the various fuels tax increases.

BILL DESCRIPTION

Assembly Bill No. 12 (1R) of 2016 bill adjusts various State taxes as follows:

Estate Tax

The bill phases out the New Jersey estate tax over four years by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current \$675,000 threshold with a “true” exclusion amount initially established at \$2.0 million for decedents dying on or after January 1, 2017, and incorporating the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for decedents dying on or after January 1, 2018 and finally eliminating the estate tax for decedents dying on and after January 1, 2020. Although the federal exclusion amount for calendar year 2016 is \$5,450,000, that exclusion amount will increase in calendar year 2018 and 2019 as it is subject to annual cost - of - living adjustments determined pursuant to the current federal estate law.

The current New Jersey estate tax is determined by reference to a repealed federal credit against a system of federal estate taxation that no longer exists. The former federal credit was part of a national revenue-sharing policy, no longer in effect, that was originally designed to provide states a portion of what would otherwise have been a high-rate federal tax. Because the mechanics of the current tax are a remnant of that former federal imposition, the New Jersey estate tax is initially imposed at a rate of 37 percent until all the tax that would have been imposed on the value of the estate below \$675,000 is made up. This bill eliminates that tax rate “bump” and provides a true exclusion amount by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law to eliminate the tax imposed on estate values below the statutory exclusion amount. Under this bill, until the estate tax expires, the estate tax will be imposed on the New Jersey property of nonresident decedents. Currently, the estate tax is only imposed on the property of resident decedents. The amendment uses a “ratio” method: the estate of a nonresident computes estate tax as though a State resident, then pays the proportion of that liability that the estate’s New Jersey property is of the estate’s total property. This change takes effect for nonresident decedent estates on January 1, 2017.

Veteran's Personal Exemption

The bill provides an additional annual personal exemption under the New Jersey gross income tax of \$3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

Personal Motor Vehicle Fuel Tax Deduction

The bill provides for an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer's motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than \$100,000, and will be capped at \$250 for the 2016 taxable year and at \$500 for each taxable year thereafter.

Pension and Retirement Income Exclusion

The bill increases the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This will reduce the State's personal income tax on retirement income of certain retired taxpayers in this State.

Generally under current law, taxpayers with \$100,000 or less of annual income, who are at least 62 years old, may claim a pension and retirement income exclusion of up to \$20,000 for joint filers, \$15,000 for individuals, and \$10,000 for married but filing separately.

This bill increases the gross income tax pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than \$100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

Earned Income Tax Credit

The bill increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount. To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status, and the number of qualifying children.

Petroleum Products Gross Receipts Tax

The bill provides for increases in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2.75 percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products, other than highway fuel and other than aviation fuel, from 2.75 percent to 7 percent of gross receipts, and increases the base rate on highway fuel from 2.75 percent to 12.85 percent of gross receipts. Under the petroleum products gross receipts tax provisions “highway fuel” means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene. The starting date of the new petroleum products gross receipts tax rates for highway fuel, other than diesel fuel, will be the “2016 implementation date,” defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. The rate increase on diesel fuel will occur in two steps: (1) with 70 percent of the rate increase taking effect on January 1, 2017, and (2) the full rate increase effective on July 1, 2017.

The 12.85 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.85 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate will be zero; on and after January 1, 2017 it will be 70 percent of the 12.85 percent rate, and on and after July 1, 2017 it will be taxed at the 12.85 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap for the total tax on highway fuel under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer will calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This calculated amount is designated as the highway fuel cap amount.

Each fiscal year from 2018 through 2026 the State Treasurer will determine an adjusted tax rate to be imposed beginning each October 1 so that taxes collected from the motor fuels tax on highway fuel and petroleum products tax on highway fuel do not exceed the highway fuel cap amount for any fiscal year. This “true-up” provision will ensure that if the tax rates are too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil (exclusive of fuel oil used for home heating use) is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene), currently subject to a 4 cents per gallon tax, and imposed on common carriers in interstate and foreign commerce only on the “burnout” portion, will remain unchanged as imposed under current law.

Review Council

The bill establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both. The review council will report to the Governor and the Legislature by January 15, 2020, on the council's consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.

The review council will monitor on an ongoing basis the actions of the Legislature that halt, delay or reverse the implementation of the provisions of the bill. If implementation is impeded (by, for example, delaying a phase-in of an increased tax exclusion, freezing a scheduled rate reduction, or repealing one of the bill's provisions), the council will certify that this has occurred to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between \$848,200,000 to \$852,700,000 in FY 2017, declining thereafter to an estimated gain of between \$279,600,000 to \$346,600,000 in FY 2022. The revenue reductions will be phased in over time, starting with an estimated range of revenue losses between \$145,500,000 to \$150,000,000 in FY 2017 and rising to an estimated range of revenue losses between \$862,000,000 to \$929,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$998,200,000 and stabilizing to an estimated gain of \$1,208,600,000 in FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Estate Tax (GF)

The OLS estimates this bill would reduce annual estate tax revenues deposited into the General Fund by \$16.0 million in FY 2017, \$109.0 million in FY 2018, \$273.0 million in FY 2019, \$377.0 million in FY 2020, \$459.0 million in FY 2021, and \$552.0 million in FY 2022. The amount of revenue foregone to the General Fund will continue to change with the value of estates.

Given that estates typically take nine months to complete the tax filing process and that tax payments may extend for several years, this bill would have a relatively small fiscal impact in FY 2017. The significant impact would begin in FY 2018 and would be fully phased-in during subsequent years. As the exclusion thresholds are phased up, the tax "bump" (that part of the tax imposed on estate values below the threshold amounts) would be replaced by a "true" tax exclusion amount each year. The OLS estimates the annual revenue loss at each step of the process as follows:

Estimated Impact of Estate Tax Change			
Fiscal Year	Est. Estate Tax Revenue Current Law	Est. Estate Tax Revenue Under Bill	Est. Revenue Loss Under Bill
2017	\$464,000,000	\$448,000,000	\$16,000,000
2018	\$485,000,000	\$376,000,000	\$109,000,000
2019	\$507,000,000	\$234,000,000	\$273,000,000
2020	\$530,000,000	\$153,000,000	\$377,000,000
2021	\$552,000,000	\$93,000,000	\$459,000,000
2022	\$579,000,000	\$27,000,000	\$552,000,000
After 2022	The amount of revenue forgone will continue to change with the value of estates.		

These estimates are based on Treasury data from FY 2014, the most recent year for which OLS has tax collections data by size of estate, during which the estate tax accounted for \$320.0 million in revenue. The OLS does not have estate tax data for the two most recent years, FY 2015 and FY 2016, but based on strong growth in overall estate and inheritance revenues and historical patterns suggesting greater growth in the estate tax portion, the OLS estimates 18 percent annual growth in total estate tax revenue during those years, yielding estimated collections of \$444.0 million in FY 2016. For FY 2017 and thereafter the OLS assumes annual growth of 4.5 percent, in line with overall average growth in the last decade. For the phase-in years, the OLS applied the annual growth to estate tax amounts at the different levels of the value of estates, as detailed in the Treasury data. The impact of the tax changes under this bill was further distributed across multiple years based on indications that estate tax payments are made over several years rather than in one lump sum. In addition, the OLS estimated the impact of eliminating the “bump” using the number of estates at each level applied to the tax table amounts from the Division of Taxation’s estate tax worksheet.

Data from the Department of the Treasury indicate that this bill, once fully implemented, would eliminate the estate tax on approximately 3,500 estates annually. This number equals about 5 percent of the approximately 70,000 deaths reported by the Department of Health each year in the State.

The bill also imposes the estate tax on the property of certain nonresident decedents. While this provision should increase State tax revenue during the years before the estate tax is fully repealed, the OLS has no data with which to estimate the potential revenue gain for the years prior to full repeal of the estate tax.

The OLS notes that the estate tax is a volatile revenue source. Much of that volatility reflects assets such as stocks, which can see sharp increases and decreases in value, as measured by the major stock indexes such as the Standard and Poor’s 500 index. Accordingly, a prolonged or severe “bear” or “bull” market could indicate subsequent downward or upward volatility in the potential value of the forgone revenues under this bill.

Gross Income Tax – Veteran’s Exclusion (PTRF)

The OLS estimates the \$3,000 exclusion for certain veterans under this bill may reduce GIT revenues by an estimated \$23,000,000 annually. The State’s published gross income tax statistics do not reveal how many veterans currently face a GIT liability each year, so the potential number of taxpayers who may benefit from this additional personal exemption is unknown. However, a \$3,000 personal exemption may provide an average tax benefit of \$105.00 when assuming an average marginal tax rate of 3.50 percent. According to the federal Department of Veterans Affairs, there were 428,396 living veterans in New Jersey in 2014. While a majority of seniors do not have an annual New Jersey GIT liability, about 55 percent of

New Jersey veterans are age 65 or older. Low income joint filers with less than \$20,000 gross income (\$10,000 for single or separate filers) also do not owe State GIT. Accordingly, it is possible that more than half of all New Jersey veterans do not currently have a State GIT liability and would therefore not gain a tax benefit from the \$3,000 veterans exemption under this bill. Assuming about 220,000 veterans currently have a State GIT liability and would therefore gain an estimated average tax benefit of \$105.00 from a \$3,000 personal exemption, the potential tax savings, or potential State revenue loss, may equal about \$23,000,000 annually.

Gross Income Tax – Fuels Tax Deduction (PTRF)

The OLS estimates the GIT deduction for certain motor fuels expenditures may reduce revenues by between \$7,500,000 to \$12,000,000 in FY 2017, rising to between \$15,000,000 to \$24,000,000 in FY 2018 and thereafter. Precise figures on the number of potential taxpayers who may claim the deduction are not available. According to data from the Division of Taxation's annual *Statistics of Income (SOI)* publication, there are about 2.0 million taxable returns with income below \$100,000, the income limit under this bill. Tax benefits will vary widely based on applicable marginal tax rates and the amount deducted. A single filer with income between \$75,000 and \$100,000 deducting the bill's \$500 maximum would see a tax benefit at the 6.37 percent marginal tax rate of \$31.85. A taxpayer with \$25,000 income deducting the \$500 maximum would see a tax benefit at the 1.75 percent marginal rate of \$8.75. Smaller claimed deductions would yield lesser benefits. A married joint filer with \$75,000 income claiming a \$200 deduction (one vehicle at 13,000 annual miles at 24 miles per gallon taxed at 37 cents per gallon) would see a tax benefit at the 3.5 percent marginal rate of \$7.00. Assuming the average tax benefit ranges between \$7.50 to \$12.00 per tax return for 2.0 million returns yields an estimated range of State revenue losses between \$15,000,000 to \$24,000,000 annually once the bill is fully implemented in the second year. The first year of the bill allows for half the maximum benefit, reducing the estimated FY 2017 revenue loss to between \$7,500,000 to \$12,000,000.

Gross Income Tax – Pension and Retirement Income (PTRF)

The OLS estimates the increase in the pension and retirement exclusion will yield a range of potential annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the bill may reduce FY 2018 revenues by between \$60 million and \$90 million, FY 2019 revenues by between \$70 million and \$105 million, FY 2020 revenues by between \$80 million and \$120 million, FY 2021 revenues by between \$85 million and \$130 million, and FY 2022 revenues by between \$135.0 million and \$193.0 million. Thereafter revenue losses may grow by between 3.0 percent and 4.0 percent annually.

Precise estimates are not possible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under the bill.

The OLS notes that average pension income for senior returns in gross income brackets under \$100,000 varies from approximately \$18,000 at the lower income levels to about \$45,000 at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough

pension and retirement income to claim an exclusion near the new maximum levels proposed under this bill. Accordingly, most of the estimated revenue loss from this bill will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under \$100,000 will have maximized their exclusion amount.

In comparison to the overall revenue losses estimated under this bill, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated \$125.5 million annually. While this bill will increase the current maximum exclusion levels fivefold, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under \$100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels under this bill. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all their pension and other retirement income under current law will see no benefit from this bill.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayer's quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Gross Income Tax – Earned Income Tax Credit (PTRF)

The OLS estimates that the Earned Income Tax Credit (EITC) portion of this bill may reduce gross income tax revenues deposited into the Property Tax Relief Fund by about \$122.0 million in FY 2017, \$124.0 million in FY 2018, and \$127.0 million in FY 2019. In future years, growth of about 2.0 percent per year may continue.

The NJ EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State's gross income tax. The OLS estimate begins with the Executive's assessment that the recent increase of the NJ EITC, from 20 percent to 30 percent of the federal credit (P.L. 2015, c.73), would reduce gross income tax revenues by \$122.0 million in FY 2016, as reported on pages 30 and 33 in the FY 2017 Budget Summary. The increase under this bill, from 30 percent of the federal credit to 40 percent, is projected to have the same incremental impact as the previously enacted increase. Historically, the federal credit amounts have grown by approximately 2.0 percent annually, but recent Internal Revenue Service data indicate the value of federal credits may grow by less than 1.0 percent in 2016. Lower levels of growth in the federal benefit, combined with the New Jersey Division of Taxation's recent enhanced enforcement efforts, suggests growth in the State program may be contained in FY 2017, the first year under this bill. Accordingly, the OLS assumes a revenue loss of \$122.0 million in FY 2017 and a historical 2.0 percent rate of growth annually thereafter.

Based on available federal Internal Revenue Service preview data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by \$255, from \$708 in TY 2015 to approximately \$963 in TY 2016. According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. It is noted, however, that the number of taxpayers receiving an EITC in recent years has experienced some variance due in part to the Division of Taxation's enforcement efforts.

Motor Fuels and Petroleum Taxes (GF)

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of three major components: (1) an increase in the tax rate on motor fuels by 12.85 percent and a phase-in of the diesel component; (2) increasing the tax on non-motor fuels subject to the PPGRT from 2.75 percent to 7 percent; and (3) an increase in the tax on diesel fuels by 3 cents per gallon in the first year and 4 cents per gallon in future years. The estimated amounts for these four components are shown in the table below.

Estimated Impact of Various Fuels Tax Changes						
<i>\$ in Millions</i>						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
12.85% PPRG Tax	\$947.6	\$1,137.9	\$1,137.9	\$1,137.9	\$1,137.9	\$1,137.9
7% Tax on Non-Motor Fuels PPGR	\$25.9	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1
4 Cent/gal Tax on Diesel PPGR	\$24.7	\$39.6	\$39.6	\$39.6	\$39.6	\$39.6
Total Fuel Taxes	\$998.2	\$1,208.6	\$1,208.6	\$1,208.6	\$1,208.6	\$1,208.6

These tax changes are expected to increase total PPGRT revenue by about \$998.2 million in FY 2017 and \$1.21 billion per year for FY 2018 and beyond. The bill is structured in a manner that adjusts the cents-per-gallon 12.85 percent PPGRT tax rate annually to target the amount of revenue generated in FY 2016 when using 23 cents-per-gallon as the 12.85 percent cents-per-gallon equivalent. This will result in variation of the cents-per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately \$49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The 12.85 percent rate applied to the current average retail price of \$1.79 after subtracting existing taxes, results in a cents-per-gallon rate of 23 cents. This results in revenues of \$1.138 billion annually. The amount for FY 2017 needs to be reduced according to the phase in schedule for the diesel component, and also for collections occurring during less than 12 months in the first year. The distribution of motor fuel sales in the State is approximately 80 percent gasoline and 20 percent diesel. Applying that ratio to the phase in schedule and reducing the revenue accordingly nets a FY 2017 revenue of \$947.6 million for 10 months.

(2) After multiplying the \$49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon, the motor fuels component of the PPGRT is calculated to be \$197.88 million. Subtracting that from the \$218 million in total current PPGRT revenues, the non-motor fuel revenue is calculated to generate \$20.12 million at the 2.75 percent rate. Using these same ratios, an increase to 7 percent is likely to generate an additional \$31.1 million in additional revenue per year. The FY 2017 amount is reduced to account for collections occurring during less than 12 months in the first year.

(3) Using the above motor fuel distribution and applying it to the \$49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in \$9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result the FY 2017 revenue from this

provision will generate \$29.7 million at the 3 cents-per-gallon rate and \$39.6 million in FY 2018 and beyond from the 4 cents-per-gallon rate. The FY 2017 amount is reduced to account for collections occurring during less than 12 months in the first year.

Review Council

Lastly, the OLS notes that the legislation requires the review council, established in section 13 of the bill, to monitor on an ongoing basis the actions of the Legislature that modify the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this occurrence to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases estimated above under the bill, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

Section: Revenue, Finance, and Appropriations

*Analysts: Martin Poethke
Principal Revenue Analyst
Patrick Brennan
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*Approved: Frank W. Haines III
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 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 12

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: OCTOBER 12, 2016

SUMMARY

Synopsis: Adjusts certain State taxes to support strengthened investments in public and private assets in this State.

Type of Impact: Annual loss of revenue from the Property Tax Relief Fund and the General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State Revenue Loss:						
General Fund						
Sales & Use Tax	(\$92,400,000)	(\$382,200,000)	(\$592,800,000)	(\$613,900,000)	(\$633,800,000)	(\$655,400,000)
Estate Tax	(\$16,000,000)	(\$116,400,000)	(\$320,000,000)	(\$470,100,000)	(\$521,900,000)	(\$561,900,000)
PTRF		(\$60,000,000)	(\$70,000,000)	(\$80,000,000)	(\$85,000,000)	(\$87,550,000)
Pensions	\$0	to (\$90,000,000)	to (\$105,000,000)	to (\$120,000,000)	to (\$130,000,000)	to (\$133,900,000)
Veterans' Exclusion	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
EITC	(\$62,000,000)	(\$63,500,000)	(\$65,000,000)	(\$66,500,000)	(\$68,500,000)	(\$70,500,000)
Total Loss in GF and PTRF	(\$170,400,000)	to (\$645,100,000) to (\$675,100,000)	to (\$1,070,800,000) to (\$1,105,800,000)	to (\$1,253,500,000) to (\$1,293,500,000)	to (\$1,332,200,000) to (\$1,377,200,000)	to (\$1,398,350,000) to (\$1,444,700,000)
State Revenue Gain:						
12.5% PPGR	\$694,120,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000
7% Non-Motor	\$20,720,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$0	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain, Fuels Taxes	\$714,840,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000
Net Total State Revenue All Funds	\$544,440,000	\$585,200,000 to \$555,200,000	\$159,500,000 to \$124,500,000	(\$23,200,000) to (\$63,200,000)	(\$101,900,000) to (\$146,900,000)	(\$168,050,000) to (\$214,400,000)

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. EITC is Earned Income Tax Credit. PPRG is Petroleum Products Gross Receipts tax.

- The Office of Legislative Services estimates this bill will significantly reduce sales and use tax, estate tax, and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$544,440,000 in FY 2017, and a gain of between \$555,200,000 and \$585,200,000 in FY 2018. In FY 2019, a smaller net gain of between \$124,500,000 and \$159,500,000 is estimated. Thereafter, the OLS estimates that the bill will result in an annual net revenue decline of between \$23,200,000 and \$63,200,000 in FY 2020, rising to an estimated loss of between \$168,050,000 and \$214,400,000 by FY 2022.
- The revenue decreases will be phased in over time, starting with an estimated \$170,400,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$1,398,350,000 and \$1,444,700,000 in FY 2022.
- The revenue increases begin in FY 2017 with an estimated gain of \$714,840,000 stabilizing to an estimated gain of \$1,230,300,000 for FY 2018 and thereafter from the various fuels tax increases.

BILL DESCRIPTION

Assembly Bill No. 12 (2R) of 2016 bill adjusts various State taxes as follows:

- Sections 1 – 6: Reduce the rate of the New Jersey sales and use tax from 7% to 6.875% on January 1, 2017 and to 6.625% on January 1, 2018. The bill includes special transition provisions for taxing certain sales transactions that stretch across the tax rate change dates.
- Section 7: Phases out the New Jersey estate tax by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current \$675,000 threshold with a “true” exclusion amount initially established at \$2.0 million for decedents dying on or after January 1, 2017, and eliminating the estate tax for decedents dying on and after January 1, 2018.
- Section 8: Provides an annual personal exemption under the New Jersey gross income tax of \$3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.
- Sections 9 – 10: Increases the gross income tax pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$45,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

The bill retains provisions in current law that exclude taxpayers having gross income of more than \$100,000 for the taxable year from receiving the benefit of the pension and retirement income exclusions.

- Section 11: Increases the New Jersey Earned Income Tax Credit (NJ EITC) from 30 percent to 35 percent of the federal benefit amount beginning in Tax Year 2016.
- Sections 12 – 18: Increases the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.
- Section 19: Establishes a three-member review council to report to the Governor and the Legislature on the council's consensus estimate of the increase or decrease in State revenues caused by each section of this bill, and to monitor the actions of the Legislature on an ongoing basis for modification of the implementation of the bill's tax changes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates this bill will significantly reduce sales and use tax, estate tax, and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$544,440,000 in FY 2017, and a gain of between \$555,200,000 and \$585,200,000 in FY 2018. In FY 2019, a smaller net gain of between \$124,500,000 and \$159,500,000 is estimated. Thereafter, the OLS estimates that the bill will result in an annual net revenue decline of between \$23,200,000 and \$63,200,000 in FY 2020, rising to an estimated loss of between \$168,050,000 and \$214,400,000 by FY 2022. The revenue decreases will be phased in over time, starting with an estimated \$170,400,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$1,398,350,000 and \$1,444,700,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$714,840,000 stabilizing to an estimated gain of \$1,230,300,000 for FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Sales and Use Tax (GF)

The OLS estimates this bill will reduce annual sales and use tax revenues deposited into the General Fund by \$92.4 million in FY 2017, \$382.2 million in FY 2018, \$592.8 million in FY 2019, \$613.9 million in FY 2020, \$633.8 million in FY 2021, and \$655.4 million in FY 2022.

This estimate is based on OLS extrapolations from the Governor's certified revenue estimates for FY 2017. The certification estimated sales and use tax revenues of \$9.597 billion, plus \$164.2 million from the sales tax on energy, plus \$753.5 million from the municipal share of the sales tax on energy, for total sales and use tax collections of \$10.515 billion for FY 2017.

Accordingly, each 1/8th of a cent of the current 7.0 cent sales and use tax is worth about \$186.0 million.

In FY 2017 the sales and use tax revenue loss from a 1/8th cent tax decrease for six months would equal an estimated \$92.4 million. Assuming annual sales tax revenue growth between 3.0% and 3.5%, and an additional 2/8ths cent tax rate decrease on January 1, 2018, revenues would decline by \$382.2 million in FY 2018, by \$592.8 million in FY 2019, by \$613.9 million in FY 2020, by \$633.8 million in FY 2021, and the revenue loss would increase to an estimated \$655.4 million in FY 2022.

Estate Tax (GF)

The OLS estimates the elimination of the estate tax in two steps by January 1, 2018 and the incorporation of a “true” exclusion amount for estates below the applicable exclusion amounts, will reduce annual estate tax revenues deposited into the General Fund by \$16.0 million in FY 2017, \$116.4 million in FY 2018, \$320.0 million in FY 2019, \$470.1 million in FY 2020, \$521.9 million in FY 2021, and \$561.9 million in FY 2022. The amount of revenue forgone will continue to change with the value of estates.

Given that estates typically take nine months to complete the tax filing process, this bill would have a relatively small fiscal impact in FY 2017. Significant impacts would begin in FY 2018 and would be fully phased-in over subsequent years. The OLS estimates the annual revenue loss at each step of the process as follows:

Estimated Impact of Estate Tax Change			
Fiscal Year	Est. Estate Tax Revenue Current Law	Est. Estate Tax Revenue Under Bill	Est. Revenue Loss Under Bill
2017	\$464,000,000	\$448,000,000	\$16,000,000
2018	\$485,000,000	\$368,600,000	\$116,400,000
2019	\$507,000,000	\$187,000,000	\$320,000,000
2020	\$530,000,000	\$59,900,000	\$470,100,000
2021	\$554,000,000	\$32,100,000	\$521,900,000
2022	\$579,000,000	\$17,100,000	\$561,900,000
After 2022	The amount of revenue forgone will continue to change with the value of estates.		

These estimates are based on Treasury data from FY 2014, the most recent year for which OLS has tax collections data by size of estate, during which the estate tax accounted for \$320.0 million in revenue. In the two most recent years, FY 2014 and FY 2015, total estate and inheritance taxes increased by 10% and 15% respectively, while growth over the last five completed years has averaged about 7%. The OLS assumes annual growth in future years of 4.5%. For the phase-in years, the OLS applied the annual growth to estate tax amounts at the different levels of the value of estates, as detailed in the Treasury data. In addition, the OLS estimated the impact of eliminating the “bump” below the “true” exclusion amounts using the number of estates at each level applied to the tax table amounts from the Division of Taxation’s estate tax worksheet.

Data from the Department of the Treasury indicate that this bill, once fully implemented, would eliminate the estate tax on approximately 3,500 estates annually. This number equals about 5% of the approximately 70,000 deaths reported by the Department of Health each year in the State.

The OLS notes that the estate tax is a volatile revenue source. Much of that volatility reflects assets such as stocks, which can see sharp increases and decreases in value, as measured by the

major stock indexes such as the Standard and Poor's 500 index. Accordingly, a prolonged or severe "bear" or "bull" market could indicate subsequent downward or upward volatility in the potential value of the forgone revenues under this bill. In addition, there may be some remnant of estate tax revenue received over a number of fiscal years to the extent that some estates may face longer delays in filings and processing.

Gross Income Tax – Pension and Retirement Income (PTRF)

The OLS estimates the increase in the pension and retirement exclusion will yield a range of potential annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the bill may reduce FY 2018 revenues by between \$60 million and \$90 million, FY 2019 revenues by between \$70 million and \$105 million, FY 2020 revenues by between \$80 million and \$120 million, and FY 2021 revenues by between \$85 million and \$130 million. For FY 2022 and thereafter revenue losses may grow by about 3.0% annually.

Precise estimates are not possible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under the bill.

The OLS notes that average pension income for senior returns in gross income brackets under \$100,000 varies from approximately \$18,000 at the lower income levels to about \$45,000 at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough pension and retirement income to claim an exclusion near the new maximum levels proposed under this bill. Accordingly, most of the estimated revenue loss from this bill will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under \$100,000 will have maximized their exclusion amount.

In comparison to the overall revenue losses estimated under this bill, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated \$125.5 million annually. While this bill will increase the current maximum exclusion levels to five times the current limit, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under \$100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels under this bill. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all their pension and other retirement income under current law will see no benefit from this bill.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayers' quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Gross Income Tax – Veterans’ Exclusion (PTRF)

The OLS estimates the \$3,000 exclusion for certain veterans under this bill may reduce GIT revenues by an estimated \$23,000,000 annually. The State’s published gross income tax statistics do not reveal how many veterans currently face a GIT liability each year, so the potential number of taxpayers who may benefit from this additional personal exemption is unknown. However, a \$3,000 personal exemption may provide an average tax benefit of \$105.00 when assuming an average marginal tax rate of 3.50%. According to the federal Department of Veterans Affairs, there were 428,396 living veterans in New Jersey in 2014. A majority of senior citizens do not have an annual New Jersey GIT liability; about 55% of New Jersey veterans are age 65 or older. Low income joint filers with less than \$20,000 gross income (\$10,000 for single or separate filers) also do not owe State GIT. Accordingly, it is possible that more than half of all New Jersey veterans do not currently have a State GIT liability and would therefore not gain a tax benefit from the \$3,000 veterans exemption under this bill. Assuming about 220,000 veterans currently have a State GIT liability and would therefore gain an estimated average tax benefit of \$105.00 from a \$3,000 personal exemption, the potential tax savings, or potential State revenue loss, may equal about \$23,000,000 annually beginning in FY 2018.

Gross Income Tax – Earned Income Tax Credit (PTRF)

The OLS estimates that the Earned Income Tax Credit (EITC) portion of this bill may reduce gross income tax revenues deposited into the Property Tax Relief Fund by about \$62.0 million in FY 2017, \$63.5 million in FY 2018, \$65.0 million in FY 2019, \$66.5 million in FY 2020, \$68.5 million in FY 2021, and \$70.5 million in FY 2022. In future years, growth of about 2.0 percent per year may continue.

The NJ EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State’s gross income tax. The OLS estimate begins with the Executive’s assessment that the recent increase of the NJ EITC, from 20 percent to 30 percent of the federal credit (P.L. 2015, c.73), would reduce gross income tax revenues by \$122.0 million in FY 2016, as reported on pages 30 and 33 in the FY 2017 Budget Summary. The increase under this bill, from 30 percent of the federal credit to 35 percent, is projected to have approximately half the incremental impact as the previously enacted increase. Historically, the federal credit amounts have grown by approximately 2.0 percent annually, but recent Internal Revenue Service preview data indicate the value of federal credits may grow by less than 1.0 percent in 2016. Lower levels of growth in the federal benefit, combined with the New Jersey Division of Taxation’s recent enhanced enforcement efforts, suggests growth in the State program may be contained in FY 2017, the first year of impact under this bill. Accordingly, the OLS assumes a revenue loss of \$62.0 million in FY 2017 with low growth annually thereafter.

Based on available federal Internal Revenue Service preview data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by about \$128, from \$708 in TY 2015 to approximately \$836 in TY 2016. According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. It is noted, however, that the number of taxpayers receiving an EITC in recent years has experienced some variance due in part to the Division of Taxation’s enforcement efforts.

Motor Fuels and Petroleum Taxes

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of three major components: (1) an increase in the tax rate on motor fuels by 12.85 percent with a phase-in of the diesel component; (2) increasing the tax on non-motor fuels subject to the PPGRT from 2.75% to 7%; and (3) an increase in the tax on diesel fuels by 4 cents per gallon in in FY 2018 and beyond. The estimated amounts for these components are shown in the table below.

Estimated Impact of Various Petroleum Products Tax Changes						
<i>\$ in Millions</i>						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
12.85% PPGR Tax	\$694.1	\$1,159.6	\$1,159.6	\$1,159.6	\$1,159.6	\$1,159.6
7% Tax on Non-Motor Fuels PPGR	\$20.7	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1
4 Cent/gal Tax on Diesel PPGR	\$0	\$39.6	\$39.6	\$39.6	\$39.6	\$39.6
Total Fuel Taxes	\$714.8	\$1,230.3	\$1,230.3	\$1,230.3	\$1,230.3	\$1,230.3

These tax changes are expected to increase PPGR revenue by about \$714.8 million in FY 2017, assuming eight months of collections, and about \$1.23 billion per year for FY 2018 and beyond. The bill is structured in a manner that adjusts the cents-per-gallon 12.85% PPGRT tax rate annually to target the amount of revenue generated in FY 2016 when using 23 cents-per-gallon on gasoline as the 12.85% cents-per-gallon equivalent. This will result in variation of the cents-per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately \$49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The 12.85% rate applied to the current average retail price of \$1.79 for gasoline after subtracting existing taxes, results in a cents-per-gallon rate of 23 cents. This results in revenues of \$1.16 billion. The amount for FY 2017 needs to be reduced according to the phase-in schedule for the diesel component and due to only eight months of tax collections in FY 2017. The distribution of motor fuel sales in the State is approximately 80% gasoline and 20% diesel. Applying that ratio to the phase-in schedule and reducing the revenue accordingly nets a FY 2017 revenue of \$694.1 million over eight months.

(2) Multiplying the \$49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon, the motor fuels component of the PPGRT is calculated to be \$197.88 million. Subtracting that from the \$218 million in total FY 2016 PPGRT revenues, the non-motor fuel revenue is calculated to generate \$20.12 million at the 2.75% rate. Using these same ratios, an increase to 7% is likely to generate an additional \$31.1 million in additional revenue per year. The FY 2017 \$20.7 million amount reflects eight months of collections.

(3) Using the above motor fuel distribution and applying it to the \$49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in \$9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result, the additional 4 cents-per-gallon

rate above the existing 4 cents-per-gallon rate imposed by the PPGRT will generate \$39.6 million beginning in FY 2018.

Review Council

Lastly, the OLS notes that the legislation requires the review council established in section 13 of the bill to monitor the actions of the Legislature on an ongoing basis for revisions to the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this action to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases estimated above under the bill, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

Section: Revenue, Finance, and Appropriations

*Analysts: Martin Poethke
Principal Revenue Analyst
Patrick Brennan
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
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 (C.52:13B-6 et seq.).

SENATE, No. 2411

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED JUNE 20, 2016

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Adjusts certain State taxes to support strengthened investments in public, private, and charitable assets in this State.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT adjusting certain State taxes to support strengthened
2 investments in public, private, and charitable assets in this State,
3 amending and supplementing various parts of the statutory law
4 pertaining to taxes of this State.

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

8
9 1. R.S.54:38-1 is amended to read as follows:

10 54:38-1. a. In addition to the inheritance, succession or
11 legacy taxes imposed by this State under authority of chapters 33 to
12 36 of this title (R.S.54:33-1 et seq.), or hereafter imposed under
13 authority of any subsequent enactment, there is hereby imposed an
14 estate or transfer tax:

15 (1) Upon the transfer of the estate of every resident decedent
16 dying before January 1, 2002 which is subject to an estate tax
17 payable to the United States under the provisions of the federal
18 revenue act of one thousand nine hundred and twenty-six and the
19 amendments thereof and supplements thereto or any other federal
20 revenue act in effect as of the date of death of the decedent, the
21 amount of which tax shall be the sum by which the maximum credit
22 allowable against any federal estate tax payable to the United States
23 under any federal revenue act on account of taxes paid to any state
24 or territory of the United States or the District of Columbia, shall
25 exceed the aggregate amount of all estate, inheritance, succession or
26 legacy taxes actually paid to any state or territory of the United
27 States or the District of Columbia, including inheritance, succession
28 or legacy taxes actually paid this State, in respect to any property
29 owned by such decedent or subject to such taxes as a part of or in
30 connection with the estate; and

31 (2) (a) Upon the transfer of the estate of every resident
32 decedent dying after December 31, 2001, but after December 31,
33 2016, which would have been subject to an estate tax payable to the
34 United States under the provisions of the federal Internal Revenue
35 Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31,
36 2001, the amount of which tax shall be, at the election of the person
37 or corporation liable for the payment of the tax under this chapter,
38 either

39 (i) the maximum credit that would have been allowable under
40 the provisions of that federal Internal Revenue Code in effect on
41 that date against the federal estate tax that would have been payable
42 under the provisions of that federal Internal Revenue Code in effect
43 on that date on account of taxes paid to any state or territory of the
44 United States or the District of Columbia, or

45 (ii) determined pursuant to the simplified tax system as may be
46 prescribed by the Director of the Division of Taxation in the

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

Matter underlined thus is new matter.

S2411 SARLO, OROHO

1 Department of the Treasury to produce a liability similar to the
2 liability determined pursuant to clause (i) of this paragraph reduced
3 pursuant to paragraph (b) of this subsection.

4 (b) The amount of tax liability determined pursuant to
5 subparagraph (a) of this paragraph shall be reduced by the
6 aggregate amount of all estate, inheritance, succession or legacy
7 taxes actually paid to any state or territory of the United States or
8 the District of Columbia, including inheritance, succession or
9 legacy taxes actually paid this State, in respect to any property
10 owned by such decedent or subject to such taxes as a part of or in
11 connection with the estate; provided however, that the amount of
12 the reduction shall not exceed the proportion of the tax otherwise
13 due under this subsection that the amount of the estates's property
14 subject to tax by other jurisdictions bears to the entire estate taxable
15 under this chapter.

16 (3) (a) Upon the transfer of the estate of each resident decedent
17 dying on or after January 1, 2017, but before January 1, 2020,
18 whether or not subject to an estate tax payable to the United States
19 under the provisions of the federal Internal Revenue Code (26
20 U.S.C. s.1 et seq.), the amount of the taxable estate, determined
21 pursuant to section 2051 of the federal Internal Revenue Code (26
22 U.S.C. s.2051), shall be subject to tax pursuant to the following
23 schedule:
24

<u>On any amount up to \$100,000</u>	<u>0.0%</u>
<u>On any amount in excess of \$100,000,</u> <u>up to \$150,000</u>	<u>0.8%</u>
<u>On any amount in excess of \$150,000,</u> <u>up to \$200,000.</u>	<u>\$400 plus 1.6% of the excess</u> <u>over \$150,000</u>
<u>On any amount in excess of \$200,000,</u> <u>up to \$300,000.</u>	<u>\$1,200 plus 2.4% of the</u> <u>excess over \$200,000</u>
<u>On any amount in excess of \$300,000,</u> <u>up to \$500,000.</u>	<u>\$3,600 plus 3.2% of the</u> <u>excess over \$300,000</u>
<u>On any amount in excess of \$500,000,</u> <u>up to \$700,000.</u>	<u>\$10,000 plus 4.0% of the</u> <u>excess over \$500,000</u>
<u>On any amount in excess of \$700,000,</u> <u>up to \$900,000.</u>	<u>\$18,000 plus 4.8% of the</u> <u>excess over \$700,000</u>

S2411 SARLO, OROHO

<u>On any amount in excess of \$900,000, up to \$1,100,000.</u>	<u>\$27,600 plus 5.6% of the excess over \$900,000</u>
<u>On any amount in excess of \$1,100,000, up to \$1,600,000.</u>	<u>\$38,800 plus 6.4% of the excess over \$1,100,000</u>
<u>On any amount in excess of \$1,600,000, up to \$2,100,000.</u>	<u>\$70,800 plus 7.2% of the excess over \$1,600,000</u>
<u>On any amount in excess of \$2,100,000, up to \$2,600,000.</u>	<u>\$106,800 plus 8.0% of the excess over \$2,100,000</u>
<u>On any amount in excess of \$2,600,000, up to \$3,100,000.</u>	<u>\$146,800 plus 8.8% of the excess over \$2,600,000</u>
<u>On any amount in excess of \$3,100,000, up to \$3,600,000.</u>	<u>\$190,800 plus 9.6% of the excess over \$3,100,000</u>
<u>On any amount in excess of \$3,600,000, up to \$4,100,000.</u>	<u>\$238,800 plus 10.4% of the excess over \$3,600,000</u>
<u>On any amount in excess of \$4,100,000, up to \$5,100,000.</u>	<u>\$290,800 plus 11.2% of the excess over \$4,100,000</u>
<u>On any amount in excess of \$5,100,000, up to \$6,100,000.</u>	<u>\$402,800 plus 12.0% of the excess over \$5,100,000</u>
<u>On any amount in excess of \$6,100,000, up to \$7,100,000.</u>	<u>\$522,800 plus 12.8% of the excess over \$6,100,000</u>
<u>On any amount in excess of \$7,100,000, up to \$8,100,000.</u>	<u>\$650,800 plus 13.6% of the excess over \$7,100,000</u>
<u>On any amount in excess of \$8,100,000, up to \$9,100,000.</u>	<u>\$786,800 plus 14.4% of the excess over \$8,100,000</u>

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On any amount in excess of
\$9,100,000, up to \$10,100,000 \$930,800 plus 15.2% of the
excess over \$9,100,000

On any amount in excess of
\$10,100,000. \$1,082,800 plus 16.0% of
the excess over \$10,100,000

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(b) A credit shall be allowed against the tax imposed pursuant to
subparagraph (a) of this paragraph equal to the amount of tax which
would be determined by subparagraph (a) of this paragraph if the
amount of the taxable estate were equal to the exclusion amount.

For the transfer of the estate of each resident decedent dying on
or after January 1, 2017, but before January 1, 2018, the exclusion
amount is \$1,000,000.

For the transfer of the estate of each resident decedent dying on
or after January 1, 2018, but before January 1, 2019, the exclusion
amount is \$2,000,000.

For the transfer of the estate of each resident decedent dying on
or after January 1, 2019, but before January 1 2020, the exclusion
amount is \$3,000,000.

(c) The amount of tax liability of a resident decedent determined
pursuant to subparagraphs (a) and (b) of this paragraph shall be
reduced by the aggregate amount of all estate, inheritance,
succession or legacy taxes actually paid to any state of the United
States, including inheritance taxes actually paid this State, in
respect to any property owned by that decedent or subject to those
taxes as a part of or in connection with the estate; provided
however, that the amount of the reduction shall not exceed the
proportion of the tax otherwise due under this subsection that the
amount of the estate's property subject to tax by other jurisdictions
bears to the entire estate taxable under this chapter.

(4) For the transfer of the estate of each resident decedent dying
on or after January 1, 2020, there shall be no tax imposed.

(5) Upon the transfer of the real or tangible personal property
within New Jersey of each nonresident decedent dying on or after
January 1, 2017, but before January 1, 2020, which tax shall bear
the same ratio to the entire tax which that estate would have been
subject to pursuant to subparagraphs (a) and (b) of paragraph (3) of
this subsection if that nonresident decedent had been a resident of
this State, and all of the decedent's property, real and personal, had
been located within this State, as the taxable property within this
State bears to the entire estate, wherever situated.

b. (1) In the case of the estate of a decedent dying before
January 1, 2002 where no inheritance, succession or legacy tax is
due this State under the provisions of chapters 33 to 36 of this title
or under authority of any subsequent enactment imposing taxes of a

1 similar nature, but an estate tax is due the United States under the
2 provisions of any federal revenue act in effect as of the date of
3 death, wherein provision is made for a credit on account of taxes
4 paid the several states or territories of the United States, or the
5 District of Columbia, the tax imposed by this chapter shall be the
6 maximum amount of such credit less the aggregate amount of such
7 estate, inheritance, succession or legacy taxes actually paid to any
8 state or territory of the United States or the District of Columbia.

9 (2) In the case of the estate of a decedent dying after December
10 31, 2001, but before December 31, 2016, where no inheritance,
11 succession or legacy tax is due this State under the provisions of
12 chapters 33 to 36 of this title or under authority of any subsequent
13 enactment imposing taxes of a similar nature, the tax imposed by
14 this chapter shall be determined pursuant to paragraph (2) of
15 subsection a. of this section.

16 (3) In the case of the estate of a decedent dying on or after
17 January 1, 2017 the tax imposed by this chapter shall be determined
18 pursuant to paragraphs (3), (4), and (5) of subsection a. of this
19 section.

20 c. For the purposes of this section, a "simplified tax system" to
21 produce a liability similar to the liability determined pursuant to
22 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of
23 this section is a tax system that is based upon the \$675,000 unified
24 estate and gift tax applicable exclusion amount in effect under the
25 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
26 s.1 et seq.) in effect on December 31, 2001, and results in general in
27 the determination of a similar amount of tax but which will enable
28 the person or corporation liable for the payment of the tax to
29 calculate an amount of tax notwithstanding the lack or paucity of
30 information for compliance due to such factors as the absence of an
31 estate valuation made for federal estate tax purposes, the absence of
32 a measure of the impact of gifts made during the lifetime of the
33 decedent in the absence of federal gift tax information, and any
34 other information compliance problems as the director determines
35 are the result of the phased repeal of the federal estate tax.

36 (cf: P.L.2002, c.31, s.1)

37
38 2. N.J.S.54A:6-10 is amended to read as follows:

39 54A:6-10. Pensions and annuities.

40 a. Gross income shall not include that part of any amount
41 received as an annuity under an annuity, endowment, or life
42 insurance contract which bears the same ratio to such amount as the
43 investment in the contract as of the annuity starting date bears to the
44 expected return under the contract as of such date. Where (1) part
45 of the consideration for an annuity, endowment, or life insurance
46 contract is contributed by the employer, and (2) during the three-
47 year period beginning on the date on which an amount is first
48 received under the contract as an annuity, the aggregate amount

1 receivable by the employee under the terms of the contract is equal
2 to or greater than the consideration for the contract contributed by
3 the employee, then all amounts received as an annuity under the
4 contract shall be excluded from gross income until there has been so
5 excluded an amount equal to the consideration for the contract
6 contributed by the employee.

7 b. (1) In addition to that part of any amount received as an
8 annuity which is excludable from gross income as herein provided,
9 gross income shall not include payments:

10 for taxable years beginning before January 1, 2000, of up to
11 \$10,000 for a married couple filing jointly, \$5,000 for a married
12 person filing separately, or \$7,500 for an individual filing as a
13 single taxpayer or an individual determining tax pursuant to
14 subsection a. of N.J.S.54A:2-1;

15 for the taxable year beginning on or after January 1, 2000, but
16 before January 1, 2001, of up to \$12,500 for a married couple filing
17 jointly, \$6,250 for a married person filing separately, or \$9,375 for
18 an individual filing as a single taxpayer or an individual
19 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

20 for the taxable year beginning on or after January 1, 2001, but
21 before January 1, 2002, of up to \$15,000 for a married couple filing
22 jointly, \$7,500 for a married person filing separately, or \$11,250 for
23 an individual filing as a single taxpayer or an individual
24 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

25 for the taxable year beginning on or after January 1, 2002, but
26 before January 1, 2003, of up to \$17,500 for a married couple filing
27 jointly, \$8,750 for a married person filing separately, or \$13,125 for
28 an individual filing as a single taxpayer or an individual
29 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

30 for taxable years beginning on or after January 1, 2003, but
31 before January 1, 2017 of up to \$20,000 for a married couple filing
32 jointly, \$10,000 for a married person filing separately, or \$15,000
33 for an individual filing as a single taxpayer or an individual
34 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

35 for taxable years beginning on or after January 1, 2017, but
36 before January 1, 2018, of up to \$40,000 for a married couple filing
37 jointly, \$20,000 for a married person filing separately, or \$30,000
38 for an individual filing as a single taxpayer or an individual
39 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

40 for taxable years beginning on or after January 1, 2018, but
41 before January 1, 2019, gross income shall not include income of up
42 to \$60,000 for a married couple filing jointly, \$30,000 for a married
43 person filing separately, or \$50,000 for an individual filing as a
44 single taxpayer or an individual determining tax pursuant to
45 subsection a. of N.J.S.54A:2-1;

46 for taxable years beginning on or after January 1, 2019, but
47 before January 1, 2020, of up to \$80,000 for a married couple filing
48 jointly, \$40,000 for a married person filing separately, or \$60,000

1 for an individual filing as a single taxpayer or an individual
2 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

3 for taxable years beginning on or after January 1, 2020, of up to
4 \$100,000 for a married couple filing jointly, \$50,000 for a married
5 person filing separately, or \$75,000 for an individual filing as a
6 single taxpayer or an individual determining tax pursuant to
7 subsection a. of N.J.S.54A:2-1,

8 which are received as an annuity, endowment or life insurance
9 contract, or payments of any such amounts which are received as
10 pension, disability, or retirement benefits, under any public or
11 private plan, whether the consideration therefor is contributed by
12 the employee or employer or both, by any person who is 62 years of
13 age or older or who, by virtue of disability, is or would be eligible
14 to receive payments under the federal Social Security Act [, but
15 for] .

16 (2) For taxable years beginning on or after January 1, 2005, but
17 before January 1, 2021, the exclusion provided by this subsection
18 shall only be allowed if the taxpayer has gross income for the
19 taxable year of not more than \$100,000;

20 for taxable years beginning on or after January 1, 2021, if the
21 taxpayer has gross income for the taxable year of not more than
22 \$100,000 the exclusion provided by this subsection shall be fully
23 allowed, if the taxpayer has gross income for the taxable year in
24 excess of \$100,000 but not more than \$125,000 then the taxpayer
25 may exclude 50 percent of the amount otherwise allowed, and if the
26 taxpayer has gross income for the taxable year in excess of
27 \$125,000 but not more than \$150,000 then the taxpayer may
28 exclude 25 percent of the amount otherwise allowed.

29 c. Gross income shall not include any amount received under
30 any public or private plan by reason of a permanent and total
31 disability.

32 d. Gross income shall not include distributions from an
33 employees' trust described in section 401(a) of the Internal Revenue
34 Code of 1986, as amended (hereinafter referred to as "the Code"),
35 which is exempt from tax under section 501(a) of the Code if the
36 distribution, except the portion representing the employees'
37 contributions, is rolled over in accordance with section 402(a)(5) or
38 section 403(a)(4) of the Code. The distribution shall be paid in one
39 or more installments which constitute a lump-sum distribution
40 within the meaning of section 402(e)(4)(A) (determined without
41 reference to subsection (e)(4)(B)), or be on account of a termination
42 of a plan of which the trust is a part or, in the case of a profit-
43 sharing or stock bonus plan, a complete discontinuance of
44 contributions under such plan.

45 (cf: P.L.2005, c.130, s.1)

46

47 3. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to
48 read as follows:

1 3. Other retirement income. a. (1) Gross income shall not
2 include income:
3 for taxable years beginning before January 1, 2000, of up to
4 \$10,000 for a married couple filing jointly, \$5,000 for a married
5 person filing separately, or \$7,500 for an individual filing as a
6 single taxpayer or an individual determining tax pursuant to
7 subsection a. of N.J.S.54A:2-1;
8 for the taxable year beginning on or after January 1, 2000, but
9 before January 1, 2001, of up to \$12,500 for a married couple filing
10 jointly, \$6,250 for a married person filing separately, or \$9,375 for
11 an individual filing as a single taxpayer or an individual
12 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
13 for the taxable year beginning on or after January 1, 2001, but
14 before January 1, 2002, of up to \$15,000 for a married couple filing
15 jointly, \$7,500 for a married person filing separately, or \$11,250 for
16 an individual filing as a single taxpayer or an individual
17 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
18 for the taxable year beginning on or after January 1, 2002, but
19 before January 1, 2003, of up to \$17,500 for a married couple filing
20 jointly, \$8,750 for a married person filing separately, or \$13,125 for
21 an individual filing as a single taxpayer or an individual
22 determining tax pursuant to subsection a. of N.J.S.54A:2-1;
23 for taxable years beginning on or after January 1, 2003, but
24 before January 1, 2017, gross income shall not include income of up
25 to \$20,000 for a married couple filing jointly, \$10,000 for a married
26 person filing separately, or \$15,000 for an individual filing as a
27 single taxpayer or an individual determining tax pursuant to
28 subsection a. of N.J.S.54A:2-1;
29 for taxable years beginning on or after January 1, 2017 but
30 before January 1, 2018, gross income shall not include income of up
31 to \$40,000 for a married couple filing jointly, \$20,000 for a married
32 person filing separately, or \$30,000 for an individual filing as a
33 single taxpayer or an individual determining tax pursuant to
34 subsection a. of N.J.S.54A:2-1;
35 for taxable years beginning on or after January 1, 2018, but
36 before January 1, 2019, gross income shall not include income of up
37 to \$60,000 for a married couple filing jointly, \$30,000 for a married
38 person filing separately, or \$50,000 for an individual filing as a
39 single taxpayer or an individual determining tax pursuant to
40 subsection a. of N.J.S.54A:2-1;
41 for taxable years beginning on or after January 1, 2019, but
42 before January 1, 2020, gross income shall not include income of up
43 to \$80,000 for a married couple filing jointly, \$40,000 for a married
44 person filing separately, or \$60,000 for an individual filing as a
45 single taxpayer or an individual determining tax pursuant to
46 subsection a. of N.J.S.54A:2-1;
47 for taxable years beginning on or after January 1, 2020, gross
48 income shall not include income of up to \$100,000 for a married

1 couple filing jointly, \$50,000 for a married person filing separately,
2 or \$75,000 for an individual filing as a single taxpayer or an
3 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
4 1,

5 when received in any tax year by a person aged 62 years or older
6 who received no income in excess of \$3,000 from one or more of
7 the sources enumerated in subsections a., b., k. and p. of
8 N.J.S.54A:5-1 **【, but for】** .

9 (2) For taxable years beginning on or after January 1, 2005, but
10 before January 1, 2021, the exclusion provided by this subsection
11 shall only be allowed if the taxpayer has gross income for the
12 taxable year of not more than \$100,000 **【, provided, however, that**
13 **the】** ;

14 for taxable years beginning on or after January 1, 2021, if the
15 taxpayer has gross income for the taxable year of not more than
16 \$100,000 the exclusion provided by this subsection shall be fully
17 allowed, if the taxpayer has gross income for the taxable year in
18 excess of \$100,000 but not more than \$125,000 then the taxpayer
19 may exclude 50 percent of the amount otherwise allowed, and if the
20 taxpayer has gross income for the taxable year in excess of
21 \$125,000 but not more than \$150,000 then the taxpayer may
22 exclude 25 percent of the amount otherwise allowed.

23 (3) The total exclusion under this subsection and that allowable
24 under N.J.S.54A:6-10 shall not exceed the amounts of the
25 exclusions set forth in this subsection.

26 b. In addition to the exclusion provided under N.J.S.54A:6-10
27 and subsection a. of this section, gross income shall not include
28 income of up to \$6,000 for a married couple filing jointly or an
29 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
30 1, or \$3,000 for a single person or a married person filing
31 separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-
32 3, but who would be eligible in any year to receive payments under
33 either section if he or she were covered thereby.

34 (cf: P.L.2005, c.130, s.2)

35

36 4. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read
37 as follows:

38 2. There is established the New Jersey Earned Income Tax
39 Credit program in the Division of Taxation in the Department of the
40 Treasury.

41 a. (1) A resident individual who is eligible for a credit under
42 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
43 s.32) shall be allowed a credit for the taxable year equal to a
44 percentage, as provided in paragraph (2) of this subsection, of the
45 federal earned income tax credit that would be allowed to the
46 individual or the married individuals filing a joint return under
47 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
48 s.32) for the same taxable year for which a credit is claimed

1 pursuant to this section, subject to the restrictions of this subsection
2 and subsections b., c., d. and e. of this section.

3 (2) For the purposes of the calculation of the New Jersey earned
4 income tax credit, the percentage of the federal earned income tax
5 credit referred to in paragraph (1) of this subsection shall be:

6 (a) 10% for the taxable year beginning on or after January 1,
7 2000, but before January 1, 2001;

8 (b) 15% for the taxable year beginning on or after January 1,
9 2001, but before January 1, 2002;

10 (c) 17.5% for the taxable year beginning on or after January 1,
11 2002, but before January 1, 2003;

12 (d) 20% for taxable years beginning on or after January 1, 2003,
13 but before January 1, 2008;

14 (e) 22.5% for taxable years beginning on or after January 1,
15 2008 but before January 1, 2009;

16 (f) 25% for taxable years beginning on or after January 1, 2009
17 but before January 1, 2010;

18 (g) 20% for taxable years beginning on or after January 1, 2010,
19 but before January 1, 2015; **[and]**

20 (h) 30% for taxable years beginning on or after January 1, 2015,
21 but before January 1, 2016; and

22 (i) 40% for taxable years beginning on or after January 1, 2016.

23 (3) To qualify for the New Jersey earned income tax credit, if
24 the claimant is married, except for a claimant who files as a head of
25 household or surviving spouse for federal income tax purposes for
26 the taxable year, the claimant shall file a joint return or claim for
27 the credit.

28 b. In the case of a part-year resident claimant, the amount of
29 the credit allowed pursuant to this section shall be pro-rated, based
30 upon that proportion which the total number of months of the
31 claimant's residency in the taxable year bears to 12 in that period.
32 For this purpose, 15 days or more shall constitute a month.

33 c. The amount of the credit allowed pursuant to this section
34 shall be applied against the tax otherwise due under N.J.S.54A:1-1
35 et seq., after all other credits and payments. If the credit exceeds the
36 amount of tax otherwise due, that amount of excess shall be an
37 overpayment for the purposes of N.J.S.54A:9-7; provided however,
38 that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit
39 provided under this section as a credit against the tax otherwise due
40 and the amount of the credit treated as an overpayment shall be
41 treated as a credit towards or overpayment of gross income tax,
42 subject to all provisions of N.J.S.54A:1-1 et seq., except as may be
43 otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

44 d. The Director of the Division of Taxation in the Department
45 of the Treasury shall **[have discretion to]** establish a program for
46 the distribution of earned income tax credits pursuant to the
47 provisions of this section.

1 e. Any earned income tax credit pursuant to this section shall
2 not be taken into account as income or receipts for purposes of
3 determining the eligibility of an individual for benefits or assistance
4 or the amount or extent of benefits or assistance under any State
5 program and, to the extent permitted by federal law, under any State
6 program financed in whole or in part with federal funds.

7 (cf: P.L.2015, c.73, s.1)

8
9 5. (New section) a. A taxpayer shall be allowed to deduct
10 from gross income the amount of charitable contributions of money
11 made to a qualified charitable agency or a qualified charitable fund-
12 raising organization in the taxable year equal to the amount that is
13 allowed as a deduction from federal adjusted gross income for the
14 federal taxable year pursuant to section 170 of the federal Internal
15 Revenue Code (26 U.S.C. s.170) or the amount that the taxpayer
16 would have been allowed to deduct from federal adjusted gross
17 income for the federal taxable year pursuant to section 170 of the
18 federal Internal Revenue Code (26 U.S.C. s.170) if the taxpayer had
19 claimed that deduction on that taxpayer's federal income tax return.
20 Provided however, that the taxpayer shall not be allowed to deduct
21 from gross income an amount in excess of 50 percent of the
22 taxpayer's gross income for the taxable year, determined before any
23 other adjustments on account of other deductions, exclusions, or
24 credits.

25 b. For the purposes of this section:

26 "qualified charitable agency" means an agency that is a
27 volunteer, not-for-profit organization that primarily provides health,
28 welfare, or human care services to individuals in New Jersey that
29 has been determined to meet the eligibility criteria pursuant to
30 section 8 of P.L.1985, c.140 (C.52:14-15.9c8) to participate in a
31 charitable fund raising campaign pursuant to the "Public Employee
32 Charitable Fund-Raising Act," P.L.1985, c.140 (C.52:14-15.9c1 et
33 seq.), and the regulations as may be applicable thereunder, for the
34 taxable year, provided however, that "qualified charitable agency"
35 shall not include an agency that is primarily affiliated with an
36 institution of higher education that is exempt from the registration
37 requirements of subsection b. of section 9 of P.L.1994, c.16
38 (C.45:17A-26); and

39 "qualified charitable fund-raising organization" means a
40 voluntary not-for-profit organization that receives voluntary
41 charitable contributions and distributes those contributions
42 primarily to qualified charitable agencies, and that has been
43 determined to meet the eligibility criteria pursuant to section 7 of
44 P.L.1985, c.140 (C.52:14-15.9c7) to participate in a charitable fund
45 raising campaign pursuant to the "Public Employee Charitable
46 Fund-Raising Act," P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and
47 the regulations as may be applicable thereunder, for the taxable
48 year, provided however, that "qualified charitable organization"

1 shall not include an organization that is primarily affiliated with an
2 institution of higher education that is exempt from the registration
3 requirements of subsection b. of section 9 of P.L.1994, c.16
4 (C.45:17A-26).

5 c. The director shall provide each taxpayer with an opportunity
6 to claim the taxpayer's deduction amount on the taxpayer's tax
7 return, which may include on the return the amounts of charitable
8 contributions claimed and indicated by numerical designation
9 coding for each qualified charitable agency and qualified charitable
10 fund-raising organization as are limited and defined pursuant to the
11 provisions of this section and as also may be available pursuant to
12 the "Public Employee Charitable Fund-Raising Act," P.L.1985,
13 c.140 (C.52:14-15.9c1 et seq.), the regulations as may be applicable
14 thereunder, and the advice of the council established pursuant to
15 subsection d. of this section, for the taxable year. The director shall
16 make available on a taxpayer accessible searchable website on or
17 before January 1 of a taxable year, only the relevant portions of the
18 annual New Jersey employees charitable campaign resources and
19 reference guide code book prepared pursuant to P.L.1985, c.140
20 (C.52:14-15.9c1 et seq.) that the director shall determine, with the
21 advice of the council established pursuant to subsection d. of this
22 section, are applicable in the administration of this section, and the
23 regulations as may be applicable thereunder, provided however, that
24 no costs of administering this section shall be allowed as costs
25 subject to section 12 of P.L.1985, c.140 (C.52:14-15.9c12).

26 d. There is established in the Department of the Treasury the
27 "Charity Advisory Council" which shall consist of eight members,
28 four of whom shall be the Commissioner Human Services, the
29 Commissioner of Children and Families, the Commissioner of
30 Health and the Commissioner of Community Affairs, or their
31 designees, and four public members who shall be individuals
32 actively engaged in providing health, welfare, or human care
33 services to individuals in New Jersey. Of the four public members,
34 one shall be appointed by the Senate President, one shall be
35 appointed by the Speaker of the General Assembly, one shall be
36 appointed by the Senate Minority Leader, and one shall be
37 appointed by the Assembly Minority Leader. The public members
38 shall serve for terms of three years. Vacancies among the public
39 members shall be filled in the same manner as the original
40 appointments were made.

41 The council shall organize upon appointment of a quorum and
42 shall meet regularly as it may determine, and shall also meet at the
43 call of the director.

44 The council shall appoint a chairperson from among its
45 members.

46 Members of the council shall serve without compensation, but
47 the council may, within the limits of funds appropriated or
48 otherwise made available for such purposes, reimburse its members

1 for necessary expenses incurred in the discharge of their official
2 duties.

3 The council shall annually advise the director on the qualified
4 charitable agencies and the qualified charitable fund-raising
5 organizations that conform to the criteria of subsection b. of this
6 section. The advisory council may consult with the State charitable
7 fund-raising campaign steering committee established pursuant to
8 section 4 of P.L.1985, c.140 (C.52:14-15.9c4) for any assistance in
9 the administration of this section as the director deems necessary.

10

11 6. Section 2 of P.L.1990, c.42 (C.54:15B-2) is amended to read
12 as follows:

13 2. For the purposes of this act:

14 "Aviation fuel" means aviation gasoline or aviation grade
15 kerosene or any other fuel that is used in aircraft.

16 "Aviation gasoline" means fuel specifically compounded for use
17 in reciprocating aircraft engines.

18 "Aviation grade kerosene" means any kerosene type jet fuel
19 covered by ASTM Specification D 1655 or meeting specification
20 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

21 "Blended fuel" means a mixture composed of gasoline, diesel
22 fuel, kerosene or blended fuel and another liquid, including blend
23 stock other than a de minimis amount of a product such as
24 carburetor detergent or oxidation inhibitor, that can be used as a
25 fuel in a highway vehicle. "Blended fuel" includes but is not limited
26 to gasohol, biobased liquid fuel, biodiesel fuel, ethanol, methanol,
27 fuel grade alcohol, diesel fuel enhancers and resulting blends.

28 "Company" includes a corporation, partnership, limited
29 partnership, limited liability company, association, individual, or
30 any fiduciary thereof.

31 "Diesel fuel" means a liquid that is commonly or commercially
32 known or sold as a fuel that is suitable for use in a diesel-powered
33 highway vehicle. A liquid meets this requirement if, without further
34 processing or blending, the liquid has practical and commercial
35 fitness for use in the propulsion engine of a diesel-powered
36 highway vehicle. "Diesel fuel" includes biobased liquid fuel,
37 biodiesel fuel, and number 1 and number 2 diesel.

38 "Director" means the Director of the Division of Taxation in the
39 Department of the Treasury.

40 "First sale of petroleum products within this State" means the
41 initial sale of a petroleum product delivered to a location in this
42 State. A "first sale of petroleum products within this State" does not
43 include a book or exchange transfer of petroleum products if such
44 products are intended to be sold in the ordinary course of business.

45 "Gasoline" means all products commonly or commercially
46 known or sold as gasoline that are suitable for use as a motor fuel.
47 "Gasoline" does not include products that have an ASTM octane
48 number of less than 75 as determined by the "motor method,"

1 ASTM D2700-92. The term does not include racing gasoline or
2 aviation gasoline, but for administrative purposes does include fuel
3 grade alcohol.

4 "Gross receipts" means all consideration derived from the first
5 sale of petroleum products within this State except sales of:

6 a. asphalt;

7 b. petroleum products sold pursuant to a written contract
8 extending one year or longer to nonprofit entities qualifying under
9 subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
10 evidenced by an invoice in form prescribed by subsection b. of
11 section 3 of P.L.1991, c.19 (C.54:15B-10);

12 c. petroleum products sold to governmental entities qualifying
13 under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as
14 evidenced by an invoice in form prescribed by subsection b. of
15 section 3 of P.L.1991, c.19 (C.54:15B-10); and

16 d. polymer grade propylene used in the manufacture of
17 polypropylene.

18 "Highway fuel" means gasoline, blended fuel that contains
19 gasoline or is intended for use as gasoline, liquefied petroleum gas,
20 and diesel fuel, blended fuel that contains diesel fuel or is intended
21 for use as diesel fuel, and kerosene, other than aviation grade
22 kerosene.

23 "Kerosene" means the petroleum fraction containing
24 hydrocarbons that are slightly heavier than those found in gasoline
25 and naphtha, with a boiling range of 149 to 300 degrees Celsius.

26 "Petroleum products" means refined products made from crude
27 petroleum and its fractionation products, through straight
28 distillation of crude oil or through redistillation of unfinished
29 derivatives, but shall not mean the products commonly known as
30 number 2 heating oil, number 4 heating oil, number 6 heating oil,
31 kerosene and propane gas to be used exclusively for residential use.

32 "Quarterly period" means a period of three calendar months
33 commencing on the first day of January, April, July or October and
34 ending on the last day of March, June, September or December,
35 respectively.

36 **["Retail gasoline price survey" means a Statewide representative**
37 **random sample of retail gasoline prices conducted by the Board of**
38 **Public Utilities, Office of the Economist, or its successor, that shall**
39 **be completed for the month of November and May of each year.]**

40 "Retail price per gallon" means the price **【posted by gasoline】**
41 charged by retailers in the State for **【unleaded regular gasoline】** a
42 gallon of the petroleum product dispensed into the fuel tanks of
43 motor vehicles without State or federal tax included.

44 "Unleaded regular gasoline" means gasoline of the octane rating
45 equal to the lowest octane rated gasoline offered for sale at a
46 majority of the gasoline retailers in the State.

47 (cf: P.L.1991, c.181, s.1)

1 7. Section 7 of P.L.1991, c.181 (C.54:15B-2.1) is amended to
2 read as follows:

3 7. a. "Gross receipts," as otherwise defined by section 2 of
4 P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales
5 of petroleum products used by marine vessels engaged in interstate
6 or foreign commerce **】**and sales of aviation fuels used by common
7 carriers in interstate or foreign commerce other than the "burnout"
8 portion which shall be taxable pursuant to rules promulgated by the
9 director**】**.

10 b. Motor fuel used for the following purposes is exempt from
11 the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3), and a
12 refund of the tax imposed by that section may be claimed by the
13 consumer providing proof the tax has been paid and no refund has
14 been previously issued:

15 (1) autobuses while being operated over the highways of this
16 State in those municipalities to which the operator has paid a
17 monthly franchise tax for the use of the streets therein under the
18 provisions of R.S.48:16-25 and autobuses while being operated over
19 the highways of this State in a regular route bus operation as
20 defined in R.S.48:4-1 and under operating authority conferred
21 pursuant to R.S.48:4-3, or while providing bus service under a
22 contract with the New Jersey Transit Corporation or under a
23 contract with a county for special or rural transportation bus service
24 subject to the jurisdiction of the New Jersey Transit Corporation
25 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses
26 providing commuter bus service which receive or discharge
27 passengers in New Jersey. For the purpose of this paragraph
28 "commuter bus service" means regularly scheduled passenger
29 service provided by motor vehicles whether within or across the
30 geographical boundaries of New Jersey and utilized by passengers
31 using reduced fare, multiple ride, or commutation tickets and shall
32 not include charter bus operations for the transportation of enrolled
33 children and adults referred to in subsection c. of R.S.48:4-1 and
34 "regular route service" does not mean a regular route in the nature
35 of special bus operation or a casino bus operation;

36 (2) agricultural tractors not operated on a public highway;

37 (3) farm machinery;

38 (4) ambulances;

39 (5) rural free delivery carriers in the dispatch of their official
40 business;

41 (6) vehicles that run only on rails or tracks, and such vehicles as
42 run in substitution therefor;

43 (7) highway motor vehicles that are operated exclusively on
44 private property;

45 (8) motor boats or motor vessels used exclusively for or in the
46 propagation, planting, preservation and gathering of oysters and
47 clams in the tidal waters of this State;

- 1 (9) motor boats or motor vessels used exclusively for
2 commercial fishing;
3 (10) motor boats or motor vessels, while being used for hire for
4 fishing parties or being used for sightseeing or excursion parties;
5 (11) fire engines and fire-fighting apparatus;
6 (12) stationary machinery and vehicles or implements not
7 designed for the use of transporting persons or property on the
8 public highways;
9 (13) heating and lighting devices;
10 (14) motor boats or motor vessels used exclusively for Sea Scout
11 training by a duly chartered unit of the Boy Scouts of America; and
12 (15) emergency vehicles used exclusively by volunteer first-aid
13 or rescue squads.

14 (cf: P.L.1991, c.181, s.7)

15

16 8. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read
17 as follows:

18 3. a. (1) (a) There is imposed on each company which is
19 engaged in the refining or distribution, or both, of petroleum
20 products other than highway fuel and which distributes such
21 products in this State a tax at the rate of [two and three-quarters
22 percent (2 3/4%)] seven percent of its gross receipts derived from
23 the first sale of petroleum products within this State and there is
24 imposed on each company which is engaged in the refining or
25 distribution, or both, of highway fuel a tax at the rate of 12.5
26 percent of its gross receipts derived from the first sale of those
27 products within this State. [; provided however, that the]

28 (b) The applicable tax rate for [fuel oils, aviation fuels and
29 motor fuels subject to tax under R.S.54:39-1 et seq.] gasoline,
30 blended fuel that contains gasoline or is intended for use as
31 gasoline, and liquefied petroleum gas, which are taxed as a highway
32 fuel pursuant to subparagraph (a) of this paragraph, shall be
33 converted to a cents-per-gallon rate, rounded to the nearest tenth of
34 a cent, [that shall be calculated by the use of] and adjusted
35 quarterly by the director, effective on July 1, October 1, January 1,
36 and April 1, based on the average retail price per gallon of unleaded
37 regular gasoline [in December 1990,] in the State, as determined in
38 [a] the most recent survey of the retail price per gallon of gasoline
39 [prices] that [included] includes a Statewide representative
40 random sample conducted [in December 1990 for that month] by
41 the Board of Public Utilities, Office of the Economist, [and shall be
42 effective for the tax due for months ending after that date; and] or
43 its successor.

44 (c) The cents-per-gallon rate determined pursuant to
45 subparagraph (b) of this paragraph shall not be less than the rate
46 determined for the quarter beginning July 1, 2016 and shall not

1 exceed a rate reflecting more than an average retail price per gallon
2 of gasoline of \$3.

3 (d) The applicable tax rate for diesel fuel, blended fuel that
4 contains diesel fuel or is intended for use as diesel fuel, and
5 kerosene, other than aviation grade kerosene, which are taxed as a
6 highway fuel pursuant to subparagraph (a) of this paragraph, shall
7 be converted to a cents-per-gallon rate, rounded to the nearest tenth
8 of a cent, and adjusted quarterly by the director, effective on July 1,
9 October 1, January 1, and April 1, based on the average retail price
10 per gallon of number 2 diesel in the State, as determined in the most
11 recent survey of retail diesel fuel prices that includes a Statewide
12 representative random sample conducted by the Board of Public
13 Utilities, Office of the Economist, or its successor.

14 Notwithstanding the provisions of subparagraph (a) of this
15 paragraph to the contrary, for the period from July 1, 2016 through
16 December 31, 2016, no rate of tax shall be applied to diesel fuel,
17 blended fuel that contains diesel fuel or is intended for use as diesel
18 fuel, or kerosene, other than aviation grade kerosene; for the period
19 from January 1, 2017 through June 30, 2017, the applicable rate for
20 those fuels shall be 70 percent of the rate otherwise determined
21 pursuant to subparagraph (a) of this paragraph, and for July 1, 2017
22 and thereafter the applicable rate for those fuels determined
23 pursuant to subparagraph (a) of this paragraph.

24 (e) The cents-per-gallon rate determined pursuant to
25 subparagraph (d) of this paragraph shall not be less than the rate
26 determined for the quarter beginning July 1, 2016 and shall not
27 exceed a rate reflecting more than an average retail price per gallon
28 of number 2 diesel of \$3.

29 (f) The applicable tax rate for aviation fuel, determined
30 pursuant to subparagraph (a) of this paragraph shall be converted to
31 a cents-per-gallon rate, rounded to the nearest tenth of a cent, based
32 on the average price per gallon, without State or federal tax
33 included, of aviation grade kerosene in the State, effective July 1,
34 2016, as determined in the most recent survey of aviation grade
35 kerosene prices paid by commercial consumers that includes a
36 Statewide representative random sample conducted by the Board of
37 Public Utilities, Office of the Economist, or its successor.

38 (g) Each year as of January 1, the rate for aviation fuel in effect
39 on the immediately preceding December 31 shall be adjusted as
40 follows: the rate shall be multiplied by a fraction, the numerator of
41 which is the sum of the monthly producer price index (unadjusted)
42 published by the Bureau of Labor Statistics of the United States
43 Department of Labor for the category of commodities designated
44 “petroleum products, refined,” or its successor series, for the 12
45 consecutive months ending with the month of August of the
46 immediately preceding year and the denominator of which is the
47 sum of the monthly producer price index (unadjusted) published by
48 the Bureau of Labor Statistics of the United States Department of

1 Labor for the category of commodities designated “petroleum
2 products, refined,” or its successor series, for the 12 consecutive
3 months ending with the month of August in the year prior to that
4 immediately preceding year, and rounded to the nearest tenth of a
5 cent; provided however, that the adjusted rate shall not increase
6 above or decrease below the rate in effect on the immediately
7 preceding December 31 by more than five percent.

8 (h) The applicable tax rate for fuel oil determined pursuant to
9 subparagraph (a) of this paragraph shall be converted to a cents-per-
10 gallon rate, rounded to the nearest tenth of a cent, and adjusted
11 quarterly by the director, effective on July 1, October 1, January 1,
12 and April 1, to reflect the average price per gallon, without State or
13 federal tax included, of retail sales of number 4 fuel oil in the State,
14 as determined in the most recent survey of retail diesel fuel prices
15 that included a Statewide representative random sample conducted
16 by the Board of Public Utilities, Office of the Economist, or its
17 successor.

18 (i) The cents-per-gallon rate determined pursuant to
19 subparagraph (h) of this paragraph shall not be less than the rate
20 determined for the quarter beginning July 1, 2016.

21 (j) n and after the 10th day following a certification by the
22 review council pursuant to subsection c. of section 13 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill), no tax
24 shall be imposed pursuant to this paragraph.

25 (2) (a) In addition to the tax, if any, imposed by paragraph (1)
26 of this subsection, a cents-per-gallon tax is imposed on each
27 company’s gross receipts derived from the first sale of petroleum
28 products within this State on gasoline, blended fuel that contains
29 gasoline or that is intended for use as gasoline, and liquefied
30 petroleum gas at the rate of four cents per gallon; and

31 (b) In addition to the tax, if any, imposed by paragraph (1) of
32 this subsection, a cents-per-gallon tax is imposed on each
33 company’s gross receipts derived from the first sale of petroleum
34 products within this State on diesel fuel, blended fuel that contains
35 diesel fuel or is intended for use as diesel fuel, and kerosene other
36 than aviation grade kerosene at the rate of four cents per gallon
37 before July 1, 2017 and at the rate of eight cents per gallon on and
38 after July 1, 2017.

39 b. There is imposed on each company that imports or causes to
40 be imported, other than by a company subject to and having paid
41 the tax on those imported petroleum products that have generated
42 gross receipts taxable under subsection a. of this section, petroleum
43 products for use or consumption by it within this State a tax at the
44 rate **【of two and three-quarters percent (2 3/4%)】** or rates of the
45 consideration given or contracted to be given and the gallonage,
46 determined pursuant to subsection a. of this section, for such
47 petroleum products if the consideration given or contracted to be
48 given for all such deliveries made during a quarterly period exceeds

1 \$5,000]; provided however, that the applicable tax rate for fuel oils,
2 aviation fuels and motor fuels subject to tax under R.S.54:39-1 et
3 seq. shall be converted to a cents per gallon rate, rounded to the
4 nearest cent, that shall be calculated by the use of the average retail
5 price per gallon of unleaded regular gasoline in December 1990, as
6 determined in a survey of retail gasoline prices that included a
7 Statewide representative random sample conducted in December
8 1990 for that month by the Board of Public Utilities, Office of the
9 Economist, and shall be effective for the tax due for months ending
10 after that date].

11 (cf: P.L.2000, c.48, s.1)

12

13 9. Section 2 of P.L.1991, c.19 (C.54:15B-9) is amended to read
14 as follows:

15 2. a. A person who shall purchase or otherwise acquire
16 petroleum products, upon which the petroleum products gross
17 receipts tax has not been paid and is not due pursuant to subsection
18 b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a
19 reimbursement payment has been paid pursuant to section 3 of [this
20 act] P.L.1991, c.19 (C.54:15B-10), from a federal government
21 department, agency or instrumentality, or any agent or officer
22 thereof, for use not specifically associated with any federal
23 government function or operation, shall pay to the State a tax
24 [equivalent to two and three-quarters percent (2 3/4%)] at the rate
25 or rates of the consideration given or contracted to be given for the
26 purchase or acquisition of the petroleum products and the
27 gallage, determined pursuant to subsection a. of section 3 of
28 P.L.1990, c.42 (C.54:15B-3) in accordance with the procedures set
29 forth in the "Petroleum Products Gross Receipts Tax Act,"
30 P.L.1990, c.42 (C.54:15B-1 et seq.).

31 b. A person who knowingly uses, or who conspires with an
32 official, agent or employee of a federal government department,
33 agency or instrumentality, for the use of, a requisition, purchase
34 order, or a card or an authority to which the person is not
35 specifically entitled by government regulations, with the intent to
36 obtain petroleum products from a federal government department,
37 agency or instrumentality for a use not specifically associated with
38 a federal government function or operation, upon which the
39 petroleum products gross receipts tax has not been paid, is guilty of
40 a crime of the fourth degree.

41 (cf: P.L.1991, c.19, s.2)

42

43 10. Section 3 of P.L.1991, c.19 (C.54:15B-10) is amended to
44 read as follows:

45 a. A federal government department, agency or instrumentality,
46 that purchases petroleum products other than by the first sale of that
47 product in this State for use in a federal government function or
48 operation, upon which petroleum products the petroleum products

1 gross receipts tax has been paid or is due and payable, shall be
2 reimbursed and paid an amount [equivalent to two and three-
3 quarters percent (2 3/4%)] at the rate or rates of the consideration
4 given or contracted to be given [by the federal government
5 department, agency or instrumentality for the purchase of the
6 petroleum products] , and the gallonage, determined pursuant to
7 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3).

8 b. The reimbursement shall be claimed by presenting to the
9 Director of the Division of Taxation in the Department of the
10 Treasury an application for the reimbursement, on a form prescribed
11 by the director, which application shall be verified by a declaration
12 of the applicant that the statements contained therein are true. Such
13 application for reimbursement shall be supported by an invoice, or
14 invoices, showing the name and address of the person from whom
15 the petroleum products were purchased, the name of the purchaser,
16 the date of purchase, the quantity of the product purchased, the
17 price paid for the purchase of the product, and an acknowledgment
18 by the seller that payment of the cost of the product to the seller,
19 including the petroleum gross receipts tax due thereon, has been
20 made. Such invoice, or invoices, shall be legibly written and shall
21 be void if any corrections or erasures shall appear on the face
22 thereof.

23 c. If petroleum products are sold to a federal government
24 department, agency or instrumentality that shall be entitled to a
25 reimbursement under this act, the seller of the petroleum products
26 shall supply the purchaser with an invoice that conforms with the
27 requirements of subsection b. of this section.

28 (cf: P.L.1991, c.19, s.3)

29

30 11. (New section) a. There is levied a tax on persons, other
31 than licensed companies pursuant to section 6 of P.L.1991, c.181
32 (C.54:15B-12), holding the fuels enumerated in subparagraph (a) of
33 paragraph (2) of subsection a. of section 3 of P.L.1990, c.42
34 (C.54:15B-3) in storage for sale as of the close of the first business
35 day following the date of enactment of P.L. , c. (C.)
36 (pending before the Legislature as this bill) by fifteen days on
37 which tax has previously been paid. The amount of tax shall be the
38 difference between the tax per gallon specified by subsection a. of
39 section 3 of P.L.1990, c.42 (C.54:15B-3) for the type of fuel and the
40 tax previously paid per gallon, multiplied by the gallons in storage
41 of that type of fuel as of the close of the business day on that day.

42 b. Persons in possession of those fuels in storage as of the close
43 of the first business day following the date of enactment of
44 P.L. , c. (C.) (pending before the Legislature as this bill) by
45 fifteen days shall:

46 (1) take an inventory at the close of the business day on that
47 day;

1 (2) report the gallons listed in paragraph (1) of this subsection
2 on forms provided by the director, not later than 45 days following
3 the date of enactment of P.L. , c. (C.) (pending before the
4 Legislature as this bill) by fifteen days; and

5 (3) Remit the tax levied under this section to the director no
6 later than February 1, 2017.

7 c. Fuel not reflected in the inventory taken pursuant to
8 subsection b. of this section is deemed to be previously untaxed,
9 except to the extent that it is invoiced as delivered tax-paid on or
10 after July 1, 2016.

11 d. There is levied a tax on persons, other than licensed
12 companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),
13 holding the fuels enumerated in subparagraph (b) of paragraph (2)
14 of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in
15 storage for sale as of the close of the business day on December 31,
16 2016 on which tax has previously been paid. The amount of tax
17 shall be the difference between the tax per gallon specified by
18 subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) for the
19 type of fuel and the tax previously paid per gallon, multiplied by the
20 gallons in storage of that type of fuel as of the close of the business
21 day on December 31, 2016.

22 e. Persons in possession of those fuels in storage as of the close
23 of the business day on December 31, 2016 shall:

24 (1) take an inventory at the close of the business day on
25 December 31, 2016;

26 (2) report the gallons listed in paragraph (1) of this subsection
27 on forms provided by the director, not later than January 31, 2017;
28 and

29 (3) Remit the tax levied under this section to the director no
30 later than August 1, 2017.

31 f. Fuel not reflected in the inventory taken pursuant to
32 subsection b. of this section is deemed to be previously untaxed,
33 except to the extent that it is invoiced as delivered tax-paid on or
34 after January 1, 2017.

35 g. In determining the amount of tax due under this section, a
36 person may exclude the amount of fuel in dead storage in each
37 storage tank

38 h. As used in this section:

39 "Close of the business day" means the time at which the last
40 transaction has occurred for that day.

41 "Dead storage" means the amount of fuel that cannot be pumped
42 out of a fuel storage tank because the motor fuel is below the mouth
43 of the draw pipe. The amount of motor fuel in dead storage is 200
44 gallons for a tank with a capacity of less than 10,000 gallons and
45 400 gallons for a tank with a capacity of 10,000 gallons or more.

46

47 12. (New section) Notwithstanding any provision of the
48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.) to the contrary, the director may adopt immediately upon
2 filing with the Office of Administrative Law such regulations as the
3 director deems necessary to implement the provisions of sections 6
4 through 11 of P.L. , c. (pending before the Legislature as this
5 bill), which regulations shall be effective for a period not to exceed
6 360 days following the date of enactment of P.L. , c. (pending
7 before the Legislature as this bill) and may thereafter be amended,
8 adopted, or readopted by the director in accordance with the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.).

11

12 13. (New section) a. The State Treasurer, and the Legislative
13 Budget and Finance Officer, together with a third public member
14 who shall be jointly selected thereby, shall constitute the review
15 council.

16 b. The review council shall, on or before January 15, 2020,
17 provide the Governor and the Legislature with an advisory report of
18 their consensus estimate of the increase or decrease in State
19 revenues pursuant to each section of P.L. , c. (C.)
20 (pending before the Legislature as this bill), and pursuant to this act
21 as a whole, during the preceding three State fiscal years, including a
22 comparison of those estimates to the legislative fiscal estimate or
23 fiscal note published contemporaneous with the enactment of this
24 act prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

25 c. The review council shall conduct an ongoing review of the
26 application of each section of P.L. , c. (C.) (pending
27 before the Legislature as this bill).

28 The review council shall, not later than five days after any
29 Legislative action that halts, delays, or reverses the implementation
30 of those sections as scheduled on the date of enactment of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), certify
32 to the Director of the Division of Taxation that the scheduled
33 implementation of P.L. , c. (C.) had been impeded.

34

35 14. This act shall take effect immediately, section 5 shall apply
36 to taxable years beginning on or after January 1, 2017, and sections
37 6 through 10 shall apply to first sales of petroleum products within
38 this State and to deliveries of petroleum products for use or
39 consumption within this State made on or after July 1, 2016.

40

41

42

STATEMENT

43

44 This bill adjusts various State taxes towards the end of
45 supporting strengthened investments in public, private and
46 charitable assets in this State.

47 The various changes in State taxes are described as follows:

- 1 • Section 1: Phases out the estate tax over four years, first by
2 replacing the current \$675,000 threshold with a \$1,000,000
3 exclusion, and then increasing that exclusion amount until
4 the tax is eliminated.

5 The current New Jersey estate tax is determined by reference to a
6 repealed federal credit against a system of federal estate taxation
7 that no longer exists. The former federal credit was part of a
8 national revenue-sharing policy, no longer in effect, that was
9 originally designed to provide a portion to states of what would
10 otherwise have been a high-rate federal tax. Because the mechanics
11 of the current tax are a remnant of that former federal imposition,
12 the New Jersey estate tax is initially imposed at a rate of 37 percent
13 until all the tax that would have been imposed on the value of the
14 estate below \$675,000 is made up. Under the current tax, that
15 highest rate is imposed on even the smallest estates subject to tax.

16 This bill eliminates that tax rate “bump” by abandoning the
17 references to the old federal credit and establishing the necessary
18 mechanics under New Jersey law. This allows the bill to replace the
19 former \$675,000 tax threshold with a true tax exclusion, initially set
20 at \$1,000,000 for the estates of resident decedents dying on or after
21 January 1, 2017. The bill increases the exclusion amount to
22 \$2,000,000 for 2018, and \$3,000,000 for 2019. For decedents dying
23 on or after January 1, 2020, the bill provides that there will be no
24 tax imposed.

25 The bill imposes the estate tax on the New Jersey property of
26 nonresident decedents. Currently, the estate tax is only imposed on
27 the property of resident decedents. The bill uses a “ratio” method:
28 the estate of a nonresident computes estate tax as though a State
29 resident, then pays the proportion of that liability that the estate’s
30 New Jersey property is of the estate’s total property. This change
31 takes effect for nonresident decedent estates January 1, 2017, and
32 ceases on January 1, 2020 along with the tax on resident estates.

- 33 • Sections 2 and 3: Increase the New Jersey gross income tax
34 pension and retirement income exclusions fivefold over four
35 years. This is intended to reduce the capacity of the State’s
36 personal income tax to diminish the after-tax retirement
37 income available to retired taxpayers in this State.

38 Generally under current law, taxpayers with \$100,000 or less of
39 annual income, who are at least 62 years old, may claim a pension
40 and retirement income exclusion of up to \$20,000 for joint filers,
41 \$15,000 for individuals, and \$10,000 for married but filing
42 separately.

43 This bill increases the personal income tax’s pension and
44 retirement income exclusion to \$100,000 for joint filers, \$75,000
45 for individuals, and \$50,000 for married but filing separately. The
46 bill phases in the five-fold exclusion increase over four years as
47 follows:

1

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

2

3 Currently, the pension and retirement income exclusions are not
4 allowed to a taxpayer who has gross income of more than \$100,000
5 for the taxable year. For taxable years beginning on or after January
6 1, 2021, the bill allows a taxpayer with income of more than
7 \$100,000 but not over \$125,000 to exclude 50 percent of the
8 amount of pension and retirement income otherwise allowed and a
9 taxpayer with more than \$125,000 but not more than \$150,000 of
10 gross income to exclude 25 percent of the amount otherwise
11 allowed.

- 12 • Section 4: Increases the New Jersey Earned Income Tax
13 Credit (NJ EITC) to 40 percent of the federal benefit amount
14 beginning in Tax Year 2016. The NJ EITC program, which
15 piggy-backs on the federal EITC program, currently
16 provides a refundable earned income tax credit under the
17 State gross income tax equal to 30 percent of the federal
18 benefit amount.

19 The federal and State EITC programs are intended to “make
20 work pay” by offsetting the burden of payroll taxes for low and
21 moderate income workers.

22 To claim a credit, taxpayers must first file for the federal EITC.
23 Eligibility for the program is determined by taxpayer income, filing
24 status, and the number of qualifying children. For Tax Year 2016,
25 the federal Internal Revenue Service has indicated, the following
26 program limits:

27

Maximum Income Eligibility Levels				
If filing ...	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	\$14,880	\$39,296	\$44,648	\$47,955
Married Filing Jointly	\$20,430	\$44,846	\$50,198	\$53,505

28

29 According to the New Jersey Department of the Treasury, it is
30 estimated that some 552,900 taxpayers claimed a credit during TY
31 2014, the most recent year for which data are available. Based on
32 available federal Internal Revenue Service data, it is estimated that
33 under the bill, the average NJ EITC benefit amount will increase by
34 \$255, from \$708 in TY 2015 to approximately \$963 in TY 2016.

- 1 • Section 5: Allows a New Jersey gross income tax deduction
2 for cash charitable contributions that are made to certain
3 charitable agencies and organizations that primarily provide
4 health, welfare, or human care services to individuals in
5 New Jersey and that are eligible to participate in annual
6 State charitable fund-raising campaigns in this State.

7 New Jersey gross income taxpayers will be allowed to deduct from
8 gross income cash charitable contributions that are made during the
9 taxable year to a qualified charitable agency or fund-raising
10 organization. The agencies and organization will be those that are
11 already qualified and participating in the annual New Jersey
12 Employees Charitable Campaign under current law and regulations
13 but will only include those groups that primarily provide health,
14 welfare, or human care services to individuals in this State.

15 To assist the Director of the Division of Taxation in determining
16 which agencies and organizations meet those criteria, the bill
17 establishes a “Charity Advisory Council” comprising the
18 Commissioners of Human Services, Children and Families, Health
19 and Community Affairs (or their designees) and four public
20 members, individuals actively engaged in providing health, welfare,
21 or human care services to individuals in New Jersey, one each
22 appointed by the Senate President, the Speaker of the General
23 Assembly, the Senate Minority Leader, and the Assembly Minority
24 Leader. The council will annually advise the director.

- 25 • Sections 6 through 12: Concern an increase in the petroleum
26 products gross receipts tax rates, which, either by statutory
27 or constitutional dedication, will finance funding for the
28 State’s transportation infrastructure.

29 Currently, the petroleum products tax is imposed at the rate of
30 $2\frac{3}{4}$ percent on gross receipts from the first sale of petroleum
31 products in New Jersey. In the case of motor fuels, aviation fuels,
32 and heating fuels (home heating fuels are exempt) this rate is
33 converted to \$0.04 per gallon.

34 This bill increases the base rate on petroleum products other than
35 highway fuels to 7 percent of gross receipts, and increases the base
36 rate on highway fuels to 12.5 percent of gross receipts.

37 The 12.5 percent tax on gasoline, gasoline equivalents and
38 liquefied petroleum gas is converted to a cents-per-gallon rate based
39 on the retail price of gasoline before the imposition of State and
40 federal tax. The 12.5 percent tax on diesel fuel, diesel fuel
41 equivalents and kerosene (other than aviation grade kerosene, which
42 is treated separately), is converted to a cents-per-gallon rate based
43 on the retail price of number 2 diesel before tax. Initially, the diesel
44 and kerosene rate will be zero; on and after January 1, 2017 it will
45 be 70 percent of the 12.5 percent rate, and on and after July 1, 2017
46 it will be taxed at the 12.5 percent rate. These rates can be adjusted
47 quarterly, but cannot fall below the rates determined for the quarter

1 beginning July 1, 2016, and cannot exceed a rate based of a pretax
2 cost of \$3 per gallon.

3 The 7 percent tax on fuel oil is converted to a cents-per-gallon
4 rate based on the pretax retail price of number 4 fuel oil. These
5 rates can be adjusted quarterly, but cannot fall below the rates
6 determined for the quarter beginning July 1, 2016.

7 Initially, the highway fuels will be subject to an additional cents-
8 per-gallon rate of four cents. On and after July 1, 2017 the
9 additional rate on diesel fuel and kerosene will be raised to eight
10 cents per gallon.

11 Aviation fuel (aviation gasoline and aviation grade kerosene) is
12 currently subject to tax but use of the fuel by common carriers in
13 interstate commerce is exempt except for the “burnout” portion
14 used in takeoff. This bill eliminates that exemption for common
15 carriers and imposes tax on all aviation fuel. The 7 percent tax on
16 aviation fuel is converted to a cents-per-gallon rate based on the
17 pretax prices paid by commercial consumers. This rate can be
18 adjusted annually, but cannot change more than 5 percent from the
19 previous year.

- 20 • Section 13: Establishes a three-member review council,
21 composed of the State Treasurer, the Legislative Budget and
22 Finance Officer, and a third public member selected by both.
- 23 • Requires that the Governor and the Legislature receive by
24 January 15, 2020, the council’s report of the consensus
25 estimate of the increase or decrease in State revenues caused
26 by each section of this bill during the three prior fiscal years
27 compared to the estimates at the time of enactment.
- 28 • Requires the review council to monitor the actions
29 Legislature on an ongoing basis for interference with the
30 implementation of the provisions of the bill. If
31 implementation is impeded, (by, for example, extending a
32 phase-in, freezing a phase-out at a particular level, or
33 repealing one of the bill’s provisions), the council would
34 certify this interference to the Director of the Division of
35 Taxation. This certification triggers the cessation of
36 imposition of one of the components of the petroleum
37 products gross receipts tax, and collection of that part of the
38 tax ends.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2411

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 2016

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2411, with committee amendments.

As amended, this bill adjusts various State taxes towards the end of supporting strengthened investments in public, private and charitable assets in this State.

The various changes in State taxes are described as follows:

- Section 1: Phases out the estate tax over four years, first by replacing the current \$675,000 threshold with a \$1,000,000 exclusion, and then increasing that exclusion amount until the tax is eliminated.

The current New Jersey estate tax is determined by reference to a repealed federal credit against a system of federal estate taxation that no longer exists. The former federal credit was part of a national revenue-sharing policy, no longer in effect, that was originally designed to provide a portion to states of what would otherwise have been a high-rate federal tax. Because the mechanics of the current tax are a remnant of that former federal imposition, the New Jersey estate tax is initially imposed at a rate of 37 percent until all the tax that would have been imposed on the value of the estate below \$675,000 is made up. Under the current tax, that highest rate is imposed on even the smallest estates subject to tax.

This bill eliminates that tax rate “bump” by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law. This allows the bill to replace the former \$675,000 tax threshold with a true tax exclusion, initially set at \$1,000,000 for the estates of resident decedents dying on or after January 1, 2017. The bill increases the exclusion amount to \$2,000,000 for 2018, and \$3,000,000 for 2019. For decedents dying on or after January 1, 2020, the bill provides that there will be no tax imposed.

The bill imposes the estate tax on the New Jersey property of nonresident decedents. Currently, the estate tax is only imposed on the property of resident decedents. The bill uses a “ratio” method: the estate of a nonresident computes estate tax as though a State

resident, then pays the proportion of that liability that the estate's New Jersey property is of the estate's total property. This change takes effect for nonresident decedent estates January 1, 2017, and ceases on January 1, 2020 along with the tax on resident estates.

- Sections 2 and 3: Increase the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This is intended to reduce the capacity of the State's personal income tax to diminish the after-tax retirement income available to retired taxpayers in this State.

Generally under current law, taxpayers with \$100,000 or less of annual income, who are at least 62 years old, may claim a pension and retirement income exclusion of up to \$20,000 for joint filers, \$15,000 for individuals, and \$10,000 for married but filing separately.

This bill increases the personal income tax's pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than \$100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

- Section 4: Increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount.

The federal and State EITC programs are intended to "make work pay" by offsetting the burden of payroll taxes for low and moderate income workers.

To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status, and the number of qualifying children. For Tax Year 2016,

the federal Internal Revenue Service has indicated, the following program limits:

Maximum Income Eligibility Levels				
If filing ...	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	\$14,880	\$39,296	\$44,648	\$47,955
Married Filing Jointly	\$20,430	\$44,846	\$50,198	\$53,505

According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. Based on available federal Internal Revenue Service data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by \$255, from \$708 in TY 2015 to approximately \$963 in TY 2016.

- Section 5: Allows a New Jersey gross income tax deduction for cash charitable contributions that are made to certain charitable agencies and organizations that primarily provide health, welfare, or human care services to individuals in New Jersey and that are eligible to participate in annual State charitable fund-raising campaigns in this State.

New Jersey gross income taxpayers will be allowed to deduct from gross income cash charitable contributions that are made during the taxable year to a qualified charitable agency or fund-raising organization. The agencies and organization will be those that are already qualified and participating in the annual New Jersey Employees Charitable Campaign under current law and regulations but will only include those groups that primarily provide health, welfare, or human care services to individuals in this State.

To assist the Director of the Division of Taxation in determining which agencies and organizations meet those criteria, the bill establishes a “Charity Advisory Council” comprising the Commissioners of Human Services, Children and Families, Health and Community Affairs (or their designees) and four public members, individuals actively engaged in providing health, welfare, or human care services to individuals in New Jersey, one each appointed by the Senate President, the Speaker of the General Assembly, the Senate Minority Leader, and the Assembly Minority Leader. The council will annually advise the director.

- Sections 6 through 12: Concern an increase in the petroleum products gross receipts tax rates, which, either by statutory

or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2¾ percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products other than highway fuel to 7 percent of gross receipts, and increases the base rate on highway fuel to 12.5 percent of gross receipts.

The 12.5 percent tax on gasoline, gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.5 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene, which is treated separately), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate will be zero; on and after January 1, 2017 it will be 70 percent of the 12.5 percent rate, and on and after July 1, 2017 it will be taxed at the 12.5 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap for the total tax on highway fuel, under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This is the highway fuel cap amount.

Each 2017 through 2026 the Treasurer, using U.S. Energy Administration projections for gasoline price and consumption in New Jersey and other data, determines what tax rate should be imposed under the petroleum products tax on highway fuel so that the revenues from the motor fuels tax on highway fuel, the 4 cent per gallon petroleum tax and the percentage rate petroleum tax will result in the State receiving the highway fuel cap amount for the fiscal year, and the new rate takes effect on October 1. The bill also has a "true-up" provision: if the rate is too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene) is currently subject to tax but use of the fuel by common carriers in interstate commerce is exempt except for the “burnout” portion used in takeoff. This bill eliminates that exemption for common carriers and imposes tax on all aviation fuel. The 7 percent tax on aviation fuel is converted to a cents-per-gallon rate based on the pretax prices paid by commercial consumers. This rate can be adjusted annually, but cannot change more than 5 percent from the previous year.

- Section 13: Establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both.
- Requires that the Governor and the Legislature receive by January 15, 2020, the council’s report of the consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.
- Requires the review council to monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill’s provisions), the council would certify this interference to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

COMMITTEE AMENDMENTS:

The amendments provide for the cap for the total tax on highway fuel, and delete the prior \$3-per-gallon base cap on highway fuel.

The amendments add a cross reference in section 13, which concerns the review council, to the section where the council’s certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and make a technical correction to a grade of diesel fuel.

FISCAL IMPACT:

The Office of Legislative Services estimates this bill will significantly reduce certain General Fund and Property Tax Relief Fund revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between \$1,091,200,000 to \$1,128,200,000 in FY 2017 and declining thereafter to an estimated range of net revenue gains between \$140,600,000 to \$375,600,000 by FY 2022. The ranges of net gains are estimated by comparing the better case of higher revenue gains less lower revenue losses and comparing the worse case of lower revenue gains less higher revenue losses. The OLS notes that revenue losses are likely to exceed revenue gains in fiscal years soon after FY 2022.

The revenue decreases will be phased in over time, starting with an estimated \$122,000,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$962,000,000 to \$1,160,000,000 by FY 2022.

The revenue increases begin in FY 2017 with an estimated range of between \$1,213,200,000 to \$1,250,200,000 and stabilizing to an estimated range between \$1,300,600,000 to \$1,337,600,000 for FY 2019 and thereafter from the various fuels tax increases.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2411

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 29, 2016

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2411 (1R), with committee amendments.

As amended, this bill adjusts certain State taxes to support strengthened investments in public and private assets in this State.

Estate Tax

The bill phases out the New Jersey estate tax over four years by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current \$675,000 threshold with a “true” exclusion amount initially established at \$2.0 million for decedents dying on or after January 1, 2017, and incorporating the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for decedents dying on or after January 1, 2018, and finally eliminating the estate tax for decedents dying on and after January 1, 2020. Although the federal exclusion amount for calendar year 2016 is \$5,450,000, that exclusion amount will increase in calendar year 2018 and 2019 as it is subject to annual cost-of-living adjustments determined pursuant to the current federal estate law.

The current New Jersey estate tax is determined by reference to a repealed federal credit against a system of federal estate taxation that no longer exists. The former federal credit was part of a national revenue-sharing policy, no longer in effect, that was originally designed to provide to states a portion of what would otherwise have been a high-rate federal tax. Because the mechanics of the current tax are a remnant of that former federal imposition, the New Jersey estate tax is initially imposed at a rate of 37 percent until all the tax that would have been imposed on the value of the estate below \$675,000 is made up. This bill eliminates that tax rate “bump” and provides a true exclusion amount by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law to eliminate the tax imposed on estate values below the statutory exclusion amount.

Under this bill, until the estate tax expires, the estate tax will be imposed on the New Jersey property of nonresident decedents. Currently, the estate tax is only imposed on the property of resident decedents. The amendment uses a “ratio” method: the estate of a nonresident computes estate tax as though a State resident, then pays

the proportion of that liability that the estate's New Jersey property is of the estate's total property. This change takes effect for nonresident decedent estates on January 1, 2017.

Veteran's Personal Exemption

The bill provides an additional annual personal exemption under the New Jersey gross income tax of \$3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

Personal Motor Vehicle Fuel Tax Deduction

The bill provides for an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer's motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than \$100,000, and will be capped at \$250 for the 2016 taxable year and at \$500 for each taxable year thereafter.

Pension and Retirement Income Exclusion

The bill increases the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This will reduce the State's personal income tax on retirement income of certain retired taxpayers in this State.

Generally under current law, taxpayers with \$100,000 or less of annual income, who are at least 62 years old, may claim a pension and retirement income exclusion of up to \$20,000 for joint filers, \$15,000 for individuals, and \$10,000 for married but filing separately.

This bill increases the gross income tax pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than \$100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

Earned Income Tax Credit

The bill increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount. To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status and the number of qualifying dependents.

Petroleum Products Gross Receipts Tax

The bill provides for increases in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2.75 percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products, other than highway fuel and other than aviation fuel, from 2.75 percent to 7 percent of gross receipts, and increases the base rate on highway fuel from 2.75 percent to 12.85 percent of gross receipts. Under the petroleum products gross receipts tax provisions "highway fuel" means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene. The starting date of the new petroleum products gross receipts tax rates for highway fuel, other than diesel fuel, will be the "2016 implementation date," defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. The rate increase on diesel fuel will occur in two steps: (1) with 70% of the rate increase taking effect on January 1, 2017, and (2) the full rate increase effective on July 1, 2017.

The 12.85 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.85 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate increase will be zero; on and after January 1, 2017 it will be 70 percent of the 12.85 percent rate, and on and after July 1, 2017 it will be taxed at the 12.85 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined on July 1, 2016.

The bill provides a cap for the total tax on highway fuel under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer will calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This calculated amount is designated as the highway fuel cap amount.

Each fiscal year from 2018 through 2026 the State Treasurer will determine an adjusted tax rate to be imposed beginning each October 1 so that taxes collected from the motor fuels tax on highway fuel and petroleum products tax on highway fuel do not exceed the highway fuel cap amount for any fiscal year. This “true-up” provision will ensure that if the tax rates are too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil (exclusive of fuel oil used for home heating use) is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined on July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene), currently subject to a 4 cents per gallon tax, and imposed on common carriers in interstate and foreign commerce only on the “burnout” portion, will remain unchanged as imposed under current law.

Review Council

The bill establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both. The review council will report to the Governor and the Legislature by January 15, 2020, on the council’s consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.

The review council will monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, delaying a phase-in of an increased tax exclusion, freezing a scheduled rate reduction, or repealing one of the bill’s provisions), the council will certify this interference to the Director of the Division of Taxation. This certification triggers the cessation

of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

As amended and reported, this bill is identical to Assembly Bill No. 12, as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) increase the annual estate tax exclusion amounts for the three years before the estate tax is eliminated. The \$1,000,000 exclusion amount applicable during 2017 is increased to \$2,000,000. The exclusion amounts for 2018 and 2019 are changed from \$2,000,000 and \$3,000,000 respectively to the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for 2018 and 2019.

(2) Add to the bill a section that provides under the New Jersey gross income tax an additional annual personal exemption of \$3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

(3) Add to the bill a section that provides an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer's motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than \$100,000 and will be capped at \$250 for the 2016 taxable year and at \$500 for each taxable year thereafter.

(4) Delete from the bill a proposed charitable contribution deduction under the New Jersey gross income tax.

(5) Change the following petroleum products gross receipts tax provisions: The amendments change the starting date of the new petroleum products gross receipts tax rates for most highway fuels from July 1, 2016 to the "2016 implementation date," defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. A phase-in for the rate increase on diesel fuel will occur in two steps: (1) with 70% of the rate increase taking effect on January 1, 2017, and (2) the full rate increase effective on July 1, 2017. The amendment changes the new tax rate on highway fuel from the 12.5 percent rate in the bill to 12.85 percent. The amendment makes a technical change to the petroleum products exemption section, replacing the undefined term "motor fuel" with the defined term "highway fuel."

FISCAL IMPACT:

The Office of Legislative Services estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of

between \$848,200,000 to \$852,700,000 in FY 2017, declining thereafter to an estimated gain of between \$279,600,000 to \$346,600,000 in FY 2022. The revenue reductions will be phased in over time, starting with an estimated range of revenue losses between \$145,500,000 to \$150,000,000 in FY 2017 and rising to an estimated range of revenue losses between \$862,000,000 to \$929,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$998,200,000 and stabilizing to an estimated gain of \$1,208,600,000 in FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State Revenue Losses to General Fund (Estate Tax) and Property Tax Relief Fund:						
Estate Tax	(\$16,000,000)	(\$109,000,000)	(\$273,000,000)	(\$377,000,000)	(\$459,000,000)	(\$552,000,000)
<u>GIT (PTRF)</u>						
Vet's Excl.	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
Fuel Tax Deduction	(\$7,500,000) to (\$12,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)	(\$15,000,000) to (\$24,000,000)
Retirement Income	\$0	(\$60,000,000) to (\$90,000,000)	(\$70,000,000) to (\$105,000,000)	(\$80,000,000) to (\$120,000,000)	(\$85,000,000) to (\$130,000,000)	(\$135,000,000) to (\$193,000,000)
EITC	(\$122,000,000)	(\$124,000,000)	(\$127,000,000)	(\$130,000,000)	(\$133,000,000)	(\$137,000,000)
Total Loss	(\$145,500,000) to (\$150,000,000)	(\$331,000,000) to (\$370,000,000)	(\$508,000,000) to (\$552,000,000)	(\$625,000,000) to (\$674,000,000)	(\$715,000,000) to (\$769,000,000)	(\$862,000,000) to (\$929,000,000)
State Revenue Gain to General Fund:						
12.85% PPGR	\$947,600,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000
7% Non-Motor	\$25,900,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$24,700,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain	\$998,200,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000
Net Total State Revenue All Funds	\$852,700,000 to \$848,200,000	\$838,600,000 to \$877,600,000	\$656,600,000 to \$700,600,000	\$534,600,000 to \$583,600,000	\$439,600,000 to \$493,600,000	\$279,600,000 to \$346,600,000

STATEMENT TO
[Second Reprint]
SENATE, No. 2411

with Senate Floor Amendments
(Proposed by Senators SARLO and OROHO)

ADOPTED: OCTOBER 5, 2016

These Senate amendments reduce the *sales and use tax* rate from 7 percent to 6.875 percent on January 1, 2017 and reduce the rate from 6.875 percent to 6.625 percent on January 1, 2018. The amendments revise the special transition provisions for taxing sales transactions that extend across the tax rate change dates.

The amendments phase out the *estate tax* over two rather than four years, by first replacing the current \$675,000 threshold with a “true” exclusion amount established at \$2.0 million for decedents dying on or after January 1, 2017, and then eliminating the estate tax for decedents dying on and after January 1, 2018. The amendments also eliminate provisions of the bill that provided for the imposition of the estate tax on the New Jersey property of nonresident decedents.

The amendments eliminate provisions of the bill that allowed an annual *gross income tax* deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer’s motor vehicles and not otherwise reimbursed.

The amendments cap the proposed increase in the *gross income tax* pension and retirement income exclusions to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately upon the full, four-year phase-in, by January 1, 2020, of the enhanced exclusion. Under the amendments, the phase in of the increase is as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$45,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

The amendments also eliminate the provision, for taxable years beginning on or after January 1, 2021, that allowed a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

The amendments provide for an increase in the New Jersey Earned Income Tax Credit (NJ EITC) under the *gross income tax* to 35 percent, rather than 40 percent, of the federal benefit amount

beginning in Tax Year 2016. The current statutory benefit amount under the NJ EITC is equal to 30 percent of the federal benefit amount.

The amendments change the “2016 implementation date” for the new *petroleum products gross receipts tax* rates for most highway fuels to the later of November 1, 2016, or the 15th day after the date of enactment of the bill. The bill previously had anticipated a 2016 implementation date of September 1, 2016 or the 15th day after the date of enactment.

The amendments make certain other technical corrections as to punctuation, grammar, and internal cross references contained in the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates this bill, as amended, will significantly reduce sales and use tax, estate tax, and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$544,440,000 in FY 2017, and a gain of between \$555,200,000 and \$585,200,000 in FY 2018. In FY 2019, a smaller net gain of between \$124,500,000 and \$159,500,000 is estimated. Thereafter, the OLS estimates that the bill will result in an annual net revenue decline of between \$23,200,000 and \$63,200,000 in FY 2020, rising to an estimated loss of between \$168,050,000 to \$214,400,000 by FY 2022. The revenue decreases will be phased in over time, starting with an estimated \$170,400,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$1,398,350,000 to \$1,444,700,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$714,840,000 stabilizing to an estimated gain of \$1,230,300,000 for FY 2018 and thereafter from the various fuels tax increases.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State Revenue Loss:						
<u>General Fund</u>						
Sales & Use Tax	(\$92,400,000)	(\$382,200,000)	(\$592,800,000)	(\$613,900,000)	(\$633,800,000)	(\$655,400,000)
Estate Tax	(\$16,000,000)	(\$116,400,000)	(\$320,000,000)	(\$470,100,000)	(\$521,900,000)	(\$561,900,000)
<u>PTRF</u>		(\$60,000,000)	(\$70,000,000)	(\$80,000,000)	(\$85,000,000)	(\$87,550,000)
Pensions	\$0	to (\$90,000,000)	to (\$105,000,000)	to (\$120,000,000)	to (\$130,000,000)	to (\$133,900,000)
Veterans' Exclusion	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
EITC	(\$62,000,000)	(\$63,500,000)	(\$65,000,000)	(\$66,500,000)	(\$68,500,000)	(\$70,500,000)
Total Loss in GF and PTRF	(\$170,400,000)	(\$645,100,000) to (\$675,100,000)	(\$1,070,800,000) to (\$1,105,800,000)	(\$1,253,500,000) to (\$1,293,500,000)	(\$1,332,200,000) to (\$1,377,200,000)	(\$1,398,350,000) to (\$1,444,700,000)
State Revenue Gain:						
12.5% PPGR	\$694,120,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000
7% Non-Motor	\$20,720,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$0	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain, Fuels Taxes	\$714,840,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000
Net Total State Revenue All Funds	\$544,440,000	\$585,200,000 to \$555,200,000	\$159,500,000 to \$124,500,000	(\$23,200,000) to (\$63,200,000)	(\$101,900,000) to (\$146,900,000)	(\$168,050,000) to (\$214,400,000)

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. EITC is Earned Income Tax Credit. PPRG is Petroleum Products Gross Receipts tax.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2411 STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JUNE 30, 2016

SUMMARY

Synopsis: Adjusts certain State taxes to support strengthened investments in public, private, and charitable assets in this State.

Type of Impact: Annual loss of revenue from the Property Tax Relief Fund; annual gain in General Fund revenue.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
State Cost	Indeterminate Administrative Cost – See analysis below					
State Revenue Loss:						
Estate Tax (GF)	\$0	(\$120,000,000)	(\$220,000,000)	(\$280,000,000)	(\$512,000,000)	(\$550,000,000)
GIT (PTRF)		(\$60,000,000)	(\$70,000,000)	(\$80,000,000)	(\$85,000,000)	(\$135,000,000)
Pensions	\$0	to (\$90,000,000)	to (\$105,000,000)	to (\$120,000,000)	to (\$130,000,000)	to (\$193,000,000)
EITC	(\$122,000,000)	(\$124,000,000)	(\$127,000,000)	(\$130,000,000)	(\$133,000,000)	(\$137,000,000)
Charity Deduction	\$0	to (\$140,000,000)	to (\$140,000,000)	to (\$140,000,000)	to (\$140,000,000)	to (\$140,000,000)
		to (\$280,000,000)	to (\$280,000,000)	to (\$280,000,000)	to (\$280,000,000)	to (\$280,000,000)
Total Loss in GF and PTRF	(\$122,000,000)	to (\$444,000,000) to (\$614,000,000)	to (\$557,000,000) to (\$732,000,000)	to (\$630,000,000) to (\$810,000,000)	to (\$870,000,000) to (\$1,055,000,000)	to (\$962,000,000) to (\$1,160,000,000)
State Revenue Gain:						
12.5 percent PPGR	\$1,029,400,000	\$1,106,900,000	\$1,106,900,000	\$1,106,900,000	\$1,106,900,000	\$1,106,900,000
	\$123,000,000	\$123,000,000	\$123,000,000	\$123,000,000	\$123,000,000	\$123,000,000
	to \$160,000,000	to \$160,000,000	to \$160,000,000	to \$160,000,000	to \$160,000,000	to \$160,000,000
7 percent Jet Fuel						
7 percent Non-Motor	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$29,700,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain from Fuels Taxes	\$1,213,200,000 to \$1,250,200,000	\$1,300,600,000 to \$1,337,600,000	\$1,300,600,000 to \$1,337,600,000	\$1,300,600,000 to \$1,337,600,000	\$1,300,600,000 to \$1,337,600,000	\$1,300,600,000 to \$1,337,600,000
Net Total State Revenue All Funds	\$1,091,200,000 to \$1,128,200,000	\$686,600,000 to \$893,600,000	\$568,600,000 to \$780,600,000	\$490,600,000 to \$707,600,000	\$245,600,000 to \$467,600,000	\$140,600,000 to \$375,600,000

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. EITC is Earned Income Tax Credit. PPGR is Petroleum Products Gross Receipts tax.

- The Office of Legislative Services (OLS) estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between \$1,091,200,000 to \$1,128,200,000 in FY 2017, declining thereafter to an estimated gain of between \$140,600,000 to \$375,600,000 in FY 2022. These ranges are estimated by comparing the better case and the worse case for State revenues in each year. The better case assumes the higher State revenue gain offset by the lower State revenue loss. The worse case assumes the lower State revenue gain offset by the higher State revenue loss. The OLS notes that revenue losses are likely to exceed revenue gains in fiscal years soon after FY 2022.
- The revenue decreases will be phased in over time, starting with an estimated \$122,000,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$962,000,000 to \$1,160,000,000 in FY 2022.
- The revenue increases begin in FY 2017 with an estimated range of between \$1,213,200,000 to \$1,250,200,000, stabilizing to an estimated range between \$1,300,600,000 to \$1,337,600,000 for FY 2018 and thereafter from the various fuels tax increases.

BILL DESCRIPTION

Senate Bill No. 2411 (1R) of 2016 bill adjusts various State taxes as follows:

- Section 1: Phases out the estate tax over four years, first by replacing the current \$675,000 threshold with a \$1,000,000 exclusion, and then increasing that exclusion amount until the tax is eliminated. Imposes the estate tax on non-resident decedents.

The current New Jersey estate tax is determined by reference to a repealed federal credit against a system of federal estate taxation that no longer exists. Because the mechanics of the current tax are a remnant of that former federal imposition, the New Jersey estate tax is initially imposed at a rate of 37 percent until all the tax that would have been imposed on the value of the estate below \$675,000 is made up. Under the current tax, that highest rate is imposed on even the smallest estates subject to tax.

This bill eliminates that tax rate “bump” by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law. This allows the bill to replace the former \$675,000 tax threshold with a true tax exclusion, initially set at \$1,000,000 for the estates of resident decedents dying on or after January 1, 2017. The bill increases the exclusion amount to \$2,000,000 for 2018, and \$3,000,000 for 2019. For decedents dying on or after January 1, 2020, the bill provides that there will be no tax imposed.

The bill imposes the estate tax on the New Jersey property of nonresident decedents. Currently, the estate tax is imposed only on the property of resident decedents. The bill uses a “ratio” method: the estate of a nonresident computes estate tax as though a State resident, then pays the proportion of that liability that the estate’s New Jersey property is of the estate’s total property. This change takes effect for nonresident decedent estates January 1, 2017, and ceases on January 1, 2020 along with the tax on resident estates.

- Sections 2 and 3: Increase the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This bill increases the personal income

tax's pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than \$100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

- Section 4: Increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount.

To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status, and the number of qualifying children. For Tax Year 2016, the federal Internal Revenue Service has indicated, the following program limits:

Maximum Income Eligibility Levels				
If filing ...	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	\$14,880	\$39,296	\$44,648	\$47,955
Married Filing Jointly	\$20,430	\$44,846	\$50,198	\$53,505

- Section 5: Allows a New Jersey gross income tax deduction for cash charitable contributions that are made to certain charitable agencies and organizations that primarily provide health, welfare, or human care services to individuals in New Jersey and that are eligible to participate in annual State charitable fund-raising campaigns in this State.

New Jersey gross income taxpayers will be allowed to deduct from gross income cash charitable contributions that are made during the taxable year to a qualified charitable agency or fund-raising organization. The agencies and organization will be those that are already qualified and participating in the annual New Jersey Employees Charitable Campaign under current law and regulations but will only include those groups that primarily provide health, welfare, or human care services to individuals in this State. The deduction cannot exceed 50 percent of a taxpayer's gross income.

To assist the Director of the Division of Taxation in determining which agencies and organizations meet those criteria, the bill establishes a “Charity Advisory Council” comprising the Commissioners of Human Services, Children and Families, Health and Community Affairs (or their designees) and four public members, individuals actively engaged in providing health, welfare, or human care services to individuals in New Jersey, one each appointed by the Senate President, the Speaker of the General Assembly, the Senate Minority Leader, and the Assembly Minority Leader. The council will annually advise the director.

- Sections 6 through 12: Concern an increase in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State’s transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2¾ percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products other than highway fuel to 7 percent of gross receipts, and increases the base rate on highway fuel to 12.5 percent of gross receipts.

The 12.5 percent tax on gasoline, gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.5 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene, which is treated separately), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate will be zero; on and after January 1, 2017 it will be 70 percent of the 12.5 percent rate, and on and after July 1, 2017 it will be taxed at the 12.5 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap on the total tax on highway fuel, under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates: the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This is the highway fuel cap amount.

In each year beginning 2018 through 2026, the Treasurer, using U.S. Energy Administration projections for gasoline price and consumption in New Jersey and other data, determines what tax rate should be imposed under the petroleum products tax on highway fuel so that the revenues from the motor fuels tax on highway fuel, the 4 cent per gallon petroleum tax and the percentage rate petroleum tax will result in the State receiving the highway fuel cap amount for the fiscal year, and the new rate takes effect on October 1. The bill also has a “true-up” provision: if the rate is too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene) is currently subject to tax but use of the fuel by common carriers in interstate commerce is exempt except for the “burnout” portion used in takeoff. This bill eliminates that exemption for common carriers and imposes tax on all aviation fuel. The 7 percent tax on aviation fuel is converted to a cents-per-gallon rate based on the pretax prices paid by commercial consumers. This rate can be adjusted annually, but cannot change more than 5 percent from the previous year.

- Section 13: Establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both.
- Requires that the Governor and the Legislature receive by January 15, 2020, the council’s report of the consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.
- Requires the review council to monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill’s provisions), the council would certify this interference to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The revenue decreases will be phased in over time, starting with an estimated \$122,000,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$962,000,000 to \$1,160,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated range of between \$1,213,200,000 to \$1,250,200,000, stabilizing to an estimated range between \$1,300,600,000 to \$1,337,600,000 for FY 2018 and thereafter from the various fuels tax increases. The net impact to total State revenues from these changes is estimated at a gain of between \$1,091,200,000 to \$1,128,200,000 in FY 2017, declining thereafter to an estimated gain of net revenue gains between \$140,600,000 to \$375,600,000 in FY 2022. These ranges are estimated by comparing the better case and the worse case for State revenues in each year. The better case assumes the higher State revenue gain offset by the lower State revenue loss. The worse case assumes the lower State revenue gain offset by the higher State revenue loss. The OLS notes that revenue losses are likely to exceed revenue gains in fiscal years soon after FY 2022. These estimates are discussed in greater detail below.

Estate Tax (GF)

The OLS estimates this bill would reduce annual estate tax revenues deposited into the General Fund by \$120 million in FY 2018, \$220 million in FY 2019, \$280 million in FY 2020, and \$512 million in FY 2021, at which point the estate tax would be fully repealed. Following the full repeal, the amount of revenue foregone to the General Fund will continue to change with the value of estates.

Given that estates typically take nine months to complete the tax filing process, this bill would have no fiscal impact in FY 2017. The impact would begin in FY 2018 and would be fully phased-in four years later, in FY 2021. As the exclusion thresholds are phased up, the tax “bump” (that part of the tax imposed on estate values below the threshold amounts) would be replaced by a “true” tax exclusion amount each year. The OLS estimates the annual revenue loss at each step of the process as follows:

Estimated Impact of Estate Tax Change			
Fiscal Year	Est. Estate Tax Revenue Current Law	Est. Estate Tax Revenue Under Bill	Est. Revenue Loss Under Bill
2017	\$391,000,000	\$391,000,000	\$0
2018	\$418,000,000	\$298,000,000	\$120,000,000
2019	\$448,000,000	\$228,000,000	\$220,000,000
2020	\$479,000,000	\$199,000,000	\$280,000,000
2021	\$512,000,000	\$0	\$512,000,000
2022	\$550,000,000	\$0	\$550,000,000
After 2022	The amount of revenue foregone will continue to change with the value of estates.		

These estimates are based on Treasury data from FY 2014, the most recent year for which OLS has tax collections data by size of estate, during which the estate tax accounted for \$320.0 million in revenue. In the two most recent years, FY 2014 and FY 2015, total estate and inheritance taxes increased by 10 percent and 15 percent respectively, while growth over the last five completed years has averaged about 7 percent. Accordingly, the OLS assumes annual growth in future years of 7 percent, ultimately yielding an estimated total of \$512.0 million in FY 2021 at the time of full repeal. For the phase-in years, the OLS applied the annual growth to estate tax amounts at the different levels of the value of estates, as detailed in the Treasury data. In addition, the OLS estimated the impact of eliminating the “bump” using the number of estates at each level applied to the tax table amounts from the Division of Taxation’s estate tax worksheet.

Data from the Department of the Treasury indicate that this bill, once fully implemented, would eliminate the estate tax on approximately 3,500 estates annually. This number equals about 5 percent of the approximately 70,000 deaths reported by the Department of Health each year in the State.

The bill also imposes the estate tax on the property of certain nonresident decedents. While this provision should increase State tax revenue during the years before the estate tax is fully repealed, the OLS has no data with which to estimate the potential revenue gain for FY 2018 through FY 2020.

The OLS notes that the estate tax is a volatile revenue source. Much of that volatility reflects assets such as stocks, which can see sharp increases and decreases in value, as measured by the major stock indexes such as the Standard and Poor’s 500 index. Accordingly, a prolonged or severe “bear” or “bull” market could indicate subsequent downward or upward volatility in the potential value of the foregone revenues under this bill. In addition, although the OLS estimate

assumes a fully phased-in impact by FY 2020, there may be some remnant of estate tax revenue received in fiscal years after FY 2020 to the extent that some estates may face longer delays in filings and processing. The OLS does not have sufficient data on the processing period for individual estates.

Gross Income Tax – Pension and Retirement Income (PTRF)

The OLS estimates the increase in the pension and retirement exclusion will yield a range of potential annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the bill may reduce FY 2018 revenues by between \$60 million and \$90 million, FY 2019 revenues by between \$70 million and \$105 million, FY 2020 revenues by between \$80 million and \$120 million, FY 2021 revenues by between \$85 million and \$130 million, and FY 2022 revenues by between \$135 million and \$193 million. Thereafter revenue losses may grow by between 3.0 percent and 4.0 percent annually.

Precise estimates are not possible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under the bill.

The OLS notes that average pension income for senior returns in gross income brackets under \$100,000 varies from approximately \$18,000 at the lower income levels to about \$45,000 at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough pension and retirement income to claim an exclusion near the new maximum levels proposed under this bill. Accordingly, most of the estimated revenue loss from this bill will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under \$100,000 will have maximized their exclusion amount, followed by a larger increase in the fifth year as taxpayer with gross income between \$100,000 and \$150,000 become eligible for a partial exclusion for the first time.

In comparison to the overall revenue losses estimated under this bill, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated \$125.5 million annually. While this bill will increase the current maximum exclusion levels fivefold, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under \$100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels under this bill. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all their pension and other retirement income under current law will see no benefit from this bill. Taxpayers with gross income between \$100,000 and \$150,000 will see a substantial tax benefit on income that is fully taxable under current law but will be partially excluded under the bill.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayer's quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Gross Income Tax – Earned Income Tax Credit (PTRF)

The OLS estimates that the Earned Income Tax Credit (EITC) portion of this bill may reduce gross income tax revenues deposited into the Property Tax Relief Fund by about \$122.0 million in FY 2017, \$124.0 million in FY 2018, and \$127.0 million in FY 2019. In future years, growth of about 2.0 percent per year may continue.

The NJ EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State's gross income tax. The OLS estimate begins with the Executive's assessment that the recent increase of the NJ EITC, from 20 percent to 30 percent of the federal credit (P.L. 2015, c.73), would reduce gross income tax revenues by \$122.0 million in FY 2016, as reported on pages 30 and 33 in the FY 2017 Budget Summary. The increase under this bill, from 30 percent of the federal credit to 40 percent, is projected to have the same incremental impact as the previously enacted increase. Historically, the federal credit amounts have grown by approximately 2.0 percent annually, but recent Internal Revenue Service data indicate the value of federal credits may grow by less than 1.0 percent in 2016. Lower levels of growth in the federal benefit, combined with the New Jersey Division of Taxation's recent enhanced enforcement efforts, suggests growth in the State program may be contained in FY 2017, the first year under this bill. Accordingly, the OLS assumes a revenue loss of \$122.0 million in FY 2017 and a historical 2.0 percent rate of growth annually thereafter.

Based on available federal Internal Revenue Service preview data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by \$255, from \$708 in TY 2015 to approximately \$963 in TY 2016. According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. It is noted, however, that the number of taxpayers receiving an EITC in recent years has experienced some variance due in part to the Division of Taxation's enforcement efforts.

Gross Income Tax – Charitable Deductions (PTRF)

The OLS is unable to determine a precise annual gross income tax revenue loss from the Property Tax Relief Fund for the charitable deduction under this bill. The annual revenue loss may be significant and may range between \$140.0 million to \$280.0 million annually, but data on the proportion of, or value of, New Jersey charitable contributions allocated to qualified New Jersey charitable organizations is not available. In addition, there may be indeterminate annual administrative costs in the Department of the Treasury associated with the advisory council established to determine which agencies and organizations meet the criteria under the bill.

Federal tax data for New Jersey from the Internal Revenue Service (IRS), indicate that for Tax Year 2013, 1.5 million New Jersey taxpayers claimed \$5.5 billion in itemized charitable deductions. The average deduction amount was \$3,598, varying from \$1,429 on average for taxpayers with adjusted gross income between \$10,000 and \$25,000, to \$67,840 on average for taxpayers with greater than \$1,000,000 adjusted gross income. The average deduction equaled about 4.6 percent of total income for all returns, varying from 8.2 percent of total income for low income returns to 2.4 percent of total income for high income returns. This federal IRS data on itemized charitable deductions provides a sense of typical charitable contributions by income levels, but does not comprise the entire New Jersey taxable return population, because 65 percent of New Jersey taxpayers do not itemize deductions on their federal returns.

Applying the federal IRS figures for charitable contributions as a percent of income to the roughly equivalent income brackets for New Jersey full year residents' gross income (the State and federal income brackets are not exactly equivalent), and adjusting for part-year resident and

non-resident returns, yields an estimated potential pool of about \$10.0 billion in total New Jersey taxpayer charitable contributions annually. Multiplying the potential amounts across income brackets by the State's marginal tax rates yields an estimated potential total taxpayer savings, or State tax revenue loss, of between \$450.0 million to \$500.0 million per year for an unrestricted full charitable deduction. However, the impact of the bill is expected to be below the potential impact of an unrestricted full charitable deduction, because the bill limits deductions to certain qualified New Jersey charitable organizations and limits the size of a taxpayer's annual deduction to 50 percent of gross income. No data exists on New Jersey taxpayer contributions to the potential organizations that may qualify under the bill, but New York State has a limited charitable deduction that may provide a comparable example for New Jersey. According to the *FY 2017 Annual Report on New York State Tax Expenditures*, published by that state's Department of Taxation and Finance, New York's charitable deduction (qualified contributions up to 50 percent of adjusted gross income) was estimated at \$582.1 million in FY 2013, or 1.6 percent of total personal income tax liability. Assuming the charitable deduction under this bill produces a range of taxpayer savings, or State revenue losses, between 1 percent and 2 percent of the Executive's estimated New Jersey GIT liability of \$14.0 billion in FY 2017, yields a range of potential revenue losses between \$140.0 million and \$280.0 million.

Motor Fuels and Petroleum Taxes

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of four major components: (1) an increase in the tax rate on motor fuels by 12.5 percent with a gradual phase-in of the diesel component; (2) imposing a 7 percent tax on aviation fuels with no exemptions; (3) increasing the tax on non-motor fuels subject to the PPGRT from 2.75 percent to 7 percent; and (4) an increase in the tax on diesel fuels by 3 cents per gallon in the first year and 4 cents per gallon in future years. The estimated amounts for these four components are shown in the table below.

Estimated Impact of Various Fuels Tax Changes						
<i>\$ in Millions</i>						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
12.5 percent PPRG Tax	\$1,029.4	\$1,106.9	\$1,106.9	\$1,106.9	\$1,106.9	\$1,106.9
7 percent Tax on Jet Fuel	\$123.0 to \$160.0	\$123.0 to \$160.0	\$123.0 to \$160.0	\$123.0 to \$160.0	\$123.0 to \$160.0	\$123.0 to \$160.0
7 percent Tax on Non-Motor Fuels PPGR	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1
4 Cent/gal Tax on Diesel PPGR	\$29.7	\$39.6	\$39.6	\$39.6	\$39.6	\$39.6
Total Fuel Taxes	\$1,213.2 to \$1,250.2	\$1,300.6 to \$1,337.6	\$1,300.6 to \$1,337.6	\$1,300.6 to \$1,337.6	\$1,300.6 to \$1,337.6	\$1,300.6 to \$1,337.6

These tax changes are expected to increase PPGRT revenue by between \$1.21 billion to \$1.25 billion in FY 2017, and between \$1.30 billion to \$1.34 billion per year for FY 2018 and beyond. The bill is structured in a manner that adjusts the cents-per-gallon 12.5 percent PPGRT tax rate annually to target the amount of revenue generated in FY 2016 when using 23 cents-per-gallon as the 12.5 percent cents-per-gallon equivalent. This will result in variation of the cents-

per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately \$49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The 12.5 percent rate applied to the current average retail price of \$1.79 after subtracting existing taxes, results in a cents-per-gallon rate of 22.375 cents. This results in revenues of \$1.107 billion. The amount for FY 2017 needs to be reduced according to the phase in schedule for the diesel component. The distribution of motor fuel sales in the State is approximately 80 percent gasoline and 20 percent diesel. Applying that ratio to the phase in schedule and reducing the revenue accordingly nets a FY 2017 revenue of \$1.029 billion.

(2) The US Energy Information Administration (EIA) estimated 4,083,600 gallons per day of kerosene jet fuel sales for New Jersey in its prime supplier report. That adds to 1,490,514,000 gallons per year of kerosene jet fuel sales, which would generate approximately \$15 million per year for every cent per gallon charged on that fuel. Aviation gasoline and naphtha-type jet fuel represented less than one percent of the volume of aviation fuel sales so they are not considered in this estimate. Information is not available about what percentage of kerosene jet fuel is used in aircraft and previously exempt from the tax, and the amount that is used for other purposes and already embedded in the above estimates for motor fuels. OLS estimates the "burnout" portion of aviation use to represent approximately \$5 million per year under current law. OLS also estimates between 0 percent and 10 percent of consumption is not used by the aviation industry, mostly for jet turbine-based peak power generating capacity. After excluding these amounts, it is estimated that approximately \$13.1 million will be generated for each cent-per-gallon imposed through the PPGRT on aviation fuel. The bill subjects the 7 percent tax rate to the price paid by commercial consumers. OLS does not have access to information about the price paid by commercial consumers, but instead references the current spot commodity market prices for jet fuel which are approximately \$1.40 per gallon. The market prices are subject to rapid fluctuation, and the actual cost incurred by a commercial consumer is likely to be higher, but it is not clear by how much. \$1.40-\$1.80 is likely to be a reasonable range of potential current costs. At that range the expected revenue increase is between \$123 million per year and \$160 million per year.

(3) After multiplying the \$49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon, the motor fuels component of the PPGRT is calculated to be \$197.88 million. Subtracting that from the \$218 million in total current PPGRT revenues, the non-motor fuel revenue is calculated to generate \$20.12 million at the 2.75 percent rate. Using these same ratios, an increase to 7 percent is likely to generate an additional \$31.1 million in additional revenue per year.

(4) Using the above motor fuel distribution and applying it to the \$49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in \$9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result the FY 2017 revenue from this provision will generate \$29.7 million at the 3 cents-per-gallon rate and \$39.6 million in FY 2018 and beyond from the 4 cents-per-gallon rate.

Review Council

Lastly, the OLS notes that the legislation requires the review council, established in section 13 of the bill, to monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this interference to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases estimated above under the bill, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

Section: Revenue, Finance, and Appropriations

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2411

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: AUGUST 4, 2016

SUMMARY

Synopsis: Adjusts certain State taxes to support strengthened investments in public and private assets in this State.

Type of Impact: Annual loss of revenue to the Property Tax Relief Fund; annual gain in General Fund revenue.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State Revenue Losses to General Fund (Estate Tax) and Property Tax Relief Fund:						
Estate Tax	(\$16,000,000)	(\$109,000,000)	(\$273,000,000)	(\$377,000,000)	(\$459,000,000)	(\$552,000,000)
<u>GIT (PTRF)</u>						
Vet's Excl.	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
Fuel Tax	(\$7,500,000)	(\$15,000,000)	(\$15,000,000)	(\$15,000,000)	(\$15,000,000)	(\$15,000,000)
Deduction	to (\$12,000,000)	to (\$24,000,000)	to (\$24,000,000)	to (\$24,000,000)	to (\$24,000,000)	to (\$24,000,000)
Retirement Income	\$0	(\$60,000,000) to (\$90,000,000)	(\$70,000,000) to (\$105,000,000)	(\$80,000,000) to (\$120,000,000)	(\$85,000,000) to (\$130,000,000)	(\$135,000,000) to (\$193,000,000)
EITC	(\$122,000,000)	(\$124,000,000)	(\$127,000,000)	(\$130,000,000)	(\$133,000,000)	(\$137,000,000)
Total Loss	(\$145,500,000) to (\$150,000,000)	(\$331,000,000) to (\$370,000,000)	(\$508,000,000) to (\$552,000,000)	(\$625,000,000) to (\$674,000,000)	(\$715,000,000) to (\$769,000,000)	(\$862,000,000) to (\$929,000,000)
State Revenue Gain to General Fund:						
12.85% PPGR	\$947,600,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000	\$1,137,900,000
7% Non-Motor	\$25,900,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$24,700,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain	\$998,200,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000	\$1,208,600,000
Net Total State Revenue All Funds	\$848,200,000 to \$852,700,000	\$838,600,000 to \$877,600,000	\$656,600,000 to \$700,600,000	\$534,600,000 to \$583,600,000	\$439,600,000 to \$493,600,000	\$279,600,000 to \$346,600,000

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. EITC is Earned Income Tax Credit. PPGR is Petroleum Products Gross Receipts tax.

- The Office of Legislative Services (OLS) estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between \$848,200,000 to \$852,700,000 in FY 2017, declining thereafter to an estimated gain of between \$279,600,000 to \$346,600,000 in FY 2022.
- The revenue reductions will be phased in over time, starting with an estimated range of revenue losses between \$145,500,000 to \$150,000,000 in FY 2017 and rising to an estimated range of revenue losses between \$862,000,000 to \$929,000,000 in FY 2022.
- The revenue increases begin in FY 2017 with an estimated gain of \$998,200,000 and stabilizing to an estimated gain of \$1,208,600,000 in FY 2018 and thereafter from the various fuels tax increases.

BILL DESCRIPTION

Senate Bill No. 2411 (2R) of 2016 bill adjusts various State taxes as follows:

Estate Tax

The bill phases out the New Jersey estate tax over four years by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current \$675,000 threshold with a “true” exclusion amount initially established at \$2.0 million for decedents dying on or after January 1, 2017, and incorporating the federal applicable exclusion amount determined pursuant to the federal Internal Revenue Code for decedents dying on or after January 1, 2018 and finally eliminating the estate tax for decedents dying on and after January 1, 2020. Although the federal exclusion amount for calendar year 2016 is \$5,450,000, that exclusion amount will increase in calendar year 2018 and 2019 as it is subject to annual cost - of - living adjustments determined pursuant to the current federal estate law.

The current New Jersey estate tax is determined by reference to a repealed federal credit against a system of federal estate taxation that no longer exists. The former federal credit was part of a national revenue-sharing policy, no longer in effect, that was originally designed to provide states a portion of what would otherwise have been a high-rate federal tax. Because the mechanics of the current tax are a remnant of that former federal imposition, the New Jersey estate tax is initially imposed at a rate of 37 percent until all the tax that would have been imposed on the value of the estate below \$675,000 is made up. This bill eliminates that tax rate “bump” and provides a true exclusion amount by abandoning the references to the old federal credit and establishing the necessary mechanics under New Jersey law to eliminate the tax imposed on estate values below the statutory exclusion amount. Under this bill, until the estate tax expires, the estate tax will be imposed on the New Jersey property of nonresident decedents. Currently, the estate tax is only imposed on the property of resident decedents. The amendment uses a “ratio” method: the estate of a nonresident computes estate tax as though a State resident, then pays the proportion of that liability that the estate’s New Jersey property is of the estate’s total property. This change takes effect for nonresident decedent estates on January 1, 2017.

Veteran's Personal Exemption

The bill provides an additional annual personal exemption under the New Jersey gross income tax of \$3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

Personal Motor Vehicle Fuel Tax Deduction

The bill provides for an annual gross income tax deduction for State fuel taxes paid by taxpayers on purchases of motor fuel for the operation for personal use of the taxpayer's motor vehicles and not otherwise reimbursed. The deduction will be allowed for taxpayers in any filing status with annual gross income of not more than \$100,000, and will be capped at \$250 for the 2016 taxable year and at \$500 for each taxable year thereafter.

Pension and Retirement Income Exclusion

The bill increases the New Jersey gross income tax pension and retirement income exclusions fivefold over four years. This will reduce the State's personal income tax on retirement income of certain retired taxpayers in this State.

Generally under current law, taxpayers with \$100,000 or less of annual income, who are at least 62 years old, may claim a pension and retirement income exclusion of up to \$20,000 for joint filers, \$15,000 for individuals, and \$10,000 for married but filing separately.

This bill increases the gross income tax pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the five-fold exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$50,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than \$100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than \$100,000 but not over \$125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than \$125,000 but not more than \$150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

Earned Income Tax Credit

The bill increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount. To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status, and the number of qualifying children.

Petroleum Products Gross Receipts Tax

The bill provides for increases in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2.75 percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to \$0.04 per gallon.

This bill increases the base rate on petroleum products, other than highway fuel and other than aviation fuel, from 2.75 percent to 7 percent of gross receipts, and increases the base rate on highway fuel from 2.75 percent to 12.85 percent of gross receipts. Under the petroleum products gross receipts tax provisions “highway fuel” means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene. The starting date of the new petroleum products gross receipts tax rates for highway fuel, other than diesel fuel, will be the “2016 implementation date,” defined as the later of September 1, 2016, or the 15th day after the date of enactment of this bill. The rate increase on diesel fuel will occur in two steps: (1) with 70 percent of the rate increase taking effect on January 1, 2017, and (2) the full rate increase effective on July 1, 2017.

The 12.85 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.85 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate will be zero; on and after January 1, 2017 it will be 70 percent of the 12.85 percent rate, and on and after July 1, 2017 it will be taxed at the 12.85 percent rate. These cents-per-gallon rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap for the total tax on highway fuel under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer will calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This calculated amount is designated as the highway fuel cap amount.

Each fiscal year from 2018 through 2026 the State Treasurer will determine an adjusted tax rate to be imposed beginning each October 1 so that taxes collected from the motor fuels tax on highway fuel and petroleum products tax on highway fuel do not exceed the highway fuel cap amount for any fiscal year. This “true-up” provision will ensure that if the tax rates are too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil (exclusive of fuel oil used for home heating use) is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene), currently subject to a 4 cents per gallon tax, and imposed on common carriers in interstate and foreign commerce only on the “burnout” portion, will remain unchanged as imposed under current law.

Review Council

The bill establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both. The review council will report to the Governor and the Legislature by January 15, 2020, on the council's consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.

The review council will monitor on an ongoing basis the actions of the Legislature that halt, delay or reverse the implementation of the provisions of the bill. If implementation is impeded (by, for example, delaying a phase-in of an increased tax exclusion, freezing a scheduled rate reduction, or repealing one of the bill's provisions), the council will certify that this has occurred to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates this bill will significantly reduce estate tax and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of between \$848,200,000 to \$852,700,000 in FY 2017, declining thereafter to an estimated gain of between \$279,600,000 to \$346,600,000 in FY 2022. The revenue reductions will be phased in over time, starting with an estimated range of revenue losses between \$145,500,000 to \$150,000,000 in FY 2017 and rising to an estimated range of revenue losses between \$862,000,000 to \$929,000,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$998,200,000 and stabilizing to an estimated gain of \$1,208,600,000 in FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Estate Tax (GF)

The OLS estimates this bill would reduce annual estate tax revenues deposited into the General Fund by \$16.0 million in FY 2017, \$109.0 million in FY 2018, \$273.0 million in FY 2019, \$377.0 million in FY 2020, \$459.0 million in FY 2021, and \$552.0 million in FY 2022. The amount of revenue foregone to the General Fund will continue to change with the value of estates.

Given that estates typically take nine months to complete the tax filing process and that tax payments may extend for several years, this bill would have a relatively small fiscal impact in FY 2017. The significant impact would begin in FY 2018 and would be fully phased-in during subsequent years. As the exclusion thresholds are phased up, the tax "bump" (that part of the tax imposed on estate values below the threshold amounts) would be replaced by a "true" tax exclusion amount each year. The OLS estimates the annual revenue loss at each step of the process as follows:

Estimated Impact of Estate Tax Change			
Fiscal Year	Est. Estate Tax Revenue Current Law	Est. Estate Tax Revenue Under Bill	Est. Revenue Loss Under Bill
2017	\$464,000,000	\$448,000,000	\$16,000,000
2018	\$485,000,000	\$376,000,000	\$109,000,000
2019	\$507,000,000	\$234,000,000	\$273,000,000
2020	\$530,000,000	\$153,000,000	\$377,000,000
2021	\$552,000,000	\$93,000,000	\$459,000,000
2022	\$579,000,000	\$27,000,000	\$552,000,000
After 2022	The amount of revenue forgone will continue to change with the value of estates.		

These estimates are based on Treasury data from FY 2014, the most recent year for which OLS has tax collections data by size of estate, during which the estate tax accounted for \$320.0 million in revenue. The OLS does not have estate tax data for the two most recent years, FY 2015 and FY 2016, but based on strong growth in overall estate and inheritance revenues and historical patterns suggesting greater growth in the estate tax portion, the OLS estimates 18 percent annual growth in total estate tax revenue during those years, yielding estimated collections of \$444.0 million in FY 2016. For FY 2017 and thereafter the OLS assumes annual growth of 4.5 percent, in line with overall average growth in the last decade. For the phase-in years, the OLS applied the annual growth to estate tax amounts at the different levels of the value of estates, as detailed in the Treasury data. The impact of the tax changes under this bill was further distributed across multiple years based on indications that estate tax payments are made over several years rather than in one lump sum. In addition, the OLS estimated the impact of eliminating the “bump” using the number of estates at each level applied to the tax table amounts from the Division of Taxation’s estate tax worksheet.

Data from the Department of the Treasury indicate that this bill, once fully implemented, would eliminate the estate tax on approximately 3,500 estates annually. This number equals about 5 percent of the approximately 70,000 deaths reported by the Department of Health each year in the State.

The bill also imposes the estate tax on the property of certain nonresident decedents. While this provision should increase State tax revenue during the years before the estate tax is fully repealed, the OLS has no data with which to estimate the potential revenue gain for the years prior to full repeal of the estate tax.

The OLS notes that the estate tax is a volatile revenue source. Much of that volatility reflects assets such as stocks, which can see sharp increases and decreases in value, as measured by the major stock indexes such as the Standard and Poor’s 500 index. Accordingly, a prolonged or severe “bear” or “bull” market could indicate subsequent downward or upward volatility in the potential value of the forgone revenues under this bill.

Gross Income Tax – Veteran’s Exclusion (PTRF)

The OLS estimates the \$3,000 exclusion for certain veterans under this bill may reduce GIT revenues by an estimated \$23,000,000 annually. The State’s published gross income tax statistics do not reveal how many veterans currently face a GIT liability each year, so the potential number of taxpayers who may benefit from this additional personal exemption is unknown. However, a \$3,000 personal exemption may provide an average tax benefit of \$105.00 when assuming an average marginal tax rate of 3.50 percent. According to the federal Department of Veterans Affairs, there were 428,396 living veterans in New Jersey in 2014.

While a majority of seniors do not have an annual New Jersey GIT liability, about 55 percent of New Jersey veterans are age 65 or older. Low income joint filers with less than \$20,000 gross income (\$10,000 for single or separate filers) also do not owe State GIT. Accordingly, it is possible that more than half of all New Jersey veterans do not currently have a State GIT liability and would therefore not gain a tax benefit from the \$3,000 veterans exemption under this bill. Assuming about 220,000 veterans currently have a State GIT liability and would therefore gain an estimated average tax benefit of \$105.00 from a \$3,000 personal exemption, the potential tax savings, or potential State revenue loss, may equal about \$23,000,000 annually.

Gross Income Tax – Fuels Tax Deduction (PTRF)

The OLS estimates the GIT deduction for certain motor fuels expenditures may reduce revenues by between \$7,500,000 to \$12,000,000 in FY 2017, rising to between \$15,000,000 to \$24,000,000 in FY 2018 and thereafter. Precise figures on the number of potential taxpayers who may claim the deduction are not available. According to data from the Division of Taxation's annual *Statistics of Income (SOI)* publication, there are about 2.0 million taxable returns with income below \$100,000, the income limit under this bill. Tax benefits will vary widely based on applicable marginal tax rates and the amount deducted. A single filer with income between \$75,000 and \$100,000 deducting the bill's \$500 maximum would see a tax benefit at the 6.37 percent marginal tax rate of \$31.85. A taxpayer with \$25,000 income deducting the \$500 maximum would see a tax benefit at the 1.75 percent marginal rate of \$8.75. Smaller claimed deductions would yield lesser benefits. A married joint filer with \$75,000 income claiming a \$200 deduction (one vehicle at 13,000 annual miles at 24 miles per gallon taxed at 37 cents per gallon) would see a tax benefit at the 3.5 percent marginal rate of \$7.00. Assuming the average tax benefit ranges between \$7.50 to \$12.00 per tax return for 2.0 million returns yields an estimated range of State revenue losses between \$15,000,000 to \$24,000,000 annually once the bill is fully implemented in the second year. The first year of the bill allows for half the maximum benefit, reducing the estimated FY 2017 revenue loss to between \$7,500,000 to \$12,000,000.

Gross Income Tax – Pension and Retirement Income (PTRF)

The OLS estimates the increase in the pension and retirement exclusion will yield a range of potential annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the bill may reduce FY 2018 revenues by between \$60 million and \$90 million, FY 2019 revenues by between \$70 million and \$105 million, FY 2020 revenues by between \$80 million and \$120 million, FY 2021 revenues by between \$85 million and \$130 million, and FY 2022 revenues by between \$135.0 million and \$193.0 million. Thereafter revenue losses may grow by between 3.0 percent and 4.0 percent annually.

Precise estimates are not possible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under the bill.

The OLS notes that average pension income for senior returns in gross income brackets under \$100,000 varies from approximately \$18,000 at the lower income levels to about \$45,000

at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough pension and retirement income to claim an exclusion near the new maximum levels proposed under this bill. Accordingly, most of the estimated revenue loss from this bill will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under \$100,000 will have maximized their exclusion amount.

In comparison to the overall revenue losses estimated under this bill, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated \$125.5 million annually. While this bill will increase the current maximum exclusion levels fivefold, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under \$100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels under this bill. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all their pension and other retirement income under current law will see no benefit from this bill.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayer's quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Gross Income Tax – Earned Income Tax Credit (PTRF)

The OLS estimates that the Earned Income Tax Credit (EITC) portion of this bill may reduce gross income tax revenues deposited into the Property Tax Relief Fund by about \$122.0 million in FY 2017, \$124.0 million in FY 2018, and \$127.0 million in FY 2019. In future years, growth of about 2.0 percent per year may continue.

The NJ EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State's gross income tax. The OLS estimate begins with the Executive's assessment that the recent increase of the NJ EITC, from 20 percent to 30 percent of the federal credit (P.L. 2015, c.73), would reduce gross income tax revenues by \$122.0 million in FY 2016, as reported on pages 30 and 33 in the FY 2017 Budget Summary. The increase under this bill, from 30 percent of the federal credit to 40 percent, is projected to have the same incremental impact as the previously enacted increase. Historically, the federal credit amounts have grown by approximately 2.0 percent annually, but recent Internal Revenue Service data indicate the value of federal credits may grow by less than 1.0 percent in 2016. Lower levels of growth in the federal benefit, combined with the New Jersey Division of Taxation's recent enhanced enforcement efforts, suggests growth in the State program may be contained in FY 2017, the first year under this bill. Accordingly, the OLS assumes a revenue loss of \$122.0 million in FY 2017 and a historical 2.0 percent rate of growth annually thereafter.

Based on available federal Internal Revenue Service preview data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by \$255, from \$708 in TY 2015 to approximately \$963 in TY 2016. According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. It is noted, however, that the number of taxpayers receiving an EITC in recent years has experienced some variance due in part to the Division of Taxation's enforcement efforts.

Motor Fuels and Petroleum Taxes (GF)

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of three major components: (1) an increase in the tax rate on motor fuels by 12.85 percent and a phase-in of the diesel component; (2) increasing the tax on non-motor fuels subject to the PPGRT from 2.75 percent to 7 percent; and (3) an increase in the tax on diesel fuels by 3 cents per gallon in the first year and 4 cents per gallon in future years. The estimated amounts for these four components are shown in the table below.

Estimated Impact of Various Fuels Tax Changes						
<i>\$ in Millions</i>						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
12.85% PPRG Tax	\$947.6	\$1,137.9	\$1,137.9	\$1,137.9	\$1,137.9	\$1,137.9
7% Tax on Non-Motor Fuels PPGR	\$25.9	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1
4 Cent/gal Tax on Diesel PPGR	\$24.7	\$39.6	\$39.6	\$39.6	\$39.6	\$39.6
Total Fuel Taxes	\$998.2	\$1,208.6	\$1,208.6	\$1,208.6	\$1,208.6	\$1,208.6

These tax changes are expected to increase total PPGRT revenue by about \$998.2 million in FY 2017 and \$1.21 billion per year for FY 2018 and beyond. The bill is structured in a manner that adjusts the cents-per-gallon 12.85 percent PPGRT tax rate annually to target the amount of revenue generated in FY 2016 when using 23 cents-per-gallon as the 12.85 percent cents-per-gallon equivalent. This will result in variation of the cents-per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately \$49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The 12.85 percent rate applied to the current average retail price of \$1.79 after subtracting existing taxes, results in a cents-per-gallon rate of 23 cents. This results in revenues of \$1.138 billion annually. The amount for FY 2017 needs to be reduced according to the phase in schedule for the diesel component, and also for collections occurring during less than 12 months in the first year. The distribution of motor fuel sales in the State is approximately 80 percent gasoline and 20 percent diesel. Applying that ratio to the phase in schedule and reducing the revenue accordingly nets a FY 2017 revenue of \$947.6 million for 10 months.

(2) After multiplying the \$49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon, the motor fuels component of the PPGRT is calculated to be \$197.88 million. Subtracting that from the \$218 million in total current PPGRT revenues, the non-motor fuel revenue is calculated to generate \$20.12 million at the 2.75 percent rate. Using these same ratios, an increase to 7 percent is likely to generate an additional \$31.1 million in additional revenue per year. The FY 2017 amount is reduced to account for collections occurring during less than 12 months in the first year.

(3) Using the above motor fuel distribution and applying it to the \$49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in \$9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result the FY 2017 revenue from this

provision will generate \$29.7 million at the 3 cents-per-gallon rate and \$39.6 million in FY 2018 and beyond from the 4 cents-per-gallon rate. The FY 2017 amount is reduced to account for collections occurring during less than 12 months in the first year.

Review Council

Lastly, the OLS notes that the legislation requires the review council, established in section 13 of the bill, to monitor on an ongoing basis the actions of the Legislature that modify the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this occurrence to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases estimated above under the bill, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

Section: Revenue, Finance, and Appropriations

*Analysts: Martin Poethke
Principal Revenue Analyst
Patrick Brennan
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*Approved: Frank W. Haines III
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 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 2411 STATE OF NEW JERSEY 217th LEGISLATURE

DATED: OCTOBER 12, 2016

SUMMARY

Synopsis: Adjusts certain State taxes to support strengthened investments in public and private assets in this State.

Type of Impact: Annual loss of revenue from the Property Tax Relief Fund and the General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
State Revenue Loss:						
General Fund						
Sales & Use Tax	(\$92,400,000)	(\$382,200,000)	(\$592,800,000)	(\$613,900,000)	(\$633,800,000)	(\$655,400,000)
Estate Tax	(\$16,000,000)	(\$116,400,000)	(\$320,000,000)	(\$470,100,000)	(\$521,900,000)	(\$561,900,000)
PTRF		(\$60,000,000)	(\$70,000,000)	(\$80,000,000)	(\$85,000,000)	(\$87,550,000)
Pensions	\$0	to (\$90,000,000)	to (\$105,000,000)	to (\$120,000,000)	to (\$130,000,000)	to (\$133,900,000)
Veterans' Exclusion	\$0	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)	(\$23,000,000)
EITC	(\$62,000,000)	(\$63,500,000)	(\$65,000,000)	(\$66,500,000)	(\$68,500,000)	(\$70,500,000)
Total Loss in GF and PTRF	(\$170,400,000)	to (\$645,100,000) (\$675,100,000)	to (\$1,070,800,000) (\$1,105,800,000)	to (\$1,253,500,000) (\$1,293,500,000)	to (\$1,332,200,000) (\$1,377,200,000)	to (\$1,398,350,000) (\$1,444,700,000)
State Revenue Gain:						
12.5% PPGR	\$694,120,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000	\$1,159,600,000
7% Non-Motor	\$20,720,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000	\$31,100,000
4 cent/gal Diesel	\$0	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000	\$39,600,000
Total Gain, Fuels Taxes	\$714,840,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000	\$1,230,300,000
Net Total State Revenue All Funds	\$544,440,000	\$585,200,000 to \$555,200,000	\$159,500,000 to \$124,500,000	(\$23,200,000) to (\$63,200,000)	(\$101,900,000) to (\$146,900,000)	(\$168,050,000) to (\$214,400,000)

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. EITC is Earned Income Tax Credit. PPRG is Petroleum Products Gross Receipts tax.

- The Office of Legislative Services estimates this bill will significantly reduce sales and use tax, estate tax, and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$544,440,000 in FY 2017, and a gain of between \$555,200,000 and \$585,200,000 in FY 2018. In FY 2019, a smaller net gain of between \$124,500,000 and \$159,500,000 is estimated. Thereafter, the OLS estimates that the bill will result in an annual net revenue decline of between \$23,200,000 and \$63,200,000 in FY 2020, rising to an estimated loss of between \$168,050,000 and \$214,400,000 by FY 2022.
- The revenue decreases will be phased in over time, starting with an estimated \$170,400,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$1,398,350,000 and \$1,444,700,000 in FY 2022.
- The revenue increases begin in FY 2017 with an estimated gain of \$714,840,000 stabilizing to an estimated gain of \$1,230,300,000 for FY 2018 and thereafter from the various fuels tax increases.

BILL DESCRIPTION

Senate Bill No. 2411 (3R) of 2016 bill adjusts various State taxes as follows:

- Sections 1 – 6: Reduce the rate of the New Jersey sales and use tax from 7% to 6.875% on January 1, 2017 and to 6.625% on January 1, 2018. The bill includes special transition provisions for taxing certain sales transactions that stretch across the tax rate change dates.
- Section 7: Phases out the New Jersey estate tax by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current \$675,000 threshold with a “true” exclusion amount initially established at \$2.0 million for decedents dying on or after January 1, 2017, and eliminating the estate tax for decedents dying on and after January 1, 2018.
- Section 8: Provides an annual personal exemption under the New Jersey gross income tax of \$3,000 for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.
- Sections 9 – 10: Increases the gross income tax pension and retirement income exclusion to \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. The bill phases in the exclusion increase over four years as follows:

Filer Type	Present	2017	2018	2019	2020
<i>Joint</i>	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
<i>Individual</i>	\$15,000	\$30,000	\$45,000	\$60,000	\$75,000
<i>Separate</i>	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000

The bill retains provisions in current law that exclude taxpayers having gross income of more than \$100,000 for the taxable year from receiving the benefit of the pension and retirement income exclusions.

- Section 11: Increases the New Jersey Earned Income Tax Credit (NJ EITC) from 30 percent to 35 percent of the federal benefit amount beginning in Tax Year 2016.
- Sections 12 – 18: Increases the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.
- Section 19: Establishes a three-member review council to report to the Governor and the Legislature on the council's consensus estimate of the increase or decrease in State revenues caused by each section of this bill, and to monitor the actions of the Legislature on an ongoing basis for modification of the implementation of the bill's tax changes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates this bill will significantly reduce sales and use tax, estate tax, and gross income tax revenues, while also significantly increasing certain fuels tax revenues. The net impact to total State revenues from these changes is estimated at a gain of \$544,440,000 in FY 2017, and a gain of between \$555,200,000 and \$585,200,000 in FY 2018. In FY 2019, a smaller net gain of between \$124,500,000 and \$159,500,000 is estimated. Thereafter, the OLS estimates that the bill will result in an annual net revenue decline of between \$23,200,000 and \$63,200,000 in FY 2020, rising to an estimated loss of between \$168,050,000 and \$214,400,000 by FY 2022. The revenue decreases will be phased in over time, starting with an estimated \$170,400,000 loss in FY 2017 and rising to an estimated range of revenue losses between \$1,398,350,000 and \$1,444,700,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of \$714,840,000 stabilizing to an estimated gain of \$1,230,300,000 for FY 2018 and thereafter from the various fuels tax increases. These estimates are discussed in greater detail below.

Sales and Use Tax (GF)

The OLS estimates this bill will reduce annual sales and use tax revenues deposited into the General Fund by \$92.4 million in FY 2017, \$382.2 million in FY 2018, \$592.8 million in FY 2019, \$613.9 million in FY 2020, \$633.8 million in FY 2021, and \$655.4 million in FY 2022.

This estimate is based on OLS extrapolations from the Governor's certified revenue estimates for FY 2017. The certification estimated sales and use tax revenues of \$9.597 billion, plus \$164.2 million from the sales tax on energy, plus \$753.5 million from the municipal share of the sales tax on energy, for total sales and use tax collections of \$10.515 billion for FY 2017.

Accordingly, each 1/8th of a cent of the current 7.0 cent sales and use tax is worth about \$186.0 million.

In FY 2017 the sales and use tax revenue loss from a 1/8th cent tax decrease for six months would equal an estimated \$92.4 million. Assuming annual sales tax revenue growth between 3.0% and 3.5%, and an additional 2/8ths cent tax rate decrease on January 1, 2018, revenues would decline by \$382.2 million in FY 2018, by \$592.8 million in FY 2019, by \$613.9 million in FY 2020, by \$633.8 million in FY 2021, and the revenue loss would increase to an estimated \$655.4 million in FY 2022.

Estate Tax (GF)

The OLS estimates the elimination of the estate tax in two steps by January 1, 2018 and the incorporation of a “true” exclusion amount for estates below the applicable exclusion amounts, will reduce annual estate tax revenues deposited into the General Fund by \$16.0 million in FY 2017, \$116.4 million in FY 2018, \$320.0 million in FY 2019, \$470.1 million in FY 2020, \$521.9 million in FY 2021, and \$561.9 million in FY 2022. The amount of revenue forgone will continue to change with the value of estates.

Given that estates typically take nine months to complete the tax filing process, this bill would have a relatively small fiscal impact in FY 2017. Significant impacts would begin in FY 2018 and would be fully phased-in over subsequent years. The OLS estimates the annual revenue loss at each step of the process as follows:

Estimated Impact of Estate Tax Change			
Fiscal Year	Est. Estate Tax Revenue Current Law	Est. Estate Tax Revenue Under Bill	Est. Revenue Loss Under Bill
2017	\$464,000,000	\$448,000,000	\$16,000,000
2018	\$485,000,000	\$368,600,000	\$116,400,000
2019	\$507,000,000	\$187,000,000	\$320,000,000
2020	\$530,000,000	\$59,900,000	\$470,100,000
2021	\$554,000,000	\$32,100,000	\$521,900,000
2022	\$579,000,000	\$17,100,000	\$561,900,000
After 2022	The amount of revenue forgone will continue to change with the value of estates.		

These estimates are based on Treasury data from FY 2014, the most recent year for which OLS has tax collections data by size of estate, during which the estate tax accounted for \$320.0 million in revenue. In the two most recent years, FY 2014 and FY 2015, total estate and inheritance taxes increased by 10% and 15% respectively, while growth over the last five completed years has averaged about 7%. The OLS assumes annual growth in future years of 4.5%. For the phase-in years, the OLS applied the annual growth to estate tax amounts at the different levels of the value of estates, as detailed in the Treasury data. In addition, the OLS estimated the impact of eliminating the “bump” below the “true” exclusion amounts using the number of estates at each level applied to the tax table amounts from the Division of Taxation’s estate tax worksheet.

Data from the Department of the Treasury indicate that this bill, once fully implemented, would eliminate the estate tax on approximately 3,500 estates annually. This number equals about 5% of the approximately 70,000 deaths reported by the Department of Health each year in the State.

The OLS notes that the estate tax is a volatile revenue source. Much of that volatility reflects assets such as stocks, which can see sharp increases and decreases in value, as measured by the

major stock indexes such as the Standard and Poor's 500 index. Accordingly, a prolonged or severe "bear" or "bull" market could indicate subsequent downward or upward volatility in the potential value of the forgone revenues under this bill. In addition, there may be some remnant of estate tax revenue received over a number of fiscal years to the extent that some estates may face longer delays in filings and processing.

Gross Income Tax – Pension and Retirement Income (PTRF)

The OLS estimates the increase in the pension and retirement exclusion will yield a range of potential annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the bill may reduce FY 2018 revenues by between \$60 million and \$90 million, FY 2019 revenues by between \$70 million and \$105 million, FY 2020 revenues by between \$80 million and \$120 million, and FY 2021 revenues by between \$85 million and \$130 million. For FY 2022 and thereafter revenue losses may grow by about 3.0% annually.

Precise estimates are not possible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under the bill.

The OLS notes that average pension income for senior returns in gross income brackets under \$100,000 varies from approximately \$18,000 at the lower income levels to about \$45,000 at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough pension and retirement income to claim an exclusion near the new maximum levels proposed under this bill. Accordingly, most of the estimated revenue loss from this bill will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under \$100,000 will have maximized their exclusion amount.

In comparison to the overall revenue losses estimated under this bill, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated \$125.5 million annually. While this bill will increase the current maximum exclusion levels to five times the current limit, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under \$100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels under this bill. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all their pension and other retirement income under current law will see no benefit from this bill.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayers' quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Gross Income Tax – Veterans’ Exclusion (PTRF)

The OLS estimates the \$3,000 exclusion for certain veterans under this bill may reduce GIT revenues by an estimated \$23,000,000 annually. The State’s published gross income tax statistics do not reveal how many veterans currently face a GIT liability each year, so the potential number of taxpayers who may benefit from this additional personal exemption is unknown. However, a \$3,000 personal exemption may provide an average tax benefit of \$105.00 when assuming an average marginal tax rate of 3.50%. According to the federal Department of Veterans Affairs, there were 428,396 living veterans in New Jersey in 2014. A majority of senior citizens do not have an annual New Jersey GIT liability; about 55% of New Jersey veterans are age 65 or older. Low income joint filers with less than \$20,000 gross income (\$10,000 for single or separate filers) also do not owe State GIT. Accordingly, it is possible that more than half of all New Jersey veterans do not currently have a State GIT liability and would therefore not gain a tax benefit from the \$3,000 veterans exemption under this bill. Assuming about 220,000 veterans currently have a State GIT liability and would therefore gain an estimated average tax benefit of \$105.00 from a \$3,000 personal exemption, the potential tax savings, or potential State revenue loss, may equal about \$23,000,000 annually beginning in FY 2018.

Gross Income Tax – Earned Income Tax Credit (PTRF)

The OLS estimates that the Earned Income Tax Credit (EITC) portion of this bill may reduce gross income tax revenues deposited into the Property Tax Relief Fund by about \$62.0 million in FY 2017, \$63.5 million in FY 2018, \$65.0 million in FY 2019, \$66.5 million in FY 2020, \$68.5 million in FY 2021, and \$70.5 million in FY 2022. In future years, growth of about 2.0 percent per year may continue.

The NJ EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State’s gross income tax. The OLS estimate begins with the Executive’s assessment that the recent increase of the NJ EITC, from 20 percent to 30 percent of the federal credit (P.L. 2015, c.73), would reduce gross income tax revenues by \$122.0 million in FY 2016, as reported on pages 30 and 33 in the FY 2017 Budget Summary. The increase under this bill, from 30 percent of the federal credit to 35 percent, is projected to have approximately half the incremental impact as the previously enacted increase. Historically, the federal credit amounts have grown by approximately 2.0 percent annually, but recent Internal Revenue Service preview data indicate the value of federal credits may grow by less than 1.0 percent in 2016. Lower levels of growth in the federal benefit, combined with the New Jersey Division of Taxation’s recent enhanced enforcement efforts, suggests growth in the State program may be contained in FY 2017, the first year of impact under this bill. Accordingly, the OLS assumes a revenue loss of \$62.0 million in FY 2017 with low growth annually thereafter.

Based on available federal Internal Revenue Service preview data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by about \$128, from \$708 in TY 2015 to approximately \$836 in TY 2016. According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. It is noted, however, that the number of taxpayers receiving an EITC in recent years has experienced some variance due in part to the Division of Taxation’s enforcement efforts.

Motor Fuels and Petroleum Taxes

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of three major components: (1) an increase in the tax rate on motor fuels by 12.85 percent with a phase-in of the diesel component; (2) increasing the tax on non-motor fuels subject to the PPGRT from 2.75% to 7%; and (3) an increase in the tax on diesel fuels by 4 cents per gallon in in FY 2018 and beyond. The estimated amounts for these components are shown in the table below.

Estimated Impact of Various Petroleum Products Tax Changes						
<i>\$ in Millions</i>						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
12.85% PPGR Tax	\$694.1	\$1,159.6	\$1,159.6	\$1,159.6	\$1,159.6	\$1,159.6
7% Tax on Non-Motor Fuels PPGR	\$20.7	\$31.1	\$31.1	\$31.1	\$31.1	\$31.1
4 Cent/gal Tax on Diesel PPGR	\$0	\$39.6	\$39.6	\$39.6	\$39.6	\$39.6
Total Fuel Taxes	\$714.8	\$1,230.3	\$1,230.3	\$1,230.3	\$1,230.3	\$1,230.3

These tax changes are expected to increase PPGR revenue by about \$714.8 million in FY 2017, assuming eight months of collections, and about \$1.23 billion per year for FY 2018 and beyond. The bill is structured in a manner that adjusts the cents-per-gallon 12.85% PPGRT tax rate annually to target the amount of revenue generated in FY 2016 when using 23 cents-per-gallon on gasoline as the 12.85% cents-per-gallon equivalent. This will result in variation of the cents-per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately \$49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The 12.85% rate applied to the current average retail price of \$1.79 for gasoline after subtracting existing taxes, results in a cents-per-gallon rate of 23 cents. This results in revenues of \$1.16 billion. The amount for FY 2017 needs to be reduced according to the phase-in schedule for the diesel component and due to only eight months of tax collections in FY 2017. The distribution of motor fuel sales in the State is approximately 80% gasoline and 20% diesel. Applying that ratio to the phase-in schedule and reducing the revenue accordingly nets a FY 2017 revenue of \$694.1 million over eight months.

(2) Multiplying the \$49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon, the motor fuels component of the PPGRT is calculated to be \$197.88 million. Subtracting that from the \$218 million in total FY 2016 PPGRT revenues, the non-motor fuel revenue is calculated to generate \$20.12 million at the 2.75% rate. Using these same ratios, an increase to 7% is likely to generate an additional \$31.1 million in additional revenue per year. The FY 2017 \$20.7 million amount reflects eight months of collections.

(3) Using the above motor fuel distribution and applying it to the \$49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in \$9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result, the additional 4 cents-per-gallon

rate above the existing 4 cents-per-gallon rate imposed by the PPGRT will generate \$39.6 million beginning in FY 2018.

Review Council

Lastly, the OLS notes that the legislation requires the review council established in section 13 of the bill to monitor the actions of the Legislature on an ongoing basis for revisions to the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this action to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases estimated above under the bill, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

Section: Revenue, Finance, and Appropriations

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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 (C.52:13B-6 et seq.).

Governor Christie Takes Action On Pending Legislation And Issues Executive Order Lifting Moratorium On Transportation Projects

Friday, October 14, 2016

Tags: [Transportation](#)



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Trenton, NJ – Governor Chris Christie issued the following statement after taking action on pending legislation providing tax relief for New Jersey residents while also updating and authorizing funding for the Transportation Trust Fund Authority (“TTFA”):

“Through this legislation, we are continuing our commitment to providing tax relief for working New Jerseyans of all income levels, senior citizens, military veterans and property owners, while ensuring solid, reliable, state-of-the-art roads, bridges and mass transit systems,” said Governor Christie. “Over the next eight years, a record \$32 billion in state and federal funds will be invested in infrastructure improvements and modernizations in New Jersey. “This compromise legislation locks in what I called for from the beginning: tax fairness for all residents, leading to a more affordable state and an improved economy.”

BILL SIGNINGS:

A-10/S-2412 (Prieto, Vainieri Huttie, McKeon, Schaer, Sumter, Caputo, Mukherji, Singleton, Pintor Marin, Giblin, Rible/Sarlo, Oroho) - Revises "New Jersey Transportation Trust Fund Authority Act"; establishes State Transportation Infrastructure Bank within NJ Environmental Infrastructure Trust; renames NJ Environmental Infrastructure Trust

A-12/S-2411 (Prieto, McKeon, Schaer, Sumter, Caputo, Vainieri Huttie, Giblin, Rible/Sarlo, Oroho) - Adjusts certain State taxes to support strengthened investments in public and private assets in this State

EXECUTIVE ORDER

Executive Order No. 216 (TTFA) - Orders Executive Order No. 210, signed on June 30, 2016, and Executive Order No. 213, signed on August 17, 2016, rescinded. Executive Order No. 210, declared a State of Emergency and ordered the Commissioner of the Department of Transportation (“DOT”) and the Executive Director of New Jersey Transit (“NJT”) to plan an immediate and orderly shutdown of all nonessential work on the State’s transportation infrastructure that was funded by the TTFA. Executive Order No. 213 declared a continuing State of Emergency and ordered that general State funds be transferred to the TTFA in amounts sufficient to permit transportation projects essential for health and safety to continue.

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