

**54:32B-2 & 54:32B-3**  
**LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2022                      **CHAPTER:** 97

**NJSA:** 54:32B-2 & 54:32B-3  
 (Concerns imposition and collection of sales and use tax for fabrication and installation of signs.)

**BILL NO:** A4239                      (Substituted for S2424 (1R))

**SPONSOR(S)** Yvonne Lopez and others

**DATE INTRODUCED:** 6/13/2022

**COMMITTEE:**                      **ASSEMBLY:** Commerce and Economic Development  
 Appropriations

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**    **ASSEMBLY:** 6/29/2022

**SENATE:** 6/29/2022

**DATE OF APPROVAL:** 8/5/2022

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (First Reprint enacted)                      Yes

**A4239**

**INTRODUCED BILL:** (Includes sponsor(s) statement)                      Yes

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

**SENATE:**                                      No

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**                                      Yes

**LEGISLATIVE FISCAL ESTIMATE:**                                      Yes

**S2424 (1R)**

**INTRODUCED BILL:** (Includes sponsor(s) statement)                      Yes

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

**SENATE:**                                      Yes

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**FLOOR AMENDMENT STATEMENT:**                                      No

**LEGISLATIVE FISCAL ESTIMATE:**                                      Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

end

P.L. 2022, CHAPTER 97, *approved August 5, 2022*  
Assembly, No. 4239 (*First Reprint*)

1 AN ACT concerning the imposition of the sales and use tax for  
2 signs, amending P.L.1966, c.30 (C.54:32B-1 et seq.).  
3

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

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

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

11 (a) "Person" includes an individual, trust, partnership, limited  
12 partnership, limited liability company, society, association, joint  
13 stock company, corporation, public corporation or public authority,  
14 estate, receiver, trustee, assignee, referee, fiduciary and any other  
15 legal entity.

16 (b) "Purchase at retail" means a purchase by any person at a  
17 retail sale.

18 (c) "Purchaser" means a person to whom a sale of personal  
19 property is made or to whom a service is furnished.

20 (d) "Receipt" means the amount of the sales price of any  
21 tangible personal property, specified digital product or service  
22 taxable under this act.

23 (e) "Retail sale" means any sale, lease, or rental for any purpose,  
24 other than for resale, sublease, or subrent.

25 (1) For the purposes of this act a sale is for "resale, sublease, or  
26 subrent" if it is a sale (A) for resale either as such or as converted  
27 into or as a component part of a product produced for sale by the  
28 purchaser, including the conversion of natural gas into another  
29 intermediate or end product, other than electricity or thermal  
30 energy, produced for sale by the purchaser, (B) for use by that  
31 person in performing the services subject to tax under subsection  
32 (b) of section 3 where the property so sold becomes a physical  
33 component part of the property upon which the services are  
34 performed or where the property so sold is later actually transferred  
35 to the purchaser of the service in conjunction with the performance  
36 of the service subject to tax, (C) of telecommunications service to a  
37 telecommunications service provider for use as a component part of  
38 telecommunications service provided to an ultimate customer, or  
39 (D) to a person who receives by contract a product transferred

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate floor amendments adopted June 29, 2022.

1 electronically for further commercial broadcast, rebroadcast,  
2 transmission, retransmission, licensing, relicensing, distribution,  
3 redistribution or exhibition of the product, in whole or in part, to  
4 another person, other than rights to redistribute based on statutory  
5 or common law doctrine such as fair use.

6 (2) For the purposes of this act, the term "retail sale" includes:  
7 sales of tangible personal property to all contractors, subcontractors  
8 or repairmen of materials and supplies for use by them in erecting  
9 structures for others, or building on, or otherwise improving,  
10 altering, or repairing real property of others <sup>1</sup>, with the exception of  
11 signs and materials purchased for use in sign fabrication<sup>1</sup>.

12 (3) (Deleted by amendment, P.L.2005, c.126).

13 (4) The term "retail sale" does not include:

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

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

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

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

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

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

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

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

38 (g) "Tangible personal property" means personal property that  
39 can be seen, weighed, measured, felt, or touched, or that is in any  
40 other manner perceptible to the senses. "Tangible personal  
41 property" includes electricity, water, gas, steam, and prewritten  
42 computer software including prewritten computer software  
43 delivered electronically.

44 (h) "Use" means the exercise of any right or power over tangible  
45 personal property, specified digital products, services to property or  
46 products, or services by the purchaser thereof and includes, but is  
47 not limited to, the receiving, storage or any keeping or retention for  
48 any length of time, withdrawal from storage, any distribution, any

1 installation, any affixation to real or personal property, or any  
2 consumption of such property or products. Use also includes the  
3 exercise of any right or power over intrastate or interstate  
4 telecommunications and prepaid calling services. Use also includes  
5 the exercise of any right or power over utility service. Use also  
6 includes the derivation of a direct or indirect benefit from a service.

7 (i) "Seller" means a person making sales, leases or rentals of  
8 personal property or services.

9 (1) The term "seller" includes:

10 (A) A person making sales, leases or rentals of tangible personal  
11 property, specified digital products or services, the receipts from  
12 which are taxed by this act;

13 (B) A person maintaining a place of business in the State or  
14 having an agent maintaining a place of business in the State and  
15 making sales, whether at such place of business or elsewhere, to  
16 persons within the State of tangible personal property, specified  
17 digital products or services, the use of which is taxed by this act;

18 (C) A person who solicits business either by employees,  
19 independent contractors, agents or other representatives or by  
20 distribution of catalogs or other advertising matter and by reason  
21 thereof makes sales to persons within the State of tangible personal  
22 property, specified digital products or services, the use of which is  
23 taxed by this act.

24 A person making sales of tangible personal property, specified  
25 digital products, or services taxable under the "Sales and Use Tax  
26 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be  
27 soliciting business through an independent contractor or other  
28 representative if the person making sales enters into an agreement  
29 with an independent contractor having physical presence in this  
30 State or other representative having physical presence in this State,  
31 for a commission or other consideration, under which the  
32 independent contractor or representative directly or indirectly refers  
33 potential customers, whether by a link on an internet website or  
34 otherwise, and the cumulative gross receipts from sales to  
35 customers in this State who were referred by all independent  
36 contractors or representatives that have this type of an agreement  
37 with the person making sales are in excess of \$10,000 during the  
38 preceding four quarterly periods ending on the last day of March,  
39 June, September, and December. This presumption may be rebutted  
40 by proof that the independent contractor or representative with  
41 whom the person making sales has an agreement did not engage in  
42 any solicitation in the State on behalf of the person that would  
43 satisfy the nexus requirements of the United States Constitution  
44 during the four quarterly periods in question. Nothing in this  
45 subparagraph shall be construed to narrow the scope of the terms  
46 independent contractor or other representative for purposes of any  
47 other provision of the "Sales and Use Tax Act," P.L.1966, c.30  
48 (C.54:32B-1 et seq.);

1 (D) Any other person making sales to persons within the State of  
2 tangible personal property, specified digital products or services,  
3 the use of which is taxed by this act, who may be authorized by the  
4 director to collect the tax imposed by this act;

5 (E) The State of New Jersey, any of its agencies,  
6 instrumentalities, public authorities, public corporations (including  
7 a public corporation created pursuant to agreement or compact with  
8 another state) or political subdivisions when such entity sells  
9 services or property of a kind ordinarily sold by private persons;

10 (F) (Deleted by amendment, P.L.2005, c.126);

11 (G) A person who sells, stores, delivers or transports energy to  
12 users or customers in this State whether by mains, lines or pipes  
13 located within this State or by any other means of delivery;

14 (H) A person engaged in collecting charges in the nature of  
15 initiation fees, membership fees or dues for access to or use of the  
16 property or facilities of a health and fitness, athletic, sporting or  
17 shopping club or organization;

18 (I) A person engaged in the business of parking, storing or  
19 garaging motor vehicles;

20 (J) A person making sales, leases, or rentals of tangible personal  
21 property, specified digital products, or taxable services who meets  
22 the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018,  
23 c.132 (C.54:32B-3.5); and

24 (K) A marketplace facilitator.

25 (2) In addition, when in the opinion of the director it is  
26 necessary for the efficient administration of this act to treat any  
27 salesman, representative, peddler or canvasser as the agent of the  
28 seller, distributor, supervisor or employer under whom the agent  
29 operates or from whom the agent obtains tangible personal property  
30 or a specified digital product sold by the agent or for whom the  
31 agent solicits business, the director may, in the director's discretion,  
32 treat such agent as the seller jointly responsible with the agent's  
33 principal, distributor, supervisor or employer for the collection and  
34 payment over of the tax. A person is an agent of a seller in all  
35 cases, but not limited to such cases, that: (A) the person and the  
36 seller have the relationship of a "related person" described pursuant  
37 to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller  
38 and the person use an identical or substantially similar name,  
39 tradename, trademark, or goodwill, to develop, promote, or  
40 maintain sales, or the person and the seller pay for each other's  
41 services in whole or in part contingent upon the volume or value of  
42 sales, or the person and the seller share a common business plan or  
43 substantially coordinate their business plans, or the person provides  
44 services to, or that inure to the benefit of, the seller related to  
45 developing, promoting, or maintaining the seller's market.

46 (3) Notwithstanding any other provision of law or  
47 administrative action to the contrary, transient space marketplaces  
48 shall be required to collect and pay on behalf of persons engaged in

1 the business of providing transient accommodations located in this  
2 State the tax for transactions obtained through the transient space  
3 marketplace. For not less than four years following the end of the  
4 calendar year in which the transaction occurred, the transient space  
5 marketplace shall maintain the following data for those transactions  
6 consummated through the transient space marketplace:

7 (A) The name of the person who provided the transient  
8 accommodation;

9 (B) The name of the customer who procured occupancy of the  
10 transient accommodation;

11 (C) The address, including any unit designation, of the transient  
12 accommodation;

13 (D) The dates and nightly rates for which the consumer procured  
14 occupancy of the transient accommodation;

15 (E) The municipal transient accommodation registration number,  
16 if applicable;

17 (F) A statement as to whether such booking services will be  
18 provided in connection with (i) short-term rental of the entirety of  
19 such unit, (ii) short-term rental of part of such unit, but not the  
20 entirety of such unit, and/or (iii) short-term rental of the entirety of  
21 such unit, or part thereof, in which a non-short-term occupant will  
22 continue to occupy such unit for the duration of such short-term  
23 rental;

24 (G) The individualized name or number of each such  
25 advertisement or listing connected to such unit and the uniform  
26 resource locator (URL) for each such listing or advertisement,  
27 where applicable; and

28 (H) Such other information as the Division of Taxation may by  
29 rule require.

30 The Division of Taxation may audit transient space marketplaces  
31 as necessary to ensure data accuracy and enforce tax compliance.

32 (j) "Hotel" means a building or portion of a building which is  
33 regularly used and kept open as such for the lodging of guests.  
34 "Hotel" includes an apartment hotel, a motel, inn, and rooming or  
35 boarding house or club, whether or not meals are served, but does  
36 not include a transient accommodation.

37 (k) "Occupancy" means the use or possession or the right to the  
38 use or possession, of any room in a hotel or transient  
39 accommodation.

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

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

- 1 (n) "Room" means any room or rooms of any kind in any part or  
2 portion of a hotel or transient accommodation, which is available  
3 for or let out for any purpose other than a place of assembly.
- 4 (o) "Admission charge" means the amount paid for admission,  
5 including any service charge and any charge for entertainment or  
6 amusement or for the use of facilities therefor.
- 7 (p) "Amusement charge" means any admission charge, dues or  
8 charge of a roof garden, cabaret or other similar place.
- 9 (q) "Charge of a roof garden, cabaret or other similar place"  
10 means any charge made for admission, refreshment, service, or  
11 merchandise at a roof garden, cabaret or other similar place.
- 12 (r) "Dramatic or musical arts admission charge" means any  
13 admission charge paid for admission to a theater, opera house,  
14 concert hall or other hall or place of assembly for a live, dramatic,  
15 choreographic or musical performance.
- 16 (s) "Lessor" means any person who is the owner, licensee, or  
17 lessee of any premises, tangible personal property or a specified  
18 digital product which the person leases, subleases, or grants a  
19 license to use to other persons.
- 20 (t) "Place of amusement" means any place where any facilities  
21 for entertainment, amusement, or sports are provided.
- 22 (u) "Casual sale" means an isolated or occasional sale of an item  
23 of tangible personal property or a specified digital product by a  
24 person who is not regularly engaged in the business of making retail  
25 sales of such property or product where the item of tangible  
26 personal property or the specified digital product was obtained by  
27 the person making the sale, through purchase or otherwise, for the  
28 person's own use.
- 29 (v) "Motor vehicle" includes all vehicles propelled otherwise  
30 than by muscular power (excepting such vehicles as run only upon  
31 rails or tracks), trailers, semitrailers, house trailers, or any other  
32 type of vehicle drawn by a motor-driven vehicle, and motorcycles,  
33 designed for operation on the public highways.
- 34 (w) "Persons required to collect tax" or "persons required to  
35 collect any tax imposed by this act" includes: every seller of  
36 tangible personal property, specified digital products or services;  
37 every recipient of amusement charges; every operator of a hotel or  
38 transient accommodation; every transient space marketplace; every  
39 marketplace facilitator; every seller of a telecommunications  
40 service; every recipient of initiation fees, membership fees or dues  
41 for access to or use of the property or facilities of a health and  
42 fitness, athletic, sporting or shopping club or organization; and  
43 every recipient of charges for parking, storing or garaging a motor  
44 vehicle. Said terms shall also include any officer or employee of a  
45 corporation or of a dissolved corporation who as such officer or  
46 employee is under a duty to act for such corporation in complying  
47 with any requirement of this act and any member of a partnership.



1 (x) "Customer" includes: every purchaser of tangible personal  
2 property, specified digital products or services; every patron paying  
3 or liable for the payment of any amusement charge; every occupant  
4 of a room or rooms in a hotel or transient accommodation; every  
5 person paying charges in the nature of initiation fees, membership  
6 fees or dues for access to or use of the property or facilities of a  
7 health and fitness, athletic, sporting or shopping club or  
8 organization; and every purchaser of parking, storage or garaging a  
9 motor vehicle.

10 (y) "Property and services the use of which is subject to tax"  
11 includes: (1) all property sold to a person within the State, whether  
12 or not the sale is made within the State, the use of which property is  
13 subject to tax under section 6 or will become subject to tax when  
14 such property is received by or comes into the possession or control  
15 of such person within the State; (2) all services rendered to a person  
16 within the State, whether or not such services are performed within  
17 the State, upon tangible personal property or a specified digital  
18 product the use of which is subject to tax under section 6 or will  
19 become subject to tax when such property or product is distributed  
20 within the State or is received by or comes into possession or  
21 control of such person within the State; (3) intrastate, interstate, or  
22 international telecommunications sourced to this State pursuant to  
23 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by  
24 amendment, P.L.1995, c.184); (5) energy sold, exchanged or  
25 delivered in this State for use in this State; (6) utility service sold,  
26 exchanged or delivered in this State for use in this State; (7) mail  
27 processing services in connection with printed advertising material  
28 distributed in this State; (8) (Deleted by amendment, P.L.2005,  
29 c.126); and (9) services the benefit of which are received in this  
30 State.

31 (z) "Director" means the Director of the Division of Taxation in  
32 the State Department of the Treasury, or any officer, employee or  
33 agency of the Division of Taxation in the Department of the  
34 Treasury duly authorized by the director (directly, or indirectly by  
35 one or more redelegations of authority) to perform the functions  
36 mentioned or described in this act.

37 (aa) "Lease or rental" means any transfer of possession or control  
38 of tangible personal property for a fixed or indeterminate term for  
39 consideration. A "lease or rental" may include future options to  
40 purchase or extend.

41 (1) "Lease or rental" does not include:

42 (A) A transfer of possession or control of property under a  
43 security agreement or deferred payment plan that requires the  
44 transfer of title upon completion of the required payments;

45 (B) A transfer of possession or control of property under an  
46 agreement that requires the transfer of title upon completion of  
47 required payments and payment of an option price does not exceed  
48 the greater of \$100 or one percent of the total required payments; or

1 (C) Providing tangible personal property or a specified digital  
2 product along with an operator for a fixed or indeterminate period  
3 of time. A condition of this exclusion is that the operator is  
4 necessary for the equipment to perform as designed. For the  
5 purpose of this subparagraph, an operator must do more than  
6 maintain, inspect, or set-up the tangible personal property or  
7 specified digital product.

8 (2) "Lease or rental" does include agreements covering motor  
9 vehicles and trailers where the amount of consideration may be  
10 increased or decreased by reference to the amount realized upon  
11 sale or disposition of the property as defined in 26 U.S.C.  
12 s.7701(h)(1).

13 (3) The definition of "lease or rental" provided in this subsection  
14 shall be used for the purposes of this act regardless of whether a  
15 transaction is characterized as a lease or rental under generally  
16 accepted accounting principles, the federal Internal Revenue Code  
17 or other provisions of federal, state or local law.

18 (bb) (Deleted by amendment, P.L.2005, c.126).

19 (cc) "Telecommunications service" means the electronic  
20 transmission, conveyance, or routing of voice, data, audio, video, or  
21 any other information or signals to a point, or between or among  
22 points.

23 "Telecommunications service" shall include such transmission,  
24 conveyance, or routing in which computer processing applications  
25 are used to act on the form, code, or protocol of the content for  
26 purposes of transmission, conveyance, or routing without regard to  
27 whether such service is referred to as voice over Internet protocol  
28 services or is classified by the Federal Communications  
29 Commission as enhanced or value added.

30 "Telecommunications service" shall not include:

31 (1) (Deleted by amendment, P.L.2008, c.123);

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

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

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

35 (5) (Deleted by amendment, P.L.2008, c.123);

36 (6) (Deleted by amendment, P.L.2008, c.123);

37 (7) data processing and information services that allow data to  
38 be generated, acquired, stored, processed, or retrieved and delivered  
39 by an electronic transmission to a purchaser where such purchaser's  
40 primary purpose for the underlying transaction is the processed data  
41 or information;

42 (8) installation or maintenance of wiring or equipment on a  
43 customer's premises;

44 (9) tangible personal property;

45 (10) advertising, including but not limited to directory  
46 advertising;

47 (11) billing and collection services provided to third parties;

48 (12) internet access service;

1 (13) radio and television audio and video programming services,  
2 regardless of the medium, including the furnishing of transmission,  
3 conveyance, and routing of such services by the programming  
4 service provider. Radio and television audio and video  
5 programming services shall include but not be limited to cable  
6 service as defined in section 47 U.S.C. s.522(6) and audio and video  
7 programming services delivered by commercial mobile radio  
8 service providers, as defined in section 47 C.F.R. 20.3;

9 (14) ancillary services; or

10 (15) digital products delivered electronically, including but not  
11 limited to software, music, video, reading materials, or ringtones.

12 For the purposes of this subsection:

13 "ancillary service" means a service that is associated with or  
14 incidental to the provision of telecommunications services,  
15 including but not limited to detailed telecommunications billing,  
16 directory assistance, vertical service, and voice mail service;  
17 "conference bridging service" means an ancillary service that links  
18 two or more participants of an audio or video conference call and  
19 may include the provision of a telephone number. Conference  
20 bridging service does not include the telecommunications services  
21 used to reach the conference bridge;

22 "detailed telecommunications billing service" means an ancillary  
23 service of separately stating information pertaining to individual  
24 calls on a customer's billing statement;

25 "directory assistance" means an ancillary service of providing  
26 telephone number information or address information or both;

27 "vertical service" means an ancillary service that is offered in  
28 connection with one or more telecommunications services, which  
29 offers advanced calling features that allow customers to identify  
30 callers and to manage multiple calls and call connections, including  
31 conference bridging services; and

32 "voice mail service" means an ancillary service that enables the  
33 customer to store, send, or receive recorded messages. Voice mail  
34 service does not include any vertical service that a customer may be  
35 required to have to utilize the voice mail service.

36 (dd) (1) "Intrastate telecommunications" means a  
37 telecommunications service that originates in one United States  
38 state or a United States territory or possession or federal district,  
39 and terminates in the same United States state or United States  
40 territory or possession or federal district.

41 (2) "Interstate telecommunications" means a  
42 telecommunications service that originates in one United States  
43 state or a United States territory or possession or federal district,  
44 and terminates in a different United States state or United States  
45 territory or possession or federal district.

46 (3) "International telecommunications" means a  
47 telecommunications service that originates or terminates in the  
48 United States and terminates or originates outside the United States,

1 respectively. "United States" includes the District of Columbia or a  
2 United States territory or possession.

3 (ee) (Deleted by amendment, P.L.2008, c.123)

4 (ff) "Natural gas" means any gaseous fuel distributed through a  
5 pipeline system.

6 (gg) "Energy" means natural gas or electricity.

7 (hh) "Utility service" means the transportation or transmission of  
8 natural gas or electricity by means of mains, wires, lines or pipes, to  
9 users or customers.

10 (ii) "Self-generation unit" means a facility located on the user's  
11 property, or on property purchased or leased from the user by the  
12 person owning the self-generation unit and such property is  
13 contiguous to the user's property, which generates electricity to be  
14 used only by that user on the user's property and is not transported  
15 to the user over wires that cross a property line or public  
16 thoroughfare unless the property line or public thoroughfare merely  
17 bifurcates the user's or self-generation unit owner's otherwise  
18 contiguous property.

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

26 (kk) "Non-utility" means a company engaged in the sale,  
27 exchange or transfer of natural gas that was not subject to the  
28 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to  
29 December 31, 1997.

30 (ll) "Pre-paid calling service" means the right to access  
31 exclusively telecommunications services, which shall be paid for in  
32 advance and which enables the origination of calls using an access  
33 number or authorization code, whether manually or electronically  
34 dialed, and that is sold in predetermined units or dollars of which  
35 the number declines with use in a known amount.

36 (mm) "Mobile telecommunications service" means the same as  
37 that term is defined in the federal "Mobile Telecommunications  
38 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

39 (nn) (Deleted by amendment, P.L.2008, c.123)

40 (oo) (1) "Sales price" is the measure subject to sales tax and  
41 means the total amount of consideration, including cash, credit,  
42 property, and services, for which personal property or services are  
43 sold, leased, or rented, valued in money, whether received in money  
44 or otherwise, without any deduction for the following:

45 (A) The seller's cost of the property sold;

46 (B) The cost of materials used, labor or service cost, interest,  
47 losses, all costs of transportation to the seller, all taxes imposed on  
48 the seller, and any other expense of the seller;

- 1 (C) Charges by the seller for any services necessary to complete  
2 the sale;
- 3 (D) Delivery charges;
- 4 (E) (Deleted by amendment, P.L.2011, c.49); and
- 5 (F) (Deleted by amendment, P.L.2008, c.123).
- 6 (2) "Sales price" does not include:
- 7 (A) Discounts, including cash, term, or coupons that are not  
8 reimbursed by a third party, that are allowed by a seller and taken  
9 by a purchaser on a sale;
- 10 (B) Interest, financing, and carrying charges from credit  
11 extended on the sale of personal property or services, if the amount  
12 is separately stated on the invoice, bill of sale, or similar document  
13 given to the purchaser;
- 14 (C) Any taxes legally imposed directly on the consumer that are  
15 separately stated on the invoice, bill of sale, or similar document  
16 given to the purchaser;
- 17 (D) The amount of sales price for which food stamps have been  
18 properly tendered in full or part payment pursuant to the federal  
19 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
- 20 (E) Credit for any trade-in of property of the same kind accepted  
21 in part payment and intended for resale if the amount is separately  
22 stated on the invoice, bill of sale, or similar document given to the  
23 purchaser.
- 24 (3) "Sales price" includes consideration received by the seller  
25 from third parties if:
- 26 (A) The seller actually receives consideration from a party other  
27 than the purchaser and the consideration is directly related to a price  
28 reduction or discount on the sale;
- 29 (B) The seller has an obligation to pass the price reduction or  
30 discount through to the purchaser;
- 31 (C) The amount of the consideration attributable to the sale is  
32 fixed and determinable by the seller at the time of the sale of the  
33 item to the purchaser; and
- 34 (D) One of the following criteria is met:
- 35 (i) the purchaser presents a coupon, certificate, or other  
36 documentation to the seller to claim a price reduction or discount  
37 where the coupon, certificate, or documentation is authorized,  
38 distributed, or granted by a third party with the understanding that  
39 the third party will reimburse any seller to whom the coupon,  
40 certificate, or documentation is presented;
- 41 (ii) the purchaser identifies himself to the seller as a member of  
42 a group or organization entitled to a price reduction or discount;  
43 provided however, that a preferred customer card that is available to  
44 any patron does not constitute membership in such a group; or
- 45 (iii) the price reduction or discount is identified as a third party  
46 price reduction or discount on the invoice received by the purchaser  
47 or on a coupon, certificate, or other documentation presented by the  
48 purchaser.

1 (4) In the case of a bundled transaction that includes a  
2 telecommunications service, an ancillary service, internet access, or  
3 an audio or video programming service, if the price is attributable to  
4 products that are taxable and products that are nontaxable, the  
5 portion of the price attributable to the nontaxable products is  
6 subject to tax unless the provider can identify by reasonable and  
7 verifiable standards such portion from its books and records that are  
8 kept in the regular course of business for other purposes, including  
9 non-tax purposes.

10 (pp) "Purchase price" means the measure subject to use tax and  
11 has the same meaning as "sales price."

12 (qq) "Sales tax" means the tax imposed on certain transactions  
13 pursuant to the provisions of the "Sales and Use Tax Act,"  
14 P.L.1966, c.30 (C.54:32B-1 et seq.).

15 (rr) "Delivery charges" means charges by the seller for  
16 preparation and delivery to a location designated by the purchaser  
17 of personal property or services including, but not limited to,  
18 transportation, shipping, postage, handling, crating, and packing. If  
19 a shipment includes both exempt and taxable property, the seller  
20 should allocate the delivery charge by using: (1) a percentage based  
21 on the total sales price of the taxable property compared to the total  
22 sales price of all property in the shipment; or (2) a percentage based  
23 on the total weight of the taxable property compared to the total  
24 weight of all property in the shipment. The seller shall tax the  
25 percentage of the delivery charge allocated to the taxable property  
26 but is not required to tax the percentage allocated to the exempt  
27 property.

28 (ss) "Direct mail" means printed material delivered or  
29 distributed by United States mail or other delivery service to a mass  
30 audience or to addresses on a mailing list provided by the purchaser  
31 or at the direction of the purchaser in cases in which the cost of the  
32 items are not billed directly to the recipients. "Direct mail"  
33 includes tangible personal property supplied directly or indirectly  
34 by the purchaser to the direct mail seller for inclusion in the  
35 package containing the printed material. "Direct mail" does not  
36 include multiple items of printed material delivered to a single  
37 address.

38 (tt) "Streamlined Sales and Use Tax Agreement" means the  
39 agreement entered into as governed and authorized by the "Uniform  
40 Sales and Use Tax Administration Act," P.L.2001, c.431  
41 (C.54:32B-44 et seq.).

42 (uu) "Alcoholic beverages" means beverages that are suitable for  
43 human consumption and contain one-half of one percent or more of  
44 alcohol by volume.

45 (vv) (Deleted by amendment, P.L.2011, c.49)

46 (ww) "Landscaping services" means services that result in a  
47 capital improvement to land other than structures of any kind  
48 whatsoever, such as: seeding, sodding or grass plugging of new

1 lawns; planting trees, shrubs, hedges, plants; and clearing and  
2 filling land.

3 (xx) "Investigation and security services" means:

4 (1) investigation and detective services, including detective  
5 agencies and private investigators, and fingerprint, polygraph,  
6 missing person tracing and skip tracing services;

7 (2) security guard and patrol services, including bodyguard and  
8 personal protection, guard dog, guard, patrol, and security services;

9 (3) armored car services; and

10 (4) security systems services, including security, burglar, and  
11 fire alarm installation, repair or monitoring services.

12 (yy) "Information services" means the furnishing of information  
13 of any kind, which has been collected, compiled, or analyzed by the  
14 seller, and provided through any means or method, other than  
15 personal or individual information which is not incorporated into  
16 reports furnished to other people.

17 (zz) "Specified digital product" means an electronically  
18 transferred digital audio-visual work, digital audio work, or digital  
19 book; provided however, that a digital code which provides a  
20 purchaser with a right to obtain the product shall be treated in the  
21 same manner as a specified digital product.

22 (aaa) "Digital audio-visual work" means a series of related  
23 images which, when shown in succession, impart an impression of  
24 motion, together with accompanying sounds, if any.

25 (bbb) "Digital audio work" means a work that results from the  
26 fixation of a series of musical, spoken, or other sounds, including a  
27 ringtone.

28 (ccc) "Digital book" means a work that is generally recognized  
29 in the ordinary and usual sense as a book.

30 (ddd) "Transferred electronically" means obtained by the  
31 purchaser by means other than tangible storage media.

32 (eee) "Ringtone" means a digitized sound file that is  
33 downloaded onto a device and that may be used to alert the  
34 purchaser with respect to a communication.

35 (fff) "Residence" means a house, condominium, or other  
36 residential dwelling unit in a building or structure or part of a  
37 building or structure that is designed, constructed, leased, rented, let  
38 or hired out, or otherwise made available for use as a residence.

39 (ggg) "Transient accommodation" means a room, group of  
40 rooms, or other living or sleeping space for the lodging of  
41 occupants, including but not limited to residences or buildings used  
42 as residences, that is obtained through a transient space marketplace  
43 or is a professionally managed unit. "Transient accommodation"  
44 does not include: a hotel or hotel room; a room, group of rooms, or  
45 other living or sleeping space used as a place of assembly; a  
46 dormitory or other similar residential facility of an elementary or  
47 secondary school or a college or university; a hospital, nursing  
48 home, or other similar residential facility of a provider of services

1 for the care, support and treatment of individuals that is licensed by  
2 the State; a campsite, cabin, lean-to, or other similar residential  
3 facility of a campground or an adult or youth camp; a furnished or  
4 unfurnished private residential property, including but not limited to  
5 condominiums, bungalows, single-family homes and similar living  
6 units, where no maid service, room service, linen changing service  
7 or other common hotel services are made available by the lessor and  
8 where the keys to the furnished or unfurnished private residential  
9 property, whether a physical key, access to a keyless locking  
10 mechanism, or other means of physical ingress to the furnished or  
11 unfurnished private residential property, are provided to the lessee  
12 at the location of an offsite real estate broker licensed by the New  
13 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or  
14 leases of real property with a term of at least 90 consecutive days.

15 (hhh) "Transient space marketplace" means a marketplace or  
16 travel agency through which a person may offer transient  
17 accommodations to customers and through which customers may  
18 arrange for occupancies of transient accommodations. "Transient  
19 space marketplace" does not include a marketplace or travel agency  
20 that exclusively offers transient accommodations in the State owned  
21 by the owner of the marketplace or travel agency.

22 (iii) "Professionally managed unit" means a room, group of  
23 rooms, or other living or sleeping space for the lodging of  
24 occupants in the State, that is offered for rent as a rental unit that  
25 does not share any living or sleeping space with any other rental  
26 unit, and that is directly or indirectly owned or controlled by a  
27 person offering for rent two or more other units during the calendar  
28 year.

29 (jjj) "Obtained through a transient space marketplace" means that  
30 payment for the accommodation is made through a means provided  
31 by the marketplace or travel agency, either directly or indirectly,  
32 regardless of which person or entity receives the payment, and  
33 where the contracting for the accommodation is made through the  
34 marketplace or travel agency.

35 <sup>1</sup>[(kkk) "Sign" means any device, structure, fixture, painting, or  
36 visual image using words, graphics, symbols, numbers, or letters  
37 designed for the purpose of conveying information or attracting  
38 attention.

39 (lll) "Sign fabrication and installation services" means services  
40 that result in the sale, manufacturing, processing, assembling, or  
41 installation of signs that are temporarily or permanently affixed to  
42 real or personal property regardless of whether or not the services  
43 result in a capital improvement.]<sup>1</sup>

44 (cf: P.L.2019, c.235, s.13)

45

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



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

5       (a) The receipts from every retail sale of tangible personal  
6 property or a specified digital product for permanent use or less  
7 than permanent use, and regardless of whether continued payment is  
8 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-  
9 1 et seq.).

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

12       (1) Producing, fabricating, processing, printing, or imprinting  
13 tangible personal property or a specified digital product, performed  
14 for a person who directly or indirectly furnishes the tangible  
15 personal property or specified digital product, not purchased by the  
16 person for resale, upon which these services are performed.

17       (2) Installing tangible personal property or a specified digital  
18 product, or maintaining, servicing, repairing tangible personal  
19 property or a specified digital product not held for sale in the  
20 regular course of business, whether or not the services are  
21 performed directly or by means of coin-operated equipment or by  
22 any other means, and whether or not any tangible personal property  
23 or specified digital product is transferred in conjunction therewith,  
24 except (i) such services rendered by an individual who is engaged  
25 directly by a private homeowner or lessee in or about his residence  
26 and who is not in a regular trade or business offering his services to  
27 the public, (ii) such services rendered with respect to personal  
28 property exempt from taxation hereunder pursuant to section 13 of  
29 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,  
30 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,  
31 tailoring, weaving, or pressing clothing, and shoe repairing and  
32 shoeshining, and (v) services rendered in installing property which,  
33 when installed, will constitute an addition or capital improvement to  
34 real property, property or land, other than landscaping services and  
35 other than installing carpeting and other flooring <sup>1</sup>, and other than  
36 sign installation services<sup>1</sup>.

37       (3) Storing all tangible personal property not held for sale in the  
38 regular course of business; the rental of safe deposit boxes or  
39 similar space; and the furnishing of space for storage of tangible  
40 personal property by a person engaged in the business of furnishing  
41 space for such storage.

42       "Space for storage" means secure areas, such as rooms, units,  
43 compartments, or containers, whether accessible from outside or  
44 from within a building, that are designated for the use of a customer  
45 and wherein the customer has free access within reasonable  
46 business hours, or upon reasonable notice to the furnisher of space  
47 for storage, to store and retrieve property. Space for storage shall

1 not include the lease or rental of an entire building, such as a  
2 warehouse or airplane hangar.

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

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

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

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

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

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

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

27 (11) Investigation and security services.

28 (12) Information services.

29 (13) (Deleted by amendment, P.L.2017, c.27)

30 (14) Telephone answering services.

31 (15) Radio subscription services.

32 <sup>1</sup>**[(16) Sign fabrication and installation services.]**<sup>1</sup>

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

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

43 (c) (1) Receipts from the sale of prepared food in or by  
44 restaurants, taverns, or other establishments in this State, or by  
45 caterers, including in the amount of such receipts any cover,  
46 minimum, entertainment, or other charge made to patrons or  
47 customers, except for meals especially prepared for and delivered to  
48 homebound elderly, age 60 or older, and to persons with

1 disabilities, or meals prepared and served at a group-sitting at a  
2 location outside of the home to otherwise homebound elderly  
3 persons, age 60 or older, and otherwise homebound persons with  
4 disabilities, as all or part of any food service project funded in  
5 whole or in part by government or as part of a private, nonprofit  
6 food service project available to all such elderly or persons with  
7 disabilities residing within an area of service designated by the  
8 private nonprofit organization; and

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

16 The tax imposed by subsection (c) of this section shall not apply  
17 to food or drink which is sold to an airline for consumption while in  
18 flight.

19 (3) For the purposes of this subsection:

20 "Food and beverages sold through vending machines" means  
21 food and beverages dispensed from a machine or other mechanical  
22 device that accepts payment; and

23 "Prepared food" means:

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

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

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

36 provided however, that

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

39 A. food sold by a seller whose proper primary NAICS  
40 classification is manufacturing in section 311, except subsector  
41 3118 (bakeries);

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

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

1 (d) The rent for every occupancy of a room or rooms in a hotel  
2 or transient accommodation in this State, except that the tax shall  
3 not be imposed upon a permanent resident.

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

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

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

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

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

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

43 (i) The receipts from parking, storing, or garaging a motor  
44 vehicle, excluding charges for the following: residential parking;  
45 employee parking, when provided by an employer or at a facility  
46 owned or operated by the employer; municipal parking, storing, or  
47 garaging; receipts from charges or fees imposed pursuant to section  
48 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement

1 between the Casino Reinvestment Development Authority and a  
2 casino operator in effect on the date of enactment of P.L.2007,  
3 c.105; and receipts from parking, storing, or garaging a motor  
4 vehicle subject to tax pursuant to any other law or ordinance.

5 For the purposes of this subsection, "municipal parking, storing,  
6 or garaging" means any motor vehicle parking, storing, or garaging  
7 provided by a municipality or county, or a parking authority  
8 thereof.

9 <sup>1</sup>[(j) The receipts from the sale, except for resale, of signs,  
10 whether or not the signs are temporarily or permanently affixed to  
11 real or personal property and regardless of whether or not the sign  
12 installation results in a capital improvement.]<sup>1</sup>

13 (cf: P.L.2018, c.49, s.20)

14

15 3. The Director of the Division of Taxation may adopt, in  
16 accordance with the "Administrative Procedure Act," P.L.1968,  
17 c.410 (C.52:14B-1 et seq.), such rules and regulations necessary to  
18 effectuate the purpose of section 2 of P.L. , c. (C. )  
19 (pending before the Legislature as this bill).

20

21 4. This act shall take effect immediately and apply to sign  
22 fabrication and installation services rendered on or after <sup>1</sup>[the first  
23 day of the third month next following enactment] October 1, 2022<sup>1</sup>.

24

25

26

27

28 Concerns imposition and collection of sales and use tax for  
29 fabrication and installation of signs.

# ASSEMBLY, No. 4239

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 13, 2022

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblyman REGINALD W. ATKINS**

**District 20 (Union)**

**Assemblyman WILLIAM F. MOEN, JR.**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblywoman Speight**

**SYNOPSIS**

Concerns imposition and collection of sales and use tax for fabrication and installation of signs.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2022)**

1 AN ACT concerning the imposition of the sales and use tax for  
2 signs, amending P.L.1966, c.30 (C.54:32B-1 et seq.).

3

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

6

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

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

11 (a) "Person" includes an individual, trust, partnership, limited  
12 partnership, limited liability company, society, association, joint  
13 stock company, corporation, public corporation or public authority,  
14 estate, receiver, trustee, assignee, referee, fiduciary and any other  
15 legal entity.

16 (b) "Purchase at retail" means a purchase by any person at a  
17 retail sale.

18 (c) "Purchaser" means a person to whom a sale of personal  
19 property is made or to whom a service is furnished.

20 (d) "Receipt" means the amount of the sales price of any  
21 tangible personal property, specified digital product or service  
22 taxable under this act.

23 (e) "Retail sale" means any sale, lease, or rental for any purpose,  
24 other than for resale, sublease, or subrent.

25 (1) For the purposes of this act a sale is for "resale, sublease, or  
26 subrent" if it is a sale (A) for resale either as such or as converted  
27 into or as a component part of a product produced for sale by the  
28 purchaser, including the conversion of natural gas into another  
29 intermediate or end product, other than electricity or thermal  
30 energy, produced for sale by the purchaser, (B) for use by that  
31 person in performing the services subject to tax under subsection  
32 (b) of section 3 where the property so sold becomes a physical  
33 component part of the property upon which the services are  
34 performed or where the property so sold is later actually transferred  
35 to the purchaser of the service in conjunction with the performance  
36 of the service subject to tax, (C) of telecommunications service to a  
37 telecommunications service provider for use as a component part of  
38 telecommunications service provided to an ultimate customer, or  
39 (D) to a person who receives by contract a product transferred  
40 electronically for further commercial broadcast, rebroadcast,  
41 transmission, retransmission, licensing, relicensing, distribution,  
42 redistribution or exhibition of the product, in whole or in part, to  
43 another person, other than rights to redistribute based on statutory  
44 or common law doctrine such as fair use.

**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 (2) For the purposes of this act, the term "retail sale" includes:  
2 sales of tangible personal property to all contractors, subcontractors  
3 or repairmen of materials and supplies for use by them in erecting  
4 structures for others, or building on, or otherwise improving,  
5 altering, or repairing real property of others.

6 (3) (Deleted by amendment, P.L.2005, c.126).

7 (4) The term "retail sale" does not include:

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

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

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

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

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

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

23 (G) The sale of tangible personal property where the purpose of  
24 the vendee is to hold the thing transferred as security for the  
25 performance of an obligation of the seller.

26 (f) "Sale, selling or purchase" means any transfer of title or  
27 possession or both, exchange or barter, rental, lease or license to  
28 use or consume, conditional or otherwise, in any manner or by any  
29 means whatsoever for a consideration, or any agreement therefor,  
30 including the rendering of any service, taxable under this act, for a  
31 consideration or any agreement therefor.

32 (g) "Tangible personal property" means personal property that  
33 can be seen, weighed, measured, felt, or touched, or that is in any  
34 other manner perceptible to the senses. "Tangible personal  
35 property" includes electricity, water, gas, steam, and prewritten  
36 computer software including prewritten computer software  
37 delivered electronically.

38 (h) "Use" means the exercise of any right or power over tangible  
39 personal property, specified digital products, services to property or  
40 products, or services by the purchaser thereof and includes, but is  
41 not limited to, the receiving, storage or any keeping or retention for  
42 any length of time, withdrawal from storage, any distribution, any  
43 installation, any affixation to real or personal property, or any  
44 consumption of such property or products. Use also includes the  
45 exercise of any right or power over intrastate or interstate  
46 telecommunications and prepaid calling services. Use also includes  
47 the exercise of any right or power over utility service. Use also  
48 includes the derivation of a direct or indirect benefit from a service.



1 (i) "Seller" means a person making sales, leases or rentals of  
2 personal property or services.

3 (1) The term "seller" includes:

4 (A) A person making sales, leases or rentals of tangible personal  
5 property, specified digital products or services, the receipts from  
6 which are taxed by this act;

7 (B) A person maintaining a place of business in the State or  
8 having an agent maintaining a place of business in the State and  
9 making sales, whether at such place of business or elsewhere, to  
10 persons within the State of tangible personal property, specified  
11 digital products or services, the use of which is taxed by this act;

12 (C) A person who solicits business either by employees,  
13 independent contractors, agents or other representatives or by  
14 distribution of catalogs or other advertising matter and by reason  
15 thereof makes sales to persons within the State of tangible personal  
16 property, specified digital products or services, the use of which is  
17 taxed by this act.

18 A person making sales of tangible personal property, specified  
19 digital products, or services taxable under the "Sales and Use Tax  
20 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be  
21 soliciting business through an independent contractor or other  
22 representative if the person making sales enters into an agreement  
23 with an independent contractor having physical presence in this  
24 State or other representative having physical presence in this State,  
25 for a commission or other consideration, under which the  
26 independent contractor or representative directly or indirectly refers  
27 potential customers, whether by a link on an internet website or  
28 otherwise, and the cumulative gross receipts from sales to  
29 customers in this State who were referred by all independent  
30 contractors or representatives that have this type of an agreement  
31 with the person making sales are in excess of \$10,000 during the  
32 preceding four quarterly periods ending on the last day of March,  
33 June, September, and December. This presumption may be rebutted  
34 by proof that the independent contractor or representative with  
35 whom the person making sales has an agreement did not engage in  
36 any solicitation in the State on behalf of the person that would  
37 satisfy the nexus requirements of the United States Constitution  
38 during the four quarterly periods in question. Nothing in this  
39 subparagraph shall be construed to narrow the scope of the terms  
40 independent contractor or other representative for purposes of any  
41 other provision of the "Sales and Use Tax Act," P.L.1966, c.30  
42 (C.54:32B-1 et seq.);

43 (D) Any other person making sales to persons within the State of  
44 tangible personal property, specified digital products or services,  
45 the use of which is taxed by this act, who may be authorized by the  
46 director to collect the tax imposed by this act;

47 (E) The State of New Jersey, any of its agencies,  
48 instrumentalities, public authorities, public corporations (including

1 a public corporation created pursuant to agreement or compact with  
2 another state) or political subdivisions when such entity sells  
3 services or property of a kind ordinarily sold by private persons;

4 (F) (Deleted by amendment, P.L.2005, c.126);

5 (G) A person who sells, stores, delivers or transports energy to  
6 users or customers in this State whether by mains, lines or pipes  
7 located within this State or by any other means of delivery;

8 (H) A person engaged in collecting charges in the nature of  
9 initiation fees, membership fees or dues for access to or use of the  
10 property or facilities of a health and fitness, athletic, sporting or  
11 shopping club or organization;

12 (I) A person engaged in the business of parking, storing or  
13 garaging motor vehicles;

14 (J) A person making sales, leases, or rentals of tangible personal  
15 property, specified digital products, or taxable services who meets  
16 the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018,  
17 c.132 (C.54:32B-3.5); and

18 (K) A marketplace facilitator.

19 (2) In addition, when in the opinion of the director it is  
20 necessary for the efficient administration of this act to treat any  
21 salesman, representative, peddler or canvasser as the agent of the  
22 seller, distributor, supervisor or employer under whom the agent  
23 operates or from whom the agent obtains tangible personal property  
24 or a specified digital product sold by the agent or for whom the  
25 agent solicits business, the director may, in the director's discretion,  
26 treat such agent as the seller jointly responsible with the agent's  
27 principal, distributor, supervisor or employer for the collection and  
28 payment over of the tax. A person is an agent of a seller in all  
29 cases, but not limited to such cases, that: (A) the person and the  
30 seller have the relationship of a "related person" described pursuant  
31 to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller  
32 and the person use an identical or substantially similar name,  
33 tradename, trademark, or goodwill, to develop, promote, or  
34 maintain sales, or the person and the seller pay for each other's  
35 services in whole or in part contingent upon the volume or value of  
36 sales, or the person and the seller share a common business plan or  
37 substantially coordinate their business plans, or the person provides  
38 services to, or that inure to the benefit of, the seller related to  
39 developing, promoting, or maintaining the seller's market.

40 (3) Notwithstanding any other provision of law or  
41 administrative action to the contrary, transient space marketplaces  
42 shall be required to collect and pay on behalf of persons engaged in  
43 the business of providing transient accommodations located in this  
44 State the tax for transactions obtained through the transient space  
45 marketplace. For not less than four years following the end of the  
46 calendar year in which the transaction occurred, the transient space  
47 marketplace shall maintain the following data for those transactions  
48 consummated through the transient space marketplace:

- 1 (A) The name of the person who provided the transient  
2 accommodation;
- 3 (B) The name of the customer who procured occupancy of the  
4 transient accommodation;
- 5 (C) The address, including any unit designation, of the transient  
6 accommodation;
- 7 (D) The dates and nightly rates for which the consumer procured  
8 occupancy of the transient accommodation;
- 9 (E) The municipal transient accommodation registration number,  
10 if applicable;
- 11 (F) A statement as to whether such booking services will be  
12 provided in connection with (i) short-term rental of the entirety of  
13 such unit, (ii) short-term rental of part of such unit, but not the  
14 entirety of such unit, and/or (iii) short-term rental of the entirety of  
15 such unit, or part thereof, in which a non-short-term occupant will  
16 continue to occupy such unit for the duration of such short-term  
17 rental;
- 18 (G) The individualized name or number of each such  
19 advertisement or listing connected to such unit and the uniform  
20 resource locator (URL) for each such listing or advertisement,  
21 where applicable; and
- 22 (H) Such other information as the Division of Taxation may by  
23 rule require.
- 24 The Division of Taxation may audit transient space marketplaces  
25 as necessary to ensure data accuracy and enforce tax compliance.
- 26 (j) "Hotel" means a building or portion of a building which is  
27 regularly used and kept open as such for the lodging of guests.  
28 "Hotel" includes an apartment hotel, a motel, inn, and rooming or  
29 boarding house or club, whether or not meals are served, but does  
30 not include a transient accommodation.
- 31 (k) "Occupancy" means the use or possession or the right to the  
32 use or possession, of any room in a hotel or transient  
33 accommodation.
- 34 (l) "Occupant" means a person who, for a consideration, uses,  
35 possesses, or has the right to use or possess, any room in a hotel or  
36 transient accommodation under any lease, concession, permit, right  
37 of access, license to use or other agreement, or otherwise.
- 38 (m) "Permanent resident" means any occupant of any room or  
39 rooms in a hotel or transient accommodation for at least 90  
40 consecutive days shall be considered a permanent resident with  
41 regard to the period of such occupancy.
- 42 (n) "Room" means any room or rooms of any kind in any part or  
43 portion of a hotel or transient accommodation, which is available  
44 for or let out for any purpose other than a place of assembly.
- 45 (o) "Admission charge" means the amount paid for admission,  
46 including any service charge and any charge for entertainment or  
47 amusement or for the use of facilities therefor.

- 1 (p) "Amusement charge" means any admission charge, dues or  
2 charge of a roof garden, cabaret or other similar place.
- 3 (q) "Charge of a roof garden, cabaret or other similar place"  
4 means any charge made for admission, refreshment, service, or  
5 merchandise at a roof garden, cabaret or other similar place.
- 6 (r) "Dramatic or musical arts admission charge" means any  
7 admission charge paid for admission to a theater, opera house,  
8 concert hall or other hall or place of assembly for a live, dramatic,  
9 choreographic or musical performance.
- 10 (s) "Lessor" means any person who is the owner, licensee, or  
11 lessee of any premises, tangible personal property or a specified  
12 digital product which the person leases, subleases, or grants a  
13 license to use to other persons.
- 14 (t) "Place of amusement" means any place where any facilities  
15 for entertainment, amusement, or sports are provided.
- 16 (u) "Casual sale" means an isolated or occasional sale of an item  
17 of tangible personal property or a specified digital product by a  
18 person who is not regularly engaged in the business of making retail  
19 sales of such property or product where the item of tangible  
20 personal property or the specified digital product was obtained by  
21 the person making the sale, through purchase or otherwise, for the  
22 person's own use.
- 23 (v) "Motor vehicle" includes all vehicles propelled otherwise  
24 than by muscular power (excepting such vehicles as run only upon  
25 rails or tracks), trailers, semitrailers, house trailers, or any other  
26 type of vehicle drawn by a motor-driven vehicle, and motorcycles,  
27 designed for operation on the public highways.
- 28 (w) "Persons required to collect tax" or "persons required to  
29 collect any tax imposed by this act" includes: every seller of  
30 tangible personal property, specified digital products or services;  
31 every recipient of amusement charges; every operator of a hotel or  
32 transient accommodation; every transient space marketplace; every  
33 marketplace facilitator; every seller of a telecommunications  
34 service; every recipient of initiation fees, membership fees or dues  
35 for access to or use of the property or facilities of a health and  
36 fitness, athletic, sporting or shopping club or organization; and  
37 every recipient of charges for parking, storing or garaging a motor  
38 vehicle. Said terms shall also include any officer or employee of a  
39 corporation or of a dissolved corporation who as such officer or  
40 employee is under a duty to act for such corporation in complying  
41 with any requirement of this act and any member of a partnership.
- 42 (x) "Customer" includes: every purchaser of tangible personal  
43 property, specified digital products or services; every patron paying  
44 or liable for the payment of any amusement charge; every occupant  
45 of a room or rooms in a hotel or transient accommodation; every  
46 person paying charges in the nature of initiation fees, membership  
47 fees or dues for access to or use of the property or facilities of a  
48 health and fitness, athletic, sporting or shopping club or

1 organization; and every purchaser of parking, storage or garaging a  
2 motor vehicle.

3 (y) "Property and services the use of which is subject to tax"  
4 includes: (1) all property sold to a person within the State, whether  
5 or not the sale is made within the State, the use of which property is  
6 subject to tax under section 6 or will become subject to tax when  
7 such property is received by or comes into the possession or control  
8 of such person within the State; (2) all services rendered to a person  
9 within the State, whether or not such services are performed within  
10 the State, upon tangible personal property or a specified digital  
11 product the use of which is subject to tax under section 6 or will  
12 become subject to tax when such property or product is distributed  
13 within the State or is received by or comes into possession or  
14 control of such person within the State; (3) intrastate, interstate, or  
15 international telecommunications sourced to this State pursuant to  
16 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by  
17 amendment, P.L.1995, c.184); (5) energy sold, exchanged or  
18 delivered in this State for use in this State; (6) utility service sold,  
19 exchanged or delivered in this State for use in this State; (7) mail  
20 processing services in connection with printed advertising material  
21 distributed in this State; (8) (Deleted by amendment, P.L.2005,  
22 c.126); and (9) services the benefit of which are received in this  
23 State.

24 (z) "Director" means the Director of the Division of Taxation in  
25 the State Department of the Treasury, or any officer, employee or  
26 agency of the Division of Taxation in the Department of the  
27 Treasury duly authorized by the director (directly, or indirectly by  
28 one or more redelegations of authority) to perform the functions  
29 mentioned or described in this act.

30 (aa) "Lease or rental" means any transfer of possession or control  
31 of tangible personal property for a fixed or indeterminate term for  
32 consideration. A "lease or rental" may include future options to  
33 purchase or extend.

34 (1) "Lease or rental" does not include:

35 (A) A transfer of possession or control of property under a  
36 security agreement or deferred payment plan that requires the  
37 transfer of title upon completion of the required payments;

38 (B) A transfer of possession or control of property under an  
39 agreement that requires the transfer of title upon completion of  
40 required payments and payment of an option price does not exceed  
41 the greater of \$100 or one percent of the total required payments; or

42 (C) Providing tangible personal property or a specified digital  
43 product along with an operator for a fixed or indeterminate period  
44 of time. A condition of this exclusion is that the operator is  
45 necessary for the equipment to perform as designed. For the  
46 purpose of this subparagraph, an operator must do more than  
47 maintain, inspect, or set-up the tangible personal property or  
48 specified digital product.

1 (2) "Lease or rental" does include agreements covering motor  
2 vehicles and trailers where the amount of consideration may be  
3 increased or decreased by reference to the amount realized upon  
4 sale or disposition of the property as defined in 26 U.S.C.  
5 s.7701(h)(1).

6 (3) The definition of "lease or rental" provided in this subsection  
7 shall be used for the purposes of this act regardless of whether a  
8 transaction is characterized as a lease or rental under generally  
9 accepted accounting principles, the federal Internal Revenue Code  
10 or other provisions of federal, state or local law.

11 (bb) (Deleted by amendment, P.L.2005, c.126).

12 (cc) "Telecommunications service" means the electronic  
13 transmission, conveyance, or routing of voice, data, audio, video, or  
14 any other information or signals to a point, or between or among  
15 points.

16 "Telecommunications service" shall include such transmission,  
17 conveyance, or routing in which computer processing applications  
18 are used to act on the form, code, or protocol of the content for  
19 purposes of transmission, conveyance, or routing without regard to  
20 whether such service is referred to as voice over Internet protocol  
21 services or is classified by the Federal Communications  
22 Commission as enhanced or value added.

23 "Telecommunications service" shall not include:

24 (1) (Deleted by amendment, P.L.2008, c.123);

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

26 (3) (Deleted by amendment, P.L.2008, c.123);

27 (4) (Deleted by amendment, P.L.2008, c.123);

28 (5) (Deleted by amendment, P.L.2008, c.123);

29 (6) (Deleted by amendment, P.L.2008, c.123);

30 (7) data processing and information services that allow data to  
31 be generated, acquired, stored, processed, or retrieved and delivered  
32 by an electronic transmission to a purchaser where such purchaser's  
33 primary purpose for the underlying transaction is the processed data  
34 or information;

35 (8) installation or maintenance of wiring or equipment on a  
36 customer's premises;

37 (9) tangible personal property;

38 (10) advertising, including but not limited to directory  
39 advertising;

40 (11) billing and collection services provided to third parties;

41 (12) internet access service;

42 (13) radio and television audio and video programming services,  
43 regardless of the medium, including the furnishing of transmission,  
44 conveyance, and routing of such services by the programming  
45 service provider. Radio and television audio and video  
46 programming services shall include but not be limited to cable  
47 service as defined in section 47 U.S.C. s.522(6) and audio and video

1 programming services delivered by commercial mobile radio  
2 service providers, as defined in section 47 C.F.R. 20.3;

3 (14) ancillary services; or

4 (15) digital products delivered electronically, including but not  
5 limited to software, music, video, reading materials, or ringtones.

6 For the purposes of this subsection:

7 "ancillary service" means a service that is associated with or  
8 incidental to the provision of telecommunications services,  
9 including but not limited to detailed telecommunications billing,  
10 directory assistance, vertical service, and voice mail service;

11 "conference bridging service" means an ancillary service that links  
12 two or more participants of an audio or video conference call and  
13 may include the provision of a telephone number. Conference  
14 bridging service does not include the telecommunications services  
15 used to reach the conference bridge;

16 "detailed telecommunications billing service" means an ancillary  
17 service of separately stating information pertaining to individual  
18 calls on a customer's billing statement;

19 "directory assistance" means an ancillary service of providing  
20 telephone number information or address information or both;

21 "vertical service" means an ancillary service that is offered in  
22 connection with one or more telecommunications services, which  
23 offers advanced calling features that allow customers to identify  
24 callers and to manage multiple calls and call connections, including  
25 conference bridging services; and

26 "voice mail service" means an ancillary service that enables the  
27 customer to store, send, or receive recorded messages. Voice mail  
28 service does not include any vertical service that a customer may be  
29 required to have to utilize the voice mail service.

30 (dd) (1) "Intrastate telecommunications" means a  
31 telecommunications service that originates in one United States  
32 state or a United States territory or possession or federal district,  
33 and terminates in the same United States state or United States  
34 territory or possession or federal district.

35 (2) "Interstate telecommunications" means a  
36 telecommunications service that originates in one United States  
37 state or a United States territory or possession or federal district,  
38 and terminates in a different United States state or United States  
39 territory or possession or federal district.

40 (3) "International telecommunications" means a  
41 telecommunications service that originates or terminates in the  
42 United States and terminates or originates outside the United States,  
43 respectively. "United States" includes the District of Columbia or a  
44 United States territory or possession.

45 (ee) (Deleted by amendment, P.L.2008, c.123)

46 (ff) "Natural gas" means any gaseous fuel distributed through a  
47 pipeline system.

48 (gg) "Energy" means natural gas or electricity.

1 (hh) "Utility service" means the transportation or transmission of  
2 natural gas or electricity by means of mains, wires, lines or pipes, to  
3 users or customers.

4 (ii) "Self-generation unit" means a facility located on the user's  
5 property, or on property purchased or leased from the user by the  
6 person owning the self-generation unit and such property is  
7 contiguous to the user's property, which generates electricity to be  
8 used only by that user on the user's property and is not transported  
9 to the user over wires that cross a property line or public  
10 thoroughfare unless the property line or public thoroughfare merely  
11 bifurcates the user's or self-generation unit owner's otherwise  
12 contiguous property.

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

20 (kk) "Non-utility" means a company engaged in the sale,  
21 exchange or transfer of natural gas that was not subject to the  
22 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to  
23 December 31, 1997.

24 (ll) "Pre-paid calling service" means the right to access  
25 exclusively telecommunications services, which shall be paid for in  
26 advance and which enables the origination of calls using an access  
27 number or authorization code, whether manually or electronically  
28 dialed, and that is sold in predetermined units or dollars of which  
29 the number declines with use in a known amount.

30 (mm) "Mobile telecommunications service" means the same as  
31 that term is defined in the federal "Mobile Telecommunications  
32 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

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

34 (oo) (1) "Sales price" is the measure subject to sales tax and  
35 means the total amount of consideration, including cash, credit,  
36 property, and services, for which personal property or services are  
37 sold, leased, or rented, valued in money, whether received in money  
38 or otherwise, without any deduction for the following:

39 (A) The seller's cost of the property sold;

40 (B) The cost of materials used, labor or service cost, interest,  
41 losses, all costs of transportation to the seller, all taxes imposed on  
42 the seller, and any other expense of the seller;

43 (C) Charges by the seller for any services necessary to complete  
44 the sale;

45 (D) Delivery charges;

46 (E) (Deleted by amendment, P.L.2011, c.49); and

47 (F) (Deleted by amendment, P.L.2008, c.123).

48 (2) "Sales price" does not include:



1 (A) Discounts, including cash, term, or coupons that are not  
2 reimbursed by a third party, that are allowed by a seller and taken  
3 by a purchaser on a sale;

4 (B) Interest, financing, and carrying charges from credit  
5 extended on the sale of personal property or services, if the amount  
6 is separately stated on the invoice, bill of sale, or similar document  
7 given to the purchaser;

8 (C) Any taxes legally imposed directly on the consumer that are  
9 separately stated on the invoice, bill of sale, or similar document  
10 given to the purchaser;

11 (D) The amount of sales price for which food stamps have been  
12 properly tendered in full or part payment pursuant to the federal  
13 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

14 (E) Credit for any trade-in of property of the same kind accepted  
15 in part payment and intended for resale if the amount is separately  
16 stated on the invoice, bill of sale, or similar document given to the  
17 purchaser.

18 (3) "Sales price" includes consideration received by the seller  
19 from third parties if:

20 (A) The seller actually receives consideration from a party other  
21 than the purchaser and the consideration is directly related to a price  
22 reduction or discount on the sale;

23 (B) The seller has an obligation to pass the price reduction or  
24 discount through to the purchaser;

25 (C) The amount of the consideration attributable to the sale is  
26 fixed and determinable by the seller at the time of the sale of the  
27 item to the purchaser; and

28 (D) One of the following criteria is met:

29 (i) the purchaser presents a coupon, certificate, or other  
30 documentation to the seller to claim a price reduction or discount  
31 where the coupon, certificate, or documentation is authorized,  
32 distributed, or granted by a third party with the understanding that  
33 the third party will reimburse any seller to whom the coupon,  
34 certificate, or documentation is presented;

35 (ii) the purchaser identifies himself to the seller as a member of  
36 a group or organization entitled to a price reduction or discount;  
37 provided however, that a preferred customer card that is available to  
38 any patron does not constitute membership in such a group; or

39 (iii) the price reduction or discount is identified as a third party  
40 price reduction or discount on the invoice received by the purchaser  
41 or on a coupon, certificate, or other documentation presented by the  
42 purchaser.

43 (4) In the case of a bundled transaction that includes a  
44 telecommunications service, an ancillary service, internet access, or  
45 an audio or video programming service, if the price is attributable to  
46 products that are taxable and products that are nontaxable, the  
47 portion of the price attributable to the nontaxable products is  
48 subject to tax unless the provider can identify by reasonable and

1 verifiable standards such portion from its books and records that are  
2 kept in the regular course of business for other purposes, including  
3 non-tax purposes.

4 (pp) "Purchase price" means the measure subject to use tax and  
5 has the same meaning as "sales price."

6 (qq) "Sales tax" means the tax imposed on certain transactions  
7 pursuant to the provisions of the "Sales and Use Tax Act,"  
8 P.L.1966, c.30 (C.54:32B-1 et seq.).

9 (rr) "Delivery charges" means charges by the seller for  
10 preparation and delivery to a location designated by the purchaser  
11 of personal property or services including, but not limited to,  
12 transportation, shipping, postage, handling, crating, and packing. If  
13 a shipment includes both exempt and taxable property, the seller  
14 should allocate the delivery charge by using: (1) a percentage based  
15 on the total sales price of the taxable property compared to the total  
16 sales price of all property in the shipment; or (2) a percentage based  
17 on the total weight of the taxable property compared to the total  
18 weight of all property in the shipment. The seller shall tax the  
19 percentage of the delivery charge allocated to the taxable property  
20 but is not required to tax the percentage allocated to the exempt  
21 property.

22 (ss) "Direct mail" means printed material delivered or  
23 distributed by United States mail or other delivery service to a mass  
24 audience or to addresses on a mailing list provided by the purchaser  
25 or at the direction of the purchaser in cases in which the cost of the  
26 items are not billed directly to the recipients. "Direct mail"  
27 includes tangible personal property supplied directly or indirectly  
28 by the purchaser to the direct mail seller for inclusion in the  
29 package containing the printed material. "Direct mail" does not  
30 include multiple items of printed material delivered to a single  
31 address.

32 (tt) "Streamlined Sales and Use Tax Agreement" means the  
33 agreement entered into as governed and authorized by the "Uniform  
34 Sales and Use Tax Administration Act," P.L.2001, c.431  
35 (C.54:32B-44 et seq.).

36 (uu) "Alcoholic beverages" means beverages that are suitable for  
37 human consumption and contain one-half of one percent or more of  
38 alcohol by volume.

39 (vv) (Deleted by amendment, P.L.2011, c.49)

40 (ww) "Landscaping services" means services that result in a  
41 capital improvement to land other than structures of any kind  
42 whatsoever, such as: seeding, sodding or grass plugging of new  
43 lawns; planting trees, shrubs, hedges, plants; and clearing and  
44 filling land.

45 (xx) "Investigation and security services" means:

46 (1) investigation and detective services, including detective  
47 agencies and private investigators, and fingerprint, polygraph,  
48 missing person tracing and skip tracing services;

1 (2) security guard and patrol services, including bodyguard and  
2 personal protection, guard dog, guard, patrol, and security services;

3 (3) armored car services; and

4 (4) security systems services, including security, burglar, and  
5 fire alarm installation, repair or monitoring services.

6 (yy) "Information services" means the furnishing of information  
7 of any kind, which has been collected, compiled, or analyzed by the  
8 seller, and provided through any means or method, other than  
9 personal or individual information which is not incorporated into  
10 reports furnished to other people.

11 (zz) "Specified digital product" means an electronically  
12 transferred digital audio-visual work, digital audio work, or digital  
13 book; provided however, that a digital code which provides a  
14 purchaser with a right to obtain the product shall be treated in the  
15 same manner as a specified digital product.

16 (aaa) "Digital audio-visual work" means a series of related  
17 images which, when shown in succession, impart an impression of  
18 motion, together with accompanying sounds, if any.

19 (bbb) "Digital audio work" means a work that results from the  
20 fixation of a series of musical, spoken, or other sounds, including a  
21 ringtone.

22 (ccc) "Digital book" means a work that is generally recognized  
23 in the ordinary and usual sense as a book.

24 (ddd) "Transferred electronically" means obtained by the  
25 purchaser by means other than tangible storage media.

26 (eee) "Ringtone" means a digitized sound file that is downloaded  
27 onto a device and that may be used to alert the purchaser with  
28 respect to a communication.

29 (fff) "Residence" means a house, condominium, or other  
30 residential dwelling unit in a building or structure or part of a  
31 building or structure that is designed, constructed, leased, rented, let  
32 or hired out, or otherwise made available for use as a residence.

33 (ggg) "Transient accommodation" means a room, group of  
34 rooms, or other living or sleeping space for the lodging of  
35 occupants, including but not limited to residences or buildings used  
36 as residences, that is obtained through a transient space marketplace  
37 or is a professionally managed unit. "Transient accommodation"  
38 does not include: a hotel or hotel room; a room, group of rooms, or  
39 other living or sleeping space used as a place of assembly; a  
40 dormitory or other similar residential facility of an elementary or  
41 secondary school or a college or university; a hospital, nursing  
42 home, or other similar residential facility of a provider of services  
43 for the care, support and treatment of individuals that is licensed by  
44 the State; a campsite, cabin, lean-to, or other similar residential  
45 facility of a campground or an adult or youth camp; a furnished or  
46 unfurnished private residential property, including but not limited to  
47 condominiums, bungalows, single-family homes and similar living  
48 units, where no maid service, room service, linen changing service

1 or other common hotel services are made available by the lessor and  
2 where the keys to the furnished or unfurnished private residential  
3 property, whether a physical key, access to a keyless locking  
4 mechanism, or other means of physical ingress to the furnished or  
5 unfurnished private residential property, are provided to the lessee  
6 at the location of an offsite real estate broker licensed by the New  
7 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or  
8 leases of real property with a term of at least 90 consecutive days.

9 (hhh) "Transient space marketplace" means a marketplace or  
10 travel agency through which a person may offer transient  
11 accommodations to customers and through which customers may  
12 arrange for occupancies of transient accommodations. "Transient  
13 space marketplace" does not include a marketplace or travel agency  
14 that exclusively offers transient accommodations in the State owned  
15 by the owner of the marketplace or travel agency.

16 (iii) "Professionally managed unit" means a room, group of  
17 rooms, or other living or sleeping space for the lodging of  
18 occupants in the State, that is offered for rent as a rental unit that  
19 does not share any living or sleeping space with any other rental  
20 unit, and that is directly or indirectly owned or controlled by a  
21 person offering for rent two or more other units during the calendar  
22 year.

23 (jjj) "Obtained through a transient space marketplace" means that  
24 payment for the accommodation is made through a means provided  
25 by the marketplace or travel agency, either directly or indirectly,  
26 regardless of which person or entity receives the payment, and  
27 where the contracting for the accommodation is made through the  
28 marketplace or travel agency.

29 (kkk) "Sign" means any device, structure, fixture, painting, or  
30 visual image using words, graphics, symbols, numbers, or letters  
31 designed for the purpose of conveying information or attracting  
32 attention.

33 (lll) "Sign fabrication and installation services" means services  
34 that result in the sale, manufacturing, processing, assembling, or  
35 installation of signs that are temporarily or permanently affixed to  
36 real or personal property regardless of whether or not the services  
37 result in a capital improvement.

38 (cf: P.L.2019, c.235, s.13)

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

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

46 (a) The receipts from every retail sale of tangible personal  
47 property or a specified digital product for permanent use or less  
48 than permanent use, and regardless of whether continued payment is

1 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-  
2 1 et seq.).

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

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

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

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

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

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

1 his services to the public, and excluding garbage removal and sewer  
2 services performed on a regular contractual basis for a term not less  
3 than 30 days.

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

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

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

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

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

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

18 (11) Investigation and security services.

19 (12) Information services.

20 (13) (Deleted by amendment, P.L.2017, c.27)

21 (14) Telephone answering services.

22 (15) Radio subscription services.

23 (16) Sign fabrication and installation 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 subsection (b) of this section.

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

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

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

8 The tax imposed by subsection (c) of this section shall not apply  
9 to food or drink which is sold to an airline for consumption while in  
10 flight.

11 (3) For the purposes of this subsection:

12 "Food and beverages sold through vending machines" means  
13 food and beverages dispensed from a machine or other mechanical  
14 device that accepts payment; and

15 "Prepared food" means:

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

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

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

28 provided however, that

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

31 A. food sold by a seller whose proper primary NAICS  
32 classification is manufacturing in section 311, except subsector  
33 3118 (bakeries);

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

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

39 (d) The rent for every occupancy of a room or rooms in a hotel  
40 or transient accommodation in this State, except that the tax shall  
41 not be imposed upon a permanent resident.

42 (e) (1) Any admission charge to or for the use of any place of  
43 amusement in the State, including charges for admission to race  
44 tracks, baseball, football, basketball or exhibitions, dramatic or  
45 musical arts performances, motion picture theaters, except charges  
46 for admission to boxing, wrestling, kick boxing, or combative  
47 sports exhibitions, events, performances, or contests which charges  
48 are taxed under any other law of this State or under section 20 of

1 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for  
2 admission to, or use of, facilities for sporting activities in which the  
3 patron is to be a participant, such as bowling alleys and swimming  
4 pools. For any person having the permanent use or possession of a  
5 box or seat or lease or a license, other than a season ticket, for the  
6 use of a box or seat at a place of amusement, the tax shall be upon  
7 the amount for which a similar box or seat is sold for each  
8 performance or exhibition at which the box or seat is used or  
9 reserved by the holder, licensee, or lessee, and shall be paid by the  
10 holder, licensee, or lessee.

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

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

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

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

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

33 (i) The receipts from parking, storing, or garaging a motor  
34 vehicle, excluding charges for the following: residential parking;  
35 employee parking, when provided by an employer or at a facility  
36 owned or operated by the employer; municipal parking, storing, or  
37 garaging; receipts from charges or fees imposed pursuant to section  
38 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement  
39 between the Casino Reinvestment Development Authority and a  
40 casino operator in effect on the date of enactment of P.L.2007,  
41 c.105; and receipts from parking, storing, or garaging a motor  
42 vehicle subject to tax pursuant to any other law or ordinance.

43 For the purposes of this subsection, "municipal parking, storing,  
44 or garaging" means any motor vehicle parking, storing, or garaging  
45 provided by a municipality or county, or a parking authority  
46 thereof.

47 (j) The receipts from the sale, except for resale, of signs,  
48 whether or not the signs are temporarily or permanently affixed to



1 real or personal property and regardless of whether or not the sign  
2 installation results in a capital improvement.

3 (cf: P.L.2018, c.49, s.20)

4

5 3. The Director of the Division of Taxation may adopt, in  
6 accordance with the "Administrative Procedure Act," P.L.1968,  
7 c.410 (C.52:14B-1 et seq.), such rules and regulations necessary to  
8 effectuate the purpose of section 2 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill).

10

11 4. This act shall take effect immediately and apply to sign  
12 fabrication and installation services rendered on or after the first  
13 day of the third month next following enactment.

14

15

16

#### STATEMENT

17

18 The bill modifies the tax treatment of signs and sign fabrication  
19 and installation services. Currently, if a sign is sold to a customer  
20 without installation, the customer pays sales tax on the purchase of  
21 the sign. However, if the sale and installation of the sign in New  
22 Jersey results in a capital improvement, sales tax is not collected  
23 from the customer. Instead, because the entity that installs the sign  
24 is considered the consumer in that case, the entity that installs the  
25 sign has to remit use tax to the State for the value of the materials  
26 used to fabricate the product being installed.

27 The bill subjects sign fabrication and installation services to the  
28 sales tax even in cases that result in capital improvements. As a  
29 result, sellers and installers of signs will not be considered a  
30 consumer in any case and will therefore always be required to  
31 collect sales tax from the purchaser of the sign installation, and will  
32 purchase signage materials and finished signs from wholesalers free  
33 from sales tax as purchases for resale.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4239

# STATE OF NEW JERSEY

DATED: JUNE 23, 2022

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4239.

The bill modifies the tax treatment of signs and sign fabrication and installation services. Currently, if a sign is sold to a customer without installation, the customer pays sales tax on the purchase of the sign. However, if the sale and installation of the sign in New Jersey results in a capital improvement, sales tax is not collected from the customer. Instead, because the entity that installs the sign is considered the consumer in that case, the entity that installs the sign has to remit use tax to the State for the value of the materials used to fabricate the product being installed.

The bill subjects sign fabrication and installation services to the sales tax even in cases that result in capital improvements. As a result, sellers and installers of signs will not be considered a consumer in any case and will therefore always be required to collect sales tax from the purchaser of the sign installation, and will purchase signage materials and finished signs from wholesalers free from sales tax as purchases for resale.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) expects this bill to increase State revenues; however, the impact will be limited to marginal changes in the tax collected in relation to a small number of transactions. Most signs and related services are already subject to State's sales and use tax. The bill modifies the treatment of seller and installer transactions as they related to signs, shifting from use tax remittance to having those sellers and installers collecting sales tax from purchasers.

The OLS believes that this shift will increase compliance, and thus, yield additional sales tax revenues that may have otherwise not been collected and remitted. Additionally, the point at which the seller or installer collects sales taxes may factor in a higher or lower sales price compared to current law, which in turn may increase or decrease revenue collections.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4239**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JUNE 24, 2022

**SUMMARY**

**Synopsis:** Concerns imposition and collection of sales and use tax for fabrication and installation of signs.

**Type of Impact:** Annual State revenue increase.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2023 and Each FY Thereafter</u></b>
<b>Annual State Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) expects this bill to increase State revenues; however, the impact will be limited to marginal changes in the tax collected in relation to a small number of transactions. Most signs and related services are already subject to the State’s sales and use tax. The bill modifies the treatment of seller and installer transactions as they relate to signs, shifting from use tax remittance to having those sellers and installers collecting sales tax from purchasers.
- The OLS believes that this shift will increase compliance, and thus, yield additional sales tax revenues that may have otherwise not been collected or remitted. Additionally, the point at which the seller or installer collects sales taxes may factor in a higher or lower sales price compared to current law, which in turn may increase or decrease revenue collections.

**BILL DESCRIPTION**

The bill modifies the tax treatment of signs and sign fabrication and installation services. Currently, if a sign is sold to a customer without installation, the customer pays sales tax on the purchase of the sign. However, if the sale and installation of the sign in New Jersey results in a capital improvement, sales tax is not collected from the customer. Instead, because the entity that installs the sign is considered the consumer in that case, the entity that installs the sign has to remit use tax to the State for the value of the materials used to fabricate the product being installed.

The bill subjects sign fabrication and installation services to the sales tax even in cases that result in capital improvements. As a result, sellers and installers of signs will not be considered a consumer in any case and will therefore always be required to collect sales tax from the purchaser of the sign installation, and will purchase signage materials and finished signs from wholesalers free from sales tax as purchases for resale.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The OLS expects this bill to increase State revenues; however, the impact will be limited to marginal changes in the tax collected in relation to a small number of transactions. Most signs and related services are already subject to the State's sales and use tax. The bill modifies the treatment of seller and installer transactions as they relate to signs, shifting from use tax remittance to having those sellers and installers collecting sales tax from purchasers. The OLS believes that this shift will increase compliance, and thus, yield additional sales tax revenues that may have otherwise not been collected or remitted. Additionally, the point at which the seller or installer collects sales taxes may factor in a higher or lower sales price compared to current law, which in turn may increase or decrease revenue collections.

*Section: Revenue, Finance and Appropriations*  
*Analyst: Jordan M. DiGiovanni*  
*Revenue Analyst*  
*Approved: Thomas Koenig*  
*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.).

STATEMENT TO  
**ASSEMBLY, No. 4239**

with Senate Floor Amendments  
(Proposed by Senator GOPAL)

ADOPTED: JUNE 29, 2022

The amendments make technical corrections to the bill and change the effective date to apply to transactions occurring on or after October 1, 2022. The amendments make the bill identical to Senate Bill No. 2424 (1R).

**SENATE, No. 2424**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MAY 9, 2022

**Sponsored by:**  
**Senator VIN GOPAL**  
**District 11 (Monmouth)**

**SYNOPSIS**

Concerns imposition and collection of sales and use tax for fabrication and installation of signs.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the imposition of the sales and use tax for signs,  
2 amending P.L.1966, c.30 (C.54:32B-1 et seq.).

3

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

6

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

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

11 (a) "Person" includes an individual, trust, partnership, limited  
12 partnership, limited liability company, society, association, joint  
13 stock company, corporation, public corporation or public authority,  
14 estate, receiver, trustee, assignee, referee, fiduciary and any other  
15 legal entity.

16 (b) "Purchase at retail" means a purchase by any person at a retail  
17 sale.

18 (c) "Purchaser" means a person to whom a sale of personal  
19 property is made or to whom a service is furnished.

20 (d) "Receipt" means the amount of the sales price of any tangible  
21 personal property, specified digital product or service taxable under  
22 this act.

23 (e) "Retail sale" means any sale, lease, or rental for any purpose,  
24 other than for resale, sublease, or subrent.

25 (1) For the purposes of this act a sale is for "resale, sublease, or  
26 subrent" if it is a sale (A) for resale either as such or as converted  
27 into or as a component part of a product produced for sale by the  
28 purchaser, including the conversion of natural gas into another  
29 intermediate or end product, other than electricity or thermal energy,  
30 produced for sale by the purchaser, (B) for use by that person in  
31 performing the services subject to tax under subsection (b) of section  
32 3 where the property so sold becomes a physical component part of  
33 the property upon which the services are performed or where the  
34 property so sold is later actually transferred to the purchaser of the  
35 service in conjunction with the performance of the service subject to  
36 tax, (C) of telecommunications service to a telecommunications  
37 service provider for use as a component part of telecommunications  
38 service provided to an ultimate customer, or (D) to a person who  
39 receives by contract a product transferred electronically for further  
40 commercial broadcast, rebroadcast, transmission, retransmission,  
41 licensing, relicensing, distribution, redistribution or exhibition of the  
42 product, in whole or in part, to another person, other than rights to  
43 redistribute based on statutory or common law doctrine such as fair  
44 use.

**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 (2) For the purposes of this act, the term "retail sale" includes:  
2 sales of tangible personal property to all contractors, subcontractors  
3 or repairmen of materials and supplies for use by them in erecting  
4 structures for others, or building on, or otherwise improving, altering,  
5 or repairing real property of others.

6 (3) (Deleted by amendment, P.L.2005, c.126).

7 (4) The term "retail sale" does not include:

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

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

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

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

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

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

23 (G) The sale of tangible personal property where the purpose of  
24 the vendee is to hold the thing transferred as security for the  
25 performance of an obligation of the seller.

26 (f) "Sale, selling or purchase" means any transfer of title or  
27 possession or both, exchange or barter, rental, lease or license to use  
28 or consume, conditional or otherwise, in any manner or by any means  
29 whatsoever for a consideration, or any agreement therefor, including  
30 the rendering of any service, taxable under this act, for a  
31 consideration or any agreement therefor.

32 (g) "Tangible personal property" means personal property that  
33 can be seen, weighed, measured, felt, or touched, or that is in any  
34 other manner perceptible to the senses. "Tangible personal property"  
35 includes electricity, water, gas, steam, and prewritten computer  
36 software including prewritten computer software delivered  
37 electronically.

38 (h) "Use" means the exercise of any right or power over tangible  
39 personal property, specified digital products, services to property or  
40 products, or services by the purchaser thereof and includes, but is not  
41 limited to, the receiving, storage or any keeping or retention for any  
42 length of time, withdrawal from storage, any distribution, any  
43 installation, any affixation to real or personal property, or any  
44 consumption of such property or products. Use also includes the  
45 exercise of any right or power over intrastate or interstate  
46 telecommunications and prepaid calling services. Use also includes  
47 the exercise of any right or power over utility service. Use also  
48 includes the derivation of a direct or indirect benefit from a service.



1 (i) "Seller" means a person making sales, leases or rentals of  
2 personal property or services.

3 (1) The term "seller" includes:

4 (A) A person making sales, leases or rentals of tangible personal  
5 property, specified digital products or services, the receipts from  
6 which are taxed by this act;

7 (B) A person maintaining a place of business in the State or  
8 having an agent maintaining a place of business in the State and  
9 making sales, whether at such place of business or elsewhere, to  
10 persons within the State of tangible personal property, specified  
11 digital products or services, the use of which is taxed by this act;

12 (C) A person who solicits business either by employees,  
13 independent contractors, agents or other representatives or by  
14 distribution of catalogs or other advertising matter and by reason  
15 thereof makes sales to persons within the State of tangible personal  
16 property, specified digital products or services, the use of which is  
17 taxed by this act.

18 A person making sales of tangible personal property, specified  
19 digital products, or services taxable under the "Sales and Use Tax  
20 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be  
21 soliciting business through an independent contractor or other  
22 representative if the person making sales enters into an agreement  
23 with an independent contractor having physical presence in this State  
24 or other representative having physical presence in this State, for a  
25 commission or other consideration, under which the independent  
26 contractor or representative directly or indirectly refers potential  
27 customers, whether by a link on an internet website or otherwise, and  
28 the cumulative gross receipts from sales to customers in this State  
29 who were referred by all independent contractors or representatives  
30 that have this type of an agreement with the person making sales are  
31 in excess of \$10,000 during the preceding four quarterly periods  
32 ending on the last day of March, June, September, and December.  
33 This presumption may be rebutted by proof that the independent  
34 contractor or representative with whom the person making sales has  
35 an agreement did not engage in any solicitation in the State on behalf  
36 of the person that would satisfy the nexus requirements of the United  
37 States Constitution during the four quarterly periods in question.  
38 Nothing in this subparagraph shall be construed to narrow the scope  
39 of the terms independent contractor or other representative for  
40 purposes of any other provision of the "Sales and Use Tax Act,"  
41 P.L.1966, c.30 (C.54:32B-1 et seq.);

42 (D) Any other person making sales to persons within the State of  
43 tangible personal property, specified digital products or services, the  
44 use of which is taxed by this act, who may be authorized by the  
45 director to collect the tax imposed by this act;

46 (E) The State of New Jersey, any of its agencies,  
47 instrumentalities, public authorities, public corporations (including a  
48 public corporation created pursuant to agreement or compact with

1 another state) or political subdivisions when such entity sells services  
2 or property of a kind ordinarily sold by private persons;

3 (F) (Deleted by amendment, P.L.2005, c.126);

4 (G) A person who sells, stores, delivers or transports energy to  
5 users or customers in this State whether by mains, lines or pipes  
6 located within this State or by any other means of delivery;

7 (H) A person engaged in collecting charges in the nature of  
8 initiation fees, membership fees or dues for access to or use of the  
9 property or facilities of a health and fitness, athletic, sporting or  
10 shopping club or organization;

11 (I) A person engaged in the business of parking, storing or  
12 garaging motor vehicles;

13 (J) A person making sales, leases, or rentals of tangible personal  
14 property, specified digital products, or taxable services who meets  
15 the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018,  
16 c.132 (C.54:32B-3.5); and

17 (K) A marketplace facilitator.

18 (2) In addition, when in the opinion of the director it is necessary  
19 for the efficient administration of this act to treat any salesman,  
20 representative, peddler or canvasser as the agent of the seller,  
21 distributor, supervisor or employer under whom the agent operates or  
22 from whom the agent obtains tangible personal property or a  
23 specified digital product sold by the agent or for whom the agent  
24 solicits business, the director may, in the director's discretion, treat  
25 such agent as the seller jointly responsible with the agent's principal,  
26 distributor, supervisor or employer for the collection and payment  
27 over of the tax. A person is an agent of a seller in all cases, but not  
28 limited to such cases, that: (A) the person and the seller have the  
29 relationship of a "related person" described pursuant to section 2 of  
30 P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller and the person use  
31 an identical or substantially similar name, tradename, trademark, or  
32 goodwill, to develop, promote, or maintain sales, or the person and  
33 the seller pay for each other's services in whole or in part contingent  
34 upon the volume or value of sales, or the person and the seller share  
35 a common business plan or substantially coordinate their business  
36 plans, or the person provides services to, or that inure to the benefit  
37 of, the seller related to developing, promoting, or maintaining the  
38 seller's market.

39 (3) Notwithstanding any other provision of law or administrative  
40 action to the contrary, transient space marketplaces shall be required  
41 to collect and pay on behalf of persons engaged in the business of  
42 providing transient accommodations located in this State the tax for  
43 transactions obtained through the transient space marketplace. For  
44 not less than four years following the end of the calendar year in  
45 which the transaction occurred, the transient space marketplace shall  
46 maintain the following data for those transactions consummated  
47 through the transient space marketplace:

- 1 (A) The name of the person who provided the transient  
2 accommodation;
- 3 (B) The name of the customer who procured occupancy of the  
4 transient accommodation;
- 5 (C) The address, including any unit designation, of the transient  
6 accommodation;
- 7 (D) The dates and nightly rates for which the consumer procured  
8 occupancy of the transient accommodation;
- 9 (E) The municipal transient accommodation registration number,  
10 if applicable;
- 11 (F) A statement as to whether such booking services will be  
12 provided in connection with (i) short-term rental of the entirety of  
13 such unit, (ii) short-term rental of part of such unit, but not the  
14 entirety of such unit, and/or (iii) short-term rental of the entirety of  
15 such unit, or part thereof, in which a non-short-term occupant will  
16 continue to occupy such unit for the duration of such short-term  
17 rental;
- 18 (G) The individualized name or number of each such  
19 advertisement or listing connected to such unit and the uniform  
20 resource locator (URL) for each such listing or advertisement, where  
21 applicable; and
- 22 (H) Such other information as the Division of Taxation may by  
23 rule require.
- 24 The Division of Taxation may audit transient space marketplaces  
25 as necessary to ensure data accuracy and enforce tax compliance.
- 26 (j) "Hotel" means a building or portion of a building which is  
27 regularly used and kept open as such for the lodging of guests.  
28 "Hotel" includes an apartment hotel, a motel, inn, and rooming or  
29 boarding house or club, whether or not meals are served, but does not  
30 include a transient accommodation.
- 31 (k) "Occupancy" means the use or possession or the right to the  
32 use or possession, of any room in a hotel or transient accommodation.
- 33 (l) "Occupant" means a person who, for a consideration, uses,  
34 possesses, or has the right to use or possess, any room in a hotel or  
35 transient accommodation under any lease, concession, permit, right  
36 of access, license to use or other agreement, or otherwise.
- 37 (m) "Permanent resident" means any occupant of any room or  
38 rooms in a hotel or transient accommodation for at least 90  
39 consecutive days shall be considered a permanent resident with  
40 regard to the period of such occupancy.
- 41 (n) "Room" means any room or rooms of any kind in any part or  
42 portion of a hotel or transient accommodation, which is available for  
43 or let out for any purpose other than a place of assembly.
- 44 (o) "Admission charge" means the amount paid for admission,  
45 including any service charge and any charge for entertainment or  
46 amusement or for the use of facilities therefor.
- 47 (p) "Amusement charge" means any admission charge, dues or  
48 charge of a roof garden, cabaret or other similar place.

- 1 (q) "Charge of a roof garden, cabaret or other similar place"  
2 means any charge made for admission, refreshment, service, or  
3 merchandise at a roof garden, cabaret or other similar place.
- 4 (r) "Dramatic or musical arts admission charge" means any  
5 admission charge paid for admission to a theater, opera house,  
6 concert hall or other hall or place of assembly for a live, dramatic,  
7 choreographic or musical performance.
- 8 (s) "Lessor" means any person who is the owner, licensee, or  
9 lessee of any premises, tangible personal property or a specified  
10 digital product which the person leases, subleases, or grants a license  
11 to use to other persons.
- 12 (t) "Place of amusement" means any place where any facilities  
13 for entertainment, amusement, or sports are provided.
- 14 (u) "Casual sale" means an isolated or occasional sale of an item  
15 of tangible personal property or a specified digital product by a  
16 person who is not regularly engaged in the business of making retail  
17 sales of such property or product where the item of tangible personal  
18 property or the specified digital product was obtained by the person  
19 making the sale, through purchase or otherwise, for the person's own  
20 use.
- 21 (v) "Motor vehicle" includes all vehicles propelled otherwise  
22 than by muscular power (excepting such vehicles as run only upon  
23 rails or tracks), trailers, semitrailers, house trailers, or any other type  
24 of vehicle drawn by a motor-driven vehicle, and motorcycles,  
25 designed for operation on the public highways.
- 26 (w) "Persons required to collect tax" or "persons required to  
27 collect any tax imposed by this act" includes: every seller of tangible  
28 personal property, specified digital products or services; every  
29 recipient of amusement charges; every operator of a hotel or transient  
30 accommodation; every transient space marketplace; every  
31 marketplace facilitator; every seller of a telecommunications service;  
32 every recipient of initiation fees, membership fees or dues for access  
33 to or use of the property or facilities of a health and fitness, athletic,  
34 sporting or shopping club or organization; and every recipient of  
35 charges for parking, storing or garaging a motor vehicle. Said terms  
36 shall also include any officer or employee of a corporation or of a  
37 dissolved corporation who as such officer or employee is under a duty  
38 to act for such corporation in complying with any requirement of this  
39 act and any member of a partnership.
- 40 (x) "Customer" includes: every purchaser of tangible personal  
41 property, specified digital products or services; every patron paying  
42 or liable for the payment of any amusement charge; every occupant  
43 of a room or rooms in a hotel or transient accommodation; every  
44 person paying charges in the nature of initiation fees, membership  
45 fees or dues for access to or use of the property or facilities of a health  
46 and fitness, athletic, sporting or shopping club or organization; and  
47 every purchaser of parking, storage or garaging a motor vehicle.

1 (y) "Property and services the use of which is subject to tax"  
2 includes: (1) all property sold to a person within the State, whether  
3 or not the sale is made within the State, the use of which property is  
4 subject to tax under section 6 or will become subject to tax when such  
5 property is received by or comes into the possession or control of  
6 such person within the State; (2) all services rendered to a person  
7 within the State, whether or not such services are performed within  
8 the State, upon tangible personal property or a specified digital  
9 product the use of which is subject to tax under section 6 or will  
10 become subject to tax when such property or product is distributed  
11 within the State or is received by or comes into possession or control  
12 of such person within the State; (3) intrastate, interstate, or  
13 international telecommunications sourced to this State pursuant to  
14 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by  
15 amendment, P.L.1995, c.184); (5) energy sold, exchanged or  
16 delivered in this State for use in this State; (6) utility service sold,  
17 exchanged or delivered in this State for use in this State; (7) mail  
18 processing services in connection with printed advertising material  
19 distributed in this State; (8) (Deleted by amendment, P.L.2005,  
20 c.126); and (9) services the benefit of which are received in this State.

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

27 (aa) "Lease or rental" means any transfer of possession or control  
28 of tangible personal property for a fixed or indeterminate term for  
29 consideration. A "lease or rental" may include future options to  
30 purchase or extend.

31 (1) "Lease or rental" does not include:

32 (A) A transfer of possession or control of property under a  
33 security agreement or deferred payment plan that requires the transfer  
34 of title upon completion of the required payments;

35 (B) A transfer of possession or control of property under an  
36 agreement that requires the transfer of title upon completion of  
37 required payments and payment of an option price does not exceed  
38 the greater of \$100 or one percent of the total required payments; or

39 (C) Providing tangible personal property or a specified digital  
40 product along with an operator for a fixed or indeterminate period of  
41 time. A condition of this exclusion is that the operator is necessary  
42 for the equipment to perform as designed. For the purpose of this  
43 subparagraph, an operator must do more than maintain, inspect, or  
44 set-up the tangible personal property or specified digital product.

45 (2) "Lease or rental" does include agreements covering motor  
46 vehicles and trailers where the amount of consideration may be  
47 increased or decreased by reference to the amount realized upon sale  
48 or disposition of the property as defined in 26 U.S.C. s.7701(h)(1).

1 (3) The definition of "lease or rental" provided in this subsection  
2 shall be used for the purposes of this act regardless of whether a  
3 transaction is characterized as a lease or rental under generally  
4 accepted accounting principles, the federal Internal Revenue Code or  
5 other provisions of federal, state or local law.

6 (bb) (Deleted by amendment, P.L.2005, c.126).

7 (cc) "Telecommunications service" means the electronic  
8 transmission, conveyance, or routing of voice, data, audio, video, or  
9 any other information or signals to a point, or between or among  
10 points.

11 "Telecommunications service" shall include such transmission,  
12 conveyance, or routing in which computer processing applications  
13 are used to act on the form, code, or protocol of the content for  
14 purposes of transmission, conveyance, or routing without regard to  
15 whether such service is referred to as voice over Internet protocol  
16 services or is classified by the Federal Communications Commission  
17 as enhanced or value added.

18 "Telecommunications service" shall not include:

19 (1) (Deleted by amendment, P.L.2008, c.123);

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

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

22 (4) (Deleted by amendment, P.L.2008, c.123);

23 (5) (Deleted by amendment, P.L.2008, c.123);

24 (6) (Deleted by amendment, P.L.2008, c.123);

25 (7) data processing and information services that allow data to be  
26 generated, acquired, stored, processed, or retrieved and delivered by  
27 an electronic transmission to a purchaser where such purchaser's  
28 primary purpose for the underlying transaction is the processed data  
29 or information;

30 (8) installation or maintenance of wiring or equipment on a  
31 customer's premises;

32 (9) tangible personal property;

33 (10) advertising, including but not limited to directory advertising;

34 (11) billing and collection services provided to third parties;

35 (12) internet access service;

36 (13) radio and television audio and video programming services,  
37 regardless of the medium, including the furnishing of transmission,  
38 conveyance, and routing of such services by the programming service  
39 provider. Radio and television audio and video programming  
40 services shall include but not be limited to cable service as defined  
41 in section 47 U.S.C. s.522(6) and audio and video programming  
42 services delivered by commercial mobile radio service providers, as  
43 defined in section 47 C.F.R. 20.3;

44 (14) ancillary services; or

45 (15) digital products delivered electronically, including but not  
46 limited to software, music, video, reading materials, or ringtones.

47 For the purposes of this subsection:

1 "ancillary service" means a service that is associated with or  
2 incidental to the provision of telecommunications services, including  
3 but not limited to detailed telecommunications billing, directory  
4 assistance, vertical service, and voice mail service; "conference  
5 bridging service" means an ancillary service that links two or more  
6 participants of an audio or video conference call and may include the  
7 provision of a telephone number. Conference bridging service does  
8 not include the telecommunications services used to reach the  
9 conference bridge;

10 "detailed telecommunications billing service" means an ancillary  
11 service of separately stating information pertaining to individual calls  
12 on a customer's billing statement;

13 "directory assistance" means an ancillary service of providing  
14 telephone number information or address information or both;

15 "vertical service" means an ancillary service that is offered in  
16 connection with one or more telecommunications services, which  
17 offers advanced calling features that allow customers to identify  
18 callers and to manage multiple calls and call connections, including  
19 conference bridging services; and

20 "voice mail service" means an ancillary service that enables the  
21 customer to store, send, or receive recorded messages. Voice mail  
22 service does not include any vertical service that a customer may be  
23 required to have to utilize the voice mail service.

24 (dd) (1) "Intrastate telecommunications" means a  
25 telecommunications service that originates in one United States state  
26 or a United States territory or possession or federal district, and  
27 terminates in the same United States state or United States territory  
28 or possession or federal district.

29 (2) "Interstate telecommunications" means a telecommunications  
30 service that originates in one United States state or a United States  
31 territory or possession or federal district, and terminates in a different  
32 United States state or United States territory or possession or federal  
33 district.

34 (3) "International telecommunications" means a  
35 telecommunications service that originates or terminates in the  
36 United States and terminates or originates outside the United States,  
37 respectively. "United States" includes the District of Columbia or a  
38 United States territory or possession.

39 (ee) (Deleted by amendment, P.L.2008, c.123)

40 (ff) "Natural gas" means any gaseous fuel distributed through a  
41 pipeline system.

42 (gg) "Energy" means natural gas or electricity.

43 (hh) "Utility service" means the transportation or transmission of  
44 natural gas or electricity by means of mains, wires, lines or pipes, to  
45 users or customers.

46 (ii) "Self-generation unit" means a facility located on the user's  
47 property, or on property purchased or leased from the user by the  
48 person owning the self-generation unit and such property is

1 contiguous to the user's property, which generates electricity to be  
2 used only by that user on the user's property and is not transported to  
3 the user over wires that cross a property line or public thoroughfare  
4 unless the property line or public thoroughfare merely bifurcates the  
5 user's or self-generation unit owner's otherwise contiguous property.

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

13 (kk) "Non-utility" means a company engaged in the sale, exchange  
14 or transfer of natural gas that was not subject to the provisions of  
15 P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

16 (ll) "Pre-paid calling service" means the right to access  
17 exclusively telecommunications services, which shall be paid for in  
18 advance and which enables the origination of calls using an access  
19 number or authorization code, whether manually or electronically  
20 dialed, and that is sold in predetermined units or dollars of which the  
21 number declines with use in a known amount.

22 (mm) "Mobile telecommunications service" means the same as  
23 that term is defined in the federal "Mobile Telecommunications  
24 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

25 (nn) (Deleted by amendment, P.L.2008, c.123)

26 (oo) (1) "Sales price" is the measure subject to sales tax and means  
27 the total amount of consideration, including cash, credit, property,  
28 and services, for which personal property or services are sold, leased,  
29 or rented, valued in money, whether received in money or otherwise,  
30 without any deduction for the following:

- 31 (A) The seller's cost of the property sold;
- 32 (B) The cost of materials used, labor or service cost, interest,  
33 losses, all costs of transportation to the seller, all taxes imposed on  
34 the seller, and any other expense of the seller;
- 35 (C) Charges by the seller for any services necessary to complete  
36 the sale;
- 37 (D) Delivery charges;
- 38 (E) (Deleted by amendment, P.L.2011, c.49); and
- 39 (F) (Deleted by amendment, P.L.2008, c.123).

40 (2) "Sales price" does not include:

41 (A) Discounts, including cash, term, or coupons that are not  
42 reimbursed by a third party, that are allowed by a seller and taken by  
43 a purchaser on a sale;

44 (B) Interest, financing, and carrying charges from credit extended  
45 on the sale of personal property or services, if the amount is  
46 separately stated on the invoice, bill of sale, or similar document  
47 given to the purchaser;



1 (C) Any taxes legally imposed directly on the consumer that are  
2 separately stated on the invoice, bill of sale, or similar document  
3 given to the purchaser;

4 (D) The amount of sales price for which food stamps have been  
5 properly tendered in full or part payment pursuant to the federal Food  
6 Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

7 (E) Credit for any trade-in of property of the same kind accepted  
8 in part payment and intended for resale if the amount is separately  
9 stated on the invoice, bill of sale, or similar document given to the  
10 purchaser.

11 (3) "Sales price" includes consideration received by the seller  
12 from third parties if:

13 (A) The seller actually receives consideration from a party other  
14 than the purchaser and the consideration is directly related to a price  
15 reduction or discount on the sale;

16 (B) The seller has an obligation to pass the price reduction or  
17 discount through to the purchaser;

18 (C) The amount of the consideration attributable to the sale is  
19 fixed and determinable by the seller at the time of the sale of the item  
20 to the purchaser; and

21 (D) One of the following criteria is met:

22 (i) the purchaser presents a coupon, certificate, or other  
23 documentation to the seller to claim a price reduction or discount  
24 where the coupon, certificate, or documentation is authorized,  
25 distributed, or granted by a third party with the understanding that  
26 the third party will reimburse any seller to whom the coupon,  
27 certificate, or documentation is presented;

28 (ii) the purchaser identifies himself to the seller as a member of a  
29 group or organization entitled to a price reduction or discount;  
30 provided however, that a preferred customer card that is available to  
31 any patron does not constitute membership in such a group; or

32 (iii) the price reduction or discount is identified as a third party  
33 price reduction or discount on the invoice received by the purchaser  
34 or on a coupon, certificate, or other documentation presented by the  
35 purchaser.

36 (4) In the case of a bundled transaction that includes a  
37 telecommunications service, an ancillary service, internet access, or  
38 an audio or video programming service, if the price is attributable to  
39 products that are taxable and products that are nontaxable, the portion  
40 of the price attributable to the nontaxable products is subject to tax  
41 unless the provider can identify by reasonable and verifiable  
42 standards such portion from its books and records that are kept in the  
43 regular course of business for other purposes, including non-tax  
44 purposes.

45 (pp) "Purchase price" means the measure subject to use tax and  
46 has the same meaning as "sales price."

1 (qq) "Sales tax" means the tax imposed on certain transactions  
2 pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966,  
3 c.30 (C.54:32B-1 et seq.).

4 (rr) "Delivery charges" means charges by the seller for  
5 preparation and delivery to a location designated by the purchaser of  
6 personal property or services including, but not limited to,  
7 transportation, shipping, postage, handling, crating, and packing. If  
8 a shipment includes both exempt and taxable property, the seller  
9 should allocate the delivery charge by using: (1) a percentage based  
10 on the total sales price of the taxable property compared to the total  
11 sales price of all property in the shipment; or (2) a percentage based  
12 on the total weight of the taxable property compared to the total  
13 weight of all property in the shipment. The seller shall tax the  
14 percentage of the delivery charge allocated to the taxable property  
15 but is not required to tax the percentage allocated to the exempt  
16 property.

17 (ss) "Direct mail" means printed material delivered or distributed  
18 by United States mail or other delivery service to a mass audience or  
19 to addresses on a mailing list provided by the purchaser or at the  
20 direction of the purchaser in cases in which the cost of the items are  
21 not billed directly to the recipients. "Direct mail" includes tangible  
22 personal property supplied directly or indirectly by the purchaser to  
23 the direct mail seller for inclusion in the package containing the  
24 printed material. "Direct mail" does not include multiple items of  
25 printed material delivered to a single address.

26 (tt) "Streamlined Sales and Use Tax Agreement" means the  
27 agreement entered into as governed and authorized by the "Uniform  
28 Sales and Use Tax Administration Act," P.L.2001, c.431 (C.54:32B-  
29 44 et seq.).

30 (uu) "Alcoholic beverages" means beverages that are suitable for  
31 human consumption and contain one-half of one percent or more of  
32 alcohol by volume.

33 (vv) (Deleted by amendment, P.L.2011, c.49)

34 (ww) "Landscaping services" means services that result in a  
35 capital improvement to land other than structures of any kind  
36 whatsoever, such as: seeding, sodding or grass plugging of new  
37 lawns; planting trees, shrubs, hedges, plants; and clearing and filling  
38 land.

39 (xx) "Investigation and security services" means:

40 (1) investigation and detective services, including detective  
41 agencies and private investigators, and fingerprint, polygraph,  
42 missing person tracing and skip tracing services;

43 (2) security guard and patrol services, including bodyguard and  
44 personal protection, guard dog, guard, patrol, and security services;

45 (3) armored car services; and

46 (4) security systems services, including security, burglar, and fire  
47 alarm installation, repair or monitoring services.

1 (yy) "Information services" means the furnishing of information  
2 of any kind, which has been collected, compiled, or analyzed by the  
3 seller, and provided through any means or method, other than  
4 personal or individual information which is not incorporated into  
5 reports furnished to other people.

6 (zz) "Specified digital product" means an electronically  
7 transferred digital audio-visual work, digital audio work, or digital  
8 book; provided however, that a digital code which provides a  
9 purchaser with a right to obtain the product shall be treated in the  
10 same manner as a specified digital product.

11 (aaa) "Digital audio-visual work" means a series of related images  
12 which, when shown in succession, impart an impression of motion,  
13 together with accompanying sounds, if any.

14 (bbb) "Digital audio work" means a work that results from the  
15 fixation of a series of musical, spoken, or other sounds, including a  
16 ringtone.

17 (ccc) "Digital book" means a work that is generally recognized in  
18 the ordinary and usual sense as a book.

19 (ddd) "Transferred electronically" means obtained by the  
20 purchaser by means other than tangible storage media.

21 (eee) "Ringtone" means a digitized sound file that is downloaded  
22 onto a device and that may be used to alert the purchaser with respect  
23 to a communication.

24 (fff) "Residence" means a house, condominium, or other  
25 residential dwelling unit in a building or structure or part of a  
26 building or structure that is designed, constructed, leased, rented, let  
27 or hired out, or otherwise made available for use as a residence.

28 (ggg) "Transient accommodation" means a room, group of rooms,  
29 or other living or sleeping space for the lodging of occupants,  
30 including but not limited to residences or buildings used as  
31 residences, that is obtained through a transient space marketplace or  
32 is a professionally managed unit. "Transient accommodation" does  
33 not include: a hotel or hotel room; a room, group of rooms, or other  
34 living or sleeping space used as a place of assembly; a dormitory or  
35 other similar residential facility of an elementary or secondary school  
36 or a college or university; a hospital, nursing home, or other similar  
37 residential facility of a provider of services for the care, support and  
38 treatment of individuals that is licensed by the State; a campsite,  
39 cabin, lean-to, or other similar residential facility of a campground  
40 or an adult or youth camp; a furnished or unfurnished private  
41 residential property, including but not limited to condominiums,  
42 bungalows, single-family homes and similar living units, where no  
43 maid service, room service, linen changing service or other common  
44 hotel services are made available by the lessor and where the keys to  
45 the furnished or unfurnished private residential property, whether a  
46 physical key, access to a keyless locking mechanism, or other means  
47 of physical ingress to the furnished or unfurnished private residential  
48 property, are provided to the lessee at the location of an offsite real

1 estate broker licensed by the New Jersey Real Estate Commission  
2 pursuant to R.S.45:15-1 et seq.; or leases of real property with a term  
3 of at least 90 consecutive days.

4 (hhh) "Transient space marketplace" means a marketplace or  
5 travel agency through which a person may offer transient  
6 accommodations to customers and through which customers may  
7 arrange for occupancies of transient accommodations. "Transient  
8 space marketplace" does not include a marketplace or travel agency  
9 that exclusively offers transient accommodations in the State owned  
10 by the owner of the marketplace or travel agency.

11 (iii) "Professionally managed unit" means a room, group of rooms,  
12 or other living or sleeping space for the lodging of occupants in the  
13 State, that is offered for rent as a rental unit that does not share any  
14 living or sleeping space with any other rental unit, and that is directly  
15 or indirectly owned or controlled by a person offering for rent two or  
16 more other units during the calendar year.

17 (jjj) "Obtained through a transient space marketplace" means that  
18 payment for the accommodation is made through a means provided  
19 by the marketplace or travel agency, either directly or indirectly,  
20 regardless of which person or entity receives the payment, and where  
21 the contracting for the accommodation is made through the  
22 marketplace or travel agency.

23 (kkk) "Sign" means any device, structure, fixture, painting, or  
24 visual image using words, graphics, symbols, numbers, or letters  
25 designed for the purpose of conveying information or attracting  
26 attention.

27 (lll) "Sign fabrication and installation services" means services  
28 that result in the sale, manufacturing, processing, assembling, or  
29 installation of signs that are temporarily or permanently affixed to  
30 real or personal property regardless of whether or not the services  
31 result in a capital improvement.

32 (cf: P.L.2019, c.235, s.13)

33

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

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

40 (a) The receipts from every retail sale of tangible personal  
41 property or a specified digital product for permanent use or less than  
42 permanent use, and regardless of whether continued payment is  
43 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-  
44 1 et seq.).

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

47 (1) Producing, fabricating, processing, printing, or imprinting  
48 tangible personal property or a specified digital product, performed

1 for a person who directly or indirectly furnishes the tangible personal  
2 property or specified digital product, not purchased by the person for  
3 resale, upon which these services are performed.

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

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

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

36 (4) Maintaining, servicing, or repairing real property, other than  
37 a residential heating system unit serving not more than three families  
38 living independently of each other and doing their cooking on the  
39 premises, whether the services are performed in or outside of a  
40 building, as distinguished from adding to or improving the real  
41 property by a capital improvement, but excluding services rendered  
42 by an individual who is not in a regular trade or business offering his  
43 services to the public, and excluding garbage removal and sewer  
44 services performed on a regular contractual basis for a term not less  
45 than 30 days.

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

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

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

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

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

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

12 (11) Investigation and security services.

13 (12) Information services.

14 (13) (Deleted by amendment, P.L.2017, c.27)

15 (14) Telephone answering services.

16 (15) Radio subscription services.

17 (16) Sign fabrication and installation services.

18 Wages, salaries, and other compensation paid by an employer to  
19 an employee for performing as an employee the services described in  
20 this subsection are not receipts subject to the taxes imposed under  
21 subsection (b) of this section.

22 Services otherwise taxable under paragraph (1) or (2) of  
23 subsection (b) of this section are not subject to the taxes imposed  
24 under this subsection, where the tangible personal property or  
25 specified digital product upon which the services were performed is  
26 delivered to the purchaser outside this State for use outside this State.

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

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

1 The tax imposed by subsection (c) of this section shall not apply  
2 to food or drink which is sold to an airline for consumption while in  
3 flight.

4 (3) For the purposes of this subsection:

5 "Food and beverages sold through vending machines" means food  
6 and beverages dispensed from a machine or other mechanical device  
7 that accepts payment; and

8 "Prepared food" means:

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

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

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

21 provided however, that

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

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

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

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

32 (d) The rent for every occupancy of a room or rooms in a hotel or  
33 transient accommodation in this State, except that the tax shall not be  
34 imposed upon a permanent resident.

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

1 performance or exhibition at which the box or seat is used or reserved  
2 by the holder, licensee, or lessee, and shall be paid by the holder,  
3 licensee, or lessee.

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

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

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

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

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

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

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

39 (j) The receipts from the sale, except for resale, of signs, whether  
40 or not the signs are temporarily or permanently affixed to real or  
41 personal property and regardless of whether or not the sign  
42 installation results in a capital improvement.

43 (cf: P.L.2018, c.49, s.20)

44

45 3. The Director of the Division of Taxation may adopt, in  
46 accordance with the "Administrative Procedure Act," P.L.1968,  
47 c.410 (C.52:14B-1 et seq.), such rules and regulations necessary to



1 effectuate the purpose of section 2 of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill).

3

4 4. This act shall take effect immediately and apply to sign  
5 fabrication and installation services rendered on or after the first day  
6 of the third month next following enactment.

7

8

9

STATEMENT

10

11 The bill modifies the tax treatment of signs and sign fabrication  
12 and installation services. Currently, if a sign is sold to a customer  
13 without installation, the customer pays sales tax on the purchase of  
14 the sign. However, if the sale and installation of the sign in New  
15 Jersey results in a capital improvement, sales tax is not collected from  
16 the customer. Instead, because the entity that installs the sign is  
17 considered the consumer in that case, the entity that installs the sign  
18 has to remit use tax to the State for the value of the materials used to  
19 fabricate the product being installed.

20 The bill subjects sign fabrication and installation services to the  
21 sales tax even in cases that result in capital improvements. As a  
22 result, sellers and installers of signs will not be considered a  
23 consumer in any case and will therefore always be required to collect  
24 sales tax from the purchaser of the sign installation, and will purchase  
25 signage materials and finished signs from wholesalers free from sales  
26 tax as purchases for resale.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2424**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2424, with committee amendments.

The bill, as amended, modifies the tax treatment of signs and sign fabrication and installation services. Currently, if a sign is sold to a customer without installation, the customer pays sales tax on the purchase of the sign. However, if the sale and installation of the sign in New Jersey results in a capital improvement, sales tax is not collected from the customer. Instead, because the entity that installs the sign is considered the consumer in that case, the entity that installs the sign has to remit use tax to the State for the value of the materials used to fabricate the product being installed.

The bill subjects sign fabrication and installation services to the sales tax even in cases that result in capital improvements. As a result, sellers and installers of signs will not be considered a consumer in any case and will therefore always be required to collect sales tax from the purchaser of the sign installation, and will purchase signage materials and finished signs from wholesalers free from sales tax as purchases for resale.

#### COMMITTEE AMENDMENTS:

The committee amendments make technical corrections to the bill and change the effective date to apply to transactions occurring on or after October 1, 2022.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) expects this bill to increase State revenues; however, the impact will be limited to marginal changes in the tax collected in relation to a small number of transactions. Most signs and related services are already subject to State's sales and use tax. The bill modifies the treatment of seller and installer transactions as they related to signs, shifting from use tax remittance to having those sellers and installers collecting sales tax from purchasers.

The OLS believes that this shift will increase compliance, and thus, yield additional sales tax revenues that may have otherwise not been collected and remitted. Additionally, the point at which the seller or

installer collects sales taxes may factor in a higher or lower sales price compared to current law, which in turn may increase or decrease revenue collections.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2424**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JUNE 30, 2022

**SUMMARY**

**Synopsis:** Concerns imposition and collection of sales and use tax for fabrication and installation of signs.

**Type of Impact:** Annual State revenue increase.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2023 and Each FY Thereafter</u></b>
<b>Annual State Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) expects this bill to increase State revenues; however, the impact will be limited to marginal changes in the tax collected in relation to a small number of transactions. Most signs and related services are already subject to the State’s sales and use tax. The bill modifies the treatment of seller and installer transactions as they relate to signs, shifting from use tax remittance to having those sellers and installers collecting sales tax from purchasers.
- The OLS believes that this shift will increase compliance, and thus, yield additional sales tax revenues that may have otherwise not been collected or remitted. Additionally, the point at which the seller or installer collects sales taxes may factor in a higher or lower sales price compared to current law, which in turn may increase or decrease revenue collections.

**BILL DESCRIPTION**

The bill modifies the tax treatment of signs and sign fabrication and installation services. Currently, if a sign is sold to a customer without installation, the customer pays sales tax on the purchase of the sign. However, if the sale and installation of the sign in New Jersey results in a capital improvement, sales tax is not collected from the customer. Instead, because the entity that installs the sign is considered the consumer in that case, the entity that installs the sign has to remit use tax to the State for the value of the materials used to fabricate the product being installed.

The bill subjects sign fabrication and installation services to the sales tax even in cases that result in capital improvements. As a result, sellers and installers of signs will not be considered a consumer in any case and will therefore always be required to collect sales tax from the purchaser of the sign installation, and will purchase signage materials and finished signs from wholesalers free from sales tax as purchases for resale.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The OLS expects this bill to increase State revenues; however, the impact will be limited to marginal changes in the tax collected in relation to a small number of transactions. Most signs and related services are already subject to the State's sales and use tax. The bill modifies the treatment of seller and installer transactions as they relate to signs, shifting from use tax remittance to having those sellers and installers collecting sales tax from purchasers. The OLS believes that this shift will increase compliance, and thus, yield additional sales tax revenues that may have otherwise not been collected or remitted. Additionally, the point at which the seller or installer collects sales taxes may factor in a higher or lower sales price compared to current law, which in turn may increase or decrease revenue collections.

*Section: Revenue, Finance and Appropriations*  
*Analyst: Jordan M. DiGiovanni*  
*Revenue Analyst*  
*Approved: Thomas Koenig*  
*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.).

# Governor Murphy Takes Action on Legislation

08/5/2022

**TRENTON** – Today, Governor Phil Murphy signed the following bills into law:

**S-481/A-4291 (Scutari, Bramnick/Greenwald, Conaway, Stanley)** - Requires automobile insurance policies to provide certain minimum amounts of liability, uninsured motorist, and underinsured motorist coverage

**S-521/A-3661 (Cruz-Perez, Pou/Spearman)** - Expressly authorizes medical cannabis patients under 18 years of age to have up to four designated caregivers

**S-525/A-280 (Ruiz, Singleton/Umba, Sawyer, Wirths)** - Enhances, and allocates funds for, pre-apprenticeship programs

**S-1368/A-2687 (Scutari/Mukherji)** - Requires business owners and rental unit owners to maintain certain liability insurance policies

**S-1535/A-2-861 (Greenstein, Turner/Benson, Verrelli, Reynolds-Jackson, Thomson)** - Permits counties to operate airports as county utilities; provides that bonds for county and municipal airport purposes be issued in accordance with provisions of "Local Bond Law."

**S-1603/A-3771 (Smith/Mukherji)** - Removes restriction on receipt of retirement annuities by certain members of JRS who file for deferred retirement

**S-2843/A-4293 (Scutari, Bramnick/Mukherji, Quijano, Wimberly)** - Requires certain insurers to disclose policy limits upon request by an attorney under certain circumstances

**A-4239/S-2424 (Lopez, Atkins, Moen/Gopal)** - Concerns imposition and collection of sales and use tax for fabrication and installation of signs