



## ***LEGISLATIVE HISTORY CHECKLIST***

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**LAWS OF:** 1998

**CHAPTER:** 39

**NJSA:** 54:50-29 to 54:50-36

"Tax indebtedness"

**BILL NO:** A1996 (Substituted for S1038)

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

**DATE INTRODUCED:** May 4, 1998

**COMMITTEE:**

***ASSEMBLY:*** Appropriations

***SENATE:*** Budget

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**

***ASSEMBLY:*** June 18, 1998

***SENATE:*** June 29, 1998

**DATE OF APPROVAL:** June 30, 1998

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### **THE FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL:** 1<sup>st</sup> reprint

(Amendments during passage denoted by superscript numbers)

**A1996**

**SPONSORS STATEMENT:** *No*

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *Yes*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *Yes*

**S1038**

**SPONSORS STATEMENT:** *Yes* (Begins on page 9 of original bill)  
(Bill and Sponsors Statement identical to A1996)

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**VETO MESSAGE:** *No*

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

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**THE FOLLOWING WERE PRINTED:**

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**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:** *No*

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[First Reprint]

**ASSEMBLY, No. 1996**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED MAY 4, 1998

**Sponsored by:**

**Assemblyman PAUL DIGAETANO**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman RICHARD H. BAGGER**

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

**Co-Sponsored by:**

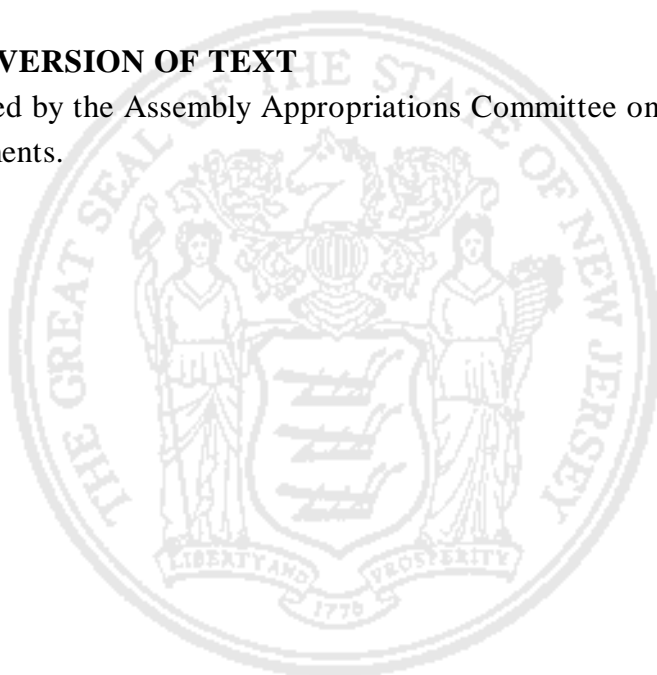
**Senators Kavanaugh and Inverso**

**SYNOPSIS**

Authorizes State Treasurer to sell State tax indebtedness.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on June 4, 1998,  
with amendments.



**(Sponsorship Updated As Of: 6/30/1998)**

A1996 [1R] DIGAETANO, BAGGER

2

1 AN ACT authorizing the sale, assignment and transfer of State tax  
2 <sup>1</sup>**[and motor vehicle surcharge]**<sup>1</sup> indebtedness and lien,  
3 supplementing chapter 50 of Title 54 of the Revised Statutes <sup>1</sup>**[and**  
4 **amending P.L.1983, c.65]**<sup>1</sup>.

5

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

8

9 1. a. The State Treasurer shall have the authority to sell, transfer  
10 or assign all right, title and interest in any State tax indebtedness and  
11 lien represented by any certificate of debt including any statutory fee  
12 for the cost of collection imposed pursuant to section 8 of P.L.1987,  
13 c.76 (C.54:49-12.1), issued pursuant to R.S.54:49-12 to any person  
14 for a fair, adequate and reasonable consideration; provided however,  
15 that the underlying State tax indebtedness and lien represented by the  
16 certificate is fixed and constitutes a final determination of the Director  
17 of the Division of Taxation not subject to protest or appeal pursuant  
18 to the provisions of the State Tax Uniform Procedure Law, R.S.54:48-  
19 1 et seq.

20 b. After a sale pursuant to this section and for the purpose of the  
21 proper administration of this section and to prevent untimely protests  
22 or appeals of the underlying tax indebtedness, it shall be presumed that  
23 the tax indebtedness is fixed and constitutes a final determination of  
24 the director not subject to protest or appeal unless the taxpayer or the  
25 taxpayer's authorized representative can establish by clear and  
26 convincing evidence that the contrary is true. If the taxpayer contests  
27 the underlying tax indebtedness after the sale, transfer or assignment  
28 of the State tax indebtedness and lien represented by any certificate of  
29 debt, then the taxpayer shall first file a protest with the director  
30 pursuant to R.S.54:49-18 before bringing an appeal to the tax court  
31 pursuant to chapter 51A of Title 54 of the Revised Statutes; provided  
32 however, that the director shall be joined as the primary party in  
33 interest with the person to whom the State tax indebtedness and lien  
34 has been sold, transferred or assigned in any action or proceeding  
35 brought to challenge the underlying tax indebtedness. The director  
36 shall advise by written notice the clerk of the court which has entered  
37 the certificate on its record of docketed judgments that the sale,  
38 transfer or assignment has been made in the name and address of the  
39 purchaser. Thereupon, the clerk shall, without cost, enter a notation  
40 of the sale and the name and address of the purchaser in the record of

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AAP committee amendments adopted June 4, 1998.

1 docketed judgments. This written notice shall also be given by the  
2 director to the taxpayer in accordance with R.S.54:50-6.

3  
4 2. All sales, transfers or assignments of indebtedness and lien  
5 represented by certificates of debt shall be <sup>1</sup>[on such terms and  
6 conditions as the State Treasurer may determine appropriate. In  
7 setting these terms, conditions and the fair, adequate and reasonable  
8 consideration, the State Treasurer shall consider] to the highest bidder  
9 after public advertisement for bids therefor. Specifications and  
10 invitations for bids shall permit such full and free competition as is  
11 consistent with<sup>1</sup> what will be most advantageous to the State based  
12 upon a present value analysis taking into account the likelihood of the  
13 State collecting the indebtedness within a reasonable time and other  
14 factors as the State Treasurer may determine. <sup>1</sup>Notice for bids shall  
15 be in such manner selected by the State Treasurer as will best give  
16 notice thereof to bidders and shall be sufficiently in advance of the  
17 sales, transfers or assignment to promote competitive bidding. Any or  
18 all bids may be rejected if the State Treasurer determines that it is in  
19 the public interest to do so.<sup>1</sup>

20  
21 3. The purchaser, transferee or assignee of any State tax  
22 indebtedness and lien represented by a certificate of debt shall be  
23 entitled to exercise all the remedies and may take all of the  
24 proceedings for the collection of the indebtedness represented by the  
25 certificate that are available pursuant to the laws of this State to any  
26 judgment creditor, and shall be entitled to the same priority as the  
27 State may have respecting the certificate and underlying indebtedness  
28 and lien. Interest shall accrue at the rate provided by R.S.54:49-3.

29  
30 4. Notwithstanding the provisions of subsection a. of R.S.54:50-8  
31 to the contrary, the Director of the Division of Taxation may provide  
32 the purchaser, transferee or assignee of the indebtedness and lien  
33 represented by the certificate of debt such taxpayer information as is  
34 necessary for the purchaser to collect the indebtedness represented by  
35 the certificate, provided that such disclosure is not contrary to the  
36 provisions of subsection (a) of section 26 of the federal Internal  
37 Revenue Code of 1986, 26 U.S.C. §6103 or other State or federal law.  
38 Such purchaser, transferee or assignee and its employees shall be  
39 specifically subject to the confidentiality provisions of R.S.54:50-8;  
40 and the purchaser shall furnish the director with the affidavit of each  
41 of its principals and employees in which each such principal and  
42 employee shall acknowledge receipt of a copy of the confidentiality  
43 provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et  
44 seq., understanding of the obligation to maintain, and agreement to  
45 maintain, the confidentiality of taxpayer information, and awareness  
46 that violation of the confidentiality provisions is punishable by law.

1 5. The purchaser, transferee or assignee of the indebtedness and  
2 lien represented by the certificate of debt shall promptly file any  
3 warrant of satisfaction with the clerk, and such warrant of satisfaction  
4 shall be recorded in the office of any recording officer in which such  
5 certificate has been filed.

6  
7 6. All proceeds received by the State Treasurer from the sale,  
8 transfer or assignment of State tax indebtedness and lien represented  
9 by certificates of debt pursuant to sections 1 through 5 of P.L. ,  
10 c. (C. )(now pending before the Legislature as this bill) shall  
11 be deposited in the designated fund, if any, as may be provided by law  
12 for deposit of the proceeds collected pursuant to the State tax under  
13 which the indebtedness arises, including but not limited to the  
14 indebtedness pursuant to the "New Jersey Gross Income Tax Act,"  
15 N.J.S.54A:1-1 et seq., the proceeds of which sale, transfer or  
16 assignment of indebtedness and lien shall be deposited to the Property  
17 Tax Relief Fund established pursuant to N.J.S.54A:9-25.

18  
19 7. The Director of the Division of Taxation is authorized to  
20 promulgate regulations and take other necessary or useful measures  
21 for the purpose of efficiently administering sections 1 through 6 of this  
22 act, securing the largest possible revenue for the State, ensuring the  
23 integrity of the collection program and assuring fairness to taxpayers.

24  
25 8. Under no circumstances shall any purchaser, transferee, or  
26 designee have any legal recourse against the State or its officers or  
27 employees for any damages of any sort whatsoever that might arise on  
28 account of or in connection with any sale, transfer or assignment made  
29 or proposed to be made pursuant to the provisions of sections 1  
30 through 7 of P.L. , c. (C. )(now pending before the  
31 Legislature as this bill).

32  
33 <sup>1</sup>[9. Section 6 of P.L.1983, c.65, (C.17:29A-35) is amended to  
34 read as follows:

35 6. a. (Deleted by amendment, P.L.1997, c.151.)

36 b. There is created a New Jersey Merit Rating Plan which shall  
37 apply to all drivers and shall include, but not be limited to, the  
38 following provisions:

39 (1) (a) Plan surcharges shall be levied, beginning on or after  
40 January 1, 1984, by the Division of Motor Vehicles on any driver who  
41 has accumulated, with the immediately preceding three year period,  
42 beginning on or after February 10, 1983, six or more motor vehicle  
43 points, as provided in Title 39 of the Revised Statutes, exclusive of  
44 any points for convictions for which surcharges are levied under  
45 paragraph (2) of this subsection; except that the allowance for a  
46 reduction of points in Title 39 of the Revised Statutes shall not apply

1 for the purpose of determining surcharges under this paragraph.  
2 Surcharges shall be levied for each year in which the driver possesses  
3 six or more points. Surcharges assessed pursuant to this paragraph  
4 shall be ~~[\$100.00]~~ \$100 for six points, and ~~[\$25.00]~~ \$25 for each  
5 additional point.

6 (b) (Deleted by amendment, P.L.1984, c.1.)

7 (2) Plan surcharges shall be levied for convictions (a) under  
8 R.S.39:4-50 for violations occurring on or after February 10, 1983,  
9 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for  
10 offenses committed in other jurisdictions of a substantially similar  
11 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512  
12 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.  
13 Except as hereinafter provided, surcharges under this paragraph shall  
14 be levied annually for a three year period, and shall be ~~[\$1,000.00]~~  
15 \$1,000 per year for each of the first two convictions, for a total  
16 surcharge of \$3,000 for each conviction, and ~~[\$1,500.00]~~ \$1,500 per  
17 year for the third conviction occurring within a three year period, for  
18 a total surcharge of \$4,500 for the third conviction. If a driver is  
19 convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512  
20 (C.39:4-50.4a) for offenses arising out of the same incident, the driver  
21 shall be assessed only one surcharge for the two offenses.

22 If, upon written notification from the Division of Motor Vehicles,  
23 mailed to the last address of record with the division, a driver fails to  
24 pay a surcharge levied under this subsection, the license of the driver  
25 shall be suspended forthwith until the surcharge is paid to the Division  
26 of Motor Vehicles; except that the Division of Motor Vehicles may  
27 authorize payment of the surcharge on an installment basis over a  
28 period not to exceed 12 months. If a driver fails to pay the surcharge  
29 or any installments on the surcharge, the total surcharge shall become  
30 due immediately.

31 The director may authorize any person to pay the surcharge levied  
32 under this section by use of a credit card, and the director is  
33 authorized to require the person to pay all costs incurred by the  
34 division in connection with the acceptance of the credit card.

35 In addition to any other remedy provided by law, the director is  
36 authorized to utilize the provisions of the SOIL (Setoff of Individual  
37 Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-  
38 8.1 et seq.) to collect any surcharge levied under this section that is  
39 unpaid on or after the effective date of this act. As an additional  
40 remedy, the director may issue a certificate to the Clerk of the  
41 Superior Court stating that the person identified in the certificate is  
42 indebted under this surcharge law in such amount as shall be stated in  
43 the certificate. The certificate shall reference the statute under which  
44 the indebtedness arises. Thereupon the clerk to whom such certificate  
45 shall have been issued shall immediately enter upon the record of  
46 docketed judgments the name of such person as debtor; the State as

1 creditor; the address of such person, if shown in the certificate; the  
2 amount of the debt so certified; a reference to the statute under which  
3 the surcharge is assessed; and the date of making such entries. The  
4 docketing of the entries shall have the same force and effect as a civil  
5 judgment docketed in the Superior Court, and the director shall have  
6 all the remedies and may take all of the proceedings for the collection  
7 thereof which may be had or taken upon the recovery of a judgment  
8 in an action, but without prejudice to any right of appeal. Upon entry  
9 by the clerk of the certificate in the record of docketed judgments in  
10 accordance with this provision, interest in the amount specified by the  
11 court rules for post-judgment interest shall accrue from the date of the  
12 docketing of the certificate, however payment of the interest may be  
13 waived by the director. In the event that the surcharge remains unpaid  
14 following the issuance of the certificate of debt and the director takes  
15 any further collection action including referral of the matter to the  
16 Attorney General or his designee, the fee imposed, in lieu of the actual  
17 cost of collection, may be 20 percent of the surcharge or \$200,  
18 whichever is greater. The director shall provide written notification  
19 to a driver of the proposed filing of the certificate of debt 10 days  
20 prior to the proposed filing; such notice shall be mailed to the driver's  
21 last address of record with the division.

22 All moneys collectible under this subsection b. shall be billed and  
23 collected by the Division of Motor Vehicles except as provided in  
24 P.L.1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid  
25 surcharges. Of the moneys collected: 10% or the actual cost of  
26 administering the collection of the surcharge, whichever is less, shall  
27 be retained by the Division of Motor Vehicles until August 31, 1996;  
28 five percent, or the actual cost of administering the cancellation  
29 notification system established pursuant to section 50 of P.L.1990, c.8  
30 (C.17:33B-41), whichever is less, shall be retained by the Division of  
31 Motor Vehicles until August 31, 1996; and prior to October 1, 1991,  
32 the remainder shall be remitted to the New Jersey Automobile Full  
33 Insurance Underwriting Association and on or after October 1, 1991  
34 until August 31, 1996, the remainder shall be remitted to the New  
35 Jersey Automobile Insurance Guaranty Fund created pursuant to  
36 section 23 of P.L.1990, c.8 (C.17:33B-5). Commencing on  
37 September 1, 1996, or such earlier time as the Commissioner of  
38 Banking and Insurance shall certify to the State Treasurer that  
39 amounts on deposit in the New Jersey Automobile Insurance Guaranty  
40 Fund are sufficient to satisfy the current and anticipated financial  
41 obligations of the New Jersey Automobile Full Insurance Underwriting  
42 Association, all plan surcharges collected by the Division of Motor  
43 Vehicles under this subsection b. shall be remitted to the Division of  
44 Motor Vehicles Surcharge Fund for transfer to the Market Transition  
45 Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57  
46 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57



1 (C.34:1B-21.4) until such a time as all the Market Transition Facility  
2 bonds, notes and obligations issued pursuant to that section 4 of that  
3 act and the costs thereof are discharged and no longer outstanding.  
4 From the date of certification by the Commissioner of Banking and  
5 Insurance that the moneys collectible under this subsection are no  
6 longer needed to fund the association or at such a time as all Market  
7 Transition Facility bonds, notes and obligations issued pursuant to  
8 section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are  
9 discharged and no longer outstanding moneys collectible under this  
10 subsection shall, subject to appropriation, be remitted to the New  
11 Jersey Property-Liability Insurance Guaranty Association created  
12 pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for  
13 payment of any loans made by that association to the New Jersey  
14 Automobile Insurance Guaranty Fund pursuant to paragraph (10) of  
15 subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided  
16 that all such payments shall be subject to and dependent upon  
17 appropriation by the State Legislature.

18 (3) In addition to any other authority provided in P.L.1983, c.65  
19 (C.17:29A-33 et al.), the commissioner, after consultation with the  
20 Director of the Division of Motor Vehicles, is specifically authorized  
21 (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in  
22 accordance with paragraph (1)(a) of this subsection, surcharges for  
23 motor vehicle violations or convictions for which motor vehicle points  
24 are not assessed under Title 39 of the Revised Statutes, or (c) to  
25 reduce the number of points for which surcharges may be assessed  
26 below the level provided in paragraph (1) (a) of this subsection, except  
27 that the dollar amount of all surcharges levied under the New Jersey  
28 Merit Rating Plan shall be uniform on a Statewide basis for each filer,  
29 without regard to classification or territory. Surcharges adopted by  
30 the commissioner on or after January 1, 1984 for motor vehicle  
31 violations or convictions for which motor vehicle points are not  
32 assessable under Title 39 of the Revised Statutes shall not be  
33 retroactively applied but shall take effect on the date of the New  
34 Jersey Register in which notice of an adoption appears or the effective  
35 date set forth in that notice, whichever is later.

36 c. No motor vehicle violation surcharges shall be levied on an  
37 automobile insurance policy issued or renewed on or after January 1,  
38 1984, except in accordance with the New Jersey Merit Rating Plan,  
39 and all surcharges levied thereunder shall be assessed, collected and  
40 distributed in accordance with subsection b. of this section.

41 d. (Deleted by amendment, P.L.1990, c.8).

42 e. The Commissioner of Banking and Insurance and the Director  
43 of the Division of Motor Vehicles as may be appropriate, shall adopt  
44 any rules and regulations necessary or appropriate to effectuate the  
45 purposes of subsections a. through e. of this section.

46 f. The State Treasurer shall have the authority to sell, transfer or

1 assign all rights, title and interest in any State indebtedness and lien  
2 represented by any certificate of debt issued pursuant to subsection b.  
3 of this section, including any statutory fee for the cost of collection  
4 imposed pursuant to subsection b. of this section, to any person for a  
5 fair, adequate and reasonable consideration; provided however, that  
6 the underlying indebtedness represented by the certificate is fixed and  
7 constitutes a final determination of the director not subject to protest  
8 or appeal pursuant to the provisions of this section. After a sale as  
9 provided in this section and for the purpose of the proper  
10 administration of this section and to prevent untimely protests or  
11 appeals of the underlying indebtedness, it shall be presumed that the  
12 indebtedness is fixed and constitutes a final determination of the  
13 director not subject to protest or appeal unless the driver can establish  
14 by clear and convincing evidence that the contrary is true. If the driver  
15 contests the underlying indebtedness after the sale, transfer or  
16 assignment of the State indebtedness and lien represented by any  
17 certificate of debt, then the driver shall first file a protest with the  
18 director; provided however, that the director shall be joined as the  
19 primary party in interest with the person to whom the indebtedness and  
20 lien has been sold, transferred or assigned, in any action or proceeding  
21 brought to challenge the underlying indebtedness. The director shall  
22 advise by written notice the clerk of the court which has entered the  
23 certificate on its record of docketed judgements, that the sale, transfer  
24 or assignment has been made and the name and address of the  
25 purchaser. Thereupon, the clerk shall, without cost, enter a notation  
26 of such sale and the name and address of the purchaser in the record  
27 of docketed judgments. This written notice shall also be sent by the  
28 director by regular mail to the driver to the last address of the driver  
29 on file with the director.

30 g. All sales, transfers or assignments of the indebtedness and lien  
31 represented by certificates of debt shall be on such terms and  
32 conditions as the State Treasurer may determine appropriate. In  
33 setting these terms, conditions and the fair, adequate and reasonable  
34 consideration, the State Treasurer shall consider what will be most  
35 advantageous to the State based upon a present value analysis taking  
36 into account the likelihood of the State collecting the indebtedness  
37 within a reasonable time and other factors as the State Treasurer may  
38 determine.

39 h. The purchaser, transferee or assignee of any indebtedness and  
40 lien represented by a certificate of debt shall be entitled to exercise all  
41 the remedies and may take all of the proceedings for the collection of  
42 the indebtedness represented by the certificate that are available  
43 pursuant to the laws of this State to any judgment creditor, and shall  
44 be entitled to the same priority as the State may have respecting the  
45 certificate and underlying indebtedness. Interest shall accrue at the  
46 rate provided by the Rules Governing the Courts of the State of New

1 Jersey.

2 i. The director may provide the purchaser, transferee or assignee  
3 of the indebtedness and lien represented by the certificate of debt such  
4 driver information as is necessary for the purchaser to collect the  
5 indebtedness represented by the certificate, provided that such  
6 disclosure is not contrary to the provisions of other State or federal  
7 law.

8 j. The purchaser, transferee or assignee of the indebtedness and lien  
9 shall promptly file any warrant of satisfaction with the clerk, and such  
10 warrant of satisfaction shall be recorded in the office of any recording  
11 officer in which such certificate has been filed.

12 k. All proceeds received by the State Treasurer from the sale,  
13 transfer or assignment of State indebtedness and lien represented by  
14 certificates of debt pursuant to this section shall be deposited in such  
15 fund as may be provided by law, including P.L.1994, c.57 (C.34:1B-  
16 21.1 et al.), for deposit of such proceeds; provided however, that  
17 those proceeds shall be used only to provide for the redemption or  
18 retirement of any existing Market Transition Facility bonds, notes and  
19 obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-  
20 21.4), in accordance with, and to the extent permitted by, the terms  
21 and conditions of those Market Transition Facility bonds, notes and  
22 obligations and thereafter, subject to appropriation, as provided  
23 pursuant to subsection b. of this section.

24 l. The Commissioner of Banking and Insurance or the State  
25 Treasurer, as appropriate, shall adopt regulations and take other  
26 necessary or useful measures for the purpose of efficiently  
27 administering subsections f. through m. of this section, securing the  
28 largest possible revenue for the State, ensuring the integrity of the  
29 collection program and assuring fairness to drivers.

30 m. Under no circumstances shall any purchaser, transferee, or  
31 designee have any legal recourse against the State or its officers or  
32 employees for any damages of any sort whatsoever that might arise on  
33 account of or in connection with any sale, transfer or assignment made  
34 or proposed to be made pursuant to the provisions of subsections f.  
35 through l. of this section.

36 (cf: P.L.1997, c.280, s.30)]<sup>1</sup>

37

38 <sup>1</sup>[10.] 9.<sup>1</sup> This act shall take effect immediately.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1996**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 4, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1996 with committee amendments.

Assembly Bill No. 1996, as amended, authorizes the State Treasurer to sell State tax indebtedness. The bill authorizes the State Treasurer to sell tax debt that has been reduced to a lien under a certificate of debt filed with the clerk of the Superior Court, a filing that has the same legal effect as the entry of a court judgement of indebtedness. Taxpayers may still appeal the underlying indebtedness, but must establish their lack of liability by presentation of clear and convincing evidence.

The bill allows the Treasurer to sell tax debt to the highest bidder, after advertisement, under invitations to bid that are consistent with what will be most advantageous to the State, a present value analysis of the probability and time lapse involved in collecting the debt, and other relevant factors. The Treasurer may reject any bids if the Treasurer determines it is in the public interest to do so. The Director of the Division of Taxation must notify the court and the debtor of the purchaser of debt when debt is sold. The purchaser of debt is entitled to all of the remedies, and may take all of the proceedings for collecting the indebtedness, that are available under State law to a judgement creditor. The "indebtedness" includes interest at statutory rates and the provision for certain collection costs.

The bill requires purchasers of debt to promptly file any warrant of satisfaction of the debt. Purchasers of tax indebtedness and their employees are subject to the confidentiality provisions of the State Tax Uniform Procedure Law, and are subject to criminal penalties and fines if purchasers or their employees use tax information for purposes other than the collection of the debt.

The bill requires that, if the underlying tax must be deposited to a dedicated fund, then the proceeds of the sale of the indebtedness relating to the tax must also be deposited to the same dedicated fund.

FISCAL IMPACT:

The Office of the Treasurer has provided an estimate that the sale of debt may raise approximately \$10 million in revenue. The Office of the Treasurer states that this estimate is based on outstanding tax liabilities of over \$2 billion.

COMMITTEE AMENDMENTS:

The amendments delete provisions, parallel to the tax debt provisions, that would have applied to merit rating surcharge indebtedness, and add the requirement that sales of tax indebtedness be to the highest bidder after public notice for bids.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 1996**

# **STATE OF NEW JERSEY**

DATED: JUNE 25, 1998

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1996 (1R).

This bill authorizes the State Treasurer to sell State tax indebtedness. The bill authorizes the State Treasurer to sell tax debt that has been reduced to a lien under a certificate of debt filed with the clerk of the Superior Court, a filing that has the same legal effect as the entry of a court judgment of indebtedness. Taxpayers may still appeal the underlying indebtedness, but must establish their lack of liability by presentation of clear and convincing evidence.

The bill allows the Treasurer to sell tax debt to the highest bidder, after advertisement, under invitations to bid that are consistent with what will be most advantageous to the State, a present value analysis of the probability and time lapse involved in collecting the debt, and other relevant factors. The Treasurer may reject any bids if the Treasurer determines it is in the public interest to do so. The Director of the Division of Taxation must notify the court and the debtor of the purchaser of debt when debt is sold. The purchaser of debt is entitled to all of the remedies, and may take all of the proceedings for collecting the indebtedness, that are available under State law to a judgment creditor. The "indebtedness" includes interest at statutory rates and the provision for certain collection costs.

The bill requires purchasers of debt to promptly file any warrant of satisfaction of the debt. Purchasers of tax indebtedness and their employees are subject to the confidentiality provisions of the State Tax Uniform Procedure Law, and are subject to criminal penalties and fines if purchasers or their employees use tax information for purposes other than the collection of the debt.

The bill requires that, if the underlying tax must be deposited to a dedicated fund, then the proceeds of the sale of the indebtedness relating to the tax must also be deposited to the same dedicated fund.

### FISCAL IMPACT:

The Office of the Treasurer has provided an estimate that the sale of debt may raise approximately \$10 million in revenue. The Office of the Treasurer states that this estimate is based on outstanding tax liabilities of over \$2 billion.

# LEGISLATIVE FISCAL ESTIMATE

## ASSEMBLY, No. 1996

# STATE OF NEW JERSEY

## 208th LEGISLATURE

DATED: JUNE 24, 1998

Assembly Bill No. 1996 of 1998 authorizes the State Treasurer to sell State tax indebtedness and merit rating surcharge indebtedness.

The bill authorizes the State Treasurer to sell debt that has been reduced to a lien under a certificate of debt filed with the clerk of the Superior Court, a filing that has the same legal effect as the entry of a court judgement of indebtedness. Taxpayers and those assessed surcharges may still appeal the underlying indebtedness, but must establish their lack of liability by presentation of clear and convincing evidence.

The bill allows the Treasurer to determine the appropriate terms and conditions for all sales of debt, based on what will be most advantageous to the State, a present value analysis of the probability and time lapse involved in collecting the debt, and other relevant factors. The Director of the Division of Taxation, in the case of tax indebtedness, and the Director of the Division of Motor Vehicles, in the case of surcharge indebtedness, must notify the court and the debtor of the purchaser of debt when debt is sold. The purchaser of debt is entitled to all of the remedies, and may take all of the proceedings for collecting the indebtedness, that are available under State law to a judgement creditor. The "indebtedness" includes interest at statutory rates and the provision for certain collection costs.

To protect debtors, purchasers of debt must file promptly any warrant of satisfaction of the debt. Purchasers of tax indebtedness and their employees are subject to the confidentiality provisions of the State Tax Uniform Procedure Law, and are subject to criminal penalties and fine if purchasers or their employees use tax information for purposes other than the collection of the debt. Purchasers of merit rating surcharge indebtedness will be provided with information necessary to collect the debt if disclosure of the information does not violate State or federal law.

The bill requires that, if the underlying tax must be deposited to a dedicated fund, the proceeds of the sale of the indebtedness relating to the tax must be deposited to the same dedicated fund. The bill requires that all proceeds from the sale surcharges be used only to provide for the redemption or retirement of any existing Market

Transition Facility bonds in accordance with, and to the extent permitted by, the terms and conditions of those bonds and thereafter as otherwise directed by statute.

The Office of the Treasurer provided an estimate to this bill that the sale of current debt will raise approximately \$10 million in revenue. This estimate is based on outstanding merit rating surcharge indebtedness of about \$600 million and outstanding tax liabilities of over \$2 billion. No estimate was provided of how much of the sales revenue would be deposited to dedicated accounts, such as the Property Tax Relief Fund, how much to retiring Market Transition Facility bonds, or how much to the State general fund. The Office of Legislative Services has no information available to it concerning the taxes from which the \$2 billion estimated tax debt arose, the face value of debts, the age of debts or the expected collectibility of debt that would lead it to disagree with the estimate provided by the Office of the Treasurer.

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



# SENATE, No. 1038

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 14, 1998

**Sponsored by:**

**Senator WALTER J. KAVANAUGH**

**District 16 (Morris and Somerset)**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Authorizes State Treasurer to sell State tax indebtedness and merit rating surcharge indebtedness.

**CURRENT VERSION OF TEXT**

As introduced.



**S1038 KAVANAUGH, INVERSO**

2

1 **AN ACT** authorizing the sale, assignment and transfer of State tax  
2 and motor vehicle surcharge indebtedness and lien, supplementing  
3 chapter 50 of Title 54 of the Revised Statutes and amending  
4 P.L.1983, c.65.

5

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

8

9 1. (New section) a. The State Treasurer shall have the authority  
10 to sell, transfer or assign all right, title and interest in any State tax  
11 indebtedness and lien represented by any certificate of debt including  
12 any statutory fee for the cost of collection imposed pursuant to  
13 section 8 of P.L.1987, c.76 (C.54:49-12.1), issued pursuant to  
14 R.S.54:49-12 to any person for a fair, adequate and reasonable  
15 consideration; provided however, that the underlying State tax  
16 indebtedness and lien represented by the certificate is fixed and  
17 constitutes a final determination of the Director of the Division of  
18 Taxation not subject to protest or appeal pursuant to the provisions  
19 of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

20 b. After a sale pursuant to this section and for the purpose of the  
21 proper administration of this section and to prevent untimely protests  
22 or appeals of the underlying tax indebtedness, it shall be presumed that  
23 the tax indebtedness is fixed and constitutes a final determination of  
24 the director not subject to protest or appeal unless the taxpayer or the  
25 taxpayer's authorized representative can establish by clear and  
26 convincing evidence that the contrary is true. If the taxpayer contests  
27 the underlying tax indebtedness after the sale, transfer or assignment  
28 of the State tax indebtedness and lien represented by any certificate of  
29 debt, then the taxpayer shall first file a protest with the director  
30 pursuant to R.S.54:49-18 before bringing an appeal to the tax court  
31 pursuant to chapter 51A of Title 54 of the Revised Statutes; provided  
32 however, that the director shall be joined as the primary party in  
33 interest with the person to whom the State tax indebtedness and lien  
34 has been sold, transferred or assigned in any action or proceeding  
35 brought to challenge the underlying tax indebtedness. The director  
36 shall advise by written notice the clerk of the court which has entered  
37 the certificate on its record of docketed judgments that the sale,  
38 transfer or assignment has been made in the name and address of the  
39 purchaser. Thereupon, the clerk shall, without cost, enter a notation  
40 of the sale and the name and address of the purchaser in the record of  
41 docketed judgments. This written notice shall also be given by the  
42 director to the taxpayer in accordance with R.S.54:50-6.

**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. (New section) All sales, transfers or assignments of  
2 indebtedness and lien represented by certificates of debt shall be on  
3 such terms and conditions as the State Treasurer may determine  
4 appropriate. In setting these terms, conditions and the fair, adequate  
5 and reasonable consideration, the State Treasurer shall consider what  
6 will be most advantageous to the State based upon a present value  
7 analysis taking into account the likelihood of the State collecting the  
8 indebtedness within a reasonable time and other factors as the State  
9 Treasurer may determine.

10

11       3. (New section) The purchaser, transferee or assignee of any State  
12 tax indebtedness and lien represented by a certificate of debt shall be  
13 entitled to exercise all the remedies and may take all of the  
14 proceedings for the collection of the indebtedness represented by the  
15 certificate that are available pursuant to the laws of this State to any  
16 judgment creditor, and shall be entitled to the same priority as the  
17 State may have respecting the certificate and underlying indebtedness  
18 and lien. Interest shall accrue at the rate provided by R.S.54:49-3.

19

20       4. (New section) Notwithstanding the provisions of subsection a.  
21 of R.S.54:50-8 to the contrary, the Director of the Division of  
22 Taxation may provide the purchaser, transferee or assignee of the  
23 indebtedness and lien represented by the certificate of debt such  
24 taxpayer information as is necessary for the purchaser to collect the  
25 indebtedness represented by the certificate, provided that such  
26 disclosure is not contrary to the provisions of subsection (a) of section  
27 6103 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.6103  
28 or other State or federal law. Such purchaser, transferee or assignee  
29 and its employees shall be specifically subject to the confidentiality  
30 provisions of R.S.54:50-8; and the purchaser shall furnish the director  
31 with the affidavit of each of its principals and employees in which each  
32 such principal and employee shall acknowledge receipt of a copy of the  
33 confidentiality provisions of the State Tax Uniform Procedure Law,  
34 R.S.54:48-1 et seq., understanding of the obligation to maintain, and  
35 agreement to maintain, the confidentiality of taxpayer information, and  
36 awareness that violation of the confidentiality provisions is punishable  
37 by law.

38

39       5. (New section) The purchaser, transferee or assignee of the  
40 indebtedness and lien represented by the certificate of debt shall  
41 promptly file any warrant of satisfaction with the clerk, and such  
42 warrant of satisfaction shall be recorded in the office of any recording  
43 officer in which such certificate has been filed.

44

45       6. (New section) All proceeds received by the State Treasurer  
46 from the sale, transfer or assignment of State tax indebtedness and lien

**S1038 KAVANAUGH, INVERSO**

1 represented by certificates of debt pursuant to sections 1 through 5 of  
2 P.L. , c. (C. )(now pending before the Legislature as this  
3 bill) shall be deposited in the designated fund, if any, as may be  
4 provided by law for deposit of the proceeds collected pursuant to the  
5 State tax under which the indebtedness arises, including but not limited  
6 to the indebtedness pursuant to the "New Jersey Gross Income Tax  
7 Act," N.J.S.54A:1-1 et seq., the proceeds of which sale, transfer or  
8 assignment of indebtedness and lien shall be deposited to the Property  
9 Tax Relief Fund established pursuant to N.J.S.54A:9-25.

10  
11 7. (New section) The Director of the Division of Taxation is  
12 authorized to promulgate regulations and take other necessary or  
13 useful measures for the purpose of efficiently administering sections  
14 1 through 6 of this act, securing the largest possible revenue for the  
15 State, ensuring the integrity of the collection program and assuring  
16 fairness to taxpayers.

17  
18 8. (New Section) Under no circumstances shall any purchaser,  
19 transferee, or designee have any legal recourse against the State or its  
20 officers or employees for any damages of any sort whatsoever that  
21 might arise on account of or in connection with any sale, transfer or  
22 assignment made or proposed to be made pursuant to the provisions  
23 of sections 1 through 7 of P.L. , c. (C. )(now pending  
24 before the Legislature as this bill).

25  
26 9. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read  
27 as follows:

28 6. a. (Deleted by amendment, P.L.1997, c.151.)

29 b. There is created a New Jersey Merit Rating Plan which shall  
30 apply to all drivers and shall include, but not be limited to, the  
31 following provisions:

32 (1) (a) Plan surcharges shall be levied, beginning on or after  
33 January 1, 1984, by the Division of Motor Vehicles on any driver who  
34 has accumulated, within the immediately preceding three-year period,  
35 beginning on or after February 10, 1983, six or more motor vehicle  
36 points, as provided in Title 39 of the Revised Statutes, exclusive of  
37 any points for convictions for which surcharges are levied under  
38 paragraph (2) of this subsection; except that the allowance for a  
39 reduction of points in Title 39 of the Revised Statutes shall not apply  
40 for the purpose of determining surcharges under this paragraph.  
41 Surcharges shall be levied for each year in which the driver possesses  
42 six or more points. Surcharges assessed pursuant to this paragraph  
43 shall be ~~【\$100.00】~~ \$100 for six points, and ~~【\$25.00】~~ \$25 for each  
44 additional point.

45 (b) (Deleted by amendment, P.L.1984, c.1.)

46 (2) Plan surcharges shall be levied for convictions (a) under

1 R.S.39:4-50 for violations occurring on or after February 10, 1983,  
2 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for  
3 offenses committed in other jurisdictions of a substantially similar  
4 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512  
5 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.  
6 Except as hereinafter provided, surcharges under this paragraph shall  
7 be levied annually for a three-year period, and shall be **[\$1,000.00]**  
8 \$1,000 per year for each of the first two convictions, for a total  
9 surcharge of \$3,000 for each conviction, and **[\$1,500.00]** \$1,500 per  
10 year for the third conviction occurring within a three-year period, for  
11 a total surcharge of \$4,500 for the third conviction. If a driver is  
12 convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512  
13 (C.39:4-50.4a) for offenses arising out of the same incident, the driver  
14 shall be assessed only one surcharge for the two offenses.

15 If, upon written notification from the Division of Motor Vehicles,  
16 mailed to the last address of record with the division, a driver fails to  
17 pay a surcharge levied under this subsection, the license of the driver  
18 shall be suspended forthwith until the surcharge is paid to the Division  
19 of Motor Vehicles; except that the Division of Motor Vehicles may  
20 authorize payment of the surcharge on an installment basis over a  
21 period not to exceed 12 months. If a driver fails to pay the surcharge  
22 or any installments on the surcharge, the total surcharge shall become  
23 due immediately.

24 The director may authorize any person to pay the surcharge levied  
25 under this section by use of a credit card, and the director is  
26 authorized to require the person to pay all costs incurred by the  
27 division in connection with the acceptance of the credit card.

28 In addition to any other remedy provided by law, the director is  
29 authorized to utilize the provisions of the SOIL (Setoff of Individual  
30 Liability) program established pursuant to P.L.1981, c.239  
31 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section  
32 that is unpaid on or after the effective date of this act. As an  
33 additional remedy, the director may issue a certificate to the Clerk of  
34 the Superior Court stating that the person identified in the certificate  
35 is indebted under this surcharge law in such amount as shall be stated  
36 in the certificate. The certificate shall reference the statute under  
37 which the indebtedness arises. Thereupon the clerk to whom such  
38 certificate shall have been issued shall immediately enter upon the  
39 record of docketed judgments the name of such person as debtor; the  
40 State as creditor; the address of such person, if shown in the  
41 certificate; the amount of the debt so certified; a reference to the  
42 statute under which the surcharge is assessed, and the date of making  
43 such entries. The docketing of the entries shall have the same force  
44 and effect as a civil judgment docketed in the Superior Court, and the  
45 director shall have all the remedies and may take all of the proceedings  
46 for the collection thereof which may be had or taken upon the

1 recovery of a judgment in an action, but without prejudice to any right  
2 of appeal. Upon entry by the clerk of the certificate in the record of  
3 docketed judgments in accordance with this provision, interest in the  
4 amount specified by the court rules for post-judgment interest shall  
5 accrue from the date of the docketing of the certificate, however  
6 payment of the interest may be waived by the director. In the event  
7 that the surcharge remains unpaid following the issuance of the  
8 certificate of debt and the director takes any further collection action  
9 including referral of the matter to the Attorney General or his  
10 designee, the fee imposed, in lieu of the actual cost of collection, may  
11 be 20 percent of the surcharge or \$200, whichever is greater. The  
12 director shall provide written notification to a driver of the proposed  
13 filing of the certificate of debt 10 days prior to the proposed filing;  
14 such notice shall be mailed to the driver's last address of record with  
15 the division.

16 All moneys collectible under this subsection b. shall be billed and  
17 collected by the Division of Motor Vehicles except as provided in  
18 P.L.1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid  
19 surcharges. Of the moneys collected: 10%, or the actual cost of  
20 administering the collection of the surcharge, whichever is less, shall  
21 be retained by the Division of Motor Vehicles until August 31, 1996;  
22 five percent, or the actual cost of administering the cancellation  
23 notification system established pursuant to section 50 of P.L.1990, c.8  
24 (C.17:33B-41), whichever is less, shall be retained by the Division of  
25 Motor Vehicles until August 31, 1996; and prior to October 1, 1991,  
26 the remainder shall be remitted to the New Jersey Automobile Full  
27 Insurance Underwriting Association and on or after October 1, 1991  
28 until August 31, 1996, the remainder shall be remitted to the New  
29 Jersey Automobile Insurance Guaranty Fund created pursuant to  
30 section 23 of P.L.1990, c.8 (C.17:33B-5). Commencing on September  
31 1, 1996, or such earlier time as the Commissioner of Banking and  
32 Insurance shall certify to the State Treasurer that amounts on deposit  
33 in the New Jersey Automobile Insurance Guaranty Fund are sufficient  
34 to satisfy the current and anticipated financial obligations of the New  
35 Jersey Automobile Full Insurance Underwriting Association, all plan  
36 surcharges collected by the Division of Motor Vehicles under this  
37 subsection b. shall be remitted to the Division of Motor Vehicles  
38 Surcharge Fund for transfer to the Market Transition Facility Revenue  
39 Fund, as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12),  
40 for the purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until  
41 such a time as all the Market Transition Facility bonds, notes and  
42 obligations issued pursuant to that section 4 of that act and the costs  
43 thereof are discharged and no longer outstanding. From the date of  
44 certification by the Commissioner of Banking and Insurance that the  
45 moneys collectible under this subsection are no longer needed to fund  
46 the association or at such a time as all Market Transition Facility

1 bonds, notes and obligations issued pursuant to section 4 of P.L.1994,  
2 c.57 (C.34:1B-21.4) and the costs thereof are discharged and no  
3 longer outstanding moneys collectible under this subsection shall,  
4 subject to appropriation, be remitted to the New Jersey  
5 Property-Liability Insurance Guaranty Association created pursuant to  
6 section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of  
7 any loans made by that association to the New Jersey Automobile  
8 Insurance Guaranty Fund pursuant to paragraph (10) of subsection a.  
9 of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such  
10 payments shall be subject to and dependent upon appropriation by the  
11 State Legislature.

12 (3) In addition to any other authority provided in P.L.1983, c.65  
13 (C.17:29A-33 et al.), the commissioner, after consultation with the  
14 Director of the Division of Motor Vehicles, is specifically authorized  
15 (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in  
16 accordance with paragraph (1)(a) of this subsection, surcharges for  
17 motor vehicle violations or convictions for which motor vehicle points  
18 are not assessed under Title 39 of the Revised Statutes, or (c) to  
19 reduce the number of points for which surcharges may be assessed  
20 below the level provided in paragraph (1)(a) of this subsection, except  
21 that the dollar amount of all surcharges levied under the New Jersey  
22 Merit Rating Plan shall be uniform on a Statewide basis for each filer,  
23 without regard to classification or territory. Surcharges adopted by  
24 the commissioner on or after January 1, 1984 for motor vehicle  
25 violations or convictions for which motor vehicle points are not  
26 assessable under Title 39 of the Revised Statutes shall not be  
27 retroactively applied but shall take effect on the date of the New  
28 Jersey Register in which notice of adoption appears or the effective  
29 date set forth in that notice, whichever is later.

30 c. No motor vehicle violation surcharges shall be levied on an  
31 automobile insurance policy issued or renewed on or after January 1,  
32 1984, except in accordance with the New Jersey Merit Rating Plan,  
33 and all surcharges levied thereunder shall be assessed, collected and  
34 distributed in accordance with subsection b. of this section.

35 d. (Deleted by amendment, P.L.1990, c.8.)

36 e. The Commissioner of Banking and Insurance and the Director  
37 of the Division of Motor Vehicles as may be appropriate, shall adopt  
38 any rules and regulations necessary or appropriate to effectuate the  
39 purposes of subsections a. through e. of this section.

40 f. The State Treasurer shall have the authority to sell, transfer or  
41 assign all rights, title and interest in any State indebtedness and lien  
42 represented by any certificate of debt issued pursuant to subsection b.  
43 of this section, including any statutory fee for the cost of collection  
44 imposed pursuant to subsection b. of this section, to any person for a  
45 fair, adequate and reasonable consideration; provided however, that  
46 the underlying indebtedness represented by the certificate is fixed and

1 constitutes a final determination of the director not subject to protest  
2 or appeal pursuant to the provisions of this section. After a sale as  
3 provided in this section and for the purpose of the proper  
4 administration of this section and to prevent untimely protests or  
5 appeals of the underlying indebtedness, it shall be presumed that the  
6 indebtedness is fixed and constitutes a final determination of the  
7 director not subject to protest or appeal unless the driver can establish  
8 by clear and convincing evidence that the contrary is true. If the driver  
9 contests the underlying indebtedness after the sale, transfer or  
10 assignment of the State indebtedness and lien represented by any  
11 certificate of debt, then the driver shall first file a protest with the  
12 director; provided however, that the director shall be joined as the  
13 primary party in interest with the person to whom the indebtedness and  
14 lien has been sold, transferred or assigned, in any action or proceeding  
15 brought to challenge the underlying indebtedness. The director shall  
16 advise by written notice the clerk of the court which has entered the  
17 certificate on its record of docketed judgments, that the sale, transfer  
18 or assignment has been made and the name and address of the  
19 purchaser. Thereupon, the clerk shall, without cost, enter a notation  
20 of such sale and the name and address of the purchaser in the record  
21 of docketed judgments. This written notice shall also be sent by the  
22 director by regular mail to the driver to the last address of the driver  
23 on file with the director.

24 g. All sales, transfers or assignments of the indebtedness and lien  
25 represented by certificates of debt shall be on such terms and  
26 conditions as the State Treasurer may determine appropriate. In  
27 setting these terms, conditions and the fair, adequate and reasonable  
28 consideration, the State Treasurer shall consider what will be most  
29 advantageous to the State based upon a present value analysis taking  
30 into account the likelihood of the State collecting the indebtedness  
31 within a reasonable time and other factors as the State Treasurer may  
32 determine.

33 h. The purchaser, transferee or assignee of any indebtedness and  
34 lien represented by a certificate of debt shall be entitled to exercise all  
35 the remedies and may take all of the proceedings for the collection of  
36 the indebtedness represented by the certificate that are available  
37 pursuant to the laws of this State to any judgment creditor, and shall  
38 be entitled to the same priority as the State may have respecting the  
39 certificate and underlying indebtedness. Interest shall accrue at the  
40 rate provided by the Rules Governing the Courts of the State of New  
41 Jersey.

42 i. The director may provide the purchaser, transferee or assignee  
43 of the indebtedness and lien represented by the certificate of debt such  
44 driver information as is necessary for the purchaser to collect the  
45 indebtedness represented by the certificate, provided that such



1 disclosure is not contrary to the provisions of other State or federal  
2 law.

3 j. The purchaser, transferee or assignee of the indebtedness and lien  
4 shall promptly file any warrant of satisfaction with the clerk, and such  
5 warrant of satisfaction shall be recorded in the office of any recording  
6 officer in which such certificate has been filed.

7 k. All proceeds received by the State Treasurer from the sale,  
8 transfer or assignment of State indebtedness and lien represented by  
9 certificates of debt pursuant to this section shall be deposited in such  
10 fund as may be provided by law, including P.L.1994, c.57 (C.34:1B-  
11 21.1 et al.), for deposit of such proceeds; provided however, that  
12 those proceeds shall be used only to provide for the redemption or  
13 retirement of any existing Market Transition Facility bonds, notes and  
14 obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-  
15 21.4), in accordance with, and to the extent permitted by, the terms  
16 and conditions of those Market Transition Facility bonds, notes and  
17 obligations and thereafter, subject to appropriation, as provided  
18 pursuant to subsection b. of this section.

19 l. The Commissioner of Banking and Insurance or the State  
20 Treasurer, as appropriate, shall adopt regulations and take other  
21 necessary or useful measures for the purpose of efficiently  
22 administering subsections f. through m. of this section, securing the  
23 largest possible revenue for the State, ensuring the integrity of the  
24 collection program and assuring fairness to drivers.

25 m. Under no circumstances shall any purchaser, transferee, or  
26 designee have any legal recourse against the State or its officers or  
27 employees for any damages of any sort whatsoever that might arise on  
28 account of or in connection with any sale, transfer or assignment made  
29 or proposed to be made pursuant to the provisions of subsections f.  
30 through l. of this section.

31 (cf: P.L.1997, c.280, s.5)

32

33 10. This act shall take effect immediately.

34

35

36

#### STATEMENT

37

38 This bill authorizes the State Treasurer to sell State tax  
39 indebtedness and merit rating surcharge indebtedness.

40 The bill authorizes the State Treasurer to sell debt that has been  
41 reduced to a lien under a certificate of debt filed with the clerk of the  
42 Superior Court, a filing that has the same legal effect as the entry of  
43 a court judgment of indebtedness. Taxpayers and those assessed  
44 surcharges may still appeal the underlying indebtedness, but must  
45 establish their lack of liability by presentation of clear and convincing  
46 evidence.

**S1038 KAVANAUGH, INVERSO**

10

1       The bill allows the Treasurer to determine the appropriate terms  
2 and conditions for all sales of debt, based on what will be most  
3 advantageous to the State, a present value analysis of the probability  
4 and time lapse involved in collecting the debt, and other relevant  
5 factors. The Director of the Division of Taxation, in the case of tax  
6 indebtedness, and the Director of the Division of Motor Vehicles, in  
7 the case of surcharge indebtedness, must notify the court and the  
8 debtor of the purchaser of debt when debt is sold. The purchaser of  
9 debt is entitled to all of the remedies, and may take all of the  
10 proceedings for collecting the indebtedness, that are available under  
11 State law to a judgment creditor. The "indebtedness" includes interest  
12 at statutory rates and the provision for certain collection costs.

13       To protect debtors, purchasers of debt must file promptly any  
14 warrant of satisfaction of the debt. Purchasers of tax indebtedness and  
15 their employees are subject to the confidentiality provisions of the  
16 State Tax Uniform Procedure Law, and are subject to criminal  
17 penalties and fine if purchasers or their employees use tax information  
18 for purposes other than the collection of the debt. Purchasers of merit  
19 rating surcharge indebtedness will be provided with information  
20 necessary to collect the debt if disclosure of the information does not  
21 violate State or federal law.

22       The bill requires that, if the underlying tax or surcharge must be  
23 deposited to a dedicated fund, then the proceeds of the sale of the  
24 indebtedness relating to the tax or surcharge must be deposited to the  
25 same dedicated fund.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 1038**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 25, 1998

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1038.

This bill authorizes the State Treasurer to sell State tax indebtedness. The bill authorizes the State Treasurer to sell tax debt that has been reduced to a lien under a certificate of debt filed with the clerk of the Superior Court, a filing that has the same legal effect as the entry of a court judgment of indebtedness. Taxpayers may still appeal the underlying indebtedness, but must establish their lack of liability by presentation of clear and convincing evidence.

The bill allows the Treasurer to sell tax debt to the highest bidder, after advertisement, under invitations to bid that are consistent with what will be most advantageous to the State, a present value analysis of the probability and time lapse involved in collecting the debt, and other relevant factors. The Treasurer may reject any bids if the Treasurer determines it is in the public interest to do so. The Director of the Division of Taxation must notify the court and the debtor of the purchaser of debt when debt is sold. The purchaser of debt is entitled to all of the remedies, and may take all of the proceedings for collecting the indebtedness, that are available under State law to a judgment creditor. The "indebtedness" includes interest at statutory rates and the provision for certain collection costs.

The bill requires purchasers of debt to promptly file any warrant of satisfaction of the debt. Purchasers of tax indebtedness and their employees are subject to the confidentiality provisions of the State Tax Uniform Procedure Law, and are subject to criminal penalties and fines if purchasers or their employees use tax information for purposes other than the collection of the debt.

The bill requires that, if the underlying tax must be deposited to a dedicated fund, then the proceeds of the sale of the indebtedness relating to the tax must also be deposited to the same dedicated fund.

COMMITTEE AMENDMENTS:

The amendments delete provisions, parallel to the tax debt provisions, that would have applied to merit rating surcharge indebtedness, and add the requirement that sales of tax indebtedness be to the highest bidder after public notice for bids. As amended, the bill is identical to Assembly Bill No. 1996 (1R).

FISCAL IMPACT:

The Office of the Treasurer has provided an estimate that the sale of debt may raise approximately \$10 million in revenue. The Office of the Treasurer states that this estimate is based on outstanding tax liabilities of over \$2 billion.

*Office of the Governor*  
**NEWS RELEASE**

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RELEASE: June 30, 1998

Gov. Christie Whitman today signed the following legislation:

**S-2001**, sponsored by Senator Robert Littell (R- Sussex/Hunterdon/Morris) and Assembly Members Richard Bagger (R- Middlesex/Morris/Somerset/Union) and Joseph Charles (D-Hudson), makes various FY 1998 supplemental appropriations totaling \$105,403,932 in state funds and \$579,254 in federal funds and appropriates \$15 million in bond funds. Projects funded through this bill include: \$400,000 for the purchase of protective vests for law enforcement, \$750,000 to support a toll free telephone system for dealing with the Division of Motor Vehicles services, \$285,000 for computer equipment to run criminal history background checks on school employees, and \$15 million in property tax relief aid to the City of Camden and the creation of a financial oversight board for the city, and \$15 million for sewer overflow abatement projects for the Passaic River/Newark Bay Restoration Program.

**A-2141**, sponsored by Assembly Member Francis Blee (R-Atlantic) and Senators Louis Bassano (R-Essex/Union) and Leonard Connors (R-Atlantic/Burlington/Ocean), establishes an annual assessment of 5.8 percent of gross revenue on all intermediate care facilities for the mentally retarded. The revenue generated by the assessment will be used to reduce the Developmental Disabilities waiting list for placement in community residences.

**A-673**, sponsored by Assembly Members Jack Gibson and Nicholas Asselta and Senator James Cafiero (all R-Cape May/Atlantic/Cumberland), authorizes municipalities to regulate skateboards and roller skates upon roadways and public properties under their jurisdiction. This law supplements legislation signed January 19, requiring helmets for skaters under 14 years of, by ensuring that municipalities have the ability to regulate skating activities to protect skaters, motorists and other pedestrians in their communities.

**A-553**, sponsored by Assembly Members David Russo (R- Bergen/Passaic) and Gerald Zecker (R-Essex/Passaic) and Senators Jack Sinagra (R-Middlesex) and John Adler (D-Camden), prohibits smoking in child care centers when children are present.

**A-1902**, sponsored by Assembly Member Richard Bagger (R-Middlesex/Morris/Somerset/Union) and Louis Romano (D-Hudson) and Senator Robert Littell (R-Sussex/Hunterdon/Morris), authorizes the State Treasurer to determine the salary of the Director and Deputy Director of the Division of Investment and authorizes the Treasurer to designate an additional deputy director.

**S-851**, sponsored by Senators Joseph Palaia (R-Monmouth) and Norman M.

Robertson (R-Essex/Passaic) and Assembly Member Christopher "Kip" Bateman (R-Morris/Somerset), revises statutes providing for criminal history record checks of school employees and school bus drivers. The bill expands the list of disqualifying crimes; deletes a provision authorizing the employment of a persons with a disqualifying crime if rehabilitation has been demonstrated and prohibits schools from provisionally hiring candidates pending completion of their criminal history record checks, except in limited circumstances.

**A-1996**, gives the state Treasurer the authority to bundle old, difficult to collect tax debt represented as tax certificates and enter into a contract with a financial institution after public bidding. The financial institution would assume ownership of the debt and replace the state as the collector. The bill was sponsored by Assembly Members Paul DiGaetano (R- Bergen/Essex/Passaic) and Richard Bagger (R-Middlesex/Morris /Somerset/Union) and Senators Walter Kavanaugh (R-Morris/Somerset) and Peter Inverso (R-Mercer/Middlesex).

**S-1002**, which amends the state's Business Employment Incentive Program (BEIP) Act to encourage partnerships and limited liability companies to participate in the BEIP program and locate or expand in New Jersey. Companies that create jobs in New Jersey by either moving to the state or expanding operations are eligible to receive incentive grants which are based upon the income taxes paid by the newly-hired employees. The new legislation amends the law to allow estimated taxes paid by partners to be included in the BEIP calculation, thereby increasing the amount of the BEIP grant for partnerships and limited liability companies and providing them with an incentive to move to New Jersey. The bill was sponsored by Senators Joseph Kyrillos, Jr. (R- Middlesex/Monmouth) and Bernard Kenny, Jr. (D-Hudson) and Assembly Members Steve Corodemus (R-Monmouth) and Joseph Azzolina (R- Middlesex/Monmouth).

**A-2190**, sponsored by Assembly Members Francis Blee (R-Atlantic) and Carol Murphy (R-Essex/Morris/Passaic), expands the Drug Utilization Review Board in the Department of Human Services for state-funded pharmaceutical benefits programs. The powers of the Board will include review of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) and the AIDS Drug Distribution programs. Membership of the Board shall include individuals with expertise in the prescribing of medication to the geriatric and AIDS populations to address specific needs of these individuals. The bill appropriates \$90,000 for establishment of the Review Board.

**A- 1690**, eliminates the requirement in the current charity care law that the Commissioner of Health and Senior Services (DHSS) seek federal approval to establish a permanent state-wide program for providing hospital charity care services on a managed care basis. The bill permits the Commissioner of Human Services to seek federal approval to establish a demonstration managed charity care program, within a single region or county, for a two-year period in order to test the programmatic and fiscal viability of delivering charity care services by this alternative means. The bill was sponsored by Assembly Members Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and Joseph Doria, Jr. ((D-Hudson) and by Senators John Matheussen (R-Camden/Gloucester) and John Bennett (R-Monmouth).

**S-990**, sponsored by Senator Louis Bassano (R-Essex/Union) and Bernard Kenny (D-Hudson), establishes the New Jersey Supplementary Food Stamp Program in the Department of Human Services. The legislation, an administration initiative,

extends the availability of food stamps to certain noncitizens covered under E.O. 74, which expires today. The program provides broader coverage than the legislation passed in Congress earlier this month. The bill will also provide coverage for individuals who are considered unemployable under the WorkFirst New Jersey Program and are ineligible for federal Supplemental Security Income benefits.