

54:30A-18

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(Public utility  
unit tax)

LAWS OF: 1991

CHAPTER: 184

Bill No: A4960

Sponsor(s): Watson and Roberts

Date Introduced: June 13, 1991

Committee: Assembly: Appropriations

Senate: -----

Amended during passage: Yes      Amendments during passage  
denoted by asterisks.

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Following statements are attached if available:

Sponsor statement: Yes

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Fiscal Note: No

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TREASURY

[FIRST REPRINT]  
ASSEMBLY, No. 4960

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1991

By Assemblymen WATSON and ROBERTS

1 AN ACT concerning the taxation of certain public utilities and  
2 the payment and prepayment of those taxes, amending and  
3 supplementing P.L.1940, c.4 and P.L.1940, c.5, amending the  
4 title of P.L.1940, c.5, <sup>1</sup>[and]<sup>1</sup> amending P.L.1963, c.41,  
5 P.L.1971, c.109, P.L.1979, c.35, P.L.1971, c.108, <sup>1</sup>[and]<sup>1</sup>  
6 P.L.1979, c.36 <sup>1</sup>, P.L.1980, c.10, P.L.1980, c.11, P.L.1945,  
7 c.162, and R.S.54:50-9 and repealing section 9 of P.L.1963,  
8 c.41<sup>1</sup>.  
9

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

12 1. Section 3 of P.L.1940, c.4 (C.54:30A-18) is amended to read  
13 as follows:

14 3. (a) Every person, copartnership, association or corporation,  
15 other than street railway, traction, sewerage, water, gas and  
16 electric light, heat and power corporations, telecommunications  
17 carriers other than local exchange telephone companies,  
18 municipal corporations and corporations which are taxable under  
19 chapter 291 of the laws of 1941, using or occupying public  
20 streets, highways, roads or other public places by virtue of a  
21 franchise or authority or permission from the State or any  
22 municipality thereof, except consent, authority or permission for  
23 the operation of autobuses or autocabs commonly called taxicabs,  
24 shall, in the year 1941 and annually thereafter, pay for the  
25 franchise to use such public streets, highways, roads or other  
26 public places in this State an excise tax which shall, except as in  
27 this act may be otherwise provided, be in lieu of any and all other  
28 tax or taxes upon the franchise or franchises of such taxpayer.  
29 The annual excise tax imposed on each taxpayer shall be a sum  
30 equal to 5% of such portion of the taxpayer's gross receipts as  
31 the length of the lines or mains of such taxpayer in this State  
32 along, in or over any public street, highway, road or other public  
33 place, exclusive of service connections, bears to the whole length  
34 of its lines or mains in this State, exclusive of service  
35 connections. In case the gross receipts of any such taxpayer for  
36 any calendar year shall not exceed the sum of \$50,000.00 the tax  
37 of such taxpayer for such calendar year shall be computed at the  
38 rate of 2% instead of at the rate of 5%. Where any taxpayer

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> Assembly AAP committee amendments adopted June 24, 1991.

1 hereunder owns all of the capital stock of a subsidiary  
2 corporation taxable under the Corporation Business Tax Act  
3 (1945), the taxpayer may deduct from the tax otherwise payable  
4 under this subsection (a) such proportion, not exceeding 50%, of  
5 the franchise tax payable by the subsidiary for the same year as  
6 the subsidiary's taxable net worth is to its entire net worth under  
7 said act.

8 (b) In addition to the excise tax imposed in subsection (a)  
9 hereof, every taxpayer hereunder shall also pay annually to the  
10 State for the franchise to operate and conduct business within the  
11 State and to use the public streets, highways, roads or other  
12 public places in this State, excise taxes as follows:

13 (1) A tax computed at the rate of 0.625% of such proportion of  
14 the gross receipts of such taxpayer for the preceding calendar  
15 year as the length of the lines or mains in this State, located  
16 along, in or over any public street, highway, road or other public  
17 place, exclusive of service connections, bears to the whole length  
18 of its lines or mains in this State, exclusive of service  
19 connections. In case the gross receipts of any such taxpayer for  
20 any calendar year shall not exceed \$50,000.00 the tax on such  
21 taxpayer for such calendar year shall be computed at the rate of  
22 0.25% instead of at the rate of 0.625%.

23 (2) A tax at the rate of 0.5% upon the gross receipts of such  
24 taxpayer for the preceding calendar year from its business over,  
25 on, in, through or from its lines or mains in the State of New  
26 Jersey.

27 (c) <sup>1</sup>[Commencing] Notwithstanding the provisions  
28 hereinabove, commencing<sup>1</sup> in 1995 and in each calendar year  
29 thereafter, a taxpayer subject to this section shall make payment  
30 of its estimated <sup>1</sup>annual<sup>1</sup> tax liability for <sup>1</sup>[the current] that<sup>1</sup>  
31 year on or before April 1 of that year. The payment shall not be  
32 less than the amount of taxes paid by the taxpayer under this  
33 section in the preceding year. The taxpayer shall, on or before  
34 April 1 of the next following year, file a final tax form as shall be  
35 prescribed by the director sufficient to demonstrate the  
36 taxpayer's liability, if any, for taxes pursuant to this section, and  
37 shall pay the amount of any remaining tax liability. The taxpayer  
38 shall be entitled to refund <sup>1</sup>, or a credit against taxes due and  
39 payable in the next year,<sup>1</sup> of any amount of the estimated tax  
40 payment which is in excess of the total amount payable pursuant  
41 to this section. In the calculation of tax liability, a taxpayer  
42 shall be entitled to a credit in the amount of any prepayment  
43 required pursuant to section 2 of P.L. , c. (C. )  
44 (now pending before the Legislature as this bill), section 6 of  
45 P.L.1963, c.41 (c.54:30A-18.1), section 2 of P.L.1971, c.109  
46 (C.54:30A-18.1a), and section 1 of P.L.1979, c.35  
47 (C.54:30A-18.4), made in the previous calendar year, and shall be  
48 entitled to the return <sup>1</sup>, or credit against taxes due and payable  
49 in the next year,<sup>1</sup> of any amount so paid which is in excess of the  
50 total amount payable in accordance with this section.  
51 (cf: P.L.1989, c.2, s.3)

1       2. (New section) Every person, copartnership, association or  
2 corporation subject to tax under section 3 of P.L.1940, c.4  
3 (C.54:30A-18) shall be required to remit to the State for State  
4 use advance payments of tax liability in addition to the tax  
5 payable pursuant to section 3 of P.L.1940, c.4 (C.54:30A-18).  
6 The sum of advance payments made by a taxpayer over both  
7 calendar years 1993 and 1994 pursuant to this section shall not  
8 exceed the taxpayer's tax liability pursuant to that section 3 of  
9 P.L.1940, c.4 for the 1992 calendar year, after deducting from  
10 that 1992 tax liability the amount of any credits extended for  
11 prepayments required for that year pursuant to section 2 of  
12 P.L.1971, c.109 (C.54:30A-18.1a) and section 1 of P.L.1979, c.35  
13 (C.54:30A-18.4). Such advance payments shall be due and  
14 credited as follows:

15       a. On or before April 1, 1993, 50% of the taxpayer's tax  
16 liability in 1993 pursuant to subsection (a) of section 3 of  
17 P.L.1940, c.4 (C.54:30A-18). The advance payment required  
18 pursuant to this subsection shall be available as a credit only as a  
19 partial payment in the preceding calendar year against the  
20 advance payment required under subsection b. of this section in  
21 the 1994 calendar year, and a taxpayer shall be entitled to the  
22 refund <sup>1</sup>, or credit against taxes due and payable in the next  
23 year,<sup>1</sup> of any amount so paid which shall be found to be in excess  
24 of the total amount payable in accordance with that subsection b.  
25 herein.

26       b. On or before April 1, 1994, and on or before April 1 of each  
27 year thereafter, an amount equal to the taxpayer's tax liability  
28 in the current year pursuant to subsection (a) of section 3 of  
29 P.L.1940, c.4 (C.54:30A-18) for which a prepayment is not  
30 required pursuant to P.L.1979, c.35. The advance payment  
31 required pursuant to this subsection shall be available as a credit  
32 as a partial payment in the preceding year against the tax due  
33 pursuant to that subsection (a), and a taxpayer shall be entitled to  
34 the refund <sup>1</sup>, or credit against taxes due and payable in the next  
35 year,<sup>1</sup> of any amount so paid which shall be found to be in excess  
36 of the total amount payable in accordance with subsection (a) of  
37 section 3 of P.L.1940, c.4 (C.54:30A-18).

38       c. On or before April 1, 1993, and on or before April 1 of each  
39 year thereafter, an amount equal to the taxpayer's tax liability  
40 in the current year pursuant to subsection (b) of section 3 of  
41 P.L.1940, c.4 (C.54:30A-18) for which a prepayment is not  
42 required pursuant to P.L.1971, c.109. The advance payment  
43 required pursuant to this subsection shall be available as a partial  
44 payment in the preceding year against the taxes due pursuant to  
45 that subsection (b), and a taxpayer shall be entitled to the refund  
46 <sup>1</sup>, or credit against taxes due and payable in the next year,<sup>1</sup> of  
47 any amount so paid which shall be found to be in excess of the  
48 total amount payable in accordance with subsection (b) of section  
49 3 of P.L.1940, c.4 (C.54:30A-18).

50       3. Section 6 of P.L.1963, c.41 (C.54:30A-18.1) is amended to

1 read as follows:

2 6. The director shall annually, on or before April 1, 1964, and  
3 April 1 in each year thereafter, compute the excise taxes payable  
4 to the State as provided in subsection (b) of section [3(b) hereof] 3  
5 of P.L.1940, c.4 (C.54:30A-18). Within 5 days after making such  
6 computation, the director shall certify such taxes and the taxes  
7 provided for in section 2 of [this act] P.L.1971, c.109  
8 (C.54:30A-18.1a) as a partial payment to the respective  
9 taxpayers who shall make payment thereof to the director on or  
10 before May 1 next succeeding, except that commencing on 1992,  
11 payment to the director shall be made on or before April 1 next  
12 succeeding.

13 (cf: P.L.1971, c.109, s.1)

14 4. Section 2 of P.L.1971, c.109 (C.54:30A-18.1a) is amended to  
15 read as follows:

16 2. On or before May 1, 1971, except as hereinafter provided  
17 and on or before May 1 of each year [thereafter,] from 1972  
18 through 1991, and on or before April 1 commencing in 1992 and  
19 each year thereafter, every person, copartnership, association or  
20 corporation subject to the excise tax imposed by the act of which  
21 this act is amendatory shall pay to the director an amount equal  
22 to 1/2 of the tax payable under subsection (b) of section [3(b)] 3  
23 of P.L.1940, c.4 (C.54:30A-18) upon its gross receipts determined  
24 thereunder for the preceding calendar year. Each such payment  
25 shall be in addition to the tax payable under subsection (b) of  
26 section [3(b)] 3 of P.L.1940, c.4 (C.54:30A-18) and shall be  
27 considered as a partial payment of the tax which will become due  
28 under said section, upon the following May 1 or April 1, as  
29 appropriate. The additional taxes due on or before May 1, 1971  
30 shall be payable in two equal installments. With respect to the  
31 additional taxes herein, the first installment shall be payable on  
32 May 1, 1971 and the second installment thereof shall be payable  
33 on or before June 15, 1971.

34 In the calculation of the tax due in accordance with subsection  
35 (b) of section [3(b)] 3 of P.L.1940, c.4 (C.54:30A-18) in the year  
36 1972 and each year thereafter, every person, co-partnership,  
37 association or corporation subject to tax hereunder shall be  
38 entitled to a credit in the amount of the tax paid hereunder as a  
39 partial payment in the preceding calendar year and shall be  
40 entitled to the return <sup>1</sup>, or credit against taxes due and payable  
41 in the next year,<sup>1</sup> of any amount so paid which shall be found to  
42 be in excess of the total amount payable in accordance with  
43 subsection (b) of section [3(b)] 3 of P.L.1940, c.4 (C.54:30A-18).

44 (cf: P.L.1971, c.109, s.2)

45 5. Section 1 of P.L.1979, c.35 (C.54:30A-18.4) is amended to  
46 read as follows:

47 1. a. On or before April 1, 1979 and before May 1 in each year  
48 [thereafter,] from 1980 through 1991, and on or before April 1  
49 commencing in 1992 and each year thereafter, the director shall  
50 compute an advance payment equal in amount to 55% of the

1 increase in taxes due under subsection (a) of section 3 of  
2 P.L.1940, c.4 (C.54:30-18(a)) during the preceding calendar year  
3 over the taxes due under such subsection in the calendar year  
4 immediately preceding that year. The advance payment shall not  
5 be considered for the purpose of determining the amount of the  
6 increase. Each such payment shall be in addition to the taxes  
7 payable under subsections (a) and (b) of section 3 of P.L.1940, c.4  
8 (C.54:30A-18(a) and 54:30A-18(b)) and section 2 of P.L.1971,  
9 c.109 (C.54:30A-18.1a) and shall be considered as a partial  
10 payment of the tax to become due and payable in the following  
11 year.

12 b. Every taxpayer subject to tax under the act to which this  
13 act is a supplement shall be required to remit to the State for the  
14 use of the State as an advance payment, an amount equal to the  
15 amount as computed in subsection a. of this section payable in  
16 two installments as follows: 60% on May 1, 1979 and 40% on  
17 August 1, 1979.

18 c. In the year 1980 and in each year thereafter an advance  
19 payment pursuant to subsection a. of this section shall be paid by  
20 every taxpayer to the appropriate municipalities in the manner  
21 provided for by law for payment of the taxes due under  
22 subsection (a) of section 3 of P.L.1940, c.4 (C.54:30A-18(a)).  
23 (cf: P.L.1979, c.35, s.1)

24 6. Section 9 of P.L.1940, c.4 (C.54:30A-24) is amended to read  
25 as follows:

26 9. The balance of the excise tax imposed under subsection (a)  
27 of section 3 of <sup>1</sup>[this act] P.L.1940, c.4 (C.54:30A-18)<sup>1</sup> upon each  
28 taxpayer in the year 1940 and each year thereafter is hereby  
29 apportioned, subject to the provisions of section 2 of <sup>1</sup>[this  
30 amendatory and supplementary act] P.L.1980, c.10  
31 (C.54:30A-24.1)<sup>1</sup>, to the various municipalities of this State in  
32 the proportion that the apportionment value of the scheduled  
33 property of such taxpayer located in, on or over any public street,  
34 highway, road or other public place in each municipality as of the  
35 preceding July 1 bears to the total apportionment value of such  
36 scheduled property of such taxpayer in this State as of that date.  
37 The Director of the Division of Taxation shall annually, on or  
38 before May 1, 1941 and May 1 in each year thereafter, compute  
39 and apportion the balance of such excise taxes in the manner  
40 herein set forth. Within 5 days after making such computation  
41 and apportionment the director shall certify to the State  
42 Treasurer the amount of such taxes apportioned to each  
43 municipality. At the same time, the director shall issue directly  
44 to each taxpayer statements of taxes due, and payments with  
45 respect thereto shall be remitted by each taxpayer to the  
46 director in the following manner: 35% thereof within 15 days  
47 after the date of certification of the apportionment by the  
48 director, 35% thereof on or before August 15 and 30% thereof on  
49 or before November 15, except that for the calendar years 1992,  
50 1993 and 1994, payment of all taxes due shall be remitted to the

1 director on or before April 1, and for calendar year 1995 and each  
2 calendar year thereafter taxes shall be remitted in the following  
3 manner: a payment of the estimated tax liability on or before  
4 April 1 of <sup>1</sup>[the current] that<sup>1</sup> tax year and a payment of the  
5 remaining tax liability, if any, on or before April 1 of the next  
6 following year. If for any reason, the making and delivery of such  
7 certificate of apportionment shall be delayed until after  
8 December 1 in any year, then and in that case, all of such taxes  
9 for such year affected by such certificate of apportionment shall  
10 become due and payable 30 days after the date of such  
11 certification of apportionment; and provided that in case of an  
12 appeal from any apportionment valuation or apportionment or any  
13 review thereof in any court, the portion of any such tax not paid  
14 prior to the commencement of such appeal or proceedings for  
15 review shall not become payable until 30 days after final  
16 determination of such appeal or review and certification or  
17 recertification, if required. The <sup>1</sup>administration, collection and  
18 enforcement of the<sup>1</sup> taxes payable by each taxpayer <sup>1</sup>under  
19 subsections (a) and (b) of section 3 of P.L.1940, c.4 (C.54:30A-18)  
20 and any advance payment or payment of estimated tax liability  
21 required with regard to those taxes<sup>1</sup> shall be <sup>1</sup>[and remain a first  
22 lien on the property and assets of such taxpayer on and after the  
23 date the same become payable as herein provided until paid with  
24 interest thereon, and the same shall be collected in the same  
25 manner and subject to the same discounts, interests and penalties  
26 as other taxes, and the same proceedings now available for the  
27 collection of personal taxes against other corporations or  
28 individuals shall be applicable to the collection of the excise  
29 taxes hereby imposed and payable] subject to the provisions of  
30 the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., to the  
31 extent that the provisions of that law are not inconsistent with  
32 the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) or P.L. \_\_\_\_\_,  
33 c. \_\_\_\_\_ (C. \_\_\_\_\_)(now pending before the Legislature as this  
34 bill)<sup>1</sup>.

35 The director may, by regulation, require that any payment of  
36 tax <sup>1</sup>[shall be]<sup>1</sup> made, on or before the date established pursuant  
37 to this section for the payment, <sup>1</sup>shall be<sup>1</sup> by electronic funds  
38 transfer to such depositories as the State Treasurer shall  
39 designate pursuant to section 1 of P.L.1956, c.174  
40 (C.52:18-16.1). A payment by electronic funds transfer shall be  
41 deemed to be made on the date the payment is received by the  
42 designated depository. The form and content of the electronic  
43 funds transfer message, the circumstances under which an  
44 electronic funds transfer shall serve as a substitute for the filing  
45 of another form of return, the means by which taxpayers will be  
46 provided with acknowledgements of payments, and the classes of  
47 taxpayers subject to the electronic funds transfer requirement  
48 shall be as prescribed by the director.

49 For the purposes of this section "electronic funds transfer"  
50 means any transfer of funds, other than a transaction originated

1 by check, draft, or similar paper instrument, that is initiated  
2 through an electronic terminal, telephone, or computer or  
3 magnetic tape for the purpose of ordering, instructing or  
4 authorizing a financial institution to debit or credit an account.

5 (cf: P.L.1980, c.10, s.1)

6 7. The title of P.L.1940, c.5 is amended to read as follows:

7 **AN ACT** for the taxation of the gross receipts of street railway,  
8 traction, sewerage, and water corporations, and of the units of  
9 electricity and natural gas sold in the business of gas and  
10 electric light, heat and power corporations using or occupying  
11 the public streets, highways, roads or other public places, for  
12 the exemption from taxation of the franchises, stock and  
13 certain property of such corporations, and for the taxation of  
14 certain of the property of such corporations not so exempted  
15 from taxation.

16 (cf: P.L.1961, c.93, s.1)

17 8. Section 2 of P.L.1940, c.5 (C.54:30A-50) is amended to read  
18 as follows:

19 2. Definitions: As used in this act--unless the context  
20 otherwise requires:

21 (a) "Taxpayer" means any corporation subject to taxation  
22 under the provisions of this act. A person or business entity  
23 owning or operating a cogeneration facility as defined in  
24 subsection (j) of this section shall not be deemed a corporation  
25 subject to taxation under this act unless it shall be a public utility  
26 as specifically enumerated in sections 1 and 6 of P.L.1940, c.5  
27 (C.54:30A-49 and C.54:30A-54).

28 (b) "Real estate" means lands and buildings, but it does not  
29 include railways, tracks, ties, lines, wires, cables, poles, pipes,  
30 conduits, bridges, viaducts, dams and reservoirs (except that the  
31 lands upon which dams and reservoirs are situated are real  
32 estate), machinery, apparatus and equipment, notwithstanding  
33 any attachment thereof to lands or buildings.

34 (c) "Gross receipts" means all receipts from the taxpayer's  
35 business over, in, through or from the whole of its lines or mains  
36 but does not include any sum or sums of money received by the  
37 taxpayer in payment for gas or electrical energy or water sold  
38 and furnished to another public utility which is also subject to the  
39 payment of a tax based upon its gross receipts, nor any sum or  
40 sums of money received by the taxpayer from a cogenerator in  
41 payment for cogenerated electrical energy resold by the taxpayer  
42 to the producing cogenerator where produced, nor any sum or  
43 sums of money received by the taxpayer from a cogenerator in  
44 payment for natural gas sold by the taxpayer to the cogenerator  
45 and separately metered for use in a cogeneration facility, nor in  
46 the case of a street railway or traction corporation, the receipts  
47 from the operation of autobuses or vehicles of the character  
48 described in R.S.48:15-41 through R.S.48:15-56, inclusive, nor in  
49 the case of a sewerage corporation, an amount equal to any sum  
50 or sums of money payable by such sewerage corporation to any



1 board, commission, department, branch, agency or authority of  
2 the State or of any county or municipality, for the treatment,  
3 purification or disposal of sewage or other wastes, nor in the case  
4 of a water purveyor, the amount which represents the water tax  
5 imposed by section 11 of P.L.1983, c.443 (C.58:12A-21) and which  
6 is included in the tariff altered pursuant to section 6 of P.L.1983,  
7 c.443 (C.58:12A-17).

8 (d) "Scheduled property" means only those classes or types of  
9 property of a taxpayer set forth in section 10 of this act and  
10 which are to be used in computing the apportionment value as  
11 herein defined.

12 (e) "Unit value" means the value set forth in section 10 of this  
13 act to be uniformly applied to each of the several classes or types  
14 of scheduled property in computing the apportionment value.

15 (f) "Apportionment value" or "apportionment valuation" means  
16 the result obtained by multiplying the quantities of each class or  
17 type of scheduled property of a taxpayer by the applicable unit  
18 value, and the addition of such results.

19 (g) "Public street, highway, road or other public place" includes  
20 any street, highway, road or other public place which is open and  
21 used by the public, even though the same has not been formally  
22 accepted as a public street, highway, road, or other public place.

23 <sup>1</sup>However, for purposes of computing the tax in connection with  
24 lines or mains installed prior to February 19, 1991, "public street,  
25 highway, road or other public place" shall not mean or include  
26 non-restricted roadways, such as extended residential,  
27 commercial or recreational facility driveways, or dead end  
28 streets, cul-de-sacs or alleys which are connected to public  
29 roadways and are for access to or the use of supermarkets,  
30 shopping malls, planned communities and the connecting roads  
31 within or around the above facilities whether these roadways  
32 shall be located on public or private property, unless such shall  
33 have been determined a "public street, highway, road or other  
34 public place" for the purposes of P.L.1940, c.5 (C.54:30A-49 et  
35 seq.) prior to February 19, 1991.<sup>1</sup>

36 (h) "Service connections" means the wires or pipes connecting  
37 the building or place where the service or commodity supplied by  
38 the taxpayer is used or delivered, or is made available for use or  
39 delivery, with a supply line or supply main in the street, highway,  
40 road, or other public place, or with such supply line or supply  
41 main on private property.

42 (i) "State Tax Commissioner" or "director" means the Director  
43 of the Division of Taxation in the Department of the Treasury.

44 (j) "Cogenerator" means a person or business entity which owns  
45 or operates a cogeneration facility in the State of New Jersey,  
46 which facility is a plant, installation or other structure whose  
47 primary purpose is the sequential production of electricity and  
48 steam or other forms of useful energy which are used for  
49 industrial, commercial, heating or cooling purposes; and which is  
50 designated by the Federal Energy Regulatory Commission, or its

1 successor, as a "qualifying facility" pursuant to the provisions of  
2 the "Public Utility Regulatory Policies Act of 1978," Pub.L.  
3 95-617.

4 (k) "Corresponding therms of gas" or "corresponding  
5 kilowatthours of electricity" means all therms of gas or  
6 kilowatthours of electricity from the taxpayer's business over,  
7 on, in, through or from the whole of its lines or mains, excluding  
8 therefrom, however, (1) any therms of gas or kilowatthours of  
9 electricity as may have been sold and furnished to another public  
10 utility which is also subject to either the payment of a tax based  
11 upon gross receipts or the payment of a unit-based tax applied to  
12 therms of gas or kilowatthours of electricity <sup>1</sup>[in this State]<sup>1</sup>; (2)  
13 any kilowatthours of cogenerated electrical energy resold by the  
14 taxpayer to a producing cogenerator where produced; and (3) any  
15 therms of natural gas sold by the taxpayer to a cogenerator and  
16 separately metered for use in a cogeneration facility.

17 (l) "Class" means any segment, grouping or other division of an  
18 electric company's or gas company's customers which is  
19 established for the purpose of charging rates for electric or gas  
20 service. For the purposes of this act, any such class shall be  
21 designated to be in the residential class category or  
22 non-residential class category.

23 (m) With respect to electric companies, (1) "residential class  
24 category" means any class established by an electric company  
25 which generally includes customers taking electric service under  
26 rate schedules that are primarily residential in nature; and (2)  
27 "non-residential class category" means any class established by  
28 an electric company which generally includes customers taking  
29 electric service under rate schedules that are primarily  
30 non-residential in nature.

31 (n) With respect to gas companies, (1) "residential class  
32 category" means any class established by a gas company which  
33 generally includes customers taking natural gas service under  
34 rate schedules that are primarily residential in nature; and (2)  
35 "non-residential class category" means any class established by a  
36 gas company which generally includes customers taking  
37 <sup>1</sup>[electric] gas<sup>1</sup> service under rate schedules that are primarily  
38 non-residential in nature.

39 (cf: P.L.1985, c.359, s.1)

40 9. Section 6 of P.L.1940, c.5 (C.54:30A-54) is amended to read  
41 as follows:

42 6. Every street railway, traction, sewerage, and water [, gas  
43 and electric light, heat and power] corporation using or occupying  
44 the public streets, highways, roads, or other public places in this  
45 State shall, annually, pay excise taxes for the privilege of  
46 exercising its franchises and using the public streets, highways,  
47 roads or other public places in this State, as follows:

48 (a) A tax computed at the rate of 5% of such proportion of the  
49 gross receipts of such taxpayer for the preceding calendar year as  
50 the length of the lines or mains in this State, located along, in or

1 over any public street, highway, road or other public place,  
2 exclusive of service connections, bears to the whole length of its  
3 lines or mains, exclusive of service connections. In case the gross  
4 receipts of any such taxpayer for any calendar year shall not  
5 exceed \$50,000.00 the tax on such taxpayer for such calendar  
6 year shall be computed at the rate of 2% instead of at the rate of  
7 5%.

8 (b) A tax at the rate of 7½% upon the gross receipts of such  
9 taxpayer for the preceding calendar year from its business over,  
10 on, in, through or from its lines or mains in the State of New  
11 Jersey.

12 (c) In addition to the excise taxes imposed in subsections (a)  
13 and (b) hereof, every [taxpayer] street railway, traction,  
14 sewerage and water corporation which is subject to the taxes  
15 imposed thereunder shall also pay to the State excise taxes for  
16 the franchise to operate and conduct business within the State  
17 and to use the public streets, highways, roads or other public  
18 places in the State as follows:

19 (1) A tax computed at the rate of 0.625% of such proportion of  
20 the gross receipts of such taxpayer for the preceding calendar  
21 year as the length of the lines or mains in this State, located  
22 along, in or over any public street, highway, road or other public  
23 place, exclusive of service connections, bears to the whole length  
24 of its lines or mains, exclusive of service connections. In case  
25 the gross receipts of any such taxpayer for any calendar year  
26 shall not exceed \$50,000.00 the tax on such taxpayer for such  
27 calendar year shall be computed at the rate of 0.25% instead of  
28 at the rate of 0.625%.

29 (2) A tax at the rate of 0.9375% upon the gross receipts of  
30 such taxpayer for the preceding calendar year from its business  
31 over, on, in, through or from its lines or mains in the State of  
32 New Jersey.

33 (cf: P.L.1963, c.42, s.4)

34 10. (New section) a. Every gas and electric light, heat and  
35 power corporation using or occupying the public streets,  
36 highways, roads, or other public places in this State shall,  
37 annually, pay an excise tax for the privilege of exercising its  
38 franchises and using the public streets, highways, roads or other  
39 public places in this State, as follows:

40 (1) Commencing in 1992, unit-based taxes due upon the  
41 corresponding therms of gas and corresponding kilowatthours of  
42 electricity sold by such taxpayers in this State for the classes in  
43 the residential class category and the non-residential class  
44 category in the preceding year, except that commencing in 1995,  
45 unit-based taxes shall be due upon such units so sold in the  
46 current year.

47 (2) The rate of taxation for units sold in each class by each  
48 taxpayer shall be separately calculated by the Board of Public  
49 Utilities, in consultation with the director, for each class and  
50 shall be in 1992 through 1997 the greater of either the effective

1 tax rate or the standard tax rate after a rate adjustment to  
2 account for an incremental adjustment to tax liability, as shall be  
3 applicable to the taxpayer as determined pursuant to paragraph  
4 (3) of this subsection, and in 1998 and in each year thereafter the  
5 standard tax rate. Provided however, that in 1992, the rate of  
6 taxation for each taxpayer pursuant to this subsection shall be  
7 the effective tax rate adjusted by the Board of Public Utilities so  
8 that the total tax liability imposed upon each taxpayer for 1992  
9 shall be equal to its relative share of the total tax due from all  
10 gas and electric light, heat and power corporation taxpayers  
11 pursuant to subsections (a) and (b) of section 6 of P.L.1940, c.5  
12 (C.54:30A-54) for 1991.

13 (3) As used in this section, "standard tax rate" means for units  
14 sold in each class, a rate of tax separately calculated by the  
15 Board of Public Utilities for each class which is equal to the  
16 lowest effective tax rate applicable to corresponding therms of  
17 gas and corresponding kilowatthours of electricity prevailing  
18 among taxpayers in 1991 for each class. As used in this section,  
19 "effective tax rate" means for units sold in each class for each  
20 taxpayer, a rate of taxation determined by dividing the amount of  
21 the taxpayer's 1991 tax liability pursuant to subsections (a) and  
22 (b) of section 6 of P.L.1940, c.5 (C.54:30A-54) paid in 1992  
23 attributable to units sold in each class, exclusive of any revenue  
24 recorded as a result of any adjustment pursuant to section 481 of  
25 the Internal Revenue Code of 1986 (26 U.S.C. § 481), by the  
26 corresponding therms of gas or corresponding kilowatthours of  
27 electricity sold by that taxpayer in this State in 1991 in each  
28 class.

29 Commencing in 1993, the Board of Public Utilities shall make  
30 incremental adjustments annually to the tax liability of each  
31 taxpayer for which the rate of taxation for each unit sold in any  
32 class in that year is greater than the standard tax rate for units  
33 sold in such class. Such incremental adjustments shall be made in  
34 such manner and in such amounts, and be attributed to sales of  
35 units in such class or classes, as to assure that commencing in  
36 1998, the rate of taxation for units sold in each class by each  
37 taxpayer in the State shall be equal to the standard tax rate.  
38 Such incremental adjustments as made by the Board of Public  
39 Utilities shall not in any year reduce the rate of taxation of a  
40 taxpayer for units sold in a class by more than 20% of the  
41 difference between the effective tax rate of the taxpayer for  
42 that class and the standard tax rate for that class, except that in  
43 the final year of incremental adjustments a larger reduction may  
44 be made.

45 (4) Each gas and electric light, heat and power corporation  
46 shall be liable for unit-based taxes determined for the  
47 corresponding therms of gas and corresponding kilowatthours of  
48 electricity sold in each class, calculated by multiplying its  
49 effective tax rate as adjusted pursuant to paragraph (3) of this  
50 subsection or the standard tax rate, as is applicable, for each

1 class as determined in that paragraph (3), by the corresponding  
2 therms of gas or corresponding kilowatthours of electricity sold  
3 by the taxpayer in this State in each respective class in the  
4 preceding year or current year, as may be applicable;

5 <sup>1</sup>[(5) In each year, commencing in 1993, the Board of Public  
6 Utilities shall assure in establishing rates of taxation for the  
7 purposes of this subsection that the total amount of tax liability  
8 pursuant to this subsection shall not be less than the tax liability  
9 of gas and electric light, heat and power corporations pursuant to  
10 subsections (a) and (b) of section 6 of P.L.1940, c.5 (C.54:30A-54)  
11 paid in 1992, except for incremental adjustments made pursuant  
12 to paragraph (3) of this subsection.

13 (6)] (5)<sup>1</sup> In no year shall the amount of tax attributable to the  
14 sale of units to the residential class category of a taxpayer be  
15 greater than the tax liability of that taxpayer pursuant to  
16 subsections (a) and (b) of section 6 of P.L.1940, c.5 (C.54:30A-54)  
17 so attributed to sales of units in the residential class category of  
18 that taxpayer in 1991, except for the amount of tax from  
19 increased sales of therms of gas or kilowatthours of electricity by  
20 that taxpayer in the residential class over those sold in that class  
21 in 1991.

22 b. Commencing in 1992, in addition to the excise taxes imposed  
23 in subsection a. of this section, every gas and electric light, heat  
24 and power corporation which is subject to the taxes imposed  
25 thereunder, annually, shall also pay to the State an excise tax for  
26 the franchise to operate and conduct business within the State  
27 and to use the public streets, highway, roads or other public  
28 places in the State, as follows:

29 A tax equal to 12½% of the amount of the tax computed under  
30 subsection a. of this section. If the gross receipts of a taxpayer  
31 for a calendar year do not exceed \$50,000.00, the tax on that  
32 taxpayer for the calendar year shall be equal to 5% of the amount  
33 of the tax computed under that subsection.

34 c. Commencing in 1995 and in each calendar year thereafter, a  
35 gas and electric light, heat and power corporation which is a  
36 taxpayer under this section shall make a payment of its estimated  
37 tax liability for the current year on or before April 1 of that  
38 year. The payment shall not be less than the amount of taxes  
39 paid by the taxpayer under this section in the preceding year.  
40 The taxpayer shall, on or before April 1 of the next following  
41 year, file a final tax form as shall be prescribed by the director  
42 sufficient to demonstrate the taxpayer's liability, if any, for  
43 taxes pursuant to this section and shall pay the amount of any  
44 remaining tax liability. The taxpayer shall be entitled to the  
45 refund <sup>1</sup>, or credit against taxes due and payable in the next  
46 year,<sup>1</sup> of any amount of the estimated tax payment which is in  
47 excess of the total amount payable pursuant to this section. In  
48 the calculation of tax liability, a taxpayer shall be entitled to  
49 a credit in the amount of any prepayment required pursuant to  
50 section 12 of P.L. , c. (C. ) (now pending before

1 the Legislature as this bill), section 2 of P.L.1971, c.108  
2 (C.54:30A-54.1a) or section 1 of P.L.1979, c.36 (C.54:30A-54.4),  
3 made in the previous calendar year, and shall be entitled to the  
4 return <sup>1</sup>, or credit against taxes due and payable in the next  
5 year,<sup>1</sup> of any amount so paid which is in excess of the total  
6 amount payable in accordance with this section.

7 11. (New section) Gas and electric light, heat and power  
8 corporations subject to tax pursuant to section 10 of  
9 P.L. , c. (C. ) (now pending before the  
10 Legislature as this bill) shall file with the Board of Public  
11 Utilities amendments to their existing tariffs, contracts or  
12 schedules of service designating the appropriate class in the  
13 residential class category or in the non-residential class category  
14 for each tariff, contract or schedule of service. The initial  
15 designations shall maintain as closely as possible the relative  
16 share of gross receipts and franchise taxes paid through each  
17 tariff, contract or schedule of service in 1991. Whenever a gas or  
18 electric light, heat and power corporation shall file with the  
19 Board of Public Utilities a new tariff, contract or schedule of  
20 service, such corporation shall include with the filing a  
21 designation of the appropriate residential class category or  
22 non-residential class category.

23 The Board of Public Utilities may permit corporations to  
24 establish new tariffs, contracts or schedules, or to amend existing  
25 tariffs, contracts or schedules, as necessary to comply with the  
26 provisions of this amendatory and supplementary act, P.L. ,  
27 c. (C. )(now pending before the Legislature as  
28 this bill). The Board of Public Utilities may authorize  
29 corporations to engage in such deferred accounting of costs  
30 resulting from actions on the part of taxpayers as may be  
31 necessary to comply with the provisions of this amendatory and  
32 supplementary act. Whenever a corporation shall establish in its  
33 tariffs, contracts or schedules a new class, the Board of Public  
34 Utilities shall designate it in the residential class category or  
35 non-residential class category for the purposes of this  
36 amendatory and supplementary act. The Board shall, in  
37 consultation with the director, establish a rate of taxation as is  
38 appropriate for sales of corresponding therms of gas and  
39 corresponding kilowatthours of electricity in that class in such  
40 manner as not to alter the amount of the taxpayer's total tax  
41 liability for the year in which the new class is implemented, and  
42 on the same basis, as nearly as practicable, as established for  
43 previously existing classes in the residential class category or  
44 non-residential class category, as appropriate. The Board shall  
45 assure that that portion of a taxpayer's tax liability attributed  
46 within its classes in the residential class category or  
47 non-residential class category, as the case may be, shall be  
48 distributed in an equitable manner so as to maintain, as nearly as  
49 practicable, the distributions made among those classes in the  
50 initial attributions of tax liability under this amendatory and

1 supplementary act, subject to any later adjustments made by the  
2 board, any changes from the initial attributions necessary to  
3 reflect proportional changes in unit sales made among the  
4 classes, and any modifications necessary to establish the tax  
5 liability to be attributed to, and the unit sales made in, the new  
6 class.

7 12. (New section) Every gas and electric light, heat and power  
8 corporation subject to tax pursuant to section 10 of P.L. ,  
9 c. (C. ) (now pending before the  
10 Legislature as this bill) shall be required to remit to the State for  
11 State use advance payments of tax liability in addition to the tax  
12 payable pursuant to section 10 of P.L. , c. (C.  
13 ). The sum of advance payments made by a taxpayer over both  
14 calendar years 1993 and 1994 pursuant to this section shall not  
15 exceed the taxpayer's tax liability pursuant to section 10 of  
16 P.L. , c. (C. ) for the 1992 calendar year, after  
17 deducting from that 1992 tax liability the amount of any credits  
18 extended for prepayments required for that year pursuant to  
19 section 2 of P.L.1971, c.108 (C.54:30A-54.1a) and section 1 of  
20 P.L.1979, c.36 (C.54:30A:54.4). Such advance payments shall be  
21 due and credited as follows:

22 a. On or before April 1, 1993, 50% of the taxpayer's tax  
23 liability in 1993 pursuant to subsection a. of section 10 of  
24 P.L. , c. (C. ) (now pending before the  
25 Legislature as this bill). The advance payment required pursuant  
26 to this subsection shall be available as a credit only as a partial  
27 payment in the preceding calendar year against the advance  
28 payment required under subsection b. of this section in the 1994  
29 calendar year, and a taxpayer shall be entitled to the refund <sup>1</sup>, or  
30 credit against taxes due and payable in the next year,<sup>1</sup> of any  
31 amount so paid which shall be found to be in excess of the total  
32 amount payable in accordance with that subsection b.

33 b. On or before April 1, 1994, and on or before April 1 of each  
34 year thereafter, an amount equal to the taxpayer's tax liability  
35 in the current year pursuant to subsection a. of section 10 of  
36 P.L. , c. (C. ) (now pending before the  
37 Legislature as this bill) for which a prepayment is not required  
38 pursuant to P.L.1979, c.36. The advance payment required  
39 pursuant to this subsection shall be available as a credit as a  
40 partial payment in the preceding year against the tax due  
41 pursuant to that subsection a., and a taxpayer shall be entitled to  
42 the refund <sup>1</sup>, or credit against taxes due and payable in the next  
43 year,<sup>1</sup> of any amount so paid which shall be found to be in excess  
44 of the total amount payable in accordance with that subsection a.

45 c. On or before April 1, 1993, and on or before April 1 of each  
46 thereafter, an amount equal to the taxpayer's tax liability in the  
47 current year pursuant to subsection b. of section 10 of  
48 P.L. , c. (C. )(now pending before the  
49 Legislature as this bill) for which a prepayment is not required  
50 pursuant to P.L.1971, c.108. The advance payment required

1 pursuant to this subsection shall be available as a partial payment  
2 in the preceding year against the tax due pursuant to that  
3 subsection b., and a taxpayer shall be entitled to the refund <sup>1</sup>, or  
4 credit against taxes due and payable in the next year,<sup>1</sup> of any  
5 amount so paid which shall be found to be in excess of the total  
6 amount payable in accordance with that subsection b.

7 13. Section 2 of P.L.1971, c.108 (C.54:30A-54.1a) is amended  
8 to read as follows:

9 2. [On] a. For street railway, traction, sewerage and water  
10 corporations, on or before May 1, 1971, except as hereinafter  
11 provided, and on or before May 1 of each year thereafter, and for  
12 gas and electric light, heat and power corporations, on or before  
13 May 1 each year from 1972 through 1991 and on or before April 1,  
14 1992, every person, copartnership, association or corporation  
15 subject to the excise tax imposed by [the act of which this act is  
16 amendatory] section 6 of P.L.1940, c.5 (C.54:30A-54) shall pay to  
17 the director an amount equal to 1/2 of the tax payable under  
18 section 6 of P.L.1940, c.5 (C.54:30A-54) upon its gross receipts  
19 determined thereunder for the preceding calendar year. Each  
20 such payment shall be in addition to the tax payable under section  
21 6 of P.L.1940, c. 5 (C.54:30A-54) and shall be considered as a  
22 partial payment of the tax which will become due under said  
23 section, upon the following May 1 or April 1, as may be  
24 applicable. The additional taxes due on or before May 1, 1971  
25 shall be payable in two equal installments. With respect to the  
26 additional taxes herein, the first installment shall be payable on  
27 May 1, 1971 and the second installment thereof shall be payable  
28 on or before June 15, 1971.

29 In the calculation of the tax due in accordance with section 6  
30 of P.L.1940, c.5 (C.54:30A-54) in the year 1972 and each  
31 applicable year thereafter, every person, copartnership,  
32 association or corporation subject to tax hereunder shall be  
33 entitled to a credit in the amount of the tax paid hereunder as a  
34 partial payment in the preceding calendar year and shall be  
35 entitled to the return <sup>1</sup>, or credit against taxes due and payable  
36 in the next year,<sup>1</sup> of any amount so paid which shall be found to  
37 be in excess of the total amount payable in accordance with  
38 section 6 of P.L.1940, c.5 (C.54:30A-54).

39 b. For gas and electric light, heat and power corporations, on  
40 or before April 1, 1993, and on or before April 1 of each year  
41 thereafter, such corporations subject to the tax imposed pursuant  
42 to section 10 of P.L. , c. (C. )(now pending before  
43 the Legislature as this bill), shall pay to the director an amount  
44 equal to 1/2 of the tax payable pursuant to subsection b. of  
45 section 10 of P.L. , c. (C. ), for the preceding calendar  
46 year. Each such payment shall be in addition to the tax payable  
47 pursuant to section 10 of P.L. , c. (C. ), and shall be  
48 considered as a partial payment of the tax which will become due  
49 pursuant to that section. In calculation of the tax due in  
50 accordance with section 10 of P.L. , c. (C. ) for the



1 year 1992 and for each year thereafter every such corporation  
2 subject to this subsection shall be entitled to a credit in the  
3 amount of the tax paid hereunder as a partial payment in the  
4 preceding calendar year and shall be entitled to the return<sup>1</sup>, or  
5 credit against taxes due and payable in the next year,<sup>1</sup> of any  
6 amount so paid which shall be found to be in excess of the total  
7 amount of tax payable pursuant to subsection b. of section 10 of  
8 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_).  
9 (cf: P.L.1971, c.108, s.2)

10 14. Section 1 of P.L.1979, c.36 (C.54:30A-54.4) is amended to  
11 read as follows:

12 1. a. [On] For street railway, traction, sewerage and water  
13 corporations, on or before April 1, 1979 and on or before June 1  
14 in each year thereafter, and for gas and electric light, heat and  
15 power corporations, on or before June 1 each year from 1980  
16 through 1991 and on or before April 1, 1992, the director shall  
17 compute an advance payment equal in amount to 55% of the  
18 increase in taxes due under subsections (a) and (b) of section 6 of  
19 P.L.1940, c.5 (C.54:30A-54(a) and 54:30A-54(b)) during the  
20 preceding calendar year over the taxes due under such  
21 subsections in the calendar year immediately preceding that  
22 year. The advance payment shall not be considered for the  
23 purpose of determining the amount of the increase. Each such  
24 payment shall be in addition to the taxes payable under section 6  
25 of P.L.1940, c.5 (C.54:30A-54) and section 2 of P.L.1971, c.108  
26 (C.54:30A-54.1a) and shall be considered as a partial payment of  
27 the tax to become due and payable in the following year.

28 b. Every taxpayer subject to tax under [the act to which this  
29 act is a supplement] section 6 of P.L.1940, c.5 (C.54:30A-54)  
30 shall be required to remit to the State for the use of the State as  
31 an advance payment, an amount equal to the amount as computed  
32 in subsection a. of this section payable in two installments as  
33 follows: 60% on May 1, 1979 and 40% on August 1, 1979.

34 c. In the year 1980 and in each year thereafter an advance  
35 payment pursuant to subsection a. of this section shall be paid by  
36 [every] each taxpayer [to the appropriate municipalities] subject  
37 to subsection a. of this section in the manner provided for by law  
38 for payment of the taxes due under section 6 of P.L.1940, c.5  
39 (C.54:30A-54).

40 d. (1) Each gas and electric light, heat and power corporation,  
41 on or before April 1, 1993, shall pay to the director an advance  
42 payment as shall be computed by the director equal to 55% of the  
43 increase in taxes due from a taxpayer pursuant to subsection a. of  
44 section 10 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)(now pending before the  
45 Legislature as this bill) for 1992 over the taxes due from the  
46 taxpayer pursuant to subsections (a) and (b) of section 6 of  
47 P.L.1940, c.5 (C.54:30A-54) for 1991.

48 (2) Each gas and electric light, heat and power corporation, on  
49 or before April 1, 1994, and on or before April 1 in each year  
50 thereafter, shall pay to the director an advance payment as shall

1 be computed by the director equal to 55% of the increase in taxes  
 2 due from a taxpayer pursuant to subsection a. of section 10 of  
 3 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)(now pending before the Legislature as  
 4 this bill) during the preceding calendar year over the taxes due  
 5 from the taxpayer under such subsection a. of section 10 of  
 6 P.L. \_\_\_\_\_, c. \_\_\_\_\_ in the calendar year immediately preceding  
 7 that year.

8 (3) In calculating the amount of tax increase for the purposes  
 9 of paragraphs (1) and (2) of this subsection, advance payments  
 10 made pursuant to this section shall not be considered. Each  
 11 advance payment made pursuant to this subsection shall be in  
 12 addition to the taxes payable pursuant to section 10 of P.L. \_\_\_\_\_,  
 13 c. \_\_\_\_\_ (C. \_\_\_\_\_) and section 2 of P.L.1971, c.108  
 14 (C.54:30A-54.1a) and shall be considered as a partial payment of  
 15 the tax to become due and payable in the following year.

16 (cf: P.L.1979, c.36, s.1)

17 15. Section 14 of P.L.1940, c.5 (C.54:30A-62) is amended to  
 18 read as follows:

19 14. Within 5 days after making the computation and  
 20 apportionment of the excise taxes under subsections (a) and (b) of  
 21 section 6 of <sup>1</sup>[this act] P.L.1940, c.5 (C.54:30A-54) and under  
 22 subsection a. of section 10 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)(now  
 23 pending before the Legislature as this bill)<sup>1</sup>, the Director of the  
 24 Division of Taxation shall certify to the State Treasurer the  
 25 amount of such taxes apportioned to each municipality. At the  
 26 same time, the director shall issue directly to each taxpayer  
 27 statements of taxes due, and payments with respect thereto shall  
 28 be remitted by each taxpayer to the director in the following  
 29 manner: 35% thereof within 15 days after the date of  
 30 certification of the apportionment by the director, 35% thereof  
 31 on or before August 15 and 30% thereof on or before November  
 32 15, except that for gas and electric light, heat and power  
 33 corporations for the calendar years 1992, 1993 and 1994, payment  
 34 of all taxes due shall be remitted to the director on or before  
 35 April 1, and for calendar year 1995 and each calendar year  
 36 thereafter taxes shall be remitted in the following manner: a  
 37 payment of the estimated tax liability on or before April 1 of the  
 38 current year and a payment of the remaining tax liability, if any,  
 39 on or before April 1 of the next following year. If for any reason  
 40 the making and delivering of a certificate of apportionment shall  
 41 be delayed until after December 1 in any year then in that case  
 42 all of the taxes for such year affected by such certificate of  
 43 apportionment shall become due and payable 30 days after the  
 44 date of such certification of apportionment; and provided, that in  
 45 case of an appeal from any apportionment valuation or  
 46 apportionment or any review thereof in any court, the portion of  
 47 any such tax not paid prior to the commencement of any such  
 48 appeal or proceedings for review, shall not become payable until  
 49 30 days after final determination of such appeal or review and  
 50 the certification or recertification of the apportionment

1 required. The <sup>1</sup>administration, collection and enforcement of  
2 the<sup>1</sup> taxes payable by each taxpayer under subsections (a) and (b)  
3 of section 6 of <sup>1</sup>[this act] P.L.1940, c.5 (C.54:30A-54) or under  
4 section 10 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before  
5 the Legislature as this bill) and any advance payment or payment  
6 of estimated tax liability required with regard to those taxes <sup>1</sup>  
7 shall be <sup>1</sup>[and remain a first lien on the property and assets of  
8 such taxpayer on and after the date the same become payable, as  
9 herein provided, until paid with interest thereon, and the same  
10 shall be collected in the same manner and subject to the same  
11 discounts, interest and penalties as personal taxes against other  
12 corporations or individuals and the same proceedings now  
13 available for the collection of personal taxes against other  
14 corporations or individuals shall be applicable to the collection of  
15 the excise taxes hereby imposed and payable] subject to the  
16 provisions of the State Tax Uniform Procedure Law, R.S.54:48-1  
17 et seq., to the extent that the provisions of that law are not  
18 inconsistent with the provisions of P.L.1940, c.5 (C.54:30A-49 et  
19 seq.) or P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)(now pending before the  
20 Legislature as this bill)<sup>1</sup>.

21 The director may, by regulation, require that any payment of  
22 tax <sup>1</sup>[shall be]<sup>1</sup> made, on or before the date established pursuant  
23 to this section for the payment, <sup>1</sup>shall be<sup>1</sup> by electronic funds  
24 transfer to such depositories as the State Treasurer shall  
25 designate pursuant to section 1 of P.L.1956, c.174  
26 (C.52:18-16.1). A payment by electronic funds transfer shall be  
27 deemed to be made on the date the payment is received by the  
28 designated depository. The form and content of the electronic  
29 funds transfer message, the circumstances under which an  
30 electronic funds transfer shall serve as a substitute for the filing  
31 of another form of return, the means by which taxpayers will be  
32 provided with acknowledgements of payments, and the classes of  
33 taxpayers subject to the electronic funds transfer requirement  
34 shall be as prescribed by the director.

35 For the purposes of this section "electronic funds transfer"  
36 means any transfer of funds, other than a transaction originated  
37 by check, draft, or similar paper instrument, that is initiated  
38 through an electronic terminal, telephone, or computer or  
39 magnetic tape for the purpose of ordering, instructing or  
40 authorizing a financial institution to debit or credit an account.  
41 (cf: P.L.1980, c.11, s.3)

42 <sup>1</sup>16. Section 2 of P.L.1940, c.4 (C.54:30A-17) is amended to  
43 read as follows:

44 2. Definitions. As used in this act, unless the context  
45 otherwise requires,

46 (a) "Taxpayer" means any person, copartnership, association or  
47 corporation subject to taxation under the provisions of this act.

48 (b) "Gross receipts" means all intrastate receipts from the  
49 taxpayer's business over, on, in, through or from the whole of its  
50 lines or mains in this State, excluding therefrom, however, any

1 sum or sums of money received by any taxpayer in payment for  
2 such portion of its products as may have been sold and furnished  
3 to another public utility which is also subject to the payment of a  
4 tax based upon gross receipts, receipts from the operation of  
5 autobuses, receipts paid by a telecommunications carrier to a  
6 local exchange telephone company for connecting fees, switching  
7 charges, and carrier access charges, and receipts from the  
8 provisioning of inter-LATA telecommunications services.

9 (c) "Scheduled property" means only those classes or types of  
10 property of a taxpayer set forth in section 7 of this act, and  
11 which are to be used in computing the apportionment valuation  
12 herein defined.

13 (d) "Unit value" means the value set forth in section 7 of this  
14 act, to be uniformly applied to each of the several classes or  
15 types of scheduled property in computing the apportionment  
16 value.

17 (e) "Apportionment value" or "apportionment valuation"  
18 means the result obtained by multiplying the quantities of each  
19 class or type of scheduled property of a taxpayer by the  
20 applicable unit value, and the addition of such results.

21 (f) "Public street, highway, road or other public place"  
22 includes any street, highway, road or other public place which is  
23 open and used by the public, even though the same has not been  
24 formally accepted as a public street, highway, road, or other  
25 public place. However, for purposes of computing the tax in  
26 connection with lines or mains installed prior to February 19,  
27 1991, "public street, highway, road or other public place" shall  
28 not mean or include non-restricted roadways, such as extended  
29 residential, commercial or recreational facility driveways, or  
30 dead end streets, cul-de-sacs or alleys which are connected to  
31 public roadways and are for access to or the use of supermarkets,  
32 shopping malls, planned communities and the connecting roads  
33 within or around the above facilities whether these roadways  
34 shall be located on public or private property, unless such shall  
35 have been determined a "public street, highway, road or other  
36 public place" for the purposes of P.L.1940, c.4 (C.54:30A-16 et  
37 seq.) prior to February 19, 1991.

38 (g) "Service connections"-

39 (1) in the case of telephone, telegraph or other wire  
40 communications facilities, means the wires connecting the  
41 instrument or instruments in the building or at the place where  
42 the service supplied by the taxpayer is used or delivered or is  
43 made available for use or delivery with a pole line, conduit line or  
44 cable line in the street, highway, road or other public place, or  
45 with such a pole line, conduit line or cable line on private  
46 property;

47 (2) in the case of facilities of taxpayers subject to this act,  
48 other than service connections as defined in (1) of this subsection,  
49 means the wires or pipes connecting the building or place where  
50 the service or commodity supplied by the taxpayer is used or

1 delivered, or is made available for use or delivered with a supply  
2 line or supply main.

3 (h) "State Tax Commissioner" or "director" means the  
4 Director of the Division of Taxation in the Department of the  
5 Treasury.

6 (i) "Local exchange telephone company" means a  
7 telecommunications carrier providing dial tone and access to  
8 substantially all of a local telephone exchange.

9 (j) "LATA" means a local access and transport area within  
10 which a local exchange telephone company is permitted to  
11 provide telecommunications service.<sup>1</sup>

12 (cf: P.L.1989, c.2, s.2)

13 <sup>1</sup>17. Section 7 of P.L.1940, c.5 (C.54:30A-55) is amended to  
14 read as follows:

15 7. (A) Every taxpayer shall on or before the first day of  
16 September, 1941 and on or before the first day of September in  
17 each year thereafter return to the Director of the Division of  
18 Taxation a statement in such form and detail as the Director of  
19 the Division of Taxation shall require, showing, as of the first day  
20 of July of such year:

21 (1) The scheduled property of the taxpayer located in, on or  
22 over any public street, highway, road or other public place in  
23 each municipality in this State and the scheduled property not so  
24 located in each municipality in this State;

25 (2) The length of the taxpayer's lines and mains along, in, on  
26 or over any public street, highway, road or other public place in  
27 this State, exclusive of service connections (but not including in  
28 the case of a street railway or traction company the length of the  
29 lines operated by autobuses or vehicles of the character described  
30 in R.S.48:15-41 et seq.); and

31 (3) The whole length of the taxpayer's lines and mains,  
32 exclusive of service connections (but not including in the case of  
33 a street railway or traction company the length of the lines  
34 operated by autobuses or vehicles of the character described in  
35 R.S.48:15-41 et seq.).

36 (4) Every taxpayer operating both gas and electric facilities  
37 shall supply the information required by this subsection (A) in  
38 such manner as the Director of the Division of Taxation shall  
39 require so that its gas and electric scheduled property and length  
40 of gas and electric lines shall be shown separately.

41 (B) Every taxpayer shall on or before February 1, 1941, and on  
42 or before February 1 in each year thereafter return to the  
43 Director of the Division of Taxation a statement showing:

44 (1) The gross receipts for the preceding calendar year from the  
45 business over, on, in, through or from the taxpayer's lines and  
46 mains in this State, stated separately for each class of business;  
47 and

48 (2) The gross receipts for the preceding calendar year from the  
49 business over, on, in, through or from the whole of the taxpayer's  
50 lines and mains. In addition, as to gas and electric light, heat and

1 power corporation taxpayers, commencing with the statement to  
2 be returned on or before February 1, 1992, a statement of the  
3 corresponding therms of gas and the corresponding kilowatthours  
4 of electricity sold in this State in the preceding year itemized  
5 separately for classes in the residential class category and the  
6 non-residential class category.

7 (3) Every taxpayer operating both gas and electric facilities  
8 shall supply the information required by this subsection (B) in  
9 such manner as the Director of the Division of Taxation shall  
10 require, separating its gross receipts and sales of units from gas  
11 operations from its gross receipts and sales of units from electric  
12 operations.

13 (C) The statements herein provided for shall be subscribed and  
14 sworn to by the president, a vice-president or chief officer of the  
15 corporation making such return; any taxpayer refusing or  
16 neglecting to make the statements herein provided for shall  
17 forfeit and pay to the State of New Jersey the sum of one  
18 hundred dollars (\$100.00) per day for each day of such refusal or  
19 neglect, to be recovered in an action at law in the name of the  
20 State and which, when recovered, shall be paid into the State  
21 Treasury. It shall be the duty of the Director of the Division of  
22 Taxation to certify any such default to the Attorney General of  
23 the State who, thereupon, shall prosecute an action at law for  
24 such penalty.

25 (D) The Director of the Division of Taxation shall audit and  
26 verify the statements filed by taxpayers whenever and in such  
27 respects as he shall deem necessary or advisable. The Director of  
28 the Division of Taxation may require any taxpayer to supply  
29 additional data and information in such form and detail as he  
30 shall request, whenever he may deem it necessary or helpful, for  
31 the proper performance of his duties under this act.<sup>1</sup>

32 (cf: P.L.1987, c.76, s.38)

33 <sup>1</sup>18. Section 11 of P.L.1940, c.5 (C.54:30A-59) is amended to  
34 read as follows:

35 11. Before making the apportionment of the excise taxes  
36 imposed by this act to the several municipalities entitled thereto,  
37 the State Tax Commissioner shall deduct from the gross amount  
38 of such taxes the expenses of auditing and verifying the  
39 statements of each taxpayer and making the respective  
40 apportionments of the taxes and a share of any general expenses  
41 which cannot be allocated to any one taxpayer in proportion to  
42 the amounts of the taxes either payable by the respective  
43 taxpayers under [sections 6(a) and (b) of this act] subsections (a)  
44 and (b) of section 6 of P.L.1940, c.5 (C.54:30A-54) or subsection  
45 a. of section 10 of P.L. , c. (C. )(now pending  
46 before the Legislature as this bill). The State Tax Commissioner  
47 shall certify such expenses to the respective taxpayers who shall  
48 make payment thereof to the State Tax Commissioner within 30  
49 days after such certification.<sup>1</sup>

50 (cf: P.L.1963, c.42, s.5)

1       <sup>1</sup>19. (New section) The balance of the excise taxes imposed  
2 pursuant to subsection a. of section 10 of P.L. , c. (C.  
3 )(now pending before the Legislature as this bill) upon each  
4 taxpayer in the year 1992 and each year thereafter is hereby  
5 apportioned, subject to the provisions of section 4 of P.L.1980,  
6 c.11 (C.54:30a-61.1), to the various municipalities in the  
7 proportion that the apportionment value of the scheduled  
8 property of such taxpayer located in each municipality as of the  
9 preceding July 1 bears to the total apportionment value of the  
10 scheduled property of such taxpayer in this State as of that date.  
11 The Director of the Division of Taxation shall on or before May 1  
12 in each year, compute the balance of such taxes and the  
13 apportionment thereof in the manner herein provided.<sup>1</sup>

14       <sup>1</sup>20. Section 4 of P.L.1980, c.11 (C.54:30A-61.1) is amended to  
15 read as follows:

16       4. The director shall annually apportion to each municipality  
17 the amount to be apportioned to it pursuant to sections 12 and 13  
18 of P.L.1940, c.5 (C.54:30A-60 and 54:30A-61), section 9 of  
19 P.L.1940, c.4 (C.54:30A-24) and section 19 of P.L. , c.  
20 (C. )(now pending before the Legislature as this bill), except  
21 that: a. no municipality which in the three next preceding tax  
22 years had a municipal purposes tax rate of \$0.10 or less shall  
23 receive a total amount pursuant to [P.L.1940, c.4 (C.54:30A-16 et  
24 seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)] those sections  
25 greater than it received in 1979, plus 50% of the difference  
26 between the amount it received pursuant to those [laws] sections  
27 in that year and the greater amount it would have received  
28 pursuant to those [laws] sections in the year for which the  
29 apportionment and payment is made; and, b. in no year shall any  
30 municipality receive an amount pursuant to [P.L.1940, c.4  
31 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)]  
32 those sections greater than an amount equal to \$700.00 per  
33 capita. Any contiguous municipalities wherein there are located  
34 electric generating stations included in the scheduled property of  
35 a public utility, both or all of which municipalities would be  
36 affected by a. above but would not be limited by b. above, shall  
37 not be affected by the apportionment limitations of this section.  
38 Any municipality which has had a municipal purposes tax rate of  
39 \$0.10 or less for any three tax years affecting its apportionment  
40 pursuant to this section shall be required to have a municipal  
41 purposes tax rate in excess of \$0.10 for three consecutive tax  
42 years before its apportionment shall cease to be affected  
43 pursuant to this section.

44       If in 1980 or any year thereafter the application of the \$700.00  
45 per capita limitation under this section would reduce the amount  
46 received by any municipality pursuant to [P.L.1940, c.4  
47 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)]  
48 those sections to less than 50% of the amount received pursuant  
49 to those [laws] those sections in 1979, then, notwithstanding that  
50 limitation, the municipality shall receive in 1980 an amount equal

1 to 50% of the amount received in 1979, and in any year  
2 thereafter such municipality shall annually appropriate and pay to  
3 the county in which it is located an amount equal to 35% of the  
4 amount received in that year, to be used for county purposes.

5 For the purposes of this section in determining per capita  
6 amounts, the most recent population estimates published by the  
7 New Jersey Department of Labor shall be utilized.

8 Amounts apportioned in each year to each municipality shall be  
9 annually paid to them by the State Treasurer, 25% thereof on  
10 July 5 next following the date of certification of the  
11 apportionment by the director; 40% thereof on or before  
12 September 1, and 35% thereof on or before December 1 next  
13 thereafter. Any portion of the balance set forth in sections 12  
14 and 13 of P.L.1940, c.5 (C.54:30A-60 and 54:30A-61), section 9 of  
15 P.L.1940, c.4 (C.54:30A-24) and section 19 of P.L. , c.  
16 (C. )(now pending before the Legislature as this bill)  
17 remaining after the apportionments and payments are determined  
18 pursuant to this section shall be deposited in the "Municipal  
19 Purposes Tax Assistance Fund," established pursuant to P.L.1980,  
20 c.12 (C.54:1-46 et seq.), to be used exclusively for the purposes  
21 of that fund.

22 Notwithstanding the provisions of the "Local Budget Law"  
23 (N.J.s.40A:4-1 et seq.), any county, or municipality affected by  
24 the \$700.00 limitation set forth in this section, to which a  
25 payment is made pursuant to this section may anticipate the  
26 amount of such payment in its annual budget for the year in  
27 which such payment is made, and any municipality which is  
28 required to make an annual appropriation pursuant to this section  
29 shall make such appropriation in its annual budget for the year in  
30 which it shall receive the payment a portion of which it is  
31 required to appropriate. The Director of Local Government  
32 Services shall establish rules or regulations necessary to  
33 effectuate the purposes and provisions of this section.<sup>1</sup>

34 (cf: P.L.1990, c.16, s.5)

35 <sup>1</sup>21. Section 2 of P.L.1980, c.10 (C.54:10A-24.1) is amended to  
36 read as follows:

37 2. The director shall annually apportion to each municipality  
38 the amount to be apportioned to it pursuant to section 9 of  
39 P.L.1940, c.4 (C.54:30A-24), sections 12 and 13 of P.L.1940, c.5  
40 (C.54:30A-60 and 54:30A-61), and section 19 of P.L. , c.  
41 (C. )(now pending before the Legislature as this bill), except  
42 that: a. no municipality which in the three next preceding tax  
43 years had a municipal purposes tax rate of \$0.10 or less shall  
44 receive a total amount pursuant to [P.L.1940, c.4 (C.54:30A-16 et  
45 seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)] those sections  
46 greater than it received in 1979, plus 50% of the difference  
47 between the amount it received pursuant to those [laws] sections  
48 in that year and the greater amount it would have received  
49 pursuant to those [laws] sections in the year for which the



1 apportionment and payment is made; and, b. in no year shall any  
2 municipality receive an amount pursuant to [P.L.1940, c.4  
3 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)]  
4 those sections greater than an amount equal to \$700.00 per  
5 capita. Any contiguous municipalities wherein there are located  
6 electric generating stations included in the scheduled property of  
7 a public utility, both or all of which municipalities would be  
8 affected by a. above but would not be limited by b. above, shall  
9 not be affected by the apportionment limitations of this section.  
10 Any municipality which has had a municipal purposes tax rate of  
11 \$0.10 or less for any three tax years affecting its apportionment  
12 pursuant to this section shall be required to have a municipal  
13 purposes tax rate in excess of \$0.10 for three consecutive tax  
14 years before its apportionment shall cease to be affected  
15 pursuant to this section.

16 If in 1980 or any year thereafter, the application of the \$700.00  
17 per capita limitation under this section would reduce the amount  
18 received by any municipality pursuant to [P.L.1940, c.4  
19 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)]  
20 those sections to less than 50% of the amount received pursuant  
21 to those [laws] sections in 1979, then, notwithstanding that  
22 limitation, the municipality shall receive in 1980 an amount equal  
23 to 50% of the amount received in 1979, and in any year  
24 thereafter an amount equal to 75% of the amount received in  
25 1979; but in 1981 and each year thereafter such municipality shall  
26 annually appropriate and pay to the county in which it is located  
27 an amount equal to 35% of the amount received in that year, to  
28 be used for county purposes.

29 For the purposes of this section in determining per capita  
30 amounts, the most recent population estimates published by the  
31 New Jersey Department of Labor shall be utilized.

32 Amounts apportioned in each year to each municipality shall be  
33 annually paid to them by the State Treasurer, 25% thereof on  
34 July 5 next following the date of certification of the  
35 apportionment by the director; 40% thereof on or before  
36 September 1, and 35% thereof on or before December 1 next  
37 thereafter. Any portion of the balance set forth in section 9 of  
38 P.L.1940, c.4 (C.54:30A-24), sections 12 and 13 of P.L.1940, c.5  
39 (C.54:30A-60 and 54:30A-61), and section 19 of P.L. , c.  
40 (C. )(now pending before the Legislature as this bill)  
41 remaining after the apportionments and payments are determined  
42 pursuant to this section shall be deposited in the "Municipal  
43 Purposes Tax Assistance Fund," established pursuant to P.L.1980,  
44 c.12 (C.54:1-46 et seq.), to be used exclusively for the purpose of  
45 that fund.

46 Notwithstanding the provisions of the "Local Budget Law"  
47 (N.J.s.40A:4-1 et seq.), any county, or municipality affected by  
48 the \$700.00 limitation set forth in this section, to which a  
49 payment is made pursuant to this section may anticipate the  
50 amount of such payment in its annual budget for the year in

1 which such payment is made, and any municipality which is  
2 required to make an annual appropriation pursuant to this section  
3 shall make such appropriation in its annual budget for the year in  
4 which it shall receive the payment a portion of which it is  
5 required to appropriate. The Director of Local Government  
6 Services shall establish rules or regulations necessary to  
7 effectuate the purposes and provisions of this section.<sup>1</sup>

8 (cf: P.L.1990, c.16, s.4)

9 122. Section 3 of P.L.1945, c.162 (C.54:10A-3) is amended to  
10 read as follows:

11 3. The following corporations shall be exempt from the tax  
12 imposed by this act:

13 (a) Corporations subject to a tax [under the provisions of  
14 article 2 of chapter 13 of Title 54 of the Revised Statutes, or to a  
15 tax] assessed upon the basis of gross receipts other than the  
16 Retail Gross Receipts Tax Act, or insurance premiums collected;

17 (b) Corporations which operate regular route autobus service  
18 within this State under operating authority conferred pursuant to  
19 R.S.48:4-3, provided, however, that such corporations shall not be  
20 exempt from the tax on net income imposed by section 5(c) of  
21 P.L.1945, c.162 (C.54:10A-5(c));

22 (c) Railroad, canal corporations, savings banks, production  
23 credit associations organized under the Farm Credit Act of 1933,  
24 agricultural cooperative associations incorporated or  
25 domesticated under or subject to chapter 13 of Title 4 of the  
26 Revised Statutes and exempt under Subtitle A, Chapter 1F, Part  
27 [III] IV, Section 521 of the federal Internal Revenue Code, or  
28 building and loan or savings and loan associations;

29 (d) Cemetery corporations not conducted for pecuniary profit  
30 or any private shareholder or individual;

31 (e) Nonprofit corporations, associations or organizations  
32 established, organized or chartered, without capital stock, under  
33 the provisions of Titles 15, 16 or 17 of the Revised Statutes, Title  
34 15A of the New Jersey Statutes or under a special charter or  
35 under any similar general or special law of this or any other  
36 State, and not conducted for pecuniary profit of any private  
37 shareholders or individual;

38 (f) Corporations subject to a tax under the provisions of  
39 P.L.1940, c.4. [or] P.L.1940, c.5, or P.L. , c. (C. )(now  
40 pending before the Legislature as this bill) or any statute or law  
41 imposing a similar tax or taxes;

42 (g) Nonstock corporations organized under the laws of this  
43 State or of any other state of the United States to provide mutual  
44 ownership housing under federal law by tenants, provided,  
45 however, that the exemption hereunder shall continue only so  
46 long as the corporations remain subject to rules and regulations  
47 of the Federal Housing Authority and the Commissioner of the  
48 Federal Housing Authority holds membership certificates in the  
49 corporations and the corporate property is encumbered by a  
50 mortgage deed or deed of trust insured under the National

1 Housing Act (48 Stat. 1246) as amended by subsequent Acts of  
2 Congress. In order to be exempted under this subsection,  
3 corporations shall annually file a report on or before August 15  
4 with the commissioner, in the form required by the commissioner,  
5 to claim such exemption, and shall pay a filing fee of \$25.00;

6 (h) Corporations not for profit organized under any law of this  
7 State where the primary purpose thereof is to provide for its  
8 shareholders or members housing in a retirement community as  
9 same as defined under the provisions of the "Retirement  
10 Community Full Disclosure Act" (P.L.1969, c.215).<sup>1</sup>  
11 (cf: P.L.1975, c.170, s.1)

12 <sup>1</sup>23. R.S.54:50-9 is amended to read as follows:

13 54:50-9. Nothing herein contained shall be construed to  
14 prevent:

15 a. The delivery to a taxpayer or his duly authorized  
16 representative of a copy of any report or any other paper filed by  
17 him pursuant to the provisions of this subtitle or of any such  
18 State tax law;

19 b. The publication of statistics so classified as to prevent the  
20 identification of a particular report and the items thereof;

21 c. The commissioner, in his discretion and subject to  
22 reasonable conditions imposed by him, from disclosing the name  
23 and address of any licensee under any State tax law, unless  
24 expressly prohibited by such State tax law;

25 d. The inspection by the Attorney-General or other legal  
26 representative of this State of the reports or files relating to the  
27 claim of any taxpayer who shall bring an action to review or set  
28 aside any tax imposed under any State tax law or against whom  
29 an action or proceeding has been instituted in accordance with  
30 the provisions thereof;

31 e. The examination of said records and files by the  
32 Comptroller, State Auditor or State Commissioner of Finance, or  
33 by their respective duly authorized agents;

34 f. The furnishing, at the discretion of the commissioner, of any  
35 information contained in tax reports or returns or any audit  
36 thereof or the report of any investigation made with respect  
37 thereto, filed pursuant to the tax laws, to the taxing officials of  
38 any other State, the District of Columbia, the United States and  
39 the territories thereof, providing said jurisdictions grant like  
40 privileges to this State and providing such information is to be  
41 used for tax purposes only;

42 g. The furnishing, at the discretion of the commissioner, of  
43 any material information disclosed by the records or files to any  
44 law enforcing authority of this State who shall be charged with  
45 the investigation or prosecution of any violation of the criminal  
46 provisions of this subtitle or of any State tax law;

47 h. The furnishing by the Director of the Division of Taxation  
48 to the State agency responsible for administering the Child  
49 Support Enforcement program pursuant to Title IV-D of the  
50 federal Social Security Act, Pub. L. 93-647 (42 U.S.C. § 651 et

1 seq.), with the names, home addresses and social security  
2 numbers of all absent parents who are certified by that agency as  
3 being required to pay child support, upon request by the State  
4 agency and pursuant to procedures and in a form prescribed by  
5 the director.

6 i. The furnishing by the Director of the Division of Taxation to  
7 the Board of Public Utilities any information contained in tax  
8 information statements, reports or returns or any audit thereof or  
9 a report of any investigation made with respect thereto, as may  
10 be necessary for the administration of P.L. , c. (C. )  
11 (now pending before the Legislature as this bill).<sup>1</sup>

12 (cf: P.L.1988, c.175, s.1)

13 <sup>1</sup>24. (New section) The Board of Public Utilities may permit  
14 corporations subject to tax pursuant to P.L.1940, c.4  
15 (C.54:30A-16 et seq.) to establish new tariffs, contracts or  
16 schedules, or to amend existing tariffs, contracts or schedules, as  
17 necessary to comply with the provisions of P.L. ,  
18 c. (C. )(now pending before the Legislature as  
19 this bill). The Board of Public Utilities may authorize such  
20 corporations to engage in such deferred accounting of costs  
21 resulting from actions on the part of such taxpayers as may be  
22 necessary to comply with the provisions of P.L. ,  
23 c. (C. )(now pending before the Legislature as  
24 this bill).<sup>1</sup>

25 <sup>1</sup>25. (New section) There shall be annually appropriated for  
26 apportionment and payment to municipalities pursuant to section  
27 9 of P.L.1940, c.4 (C.54:30A-24), section 2 of P.L.1980, c.10  
28 (C.54:30A-24.1), sections 12 and 13 of P.L.1940, c.5 (C.54:30A-60  
29 and 61), section 4 of P.L.1980, c.11 (C.54:30A-61.1) and section  
30 19 of P.L. , c. (C. ) (now pending before the Legislature  
31 as this bill), an amount not less than \$685,000,000,  
32 notwithstanding any other provision of law to the contrary and  
33 notwithstanding the amount of taxes paid by taxpayers pursuant  
34 to P.L.1940, c.4 (C.54:30A-16 et seq.), P.L.1940, c.5  
35 (C.54:30A-49 et seq.) and P.L. , c. (C. ) (now pending  
36 before the Legislature as this bill).<sup>1</sup>

37 <sup>1</sup>26. (New section) There shall be annually appropriated for  
38 apportionment and payment to municipalities pursuant to section  
39 9 of P.L.1940, c.4 (C.54:30A-24), section 2 of P.L.1980, c.10  
40 (C.54:30A-24.1), sections 12 and 13 of P.L.1940, c.5 (C.54:30A-60  
41 and 61), section 4 of P.L.1980, c.11 (C.54:30A-61.1) and section  
42 19 of P.L. , c. (C. ) (now pending before the Legislature  
43 as this bill), an amount not less than \$685,000,000,  
44 notwithstanding any other provision of law to the contrary and  
45 notwithstanding the amount of taxes paid by taxpayers pursuant  
46 to P.L.1940, c.4 (C.54:30A-16 et seq.), P.L.1940, c.5  
47 (C.54:30A-49 et seq.) and P.L. , c. (C. ) (now pending  
48 before the Legislature as this bill).<sup>1</sup>

49 <sup>1</sup>27. (New section) Commencing with State fiscal year 1993,  
50 amounts which annually are not apportioned or distributed for

1 payment to municipalities and which are retained for State  
2 government use from the taxes paid pursuant to the provisions of  
3 subsection (a) of section 3 of P.L.1940, c.4 (C.54:30A-18),  
4 subsections a. and b. of section 2 of P.L. , c. (C. ) (now  
5 pending before the Legislature as this bill), section 9 of P.L.1940,  
6 c.4 (C.54:30A-24), subsections (a) and (b) of sections 6 of  
7 P.L.1940, c.5 (C.54:30A-54), and taxes paid by gas and electric  
8 light, heat and power corporations pursuant to the provisions of  
9 subsection a. of section 10 of P.L. , c. (C. ) (now  
10 pending before the Legislature as this bill), subsections a. and b.  
11 of section 12 of P.L. , c. (C. ) (now pending before the  
12 Legislature as this bill), and section 14 of P.L.1940, c.5  
13 (C.54:30A-62), shall not exceed the amount remaining  
14 unapportioned or undistributed and retained for State government  
15 use from those revenues in State fiscal year 1992, net of any  
16 increase in amounts paid and retained for State use pursuant to  
17 subsections a. and b. of section 2 of P.L. , c. (C. )  
18 (now pending before the Legislature as this bill) and section 9 of  
19 P.L.1940, c.4 (C.54:30A-24) and paid and retained for State use  
20 from gas and electric light, heat and power corporations pursuant  
21 to subsections a. and b. of section 12 of P.L. , c. (C. )  
22 (now pending before the Legislature as this bill) and section 14 of  
23 P.L.1940, c.5 (C.54:30A-62). This section shall not apply to taxes  
24 paid or prepaid pursuant to provisions of general law identifying  
25 such taxes for State use, except for taxes prepaid in 1995 and  
26 each year thereafter pursuant to subsection b. of section 2 of  
27 P.L. , c. (C. ) (now pending before the Legislature as this  
28 bill) and subsection b. of section 12 of P.L. , c. (C. )  
29 (now pending before the Legislature as this bill).<sup>1</sup>

30 <sup>1</sup>28. (New section) Commencing with State fiscal year 1993,  
31 amounts which annually are not apportioned or distributed for  
32 payment to municipalities and which are retained for State  
33 government use from the taxes paid pursuant to the provisions of  
34 subsection (a) of section 3 of P.L.1940, c.4 (C.54:30A-18),  
35 subsections a. and b. of section 2 of P.L. , c. (C. ) (now  
36 pending before the Legislature as this bill), section 9 of P.L.1940,  
37 c.4 (C.54:30A-24), subsections (a) and (b) of sections 6 of  
38 P.L.1940, c.5 (C.54:30A-54), and taxes paid by gas and electric  
39 light, heat and power corporations pursuant to the provisions of  
40 subsection a. of section 10 of P.L. , c. (C. ) (now  
41 pending before the Legislature as this bill), subsections a. and b.  
42 of section 12 of P.L. , c. (C. ) (now pending before the  
43 Legislature as this bill), and section 14 of P.L.1940, c.5  
44 (C.54:30A-62), shall not exceed the amount remaining  
45 unapportioned or undistributed and retained for State government  
46 use from those revenues in State fiscal year 1992, net of any  
47 increase in amounts paid and retained for State use pursuant to  
48 subsections a. and b. of section 2 of P.L. , c. (C. )  
49 (now pending before the Legislature as this bill) and section 9 of  
50 P.L.1940, c.4 (C.54:30A-24) and paid and retained for State use

1 from gas and electric light, heat and power corporations pursuant  
 2 to subsections a. and b. of section 12 of P.L. , c. (C. )  
 3 (now pending before the Legislature as this bill) and section 14 of  
 4 P.L.1940, c.5 (C.54:30A-62). This section shall not apply to taxes  
 5 paid or prepaid pursuant to provisions of general law identifying  
 6 such taxes for State use, except for taxes prepaid in 1995 and  
 7 each year thereafter pursuant to subsection b. of section 2 of  
 8 P.L. , c. (C. ) (now pending before the Legislature as this  
 9 bill) and subsection b. of section 12 of P.L. , c. (C. )  
 10 (now pending before the Legislature as this bill).<sup>1</sup>

11 <sup>1</sup>29. (New section) The Director of the Division of Taxation in  
 12 the Department of the Treasury and the Board of Public Utilities  
 13 shall promulgate such rules and regulations applicable to  
 14 taxpayers subject to P.L.1940, c.4 (C.54:30A-16 et seq.) as may  
 15 be necessary to effectuate the purposes and provisions of  
 16 P.L. , c. (C. )(now pending before the  
 17 Legislature as this bill).<sup>1</sup>

18 <sup>1</sup>[16.] <sup>1</sup>30.<sup>1</sup> (New section) The Director of the Division of  
 19 Taxation in the Department of the Treasury and the Board of  
 20 Public Utilities shall promulgate such rules and regulations  
 21 <sup>1</sup>applicable to taxpayers subject to P.L.1940, c.5 (C.54:30A-49 et  
 22 seq.)<sup>1</sup> as may be necessary to effectuate the purposes and  
 23 provisions of <sup>1</sup>[this act] P.L. , c. (C. )(now  
 24 pending before the Legislature as this bill)<sup>1</sup>.

25 <sup>1</sup>31. Section 9 of P.L.1963, c.41 (C.54:30A-18.3) is repealed.<sup>1</sup>

26 <sup>1</sup>[17.] <sup>1</sup>32.<sup>1</sup> This act shall take effect January 1, 1992, except  
 27 that <sup>1</sup>[section 16] sections 29 and 30 and this section<sup>1</sup> shall take  
 28 effect immediately.

29

30

31

## STATE TAXATION

32

33 Revises public utility tax structure to establish a unit tax, and  
 34 revises the method and time of payment of those taxes.

1 through an electronic terminal, telephone, or computer or  
2 magnetic tape for the purpose of ordering, instructing or  
3 authorizing a financial institution to debit or credit an account.  
4 (cf: P.L.1980, c.11, s.3)

5 16. (New section) The Director of the Division of Taxation in  
6 the Department of the Treasury and the Board of Public Utilities  
7 shall promulgate such rules and regulations as may be necessary  
8 to effectuate the purposes and provisions of this act.

9 17. This act shall take effect January 1, 1992, except that  
10 section 16 shall take effect immediately.

11

12

13

#### STATEMENT

14

15 This bill revises the excise taxes imposed upon gas and electric  
16 light, heat and power corporations to require payment of those  
17 taxes on the basis of electric units or gas units sold, rather than  
18 on the basis of the gross receipts of those corporations. The bill  
19 does not change the time of payment, amounts or distribution of  
20 public utility tax revenues to municipalities.

21 The purpose is to relieve the ratepayer of future increases in  
22 utility costs attributable to higher fuel costs and inflation by  
23 removing this variable from the gross receipts and franchise tax  
24 computation. Instead, commencing January 1, 1992, a unit tax  
25 rate would be imposed on kilowatthours of electricity and therms  
26 of gas sold based on the taxes payable for calendar year 1991 and  
27 divided by the total of kilowatthours or therms sold in that year.  
28 On this basis, the Board of Public Utilities would determine a  
29 standard unit tax rate which shall be the lowest effective tax  
30 rate prevailing in each residential and non-residential class  
31 among the utility companies in 1991. Over a five year period  
32 each utility's rate would be brought down in incremental  
33 adjustments to the standard rate.

34 The bill provides that no reduction in the amounts of monies  
35 paid the State and municipalities from public utility taxes shall  
36 occur, except for incremental adjustments made to establish the  
37 standard rate. However, any growth in these revenues in the  
38 future shall be strictly on the basis of increased usage, thus  
39 assuring that no customer will see an increase in his utility bill  
40 attributable to public utility taxes unless the customer purchases  
41 more electric or gas units. Indeed, most utility customers will  
42 otherwise see a decrease in that portion of their utility bills as  
43 their utility's tax rate is lowered to the standard tax rate.

44 At the same time, the bill revises the method of payment of  
45 the public utility taxes so that commencing in 1995, taxes will be  
46 paid on April 1 of the current tax year on an estimated basis with  
47 a final tax return and computation of actual tax liability due in  
48 April of the following year. The estimated tax payment method  
49 is similar to that in effect under the Corporation Business Tax.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4960**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 24, 1991

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4960 with committee amendments.

Assembly Bill No. 4960, as amended, revises the excise taxes imposed upon public utility corporations in various ways depending on the type of public utility. The revisions affect the date on which the taxes are paid, the calendar year for which the taxes are imposed, and, for gas and electric light, heat and power companies, the basis on which the taxes are imposed. None of these revisions affect water or sewer companies.

For gas and electric light, heat and power utilities, the bill restructures the tax to require payment of taxes on the basis of electric units or gas units sold, rather than on the basis of the gross receipts of those corporations. The purpose is to relieve the utility ratepayer of future increases in utility costs attributable to taxes on higher fuel costs and inflation by removing this variable from the computation of the tax. Instead, commencing January 1, 1992, a unit tax rate would be imposed on kilowatthours of electricity and therms of gas sold in each customer class based on the taxes payable for calendar year 1991 and divided by the kilowatthours or therms sold in that year. From this calculation, the Board of Public Utilities would determine a standard unit tax rate for each residential and non-residential customer class which shall be the lowest effective tax rate prevailing in each class among the utility companies in 1991. Over a five year period each gas and electric company's tax rate would be brought down in incremental adjustments to the standard tax rate, so that in 1998, the lowest (standard) tax rate would prevail for customers of all utilities in each class.

The unit tax would, in effect, "cap" future growth in public utility tax revenues from gas and electric companies at 1991 levels, except for any unit taxes collected on increased sales of kilowatthours of electricity and therms of gas. At the same time, some customers will experience a decrease in that portion of their utility bills attributable to public utility taxes as their utility's tax rate is lowered to the standard tax rate.

The bill revises the method of payment of public utility taxes by gas and electric companies and by local telephone companies, but not water and sewer companies. Commencing in 1995, taxes will be paid on April 1 of the current tax year on an estimated basis with a final tax return and computation of actual tax liability due in April



of the following year. The estimated tax payment method is similar to that in effect under the Corporation Business Tax.

As a transition to the new method of payment, the bill requires prepayments of tax liability to be made commencing in 1993 and 1994 with credits to be given for those prepayments in succeeding tax years. The total amount of prepayments required in 1993 and 1994 could not exceed the taxpayer's 1992 tax liability minus any credits for prepayments previously made under prior laws. The prepayments would be: in 1993, 50% of the taxpayer's liability for non-State excise taxes and 50% of liability for State excise taxes; and in 1994, the remainder of liability for non-State excise taxes. The prepayments are designated specifically for State use.

The bill establishes beginning in 1992, a single payment date for all public utility taxes (except by water and sewer companies) of April 1 of each year, rather than the current payment schedule which requires payments at three separate dates during the calendar year. This has the effect in 1992 of "speeding up" the payment of that portion of public utility taxes now paid in August and November (35% and 30%) to require payment in the State 1992 fiscal year.

The bill does not change the provisions of existing law that prescribe the time of payment, amounts or distribution of public utility tax revenues to municipalities. However, the bill does provide a "hold harmless" level of \$685 million annually as the minimum municipal distribution amount. This equals the amount distributed in recent years under the gross receipts and franchise taxes, and is designed to protect municipalities in the future should there be a decline in tax revenues under the new utility tax system. In addition, the bill caps the amount that the State may retain in future years for its own purposes should tax revenues increase. Beginning in fiscal year 1993, the "State retention" is capped at 1992 levels, except for any increased State revenues which are specifically due to the payment schedule revisions made in the bill (as described above). This will allow municipalities to receive the benefits of any future growth in utility tax payments which result from a higher tax base.

#### COMMITTEE AMENDMENTS

The committee amended the bill to correct various references in existing laws to reconcile any potential conflict with the provisions of the bill.

The major committee amendments would:

1. Remove the requirement that the State shall collect no less revenue under the unit tax in subsequent years than it did under the franchise and gross receipts tax in 1991. This provision conflicted with the provision for lowering the unit tax rate to the lowest effective tax rate, and might have required in an especially low energy consumption year an increase in the unit tax rate.

2. Make the payment, prepayment and estimated payment of all public utility taxes subject to the procedures, penalties and interest charges imposed under State Tax Uniform Procedure Law.

3. Change the language requiring local telephone companies to make estimated tax payments for the current year to reflect the accounting methods used by these companies, and permit BPU to authorize local telephone companies, as well as gas and electric companies, to use deferred cost accounting.

4. Assure that revenues from the unit tax are subject to apportionment to municipalities in the same manner as gross receipts and franchise taxes are currently, but with a "hold harmless" level of \$685 million annually as the amount distributed to municipalities from all taxes on public utilities, and with a cap on future tax revenues retained by the State for its own purposes at fiscal year 1992 levels, net of cash flow amounts resulting from the bill's payment schedule changes.

5. Clarify the definition of "public street, highway, road, or other public place" to exclude certain private property which is open to the public and through which a utility has been granted an easement to run its lines or mains (e.g., shopping malls, condominium communities with privately maintained streets) if the utility lines or mains were installed prior to February 19, 1991 but were not designated as being located on or under a "public street, highway, road, or other public place" prior to that date.

As amended by the committee, this bill is identical to Senate Bill No. 3550 (1R), also reported favorably.

FISCAL IMPACT:

No fiscal note or estimate has been prepared on the bill. However, according to information provided by the Administration, the following additional revenues would be realized by the State in FY1992, 1993 and 1994:

In FY1992, \$595 million, as the result of the requirement of a single payment date of April 1;

In FY1993, \$500 million, as the result of the prepayment of 50% of liability based upon non-State excise taxes and the prepayment of 50% of liability based upon State excise taxes, less the first year incremental adjustment toward lowest effective unit tax rate; and

In FY1994, \$401 million, as the result of the prepayment of the remainder of liability based upon non-State excise taxes, less the second year incremental adjustment toward lowest effective unit tax rate.

Under amendments adopted by the committee, municipalities will receive not less than \$685 million annually in tax distributions, the same level recommended to be received in FY 1992 in the Governor's budget proposal. The amount of tax revenue which is not distributed, but which is held for State purposes, will be capped beginning in FY 1993 so that any future growth in tax revenues due to factors other than the payment schedule changes contained in the bill, will flow to municipalities as well.