

54:48-2 et al 1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:48-2 et al (Tax amnerty)

CHAPTER 76

Laws Of: 1987

Bill No: A823

Sponsor(s): Villane

Date Introduced: Pre-filed

Committee: Assembly: Appropriations

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes 2nd OCR-Assembly Committee
according to Governor's amendments substitute enacted. Amendments
denoted by asterisks

Date of Passage: Assembly: June 23, 1986 Re-enacted 3-9-87
Senate: February 26, 1987 Re-enacted
3-11-87

Date of Approval: March 11, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping file "New Jersey--Taxation-1986&1987" and N.J- Property tax-
1986-1987" in New Jersey Reference Department.

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ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 823

STATE OF NEW JERSEY

ADOPTED: JUNE 12, 1986

By Assemblyman VILLANE

AN Act concerning the administration and enforcement of certain State taxes, providing for increased interest, costs and civil and criminal penalties thereunder, authorizing the Director of the Division of Taxation to establish a 90-day period during which unpaid taxes may be remitted without the imposition of any civil or criminal penalties, amending, supplementing and repealing various portions of the statutory law, and making ***[appropriations]*** **an appropriation**.

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

1 1. R. S. 54:48-2 is amended to read as follows:

2 54:48-2. As used in this subtitle:

3 "Commissioner" means the **[state tax commissioner]** Director
4 of the Division of Taxation in the Department of Treasury.

5 "Department" means the **[State tax department]** Division of
6 Taxation in the Department of Treasury.

7 "Director*" means the Director of the Division of Taxation.

8 "Prime rate" means the average predominant prime rate, as
9 determined by the Board of Governors of the Federal Reserve
10 System, quoted by commercial banks to large businesses as of the
11 first business day of the calendar quarter within which the payment
12 was due.

13 "State tax" means any tax which is payable to or collectible by
14 the **[State tax commissioner]** director, and "State tax law" means
15 any law which levies or imposes a State tax as herein defined.

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted February 23, 1987.

**—Assembly amendments adopted in accordance with Governor's recommendation March 5, 1987.

16 "Taxpayer" means any person owing or liable to pay any State
17 tax or any person deemed by the [commissioner] director to be so
18 owing or liable.

1 2. R. S. 54:49-3 is amended to read as follows:

2 54:49-3. Any taxpayer who shall fail to pay any State tax on
3 or before the day when the same shall be required by law to be
4 paid shall pay in addition to the tax, unless otherwise provided
5 in the law imposing such tax, interest *and penalty, if any*, on said
6 tax at the rate of [1½% for each month or fraction thereof] *five*
7 *percentage points above the prime rate, to be compounded daily*
8 *upon the amount that [the same] remains unpaid, to be calculated*
9 *from the date the tax was originally due until the date of actual*
10 *payment. In addition thereto, if the director is empowered by the*
11 *law imposing such tax to grant an extension of time in which the*
12 *tax shall be paid, the taxpayer shall be liable for the payment of*
13 *interest on the unpaid tax at the rate of [9% per annum] three*
14 *percentage points above the prime rate, to be compounded daily*
15 *from the date that such tax was originally due to the date of actual*
16 *payment; provided that if such unpaid tax is not paid within the*
17 *time fixed under the extension, the interest on such unpaid tax shall*
18 *be computed at the rate of [1½% per month or fraction thereof]*
19 *five percentage points above the prime rate, to be compounded daily*
20 *from the date the tax was originally due to the date of actual pay-*
21 *ment.*

1 3. R. S. 54:49-4 is amended to read as follows:

2 54:49-4. In addition thereto any taxpayer failing to file a return
3 with the director within the time prescribed under the act imposing
4 such tax shall be liable to a late filing penalty of [\$2.00] \$100.00
5 for each [day] *month or fraction thereof* that such return is
6 delinquent, plus a penalty of 5% per month or fraction thereof of
7 the total tax liability not to exceed 25% of such tax liability. If any
8 tax be not paid within the time prescribed under the act imposing
9 such tax, there shall be added to the amount of the tax a sum
10 equivalent to 5% thereof, as a penalty.

1 4. R. S. 54:49-6 is amended to read as follows:

2 54:49-6. After a report is filed under the provisions of any State
3 tax law, the [commissioner] director shall cause the same to be
4 examined and may make such further audit or investigation as he
5 may deem necessary, and if therefrom he shall determine that there
6 is a deficiency with respect to the payment of any tax due under
7 such law, he shall assess the additional taxes, penalties of 5% of
8 the tax, and interest at the rate of [1½% per month or fraction

9 thereof] *five percentage points above the prime rate, to be com-*
10 *pounded daily* from the date the tax was originally due to the date
11 of payment, due the State from such taxpayer, give notice of such
12 assessment to the taxpayer, and make demand upon him for pay-
13 ment.

1 5. R. S. 54:49-10 is amended to read as follows:

2 54:49-10. All penalties and interest when imposed by this or by
3 any State tax law *as well as the fee imposed for the cost of collection*
4 *under R. S. 54:49-13* shall be payable to and recoverable by the
5 [commissioner] *director* in the same manner as if they were a part
6 of the tax imposed.

1 6. R. S. 54:49-11 is amended to read as follows:

2 54:49-11. If the failure to pay any such tax when due is explained
3 to the satisfaction of the [commissioner] *director*, he may remit
4 or waive the payment of the whole or any part of any penalty for
5 *deficiency assessments made pursuant to R. S. 54:49-6. In all other*
6 *cases the director may remit or waive the payment of any part of*
7 *any penalty* **in excess of 5% of the tax due.** and may remit
8 or waive the payment of any interest charge in excess of the
9 rate of [$\frac{3}{4}$ of 1% per month] *three percentage points above the*
10 *prime rate compounded daily.*

1 7. R. S. 54:49-13 is amended to read as follows:

2 54:49-13. The [commissioner] *director*, upon application made
3 to him and upon the payment of [a fee of one dollar (\$1.00)] *an*
4 *amount equal to the cost of collection* may release any property
5 from the lien of any certificate, judgment or levy, procured by him;
6 provided, payment be made to the [commissioner] *director* of such
7 sum as he shall deem adequate consideration for such release or
8 provided a deposit shall be made with the [commissioner] *director*
9 of such security as he shall deem adequate to secure the payment
10 of any debt evidenced by any such certificate, judgment or levy,
11 the lien of which is sought to be released. Such release shall be
12 given under the seal of the [commissioner] *director*, and may be
13 recorded in any office in which conveyances of real estate may be
14 recorded.

15 When any lien or claim for past-due corporate franchise taxes,
16 which may have been assessed upon a corporation's total autho-
17 rized capital stock because of the corporation's failure to file a
18 franchise tax return, shall be brought into question, the director
19 of the Division of Taxation [of the State Department of Taxation
20 and Finance] may, upon application of any party having an
21 interest in the property against which such lien is claimed or

22 asserted, and upon the receipt of satisfactory proof, redetermine
23 and reassess the tax in an amount based upon the capital stock
24 issued and outstanding as of January 1 of the year in question.

1 8. (New Section) If any State tax is not paid within the time
2 prescribed by law, and the director issues a certificate of debt
3 pursuant to R. S. 54:49-12, a fee for the cost of collection of the
4 tax may be imposed by the director. In lieu of imposing the actual
5 cost of collection as the fee, the director may impose a fee in the
6 amount of 5% of the tax or \$100.00*,* whichever is greater. In the
7 event that the State tax remains unpaid following the issuance of
8 the certificate of debt and the director takes any further collection
9 action including referral of the matter to the Attorney General,
10 the fee imposed, in lieu of the actual cost of collection, may be 10%
11 of the tax or \$200.00, whichever is greater. In the further event
12 that the tax remains unpaid and suit is instituted for the collection
13 of the tax, the fee imposed, in lieu of the actual cost of collection,
14 may be 20% of the tax or \$500.00, whichever is greater. The fees
15 imposed pursuant to this section shall be in addition to any interest
16 or penalty, or both, otherwise provided by law. The director shall
17 promulgate regulations for determining the cost of collection.

1 9. Section 1 of P. L. 1981, c. 392 (C. 54:49-13a) is amended to
2 read as follows:

3 1. As an additional or alternate remedy, the director may issue
4 a warrant, directed to the sheriff of any county commanding him to
5 levy upon and sell the real and personal property of any person
6 liable for any State tax, which may be found within his county, for
7 the payment of the amount thereof, with any penalties **[and]**,
8 *interest, fees imposed for the cost of collection as may be provided*
9 *by law* and the cost of executing the warrant, and to return such
10 warrant to the director and to pay to him the money collected by
11 virtue thereof within 60 days after the receipt of such warrant.
12 The sheriff shall within five days after the receipt of the warrant
13 file with the county clerk a copy thereof, and thereupon such clerk
14 shall enter in the judgment docket the name of the person men-
15 tioned in the warrant and the amount of the tax, penalties **[and]**,
16 *interest and any fees imposed for the cost of collection* for which the
17 warrant is issued and the date when such copy is filed. Thereupon
18 the amount of such warrant so docketed shall become a lien upon
19 the title to and interest in real and personal property of the person
20 against whom the warrant is issued. The sheriff shall then proceed
21 upon the warrant, in the same manner, and with like effect, as that
22 provided by law in respect to executions issued against property

23 upon judgments of a court of record and for services in executing
24 the warrant he shall be entitled to the same fees, which he may
25 collect in the same manner. In the discretion of the Director of the
26 Division of Taxation, Department of the Treasury, a warrant of
27 like terms, force and effect may be issued and directed to any officer
28 or employee of the Division of Taxation, and in the execution
29 thereof such officer or employee shall have all the powers conferred
30 by law upon sheriffs, but shall be entitled to no fee or compensation
31 in excess of the actual expenses paid in the performance of such
32 duty. Except in the case of an arbitrary assessment, any warrant
33 issued and directed to any officer or employee of the Division of
34 Taxation prior to the time for filing an appeal to the tax court has
35 expired, or after an appeal has been filed, shall not be executed
36 upon unless a notice of intention to proceed upon the warrant shall
37 have been directed to the person named in the warrant, which
38 notice shall state the amount of taxes, penalties **[and]**, interest
39 *and any fees imposed for the cost of collection as may be provided*
40 *by law* claimed to be owing, and shall specify the right of the tax-
41 payer to contest the execution upon the warrant in the tax court
42 or in the Superior Court, within three days following receipt by
43 the taxpayer of that notice. The court shall restrain the execution
44 upon the warrant upon a showing that the State's taxes, penalties
45 **[and]**, interest *and any fees imposed for the cost of collection*
46 claimed to be owing will be adequately protected by bond or other
47 security. If the warrant is returned not satisfied in full, the director
48 may from time to time issue new warrants and shall also have the
49 same remedies to enforce the amount due thereunder as if the
50 State had recovered judgment therefor and execution thereon had
51 been returned unsatisfied.

1 10. R. S. 54:49-16 is amended to read as follows:

2 54:49-16. *a.* Where no questions of fact or law are involved and
3 it appears from the records of the **[commissioner]** *director* that
4 any moneys have been erroneously or illegally collected from any
5 taxpayer or other person or have been paid by any taxpayer or
6 other person under a mistake of fact or law, the **[commissioner]**
7 *director* may at any time, within two years of payment, unless a
8 shorter limit is fixed by the law imposing the tax, upon making a
9 record in writing of his reasons therefor, certify to the comptroller
10 that the taxpayer is entitled to such refund and thereupon the
11 comptroller shall authorize the payment thereof from the appro-
12 priation for such purpose.

13 *b.* Where no questions of fact or law are involved and it appears

14 *from the audit of any taxpayer that a State tax has been erro-*
15 *neously or illegally collected from such taxpayer, or has been paid*
16 *by such taxpayer under a mistake of fact or law, the director, may,*
17 *within the time in which a deficiency assessment of that tax may*
18 *be made, credit the erroneous overpayment of tax to the account of*
19 *the taxpayer to offset the amount of a deficiency assessment; pro-*
20 *vided, however, that a credit shall only be applied to offset a*
21 *liability for a period covered by the assessment period and shall*
22 *only be granted with respect to a deficiency assessment made by the*
23 *director under the same State tax as the erroneous overpayment.*

1 11. R. S. 54:49-17 is amended to read as follows:

2 54:49-17. When, to secure compliance with any of the provisions
3 of any State tax law or of [this subtitle] *the State Tax Uniform*
4 *Procedure Law, R. S. 54:48-1 et seq.*, any moneys shall have been
5 deposited with the [commissioner] *director* by any taxpayer and
6 shall have been paid over to the treasurer, and the [commissioner]
7 *director* shall be satisfied that such taxpayer has fully complied
8 with all such provisions, the [commissioner] *director* shall so
9 certify to the comptroller who shall thereupon issue his warrant to
10 the treasurer for the repayment to such taxpayer of such moneys
11 or such part thereof as the [commissioner] *director* shall certify has
12 not been applied by him to the satisfaction of any indebtedness
13 arising under any State tax law or under [this subtitle] *the State*
14 *Tax Uniform Procedure Law.*

15 Whenever any taxpayer shall be entitled to any refund of taxes
16 or to the repayment of any deposit, or to both, under the provisions
17 of any State tax law or of [this subtitle] *the State Tax Uniform*
18 *Procedure Law*, and at the same time the said taxpayer shall be
19 indebted to the State for taxes, penalties [or], interest or fees
20 *imposed for the cost of collection* under the provisions of any other
21 State tax law or of [this subtitle] *the State Tax Uniform Procedure*
22 *Law*, the [commissioner] *director* may apply or cause to be applied
23 the said refund or deposit, or both, or so much of either or both as
24 shall be necessary, to the satisfaction of the said indebtedness, so
25 due from the taxpayer to the State, before making or certifying
26 such refund or repayment.

1 12. R. S. 54:50-2 is amended to read as follows:

2 54:50-2 *a.* For the purpose of administering [this subtitle] *the*
3 *State Tax Uniform Procedure Law*, or any State tax law, the [com-
4 missioner] *director*, whenever he deems it expedient, may make or
5 cause to be made by any employee of the [state tax department]
6 *Division of Taxation* engaged in the administration of [this sub-

7 title] *that law*, or any [such] *State tax law*, an examination or
 8 investigation of the place of business, if any, the tangible personal
 9 property and the books, records, papers, vouchers, accounts and
 10 documents of any taxpayer. Every taxpayer and every director,
 11 officer, agent or employee of every taxpayer shall exhibit to the
 12 [commissioner] *director* or to any such employee of the [state tax
 13 department] *Division of Taxation*, the place of business, the tangi-
 14 ble personal property and all of the books, records, papers, vou-
 15 chers, accounts and documents of the taxpayer and facilitate any
 16 such examination or investigation so far as it may be in his or their
 17 power so to do. The [commissioner] *director* or any employee of the
 18 [state tax department] *division* by him thereunto designated, may
 19 take the oath of any person signing any application, deposition,
 20 statement or report required by the [commissioner] *director* in the
 21 administration of [this subtitle] *the State Tax Uniform Procedure*
 22 *Law*, or any [such] *State tax law*.

23 *b. For the purpose of administering the State Tax Uniform*
 24 *Procedure Law, or any State tax law, the director, whenever he*
 25 *deems it expedient, may enter into agreements with other states,*
 26 *the District of Columbia and the United States, providing for the*
 27 *reciprocal enforcement and administration of any tax imposed by*
 28 *those jurisdictions entering into such an agreement. The duly*
 29 *authorized officer of any jurisdiction which extends like authority*
 30 *to officers or employees of this State, may sue for the collection of*
 31 *that jurisdiction's taxes in the courts of this State.*

1 13. R. S. 54:50-8 is amended to read as follows:

2 54:50-6a. The records and files of the [commissioner] *director*
 3 respecting the administration of [this subtitle] *the State Tax*
 4 *Uniform Procedure Law* or of any *State tax law* shall be considered
 5 confidential and privileged and neither the [commissioner] *direc-*
 6 *tor* nor any employee engaged in the administration thereof or
 7 charged with the custody of any such records or files, nor any
 8 former officer or employee, nor any person who may have secured
 9 information therefrom under [subdivisions "d", "e", "f", or "g"
 10 of section] *subsections d., e., f., or g. of R. S. 54:50-9 [of this Title]*
 11 or any other provision of *State law*, shall divulge [or], disclose or
 12 use for their own personal advantage any information obtained
 13 from the said records or files or from any examinations or inspec-
 14 tion of the premises or property of any person. Neither the
 15 [commissioner] *director* nor any employee engaged in such ad-
 16 ministration or charged with the custody of any such records or
 17 files shall be required to produce any of them for the inspection of

18 any person or for use in any action or proceeding except when the
 19 records or files or the facts shown thereby are directly involved in
 20 an action or proceeding under the provisions of [this subtitle]
 21 *the State Tax Uniform Procedure Law* or of the State tax law
 22 affected, or where the determination of the action or proceeding
 23 will affect the validity or amount of the claim of the State under
 24 some State tax law, or in any lawful proceeding for the investiga-
 25 tion and prosecution of any violation of the criminal provisions of
 26 [this subtitle] *the State Tax Uniform Procedure Law* or of any
 27 State tax law.

28 b. The prohibitions of this section, against unauthorized dis-
 29 closure *or use* by any present or former officer or employee of this
 30 State or any other individual having custody of such information
 31 obtained pursuant to the explicit authority of State law, shall
 32 specifically include, without limitation, violations involving the
 33 divulgence of any information from or any copy of a federal return
 34 or federal return information required by New Jersey law to be
 35 attached to or included in any New Jersey return. Any person
 36 violating this section shall be guilty of a [misdemeanor and shall
 37 be punished by a fine not to exceed \$1,000.00, or be imprisoned not
 38 to exceed one year, or both] *crime of the fourth degree.*

1 14. Section 4 of P. L. 1973, c. 367 (C. 54:50-15) is amended to
 2 read as follows:

3 4. The Director of the Division of Taxation shall, upon applica-
 4 tion, issue a certificate evidencing that a corporation's taxes have
 5 been paid or provided for if

6 a. In his judgment the amount which has been deposited or paid
 7 on account by such corporation is adequate to cover estimated
 8 taxes up to the date of the relevant corporate action: or

9 b. In a case in which the corporate action taken or proposed to
 10 be taken is one of the exceptions specified in [subsections 2b(1) or
 11 2b(2) of this act], *paragraph (1) or (2) of subsection b. of section*
 12 *2 of P. L. 1973, c. 367 (C. 54:50-13)*, the application for such
 13 certificate is accompanied by

14 (1) An opinion signed by an attorney-at-law of the State of New
 15 Jersey, who states that he is familiar with the facts of the trans-
 16 action and that the requirements for such exception have been met
 17 and

18 (2) The written undertaking of the corporation or corporations
 19 assuming the tax liability; or

20 c. The application for such certificate is accompanied by

21 (1) A written undertaking from another domestic corporation,
 22 or foreign corporation authorized to transact business in this State,

23 to pay all taxes of the applicant corporation on or before the date
24 such taxes are payable and

25 (2) A certification that the corporation making such undertaking
26 has a net worth not less than 10 times the amount of all taxes paid
27 by the applicant corporation during the last complete year in which
28 it filed tax returns with the State of New Jersey.

29 The Director of the Division of Taxation shall be entitled to
30 receive as a fee for the issuance of such certificate the sum of
31 ~~[\$10.00]~~ \$25.00.

1 15. (New section) The fact that certain acts or omissions may
2 constitute crimes and offenses under Title 2C of the New Jersey
3 Statutes, Title 54 of the Revised Statutes or Title 54A of the New
4 Jersey Statutes, and may be prosecuted under sections 16 through
5 29 of this *~~[1986]~~* *1987* amendatory and supplementary act
6 (C. through C.), shall not prevent a
7 person from being charged under the provisions of Title 2C of
8 the New Jersey Statutes, Title 54 of the Revised Statutes, or
9 Title 54A of the New Jersey Statutes, if those acts or omissions
10 constitute crimes or offenses under any of the provisions of
11 those titles.

1 16. (New section) A person commits a disorderly persons offense
2 if he *, *recklessly or negligently* *:

3 a. Fails to file any return or report required by any State tax
4 law;

5 b. Fails to pay over any tax required by any State tax law;

6 c. Files, causes to be filed, makes, causes to be made, gives, or
7 causes to be given any return, certificate, affidavit, representation,
8 information, testimony or statement, required or authorized by any
9 State tax law, which is false;

10 d. Fails to file a bond required to be filed by any State tax law;

11 e. Fails to file an application for registration, certification, or
12 such data in connection therewith as the director by regulation or
13 otherwise may require under any State tax law;

14 f. Fails to display or surrender any certificate of authority as
15 may be required by any State tax law;

16 g. Assigns or transfers any certificate of authority in violation
17 of any State tax law;

18 h. Fails to charge any State tax as required by any State tax
19 law;

20 i. Fails to separately state or account for any State tax as
21 required by any State tax law;

22 j. Fails to withhold any State tax as required by any State tax
23 law; or

24 k. Fails to keep any records required by any State tax law or
25 regulation of the director issued thereunder.

26 The offenses provided in this section shall be in addition to any
27 other penalties prescribed in this ***[1986]*** *1987* amendatory
28 and supplementary act or otherwise prescribed by law.

29 ***[It shall not be necessary in]*** *In* a prosecution of an offense
30 under this section ***[for]*** the State *shall not be required* to
31 prove that the defendant acted purposely ***[.]*** *or* *knowingly***[.]**,
32 recklessly, or negligently* with respect to the nature of his
32A conduct.

33 The designation of certain acts or omissions as disorderly persons
34 offenses under this section shall not prevent a person from being
35 charged or convicted under any other provision of Title 2C of the
36 New Jersey Statutes, Title 54 of the Revised Statutes, and Title
37 54A of the New Jersey Statutes if those acts are chargeable under
38 those provisions.

1 17. (New section) A person is guilty of a crime of the fourth
2 degree if he provides, or causes to be provided, false information
3 with purpose to hinder an official investigation, inquiry, examina-
4 tion or audit by the director or a duly authorized representative.

1 18. (New section) A person is guilty of a crime of the third degree
2 if he fails to file any return or report required to be filed pursuant
3 to the provisions of any State tax law with the intent to defraud
4 the State or to evade, avoid or otherwise not make timely payment
5 of any tax, fee, penalty, interest or any part thereof which shall be
6 due pursuant to the provisions of the State Tax Uniform Proce-
7 dure Law, R. S. 54:48-1 et seq., as amended and supplemented, or
8 any State tax law.

1 19. (New section) a. A person is guilty of a crime of the third
2 degree if he fails to pay or turn over when due any tax, fee, penalty
3 or interest or any part thereof required to be paid pursuant to the
4 provisions of the State Tax Uniform Procedure Law, R. S. 54:48-1
5 et seq., as amended and supplemented, or any State tax law, with
6 the intent to evade, avoid or otherwise not make timely payment or
7 deposit of any tax, fee, penalty or interest or any part thereof.

8 b. The fact that any payment was made with a subsequently
9 dishonored negotiable instrument shall constitute prima facie
10 evidence that the actor failed to pay within the meaning of sub-
11 section a. of this section, and the trier of fact may draw a permis-
12 sive inference therefrom that the actor did not intend to make the
13 payment.

1 20. (New section) A person is guilty of a crime of the third
2 degree if he files, prepares, causes to be filed or assists in the

3 preparation or filing of a false or fraudulent return, report, state-
4 ment, or application required to be filed pursuant to the provisions
5 of the State Tax Uniform Procedure Law, R. S. 54:48-1 et seq.,
6 as amended and supplemented, or any State tax law, with the
7 intent to evade, avoid or otherwise not make timely payment of
8 any tax, fee, penalty or interest, or any part thereof.

1 21. (New section) A person is guilty of a crime of the third
2 degree if he maintains, prepares or assists in the preparation of
3 false or fraudulent books or records, or presents false or fraudu-
4 lent books or records to the director for inspection or examination
5 with intent to evade, avoid or otherwise not make timely payment
6 of any tax, fee, penalty or interest*, or***[.]*** any part thereof.

1 22. (New section) A person is guilty of a crime of the third
2 degree if he fails to maintain books or records as required by the
3 provisions of any State tax law and the regulations issued there-
4 under with intent to evade, avoid or otherwise not make timely
5 payment of any tax, fee, penalty or interest, or any part thereof.

1 23. (New section) A person is guilty of a crime of the fourth
2 degree if he is not licensed or registered with the Division of
3 Taxation, and engages in conduct which requires him to register
4 with or obtain a license from the Division of Taxation, with intent
5 to evade, avoid or otherwise not make timely payment of any tax,
6 fee, penalty or interest*, or***[.]*** any part thereof.

1 24. (New section) A person is guilty of a crime of the third
2 degree if he fails to collect or withhold any State tax with the
3 intent to evade, avoid, or otherwise not make timely payment of
4 any tax, fee, penalty or interest, or any part thereof.

1 25. (New section) A person is guilty of a crime of the third
2 degree if he, after having collected or withheld taxes as required
3 by any State tax law, whether or not he is authorized, licensed, or
4 registered to collect or withhold taxes, purposely fails to turn over
5 the taxes to the Director of the Division of Taxation in the manner
6 and at the time prescribed by law. The crime shall be of the second
7 degree if the amount of the tax collected or withheld is \$75,000.00
8 or more.

1 26. (New section) A person is guilty of a crime of the fourth
2 degree if he knowingly operates under a voided corporate charter.

1 27. (New section) a. A person who is prohibited under the pro-
2 visions of any State tax law from dealing with persons not properly
3 licensed or registered with the Division of Taxation, is a disorderly
4 person if he knowingly deals with such an unlicensed person.

5 b. A person who is prohibited under the provisions of any State
6 tax law from dealing with persons not properly licensed or regis-

7 tered with the Division of Taxation, who deals with an unlicensed
8 person with the intent to evade, avoid, or otherwise not make
9 timely payment or with the intent to assist the unlicensed person
10 to evade, avoid, or otherwise not make timely payment of any tax,
11 fee, penalty or interest, or any part thereof, is guilty of a crime of
12 the fourth degree.

1 28. (New section) A person who knowingly possesses goods which
2 are required to be taxed and on which the tax has not been paid is
3 guilty of a disorderly persons offense.

1 29. (New section) A person who knowingly swears to, affirms,
2 certifies or verifies any false or fraudulent statement with intent
3 to evade, avoid or otherwise not pay any tax, fee, penalty or
4 interest, or any part thereof, or being under oath, testifies falsely
5 at any hearing held pursuant to the provisions of the State Tax
6 Uniform Procedure Law, R. S. 54:48-1 et seq., is guilty of a crime
7 of the fourth degree.

1 30. N. J. S. 2C:1-8 is amended to read as follows:

2 2C:1-8. Method of Prosecution When Conduct Constitutes More
3 Than One Offense.

4 a. Prosecution for multiple offenses; limitation on convictions.
5 When the same conduct of a defendant may establish the com-
6 mission of more than one offense, the defendant may be prosecuted
7 for each such offense. He may not, however, be convicted of more
8 than one offense if:

9 (1) One offense is included in the other, as defined in subsection
10 d. of this section;

11 (2) One offense consists only of a conspiracy or other form of
12 preparation to commit the other;

13 (3) Inconsistent findings of fact are required to establish the
14 commission of the offenses; or

15 (4) The offenses differ only in that one is defined to prohibit
16 a designated kind of conduct generally and the other to prohibit
17 a specific instance of such conduct. *The provisions of this para-*
18 *graph (4) of subsection a. of this section or any other provision of*
19 *law notwithstanding, no State tax offense defined in Title 54 of the*
20 *Revised Statutes or Title 54A of the New Jersey Statutes, as*
21 *amended and supplemented, shall be construed to preclude a prose-*
22 *cution for any offense defined in this code.*

23 A determination barring multiple convictions shall be made by
24 the court after verdict or finding of guilt.

25 b. Limitation on separate trials for multiple offenses. Except
26 as provided in subsection c. of this section, a defendant shall not

27 be subject to separate trials for multiple criminal offenses based
28 on the same conduct or arising from the same episode, if such
29 offenses are known to the appropriate prosecuting officer at the
30 time of the commencement of the first trial and are within the
31 jurisdiction and venue of a single court.

32 c. Authority of court to order separate trials. When a defendant
33 is charged with two or more criminal offenses based on the same
34 conduct or arising from the same episode, the court may order any
35 such charge to be tried separately in accordance with the Rules of
36 Court.

37 d. Conviction of included offense permitted. A defendant may
38 be convicted of an offense included in an offense charged whether
39 or not the included offense is an indictable offense. An offense is
40 so included when:

41 (1) It is established by proof of the same or less than all the
42 facts required to establish the commission of the offense charged;
43 or

44 (2) It consists of an attempt or conspiracy to commit the offense
45 charged or to commit an offense otherwise included therein; or

46 (3) It differs from the offense charged only in the respect that
47 a less serious injury or risk of injury to the same person, property
48 or public interest or a lesser kind of culpability suffices to establish
49 its commission.

50 e. Submission of included offense to jury. The court shall not
51 charge the jury with respect to an included offense unless there
52 is a rational basis for a verdict convicting the defendant of the
53 included offense.

1 31. N. J. S. 2C:20-2 is amended to read as follows:

2 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
3 Applicable to Theft Generally. a. Consolidation of Theft Offenses.
4 Conduct denominated theft in this chapter constitutes a single
5 offense, but each episode or transaction may be the subject of a
6 separate prosecution and conviction. A charge of theft may be
7 supported by evidence that it was committed in any manner that
8 would be theft under this chapter, notwithstanding the specification
9 of a different manner in the indictment or accusation, subject only
10 to the power of the court to ensure fair trial by granting a bill of
11 particulars, discovery, a continuance, or other appropriate relief
12 where the conduct of the defense would be prejudiced by lack of
13 fair notice or by surprise.

14 b. Grading of theft offenses.

15 (1) Theft constitutes a crime of the second degree if the amount
16 involved is \$75,000.00 or more if the property is taken by extortion.

17 (2) Theft constitutes a crime of the third degree if:

18 (a) The amount involved exceeds \$500.00 but is less than
19 \$75,000.00;

20 (b) The property stolen is a firearm, automobile, boat, horse
21 or airplane;

22 (c) The property stolen is a controlled dangerous substance
23 as defined in P. L. 1970, c. 226 (C. 24:21-1 et seq.);

24 (d) It is from the person of the victim;

25 (e) It is in breach of an obligation by a person in his capacity
26 as a fiduciary;

27 (f) It is by threat not amounting to extortion; or

28 (g) It is of a public record, writing or instrument kept, filed
29 or deposited according to law with or in the keeping of any
30 public office or public servant.

31 (3) Theft constitutes a crime of the fourth degree if the amount
32 involved is at least \$200.00 but does not exceed \$500.00. If the
33 amount involved was less than \$200.00 the offense constitutes a
34 disorderly persons offense.

35 (4) The amount involved in a theft shall be determined by the
36 trier of fact. *The amount shall include, but shall not be limited to,*
37 *the amount of any State tax avoided, evaded or otherwise unpaid,*
38 *improperly retained or disposed of.* Amounts involved in thefts
39 committed pursuant to one scheme or course of conduct, whether
40 from the same person or several persons, may be aggregated in
41 determining the grade of the offense.

42 c. Claim of right. It is an affirmative defense to prosecution for
43 theft that the actor:

44 (1) Was unaware that the property or service was that of an-
45 other;

46 (2) Acted under an honest claim of right to the property or
47 service involved or that he had a right to acquire or dispose of it
48 as he did; or

49 (3) Took property exposed for sale, intending to purchase and
50 pay for it promptly, or reasonably believing that the owner, if
51 present, would have consented.

52 d. Theft from spouse. It is no defense that theft was from the
53 actor's spouse, except that misappropriation of household and
54 personal effects, or other property normally accessible to both
55 spouses, is theft only if it occurs after the parties have ceased
56 living together.

1 32. N. J. S. 2C:20-9 is amended to read as follows:

2 2C:20-9. Theft by Failure to Make Required Disposition of
3 Property Received. A person who purposely obtains or retains

4 property upon agreement or subject to a known legal obligation to
5 make specified payment or other disposition, whether from such
6 property or its proceeds or from his own property to be reserved
7 in equivalent amount, is guilty of theft if he deals with the property
8 obtained as his own and fails to make the required payment or
9 disposition. The foregoing applies notwithstanding that it may be
10 impossible to identify particular property as belonging to the
11 victim at the time of the actor's failure to make the required
12 payment or disposition. An officer or employee of the government
13 or of a financial institution is presumed: (a) to know any legal
14 obligation relevant to his criminal liability under this section, and
15 (b) to have dealt with the property as his own if he fails to pay
16 or account upon lawful demand, or if an audit reveals a shortage
17 or falsification of accounts. *The fact that any payment or other*
18 *disposition was made with a subsequently dishonored negotiable*
19 *instrument shall constitute prima facie evidence of the actor's*
20 *failure to make the required payment or disposition, and the trier*
21 *of fact may draw a permissive inference therefrom that the actor*
22 *did not intend to make the required payment or other disposition.*

1 33. N. J. S. 2C:21-15 is amended to read as follows:

2 2C:21-15. Misapplication of Entrusted Property and Property
3 of Government or Financial Institution. A person commits a
4 crime if he applies or disposes of property that has been entrusted
5 to him as a fiduciary, or property *belonging to or required to be*
6 *withheld for the benefit* of the government or of a financial institu-
7 tion in a manner which he knows is unlawful and involves sub-
8 stantial risk of loss or detriment to the owner of the property or
9 to a person for whose benefit the property was entrusted whether
10 or not the actor has derived a pecuniary benefit. "Fiduciary" in-
11 cludes trustee, guardian, executor, administrator, receiver and any
12 person carrying on fiduciary functions on behalf of a corporation
13 or other organization which is a fiduciary.

14 If the benefit derived from a violation of this section is \$75,000.00,
15 or more, the offender is guilty of a crime of the second degree. If
16 the benefit derived exceeds \$1,000.00, but is less than \$75,000.00,
17 the offender is guilty of a crime of the third degree. If the benefit
18 derived is \$1,000.00, or less, the offender is guilty of a crime of the
19 fourth degree.

20 *For the purposes of this section, the term "benefit derived"*
21 *shall include but shall not be limited to the amount of any tax*
22 *avoided, evaded or otherwise unpaid or improperly retained or*
23 *disposed of.*

1 34. N. J. S. 2C:43-3 is amended to read as follows:

2 2C:43-3. Fines and Restitutions. A person who has been con-
3 victed of an offense may be sentenced to pay a fine, to make resti-
4 tution, or both, such fine not to exceed:

5 a. \$100,000.00, when the conviction is of a crime of the first or
6 second degree;

7 b. \$7,500.00, when the conviction is of a crime of the third or
8 fourth degree;

9 c. \$1,000.00, when the conviction is of a disorderly persons
10 offense;

11 d. \$500.00, when the conviction is of a petty disorderly persons
12 offense;

13 e. Any higher amount equal to double the pecuniary gain to the
14 offender or loss to the victim caused by the conduct constituting
15 the offense by the offender. In such case the court shall make a
16 finding as to the amount of the gain or loss, and if the record does
17 not contain sufficient evidence to support such a finding the court
18 may conduct a hearing upon the issue. For purposes of this sec-
19 tion the terms "gain" means the amount of money or the value of
20 property derived by the offender and "loss" means the amount of
21 value separated from the victim. *The term "gain" shall also mean,*
22 *where appropriate, the amount of any tax, fee, penalty and interest*
23 *avoided, evaded, or otherwise unpaid or improperly retained or*
24 *disposed of;*

25 f. Any higher amount specifically authorized by another sub-
26 section, section of this code or any other statute.

27 g. *Up to twice the amounts authorized in subsections a., b., c. or*
28 *d. of this section, in the case of a second or subsequent conviction*
29 *of any tax offense defined in Title 54 of the Revised Statutes or*
30 *Title 54A of the New Jersey Statutes, as amended and supple-*
31 *mented, or of any offense defined in chapters 20 or 21 of this code.*

32 The restitution ordered paid to the victim shall not exceed his
33 loss, *except that in any case involving the failure to pay any State*
34 *tax, the amount of restitution to the State shall be the full amount*
35 *of the tax avoided or evaded, including full civil penalties and*
36 *interest as provided by law. In any case where the victim of the*
37 *offense is any department or division of State government, the*
38 *court shall order restitution to the victim. Any restitution imposed*
39 *on a person shall be in addition to any fine which may be imposed*
40 *pursuant to this section.*

1 35. N. J. S. 2C:43-6 is amended to read as follows:

2 2C:43-6. Sentence of Imprisonment for Crime; Ordinary
3 Terms; Mandatory Terms.

4 a. Except as otherwise provided, a person who has been con-
5 victed of a crime may be sentenced to imprisonment, as follows:

6 (1) In the case of a crime of the first degree, for a specific term
7 of years which shall be fixed by the court and shall be between
8 10 years and 20 years;

9 (2) In the case of a crime of the second degree, for a specific
10 term of years which shall be fixed by the court and shall be between
11 five years and 10 years;

12 (3) In the case of a crime of the third degree, for a specific term
13 of years which shall be fixed by the court and shall be between three
14 years and five years;

15 (4) In the case of a crime of the fourth degree, for a specific
16 term which shall be fixed by the court and shall not exceed 18
17 months.

18 b. As part of a sentence for any crime, where the court is clearly
19 convinced that the aggravating factors substantially outweigh the
20 mitigating factors, as set forth in subsections a. and b. of 2C:44-1,
21 the court may fix a minimum term not to exceed one-half of the
22 term set pursuant to subsection a., or one-half of the term set pur-
23 suant to a maximum period of incarceration for a crime set forth
24 in any statute other than this code, during which the defendant
25 shall not be eligible for parole; provided that no defendant shall
26 be eligible for parole at a date earlier than otherwise provided by
27 the law governing parole.

28 c. A person who has been convicted under 2C:39-4a. of posses-
29 sion of a firearm with intent to use it against the person of an-
30 other, or of a crime under any of the following sections: 2C:11-3,
31 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a., 2C:15-1,
32 2C:18-2, 2C:29-5, who, while in the course of committing or at-
33 tempting to commit the crime, including the immediate flight there-
34 from, used or was in possession of a firearm as defined in 2C:39-1f.,
35 shall be sentenced to a term of imprisonment by the court. The term
36 of imprisonment shall include the imposition of a minimum term.
37 The minimum term shall be fixed at, or between, one-third and
38 one-half of the sentence imposed by the court or three years, which-
39 ever is greater, or 18 months in the case of a fourth degree crime,
40 during which the defendant shall be ineligible for parole.

41 The minimum terms established by this section shall not prevent
42 the court from imposing presumptive terms of imprisonment pur-
43 suant to 2C:44-1f. (1) except in cases of crimes of the fourth
44 degree.

45 A person who has been convicted of an offense enumerated by
 46 this subsection and who used or possessed a firearm during its com-
 47 mission, attempted commission or flight therefrom and who has
 48 been previously convicted of an offense involving the use or pos-
 49 session of a firearm as defined in 2C:44-3d., shall be sentenced
 50 by the court to an extended term as authorized by 2C:43-7c., not-
 51 withstanding that extended terms are ordinarily discretionary
 52 with the court.

53 d. The court shall not impose a mandatory sentence pursuant to
 54 subsection c. of this section, 2C:43-7c. or 2C:44-3d., unless the
 55 ground therefor has been established at a hearing. At the hearing,
 56 which may occur at the time of sentencing, the prosecutor shall
 57 establish by a preponderance of the evidence that the weapon used
 58 or possessed was a firearm. In making its finding, the court shall
 59 take judicial notice of any evidence, testimony or information ad-
 60 duced at the trial, plea hearing, or other court proceedings and
 61 shall also consider the presentence report and any other relevant
 62 information.

63 *e. A person convicted of a third or subsequent offense involving*
 64 *State taxes under N. J. S. 2C:20-9, N. J. S. 2C:20-11, any other*
 65 *provision of this code, or under any of the provisions of Title 54*
 66 *of the Revised Statutes, or Title 54A of the New Jersey Statutes,*
 67 *as amended and supplemented, shall be sentenced to a term of*
 68 *imprisonment by the court. This shall not preclude an application*
 69 *for and imposition of an extended term of imprisonment under*
 70 *N. J. S. 2C:44-3 if the provisions of that section are applicable*
 71 *to the offender.*

1 36. N. J. S. 2C:44-1 is amended to read as follows:

2 2C:44-1. Criteria for Withholding or Imposing Sentence of
 3 Imprisonment. a. In determining the appropriate sentence to be
 4 imposed on a person who has been convicted of an offense, the
 5 court shall consider the following aggravating circumstances:

6 (1) The nature and circumstances of the offense, and the role
 7 of the actor therein, including whether or not it was committed in
 8 an especially heinous, cruel, or depraved manner;

9 (2) The gravity and seriousness of harm inflicted on the victim,
 10 including whether or not the defendant knew or reasonably should
 11 have known that the victim of the offense was particularly vulner-
 12 able or incapable of resistance due to advanced age, disability,
 13 ill-health, or extreme youth, or was for any other reason sub-
 14 stantially incapable of exercising normal physical or mental power
 15 of resistance:

16 (3) The risk that the defendant will commit another offense;

17 (4) A lesser sentence will depreciate the seriousness of the
18 defendant's offense because it involved a breach of the public
19 trust under chapters 27 and 30, or the defendant took advantage
20 of a position of trust or confidence to commit the offense;

21 (5) There is a substantial likelihood that the defendant is in-
22 volved in organized criminal activity;

23 (6) The extent of the defendant's prior criminal record and the
24 seriousness of the offenses of which he has been convicted;

25 (7) The defendant committed the offense pursuant to an agree-
26 ment that he either pay or be paid for the commission of the
27 offense and the pecuniary incentive was beyond that inherent in the
28 offense itself;

29 (8) The defendant committed the offense against a police or
30 other law enforcement officer, correctional employee or fireman,
31 acting in the performance of his duties while in uniform or ex-
32 hibiting evidence of his authority, or the defendant committed the
33 offense because of the status of the victim as a public servant;

34 (9) The need for deterring the defendant and others from vio-
35 lating the law.

36 (10) *The offense involved fraudulent or deceptive practices com-*
37 *mitted against any department or division of State government.*

38 (11) *The imposition of a fine, penalty or order for restitution*
39 *without also imposing a term of imprisonment would be perceived*
40 *by the defendant or others merely as part of the cost of doing busi-*
41 *ness, or as an acceptable contingent business or operating expense*
42 *associated with the initial decision to resort to unlawful practices.*

43 b. In determining the appropriate sentence to be imposed on a
44 person who has been convicted of an offense, the court may properly
45 consider the following mitigating circumstances:

46 (1) The defendant's conduct neither caused nor threatened
47 serious harm;

48 (2) The defendant did not contemplate that his conduct would
49 cause or threaten serious harm;

50 (3) The defendant acted under a strong provocation;

51 (4) There were substantial grounds tending to excuse or justify
52 the defendant's conduct, though failing to establish a defense;

53 (5) The victim of the defendant's conduct induced or facilitated
54 its commission;

55 (6) The defendant has compensated or will compensate the vic-
56 tim of his conduct for the damage or injury that he sustained, or
57 will participate in a program of community service;

58 (7) The defendant has no history of prior delinquency or crim-
59 inal activity or has led a law-abiding life for a substantial period
60 of time before the commission of the present offense;

61 (8) The defendant's conduct was the result of circumstances
62 unlikely to recur;

63 (9) The character and attitude of the defendant indicate that he
64 is unlikely to commit another offense;

65 (10) The defendant is particularly likely to respond affirmatively
66 to probationary treatment;

67 (11) The imprisonment of the defendant would entail excessive
68 hardship to himself or his dependents;

69 (12) The willingness of the defendant to cooperate with law
70 enforcement authorities;

71 (13) The conduct of a youthful defendant was substantially
72 influenced by another person more mature than the defendant.

73 c. (1) A plea of guilty by a defendant or failure to so plead
74 shall not be considered in withholding or imposing a sentence of
75 imprisonment.

76 (2) When imposing a sentence of imprisonment the court shall
77 consider the defendant's eligibility for release under the law gov-
78 erning parole, including time credits awarded pursuant to Title 30
79 of the Revised Statutes, in determining the appropriate term of
80 imprisonment.

81 d. Presumption of imprisonment. The court shall deal with a
82 person who has been convicted of a crime of the first or second
83 degree by imposing a sentence of imprisonment unless, having
84 regard to the character and condition of the defendant, it is of
85 the opinion that his imprisonment would be a serious injustice
86 which overrides the need to deter such conduct by others.

87 e. The court shall deal with a person convicted of an offense
88 other than a crime of the first or second degree, who has not
89 previously been convicted of an offense, without imposing sentence
90 of imprisonment unless, having regard to the nature and circum-
91 stances of the offense and the history, character and condition of
92 the defendant, it is of the opinion that his imprisonment is neces-
93 sary for the protection of the public under the criteria set forth
94 in subsection a.

95 f. Presumptive Sentences. (1) *When a court determines that
96 a sentence of imprisonment be imposed, it shall, except for murder
97 or kidnapping, sentence the defendant to a term of 15 years for a
98 crime of the first degree, to a term of seven years for a crime of
99 the second degree, to a term of four years for a crime of the third

100 degree and for a term of nine months for a crime of the fourth
 101 degree unless the preponderance of aggravating factors or pre-
 102 ponderance of mitigating factors, as set forth in subsections a. and
 103 b., weighs in favor of higher or lower terms within the limits
 104 provided in 2C:43-6.]* *Except for the crime of murder, unless
 104A the preponderance of aggravating or mitigating factors, as set
 104B forth in subsections a. and b., weighs in favor of a higher or
 104C lower term within the limits provided in N. J. S. 2C:43-6, when
 104D a court determines that a sentence of imprisonment is warranted,
 104E it shall impose sentence as follows:

- 104F (a) To a term of 20 years for aggravated manslaughter or
 104G kidnapping pursuant to paragraph (1) of subsection c. of N. J. S.
 104H 2C:13-1 when the offense constitutes a crime of the first degree;
 104I (b) Except as provided in paragraph (a) of this subsection
 104J to a term of 15 years for a crime of the first degree;
 104K (c) To a term of seven years for a crime of the second degree;
 104L (d) To a term of four years for a crime of the third degree; and
 104M (e) To a term of nine months for a crime of the fourth degree*.

105 In imposing a minimum term pursuant to 2C:43-6b, the sentenc-
 106 ing court shall specifically place on the record the aggravating
 107 factors set forth in this section which justify the imposition of a
 108 minimum term.

109 Unless the preponderance of mitigating factors set forth in
 110 subsection b. weighs in favor of a lower term within the limits
 111 authorized, sentences imposed pursuant to 2C:43-7a(1) shall have
 112 a presumptive term of life imprisonment. Unless the preponder-
 113 ance of aggravating and mitigating factors set forth in subsections
 114 a. and b. weighs in favor of a higher or lower term within the limits
 115 authorized, sentences imposed pursuant to 2C:43-7a(2) shall have
 116 a presumptive term of 50 years' imprisonment; sentences imposed
 117 pursuant to 2C:43-7a(3) shall have a presumptive term of 15
 118 years' imprisonment; and sentences imposed pursuant to 2C:43-7a
 119 (4) shall have a presumptive term of seven years' imprisonment.

120 In imposing a minimum term pursuant to 2C:43-7b, the sentenc-
 121 ing court shall specifically place on the record the aggravating
 122 factors set forth in this section which justify the imposition of a
 123 minimum term.

124 (2) In cases of convictions for crimes of the first or second degree
 125 where the court is clearly convinced that the mitigating factors sub-
 126 stantially outweigh the aggravating factors and where the interest
 127 of justice demands, the court may sentence the defendant to a term
 128 appropriate to a crime of one degree lower than that of the crime

129 for which he was convicted. If the court does impose sentence pur-
130 suant to this paragraph, or if the court imposes a noncustodial
131 or probationary sentence upon conviction for a crime of the first
132 or second degree, such sentence shall not become final for 10 days
133 in order to permit the appeal of such sentence by the prosecution.
134 g. Imposition of Noncustodial Sentences in Certain Cases. If
135 the court, in considering the aggravating factors set forth in sub-
136 section a., finds the aggravating factor in paragraph a. (2) and
137 does not impose a custodial sentence, the court shall specifically
138 place on the record the mitigating factors which justify the im-
139 position of a noncustodial sentence.

1 37. Section 4 of P. L. 1940, c. 4 (C. 54:30A-19) is amended to
2 read as follows:

3 4. (A) Every taxpayer shall on or before the first day of Septem-
4 ber, [one thousand nine hundred and forty-one] 1941, and the first
5 day of September in each year thereafter return to the [State Tax
6 Commissioner] *Director of the Division of Taxation* a statement in
7 in such form and detail as the [State Tax Commissioner] *Director*
8 *of the Division of Taxation* shall require, showing, as of the first
9 day of July preceding:

10 (1) The scheduled property of the taxpayer located in, on
11 or over any public street, highway, road or other public place
12 in this State; and

13 (2) The length of the taxpayer's lines or mains in, on, along
14 or over any public street, highway, road or other public place in
15 this State, exclusive of service connections; and

16 (3) The whole length of the taxpayer's lines or mains, exclu-
17 sive of service connections.

18 (B) Every taxpayer shall on or before February first, [one thou-
19 sand nine hundred and forty-one] 1941, and February first in each
20 year thereafter return to the [State Tax Commissioner] *Director*
21 *of the Division of Taxation* a statement showing its gross receipts
22 for the preceding calendar year.

23 (C) The statements herein provided for shall be subscribed and
24 sworn to by the taxpayer or the president, a vice-president, or chief
25 officer of the corporation making such return. Any taxpayer refus-
26 ing or neglecting to make the statements herein provided for shall
27 forfeit and pay to the State of New Jersey the sum of one hundred
28 dollars (\$100.00) per day for each day of such refusal or neglect,
29 to be recovered in an action at law in the name of the State and
30 which, when recovered, shall be paid into the State treasury. It
31 shall be the duty of the [State Tax Commissioner] *Director of the*
32 *Division of Taxation* to certify any such default to the Attorney

33 General of the State who, thereupon, shall prosecute an action at
 34 law for such penalty. [Any person who shall knowingly or will-
 35 fully falsely make any oath required to be made under this act shall
 36 be deemed guilty of perjury and on conviction thereof shall be liable
 37 to all penalties prescribed by law therefor.]

38 (D) The [State Tax Commissioner] *Director of the Division of*
 39 *Taxation* shall audit and verify the statements filed by taxpayers
 40 whenever and in such respects as he shall deem necessary or advis-
 41 able. The [State Tax Commissioner] *Director of the Division of*
 42 *Taxation* may require any taxpayer to supply additional data and
 43 information in such form and detail as he shall request, whenever
 44 he may deem it necessary or helpful, for the proper performance
 45 of his duties under this act.

1 38. Section 7 of P. L. 1940, c. 5 (C. 54:30A-55) is amended to
 2 read as follows:

3 7. (A) Every taxpayer shall on or before the first day of Septem-
 4 ber, [one thousand nine hundred and forty-one] 1941 and on or
 5 before the first day of September in each year thereafter return to
 6 the [State Tax Commissioner] *Director of the Division of Taxa-*
 7 *tion* a statement in such form and detail as the [State Tax Com-
 8 missioner] *Director of the Division of Taxation* shall require, show-
 9 ing, as of the first day of July of such year:

10 (1) The schedule property of the taxpayer located in, on or
 11 over any public street, highway, road or other public place in
 12 each municipality in this State and the scheduled property not
 13 so located in each municipality in this State;

14 (2) The length of the taxpayer's lines and mains along, in, on
 15 or over any public street, highway, road or other public place
 16 in this State, exclusive of service connections (but not includ-
 17 ing in the case of a street railway or traction company the
 18 length of the lines operated by autobuses or vehicles of the
 19 character described in [Title 48, chapter 15, section forty-one to
 20 the end of the chapter, of the Revised Statutes (Revised Stat-
 21 utes, section 48:15-41 et seq.)] *R. S. 48:15-41 et seq.*; and

22 (3) The whole length of the taxpayer's lines and mains, ex-
 23 clusive of service connections (but not including in the case of
 24 a street railway or traction company the length of the lines
 25 operated by autobuses or vehicles of the character described in
 26 [Title 48, chapter 15, section forty-one to the end of the chapter,
 27 of the Revised Statutes (Revised Statutes, section 48:15-41 et
 28 seq.)] *R. S. 48:15-41 et seq.*

29 (4) Every taxpayer operating both gas and electric facilities
 30 facilities shall supply the information required by this subsec-

31 tion (A) in such manner as the [State Tax Commissioner]
32 *Director of the Division of Taxation* shall require so that its gas
33 and electric scheduled property and length of gas and electric
34 lines shall be shown separately.

35 (B) Every taxpayer shall on or before February first, [one thou-
36 sand nine hundred and forty-one] 1941, and on or before February
37 first in each year thereafter return to the [State Tax Commis-
38 sioner] *Director of the Division of Taxation* a statement showing:

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

43 (2) The gross receipts for the preceding calendar year from
44 the business over, on, in, through or from the whole of the tax-
45 payer's lines and mains.

46 (3) Every taxpayer operating both gas and electric facilities
47 shall supply the information required by this subsection (B)
48 in such manner as the [State Tax Commissioner] *Director of*
49 *the Division of Taxation* shall require, separating its gross
50 receipts from gas operations from its gross receipts from
50A electric operations.

51 (C) The statements herein provided for shall be subscribed and
52 sworn to by the president, a vice-president or chief officer of the
53 corporation making such return; any taxpayer refusing or neglect-
54 ing to make the statements herein provided for shall forfeit and
55 pay to the State of New Jersey the sum of one hundred dollars
56 (\$100.00) per day for each day of such refusal or neglect, to be
57 recovered in an action at law in the name of the State and which,
58 when recovered, shall be paid into the State treasury. It shall be
59 the duty of the [State Tax Commissioner] *Director of the Division*
60 *of Taxation* to certify any such default to the Attorney General of
61 the State who, thereupon, shall prosecute an action at law for such
62 penalty. [Any person who shall knowingly or willfully falsely
63 make any oath required to be made under this act shall be deemed
64 guilty of perjury and on conviction thereof shall be liable to all
65 penalties prescribed by law therefor.]

66 (D) The [State Tax Commissioner] *Director of the Division of*
67 *Taxation* shall audit and verify the statements filed by taxpayers
68 whenever and in such respects as he shall deem necessary or advis-
68 able. The [State Tax Commissioner] *Director of the Division of*
69 *Taxation* may require any taxpayer to supply additional data and
70 information in such form and detail as he shall request, whenever
71 he may deem it necessary or helpful, for the proper performance
72 of his duties under this act.

1 39. Section 26 of P. L. 1966, c. 30 (C. 54:32B-26) is amended to
2 read as follows:

3 26. Penalties and interest. (a) Any person failing to file a return
4 or to pay or pay over any tax to the director within the time re-
5 quired by this act shall be subject to such penalties and interest as
6 provided in the State Tax Uniform Procedure Law, [subtitle 9
7 of Title 54 of the Revised Statutes] *R. S. 54:48-1 et seq.* Unpaid
8 penalties and interest may be determined, assessed, collected and
9 enforced in the same manner as the tax imposed by this act.

10 (b) [Any person failing to file a return or failing to pay or pay
11 over any tax required by this act, or filing or causing to be filed, or
12 making or causing to be made, or giving or causing to be given any
13 return, certificate, affidavit, representation, information, testimony
14 or statement required or authorized by this act, which is willfully
15 false, or willfully failing to file a bond required by this act, or fail-
16 ing to file a registration certificate and such data in connection
17 therewith as the director by regulation or otherwise may require,
18 or to display or surrender a certificate of authority as required by
19 this act, or assigning or transferring such certificate of authority,
20 or willfully failing to charge separately the tax herein imposed or
21 to state such tax separately on any bill, statement, memorandum
22 or receipt issued or employed by him upon which the tax is re-
23 quired to be stated separately as provided in subsection (a) of
24 section 12, or willfully failing to collect the tax from a customer,
25 or referring or causing reference to be made to this tax in a form
26 or manner other than that required by this act, or failing to keep
27 any records required by this act, shall, in addition to any other
28 penalties herein or elsewhere prescribed, be a disorderly person.]
29 (*Deleted by amendment, P. L. , c.*).

30 (c) [The certificate of the director to the effect that a tax has not
31 been paid, that a return, bond or registration certificate has not
32 been filed, or that information has not been supplied pursuant to
33 the provisions of this act shall be presumptive evidence thereof.]
34 (*Deleted by amendment, P. L. , c.*)

1 40. Section 13 of P. L. 1980, c. 62 (C. 54:32C-13) is amended
2 to read as follows:

3 13. a. Any person failing to file a return or to pay or pay over
4 any tax to the director within the time required by this act shall
5 be subject to such penalties and interest as provided in the State
6 Tax Uniform Procedure Law, [subtitle 9 of Title 54 of the Revised
7 Statutes] *R. S. 54:48-1 et seq.* Unpaid penalties and interest may
8 be determined, assessed, collected and enforced in the same man-
9 ner as the tax imposed by this act.

10 b. **Any person failing to file a return or failing to pay or pay**
 11 **over any tax required by this act, or filing or causing to be filed, or**
 12 **making or causing to be made, or giving or causing to be given any**
 13 **return, certificate, affidavit, representation, information, testimony**
 14 **or statement required or authorized by this act, which is willfully**
 15 **false, or willfully failing to file a bond required by this act, or fail-**
 16 **ing to file a registration certificate and such data in connection**
 17 **therewith as the director by regulation or otherwise may require,**
 18 **or to display or surrender a certificate of authority as required by**
 19 **this act, or assigning or transferring such certificate of authority,**
 20 **or willfully failing to charge separately the tax herein imposed or**
 21 **to state such tax separately on any bill, statement, memorandum**
 22 **or receipt issued or employed by him upon which the tax is re-**
 23 **quired to be stated separately as provided in section 4, or willfully**
 24 **failing to collect the tax from a customer, or referring or causing**
 25 **reference to be made to this tax in a form or manner other than**
 26 **that required by this act, or failing to keep any records required**
 27 **by this act, shall, in addition to any other penalties herein or else-**
 28 **where prescribed, be a disorderly person.] (Deleted by amendment,**
 29 *P. L. , c. .)*

30 c. **The certificate of the director to the effect that a tax has not**
 31 **been paid, that a return, bond or registration certificate has not**
 32 **been filed, or that information has not been supplied pursuant to**
 33 **the provisions of this act shall be presumptive evidence thereof.]**
 34 *(Deleted by amendment, P. L. , c. .)*

1 41. Section 606 of P. L. 1948, c. 65 (C. 54:40A-29) is amended
 2 to read as follows:

3 606. Forging or counterfeiting revenue stamps.

4 a. Any person who falsely or fraudulently makes, forges, alters,
 5 or counterfeits, or causes or procures to be falsely or fraudulently
 6 made, forged, altered, or counterfeited, any stamps prepared or
 7 prescribed by the director under the authority of this act, or who
 8 knowingly and willfully utters, publishes, passes, or tenders as
 9 true, any such false, altered, forged or counterfeited stamp, or
 10 uses any stamp provided for and required by this act, which has
 11 already once been used, for the purpose of evading the tax hereby
 12 imposed, shall be guilty of a **high misdemeanor**, and upon convic-
 13 tion thereof, shall be fined not more than \$2,000.00, or imprisoned,
 14 with or without hard labor, as the court may direct, for a term of
 15 not more than seven years, or both.] *crime of the third degree.*

16 b. Any person who secures, manufactures, or causes to be secured
 17 or manufactured, or has in his possession any stamp or any

18 counterfeit impression device not prescribed or authorized by
 19 the director under the authority of this act, shall be guilty of a
 20 [high misdemeanor and subject to the penalties above prescribed]
 21 *crime of the third degree* and such fact shall be prima facie evidence
 22 that such person has counterfeited stamps.

23 c. Any person who has in his possession packages of cigarettes
 24 in a quantity equal to or greater than 2,000 cigarettes to which are
 25 affixed counterfeit stamps or impressions shall be guilty of a
 26 [misdemeanor] *crime of the third degree*.

27 Possession of such packages or cigarettes shall be deemed suf-
 28 ficient evidence to authorize conviction, unless the accused shall
 29 show to the satisfaction of the court (1) that when he bought the
 30 cigarettes he knew or made inquiries sufficient to satisfy a reason-
 31 able man, that the seller was in a regular and established business
 32 for dealing in cigarettes and was so licensed and (2) that the
 33 amount paid by him for the cigarettes represented its fair and
 34 reasonable value and that he received an invoice for the same.

35 d. [Any person who has in his possession packages of cigarettes,
 36 in an amount less than 2,000 cigarettes, to which are affixed coun-
 37 terfeit stamps or impressions, is a disorderly person.

38 Possession of such packages of cigarettes shall be deemed suf-
 39 ficient evidence to authorize conviction, unless the accused shall
 40 show to the satisfaction of the court (1) that when he bought the
 41 cigarettes he knew or made inquiries sufficient to satisfy a reason-
 42 able man, that the seller was in a regular and established business
 43 for dealing in cigarettes and was so licensed and (2) that the
 44 amount paid by him for the cigarettes represented its fair and
 45 reasonable value and that he received an invoice for the same.]
 46 (*Deleted by amendment, P. L. , c. .*)

1 42. R. S. 54:47-6 is amended to read as follows:

2 54:47-6. Any person who shall violate any of the provisions of
 3 this subtitle, by any act or omission not heretofore mentioned in
 4 this chapter, shall be [guilty of a misdemeanor and] punished [ac-
 5 cordingly] *in accordance with the State Tax Uniform Procedure*
 6 *Law, R. S. 54:48-1, et seq.*

1 43. Section 9 of P. I. 1976, c. 141 (C. 58:10-23.11h) is amended
 2 to read as follows:

3 9. a. There is hereby levied upon each owner or operator of one
 4 or more major facilities a tax to insure compensation for cleanup
 5 costs and damages associated with any discharge of hazardous
 6 substances to be paid by the transferee; provided, however, that
 7 in the case of a major facility which operates as a public storage

8 terminal for hazardous substances owned by others, the owner of
9 the hazardous substance transferred to such major facility or his
10 authorized agent shall be considered to be the transferee or trans-
11 feror, as the case may be, for the purposes of this section and shall
12 be deemed to be a taxpayer for purposes of this act. Where such
13 person has failed to file a return or pay the tax imposed by this act
14 within 60 days after the due date thereof, the director shall forth-
15 with take appropriate steps to collect same from the owner of the
16 hazardous substance. In the event the director is not successful in
17 collecting said tax, then on notice to the owner or operator of the
18 public storage terminal of said fact said owner or operator shall
19 not release any hazardous substance owned by the taxpayer. The
20 director may forthwith proceed to satisfy any tax liability of the
21 taxpayer by seizing, selling or otherwise disposing of said hazard-
22 ous substance to satisfy the taxpayer's tax liability and to take any
23 further steps permitted by law for its collection. For the purposes
24 of this act, public storage terminal shall mean a public or privately
25 owned major facility operated for public use which is used for the
26 storage or transfer of hazardous substances. The tax shall be
27 measured by the number of barrels or the fair market value, as the
28 case may be, of hazardous substances transferred to the major
29 facility; provided, however, that the same barrel, including any
30 products derived therefrom, subject to multiple transfers from or
31 between major facilities shall be taxed only once at the point of the
32 first transfer.

33 When a hazardous substance other than petroleum which has
34 not been previously taxed is transferred from a major in-State
35 facility to a facility which is not a major facility, the transferor
36 shall be liable for tax payment for said transfer.

37 b. The tax shall be ***[\$0.01]*** ***\$0.0125*** per barrel transferred
38 and in the case of the transfer of hazardous substances other than
39 petroleum or petroleum products, the tax shall be the greater of
40 ***[\$0.01]*** ***\$0.0125*** per barrel or ***[0.4%]*** ***1.0%*** of the fair
41 market value of the product***]**, until the balance in the fund
42 equals or exceeds **\$50,000,000.00]***; provided, however, that
42a with respect to transfers of hazardous substances other than
43 petroleum or petroleum products which are or contain any precious
44 metals to be recycled, refined, or rerefined in this State, or which
45 are transferred into this State subsequent to being recycled, re-
46 fined or rerefined, the tax shall be ***[\$0.01]*** ***\$0.0125*** per barrel
47 of the hazardous substance *; and provided further, however, that
48 the total aggregate tax due for any individual taxpayer which has

49 *paid the tax in the 1986 tax year shall not exceed 135% of the*
50 *tax due and payable by that taxpayer during the 1986 tax year;*
51 *except that for a hazardous substance which is directly converted*
52 *to, and comprises more than 90% by weight of, a non-hazardous*
53 *final product, the taxpayer shall pay no more than 100% of the*
54 *tax due and payable in the 1986 tax year*. For the purposes of this*
55 *section, "precious metals" means gold, silver, osmium, platinum,*
56 *palladium, iridium, rhodium, ruthenium and copper. *In each*
57 *fiscal year following any year in which the balance of the fund*
58 *equals or exceeds \$50,000,000.00, no tax shall be levied unless:*
59 *(1) the current balance in the fund is less than \$40,000,000.00; or*
60 *(2) pending claims against the fund exceed 50% of the existing*
61 *balance of the fund. The provisions of the foregoing notwithstand-*
62 *ing, should claims paid from or pending against the fund not*
63 *exceed \$5,000,000.00 within three years after the tax is first levied,*
64 *the tax shall be \$0.01 per barrel transferred or 0.4% of the fair*
65 *market value of the product, as the case may be, until the balance*
66 *in the fund equals or exceeds \$36,000,000.00, and thereafter shall*
67 *not be levied unless: (1) the current balance in the fund is less than*
68 *\$30,000,000.00; or (2) pending claims against the fund exceed 50%*
69 *of the existing balance of the fund. In the event of either such*
70 *occurrence and upon certification thereof by the State Treasurer,*
71 *the director shall within 10 days of the date of such certification*
72 *relevy the excise tax, which shall take effect on the first day of*
73 *the month following such relevy. With respect to the tax imposed*
74 *upon the transfer of hazardous substances which are other than*
75 *petroleum or petroleum products, if the revenues from such tax*
76 *exceed \$7,000,000.00 during any calendar year, such excess shall*
77 *be refunded or credited to the taxpayers who paid such tax during*
78 *the calendar year. The refund or credit shall be based upon the*
79 *amount of taxes paid by each taxpayer on transfers of hazardous*
80 *substances which are other than petroleum or petroleum products*
81 *for the calendar year in proportion to all taxes paid by all tax-*
82 *payers on such transfers during said year; provided, however,*
83 *that if at the end of the calendar year the increased tax rate as*
84 *authorized by this subsection or subsection i. is in effect, no refund*
85 *or credit shall be allowed for such calendar year; and [further,*
86 *provided] provided further that no refund or credit shall be*
87 *allowed for a calendar year if by reason of such refund or credit*
87A *a condition would occur which would authorize the imposition of*
87B *the tax at the higher rate authorized in this subsection or subsec-*
87C *tion i. However, a partial refund or credit shall be allowed to the*

87d extent that such a condition would not occur.】* In the event of a
 87e major discharge or series of discharges of petroleum or petroleum
 87f products* resulting in reasonable claims against the fund exceed-
 87g ing the existing balance of the fund, the tax shall be levied *【as
 87h follows:

88 (1) On petroleum or petroleum products,】* at the rate of \$0.04
 89 per barrel of petroleum or petroleum products* transferred,
 90 until the revenue produced by such increased rate equals 150%
 91 of the total dollar amount of all pending reasonable claims
 92 resulting from the discharge of petroleum or petroleum prod-
 92a ucts; provided, however, that such rate may be set at less than
 93 \$0.04 per barrel transferred if the administrator determines that
 94 the revenue produced by such lower rate will be sufficient to pay
 95 outstanding reasonable claims against the fund within one year of
 96 such levy; and

97 *【(2) On hazardous substances other than petroleum or petro-
 98 leum products, at the rate of the greater of \$0.04 per barrel trans-
 99 ferred or 0.8% of the fair market value of such hazardous sub-
 100 stance, until the revenue produced by such increased rate equals
 101 150% of the total dollar amount of all pending reasonable claims
 102 resulting from the discharge of hazardous substances other than
 103 petroleum or petroleum products; provided, however, that with
 104 respect to transfers of hazardous substances other than petroleum
 105 or petroleum products which are or contain any precious metals to
 106 be recycled, refined, or rerefined in this State, or which are trans-
 107 ferred into this State subsequent to being recycled, refined, or
 108 rerefined, the tax shall be \$0.04 per barrel of the hazardous sub-
 109 stances; and provided further, however, that any such increased
 110 tax rate on hazardous substances other than petroleum or petro-
 111 leum products may be set at less than \$0.04 per barrel transferred,
 112 or 0.8% of the fair market value of the hazardous substance, as
 113 the case may be, if the administrator determines that the revenue
 114 produced by such lower rate shall be sufficient to pay outstanding
 115 reasonable claims against the fund within one year of such levy】*
 116 *provided further, however, that under no circumstances shall
 117 this rate be levied for the period of one year immediately follow-
 118 ing enactment of this 1986 amendatory and supplementary act,
 119 P. L. 1986, c. 113 (C. 58:10-23,11b et al.)*.

120 Interest received on moneys in the fund shall be credited to the
 120a fund. *【Should the fund exceed \$36,000,000.00 or \$50,000,000.00,
 120b as herein provided, as a result of such interest, the commis-
 120c sioner shall report to the Legislature and the Governor concern-
 120d ing the options for the use of such interest.】*

121 c. (1) Every taxpayer and owner or operator of a public storage
122 terminal for hazardous substances shall on or before the 20th
123 day of the month following the close of each tax period render a
124 return under oath to the director on such forms as may be pre-
125 scribed by the director indicating the number of barrels of haz-
126 ardous substances transferred and where appropriate, the fair
127 market value of the hazardous substances transferred to or from
128 the major facility, and at said time the taxpayer shall pay the
129 full amount of the tax due.

130 (2) Every taxpayer or owner or operator of a major facility or
131 vessel which transfers a hazardous substance, as defined in this
132 act, and who is subject to the tax under subsection a. shall within
133 20 days after the first such transfer in any fiscal year register with
134 the director on such form as shall be prescribed by him.

135 d. If a return required by this act is not filed, or if a return when
136 filed is incorrect or insufficient in the opinion of the director, the
137 amount of tax due shall be determined by the director from such
138 information as may be available. Notice of such determination
139 shall be given to the taxpayer liable for the payment of the tax.
140 Such determination shall finally and irrevocably fix the tax unless
141 the person against whom it is assessed, within 30 days after re-
142 ceiving notice of such determination, shall apply to the director
143 for a hearing, or unless the director on his own motion shall re-
144 determine the same. After such hearing the director shall give
145 notice of his determination to the person to whom the tax is
146 assessed.

147 e. Any taxpayer who shall fail to file his return when due or to
148 pay any tax when the same becomes due, as herein provided, shall
149 be subject to such penalties and interest as provided in the "State
150 Tax Uniform Procedure Law," [Subtitle 9 of Title 54 of the
151 Revised Statutes] *R. S. 54:48-1 et seq.* If the Division of Taxation
152 determines that the failure to comply with any provision of this
153 section was excusable under the circumstances, it may remit such
154 part or all of the penalty as shall be appropriate under such
155 circumstances.

156 f. (1) [Any person failing to file a return, failing to pay the tax,
157 or filing or causing to be filed, or making or causing to be made,
158 or giving or causing to be given any return, certificate, affidavit,
159 representation, information, testimony or statement required or
160 authorized by this act, or rules or regulations adopted hereunder
161 which is willfully false, or failing to keep any records required
162 by this act or rules and regulations adopted hereunder, shall, in

163 addition to any other penalties herein or elsewhere prescribed, be
164 guilty of a *crime of the fourth degree.* *(Deleted by amendment,*
165 *P. L. , c. .)*

166 (2) *[The certificate of the director to the effect that a tax has not*
167 *been paid, that a return has not been filed, that information has*
168 *not been supplied or that inaccurate information has been supplied*
169 *pursuant to the provisions of this act or rules or regulations*
170 *adopted hereunder shall be presumptive evidence thereof.] (De-*
171 *leted by amendment, P. L. , c. .)*

172 g. In addition to the other powers granted to the director in this
173 section, he is hereby authorized and empowered:

174 (1) To delegate to any officer or employee of his division such of
175 his powers and duties as he may deem necessary to carry out
176 efficiently the provisions of this section, and the person or persons
177 to whom such power has been delegated shall possess and may
178 exercise all of said powers and perform all of the duties delegated
179 by the director;

180 (2) To prescribe and distribute all necessary forms for the im-
181 plementation of this section.

182 h. The tax imposed by this act shall be governed in all respects
183 by the provisions of the "State Tax Uniform Procedure Law,"
184 *[Subtitle 9 of Title 54 of the Revised Statutes] R. S. 54:48-1*
185 *et seq.*, except only to the extent that a specific provision of this
186 act may be in conflict therewith.

187 i. **[Notwithstanding any other provisions of this section, upon a*
188 *request from the administrator, the Treasurer may order the*
189 *director to levy the tax on all hazardous substances other than*
190 *petroleum or petroleum products at a specified rate greater than*
191 *\$0.01 per barrel or 0.4% of the fair market value of the product, as*
192 *the case may be, but in no event to exceed \$0.04 per barrel with*
193 *respect to transfers of hazardous substances other than petroleum*
194 *or petroleum products which are or contain any precious metals*
195 *to be recycled, refined or rerefined in this State, or which are trans-*
196 *ferred into this State subsequent to being recycled, refined or*
197 *rerefined, or the greater of \$0.04 per barrel or 0.6% of the fair*
198 *market value of the product with respect to transfers of any*
199 *[other] hazardous substances other than petroleum or petroleum*
200 *products, if and as long as the administrator determines the*
201 *following:*

202 (1) That pending *[.]* reasonable claims against the fund for
203 hazardous substances other than petroleum or petroleum products
204 exceed 70% of the existing balance of the fund, and

205 (2) That the sum of the claims paid by the fund on behalf of
206 discharges or removals of hazardous substances other than petro-
207 leum or petroleum products plus pending [.] reasonable claims
208 against the fund on behalf of discharges of hazardous substances
209 other than petroleum is equal to or greater than 70% of all claims
210 paid by the fund plus all pending [.] reasonable claims against
211 the fund.

212 The provisions of this subsection shall not preclude the impo-
212A sition of the tax at the higher rate authorized under subsection b.
213 of this section.]* *(Deleted by amendment, P. L. 1986, c. 143).**

1 44. Section 11 of P. L. 1983, c. 443 (C. 58:12A-21) is amended to
2 read as follows:

3 11. a. There is levied upon the owner or operator of every public
4 community water system a water tax of \$0.01 per 1,000 gallons of
5 water delivered to a consumer, not including water purchased for
6 resale, on or after first day of the first full fiscal quarter following
7 enactment of [this amendatory and supplementary act] *P. L. 1983,*
8 *c. 443 (C. 58:12A-12 et al.),* and quarterly thereafter.

9 b. (1) The owner or operator of every public community water
10 system shall, on or before the 20th day of the month following the
11 close of each tax period, render a return under oath to the Director
12 of the Division of Taxation, on such form as may be prescribed by
13 the director, indicating the number of gallons of water delivered to
14 a consumer, and at said time owner or operator shall pay the full
15 amount of tax due.

16 (2) The owner or operator of every public community water
17 system shall, within 20 days, register with the director on forms
18 prescribed by him.

19 c. If a return required by this [amendatory and supplementary]
20 act is not filed, or if a return when filed is incorrect or insufficient
21 in the opinion of the director, the amount of tax due shall be deter-
22 mined by the director from such information as may be available.
23 Notice of such determination shall be given to the taxpayer liable
24 for the payment of the tax. Such determination shall finally and
25 irrevocably fix the tax, unless the person against whom it is
26 assessed, within 30 days after receiving notice of such determina-
27 tion, shall apply to the director for a hearing, or unless the director
28 on his own motion shall redetermine the same. After such hearing
29 the director shall give notice of his determination to the person
30 to whom the tax is assessed.

31 d. Any taxpayer who shall fail to file his return when due or
32 to pay any tax when the same becomes due, as herein provided, shall
33 be subject to such penalties and interest as provided in the State

34 Tax Uniform Procedure Law, [subtitle 9 of Title 54 of the Revised
35 Statutes.] *R. S. 54:48-1 et seq.* If the Division of Taxation deter-
36 mines that the failure to comply with any provision of this section
37 was excusable under the circumstances, it may remit such part or
38 all of the penalty as shall be appropriate under such circumstances.

39 e. (1) [Any person failing to file a return, failing to pay the tax,
40 or filing or causing to be filed, or making or causing to be made,
41 or giving or causing to be given any return, certificate, affidavit,
42 representation, information, testimony or statement required or
43 authorized by this amendatory and supplementary act, or rules or
44 regulations adopted hereunder, which is willfully false, or failing
45 to keep any records required by this amendatory and supplementary
46 act or rules and regulations adopted hereunder, shall, in addition
47 to any other penalties herein or elsewhere prescribed, be guilty
48 of a crime of the fourth degree.] (*Deleted by amendment, P. L.*
49 *, c.)*

50 (2) [The certificate of the director to the effect that a tax has
51 not been paid, that a return has not been filed, that information
52 has not been supplied or that inaccurate information has been sup-
53 plied pursuant to the provisions of this amendatory and supple-
54 mentary act or rules or regulations adopted hereunder shall be
55 presumptive evidence thereof.] (*Deleted by amendment, P. L.*
56 *c.)*

57 f. In addition to the other powers granted to the director in
58 this section, he is authorized:

59 (1) To delegate to any officer or employee of his division such of
60 his powers and duties as he may deem necessary to carry out effi-
61 ciently the provisions of this section, and the person to whom such
62 power has been delegated shall possess and may exercise all of
63 said powers and perform all of the duties delegated by the director;

64 (2) To prescribe and distribute all necessary forms for the im-
65 plementation of this section.

66 g. The tax imposed by this section shall be governed in all re-
67 spects by the provisions of the State Tax Uniform Procedure Law,
68 [subtitle 9 of Title 54 of the Revised Statutes] *R. S. 54:48-1 et seq.*,
69 except only to the extent that a specific provision of this section
70 may be in conflict therewith.

71 h. The "Safe Drinking Water Fund" (hereinafter referred to as
72 the "fund") is established as a nonlapsing, revolving fund. The
73 fund shall be administered by the department, and shall be credited
74 with all tax revenue collected by the division pursuant to this sec-
75 tion. Interest received on moneys in the fund shall be credited to
76 the fund. Moneys in the fund shall be appropriated to the depart-

77 ment for all costs associated with the department's administration
78 of all aspects of the programs set forth in the "Safe Drinking
79 Water Act," P. L. 1977, c. 224 (C. 58:12A-1 et seq.), in the annual
80 budget request of the department.

1 45. Section 4 of P. L. 1981, c. 278 (C. 13:1E-95) is amended to
2 read as follows:

3 4. a. There is levied upon the owner or operator of every sanitary
4 landfill facility a recycling tax of \$0.12 per cubic yard of all solid
5 waste accepted for disposal at the facility on or after January 1,
6 1982. In the event that any solid waste is measured upon acceptance
7 for disposal by other than cubic yards, the tax shall be levied on the
8 equivalents thereof as shall be determined by the director.

9 b. (1) Every owner or operator of a sanitary landfill facility
10 shall, on or before the 20th day of the month following the close
11 of each tax period, render a return under oath to the director on
12 such form as may be prescribed by the director indicating the num-
13 ber of cubic yards of solid waste accepted for disposal and at said
14 time owner or operator shall pay the full amount of tax due.

15 (2) Every owner or operator of a sanitary landfill which accepts
16 solid waste for disposal and which is subject to the tax under sub-
17 section a. of this section shall within 20 days after the first accep-
18 tance of this waste, register with the director on forms prescribed
19 by him.

20 c. If a return required by this act is not filed, or if a return
21 when filed is incorrect or insufficient in the opinion of the director,
22 the amount of tax due shall be determined by the director from
23 such information as may be available. Notice of such determina-
24 tion shall be given to the taxpayer liable for the payment of the
25 tax. Such determination shall finally and irrevocably fix the tax
26 unless the person against whom it is assessed, within 30 days after
27 receiving notice of such determination, shall apply to the director
28 for a hearing, or unless the director on his own motion shall redeter-
29 mine the same. After such hearing the director shall give notice of
30 his determination to the person to whom the tax is assessed.

31 d. Any taxpayer who shall fail to file his return when due or to
32 pay any tax when the same becomes due, as herein provided, shall
33 be subject to such penalties and interest as provided in the State
34 Tax Uniform Procedure Law, [Subtitle 9 of Title 54 of the Revised
35 Statutes] *R. S. 54:48-1 et seq.* If the Division of Taxation deter-
36 mines that the failure to comply with any provision of this section
37 was excusable under the circumstances, it may remit such part or
38 all of the penalty as shall be appropriate under such circumstances.

39 e. (1) ~~Any person failing to file a return, failing to pay the tax,~~
 40 ~~or filing or causing to be filed, or making or causing to be made, or~~
 41 ~~giving or causing to be given any return, certificate, affidavit, rep-~~
 42 ~~resentation, information, testimony, or statement required or~~
 43 ~~authorized by this act, or rules or regulations adopted hereunder~~
 44 ~~which is willfully false, or failing to keep any records required by~~
 45 ~~this act or rules and regulations adopted hereunder, shall, in addi-~~
 46 ~~tion to any other penalties herein or elsewhere prescribed, be guilty~~
 47 ~~of a crime of the fourth degree.] (Deleted by amendment, P. L. ,~~
 48 ~~c.)~~

49 (2) ~~The certificate of the director to the effect that a tax has~~
 50 ~~not been paid, that a return has not been filed, that information has~~
 51 ~~not been supplied or that inaccurate information has been supplied~~
 52-53 ~~pursuant to the provisions of this act or rules or regulations~~
 54 ~~adopted hereunder shall be presumptive evidence thereof.] (Deleted~~
 55 ~~by amendment, P. L. , c.)~~

56 f. In addition to the other powers granted to the director in this
 57 section, he is hereby authorized and empowered:

58 (1) To delegate to any officer or employee of his division such of
 59 his powers and duties as he may deem necessary to carry out
 60 efficiently the provisions of this section, and the person or persons
 61 to whom such power has been delegated shall possess and may
 62 exercise all of said powers and perform all of the duties delegated
 63 by the director;

64 (2) To prescribe and distribute all necessary forms for the imple-
 65 mentation of this section.

66 g. The tax imposed by this section shall be governed in all re-
 67 spects by the provisions of the State Tax Uniform Procedure Law,
 68 ~~Subtitle 9 of Title 54 of the Revised Statutes] R. S. 54:48-1 et~~
 69 ~~seq., except only to the extent that a specific provision of this sec-~~
 70 ~~tion may be in conflict therewith.~~

1 46. Section 6 of P. L. 1985, c. 533 (C. 13:1E-99.1) is amended to
 2 read as follows:

3 6. a. There is levied upon each person engaged in business in
 4 the State as a manufacturer, wholesaler, or distributor of litter-
 5 generating products a tax of $\frac{3}{100}$ of 1% (.0003) on sales of those
 6 products within the State, and each person engaged in business in
 7 the State as a retailer of litter-generating products a tax of $\frac{2.25}{100}$
 8 of 1% (.000225) on sales of those products within the State, except
 9 any retailer with less than \$250,000.00 in annual retail sales of litter-
 10 generating products is exempt from this tax. A sale by a wholesaler
 11 or distributor to another wholesaler or distributor, a sale by a com-
 12 pany to another company owned wholly by the same individuals or

13 companies, or a sale by a wholesaler or distributor owned coopera-
14 tively by retailers to these retailers is not subject to tax under this
15 [amendatory and supplementary] act. For the purposes of this
16 [amendatory and supplementary] act, "retailer" includes restau-
17 rants one of the principal activities of which consists of selling for
18 consumption off the premises of the restaurant a meal or food pre-
19 pared and ready to be eaten.

19A **The tax on the sale of litter-generating products imposed by*
19B *this subsection shall expire December 31, 1991. However, this*
19C *expiration shall not affect any obligation, lien or duty to pay*
19D *taxes which may be due with respect to the imposition of any levy,*
19E *or interest or penalties which may accrue by virtue of any assess-*
19F *ment, which may be made with respect to taxes levied for any*
19G *taxable year or part of a taxable year, prior to January 1, 1992,*
19H *nor shall this expiration affect the legal authority to assess and*
19I *collect the taxes which may be due and payable under section 6*
19J *of P. L. 1985, c. 533 (C. 13:1E-99.1), as the case may be, together*
19K *with such interest and penalties as would accrue thereon under*
19L *section 6 of P. L. 1985, c. 533 (C. 13:1E-99.1), nor shall this expi-*
19M *ration invalidate any assessment or affect any proceeding for the*
19N *enforcement thereof.**

20 b. On or before October 1, 1986, or in the case of a person
21 commencing or opening a new place of business after that date,
22 within 30 days after the commencement or opening, every person
23 subject to the tax imposed pursuant to this [amendatory and sup-
24 plementary] act shall file with the director a certificate of registra-
25 tion on a form prescribed by the director. Any person who is
26 registered under any law administered by the division or who is
27 subject to and files returns under any of these laws shall not be
28 required to comply with the provisions of this subsection.

29 c. Every person subject to this tax shall, on or before March
30 15, 1987, and on or before March 15 of each year thereafter, pre-
31 pare and file a return, under oath, for the preceding calendar year
32 with the director on forms and containing any information as the
33 director shall prescribe. The return shall indicate the dollar value
34 of the sales within the State of litter-generating products and at
35 the same time the person shall pay the full amount of tax due.

36 d. If a return required by this [amendatory and supplementary]
37 act is not filed, or if a return when filed is incorrect or insufficient
38 in the opinion of the director, the amount of tax due shall be deter-
39 mined by the director from whatever information may be available.
40 Notice of the determination shall be given to the taxpayer liable
41 for the payment of the tax. The determination shall finally and

42 irrevocably fix the tax unless the person against whom it is assessed,
43 within 30 days after receiving notice of the determination, shall
44 apply to the director for a hearing, or unless the director on his own
45 motion shall redetermine the same. After the hearing the director
46 shall give notice of his determination to the person to whom the tax
47 is assessed.

48 e. Any taxpayer who shall fail to file his return when due or to
49 pay any tax when the tax becomes due, as herein provided, shall
50 be subject to such penalties and interest as provided in the State
51 Tax Uniform Procedure Law, R. S. 54:48-1 et seq. If the director
52 determines that the failure to comply with any provision of this
53 section was excusable under the circumstances, he may remit any
54 part of the penalty as shall be appropriate under the circumstances.

55 f. (1) [Any person failing to file a return, failing to pay the tax,
56 or filing or causing to be filed, or making or causing to be made, or
57 giving or causing to be given any return, certificate, affidavit, rep-
58 resentation, information, testimony or statement required or au-
59 thorized by this amendatory and supplementary act, or rules or
60 regulations adopted hereunder which is willfully false, or failing
61 to keep any records required by this amendatory and supplementary
62 act or rules and regulations adopted hereunder, shall, in addition
63 to any other penalties herein or elsewhere prescribed, be guilty of
64 a crime of the fourth degree.] (*Deleted by amendment, P. L.*,
65 c.)

66 (2) [The certificate of the director to the effect that a tax has not
67 been paid, that a return has not been filed, that information has not
68 been supplied or that inaccurate information has been supplied
69 pursuant to the provisions of this amendatory and supplementary
70 act or rules or regulations adopted hereunder shall be presumptive
71 evidence of a violation thereof.] (*Deleted by amendment, P. L.*,
72 c.)

73 g. In addition to the other powers granted by this section, the
74 director may:

75 (1) Delegate to any officer or employee of his division those
76 powers and duties as he may deem necessary to carry out efficiently
77 the provisions of this section, and the person or persons to whom
78 the powers has been delegated shall possess and may exercise all
79 of the powers and perform all of the duties delegated by the
80 director;

81 (2) Prescribe and distribute all necessary forms for the imple-
82 mentation of this section; and

83 (3) Adopt any rules and regulations necessary for the imple-
84 mentation of this [amendatory and supplementary] act.

85 h. The tax imposed by this section shall be governed in all re-
86 spects by the provisions of the State Tax Uniform Procedure Law,
87 R. S. 54:48-1 et seq., unless otherwise provided by a specific pro-
88 vision of this section.

1 47. Section 5 of P. L. 1981, c. 306 (C. 13:1E-104) is amended to
2 read as follows:

3 5. a. There is levied upon the owner or operator of every sanitary
4 landfill facility a tax to insure the proper closure thereof and to
5 provide funds to compensate for any damages resulting from the
6 operations or closure of the facility. The tax shall be levied on all
7 solid waste accepted for disposal, at the rate of \$0.15 per cubic
8 yard of solids and \$0.002 per gallon of liquids. In the event that
9 any solid waste is measured, upon acceptance for disposal, by
10 other than cubic yards or gallons, the tax shall be levied on the
11 equivalents thereof as shall be determined by the director.

12 b. (1) Every owner or operator of a sanitary landfill facility
13 shall, on or before the 20th day of the month following the close
14 of each tax period, render a return under oath to the director on
15 such form as may be prescribed by the director indicating the
16 number of cubic yards of solid waste and gallons of liquid waste
17 accepted for disposal and at said time the owner or operator shall
18 pay the full amount of tax due.

19 (2) Every owner or operator of a sanitary landfill which accepts
20 solid or liquid waste for disposal and which is subject to the tax
21 under subsection a. of this section shall, within 20 days after the
22 first acceptance of this waste, register with the director on forms
23 prescribed by him.

24 c. If a return required by this act is not filed, or if a return when
25 filed is incorrect or insufficient in the opinion of the director, the
26 amount of tax due shall be determined by the director from such
27 information as may be available. Notice of such determination
28 shall be given to the taxpayer liable for the payment of the tax.
29 Such determination shall finally and irrevocably fix the tax unless
30 the person against whom it is assessed, within 30 days after receiv-
31 ing notice of such determination, shall apply to the director for a
32 hearing, or unless the director on his own motion shall redetermine
33 the same. After such hearing the director shall give notice of his
34 determination to the person to whom the tax is assessed.

35 d. Any taxpayer who shall fail to file his return when due or to
36 pay any tax when the same becomes due, as herein provided, shall
37 be subject to such penalties and interest as provided in the State
38 Tax Uniform Procedure Law. [Subtitle 9 of Title 54 of the Revised
39 Statutes] R. S. 54:48-1 et seq. If the Division of Taxation deter-

40 mines that the failure to comply with any provision of this section
 41 was excusable under the circumstances, it may remit such part or
 42 all of the penalty as shall be appropriate under such circumstances.

43 e. (1) ~~Any person failing to file a return, failing to pay the tax,~~
 44 ~~or filing or causing to be filed, or making or causing to be made,~~
 45 ~~or giving or causing to be given any return, certificate, affidavit,~~
 46 ~~representation, information, testimony or statement required or~~
 47 ~~authorized by this act, or rules or regulations adopted hereunder~~
 48 ~~which is willfully false, or failing to keep any records required~~
 49 ~~by this act or rules and regulations adopted hereunder. shall, in~~
 50 ~~addition to any other penalties herein or elsewhere prescribed, be~~
 51 ~~guilty of a crime of the fourth degree.] (Deleted by amendment,~~
 52 ~~P. L. , c.)~~

53 (2) ~~The certificate of the director to the effect that a tax has not~~
 54 ~~been paid, that a return has not been filed, that information has~~
 55 ~~not been supplied or that inaccurate information has been supplied~~
 56 ~~pursuant to the provisions of this act or rules or regulations~~
 57 ~~adopted hereunder shall be presumptive evidence thereof.] (Deleted~~
 58 ~~by amendment, P. L. , c.).~~

59 f. In addition to the other powers granted to the director in
 60 this section, he is hereby authorized and empowered:

61 (1) To delegate to any officer or employee of his division such of
 62 his powers and duties as he may deem necessary to carry out
 63 efficiently the provisions of this section, and the person or persons
 64 to whom such power has been delegated shall possess and may
 65 exercise all of said powers and perform all of the duties delegated
 66 by the director:

67 (2) To prescribe and distribute all necessary forms for the im-
 68 plementation of this section.

69 g. The tax imposed by this section shall be governed in all
 70 respects by the provisions of the State Tax Uniform Procedure
 71 Law, ~~Subtitle 9 of Title 54 of the Revised Statutes] R. S. 54:18-1~~
 72 ~~et seq., except only to the extent that a specific provision of this sec-~~
 73 ~~tion may be in conflict therewith.~~

1 48. R. S. 54:14-2 is amended to read as follows:

2 54:14-2. The ~~state tax commissioner] Director of the Division of~~
 3 ~~Taxation in the Department of Treasury may require of a corpora-~~
 4 ~~tion subject to tax under chapters 12 to 15 of [this] title 54 of the~~
 5 ~~Revised Statutes ([] R. S. 54:12-1 et seq.), such information or~~
 6 ~~reports touching its affairs as may be necessary to carry out the~~
 7 ~~provisions thereof. He may also require the production of the~~
 8 ~~books and other records of such company and he, or any of his duly~~

9 authorized assistants, may examine such records and swear and
10 examine witnesses in relation thereto.

11 **[A witness duly sworn who makes a false statement shall be**
12 **guilty of perjury.]**

1 49. (New section) Every domestic or foreign corporation subject
2 to the tax imposed under the Corporation Business Tax Act (1945),
3 P. L. 1945, c. 162 (C. 54:10A-1 et seq.), shall keep all records used
4 to determine its tax liability and such other records as the Director
5 of the Division of Taxation may by regulation require. The records
6 shall be available for inspection and examination at any time upon
7 demand by the director or his duly authorized agency or employee
8 and shall be preserved for a period of five years, except that the
9 director may consent to their destruction within that period or may
10 require that they be kept longer.

1 50. Section 5 of P. L. 1981, c. 184 (C. 54:10A-15.4) is amended to
2 read as follows:

3 5. a. In case of any underpayment of an installment payment
4 by a taxpayer, there shall be added to the tax for the fiscal or
5 calendar accounting year an amount determined by applying the
6 rate established in his section to the amount of the underpayment
7 for the period of the underpayment.

8 b. For purposes of subsection a., the amount of underpayment
9 shall be the excess of:

10 (1) The amount of the installment payment which would be re-
11 quired to be paid if all installment payments were equal to 90%
12 of the tax shown on the return for the fiscal or calendar accounting
13 year, or if no return was filed, 90% of the tax for that year, over

14 (2) The amount, if any, of the installment payment paid on or
15 before the last date prescribed for payment.

16 c. For purposes of subsection a., the period of the underpayment
17 shall run from the date the installment payment was required to be
18 paid to whichever of the following dates is the earlier:

19 (1) The fifteenth day of the fourth month after the close of the
20 fiscal or calendar accounting year.

21 (2) With respect to any portion of the underpayment, the date
22 on which that portion is paid.

23 For purposes of this subsection, a payment of any installment
24 payment shall be considered a payment of any previous underpay-
25 ment only to the extent that payment exceeds the amount of the
26 installment payment determined under subsection b. (1) for that
27 installment payment.

28 d. Notwithstanding the provisions of the preceding subsections,
29 the addition to the tax with respect to any underpayment of any

30 installment payment shall not be imposed if the total amount of all
 31 installment payments made on or before the last date prescribed
 32 for the payment of that installment equals or exceeds the amount
 33 which would have been required to be paid on or before that date
 34 if the total amount of all installment payments were the lesser of
 35 (1) or (2) as follows:

36 (1) An amount equal to the tax computed at the rates applica-
 37 ble to the current fiscal or calendar accounting year but otherwise
 38 on the basis of the facts shown on the return of the taxpayer for,
 39 and the law applicable to, the preceding fiscal or calendar account-
 40 ing year; or

41 (2) An amount equal to 90% of the tax for the current fiscal or
 42 calendar accounting year computed by placing on an annualized
 43 basis the taxable entire net income and entire net worth:

44 (a) For the first three months of the current fiscal or calen-
 45 dar accounting year, in the case of the installment payment re-
 46 quired to be paid in the fourth month,

47 (b) For the first three months or for the first five months of
 48 the current fiscal or calendar accounting year, in the case of the
 49 installment payment required to be paid in the sixth month,

50 (c) For the first six months or for the first eight months of
 51 the current fiscal or calendar accounting year, in the case of
 52 the installment payment required to be paid in the ninth month,

53 (d) For the first nine months or for the first 11 months of the
 54 current fiscal or calendar accounting year, in the case of the
 55 installment payment required to be paid in the twelfth month,
 56 and

57 (e) For the last three months of the preceding taxable year,
 58 in the case of the installment payment required to be paid in the
 59 first month of the current fiscal or calendar accounting year.

60 e. Any taxpayer who shall fail to pay, or shall underpay by
 61 more than 10% of the amount due, any installment payment re-
 62 quired pursuant to this act, shall pay, in addition to the tax, interest
 63 on the amount of underpayment [at a per annum rate of 5% above
 64 the average predominant prime rate, as determined by the Board
 65 of Governors of the Federal Reserve System, quoted by commer-
 66 cial banks to large businesses as of the first business day of the
 67 calendar quarter within which the payment was due] as provided
 68 in the State Tax Uniform Procedure Law, R. S. 54:48-1 et seq.

1 51. Section 19 of P. L. 1945, c. 102 (C. 54:10A-19) is amended
 2 to read as follows:

3 19. The [commissioner] director may grant a reasonable exten-
 4 sion of time for the filing of returns or the payment of tax or both,

5 under such rules and regulations as he shall prescribe, which rules
6 and regulations may require the filing of a tentative return and the
7 payment of an estimated tax. If the time for filing the return shall
8 be extended, the payment of the portion of the tax remaining to be
9 paid, if any, shall be postponed to the date fixed by the extension
10 of the time for the filing of the return, but in every such case the
11 corporation shall pay, in addition to the unpaid portion of the tax,
12 interest thereon at the rate **[of 1½% per month or fraction thereof]**
13 *as provided in the State Tax Uniform Procedure Law, R. S.*
14 *54:48-1 et seq.*, from the time when the return originally was re-
15 quired to be filed to the date of actual payment under the extension;
16 provided, that if such unpaid portion of the tax is not paid within
17 the time fixed under the extension, *the interest on such unpaid por-*
18 *tion shall be computed at the rate as provided in the State Tax Uni-*
19 *form Procedure Law, R. S. 54:48-1 et seq., from the date the tax*
20 *was originally due to the date of actual payment* and if the amount
21 paid at the time of the filing of the return was less than 90% of
22 the amount due, the taxpayer shall be liable for a penalty of 5%
23 per month or fraction thereof on the amount of underpayment
24 which shall be in addition to the interest charges provided above.

1 52. Section 3 of P. L. 1947, c. 51 (C. 54:10A-29) is amended
2 to read as follows:

3 3. (a) Upon the receipt of a written application accompanied by
4 the fee provided for in subsection (b) of this section, the **[com-**
5 **missioner]** *director* shall issue to the applicant a certificate cer-
6 tifying with respect to the corporation or corporations listed for
7 certification in the application either that there are no liens in
8 favor of the State for corporation franchise taxes due pursuant
9 to the provisions of this act or of **[chapters]chapter 13 [or 32A]**
10 of Title 54 of the Revised Statutes or that there are such liens
11 as may be stated in such certificate or such other status as the
12 **[commissioner's]** *director's* records may disclose.

13 . (b) The fee for a certificate issued pursuant to this section shall
14 be **[\$5.00]** *\$25.00* for each corporation listed in the application
15 for which a certificate is requested.

16 (c) The **[commissioner]** *director* may prescribe the form of
17 the application and may require that it shall contain a concise
18 and reasonably definite description of the property and of the
19 type of transaction in connection with which the application is
20 made as well as such other pertinent information as he may deem
21 necessary.

22 (d) Any person who shall acquire for a valuable consideration

23 an interest in lands, covered by such a certificate in reliance
24 thereon, shall hold such interest free from any lien held by the
25 State for unpaid corporation franchise taxes due pursuant to the
26 provisions of this act or of [chapters] chapter 13 [or 32A] of
27 Title 54 of the Revised Statutes and not shown on such certificate.

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

3 24. General powers of the director.—In addition to the powers
4 granted to the director in this act, he is hereby authorized and
5 empowered:

6 1. To make, adopt and amend rules and regulations appropriate
7 to the carrying out of this act and the purposes thereof;

8 2. To extend, for cause shown by general regulation or indi-
9 vidual authorization, the time of filing any return for a period
10 not exceeding three months on such terms and conditions as he
11 may require; and for cause shown, to remit penalties [but not
12 interest computed at the rate of 6% per annum] and interest as
13 provided for in the State Tax Uniform Procedure Law, R. S.
14 54:48-1 et seq;

15 3. To delegate his functions hereunder to any officer or employee
16 of his division such of his powers as he may deem necessary to
17 carry out efficiently the provisions of this act, and the person
18 or persons to whom such power has been delegated shall possess
19 and may exercise all of the power and perform all of the duties
20 herein conferred and imposed upon the director;

21 4. To prescribe methods for determining the amount of receipt,
22 amusement charges, or rents and for determining which of them
23 are taxable and which are nontaxable;

24 5. To require any person required to collect tax to keep detailed
25 records of all receipts, amusement charges, or rents received,
26 charged or accrued, including those claimed to be nontaxable, and
27 also of the nature, type, value and amount of all purchases, sales,
28 services rendered, admissions, occupancies, names and addresses
29 of customers, and other facts relevant in determining the amount
30 of tax due and to furnish such information upon request to the
31 director;

32 6. To assess, determine, revise and readjust the taxes imposed
33 by this act;

34 7. To publish and maintain, as he deems necessary, lists of
35 specific items of tangible personal property which are found to
36 be foods and drugs exempt from tax under [section 8] sections
37 13 and 14 of P. L. 1980, c. 105 (C. 54:32B-8.1 and 54:32B-8.2);

38 8. To enter into agreements with other states and the District
39 of Columbia, providing for the reciprocal enforcement of the sales
40 and use tax laws imposed by the states entering into such an
41 agreement. Such agreement may empower the duly authorized
42 officer of any contracting state, which extends like authority to
43 officers or employees of this State, to sue for the collection of
44 that state's sales and use taxes in the courts of this State.

1 54. Section 12 of P. L. 1980, c. 62 (C. 54:32C-12) is amended to
2 read as follows:

3 12. In addition to the powers granted to the director in this act,
4 he is authorized to:

5 a. Make, adopt and amend rules and regulations appropriate to
6 the carrying out of this act and the purposes thereof;

7 b. Extend, for cause shown by general regulation or individual
8 authorization, the time of filing any return for a period not ex-
9 ceeding three months on such terms and conditions as he may
10 require; and for cause shown, to remit penalties [but not interest
11 computed at the rate of 9% per annum] and interest as provided
12 for in the State Tax Uniform Procedure Law, R. S. 54:48-1
13 et seq.;

14 c. Delegate his functions hereunder to any officer or employee of
15 his division and such of his powers as he may deem necessary to
16 carry out efficiently the provisions of this act, and the person or
17 persons to whom such power has been delegated shall possess and
18 may exercise all of the power and perform all of the duties herein
19 conferred and imposed upon the director;

20 d. Require any wholesaler required to collect tax to keep detailed
21 records of all receipts, charged or accrued, and names and ad-
22 dresses of retail licensees, and other facts relevant in determining
23 the amount of tax due and to furnish such information upon re-
24 quest to the director;

25 e. Assess, determine, revise and readjust the taxes imposed by
26 this act;

27 f. Enter into agreements with other states and the District of
28 Columbia, providing for the reciprocal enforcement of the sales
29 tax laws imposed by the states entering into such an agreement.
30 The agreement may empower the duly authorized officer of any
31 contracting state, which extends like authority to officers or em-
32 ployees of this State, to sue for the collection of that state's sales
33 taxes in the courts of this State.

1 55. R. S. 54:44-6 is amended to read as follows:

2 54:44-6. The Director of the Division of Taxation in the De-

3 partment of the Treasury, whenever requested by any person
4 licensed pursuant to the provisions of Title 33, Intoxicating
5 Liquors, *R. S. 33:1-1 et seq.*, shall issue to any governmental
6 agency having authority to issue and transfer such licenses a cer-
7 tificate stating whether any such person is indebted to this State
8 for any taxes, penalties, and interest, under the provisions of
9 **[this subtitle]** *the "Alcoholic beverage tax law," R. S. 54:41-1*
10 *et seq.*, and, if so, the amount of said debt; provided, there is paid
11 to him for the use of the State of New Jersey a fee of **[\$5.00]**
12 **\$25.00** for each person for whom a certificate is requested.

1 56. N. J. S. 54A:5-1 is amended to read as follows:

2 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
3 income shall consist of the following categories of income:

4 a. Salaries, wages, tips, fees, commissions, bonuses, and other
5 remuneration received for services rendered whether in cash or
6 in property.

7 b. Net profits from business. The net income from the opera-
8 tion of a business, profession, or other activity, after provision
9 for all costs and expenses incurred in the conduct thereof, deter-
10 mined either on a cash or accrual basis in accordance with the
11 method of accounting allowed for federal income tax purposes but
12 without deduction of taxes based on income.

13 c. Net gains or income from disposition of property. Net gains
14 or net income, less net losses, derived from the sale, exchange or
15 other disposition of property, including real or personal, whether
16 tangible or intangible as determined in accordance with the method
17 of accounting allowed for federal income tax purposes. For the
18 purpose of determining gain or loss, the basis of property shall be
19 the adjusted basis used for federal income tax purposes.

20 For the tax year 1976, any taxpayer with a tax liability under
21 this subsection, or under the "Tax on Capital Gains and Other
22 Unearned Income Act" (P. L. 1975, c. 172), shall not be subject
23 to payment of an amount greater than the amount he would have
24 paid if either return had covered all capital transactions during
25 the full tax year 1976; provided, however, that the rate which
26 shall apply to any capital gain shall be that in effect on the date
27 of the transaction. To the extent that any loss is used to offset
28 any gain under P. L. 1975, c. 172, it shall not be used to offset
29 any gain under the "New Jersey Gross Income Tax Act" (P. L.
30 1976, c. 47).

31 The term "net gains or income" shall not include gains or in-
32 come derived from obligations which are referred to in clause (1)

33 or (2) of section 54A:6-14 of this act. The term "net gains or net
34 income" shall not include gains or income from transactions to the
35 extent to which nonrecognition is allowed for federal income tax
36 purposes. The term "sale, exchange or other disposition" shall
37 not include the exchange of stock or securities in a corporation a
38 party to a reorganization in pursuance of a plan of reorganization,
39 solely for stock or securities in such corporation or in another cor-
40 poration a party to the reorganization and the transfer of property
41 to a corporation by one or more persons solely in exchange for
42 stock or securities in such corporation if immediately after the
43 exchange such person or persons are in control of the corporation.
44 For purposes of this clause, stock or securities issued for services
45 shall not be considered as issued in return for property.

46 For purposes of this clause, the term "reorganization" means—

47 (i) A statutory merger or consolidation;

48 (ii) The acquisition by one corporation, in exchange solely for
49 all or part of its voting stock (or in exchange solely for all or a
50 part of the voting stock of a corporation which is in control of the
51 acquiring corporation) of stock of another corporation if, immedi-
52 ately after the acquisition, the acquiring corporation has control
53 of such other corporation (whether or not such acquiring corpora-
54 tion had control immediately before the acquisition);

55 (iii) The acquisition by one corporation, in exchange solely for
56 all or part of its voting stock (or in exchange solely for all or a
57 part of the voting stock of a corporation which is in control of the
58 acquiring corporation), of substantially all of the properties of
59 another corporation, but in determining whether the exchange is
60 solely for stock the assumption by the acquiring corporation of a
61 liability of the other, or the fact that property acquired is subject
62 to a liability, shall be disregarded;

63 (iv) A transfer by a corporation of all or a part of its assets to
64 another corporation if immediately after the transfer the trans-
65 feror, or one or more of its shareholders (including persons who
66 were shareholders immediately before the transfer), or any com-
67 bination thereof, is in control of the corporation to which the
68 assets are transferred;

69 (v) A recapitalization;

70 (vi) A mere change in identity, form, or place of organization
71 however effected; or

72 (vii) The acquisition by one corporation, in exchange for stock
73 of a corporation (referred to in this subclause as "controlling
74 corporation") which is in control of the acquiring corporation,

75 of substantially all of the properties of another corporation which
76 in the transaction is merged into the acquiring corporation shall
77 not disqualify a transaction under subclause (i) if such transaction
78 would have qualified under subclause (i) if the merger had been
79 into the controlling corporation, and no stock of the acquiring
80 corporation is used in the transaction;

81 (viii) A transaction otherwise qualifying under subclause (i)
82 shall not be disqualified by reason of the fact that stock of a cor-
83 poration (referred to in this subclause as the "controlling corpo-
84 ration") which before the merger was in control of the merged
85 corporation is used in the transaction, if after the transaction, the
86 corporation surviving the merger holds substantially all of its
87 properties and of the properties of the merged corporation (other
88 than stock of the controlling corporation distributed in the trans-
89 action); and in the transaction, former shareholders of the sur-
90 viving corporation exchanged, for an amount of voting stock of
91 the controlling corporation, an amount of stock in the surviving
92 corporation which constitutes control of such corporation.

93 For purposes of this clause, the term "control" means the own-
94 ership of stock possessing at least 80% of the total combined voting
95 power of all classes of stock entitled to vote and at least 80% of
96 the total number of shares of all other classes of stock of the
97 corporation.

98 For purposes of this clause, the term "a party to a reorganiza-
99 tion" includes a corporation resulting from a reorganization, and
100 both corporations, in the case of a reorganization resulting from
101 the acquisition by one corporation of stock or properties of
102 another. In the case of a reorganization qualifying under sub-
103 clause (i) by reason of subclause (vii) the term "a party to a
104 reorganization" includes the controlling corporation referred to
105 in such subclause (vii).

106 Notwithstanding any provisions hereof, upon every such ex-
107 change or conversion, the taxpayer's basis for the stock or se-
108 curities received shall be the same as the taxpayer's actual or
109 attributed basis for the stock, securities or property surrendered
110 in exchange therefor.

111 d. Net gains or net income derived from or in the form of rents,
112 royalties, patents, and copyrights.

113 e. Interest, except interest referred to in clause (1) or (2) of
114 N. J. S. 54A:6-14, or interest on savings certificates issued pur-
115 suant to the provisions of chapter 6 of this act.

116 f. Dividends. "Dividends" means any distribution in cash or
117 property made by a corporation, association or business trust,

118 (1) out of accumulated earnings and profits, or (2) out of earn-
119 ings and profits of the year in which such dividend is paid.

120 g. Gambling winnings.

121 h. Net gains or income derived through estates or trusts.

122 i. Income in respect of a decedent.

123 j. Amounts distributed or withdrawn from an employee trust
124 attributable to contributions to the trust which were excluded
125 from gross income under the provisions of chapter 6 of Title 54A of
126 the New Jersey Statutes and pensions and annuities except to the
127 extent of exclusions in section 54A:6-10 hereunder, notwithstand-
128 ing the provisions of N. J. S. 18A:66-51, P. L. 1973, c. 140, s. 41
129 (C. 43:6A-41), P. L. 1954, c. 84, s. 53 (C. 43:15A-53), P. L. 1944,
130 c. 255, s. 17 (C. 43:16A-17), P. L. 1965, c. 89, s. 45 (C. 53:5A-45),
131 R. S. 43:10-14, P. L. 1943, c. 160, s. 22 (C. 43:10-18.22), P. L. 1948,
132 c. 310, s. 22 (C. 43:10-18.71), P. L. 1954, c. 218, s. 32 (C.
133 43:13-22.34), P. L. 1964, c. 275, s. 11 (C. 43:13-22.60), R. S.
134 43:10-57, P. L. 1938, c. 330, s. 13 (C. 43:10-105), R. S. 43:13-44,
135 and P. L. 1943, c. 189, s. 5 (C. 43:13-37.5).

136 k. Distributive share of partnership income.

137 l. Amounts received as prizes and awards, except as provided
138 in sections 54A:6-8 and 54A:6-11 hereunder.

139 m. Rental value of a residence furnished by an employer or a
140 rental allowance paid by an employer to provide a home.

141 n. Alimony and separate maintenance payments to the extent that
142 such payments are required to be made under a decree of divorce
143 or separate maintenance but not including payments for support
144 of minor children.

145 o. *Income, gain or profit derived from acts or omissions defined*
146 *as crimes or offenses under the laws of this State or any other*
147 *jurisdiction.*

1 57. N. J. S. 54A:7-1 is amended to read as follows:

2 54A:7-1. Requirement of withholding tax from wages. (a)
3 General.—From and after the first day of the first month following
4 at least a full calendar month after the enactment of this act, every
5 employer maintaining an office or transacting business within this
6 State and making payment of any wages subject to New Jersey
7 personal income tax to a resident or nonresident individual shall
8 deduct and withhold from such wages for each payroll period a tax
9 computed in such manner as to result, so far as practicable, in
10 withholding from the employee's wages during each calendar year
11 an amount substantially equivalent to the tax reasonably estimated
12 to be due resulting from the inclusion in the employee's New Jersey

13 income of his wages received during such calendar year. The
 14 method of determining the amount to be withheld shall be prescribed
 15 by regulations of the director, with due regard to the withholding
 16 exemptions of the employee.

17 (b) Withholding exemptions.—For purposes of this section:

18 An employee shall be entitled to the equivalent of the same num-
 19 ber of New Jersey withholding exemptions as the number of with-
 20 holding exemptions to which he is entitled for Federal income tax
 21 withholding purposes. An employer may rely upon the number of
 22 Federal withholding exemptions claimed by the employee.

23 (c) *The payor of New Jersey gambling winnings shall withhold*
 24 *New Jersey gross income tax on those winnings at a rate of 3% in*
 25 *all instances where the payor is required to withhold for federal*
 26 *income tax purposes under subsection (q) of section 3402 of the*
 27 *Federal Internal Revenue Code of "[1954]" "1966" (26 U. S. C.*
 28 *§ 3402), as amended, except that this subsection shall not apply*
 29 *to the New Jersey State Lottery.*

1 58. N. J. S. 54A:9-5 is amended to read as follows:

2 54A:9-5. Interest on underpayment. (a) General. If any amount
 3 of income tax is not paid on or before the last date prescribed in
 4 this act for payment, interest on such amount [at the rate of 9%
 5 per annum shall be paid for the period from such last date to the
 6 date paid, whether or not any extension of time for payment was
 7 granted. Interest under this subsection shall not be paid if the
 8 amount thereof is less than \$1.00] *as is required under the State*
 9 *Tax Uniform Procedure Law, R. S. 54:48-1 et seq.* If the time for
 10 filing of a return of tax withheld by an employer is extended, the
 11 employer shall pay interest for the period for which the extension
 12 is granted and may not charge such interest to the employee.

13 (b) Exception as to estimated tax. This section shall not apply
 14 to any failure to pay estimated tax under section 54A:9-5.

15 (c) [Extension for mathematical error. No interest shall be im-
 16 posed on any underpayment of tax due solely to mathematical
 17 error if the taxpayer files a return within the time prescribed in
 18 this act(including any extension of time) and pays the amount of
 19 underpayment within three months after the due date of such re-
 20 turn, as it may be extended.] *(Deleted by amendment, P. L. ,*
 21 *c.).*

22 (d) [No interest on interest. No interest under this act shall be
 23 imposed on any interest provided by this act.] *(Deleted by amend-*
 24 *ment, P. L. , c.).*

25 (e) Suspension of interest on deficiencies. If a waiver of restric-
 26 tions on assessment of a deficiency has been filed by the taxpayer,

27 and if notice and demand by the director for payment of such
28 deficiency is not made within 30 days after the filing of such waiver,
29 interest shall not be imposed on such deficiency for the period
30 beginning immediately after such thirtieth day and ending with
31 the date of notice and demand.

32 (f) Interest treated as tax. Interest under this section shall be
33 paid upon notice and demand and shall be assessed, collected and
34 paid in the same manner as income tax. Any reference in this act
35 to the tax imposed by this act shall be deemed also to refer to
36 interest imposed by this section on such tax.

37 (g) Interest on penalties or additions to tax. Interest shall be
38 imposed under subsection (a) in respect of any assessable penalty
39 or addition to tax only if such assessable penalty or addition to
40 tax is not paid within 10 days from the date of the notice and
41 demand therefor under subsection (b) of section 54A:9-12, and in
42 such case interest shall be imposed only for the period from such
43 date of the notice and demand to the date of payment.

44 (h) Payment prior to notice of deficiency. If, prior to the mail-
45 ing to the taxpayer of a notice of deficiency under subsection (b)
46 of section 54A:9-2, the director mails to the taxpayer a notice of
47 proposed increase of tax and within 30 days after the date of the
48 notice of proposed increase the taxpayer pays all amounts shown
49 on the notice to be due to the director, no interest under this section
50 on the amount so paid shall be imposed for the period after the
51 date of such notice of proposed increase.

52 (i) Payment within 10 days after notice and demand. If notice
53 and demand is made for payment of any amount under subsection
54 (b) of section 54A:9-12, and if such amount is paid within 10 days
55 after the date of such notice and demand, interest under this section
56 on the amount so paid shall not be imposed for the period after
57 the date of such notice and demand.

58 (j) Limitation on assessment and collection. Interest prescribed
59 under this section may be assessed and collected at any time dur-
60 ing the period within which the tax or other amount to which such
61 interest relates may be assessed and collected, respectively.

62 (k) Interest on erroneous refund. Any portion of tax or other
63 amount which has been erroneously refunded, and which is recover-
64 able by the director, shall bear interest [at the rate of 9% per annum
65 from the date of the payment of the refund, but only if it appears
66 that any part of the refund was induced by fraud or a misrepresen-
67 tation of a material fact] as is required under the State Tax
68 Uniform Procedure Law, R. S. 54:48-1 et seq.

69 (1) Satisfaction by credits. If any portion of a tax is satisfied
70 by credit of an overpayment, then no interest shall be imposed
71 under this section on the portion of the tax so satisfied for any
72 period during which, if the credit had not been made, interest would
73 have been allowable with respect to such overpayment.

1 59. N. J. S. 54A:9-6 is amended to read as follows:

2 54A:9-6. Additions to tax and civil penalties. (a) Failure to file
3 tax return. In case of failure to file a tax return under this act on
4 or before the prescribed date (determined with regard to any ex-
5 tension of time for filing), unless it is shown that such failure is
6 due to reasonable cause and not due to willful neglect, there shall
7 be added to the amount required to be shown as tax on such return
8 such amount as is required under the State Tax Uniform Procedure
9 Law, [Subtitle 9 of Title 54 of the Revised Statutes] *R. S. 54:18-1*
10 *et seq.* For this purpose, the amount of tax required to be shown
11 on the return shall be reduced by the amount of any part of the tax
12 which is paid on or before the date prescribed for payment of the
13 tax and by the amount of any credit against the tax which may be
14 claimed upon the return.

15 (b) Deficiency due to negligence. If any part of a deficiency is
16 due to negligence or intentional disregard of this act or rules or
17 regulations hereunder (but without intent to defraud), there shall
18 be added to the tax an amount equal to [5%] 10% of the deficiency.

19 (c) Failure to file declaration or underpayment of estimated tax.
20 If any taxpayer fails to file a declaration of estimated tax or fails
21 to pay all or any part of an installment of estimated tax, he shall
22 be deemed to have made an underpayment of estimated tax. There
23 shall be added to the tax for the taxable year an amount at the
24 rate [of 9% per annum] *as is required under the State Tax Uniform*
25 *Procedure Law, R. S. 54:18-1 et seq.*, upon the amount of the under-
26 payment for the period of the underpayment but not beyond the
27 fifteenth day of the fourth month following the close of the taxable
28 year. The amount of underpayment shall be the excess of the
29 amount of the installment which would be required to be paid if
30 the estimated tax were equal to 80% of the tax (two-thirds of the
31 tax for farmers referred to in subsection (e) of section 54A:8-1)
32 shown on the return for the taxable year (or if no return was filed,
33 of the tax for such year) over the amount, if any, of the installment
34 paid on or before the last day prescribed for such payment. No
35 underpayment shall be deemed to exist with respect to a declara-
36 tion or installment otherwise due on or after the taxpayer's death.

37 (d) Exception to addition for underpayment of estimated tax.
38 The addition to tax under subsection (c) with respect to any under-

39 payment of any installment, shall not be imposed if the total amount
40 of all payments of estimated tax made on or before the last date
41 prescribed for the payment of such installment equals or exceeds
42 whichever of the following is the lesser—

43 (1) The amount which would have been required to be paid on
44 or before such date if the estimated tax were whichever of the
45 following is the least—

46 (A) The tax shown on the return of the individual for the
47 preceding taxable year, if a return showing a liability for tax
48 was filed by the individual for the preceding taxable year and
49 such preceding year was a taxable year of 12 months, or

50 (B) An amount equal to the tax computed, at the rates appli-
51 cable to the taxable year, on the basis of the taxpayer's status
52 with respect to his personal exemptions for the taxable year,
53 but otherwise on the basis of the facts shown on his return for,
54 and the law applicable to, the preceding taxable year, or

55 (C) An amount equal to 80% of the tax for the taxable year
56 (two-thirds of the tax for farmers referred to in subsection (e)
57 of section 54A (S-4) computed by placing on an annualized basis
58 the income for the months in the taxable year ending before the
59 month in which the installment is required to be paid. For
60 purposes of this subparagraph, the income shall be placed on
61 an annualized basis by—

62 (i) Multiplying by 12 (or, in the case of a taxable year of
63 less than 12 months, the number of months in the taxable
64 year) the income for the months in the taxable year ending
65 before the month in which the installment is required to be
66 paid,

67 (ii) Dividing the resulting amount by the number of
68 months in the taxable year ending before the month in which
69 such installment date falls, and

70 (iii) Deducting from such amount the deductions for per-
71 sonal exemptions allowable for the taxable year (such per-
72 sonal exemptions being determined as of the last date pre-
73 scribed for payment of the installment); or

74 (2) An amount equal to 90% of the tax computed, at the rates
75 applicable to the taxable year, on the basis of the actual income
76 for the months in the taxable year ending before the month in
77 which the installment is required to be paid.

78 (e) Deficiency due to fraud. If any part of a deficiency is due
79 to fraud, there shall be added to the tax an amount equal to 50%
80 of the deficiency. This amount shall be in lieu of any other addition
81 to tax imposed by subsection (a) or (b).

82 (f) Nonwillful failure to pay withholding tax. If any employer,
83 without intent to evade or defeat any tax imposed by his act or the
84 payment thereof, shall fail to make a return and pay a tax withheld
85 by him at the time required by or under the provisions of section
86 54A:7-4, such employer shall be liable for such tax and shall pay
87 the same together with interest thereon and the addition to tax
88 provided in subsection (a), and such interest and addition to tax
89 shall not be charged to or collected from the employee by the
90 employer. The director shall have the same rights and powers for
91 the collection of such tax, interest and addition to tax against such
92 employer as are now prescribed by this act for the collection of tax
93 against an individual taxpayer.

94 (g) Willful failure to collect and pay over tax. Any person
95 required to collect, truthfully account for, and pay over the tax
96 imposed by this act who willfully fails to collect such tax or truth-
97 fully account for and pay over such tax or willfully attempts in any
98 manner to evade or defeat the tax or the payment thereof, shall, in
99 addition to other penalties provided by law, be liable to a penalty
100 equal to the total amount of the tax evaded, or not collected, or
101 not accounted for and paid over. No addition to tax under sub-
102 sections (b) or (c) shall be imposed for any offense to which this
103 subsection applies.

104 (h) Failure to file certain information returns. In case of each
105 failure to file a statement of a payment to another person, required
106 under authority of subsection (e) of section 54A:8-6 (relating to
107 information at source, including the duplicate statement of tax
108 withheld on wages) on the date prescribed therefor (determined
109 with regard to any extension of time for filing), unless it is shown
110 that such failure is due to reasonable cause and not to willful
111 neglect, there shall, upon notice and demand by the director and in
112 the same manner as tax, be paid by the person so failing to file the
113 statement, a penalty of ~~[\$1.00]~~ \$2.00 for each statement not so
114 filed, but the total amount imposed on the delinquent person for all
115 such failures during any calendar year shall not exceed ~~[\$1,000.00]~~
116 \$2,000.00.

117 (i) Additional penalty. Any person who with fraudulent intent
118 shall fail to pay, or to deduct or withhold and pay, any tax, or to
119 make, render, sign or certify any return or declaration of esti-
120 mated tax or to supply any information within the time required
121 by or under this act, shall be liable to penalty of not more than
122 ~~[\$1,000.00]~~ \$5,000.00, in addition to any other amounts required
123 under this act, to be imposed, assessed and collected by the director.
124 The director shall have the power, in his discretion, to waive, reduce
125 or compromise any penalty under this subsection.

126 (j) Additions treated as tax. The additions to tax and penalties
 127 provided by this section shall be paid upon notice and demand and
 128 shall be assessed, collected and paid in the same manner as taxes
 129 and any reference in this act to income tax or tax imposed by this
 130 act, shall be deemed also to refer to the additions to tax and pen-
 131 alties provided by this section. For purposes of section 54A:9-2.
 132 this subsection shall not apply to:

133 (1) Any addition to tax under subsection (a) except as to that
 134 portion attributable to a deficiency:

135 (2) Any addition to tax under subsection (e); and

136 (3) Any additional penalty under subsection (i).

137 (k) Determination of deficiency. For purposes of subsections
 138 (b) and (c), the amount shown as the tax by the taxpayer upon his
 139 return shall be taken into account in determining the amount of the
 140 deficiency only if such return was filed on or before the last day
 141 prescribed for the filing of such return, determined with regard to
 142 any extension of time for such filing.

143 (l) Person defined. For purposes of subsections (f), (g), (h) and
 144 (i), the term person or employer includes an individual, corporation
 145 or partnership or an officer or employee of any corporation (includ-
 146 ing a dissolved corporation) or a member or employee of any part-
 147 nership, who as such officer, employee, or member is under a duty
 148 to perform the act in respect of which the violation occurs.

1 60. (New section) If any part of an assessment is due to civil
 2 fraud, there shall be added to the tax an amount equal to 50%
 3 of the assessment. This amount shall be in lieu of any other addi-
 4 tions to the tax imposed by R. S. 54:49-4 and R. S. 54:49-9.

1 61. (New section) a. Any person applying to any department,
 2 board, commission, authority, district, or other agency or instru-
 3 mentality of the State, or to any subdivision of the State, including
 4 but not limited to a county, municipality, local district, school
 5 district, or any agency, authority, or instrumentality thereof, for
 6 a right, license or permit to conduct a profession, trade or busi-
 7 ness, or for the renewal of such right, license, or permit, shall
 8 certify upon the application, under penalty of perjury, that he
 9 has complied with all applicable provisions of Title 54 of the
 10 Revised Statutes and Title 54A of the New Jersey Statutes. The
 11 applicant's certification shall include a release of any information
 12 considered confidential under R. S. 54:50-8 to the public agency
 13 which the applicant has applied for purposes of verifying the tax
 14 compliance certification required by this section. The right, license
 15 or permit shall not be issued or renewed unless the certification

16 and release is made by the applicant. This section shall not apply
17 to any person licensed by the Supreme Court of New Jersey.

18 b. No contract or other agreement for sale or purchase of goods
19 or services, or for the sale, purchase or lease of real estate with
20 any of the above mentioned public agencies shall be entered into,
21 renewed or extended with any person unless such person certifies
22 in writing, under penalty of perjury, that he has complied with
23 all applicable provisions of Title 54 of the Revised Statutes and
24 Title 54A of the New Jersey Statutes. The certification shall
25 include a release of information considered confidential under
26 R. S. 54:50-8 to the public agency to which the certification is
27 given.

28 c. If any public agency has been notified by the Division of
29 Taxation that a person who holds a license, permit or certificate
30 of authority issued by that agency, or who has entered into an agree-
31 ment to sell or purchase goods or services or to sell, purchase or
32 lease real estate with the public agency, has neglected or refused to
33 file any return or pay any tax as required by any State tax law, and
34 has not filed with the Division an application made in good faith for
35 abatement of such tax liability, or does not have pending before the
36 Tax Court of New Jersey an action contesting the tax liability, then
37 the agency may revoke or refuse to enter into, reissue, renew or
38 extend the license, permit, certificate of authority, contract or agree-
39 ment until the public agency receives a certificate issued by the Divi-
40 sion that the person is in good standing with respect to any returns
41 due and taxes payable to the State as of the date of issuance of that
42 certificate, including all returns and taxes referenced in the initial
43 notification by the Division.

44 The Director shall promulgate rules and regulations necessary to
45 implement the provisions of this section.]*

1 ***[62.]*** *61.* (New section) A person who is a tax preparer with
2 respect to any State tax return or claim for refund, shall sign
3 the return or claim and provide the tax identification number
4 assigned to the preparer or his employer or both as provided for
5 in section 6109 of the ***[1954]*** federal Internal Revenue Code
6 *of 1986* (26 U. S. C. § 6109), as amended.

7 As used in this section, "tax preparer" means any person who
8 prepares for compensation, or who employs one or more persons to
9 prepare for compensation, any return of tax or claim for refund
10 under Title 54 of the Revised Statutes or Title 54A of the New
11 Jersey Statutes. For purposes of this section, the preparation of a
12 substantial portion of a return or claim for refund shall be treated
13 as if it were the preparation of such return or claim for refund.

14 Any tax preparer who fails to sign a return or claim or provide
 15 the assigned tax identification number shall be liable for a \$25.00
 16 penalty for each such failure.

1 ***[63.]*** *62.* (New section) The failure to do any act required
 2 to be done by or under the provisions of the State Tax Uniform
 3 Procedure Law, R. S. 54:48-1 et seq., shall be deemed an act
 4 committed in part at the office of the Director of the Division
 5 of Taxation in Trenton. The certificate of the director, to the
 6 effect that any act required to be done by or under the provisions
 7 of the State Tax Uniform Procedure Law has not been done, shall
 8 be prima facie evidence that such act has not been done.

1 ***[64.]*** *63.* (New section) If the Division of Taxation, in the
 2 regular course of business or activity has kept or recorded any
 3 State tax returns, report, application, payment, memorandum,
 4 writing, entry, print, representation or combination thereof, or any
 5 act, transaction, occurrence, or event, and in the regular course of
 6 business has caused any or all of the same to be recorded, copied, or
 7 reproduced by any photographic, photostatic, microfilm, micro-card,
 8 miniature photographic, or other process which accurately repro-
 9 duces or forms a durable medium for so reproducing the original,
 10 the original may be destroyed in the regular course of business.
 11 Such reproduction, when satisfactorily identified, shall be admis-
 12 sible in evidence as the original in any judicial or administrative
 13 proceeding, whether or not the original exists or is available, and an
 14 enlargement or facsimile of the reproduction shall be likewise ad-
 15 missible in evidence if the original reproduction is in existence and
 16 available for inspection under the direction of the court. The intro-
 17 duction of a reproduced record, enlargement, or facsimile into
 18 evidence shall not preclude the admission into evidence of the
 19 original. This section shall not be construed to exclude from intro-
 20 duction into evidence any document or copy thereof which is other-
 21 wise admissible under the New Jersey Rules of Evidence.

1 ***[65.]*** *64.* (New section) The Director of the Division of
 2 Taxation may write off those tax debts that are classified as un-
 3 collectable arising from the nonpayment of any State tax, penalty,
 4 interest or fees imposed for the cost of collection in compliance
 5 with generally acceptable accounting principles. The term "debts
 6 that are classified as uncollectible" shall be defined by regulation
 7 promulgated by the Director of the Division of Taxation and
 8 adopted with the approval of the State Treasurer.

1 ***[66.]*** *65.* The following are repealed:

2 R. S. 54:11-3*;

3 R. S. 54:14-4*;

- 4 R. S. 54:34-11*;*
 5 R. S. 54:39-55*;*
 6 R. S. 54:39-57*;*
 7 Sections 608 and 610 through 613 of P. L. 1948, c. 65 (C. 54:40A-31
 8 and 54:40A-33 through 54:40A-36)*;*
 9 R. S. 54:52-1*;*
 10 R. S. 54:52-2*;*
 11 R. S. 54:52-3*;*
 12 R. S. 54:52-4*;* and*
 13 N. J. S. 54A:9-15*.*

1 *67. There is appropriated to the Division of Law and the
 2 Division of Criminal Justice in the Department of Law and Public
 3 Safety the sum of \$1,500,000.00 for the purpose of prosecuting
 4 criminal tax matters and assisting in civil tax enforcement and
 5 collection actions.]**

1 *68.]* *66.* There is appropriated to the Division of Taxation
 2 in the Department of Treasury *from the General Fund* the sum
 3 of \$4,000,000.00 to carry out the provisions of this act.

1 **67. *There is appropriated to the Division of Law and the*
 2 *Division of Criminal Justice in the Department of Law and Public*
 3 *Safety the sum of \$1,500,000.00 for the purpose of prosecuting*
 4 *criminal tax matters and assisting in civil tax enforcement and*
 5 *collection actions..***

1 *69.]* **67.]*** **68.** (New section) a. In addition to the
 2 powers of the Director of the Division of Taxation prescribed
 3 under the State Tax Uniform Procedure Law, R. S. 54:48-1 et seq.,
 4 as amended and supplemented, and notwithstanding any other laws
 5 to the contrary, the director shall establish a period of 90 days dura-
 6 tion, which period shall end no later than one year after the date of
 7 enactment of this amendatory and supplementary act, during which
 8 a taxpayer who has failed to pay any State tax on or before the day
 9 on which the tax is required to be paid, may remit the amount of
 10 that tax, plus any interest that may be due at the rate of 9% per
 11 annum, without the imposition of any civil or criminal penalties
 12 arising out of an obligation imposed under any State tax law. This
 13 section shall apply only to State tax **obligations arising prior
 14 to the first day of the 90 day period established by the director]**
 15 **liabilities for taxable periods ending or transactions or uses
 16 occurring prior to January 1, 1987** and shall not extend to any
 17 taxpayer under criminal investigation for any State tax matter, as
 17A certified by a county prosecutor or the Attorney General to the
 17B director.

18 b. The imposition of interest at the rate of 9% per annum upon
 19 any unpaid State tax liability as provided in subsection a. of this
 20 section**[, for obligations arising prior to or during the 90 day
 21 period.]** shall only apply to payments made during the 90 day
 22 period**[, except that that rate of interest shall continue to apply
 23 to audit assessments and deficiencies made under R. S. 54:49-6,
 24 and N. J. S. 54A :9-2 and 54A :9-3 for periods ending on or prior to
 25 the last day of the 90 day period]**.

1 **[68. The moneys collected pursuant to the tax amnesty in
 2 section 67 of this act shall be deposited in the "General Revenue
 3 Sharing Replacement Fund," created in the General Treasury as
 4 the depository of all amounts, both taxes and interest due thereon,
 5 collected therein and any interest received as a result of the invest-
 6 ment of moneys deposited in the fund shall be credited to the
 7 fund.]**

1 **69. There is hereby appropriated, for expenditure during the
 2 fiscal year beginning July 1, 1987 to effectuate the purposes of the
 3 Special Municipal Aid Act (P. L. 1987, c. , passed by the Legisla-
 4 ture as Senate Bill No. 3023), the amount not in excess of
 5 \$50,000,000.00 collected under section 68 of this act from taxes
 6 payable to the General Fund without restriction or to the Property
 7 Tax Relief Fund.**

1 *[70.]** [69.]** **70.** Sections *[67, 68]* *66*
 2 **[and]** **, ** [69]* *67* **and 68** shall take effect im-
 2a mediately**[, but shall remain inoperative until enactment
 3 of P. L., c. . . . (C.) (now pending before the
 4 Legislature as Senate Bill No. 2820 or as Assembly Bill No. 3756),
 5 P. L., c. . . . (C.) (now pending before the Legisla-
 6 ture as Senate Bill No. 3023 or as Assembly Bill No. 3755), P. L.
 7, c. . . . (C.) (now pending before the Legislature
 8 as Senate Bill No. 3025 or as Assembly Bill No. 3757) and P. L.
 9, c. . . . (C.) (now pending before the Legislature
 10 as Senate Bill No. 3024 or as Assembly Bill No. 3758),* and]** **,**
 11 sections 1 thorough *[66]* *65* shall take effect on the day follow-
 12 ing the 90 day period of amnesty provided for in section *[69]*
 13 **[67]** **68**, but no later than the day after one year follow-
 14 ing enactment**; and section 69 shall take effect immediately, but
 15 shall remain inoperative until enactment of the general appropria-
 16 tion act for the fiscal year beginning July 1, 1987**.

TAXATION — GENERAL

Increases interest, costs and civil and criminal penalties for State tax violations and provides for a 90-day amnesty period for payment of unpaid taxes without civil or criminal penalties.

18 or to display or surrender a certificate of authority as required by
 19 this act, or assigning or transferring such certificate of authority,
 20 or willfully failing to charge separately the tax herein imposed or
 21 to state such tax separately on any bill, statement, memorandum
 22 or receipt issued or employed by him upon which the tax is re-
 23 quired to be stated separately as provided in subsection (a) of
 24 section 12, or willfully failing to collect the tax from a customer,
 25 or referring or causing reference to be made to this tax in a form
 26 or manner other than that required by this act, or failing to keep
 27 any records required by this act, shall, in addition to any other
 28 penalties herein or elsewhere prescribed, be **[a disorderly person]**
 29 *guilty of a crime of the fourth degree.*

30 (c) The certificate of the director to the effect that a tax has not
 31 been paid, that a return, bond or registration certificate has not
 32 been filed, or that information has not been supplied pursuant to
 33 the provisions of this act shall be presumptive evidence thereof.

1 11. (New section) In addition to his powers prescribed under
 2 subtitle 9 of Title 54 of the Revised Statutes, and notwithstanding
 3 any other law to the contrary, the Director of the Division of
 4 Taxation shall adopt rules and regulations, pursuant to the "Ad-
 5 ministrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1
 6 et seq.), to establish a period of 90 days duration, which period
 7 shall end no later than 180 days after the date of enactment of this
 8 act, during which a taxpayer who has failed to pay any State tax
 9 on or before the day on which that tax was required by law to be
 10 paid may remit that tax, plus any interest due thereon, without the
 11 imposition of any penalty provided in any State tax law.

1 12. This act shall take effect on the 181st day following enact-
 2 ment, except that section 11 of this act shall take effect immediately.

STATEMENT

This bill directs the Director of the Division of Taxation to grant a "period of amnesty," of 90 days duration, during which taxpayers who have failed to pay any State taxes may pay the tax with any interest due, without the imposition of any penalty provided by law.

The bill further provides that interest and penalty provisions with respect to the major State taxes requiring voluntary compliance by the taxpayer would be increased at the end of the amnesty period. Provisions of the State Tax Uniform Procedure Law, which applies generally to State taxes and to the corporate business tax, corporate income tax, business personal property tax, financial

business tax, savings institution tax and sales and use tax, specifically with respect to interest and penalties, are amended to increase late filing penalties from \$2.00 to \$10.00 per day, and from 5% to 10% of the tax. The criminal provisions of the law are amended to raise the degrees of the various tax-related crimes from misdemeanors punishable by a fine of \$1,000.00 and imprisonment of not more than one year, to crimes of the fourth degree, punishable by fines of not more than \$7,500.00 and imprisonment of not more than 18 months, under the "New Jersey Code of Criminal Justice." The interest provision of the uniform tax procedure law, currently fixed at a rate of 18% annually, has not been affected.

With respect to specific tax laws, the rate of interest for underpayments of the gross income tax is doubled from 9% to 18% annually and the criminal provisions are amended similarly as above. Penalties for deficiencies due to negligence are also doubled from 5% to 10% and fraudulent failure to pay, from \$1,000.00 to \$7,500.00 commensurate with the fine imposed for a crime of the fourth degree under the criminal code. Finally, the degree of the crime of exercising corporate powers revoked for failure to pay taxes is increased from a misdemeanor to one of the fourth degree and that of failing to file returns or pay taxes under the sales and use tax is increased from a disorderly person offense to a crime of the fourth degree.

Similar programs of increased enforcement preceded by a well-publicized amnesty period have reaped sizable benefits for at least a dozen states. In Massachusetts, for example, a program estimated to bring an additional \$20 million in tax revenues realized approximately four times that much (\$84,000,000.00).

ASSEMBLY APPROPRIATIONS COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 823

STATE OF NEW JERSEY

DATED: JUNE 12, 1986

The Assembly Appropriations Committee favorably reports an Assembly committee substitute for Assembly Bill No. 823.

This Assembly committee substitute provides for a tax amnesty period during which individuals and business that have failed to pay State taxes may file and pay their taxes, with interest at the rate of 9% per annum, but with no other penalty. The bill allows the Director of the Division of Taxation to establish an amnesty period of 90 days which would end no later than one year after the date of enactment. In addition, the bill increases various penalty and interest provisions and establishes several provisions to enhance the tax enforcement process. The major changes to current law reflected in this Assembly committee substitute include:

A. The State Tax Uniform Procedures Law (R. S. 54:48-1 et seq.) is amended to provide a per annum interest penalty of five percentage points above the prime rate, to be compounded on a daily basis in place of the current interest penalty of one and five-tenths percentage points per month, which applies to most taxes. The current interest penalty in the gross income tax for example is 9% per annum. Interest penalty provisions in any State tax laws which differ are amended to conform to the new interest penalty provision in the State Tax Uniform Procedures Law. Further, changes are made to increase the fines and criminal penalties under various tax enforcement provisions. The offenses affected include, but are not limited to, failure to file any return or report, failure to pay any tax, fraudulent filing and record keeping, failure to collect or withhold any tax, failure to pay any taxes that have been collected or withheld and failure to register with the Division of Taxation.

B. Provides for fees to be collected by the Director of the Division of Taxation to cover the cost of collecting an unpaid tax if the Director has to issue a certification of debt to the Clerk of the Superior Court. The Director of the Division of Taxation may attempt to recapture the actual cost of collection, or he may impose a fee of 5% of the unpaid tax or \$100.00, whichever is greater. If the State tax remains unpaid and collection action has to be taken, the cost of collection is increased to 10% of the unpaid tax or \$200.00, whichever

is greater. In the event that the tax remains unpaid and a suit is instituted, the cost of collection is further increased to 20% of the unpaid tax or \$500.00, whichever is greater.

C. The New Jersey Code of Criminal Justice (N. J. S. 2C:1-1 et seq.) is amended to include and enhance tax code enforcement provisions.

D. A tax payment certification process is established. This certification would be needed to acquire or renew a license from any State department or to bid a contract with the State for the purpose of providing goods, services or rental space.

E. The bill amends the definition of gross income, for the purposes of the gross income tax, to include any illegal income. This is defined as income derived from offense under State law or under laws from any other jurisdiction. Further, withholding from gambling winnings in all instances where federal income tax is withheld, except with respect to the New Jersey State Lottery is required.

F. The Director is authorized to enter into agreements with other states, the District of Columbia and the United States to provide for reciprocal enforcement and administration of any tax imposed by the jurisdictions entering into the agreements.

FISCAL IMPACT:

An appropriation of \$1.5 million is provided to the Divisions of Law and Criminal Justice, in the Department of Law and Public Safety, for tax prosecutions and civil enforcement and collection actions. Also, an appropriation of \$4.0 million is provided to the Division of Taxation to cover the cost of implementing a tax amnesty period. This appropriation shall include the costs of publicity and added processing and enforcement personnel.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 823

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 1987

(Villane)

The Senate Revenue, Finance and Appropriations Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 823, with committee amendments.

The Assembly Committee Substitute for Assembly Bill No. 823, as amended, provides for a tax amnesty period during which individuals and businesses that have failed to pay State taxes may file and pay their taxes, with interest at the rate of 9% per annum, but with no other penalty. The bill allows the Director of the Division of Taxation to establish an amnesty period of 90 days which would end no later than one year after the date of enactment. In addition, the bill increases various penalty and interest provisions and establishes several provisions to enhance the tax enforcement process. The major changes to current law reflected in this Assembly Committee Substitute include:

A. The State Tax Uniform Procedures Law (R. S. 54:48-1 et seq.) is amended to provide a per annum interest penalty of five percentage points above the prime rate, to be compounded on a daily basis in place of the current interest penalty of one and five-tenths percentage points per month, which applies to most taxes. The current interest penalty in the gross income tax for example is 9% per annum. Interest penalty provisions in any State tax laws which differ are amended to conform to the new interest penalty provision in the State Tax Uniform Procedures Law. Further, changes are made to increase the fines and criminal penalties under various tax enforcement provisions. The offenses affected include, but are not limited to, failure to file any return or report, failure to pay any tax, fraudulent filing and record keeping, failure to collect or withhold any tax, failure to pay any taxes that have been collected or withheld and failure to register with the Division of Taxation.

B. Provides for fees to be collected by the Director of the Division of Taxation to cover the cost of collecting an unpaid tax if the Director has to issue a certification of debt to the Clerk of the Superior Court. The Director of the Division of Taxation may attempt to recapture the actual cost of collection, or he may impose a fee of 5% of the unpaid tax or \$100.00, whichever is greater. If the State tax remains unpaid and collection is increased to 10% of the unpaid tax or \$200.00, whichever is greater. In the event that the tax remains unpaid and a suit is instituted, the cost of collection is further increased to 20% of the unpaid tax or \$500.00, whichever is greater.

C. The New Jersey Code of Criminal Justice (N. J. S. 2C:1-1 et seq.) is amended to include and enhance tax code enforcement provisions.

D. The bill amends the definition of gross income, for the purposes of the gross income tax, to include any illegal income. This is defined as income derived from offense under State law or under laws from any other jurisdiction. Further, withholding from gambling winnings in all instances where federal income tax is withheld, except with respect to the New Jersey State Lottery is required.

E. The Director is authorized to enter into agreements with other states, the District of Columbia and the United States to provide for reciprocal enforcement and administration of any tax imposed by the jurisdiction entering into the agreements.

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that the moneys collected under the tax amnesty program shall be deposited in the "General Revenues Sharing Replacement Fund," created in the General Treasury as the depository therefor. In addition, the amendments provide that the bill shall not be effective until enactment of four other bills; one concerning replacement of federal revenue sharing funds for municipalities (Senate Bill No. 2820 or Assembly Bill No. 3756), one concerning the provisions of short-term loans and grants to certain municipalities (Senate Bill No. 3023 or Assembly Bill No. 3755), one concerning supplemental State aid for municipal costs of employing full-time police officers (Senate Bill No. 3025 or Assembly Bill No. 3757) and one concerning replacement of federal revenue sharing funds for counties (Senate Bill No. 3024 or Assembly Bill No. 3758).

Other amendments:

a. Permit the Director of the Division of Taxation to waive certain tax penalties;

b. Delete the \$1.5 million appropriation to the Division of Law and Criminal Justice in the Department of Law and Public Safety.

c. Require the State to prove reckless or negligent culpability with respect to the nature of a taxpayer's conduct in a disorderly persons offense; and

d. Delete the section regarding the certification of tax compliance by businesses.

Other amendments are clarifying and technical in nature.

FISCAL IMPACT:

An appropriation of \$4.0 million from the General Fund is provided to the Division of Taxation to cover the cost of implementing a tax amnesty period. This appropriation shall include the costs of publicity and added processing and enforcement personnel.

March 5, 1987

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Assembly Committee Substitute for
ASSEMBLY BILL NO. 823 Sca

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Committee Substitute for Assembly Bill No. 823 Sca with my objections for reconsideration.

This bill provides for a tax amnesty period of 90 days to be designated within the year following enactment during which delinquent tax obligations may be satisfied with interest at 9 percent per annum, but without civil or criminal penalty. I have serious reservations about the wisdom of relaxing penalties on tax evaders to accelerate collection of revenue. I firmly believe that tax laws should be vigorously enforced and that the knowledge that tax delinquents will be ultimately discovered and penalized is the surest guarantee that our taxes will be fully collected. I am willing, however, to approve a modified version of this bill for two basic reasons. First, my recommendations will provide increased penalties and improved enforcement mechanisms as to tax debts occurring after December 31, 1986. Second, the Legislature has made it abundantly clear that it considers tax amnesty to be the only acceptable source of revenue not anticipated in my budget for the 1988 Fiscal Year to provide sorely needed assistance to our municipalities.

I have always favored a comprehensive solution to the problems that have confronted New Jersey municipalities formulating their 1987 budgets. Specifically, I favor funding additional State aid for municipal police services at a level of \$30 million, supplementing the Municipal Purposes Tax Assistance Fund by an additional \$30 million and increasing the funding level of the Distressed Cities program by \$25 million over the \$20 million I have already proposed in my 1988 budget. I have stated that these proposals, totaling an additional \$85 million in aid, were contingent upon the complete repeal of Chapter 304 of the Public Laws of 1985 (the Ford bill). This would create a stable source of funding for continuation of this needed property tax relief, as well as avert the layoff of essential personnel. The remaining revenue generated by repeal would permit legislation exempting persons with incomes under \$10,000 from

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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payment of the State income tax or, if the Legislature chooses, additional homestead rebate relief of \$75 million. I have also indicated that I would agree to replace lost federal revenue sharing funds to municipalities and counties from the proceeds of tax amnesty legislation as part of a comprehensive program including the repeal of Chapter 304.

The time is late and the deadline for adoption of local budgets has already been extended to March 13. The mayors have their backs to the fiscal wall. We can afford to wait no longer. The Legislature, throughout this period, has refused to act to provide assistance to municipalities, except from one-time revenue generated by tax amnesty. At this time, therefore, only the most pressing needs can be addressed and only for one year. The Legislature, by not acting responsibly, will face the same issue in the same atmosphere of crisis again next year.

The time is late. This problem must be confronted now. Both Houses of the Legislature are scheduled to meet next Monday. I am asking both Houses to remain in session until this problem is resolved.

My recommendations restore an appropriation of \$1.5 million, deleted by the Senate Revenue Finance and Appropriations Committee, to the Department of Law and Public Safety for prosecution of criminal tax matters and civil tax enforcement and collection. They also limit the availability of tax amnesty to taxes due and owing as of December 31, 1986 to prevent taxpayers from taking conscious advantage of the anticipated amnesty period to allow their taxes to fall delinquent. I have also designated the purpose for which the realistically expected proceeds of tax amnesty should be devoted. Our tax administrators have advised me that \$50 million is a responsible estimate of the amount of revenue not already anticipated from ordinary tax enforcement that amnesty will produce in the 1988 Fiscal Year from taxes which flow to the General Fund without restriction or to the Property Tax Relief Fund. I have earmarked this amount to fund expansion of the Distressed Cities Program under the Special

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Municipal Aid Act (Senate Bill No. 3023) which I am prepared to approve with only a nominal appropriation from the General Fund. Similarly, if these recommendations are enacted, I am prepared to approve Assembly Bill No. 3757, which expands the Supplemental Safe and Clean Neighborhoods Program, with a reduced appropriation of \$12 million from the General Fund. Should actual experience yield an amount greater than \$50 million from tax amnesty, I would be willing to consider a supplemental appropriation of the excess amount.

Therefore, I herewith return Assembly Committee Substitute for Assembly Bill No. 823 Sca and recommend that it be amended as follows:

Page 57, Section 66, Line 3:

After line 3 insert new section 67 as follows: "There is appropriated to the Division of Law and the Division of Criminal Justice in the Department of Law and Public Safety the sum of \$1,500,000.00 for the purpose of prosecuting criminal tax matters and assisting in civil tax enforcement and collection actions."

Page 57, Section 67, Line 1:

Delete "67" insert "68"

Pages 57 & 58, Section 67,
Lines 13-14:

After "tax" delete "obligations arising prior to the first day of" on line 13; delete "the 90 day period established by the director" on line 14 and insert "liabilities for taxable periods ending or transactions or uses occurring prior to January 1, 1987"

Page 58, Section 67, Lines 20-21:

After "section" delete ", for obligations arising prior to or during the 90 day" on line 20; delete "period," at the beginning of line 21

Page 58, Section 67, Lines 21-25:

At the end of line 21 delete ",,"; delete lines 22 through 24 in their entirety and on line 25 delete "of the 90 day period"

Page 58, Section 68, Lines 1-7:

Delete these lines in their entirety and insert new section 69 to read as follows: "There is hereby appropriated, for expenditure during the fiscal year beginning July 1, 1987 to effectuate the purposes of the Special Municipal Aid Act (P.L. 1987, c....., passed by the Legislature as Senate Bill No. 3023), the amount not in excess of \$50,000,000.00 collected under section 68 of this act from taxes payable to the General Fund without restriction or to the Property Tax Relief Fund."

Page 58, Section 69, Line 1:

Delete "69" and insert "70" on line 1; after "66" delete "and" insert ",,"; after "67" insert "and 68"; after "immediately" delete ", but shall remain inoperative until enactment of P.L....., c....(C.....) (now pending before the

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Legislature as Senate Bill No. 2820 or as
Assembly Bill No. 3756), P.L....., c....
(C....) (now pending before the
Legislature as Senate Bill No. 3023 or
as Assembly Bill No. 3755), P.L.....
c....(C....) (now pending before the
Legislature as Senate Bill No. 3025 or
as Assembly Bill No. 3757) and P.L.....,
c....(C....) (now pending before the
Legislature as Senate Bill No. 3024 or
as Assembly Bill No. 3758), and" insert
";"

Page 58, Section 69, Line 3:

Delete "67" and insert "68"

Page 58, Section 69, Line 4:

After "enactment" insert "; and section
69 shall take effect immediately, but
shall remain inoperative until enactment
of the general appropriation act for the
fiscal year beginning July 1, 1987"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel