

# SENATE, No. 1697

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Exempts fuel used for operation of certain school buses from petroleum products gross receipts tax and motor fuel tax; clarifies tax treatment of certain dyed fuel thereunder; clarifies determination of taxable estates of certain decedents.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT providing an exemption from the petroleum products gross  
2 receipts tax and the motor fuel tax for fuel used for the operation  
3 of certain school buses, clarifying the tax treatment of certain  
4 dyed fuel thereunder, and clarifying the determination of taxable  
5 estates of certain resident decedents, amending various parts of  
6 the statutory law.

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

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

13 7. a. "Gross receipts," as otherwise defined by section 2 of  
14 P.L.1990, c.42 (C.54:15B-2), shall not include: (1) receipts from  
15 sales of petroleum products used by marine vessels engaged in  
16 interstate or foreign commerce [and] ; (2) receipts from sales of  
17 aviation fuels used by common carriers in interstate or foreign  
18 commerce other than the "burnout" portion which shall be taxable  
19 pursuant to rules promulgated by the director ; and (3) receipts from  
20 sales of dyed fuel as defined by section 2 of P.L.2010, c.22  
21 (C.54:39-102), unless used in a motor vehicle for operation on the  
22 public highways.

23 b. Highway fuel used for the following purposes is exempt from  
24 the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3), and a  
25 refund of the tax imposed by that section may be claimed by the  
26 consumer providing proof the tax has been paid and no refund has  
27 been previously issued:

28 (1) autobuses while being operated over the highways of this  
29 State in those municipalities to which the operator has paid a  
30 monthly franchise tax for the use of the streets therein under the  
31 provisions of R.S.48:16-25 and autobuses while being operated over  
32 the highways of this State in a regular route bus operation as  
33 defined in R.S.48:4-1 and under operating authority conferred  
34 pursuant to R.S.48:4-3, or while providing bus service under a  
35 contract with the New Jersey Transit Corporation or under a  
36 contract with a county for special or rural transportation bus service  
37 subject to the jurisdiction of the New Jersey Transit Corporation  
38 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses  
39 providing commuter bus service which receive or discharge  
40 passengers in New Jersey. For the purpose of this paragraph  
41 "commuter bus service" means regularly scheduled passenger  
42 service provided by motor vehicles whether within or across the  
43 geographical boundaries of New Jersey and utilized by passengers  
44 using reduced fare, multiple ride, or commutation tickets and shall  
45 not include charter bus operations for the transportation of enrolled

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

Matter underlined thus is new matter.

1 children and adults referred to in subsection c. of R.S.48:4-1 and  
2 "regular route service" does not mean a regular route in the nature  
3 of special bus operation or a casino bus operation;

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

5 (3) farm machinery;

6 (4) ambulances;

7 (5) rural free delivery carriers in the dispatch of their official  
8 business;

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

11 (7) highway motor vehicles that are operated exclusively on  
12 private property;

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

16 (9) motor boats or motor vessels used exclusively for  
17 commercial fishing;

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

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

21 (12) stationary machinery and vehicles or implements not  
22 designed for the use of transporting persons or property on the  
23 public highways;

24 (13) heating and lighting devices;

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

27 **[and]**

28 (15) emergency vehicles used exclusively by volunteer first-aid  
29 or rescue squads ; and

30 (16) school buses operated for the transportation of pupils to or  
31 from school or a school-sponsored activity or event by a religious  
32 or other charitable organization or corporation or by a person under  
33 contract with a public or governmental agency or a religious or  
34 other charitable organization or corporation. For the purpose of this  
35 paragraph "school buses" means "school bus" as that term is  
36 defined by R.S.39:1-1.

37 (cf: P.L.2016, c.57, s.13)

38

39 2. Section 12 of P.L.2010, c.22 (C.54:39-112) is amended to  
40 read as follows:

41 12. a. Fuel used for the following purposes is exempt from the  
42 tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-  
43 101 et seq.), and a refund of the tax imposed by subsection a. of  
44 section 3 of P.L.2010, c.22 (C.54:39-103) may be claimed by the  
45 consumer providing proof the tax has been paid and no refund has  
46 been previously issued:

47 (1) Buses while being operated over the highways of this  
48 State in those municipalities to which the operator has paid a

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

- 20 (2) agricultural tractors not operated on a public highway,
- 21 (3) farm machinery,
- 22 (4) aircraft,
- 23 (5) ambulances,
- 24 (6) rural free delivery carriers in the dispatch of their official  
25 business,
- 26 (7) vehicles that run only on rails or tracks, and such vehicles as  
27 run in substitution therefor,
- 28 (8) highway motor vehicles that are operated exclusively on  
29 private property,
- 30 (9) motor boats or motor vessels used exclusively for or in the  
31 propagation, planting, preservation and gathering of oysters and  
32 clams in the tidal waters of this State,
- 33 (10) motor boats or motor vessels used exclusively for  
34 commercial fishing,
- 35 (11) motor boats or motor vessels, while being used for hire for  
36 fishing parties or being used for sightseeing or excursion parties,
- 37 (12) cleaning,
- 38 (13) fire engines and fire-fighting apparatus,
- 39 (14) stationary machinery and vehicles or implements not  
40 designed for the use of transporting persons or property on the  
41 public highways,
- 42 (15) heating and lighting devices,
- 43 (16) motor boats or motor vessels used exclusively for Sea Scout  
44 training by a duly chartered unit of the Boy Scouts of America,
- 45 (17) emergency vehicles used exclusively by volunteer first-aid  
46 or rescue squads, **[and]**
- 47 (18) three cents per gallon, the difference between the rate of tax  
48 on diesel fuel and the rate of tax on gasoline, for diesel fuel used by

1 passenger automobiles and motor vehicles of less than 5,000 pounds  
2 gross weight , and

3 (19) school buses operated for the transportation of pupils to or  
4 from school or a school-sponsored activity or event by a religious  
5 or other charitable organization or corporation or by a person under  
6 contract with a public or governmental agency or a religious or  
7 other charitable organization or corporation. For the purpose of this  
8 paragraph "school buses" means "school bus" as that term is  
9 defined by R.S.39:1-1.

10 b. Subject to the procedural requirements and conditions set  
11 out in the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et  
12 seq.), the following uses are exempt from the tax imposed by  
13 section 3 of P.L.2010, c.22 (C.54:39-103) on fuel, and a deduction  
14 or a refund may be claimed by the supplier, permissive supplier or  
15 licensed distributor:

16 (1) fuel for which proof of export, satisfactory to the director, is  
17 available and is either:

18 (a) removed by a licensed supplier for immediate export to a  
19 state in which the supplier has a valid license;

20 (b) removed from a terminal by a licensed distributor for  
21 immediate export as evidenced by the terminal issued shipping  
22 papers; or

23 (c) acquired by a licensed distributor and which the tax imposed  
24 by P.L.2010, c.22 (C.54:39-101 et al.) has previously been paid or  
25 accrued either as a result of being stored outside of the terminal  
26 transfer system immediately prior to loading or as a diversion  
27 across state boundaries properly reported in conformity with  
28 P.L.2010, c.22 (C.54:39-101 et al.) and was subsequently exported  
29 from this State on behalf of the distributor.

30 The exemption pursuant to subparagraphs (a) and (b) of this  
31 paragraph shall be claimed by a deduction on the report of the  
32 supplier which is otherwise responsible for remitting the tax upon  
33 removal of the product from a terminal or refinery in this State. The  
34 exemption pursuant to subparagraph (c) of this paragraph shall be  
35 claimed by the distributor, upon a refund application made to the  
36 director within six months of the licensed distributor's acquisition of  
37 the fuel;

38 (2) undyed kerosene sold to a licensed ultimate vendor - blocked  
39 pumps; if the licensed ultimate vendor - blocked pumps does not  
40 sell the kerosene through dispensers that have been designed and  
41 constructed to prevent delivery directly from the dispenser into a  
42 motor vehicle fuel supply tank, the ultimate vendor - blocked  
43 pumps shall be responsible for the tax imposed by section 3 of  
44 P.L.2010, c.22 (C.54:39-103) at the diesel fuel rate. Exempt use of  
45 undyed kerosene shall be governed by rules and regulations of the  
46 director. If rules or regulations are not promulgated by the director,  
47 then the exempt use of undyed kerosene shall be governed by rules  
48 and regulations of the Internal Revenue Service. An ultimate

1 vendor-blocked pumps who obtained undyed kerosene upon which  
2 the tax levied by section 3 of P.L.2010, c.22 (C.54:39-103) had  
3 been paid and makes sales qualifying pursuant to this subsection  
4 may apply for a refund of the tax pursuant to an application, as  
5 provided by section 14 of P.L.2010, c.22 (C.54:39-114), to the  
6 director provided the ultimate vendor-blocked pumps did not charge  
7 that tax to the consumer;

8 (3) fuel sold to the United States or any agency or  
9 instrumentality thereof, and to the State of New Jersey and its  
10 political subdivisions, departments and agencies;

11 (4) aviation fuel sold to a licensed aviation fuel dealer;

12 (5) liquefied petroleum gas except when delivered to the tank of  
13 a highway vehicle;

14 (6) motor fuel on which tax has been paid under this act that is  
15 later contaminated in a manner making it unsuitable for taxable use.  
16 This credit or refund is limited to the remaining portion of taxed  
17 fuel in the contaminated mixture and is conditioned upon  
18 submitting to the director adequate documentation that the  
19 contaminated mixture was subsequently used in an exempt manner;

20 (7) fuel on which tax has been paid pursuant to P.L.2010, c.22  
21 (C.54:39-101 et al.) that is either subsequently delivered back into  
22 the terminal transfer system for further distribution or delivered to a  
23 refinery for further processing;

24 (8) fuel on which tax has been previously imposed and paid  
25 pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) and which is  
26 either subsequently exported, sold or distributed in this State in a  
27 manner which would result in a second tax being owed. If there is a  
28 second taxable distribution or sale, the party responsible for  
29 remittance of the second tax shall be the party eligible for claiming  
30 the refund or deduction;

31 (9) Fuel grade alcohol, biobased liquid fuel, or biodiesel fuel  
32 when sold to a licensed supplier and delivered to a qualified  
33 terminal.

34 (cf: P.L.2015, c.101, s.2)

35

36 3. R.S.54:38-1 is amended to read as follows:

37 54:38-1. a. In addition to the inheritance, succession or legacy  
38 taxes imposed by this State under authority of chapters 33 to 36 of  
39 this title (R.S.54:33-1 et seq.), or hereafter imposed under authority  
40 of any subsequent enactment, there is hereby imposed an estate or  
41 transfer tax:

42 (1) Upon the transfer of the estate of every resident decedent  
43 dying before January 1, 2002 which is subject to an estate tax  
44 payable to the United States under the provisions of the federal  
45 revenue act of one thousand nine hundred and twenty-six and the  
46 amendments thereof and supplements thereto or any other federal  
47 revenue act in effect as of the date of death of the decedent, the  
48 amount of which tax shall be the sum by which the maximum credit

1 allowable against any federal estate tax payable to the United States  
2 under any federal revenue act on account of taxes paid to any state  
3 or territory of the United States or the District of Columbia, shall  
4 exceed the aggregate amount of all estate, inheritance, succession or  
5 legacy taxes actually paid to any state or territory of the United  
6 States or the District of Columbia, including inheritance, succession  
7 or legacy taxes actually paid this State, in respect to any property  
8 owned by such decedent or subject to such taxes as a part of or in  
9 connection with the estate; and

10 (2) (a) Upon the transfer of the estate of every resident  
11 decedent dying after December 31, 2001, but before January 1,  
12 2017, which would have been subject to an estate tax payable to the  
13 United States under the provisions of the federal Internal Revenue  
14 Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31,  
15 2001, the amount of which tax shall be, at the election of the person  
16 or corporation liable for the payment of the tax under this chapter,  
17 either

18 (i) the maximum credit that would have been allowable under  
19 the provisions of that federal Internal Revenue Code in effect on  
20 that date against the federal estate tax that would have been payable  
21 under the provisions of that federal Internal Revenue Code in effect  
22 on that date on account of taxes paid to any state or territory of the  
23 United States or the District of Columbia, or

24 (ii) determined pursuant to the simplified tax system as may be  
25 prescribed by the Director of the Division of Taxation in the  
26 Department of the Treasury to produce a liability similar to the  
27 liability determined pursuant to clause (i) of this paragraph reduced  
28 pursuant to paragraph (b) of this subsection.

29 (b) The amount of tax liability determined pursuant to  
30 subparagraph (a) of this paragraph shall be reduced by the  
31 aggregate amount of all estate, inheritance, succession or legacy  
32 taxes actually paid to any state or territory of the United States or  
33 the District of Columbia, including inheritance, succession or  
34 legacy taxes actually paid this State, in respect to any property  
35 owned by such decedent or subject to such taxes as a part of or in  
36 connection with the estate; provided however, that the amount of  
37 the reduction shall not exceed the proportion of the tax otherwise  
38 due under this subsection that the amount of the estates's property  
39 subject to tax by other jurisdictions bears to the entire estate taxable  
40 under this chapter.

41 (3) (a) Upon the transfer of the estate of each resident decedent  
42 dying on or after January 1, 2017, whether or not subject to an  
43 estate tax payable to the United States under the provisions of the  
44 federal Internal Revenue Code (26 U.S.C. s.1 et seq.), the amount of  
45 the taxable estate, determined pursuant to section 2051 of the  
46 federal Internal Revenue Code (26 U.S.C. s.2051), but without the  
47 deduction of any estate, inheritance, legacy, or succession taxes  
48 actually paid to any state or territory of the United States or the

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1 District of Columbia pursuant to the provisions of section 2058 of  
2 the federal Internal Revenue Code (26 U.S.C. s. 2058) in effect on  
3 January 1, 2017, shall be subject to tax pursuant to the following  
4 schedule:

|    |  |      |
|----|--|------|
| 5  | On any amount up to \$100,000 . . . . .                              | 0.0% |
| 6  | On any amount in excess of \$100,000, up to \$150,000 . . . . .      |      |
| 7  | .0.8% of the excess over \$100,000                                   |      |
| 8  | On any amount in excess of \$150,000, up to \$200,000. . . . .       |      |
| 9  | .\$400 plus 1.6% of the excess over \$150,000                        |      |
| 10 | On any amount in excess of \$200,000, up to \$300,000. . . . .       |      |
| 11 | ..\$1,200 plus 2.4% of the excess over \$200,000                     |      |
| 12 | On any amount in excess of \$300,000, up to \$500,000. . . . .       |      |
| 13 | . . . . . \$3,600 plus 3.2% of the excess over \$300,000             |      |
| 14 | On any amount in excess of \$500,000, up to \$700,000. . . . .       |      |
| 15 | . . . . . \$10,000 plus 4.0% of the excess over \$500,000            |      |
| 16 | On any amount in excess of \$700,000, up to \$900,000. . . . .       |      |
| 17 | . . . . . \$18,000 plus 4.8% of the excess over \$700,000            |      |
| 18 | On any amount in excess of \$900,000, up to \$1,100,000. . . . .     |      |
| 19 | ... \$27,600 plus 5.6% of the excess over \$900,000                  |      |
| 20 | On any amount in excess of \$1,100,000, up to \$1,600,000. . . . .   |      |
| 21 | .\$38,800 plus 6.4% of the excess over \$1,100,000                   |      |
| 22 | On any amount in excess of \$1,600,000, up to \$2,100,000. . . . .   |      |
| 23 | \$70,800 plus 7.2% of the excess over \$1,600,000                    |      |
| 24 | On any amount in excess of \$2,100,000, up to \$2,600,000. . . . .   |      |
| 25 | \$106,800 plus 8.0% of the excess over \$2,100,000                   |      |
| 26 | On any amount in excess of \$2,600,000, up to \$3,100,000. . . . .   |      |
| 27 | \$146,800 plus 8.8% of the excess over \$2,600,000                   |      |
| 28 | On any amount in excess of \$3,100,000, up to \$3,600,000. . . . .   |      |
| 29 | \$190,800 plus 9.6% of the excess over \$3,100,000                   |      |
| 30 | On any amount in excess of \$3,600,000, up to \$4,100,000. . . . .   |      |
| 31 | \$238,800 plus 10.4% of the excess over \$3,600,000                  |      |
| 32 | On any amount in excess of \$4,100,000, up to \$5,100,000. . . . .   |      |
| 33 | \$290,800 plus 11.2% of the excess over \$4,100,000                  |      |
| 34 | On any amount in excess of \$5,100,000, up to \$6,100,000 . . . . .  |      |
| 35 | \$402,800 plus 12.0% of the excess over \$5,100,000                  |      |
| 36 | On any amount in excess of \$6,100,000, up to \$7,100,000 . . . . .  |      |
| 37 | \$522,800 plus 12.8% of the excess over \$6,100,000                  |      |
| 38 | On any amount in excess of \$7,100,000, up to \$8,100,000 . . . . .  |      |
| 39 | \$650,800 plus 13.6% of the excess over \$7,100,000                  |      |
| 40 | On any amount in excess of \$8,100,000, up to \$9,100,000 . . . . .  |      |
| 41 | \$786,800 plus 14.4% of the excess over \$8,100,000                  |      |
| 42 | On any amount in excess of \$9,100,000, up to \$10,100,000 . . . . . |      |
| 43 | \$930,800 plus 15.2% of the excess over \$9,100,000                  |      |
| 44 | On any amount in excess of \$10,100,000. . . . .                     |      |
| 45 | \$1,082,800 plus 16.0% of the excess over \$10,100,000               |      |

46 (b) A credit shall be allowed against the tax imposed pursuant to  
47 subparagraph (a) of this paragraph equal to the amount of tax which



1 would be determined by subparagraph (a) of this paragraph if the  
2 amount of the taxable estate were equal to the exclusion amount.

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

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

18 (4) For the transfer of the estate of each resident decedent dying  
19 on or after January 1, 2018, there shall be no tax imposed.

20 b. (1) In the case of the estate of a decedent dying before January  
21 1, 2002 where no inheritance, succession or legacy tax is due this  
22 State under the provisions of chapters 33 to 36 of this title or under  
23 authority of any subsequent enactment imposing taxes of a similar  
24 nature, but an estate tax is due the United States under the  
25 provisions of any federal revenue act in effect as of the date of  
26 death, wherein provision is made for a credit on account of taxes  
27 paid the several states or territories of the United States, or the  
28 District of Columbia, the tax imposed by this chapter shall be the  
29 maximum amount of such credit less the aggregate amount of such  
30 estate, inheritance, succession or legacy taxes actually paid to any  
31 state or territory of the United States or the District of Columbia.

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

39 (3) In the case of the estate of a decedent dying on or after  
40 January 1, 2017 the tax imposed by this chapter shall be determined  
41 pursuant to paragraphs (3) and (4) of subsection a. of this section.

42 c. For the purposes of this section, a "simplified tax system" to  
43 produce a liability similar to the liability determined pursuant to  
44 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of  
45 this section is a tax system that is based upon the \$675,000 unified  
46 estate and gift tax applicable exclusion amount in effect under the  
47 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.  
48 s.1 et seq.) in effect on December 31, 2001, and results in general in

1 the determination of a similar amount of tax but which will enable  
2 the person or corporation liable for the payment of the tax to  
3 calculate an amount of tax notwithstanding the lack or paucity of  
4 information for compliance due to such factors as the absence of an  
5 estate valuation made for federal estate tax purposes, the absence of  
6 a measure of the impact of gifts made during the lifetime of the  
7 decedent in the absence of federal gift tax information, and any  
8 other information compliance problems as the director determines  
9 are the result of the phased repeal of the federal estate tax.  
10 (cf: P.L.2016, c.57, s.7)

11

12 4. Section 19 of P.L.2016, c.57 (C.52:18A-257) is amended to  
13 read as follows:

14 19. a. The State Treasurer, and the Legislative Budget and  
15 Finance Officer, together with a third public member who shall be  
16 jointly selected thereby, shall constitute the review council.

17 b. The review council shall, on or before January 15, 2020,  
18 provide the Governor and the Legislature with an advisory report of  
19 their consensus estimate of the increase or decrease in State  
20 revenues pursuant to each section of P.L.2016, c.57 (C.54:15B-13 et  
21 al.), and pursuant to this act as a whole, during the preceding three  
22 State fiscal years, including a comparison of those estimates to the  
23 legislative fiscal estimate or fiscal note published contemporaneous  
24 with the enactment of this act prepared pursuant to P.L.1980, c.67  
25 (C.52:13B-6 et seq.).

26 c. The review council shall conduct an ongoing review of the  
27 application of each section of P.L.2016, c.57 (C.54:15B-13 et al.).

28 The review council shall, not later than five days after any  
29 Legislative action that halts, delays, or reverses the implementation  
30 of those sections as scheduled on the date of enactment of P.L.2016,  
31 c.57 (C.54:15B-13 et al.), certify for the purposes of subparagraph  
32 (h) of paragraph (1) of subsection a. of section 3 of P.L.1990, c.42  
33 (C.54:15B-3) to the Director of the Division of Taxation that the  
34 scheduled implementation of P.L.2016, c.57 (C.54:15B-13 et al.)  
35 had been impeded.

36 The provisions of this subsection shall not apply to sections 1, 2,  
37 and 3 of P.L. , c. (C. ) (pending before the Legislature as this  
38 bill).

39 (cf: P.L.2016, c.57, s.19)

40

41 5. This act shall take effect immediately; provided however that  
42 sections 1 and 2 shall apply to highway fuel and fuel used on or  
43 after the first day of the first month next following the date of  
44 enactment and section 3 shall apply retroactively to the estate of  
45 each resident decedent dying on or after January 1, 2017.

STATEMENT

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This bill exempts fuel used for the operations of certain school buses from the petroleum products gross receipts tax (PPGRT) and the motor fuel tax, clarifies the tax treatment of certain dyed fuel under the petroleum products gross receipts tax, and clarifies the determination of taxable estates of certain resident decedents for purposes of the estate tax. The bill excludes the exemptions and these clarifying changes from the review of legislative actions by the three-member review council established by P.L.2016, c.57 to prevent a cessation in the imposition of one of the components of the petroleum products gross receipts tax.

*Fuel Used for Certain School Buses.* The bill provides an exemption from the petroleum products gross receipts tax and the motor fuel tax for fuel used for the operation of certain school buses. Under the bill, the exemption applies to fuel used for school buses operated for the transportation of pupils to or from school or a school-sponsored activity or event by a religious or other charitable organization or corporation or by a person under contract with a public or governmental agency or a religious or other charitable organization or corporation.

To receive the benefit of the exemption, purchasers of fuel used to operate a school bus for the transportation of pupils to or from school or a school-sponsored activity or event must pay tax at the point of purchase and seek a refund of the taxes paid by the filing of a claim with the Director of the Division of Taxation in the Department of the Treasury. As is required under current law for certain other exempt uses of fuel, the claim for refund must be filed with the director by the purchaser providing proof that the tax has been paid, and the director must confirm that a refund has not been previously issued.

The bill defines “school buses” by reference to the definition of “school bus” under R.S.39:1-1. Under that section of law, a “school bus” is any motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for the transportation of children to or from school for secular or religious education, which complies with the regulations of the New Jersey Motor Vehicle Commission affecting school buses, and includes “School Vehicle Type I” and “School Vehicle Type II.”

Under current law, consumers of fuel that are eligible for an exemption from the petroleum products gross receipts tax and the motor fuel tax must pay the tax at the point of purchase and seek a refund of the taxes paid by the filing of a claim with the Director of the Division of Taxation in the Department of the Treasury. The law provides that the claim for refund must be filed by the consumer providing proof that the tax has been paid and a refund has not been previously issued.

1       *Treatment of Dyed Fuel under PPGRT.* The bill clarifies the tax  
2 treatment of certain dyed fuel under the petroleum products gross  
3 receipts tax. Under the bill, dyed fuel is excluded from the  
4 definition of “gross receipts” so that receipts from sales of dyed fuel  
5 (unless used in a motor vehicle for operation on the public  
6 highways) are explicitly exempt from tax and recognized in a  
7 similar form and manner as dyed fuel is recognized for purposes of  
8 the motor fuel tax.

9       Under the motor fuel tax, dyed fuel is dyed diesel fuel or dyed  
10 kerosene that is required to be dyed pursuant to United States  
11 Environmental Protection Agency rules or is dyed pursuant to  
12 Internal Revenue Service rules or any other requirements set by  
13 those federal agencies. Fuel is dyed to easily identify fuel that has  
14 not been subjected to federal highway tax. The motor fuel tax  
15 recognizes that dyed fuel can generally only be used for an exempt  
16 purpose, and prohibits dyed fuel sold for an exempt purpose from  
17 being used in a taxable manner through the imposition of certain  
18 fines and penalties.

19       *Determination of Taxable Estates of Resident Decedents.* The  
20 bill clarifies the determination of taxable estates of certain resident  
21 decedents for purposes of the estate tax. Under the bill, the taxable  
22 estate of each resident decedent dying on or after January 1, 2017 is  
23 to be determined based upon the taxable estate of the decedent for  
24 federal estate tax purposes, but without the deduction of any estate,  
25 inheritance, legacy, or succession taxes actually paid to any state or  
26 territory of the United States or the District of Columbia as is  
27 otherwise allowed pursuant to section 2058 of the federal Internal  
28 Revenue Code (26 U.S.C. s.2058) in effect on January 1, 2017.

29       The disallowance of the deduction will limit the potential of a  
30 tax benefit that estates of resident decedents dying on or after  
31 January 1, 2017 might claim for any estate, inheritance, legacy, or  
32 succession taxes actually paid to any state (or territory of the United  
33 States or District of Columbia). Currently, the law directs the estate  
34 tax to be determined based upon the federal taxable estate (which is  
35 the decedent’s gross estate minus certain deductions, including the  
36 deduction for estate, inheritance, legacy, or succession taxes  
37 actually paid to any state or territory of the United States or District  
38 of Columbia), and provides that the resident decedent’s tax liability  
39 is to further be reduced by a credit for a proportion of those same  
40 taxes actually paid to any state in respect to property in another  
41 state owned by the decedent or subject to those taxes as part of or in  
42 connection with the estate.

43       *Exclusion from Review by Review Council.* The bill excludes the  
44 exemptions and the clarifying changes from the review of the three-  
45 member review council established by P.L.2016, c.57 to prevent a  
46 cessation in the imposition of one of the components of the PPGRT.  
47 Under the bill, the provisions of current law that direct the three-  
48 member review council to review Legislative actions and issue

1 certifications to the Director of the Division of Taxation that the  
2 scheduled implementation of P.L.2016, c.57 might otherwise be  
3 impeded will not apply to those sections of the bill that exempt fuel  
4 used for certain school buses and clarify the treatment of dyed fuel  
5 and the determination of taxable estates of resident decedents.

6 Under current law, the three member review council (i.e. the  
7 State Treasurer, Legislative Budget and Finance Officer, and a third  
8 public member) is directed to monitor the actions of the Legislature  
9 on an ongoing basis for interference with the implementation of  
10 P.L.2016, c.57. If the implementation is impeded, the council is to  
11 certify this interference to the Director of the Division of Taxation  
12 and the director is to effectuate the cessation of the imposition of  
13 one of the components of the PPGRT.

14 *Effective Date.* The bill is scheduled to take effect immediately  
15 upon enactment, but provides for the exemption and clarification to  
16 the treatment of dyed fuel to apply to the fuel used on or after the  
17 first day of the first month next following the date of enactment.  
18 The bill provides for the clarification of the determination of  
19 taxable estates to apply retroactively to estates of resident decedents  
20 dying on or after January 1, 2017.