Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen and Passaic)
Senator STEVEN V. OROHO
District 24 (Morris, Sussex and Warren)

SYNOPSIS
Adjusts certain State taxes to support strengthened investments in public, private, and charitable assets in this State.

CURRENT VERSION OF TEXT
As reported by the Senate Budget and Appropriations Committee on June 23, 2016, with amendments.
AN ACT adjusting certain State taxes to support strengthened investments in public, private, and charitable assets in this State, amending and supplementing various parts of the statutory law pertaining to taxes of this State.

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

1. R.S.54:38-1 is amended to read as follows:
   54:38-1. a. In addition to the inheritance, succession or legacy taxes imposed by this State under authority of chapters 33 to 36 of this title (R.S.54:33-1 et seq.), or hereafter imposed under authority of any subsequent enactment, there is hereby imposed an estate or transfer tax:
   (1) Upon the transfer of the estate of every resident decedent dying before January 1, 2002 which is subject to an estate tax payable to the United States under the provisions of the federal revenue act of one thousand nine hundred and twenty-six and the amendments thereof and supplements thereto or any other federal revenue act in effect as of the date of death of the decedent, the amount of which tax shall be the sum by which the maximum credit allowable against any federal estate tax payable to the United States under any federal revenue act on account of taxes paid to any state or territory of the United States or the District of Columbia, shall exceed the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; and
   (2) (a) Upon the transfer of the estate of every resident decedent dying after December 31, 2001, but after December 31, 2016, which would have been subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, the amount of which tax shall be, at the election of the person or corporation liable for the payment of the tax under this chapter, either
     (i) the maximum credit that would have been allowable under the provisions of that federal Internal Revenue Code in effect on that date against the federal estate tax that would have been payable under the provisions of that federal Internal Revenue Code in effect on that date on account of taxes paid to any state or territory of the United States or the District of Columbia, or

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate SBA committee amendments adopted June 23, 2016.
(ii) determined pursuant to the simplified tax system as may be prescribed by the Director of the Division of Taxation in the Department of the Treasury to produce a liability similar to the liability determined pursuant to clause (i) of this paragraph reduced pursuant to paragraph (b) of this subsection.

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

(3) (a) Upon the transfer of the estate of each resident decedent dying on or after January 1, 2017, but before January 1, 2020, whether or not subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code (26 U.S.C. s.1 et seq.), the amount of the taxable estate, determined pursuant to section 2051 of the federal Internal Revenue Code (26 U.S.C. s.2051), shall be subject to tax pursuant to the following schedule:

<table>
<thead>
<tr>
<th>Amount Range</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $100,000</td>
<td>0.0%</td>
</tr>
<tr>
<td>Over $100,000 up to $150,000</td>
<td>0.8%</td>
</tr>
<tr>
<td>Over $150,000 up to $200,000</td>
<td>$400 plus 1.6% of the excess over $150,000</td>
</tr>
<tr>
<td>Over $200,000 up to $300,000</td>
<td>$1,200 plus 2.4% of the excess over $200,000</td>
</tr>
<tr>
<td>Over $300,000 up to $500,000</td>
<td>$3,600 plus 3.2% of the excess over $300,000</td>
</tr>
<tr>
<td>Over $500,000 up to $700,000</td>
<td>$10,000 plus 4.0% of the excess over $500,000</td>
</tr>
</tbody>
</table>
On any amount in excess of $700,000, up to $900,000, $18,000 plus 4.8% of the excess over $700,000

On any amount in excess of $900,000, up to $1,100,000, $27,600 plus 5.6% of the excess over $900,000

On any amount in excess of $1,100,000, up to $1,600,000, $38,800 plus 6.4% of the excess over $1,100,000

On any amount in excess of $1,600,000, up to $2,100,000, $70,800 plus 7.2% of the excess over $1,600,000

On any amount in excess of $2,100,000, up to $2,600,000, $106,800 plus 8.0% of the excess over $2,100,000

On any amount in excess of $2,600,000, up to $3,100,000, $146,800 plus 8.8% of the excess over $2,600,000

On any amount in excess of $3,100,000, up to $3,600,000, $190,800 plus 9.6% of the excess over $3,100,000

On any amount in excess of $3,600,000, up to $4,100,000, $238,800 plus 10.4% of the excess over $3,600,000

On any amount in excess of $4,100,000, up to $5,100,000, $290,800 plus 11.2% of the excess over $4,100,000

On any amount in excess of $5,100,000, up to $6,100,000, $402,800 plus 12.0% of the excess over $5,100,000

On any amount in excess of $6,100,000, up to $7,100,000, $522,800 plus 12.8% of the excess over $6,100,000

On any amount in excess of $7,100,000, up to $8,100,000, $650,800 plus 13.6% of the excess over $7,100,000

On any amount in excess of $8,100,000, up to $9,100,000, $786,800 plus 14.4% of the excess over $8,100,000
(b) A credit shall be allowed against the tax imposed pursuant to
subparagraph (a) of this paragraph equal to the amount of tax which
would be determined by subparagraph (a) of this paragraph if the
amount of the taxable estate were equal to the exclusion amount.
For the transfer of the estate of each resident decedent dying on
or after January 1, 2017, but before January 1, 2018, the exclusion
amount is $1,000,000.
For the transfer of the estate of each resident decedent dying on
or after January 1, 2018, but before January 1, 2019, the exclusion
amount is $2,000,000.
For the transfer of the estate of each resident decedent dying on
or after January 1, 2019, but before January 1, 2020, the exclusion
amount is $3,000,000.
(c) The amount of tax liability of a resident decedent determined
pursuant to subparagraphs (a) and (b) of this paragraph shall be
reduced by the aggregate amount of all estate, inheritance,
succession or legacy taxes actually paid to any state of the United
States, including inheritance taxes actually paid this State, in
respect to any property owned by that decedent or subject to those
taxes as a part of or in connection with the estate; provided
however, that the amount of the reduction shall not exceed the
proportion of the tax otherwise due under this subsection that the
amount of the estate's property subject to tax by other jurisdictions
bears to the entire estate taxable under this chapter.
(4) For the transfer of the estate of each resident decedent dying
on or after January 1, 2020, there shall be no tax imposed.
(5) Upon the transfer of the real or tangible personal property
within New Jersey of each nonresident decedent dying on or after
January 1, 2017, but before January 1, 2020, which tax shall bear
the same ratio to the entire tax which that estate would have been
subject to pursuant to subparagraphs (a) and (b) of paragraph (3) of
this subsection if that nonresident decedent had been a resident of
this State, and all of the decedent’s property, real and personal, had
been located within this State, as the taxable property within this
State bears to the entire estate, wherever situated.
b. (1) In the case of the estate of a decedent dying before
January 1, 2002 where no inheritance, succession or legacy tax is
due this State under the provisions of chapters 33 to 36 of this title
or under authority of any subsequent enactment imposing taxes of a
similar nature, but an estate tax is due the United States under the provisions of any federal revenue act in effect as of the date of death, wherein provision is made for a credit on account of taxes paid the several states or territories of the United States, or the District of Columbia, the tax imposed by this chapter shall be the maximum amount of such credit less the aggregate amount of such estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia.

(2) In the case of the estate of a decedent dying after December 31, 2001, but before December 31, 2016, where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, the tax imposed by this chapter shall be determined pursuant to paragraph (2) of subsection a. of this section.

(3) In the case of the estate of a decedent dying on or after January 1, 2017 the tax imposed by this chapter shall be determined pursuant to paragraphs (3), (4), and (5) of subsection a. of this section.

c. For the purposes of this section, a "simplified tax system" to produce a liability similar to the liability determined pursuant to clause (i) of subparagraph (a) of paragraph (2) of subsection a. of this section is a tax system that is based upon the $675,000 unified estate and gift tax applicable exclusion amount in effect under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, and results in general in the determination of a similar amount of tax but which will enable the person or corporation liable for the payment of the tax to calculate an amount of tax notwithstanding the lack or paucity of information for compliance due to such factors as the absence of an estate valuation made for federal estate tax purposes, the absence of a measure of the impact of gifts made during the lifetime of the decedent in the absence of federal gift tax information, and any other information compliance problems as the director determines are the result of the phased repeal of the federal estate tax.

(cf: P.L.2002, c.31, s.1)

2. N.J.S.54A:6-10 is amended to read as follows:


a. Gross income shall not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract as of the annuity starting date bears to the expected return under the contract as of such date. Where (1) part of the consideration for an annuity, endowment, or life insurance contract is contributed by the employer, and (2) during the three-year period beginning on the date on which an amount is first received under the contract as an annuity, the aggregate amount
receivable by the employee under the terms of the contract is equal
to or greater than the consideration for the contract contributed by
the employee, then all amounts received as an annuity under the
contract shall be excluded from gross income until there has been so
excluded an amount equal to the consideration for the contract
contributed by the employee.

b. (1) In addition to that part of any amount received as an
annuity which is excludable from gross income as herein provided,
gross income shall not include payments:

for taxable years beginning before January 1, 2000, of up to
$10,000 for a married couple filing jointly, $5,000 for a married
person filing separately, or $7,500 for an individual filing as a
single taxpayer or an individual determining tax pursuant to
subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2000, but
before January 1, 2001, of up to $12,500 for a married couple filing
jointly, $6,250 for a married person filing separately, or $9,375 for
an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2001, but
before January 1, 2002, of up to $15,000 for a married couple filing
jointly, $7,500 for a married person filing separately, or $11,250 for
an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2002, but
before January 1, 2003, of up to $17,500 for a married couple filing
jointly, $8,750 for a married person filing separately, or $13,125 for
an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2003, but
before January 1, 2017, of up to $20,000 for a married couple filing
jointly, $10,000 for a married person filing separately, or $15,000
for an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2017, but
before January 1, 2018, of up to $40,000 for a married couple filing
jointly, $20,000 for a married person filing separately, or $30,000
for an individual filing as a single taxpayer or an individual
determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2018, but
before January 1, 2019, gross income shall not include income of up
to $60,000 for a married couple filing jointly, $30,000 for a married
person filing separately, or $50,000 for an individual filing as a
single taxpayer or an individual determining tax pursuant to
subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2019, but
before January 1, 2020, of up to $80,000 for a married couple filing
jointly, $40,000 for a married person filing separately, or $60,000
for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1:
for taxable years beginning on or after January 1, 2020, of up to $100,000 for a married couple filing jointly, $50,000 for a married person filing separately, or $75,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1,
which are received as an annuity, endowment or life insurance contract, or payments of any such amounts which are received as pension, disability, or retirement benefits, under any public or private plan, whether the consideration therefor is contributed by the employee or employer or both, by any person who is 62 years of age or older or who, by virtue of disability, is or would be eligible to receive payments under the federal Social Security Act, but
(2) For taxable years beginning on or after January 1, 2005, but before January 1, 2021, the exclusion provided by this subsection shall only be allowed if the taxpayer has gross income for the taxable year of not more than $100,000:
for taxable years beginning on or after January 1, 2021, if the taxpayer has gross income for the taxable year of not more than $100,000 the exclusion provided by this subsection shall be fully allowed, if the taxpayer has gross income for the taxable year in excess of $100,000 but not more than $125,000 then the taxpayer may exclude 50 percent of the amount otherwise allowed, and if the taxpayer has gross income for the taxable year in excess of $125,000 but not more than $150,000 then the taxpayer may exclude 25 percent of the amount otherwise allowed.

c. Gross income shall not include any amount received under any public or private plan by reason of a permanent and total disability.
d. Gross income shall not include distributions from an employees' trust described in section 401(a) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as "the Code"), which is exempt from tax under section 501(a) of the Code if the distribution, except the portion representing the employees' contributions, is rolled over in accordance with section 402(a)(5) or section 403(a)(4) of the Code. The distribution shall be paid in one or more installments which constitute a lump-sum distribution within the meaning of section 402(e)(4)(A) (determined without reference to subsection (e)(4)(B)), or be on account of a termination of a plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan.
(cf: P.L.2005, c.130, s.1)
3. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to read as follows:
3. Other retirement income. a. (1) Gross income shall not include income:

   for taxable years beginning before January 1, 2000, of up to $10,000 for a married couple filing jointly, $5,000 for a married person filing separately, or $7,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for the taxable year beginning on or after January 1, 2000, but before January 1, 2001, of up to $12,500 for a married couple filing jointly, $6,250 for a married person filing separately, or $9,375 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for the taxable year beginning on or after January 1, 2001, but before January 1, 2002, of up to $15,000 for a married couple filing jointly, $7,500 for a married person filing separately, or $11,250 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for the taxable year beginning on or after January 1, 2002, but before January 1, 2003, of up to $17,500 for a married couple filing jointly, $8,750 for a married person filing separately, or $13,125 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for taxable years beginning on or after January 1, 2003, but before January 1, 2017, gross income shall not include income of up to $20,000 for a married couple filing jointly, $10,000 for a married person filing separately, or $15,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for taxable years beginning on or after January 1, 2017 but before January 1, 2018, gross income shall not include income of up to $40,000 for a married couple filing jointly, $20,000 for a married person filing separately, or $30,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for taxable years beginning on or after January 1, 2018, but before January 1, 2019, gross income shall not include income of up to $60,000 for a married couple filing jointly, $30,000 for a married person filing separately, or $50,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for taxable years beginning on or after January 1, 2019, but before January 1, 2020, gross income shall not include income of up to $80,000 for a married couple filing jointly, $40,000 for a married person filing separately, or $60,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

   for taxable years beginning on or after January 1, 2020, gross income shall not include income of up to $100,000 for a married couple filing jointly, $50,000 for a married person filing separately, or $75,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
couple filing jointly, $50,000 for a married person filing separately, 
or $75,000 for an individual filing as a single taxpayer or an 
individual determining tax pursuant to subsection a. of N.J.S.54A:2-

1. 
when received in any tax year by a person aged 62 years or older 
who received no income in excess of $3,000 from one or more of 
the sources enumerated in subsections a., b., k. and p. of 
N.J.S.54A:5-1 [i.e. but for]

(2) For taxable years beginning on or after January 1, 2005, but 
before January 1, 2021, the exclusion provided by this subsection 
shall only be allowed if the taxpayer has gross income for the 
taxable year of not more than $100,000 [i.e. provided, however, that 
the]

for taxable years beginning on or after January 1, 2021, if the 
taxpayer has gross income for the taxable year in excess of 
$100,000 but not more than $125,000 then the taxpayer 
may exclude 50 percent of the amount otherwise allowed, and if the 
taxpayer has gross income for the taxable year in excess of 
$125,000 but not more than $150,000 then the taxpayer may 
exclude 25 percent of the amount otherwise allowed.

(3) The total exclusion under this subsection and that allowable 
under N.J.S.54A:6-10 shall not exceed the amounts of the 
exclusions set forth in this subsection.

b. In addition to the exclusion provided under N.J.S.54A:6-10 
and subsection a. of this section, gross income shall not include 
income of up to $6,000 for a married couple filing jointly or an 
individual determining tax pursuant to subsection a. of N.J.S.54A:2-

1. , or $3,000 for a single person or a married person filing 
separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-

3, but who would be eligible in any year to receive payments under 
either section if he or she were covered thereby.

(cf: P.L.2005, c.130, s.2)

4. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read 
as follows:

2. There is established the New Jersey Earned Income Tax 
Credit program in the Division of Taxation in the Department of the 
Treasury.

a. (1) A resident individual who is eligible for a credit under 
section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. 
s.32) shall be allowed a credit for the taxable year equal to a 
percentage, as provided in paragraph (2) of this subsection, of the 
federal earned income tax credit that would be allowed to the 
individual or the married individuals filing a joint return under 
section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. 
s.32) for the same taxable year for which a credit is claimed
pursuant to this section, subject to the restrictions of this subsection and subsections b., c., d. and e. of this section.

(2) For the purposes of the calculation of the New Jersey earned income tax credit, the percentage of the federal earned income tax credit referred to in paragraph (1) of this subsection shall be:

(a) 10% for the taxable year beginning on or after January 1, 2000, but before January 1, 2001;
(b) 15% for the taxable year beginning on or after January 1, 2001, but before January 1, 2002;
(c) 17.5% for the taxable year beginning on or after January 1, 2002, but before January 1, 2003;
(d) 20% for taxable years beginning on or after January 1, 2003, but before January 1, 2008;
(e) 22.5% for taxable years beginning on or after January 1, 2008 but before January 1, 2009;
(f) 25% for taxable years beginning on or after January 1, 2009 but before January 1, 2010;
(g) 20% for taxable years beginning on or after January 1, 2010, but before January 1, 2015; [and]
(h) 30% for taxable years beginning on or after January 1, 2015, but before January 1, 2016; and
(i) 40% for taxable years beginning on or after January 1, 2016.

(3) To qualify for the New Jersey earned income tax credit, if the claimant is married, except for a claimant who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, the claimant shall file a joint return or claim for the credit.

b. In the case of a part-year resident claimant, the amount of the credit allowed pursuant to this section shall be pro-rated, based upon that proportion which the total number of months of the claimant's residency in the taxable year bears to 12 in that period. For this purpose, 15 days or more shall constitute a month.

c. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit provided under this section as a credit against the tax otherwise due and the amount of the credit treated as an overpayment shall be treated as a credit towards or overpayment of gross income tax, subject to all provisions of N.J.S.54A:1-1 et seq., except as may be otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

d. The Director of the Division of Taxation in the Department of the Treasury shall [have discretion to] establish a program for the distribution of earned income tax credits pursuant to the provisions of this section.
e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance or the amount or extent of benefits or assistance under any State program and, to the extent permitted by federal law, under any State program financed in whole or in part with federal funds.

(cf: P.L.2015, c.73, s.1)

5. (New section) a. A taxpayer shall be allowed to deduct from gross income the amount of charitable contributions of money made to a qualified charitable agency or a qualified charitable fund-raising organization in the taxable year equal to the amount that is allowed as a deduction from federal adjusted gross income for the federal taxable year pursuant to section 170 of the federal Internal Revenue Code (26 U.S.C. s.170) or the amount that the taxpayer would have been allowed to deduct from federal adjusted gross income for the federal taxable year pursuant to section 170 of the federal Internal Revenue Code (26 U.S.C. s.170) if the taxpayer had claimed that deduction on that taxpayer’s federal income tax return. Provided however, that the taxpayer shall not be allowed to deduct from gross income an amount in excess of 50 percent of the taxpayer’s gross income for the taxable year, determined before any other adjustments on account of other deductions, exclusions, or credits.

b. For the purposes of this section:

“qualified charitable agency” means an agency that is a volunteer, not-for-profit organization that primarily provides health, welfare, or human care services to individuals in New Jersey that has been determined to meet the eligibility criteria pursuant to section 8 of P.L.1985, c.140 (C.52:14-15.9c8) to participate in a charitable fund-raising campaign pursuant to the “Public Employee Charitable Fund-Raising Act,” P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and the regulations as may be applicable thereunder, for the taxable year, provided however, that “qualified charitable agency” shall not include an agency that is primarily affiliated with an institution of higher education that is exempt from the registration requirements of subsection b. of section 9 of P.L.1994, c.16 (C.45:17A-26); and

“qualified charitable fund-raising organization” means a voluntary not-for-profit organization that receives voluntary charitable contributions and distributes those contributions primarily to qualified charitable agencies, and that has been determined to meet the eligibility criteria pursuant to section 7 of P.L.1985, c.140 (C.52:14-15.9c7) to participate in a charitable fund raising campaign pursuant to the “Public Employee Charitable Fund-Raising Act,” P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and the regulations as may be applicable thereunder, for the taxable year, provided however, that “qualified charitable organization”
shall not include an organization that is primarily affiliated with an
institution of higher education that is exempt from the registration
requirements of subsection b. of section 9 of P.L.1994, c.16
(C.45:17A-26).

c. The director shall provide each taxpayer with an opportunity
to claim the taxpayer’s deduction amount on the taxpayer’s tax
return, which may include on the return the amounts of charitable
contributions claimed and indicated by numerical designation
coding for each qualified charitable agency and qualified charitable
fund-raising organization as are limited and defined pursuant to the
provisions of this section and as also may be available pursuant to
the “Public Employee Charitable Fund-Raising Act,” P.L.1985,
c.140 (C.52:14-15.9c1 et seq.), the regulations as may be applicable
thereunder, and the advice of the council established pursuant to
subsection d. of this section, for the taxable year. The director shall
make available on a taxpayer accessible searchable website on or
before January 1 of a taxable year, only the relevant portions of the
annual New Jersey employees charitable campaign resources and
reference guide code book prepared pursuant to P.L.1985, c.140
(C.52:14-15.9c1 et seq.) that the director shall determine, with the
advice of the council established pursuant to subsection d. of this
section, are applicable in the administration of this section, and the
regulations as may be applicable thereunder, provided however, that
no costs of administering this section shall be allowed as costs
subject to section 12 of P.L.1985, c.140 (C.52:14-15.9c12).

d. There is established in the Department of the Treasury the
“Charity Advisory Council” which shall consist of eight members,
four of whom shall be the Commissioner Human Services, the
Commissioner of Children and Families, the Commissioner of
Health and the Commissioner of Community Affairs, or their
designees, and four public members who shall be individuals
actively engaged in providing health, welfare, or human care
services to individuals in New Jersey. Of the four public members,
one shall be appointed by the Senate President, one shall be
appointed by the Speaker of the General Assembly, one shall be
appointed by the Senate Minority Leader, and one shall be
appointed by the Assembly Minority Leader. The public members
shall serve for terms of three years. Vacancies among the public
members shall be filled in the same manner as the original
appointments were made.

The council shall organize upon appointment of a quorum and
shall meet regularly as it may determine, and shall also meet at the
call of the director.

The council shall appoint a chairperson from among its
members.

Members of the council shall serve without compensation, but
the council may, within the limits of funds appropriated or
otherwise made available for such purposes, reimburse its members
for necessary expenses incurred in the discharge of their official
duties.

The council shall annually advise the director on the qualified
charitable agencies and the qualified charitable fund-raising
organizations that conform to the criteria of subsection b. of this
section. The advisory council may consult with the State charitable
fund-raising campaign steering committee established pursuant to
section 4 of P.L.1985, c.140 (C.52:14-15.9c4) for any assistance in
the administration of this section as the director deems necessary.

6. Section 2 of P.L.1990, c.42 (C.54:15B-2) is amended to read
as follows:

2. For the purposes of this act:

"Aviation fuel" means aviation gasoline or aviation grade
kerosene or any other fuel that is used in aircraft.

"Aviation gasoline" means fuel specifically compounded for use
in reciprocating aircraft engines.

"Aviation grade kerosene" means any kerosene type jet fuel
covered by ASTM Specification D 1655 or meeting specification
MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

"Blended fuel" means a mixture composed of gasoline, diesel
fuel, kerosene or blended fuel and another liquid, including blend
stock other than a de minimis amount of a product such as
carburetor detergent or oxidation inhibitor, that can be used as a
fuel in a highway vehicle. "Blended fuel" includes but is not limited
to gasohol, biobased liquid fuel, biodiesel fuel, ethanol, methanol,
fuel grade alcohol, diesel fuel enhancers and resulting blends.

"Company" includes a corporation, partnership, limited
partnership, limited liability company, association, individual, or
any fiduciary thereof.

"Diesel fuel" means a liquid that is commonly or commercially
known or sold as a fuel that is suitable for use in a diesel-powered
highway vehicle. A liquid meets this requirement if, without further
processing or blending, the liquid has practical and commercial
fitness for use in the propulsion engine of a diesel-powered
highway vehicle. "Diesel fuel" includes biobased liquid fuel,
biodiesel fuel, and number 1 and number 2 diesel.

"Director" means the Director of the Division of Taxation in the
Department of the Treasury.

"First sale of petroleum products within this State" means the
initial sale of a petroleum product delivered to a location in this
State. A "first sale of petroleum products within this State" does not
include a book or exchange transfer of petroleum products if such
products are intended to be sold in the ordinary course of business.

"Gasoline" means all products commonly or commercially
known or sold as gasoline that are suitable for use as a motor fuel.
"Gasoline" does not include products that have an ASTM octane
number of less than 75 as determined by the "motor method."
ASTM D2700-92. The term does not include racing gasoline or aviation gasoline, but for administrative purposes does include fuel grade alcohol.

"Gross receipts" means all consideration derived from the first sale of petroleum products within this State except sales of:

a. asphalt;

b. petroleum products sold pursuant to a written contract extending one year or longer to nonprofit entities qualifying under subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10);

c. petroleum products sold to governmental entities qualifying under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10); and

d. polymer grade propylene used in the manufacture of polypropylene.

"Highway fuel" means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene.

"Kerosene" means the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of 149 to 300 degrees Celsius.

"Petroleum products" means refined products made from crude petroleum and its fractionation products, through straight distillation of crude oil or through redistillation of unfinished derivatives, but shall not mean the products commonly known as number 2 heating oil, number 4 heating oil, number 6 heating oil, kerosene and propane gas to be used exclusively for residential use.

"Quarterly period" means a period of three calendar months commencing on the first day of January, April, July or October and ending on the last day of March, June, September or December, respectively.

["Retail gasoline price survey" means a Statewide representative random sample of retail gasoline prices conducted by the Board of Public Utilities, Office of the Economist, or its successor, that shall be completed for the month of November and May of each year.]

"Retail price per gallon" means the price [posted by gasoline charged by retailers in the State for [unleaded regular gasoline] a gallon of the petroleum product dispensed into the fuel tanks of motor vehicles without State or federal tax included.

"Unleaded regular gasoline" means gasoline of the octane rating equal to the lowest octane rated gasoline offered for sale at a majority of the gasoline retailers in the State.

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

7. a. "Gross receipts," as otherwise defined by section 2 of P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales of petroleum products used by marine vessels engaged in interstate or foreign commerce and sales of aviation fuels used by common carriers in interstate or foreign commerce other than the "burnout" portion which shall be taxable pursuant to rules promulgated by the director.

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

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

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

(3) farm machinery;

(4) ambulances;

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

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

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

(8) motor boats or motor vessels used exclusively for or in the propagation, planting, preservation and gathering of oysters and clams in the tidal waters of this State;
(9) motor boats or motor vessels used exclusively for commercial fishing;
(10) motor boats or motor vessels, while being used for hire for fishing parties or being used for sightseeing or excursion parties;
(11) fire engines and fire-fighting apparatus;
(12) stationary machinery and vehicles or implements not designed for the use of transporting persons or property on the public highways;
(13) heating and lighting devices;
(14) motor boats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America; and
(15) emergency vehicles used exclusively by volunteer first-aid or rescue squads.
(cf: P.L.1991, c.181, s.7)

8. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read as follows:

3. a. (1) (a) There is imposed on each company which is engaged in the refining or distribution, or both, of petroleum products other than highway fuel and which distributes such products in this State a tax at the rate of [two and three-quarters percent (2 3/4%)] seven percent of its gross receipts derived from the first sale of petroleum products within this State and there is imposed on each company which is engaged in the refining or distribution, or both, of highway fuel a tax at the rate of 12.5 percent \( \frac{1}{2} \), as adjusted pursuant to subsection c. of this section,\(^{1}\) of its gross receipts derived from the first sale of those products within this State. [; provided however, that the]

(b) The applicable tax rate for [fuel oils, aviation fuels and motor fuels subject to tax under R.S.54:39-1 et seq.] gasoline, blended fuel that contains gasoline or is intended for use as gasoline, and liquefied petroleum gas, which are taxed as a highway fuel pursuant to subparagraph (a) of this paragraph, shall be converted to a cents-per-gallon rate, rounded to the nearest tenth of a cent, \( \frac{1}{2} \) that shall be calculated by the use of \( \frac{1}{2} \) and adjusted quarterly by the director, effective on July 1, October 1, January 1, and April 1, based on the average retail price per gallon of unleaded regular gasoline \( \frac{1}{2} \) in December 1990, \( \frac{1}{2} \) in the State, as determined in \( \frac{1}{2} \) the most recent survey of the retail price per gallon of gasoline \( \frac{1}{2} \) that \( \frac{1}{2} \) includes a Statewide representative random sample conducted \( \frac{1}{2} \) in December 1990 for that month \( \frac{1}{2} \) by the Board of Public Utilities, Office of the Economist, \( \frac{1}{2} \) and shall be effective for the tax due for months ending after that date; and \( \frac{1}{2} \) or its successor.

(c) The cents-per-gallon rate determined pursuant to subparagraph (b) of this paragraph shall not be less than the rate determined for the quarter beginning July 1, 2016 \( \frac{1}{2} \) and shall not
exceed a rate reflecting more than an average retail price per gallon of gasoline of $3.1

(d) The applicable tax rate for diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene, which are taxed as a highway fuel pursuant to subparagraph (a) of this paragraph, shall be converted to a cents-per-gallon rate, rounded to the nearest tenth of a cent, and adjusted quarterly by the director, effective on July 1, October 1, January 1, and April 1, based on the average retail price per gallon of number 2 diesel in the State, as determined in the most recent survey of retail diesel fuel prices that includes a Statewide representative random sample conducted by the Board of Public Utilities, Office of the Economist, or its successor. Notwithstanding the provisions of subparagraph (a) of this paragraph to the contrary, for the period from July 1, 2016 through December 31, 2016, no rate of tax shall be applied to diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, or kerosene, other than aviation grade kerosene; for the period from January 1, 2017 through June 30, 2017, the applicable rate for those fuels shall be 70 percent of the rate otherwise determined pursuant to subparagraph (a) of this paragraph, and for July 1, 2017 and thereafter the applicable rate for those fuels determined pursuant to subparagraph (a) of this paragraph.

(e) The cents-per-gallon rate determined pursuant to subparagraph (d) of this paragraph shall not be less than the rate determined for the quarter beginning July 1, 2016 and shall not exceed a rate reflecting more than an average retail price per gallon of gasoline of $3.1

(f) The applicable tax rate for aviation fuel, determined pursuant to subparagraph (a) of this paragraph shall be converted to a cents-per-gallon rate, rounded to the nearest tenth of a cent, based on the average price per gallon, without State or federal tax included, of aviation grade kerosene in the State, effective July 1, 2016, as determined in the most recent survey of aviation grade kerosene prices paid by commercial consumers that includes a Statewide representative random sample conducted by the Board of Public Utilities, Office of the Economist, or its successor.

(g) Each year as of January 1, the rate for aviation fuel in effect on the immediately preceding December 31 shall be adjusted as follows: the rate shall be multiplied by a fraction, the numerator of which is the sum of the monthly producer price index (unadjusted) published by the Bureau of Labor Statistics of the United States Department of Labor for the category of commodities designated “petroleum products, refined,” or its successor series, for the 12 consecutive months ending with the month of August of the immediately preceding year and the denominator of which is the sum of the monthly producer price index (unadjusted) published by the Bureau of Labor Statistics of the United States Department of
Labor for the category of commodities designated “petroleum products, refined,” or its successor series, for the 12 consecutive months ending with the month of August in the year prior to that immediately preceding year, and rounded to the nearest tenth of a cent. The cents per gallon rate for aviation fuel shall be adjusted annually by the director, effective on January 1, based on the average price per gallon, without State or federal tax included, of aviation grade kerosene in the State, as determined in the most recent survey of aviation grade kerosene prices paid by commercial consumers that includes a Statewide representative random sample conducted by the Board of Public Utilities, Office of the Economist, or its successor; provided however, that the adjusted rate shall not increase above or decrease below the rate in effect on the immediately preceding December 31 by more than five percent.

(h) The applicable tax rate for fuel oil determined pursuant to subparagraph (a) of this paragraph shall be converted to a cents-per-gallon rate, rounded to the nearest tenth of a cent, and adjusted quarterly by the director, effective on July 1, October 1, January 1, and April 1, to reflect the average price per gallon, without State or federal tax included, of retail sales of number 1 fuel oil in the State, as determined in the most recent survey of retail diesel fuel prices that included a Statewide representative random sample conducted by the Board of Public Utilities, Office of the Economist, or its successor.

(i) The cents-per-gallon rate determined pursuant to subparagraph (h) of this paragraph shall not be less than the rate determined for the quarter beginning July 1, 2016.

(j) On and after the 10th day following a certification by the review council pursuant to subsection c. of section 13 of P.L._C_. (pending before the Legislature as this bill), no tax shall be imposed pursuant to this paragraph.

(2) (a) In addition to the tax, if any, imposed by paragraph (1) of this subsection, a cents-per-gallon tax is imposed on each company’s gross receipts derived from the first sale of petroleum products within this State on gasoline, blended fuel that contains gasoline or that is intended for use as gasoline, and liquefied petroleum gas at the rate of four cents per gallon; and

(b) In addition to the tax, if any, imposed by paragraph (1) of this subsection, a cents-per-gallon tax is imposed on each company’s gross receipts derived from the first sale of petroleum products within this State on diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene, at the rate of four cents per gallon before July 1, 2017 and at the rate of eight cents per gallon on and after July 1, 2017.

b. There is imposed on each company that imports or causes to be imported, other than by a company subject to and having paid the tax on those imported petroleum products that have generated
gross receipts taxable under subsection a. of this section, petroleum
products for use or consumption by it within this State a tax at the
rate [of two and three-quarters percent (2 3/4%) or rates of the
consideration given or contracted to be given and the gallonage,
determined pursuant to subsection a. of this section, for such
petroleum products if the consideration given or contracted to be
given for all such deliveries made during a quarterly period exceeds
$5,000]; provided however, that the applicable tax rate for fuel oils,
aviation fuels and motor fuels subject to tax under R.S.54:39-1 et
seq. shall be converted to a cents per gallon rate, rounded to the
nearest cent, that shall be calculated by the use of the average retail
price per gallon of unleaded regular gasoline in December 1990, as
determined in a survey of retail gasoline prices that included a
Statewide representative random sample conducted in December
1990 for that month by the Board of Public Utilities, Office of the
Economist, and shall be effective for the tax due for months ending
after that date.

1c. (1) For State fiscal years 2018 through 2026, the rate of tax
imposed on highway fuel pursuant to subsection a. of this section
shall be adjusted annually so that the total revenue derived from
highway fuel shall not exceed the highway fuel cap amount.
(2) The State Treasurer shall, on or before December 31, 2016,
determine the highway fuel cap amount as the sum of:
(a) the taxes collected for State Fiscal Year 2016 pursuant to
paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
c.22 (C.54:39-103),
(b) the amount derived from taxing the gallonage of highway
fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of
four cents per gallon, and
(c) the amount that would have been derived from taxing the
gallonage of highway fuel subject to motor fuel tax in State Fiscal
Year 2016 at the rate of 23 cents per gallon.
(3) On or before August 15 of each State Fiscal Year following
State Fiscal Year 2017, the State Treasurer and the Legislative
Budget and Finance Officer shall determine the total revenue
derived from:
(a) the taxes collected for the prior State Fiscal Year pursuant to
paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
c.22 (C.54:39-103),
(b) the revenue that would be derived from imposing the tax
pursuant to paragraph (2) of subsection a. of this section at the rate
of four cents per gallon, and
(c) the revenue derived from the taxation of highway fuel
pursuant to paragraph (1) of subsection a. of this section.
(4) Upon consideration of the result of the determination
pursuant to paragraph (3) of this subsection, and consultation with
the Legislative Budget and Finance Officer, the State Treasurer
shall determine the rate of tax to be imposed on highway fuel
pursuant to subsection a. of this section that will result in revenue
from:

(a) the taxes collected for the current State Fiscal Year pursuant
to paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,
c.22 (C.54:39-103).

(b) the revenue derived from the tax imposed pursuant to
paragraph (2) of subsection a. of this section at the rate of four cents
per gallon for the current State Fiscal Year, and

(c) the revenue derived from the taxation of highway fuel
pursuant to paragraph (1) of subsection a. of this section

that rate shall take effect on the October 1 of that year.

(5) If the actual revenue determined pursuant to
paragraph (3) of this subsection exceeds the highway fuel cap amount determined
pursuant to paragraph (2) of this subsection, then the highway fuel
cap amount for the succeeding year shall be decreased by the
amount of the excess in setting the rate pursuant to paragraph (4) of
this subsection.  If the actual revenue determined pursuant to
paragraph (3) of this subsection is less than the highway fuel cap
amount determined pursuant to paragraph (2) of this subsection,
then the highway fuel cap amount for the succeeding year shall be
increased by the amount of the shortfall in setting the rate pursuant
to paragraph (4) of this subsection.4

cf: P.L.2000, c.48, s.1)

9. Section 2 of P.L.1991, c.19 (C.54:15B-9) is amended to read
as follows:

2. a. A person who shall purchase or otherwise acquire
petroleum products, upon which the petroleum products gross
receipts tax has not been paid and is not due pursuant to subsection
b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a
reimbursement payment has been paid pursuant to section 3 of [this
department, agency or instrumentality, or any agent or officer
thereof, for use not specifically associated with any federal
government function or operation, shall pay to the State a tax
[equivalent to two and three-quarters percent (2 3/4%)] at the rate
or rates of the consideration given or contracted to be given for the
purchase or acquisition of the petroleum products and the
gallonage, determined pursuant to subsection a. of section 3 of
P.L.1990, c.42 (C.54:15B-3) in accordance with the procedures set
forth in the "Petroleum Products Gross Receipts Tax Act,"
P.L.1990, c.42 (C.54:15B-1 et seq.).

b. A person who knowingly uses, or who conspires with an
official, agent or employee of a federal government department,
agency or instrumentality, for the use of, a requisition, purchase
order, or a card or an authority to which the person is not
specifically entitled by government regulations, with the intent to
obtain petroleum products from a federal government department,
agency or instrumentality for a use not specifically associated with
a federal government function or operation, upon which the
petroleum products gross receipts tax has not been paid, is guilty of
a crime of the fourth degree.

(cf: P.L.1991, c.19, s.2)

10. Section 3 of P.L.1991, c.19 (C.54:15B-10) is amended to
read as follows:

a. A federal government department, agency or instrumentality,
that purchases petroleum products other than by the first sale of that
product in this State for use in a federal government function or
operation, upon which petroleum products the petroleum products
gross receipts tax has been paid or is due and payable, shall be
reimbursed and paid an amount [equivalent to two and three-
quarters percent (2 3/4%) at the rate or rates of the consideration
given or contracted to be given [by the federal government
department, agency or instrumentality for the purchase of the
petroleum products], and the gallonage, determined pursuant to
subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3).

b. The reimbursement shall be claimed by presenting to the
Director of the Division of Taxation in the Department of the
Treasury an application for the reimbursement, on a form prescribed
by the director, which application shall be verified by a declaration
of the applicant that the statements contained therein are true. Such
application for reimbursement shall be supported by an invoice, or
invoices, showing the name and address of the person from whom
the petroleum products were purchased, the name of the purchaser,
the date of purchase, the quantity of the product purchased, the
price paid for the purchase of the product, and an acknowledgment
by the seller that payment of the cost of the product to the seller,
including the petroleum gross receipts tax due thereon, has been
made. Such invoice, or invoices, shall be legibly written and shall
be void if any corrections or erasures shall appear on the face
thereof.

c. If petroleum products are sold to a federal government
department, agency or instrumentality that shall be entitled to a
reimbursement under this act, the seller of the petroleum products
shall supply the purchaser with an invoice that conforms with the
requirements of subsection b. of this section.

(cf: P.L.1991, c.19, s.3)

11. (New section) a. There is levied a tax on persons, other
than licensed companies pursuant to section 6 of P.L.1991, c.181
(C.54:15B-12), holding the fuels enumerated in subparagraph (a) of
paragraph (2) of subsection a. of section 3 of P.L.1990, c.42
(C.54:15B-3) in storage for sale as of the close of the first business
day following the date of enactment of P.L. , c. (C. )
(pending before the Legislature as this bill) by fifteen days on
which tax has previously been paid. The amount of tax shall be the
difference between the tax per gallon specified by subsection a. of
section 3 of P.L1990, c.42 (C.54:15B-3) for the type of fuel and the
tax previously paid per gallon, multiplied by the gallons in storage
of that type of fuel as of the close of the business day on that day.

b. Persons in possession of those fuels in storage as of the close
of the first business day following the date of enactment of
P.L. , c. (C. ) (pending before the Legislature as this bill) by
fifteen days shall:
(1) take an inventory at the close of the business day on that
day;
(2) report the gallons listed in paragraph (1) of this subsection
on forms provided by the director, not later than 45 days following
the date of enactment of P.L. , c. (C. ) (pending before the
Legislature as this bill) by fifteen days; and
(3) Remit the tax levied under this section to the director no
later than February 1, 2017.

c. Fuel not reflected in the inventory taken pursuant to
subsection b. of this section is deemed to be previously untaxed,
except to the extent that it is invoiced as delivered tax-paid on or
after July 1, 2016.

d. There is levied a tax on persons, other than licensed
companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12),
holding the fuels enumerated in subparagraph (b) of paragraph (2)
of subsection a. of section 3 of P.L1990, c.42 (C.54:15B-3) in
storage for sale as of the close of the business day on December 31,
2016 on which tax has previously been paid. The amount of tax
shall be the difference between the tax per gallon specified by
subsection a. of section 3 of P.L1990, c.42 (C.54:15B-3) for the
type of fuel and the tax previously paid per gallon, multiplied by the
gallons in storage of that type of fuel as of the close of the business
day on December 31, 2016.

e. Persons in possession of those fuels in storage as of the close
of the business day on December 31, 2016 shall:
(1) take an inventory at the close of the business day on
December 31, 2016;
(2) report the gallons listed in paragraph (1) of this subsection
on forms provided by the director, not later than January 31, 2017;
and
(3) Remit the tax levied under this section to the director no
later than August 1, 2017.

f. Fuel not reflected in the inventory taken pursuant to
subsection b. of this section is deemed to be previously untaxed,
except to the extent that it is invoiced as delivered tax-paid on or
after January 1, 2017.
g. In determining the amount of tax due under this section, a person may exclude the amount of fuel in dead storage in each storage tank.

h. As used in this section:

"Close of the business day" means the time at which the last transaction has occurred for that day.

"Dead storage" means the amount of fuel that cannot be pumped out of a fuel storage tank because the motor fuel is below the mouth of the draw pipe. The amount of motor fuel in dead storage is 200 gallons for a tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more.

12. (New section) Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of sections 6 through 11 of P.L. (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 360 days following the date of enactment of P.L. (pending before the Legislature as this bill) and may thereafter be amended, adopted, or readopted by the director in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

13. (New section) a. The State Treasurer, and the Legislative Budget and Finance Officer, together with a third public member who shall be jointly selected thereby, shall constitute the review council.

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

c. The review council shall conduct an ongoing review of the application of each section of P.L. (pending before the Legislature as this bill).

The review council shall, not later than five days after any Legislative action that halts, delays, or reverses the implementation of those sections as scheduled on the date of enactment of P.L. (pending before the Legislature as this bill), certify for the purposes of subparagraph (i) of paragraph (1) of subsection a. of section 3. of P.L.1990, c.42 (C.54:15B-3) to the Director of the
Division of Taxation that the scheduled implementation of P.L. , c. (C. ) had been impeded.

14. This act shall take effect immediately, section 5 shall apply to taxable years beginning on or after January 1, 2017, and sections 6 through 10 shall apply to first sales of petroleum products within this State and to deliveries of petroleum products for use or consumption within this State made on or after July 1, 2016.