

SENATE BILL NO. 1697

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1697 with my recommendations for reconsideration.

The legislative history accompanying this bill indicates that this proposed legislation was originally introduced a few years ago in a limited form. See Senate Bill No. 2748 (2016). As initially conceived, the bill would have extended, in a relatively straightforward manner, the currently existing fuel tax exemption for fuel used by school buses that are operated by New Jersey public school districts to fuel used by school buses operated by private contractors as well as buses operated for the transportation of pupils to a school or school-sponsored activity or event run by a religious or charitable organization. Such a measure could have the effect of saving property tax dollars under circumstances where, for example, school districts inefficiently purchase and operate school buses to take advantage of the tax exemption, in exchange for reduced tax revenues and offsetting tax increases for other motorists.

Thereafter, the bill was amended and expanded in 2017 to include provisions unrelated to this fuel tax exemption. The bill was voted out of the Senate in March 2017 and then reported favorably by the Assembly Appropriations Committee during the lame-duck legislative session of 2017. One such added provision affected the taxation of certain estates of individuals who died in 2017 while the other concerned a clarification of the State's tax treatment of dyed fuel.

Now, several months into the 2019 fiscal year and with Fiscal Year 2020 budget planning underway, this bill seeks to "clarify" the determination of a small number of taxable estates under the now-repealed estate tax. While it is certainly the prerogative of the Legislature to pursue amendments to current laws, this

legislation does not appear to "clarify" the current law, but rather seems to retroactively attempt to change the way the State determines the taxable estate of a resident decedent who passed away during the specified period. The bill also could require compliant taxpayers, who already filed and paid their estate taxes under the assumption of the current law, through no fault of their own, to file amended tax returns and potentially incur additional, retroactive taxation.

The bill also seeks to "clarify" that dyed fuels sold in New Jersey are exempt from the motor fuel tax and petroleum products gross receipts tax ("PPGRT"). This provision appears to address a problem that does not widely exist in New Jersey, because the State currently does not tax dyed fuels under the motor fuel tax or the PPGRT. Dyed fuel and dyed heating oil are primarily used in machines and equipment that do not operate on public roads and current law exempts such uses from the motor fuels tax and the PPGRT. Moreover, the sale of dyed fuel for any use that the seller knows or has reason to know is a taxable use of the dyed fuel is illegal under State law.

Finally, the bill's provisions exempting "certain school buses" from the motor fuels tax and the PPGRT will directly affect the State's finances in an undetermined manner. As noted, motor vehicles owned by local school districts for the purpose of transporting pupils are already exempt from the PPGRT and the motor fuels tax. Under the statutory fuel tax structure adopted in late 2016, around the time when this bill was originally introduced, this bill's proposed exemption of privately-owned buses from the PPGRT and the motor fuels tax necessarily would result in all other non-exempt New Jersey motorists paying more for their fuel. P.L.2016, c.57, enacted under the previous Administration, requires fuel taxes to be adjusted annually to ensure there is a baseline of revenue that matches prior years' revenues. In short, any time the Legislature exempts an entity from these fuel taxes, the State's

other motorists are forced to pay more in fuel taxes to account for the revenue lost due to the exemption. While I do not oppose the concept of this measure, and in particular its potential to save property tax dollars while assisting private schools in the effectuation of their educational missions, I believe that matters of tax policy and State revenues should be considered as part of the overall budget negotiation process. Therefore, I am recommending that this bill deal only with petroleum products gross receipts tax for dyed fuel.

As I noted last summer when signing the annual State budget law and supporting revenue bills, I was, and continue to be, very pleased to have reached a comprehensive deal with my partners in the Legislature concerning the State's spending plan for Fiscal Year 2019. Our agreed-upon budget for the year ending at midnight on June 30, 2019 satisfies our shared constitutional obligations to enact a single appropriations law governing overall State spending needs for the year, as determined through the legislative process. See Article VIII, Section 2, Paragraph 2 of the New Jersey Constitution. With the Fiscal Year 2019 budget, we truly began the collaborative process of building a stronger and fairer New Jersey. I look forward to working collaboratively with legislative leadership to ensure that the State budget remains responsibly and sustainably balanced now and in the future so that we can continue to meet our obligations to the State of New Jersey and its residents.

Accordingly, I herewith return Senate Bill No. 1697 and recommend that it be amended as follows:

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| <u>Page 2, Title, Line 1:</u> | Delete "providing an exemption from" and insert "concerning" |
| <u>Page 2, Title, Line 2:</u> | After "receipts tax" insert "," |
| <u>Page 2, Title, Line 2:</u> | Delete "the motor fuel tax for fuel used for the operation" and insert "amending P.L.1991, c. 181." |
| <u>Page 2, Title, Lines 3-6:</u> | Delete in their entirety |

<u>Page 3, Section 1, Line 26:</u>	After "America;" insert "and"
<u>Page 3, Section 1, Line 29:</u>	Delete "; and" and insert "."
<u>Page 3, Section 1, Lines 30-36:</u>	Delete in their entirety
<u>Page 3, Section 2, Lines 39-48:</u>	Delete in their entirety
<u>Page 4, Section 2, Lines 1-48:</u>	Delete in their entirety
<u>Page 5, Section 2, Lines 1-48:</u>	Delete in their entirety
<u>Page 6, Section 2, Lines 1-34:</u>	Delete in their entirety
<u>Page 6, Section 3, Lines 36-48:</u>	Delete in their entirety
<u>Page 7, Section 3, Lines 1-48:</u>	Delete in their entirety
<u>Page 8, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 9, Section 3, Lines 1-48:</u>	Delete in their entirety
<u>Page 10, Section 3, Lines 1-10:</u>	Delete in their entirety
<u>Page 10, Section 4, Lines 12-39:</u>	Delete in their entirety
<u>Page 10, Section 5, Line 41:</u>	Delete "5." and insert "2."
<u>Page 10, Section 5, Line 42:</u>	Delete "sections 1 and 2" and insert "section 1"
<u>Page 10, Section 5, Line 44:</u>	Delete "and section 3 shall apply retroactively to the estate of"
<u>Page 10, Section 5, Line 45:</u>	Delete "each resident decedent dying on or after January 1, 2017"

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Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor