FISCAL NOTE TO

ASSEMBLY, No. 2825

STATE OF NEW JERSEY

DATED: JUNE 24, 1997

Assembly Bill No. 2825 of 1997 would replace the present State tax system of franchise and gross receipts taxes imposed on regulated gas and electric energy utilities and telecommunications utilities operating in New Jersey effective on January 1, 1998. The replacement system would be centered on the corporation business tax, a sales and use tax and a temporary transitional energy facility assessment tax. The energy utilities would be subject to all three of the replacement taxes. Telecommunications utilities would become subject only to the corporation business tax under the bill. They started collecting and remitting sales and use taxes in 1990. Overall, State tax collections from the replacement system are projected to be 30 percent lower than current levels by 2004.

The Corporation Business Tax. (CBT) The corporation business tax is a 9 percent tax on net income after normal business deductions for expenses and depreciation. The bill provides for a different method of depreciating the capital assets of the energy utilities from other corporations, however. It would substitute a specially defined New Jersey depreciation allowance for the existing federal depreciation allowance used generally. The New Jersey 30 year, straight line depreciation allowance for the energy utilities would apply to all capital assets placed in service prior to January 1, 1998. Assets placed in service on or after January 1, 1998 would be depreciated under the federal rules. All of the utilities now subject to the present franchise and gross receipts taxes to be repealed by the bill will be required to make estimated tax payments under the CBT in the same manner as other CBT taxpayers.

Sales and Use Tax. The sales and use tax to be imposed under the replacement tax structure will apply to all of the New Jersey based energy utilities subject to the taxes being repealed. In addition, the bill requires nonutilities located in New Jersey or in other states to remit the sales tax when they sell to New Jersey users. In certain instances, large New Jersey energy users will pay use taxes directly to the State for their purchases of energy. All vendors of natural gas and electricity to New Jersey users and customers will be required to register with the Board of Public Utilities (BPU), maintain an office in the State and keep necessary records pertaining to sales within the State. Out-of-state vendors will be required to pay the sales and use tax in the same manner as in-state vendors and they will become subject to other appropriate State taxes.

The bill provides certain exemptions from tax to reflect existing statutes pertaining to cogenerators, nonutilities and sales for resale in the replacement tax system. The bill also provides that existing municipal energy utilities expanding their systems or newly created municipal utilities will be required to pay the same State taxes as other vendors.

Transitional Energy Facility Assessment (TEFA) The purpose of TEFA is to cushion the General Fund impact of the overall tax reduction provided in the bill. The bill designates calendar year 1996 sales of energy as the base year for the purpose of TEFA. The taxes due on the 1996 sales of energy were paid by the energy utilities in April 1997. The bill provides that the total amount of taxes paid by the energy utilities in 1998 will be at least the same amount as the amount paid in calendar year 1997. Starting in calendar year 1999, the TEFA tax paid in 1998 will be reduced by 20 percent and incrementally each year thereafter ending on December 31, 2002. TEFA expires at that time. The State Treasurer will be required to evaluate the impact of the new tax system and report to the Legislature by January 1, 2002.

Tax Impacts. The Executive has provided estimates of the tax impacts of the bill to the Office of Legislative Services (OLS). The estimates are displayed in the table on the next page. The OLS has evaluated the estimates and finds them to be reasonable. However, OLS notes the amount of future sales tax revenue to be received by the State will be affected by energy consumption levels in any given year, by future price changes of energy, and by BPU approved reductions in the unit rates charged by sellers of gas and electricity in a deregulated environment.

Assembly Bill No. 2825

Public Utility Energy and Telecommunications Taxes
Current System Compared to Replacement System
Actual and Estimated Revenue by Calendar Years 1997 to 2004
($ Millions)

A. Current System: Franchise and Gross Receipts Taxes

CY	Telecom Utilities	Energy Utilities	Total
1997 (act.)	$73	$1,030	$1,103

B. Replacement System: Corporation Business Tax, Energy Sales and Use Tax and the Transitional Energy Facility Assessment (TEFA)

	Telecom	Energy Utility Companies			
CY	CBT	Sales & Use	CBT	TEFA	Total
1998	$74	$537	$200	$349	$1,160
1999	74	517	194	285	1,070
2000	76	526	188	220	1,010
2001	76	534	181	150	941
2002	78	543	173	78	872
2003	78	552	168	-	798
2004	79	567	168	-	814

Source: NJ Board of Public Utilities, June 17, 1997.

This fiscal note has been prepared pursuant to P.L.1980, c.67.