SENATE URBAN POLICY AND PLANNING COMMITTEE

STATEMENT TO

SENATE, No. 1696

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 1997

The Senate Urban Policy and Planning Committee reports favorably and with committee amendments Senate Bill No. 1696.

Senate Bill 1696, as amended by the committee, provides for a phase-in of the sales and use tax rate upon purchases of telecommunications services for business enterprises that relocate to or expand in New Jersey.

As amended, the bill provides the benefit of this phase-in both to any business that moves into the State from outside, referred to as a "new relocated business," and to any business that expands in place, referred to as an "expanded business."

Businesses that relocate to New Jersey from a location outside this State must employ more full-time persons after the relocation than they employed in the calendar year prior to moving into the State. They also must establish their claim to the phase-in within 12 months of commencing operations in New Jersey.

Businesses that expand their operations at a location in this State would establish entitlement to the phase-in by demonstrating that they employ more than 125 percent of the number of full-time persons employed by the business in the previous calendar year. According to the bill, "full-time" employment means employment for at least 140 hours per month at a wage not less than the State or federal minimum wage and does not include seasonal or temporary employment.

If the expanded business or relocated business is located in a "qualified municipality" as defined in the bill (the definition is the same as that contained in the "New Jersey Urban Redevelopment Act," P.L.1996, c.62 (C.55:19-20 et seq.)), the current 6% percent sales and use tax rate will be phased-in over a 10 year period after the expansion or relocation. At any other business location in this State the phase-in to a 6% rate of tax will be over a six year period.

The bill requires that businesses eligible for the phase-in apply to the Director of the Division of Taxation in the Department of the Treasury for a certificate, which must then be submitted to any vendor of intrastate or interstate telecommunications, as the case may be, in order to establish the rate of tax which shall be imposed upon the business. The rate applies in connection with business activity carried

on in this State by the new relocated business or expanded business, except for resale.

A certificate shall first be applicable to purchases or use by the certified business made in the calendar month following issuance of the certificate by the director and the annual rates applicable shall be applicable to the 12 consecutive calendar months following the calendar month in which the certificate is issued. Certificate holders shall continue to be eligible for the reduced rates so long as they meet the requirements set forth in the bill and do not fall below the employment level specified in the original application for the certificate. The director is given the power to adopt rules and regulations governing the application process and to ensure the compliance of businesses and may revoke the certificate of any business that does not comply with the requirements of the bill or rules or regulations adopted pursuant thereto.

These reduced tax rates will provide an incentive for increased business expansion and relocation in this State through cost savings on purchases of telecommunications services that are becoming an increasingly more important business expense in a growing information- and service-based economy.

The committee amended the bill to:

(1) provide that the tax phase-in is in connection with business activity carried on in this State by a new relocated business or an expanded business; as introduced, the bill provided the tax phase-in for intrastate or interstate telecommunications charged to an address in this State;

(2) require that a new relocated business file an application with the director within 12 months of relocating to New Jersey in order to be eligible for the phase-in;

(3) provide that failure of a business to provide a copy of its certificate evidencing eligibility for the phase-in to the telecommunications vendor shall render a business ineligible for the reduced tax rate to which they might otherwise be entitled;

(4) eliminate the requirement of an annual filing to the director in order to prove ongoing eligibility for the phase-in and instead require that the State Treasurer adopt rules and regulations to govern the application process and ongoing compliance with requirements set forth in the bill and regulation;

(5) tie the eligibility for the phase-in to job-creation rather than increase in employee compensation on the part of relocating or expanding businesses; as introduced, businesses could have been eligible for the tax reduction without creating any new jobs, but merely by increasing salaries paid to existing employees;

(6) create a definition of "business," to include any employer subject to the provisions of the New Jersey "Unemployment Compensation Law," R.S.43:21-1 et seq., including sole proprietorships, a partnership, 'S' corporation, limited liability company, and cooperative associations;

(7) create a definition of "full-time" to include any employment of at least 140 hours per month at a wage not less than the State or federal minimum wage and not including temporary or seasonal employment; and

(8) clarify the definition of "new relocated business" to remove redundancies and make it more comprehensible.