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P U B L I C H E A R I N G

before

SENATE AND ASSEMBLY COMMITTEES ON TAXATION

On

Senate Bills No. 200, 404, 419, 469, and
Senate Joint Resolution No. 12
and
Assembly Bills No. 88, 90, 132, 208, 217, 279 and 350
(Gross Receipts Tax)

Held:
March 27, 1968
State House
Trenton, New Jersey

MEMBERS PRESENT:

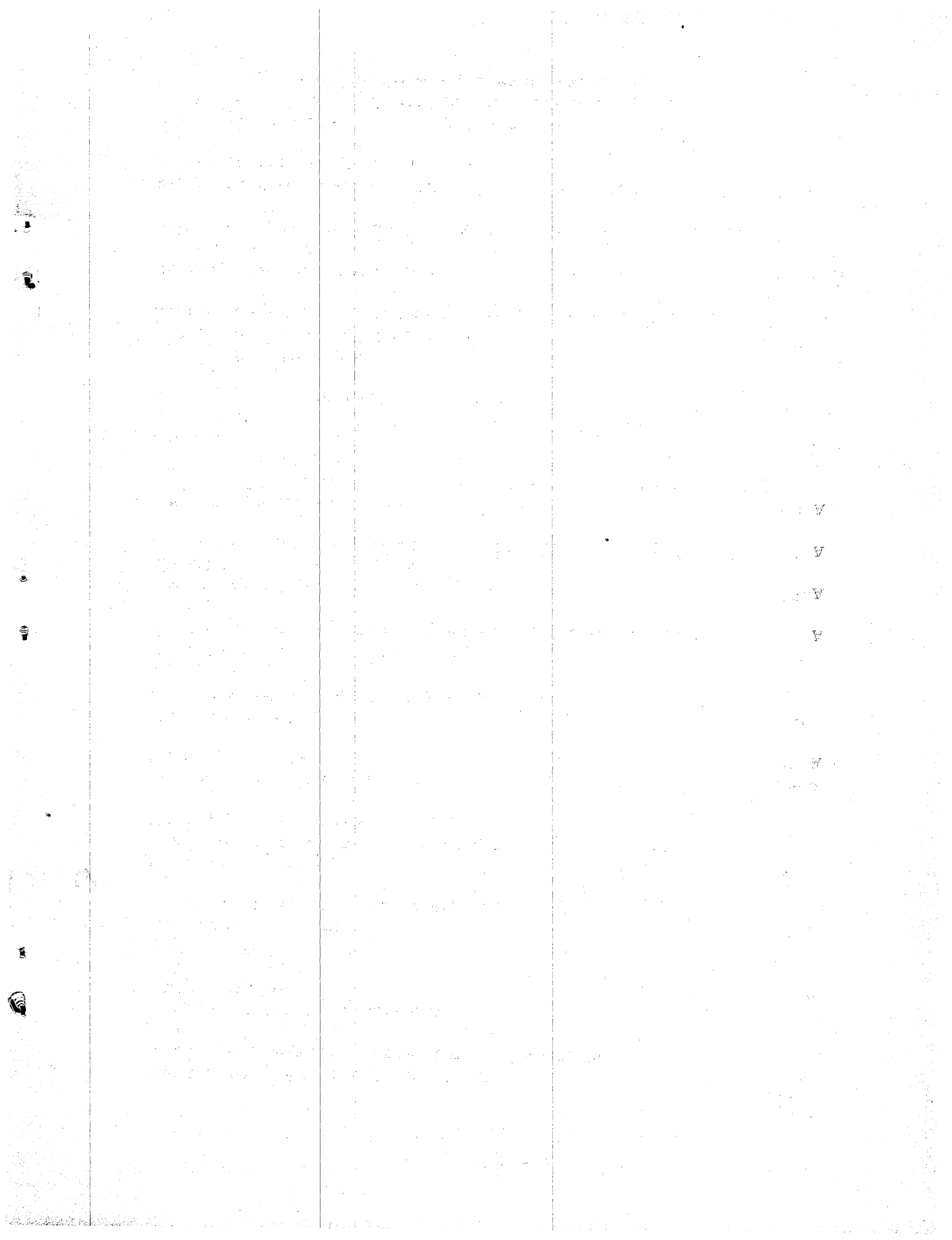
Senator Robert E. Kay (Chairman, Senate Committee)
Senator Wayne Dumont, Jr.
Assemblyman Webster B. Todd, Jr. (Chairman,
Assembly Committee)
Assemblyman Chester Apy
Assemblyman William M. Crane
Assemblyman Richard W. DeKorte
Assemblyman John F. Evers
Assemblyman John J. Fekety

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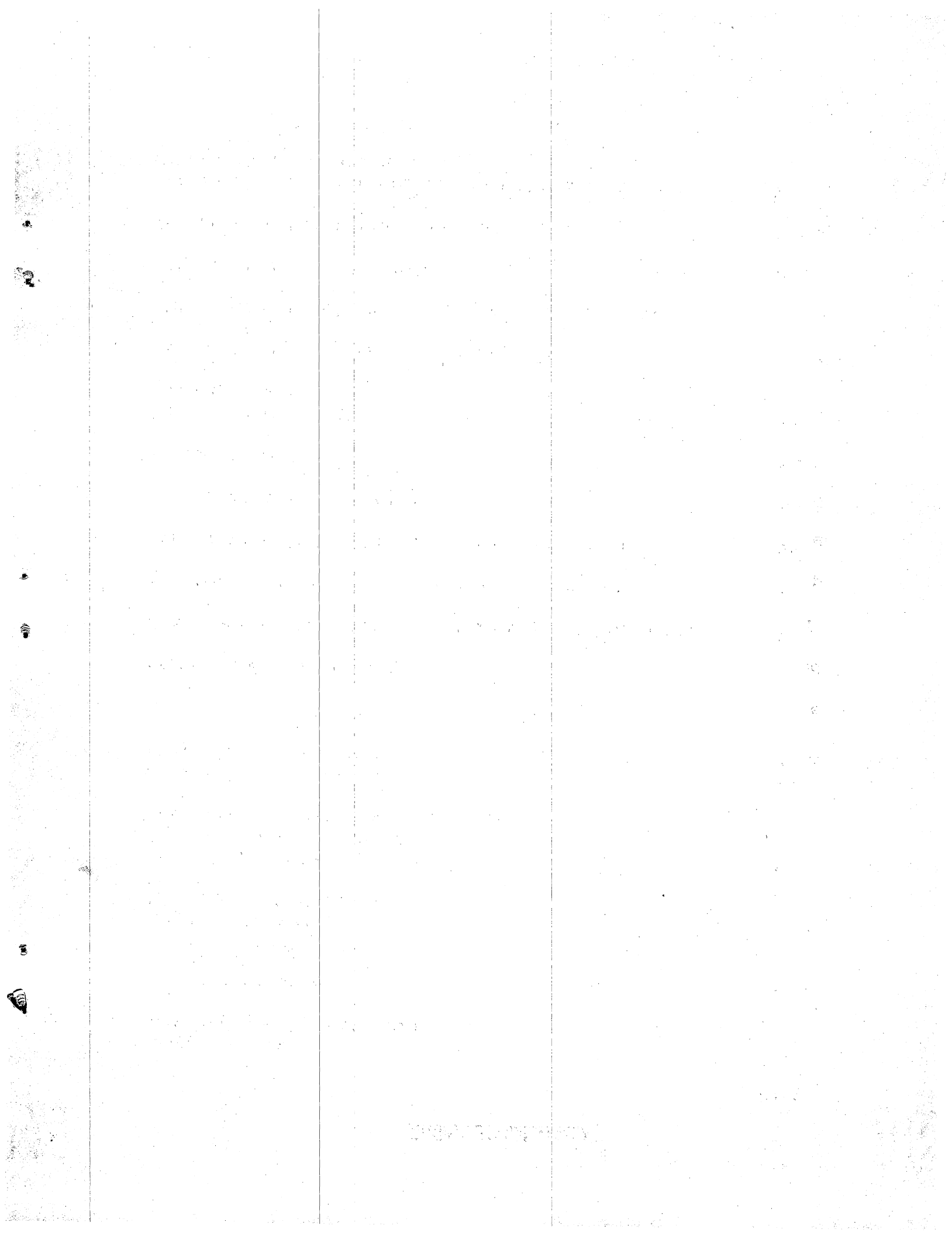
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SENATOR ROBERT E. KAY (Chairman): I will now open the public hearing which was scheduled for 10 A.M., Wednesday, March 27th, dealing with certain matters relating to taxation. For the information of those of you in the room and for the record, I am Senator Robert E. Kay, Chairman of the Senate Committee on Taxation. This hearing is a hearing of the Joint Taxation Committees of the Senate and of the Assembly. Assemblyman Todd, Chairman of the Assembly Taxation Committee is here and will say a few words in the opening.

I have a list which, to the best of my knowledge, contains a list of those of you who desire to testify today. If, for any reason, any of you think you might not be on the list, if you will put your name on a piece of paper and pass it forward, I will recheck the list. Those of you who desire to testify, may I ask that when you do testify you occupy the chair just to my left here where Senator Rinaldo is presently sitting. There is a microphone there and every word that is said, of course, is transcribed mechanically into the record and is also taken down personally by the stenographers. Your statements will, of course, be in the record and a complete report of the hearing will be in public form and every member of the Joint Committee will receive a copy of this and therefore be enabled to know everything that took place here today.

The particular bills in the Senate which are the subject of this public hearing are Senate Bill 404, Senate Bill 200, Senate Bill 419, Senate Bill 469 and Senate Joint Resolution No. 12. I think it's well known to all of you here that these bills and this hearing deal primarily with the package of what we call the business taxes which were enacted in 1966.

I will at this time ask Assemblyman Todd, Chairman of the Assembly Committee on Taxation, if he has some remarks to make at the opening of this hearing.

ASSEMBLYMAN WEBSTER B. TODD, JR.: Thank you, Senator Kay. First, I would like to welcome every one who is here and to say that I'm delighted to see that the audience at least is interested in what we are doing and the Tax Committees are probably going to rely on the written word. I see two more of my Assembly Committee coming in which allows us to outnumber you, Senator, so we are in good shape.

The particular bills in the Assembly that we are going to consider today are Assembly Bills 88, 90, 132, 208, 217, 279 and 350. These bills all deal with the replacement tax package that Senator Kay has noted - Chapter 54 - 11 (a), (b) and (c), and the provisions for collecting, implementing and administering those particular taxes.

I would like to point out at this time that we are holding these hearings strictly for information. We can't

promise results tomorrow. When we have the transcript it will be very carefully considered in the Committee to find meaningful and long-term solutions to resolve some of the problems that exist. I think it's important, before we take any legislative steps in a matter as important as this particular tax package, that everyone be allowed the fullest opportunity to be heard, and thus the occasion of the hearing.

With that, Senator, I'm ready to go.

SENATOR KAY: All right. Thank you, Assemblyman Todd. I will probably act as "the Master of Ceremonies" for the hearing unless for any reason I am called from the room, at which time I will ask Assembly Todd to carry on, as he is the co-chairman of the joint committees on taxation.

ASSEMBLYMAN TODD: Mr. Chairman, may I just introduce the members of the Assembly Tax Committee. This is Assemblyman Crane, Assemblyman Evers, Assemblyman DeKorte, and Assemblyman Apy. So if you hear any questions from over there, you'll know they are legitimate.

SENATOR KAY: And I would add that immediately on my left is Senator Frank Italiano of Camden. The first speaker, and perhaps there's a little senatorial courtesy involved here, but Senator Rinaldo of Essex County had asked for permission to make a presentation and I know he has other commitments. Senator Rinaldo.

SENATOR MATTHEW J. RINALDO: Thank you, Senator Kay. Just to correct the record, it is Union County.

My purpose at this particular hearing is to urge adoption of a bill which 21 or more than half of my fellow Senators saw fit to co-sponsor when I proposed it. The gross receipts tax on retail businesses was adopted in 1966 as part of a package of laws intended to provide substitute revenue for the local tax that had been imposed on business personal property.

This is a discriminatory tax that places an unfair burden on retailers who are already subject to all other taxes imposed on New Jersey businesses, in addition to being uncompensated collectors of New Jersey's sales taxes. The gross receipts levy is particularly unfair because it taxes a retailer's gross receipts, regardless of whether he is making a profit or not.

New Jersey is the only state in the Union to single out one class of businessmen for special taxation. Alaska, one of only seven states with such a tax, levies it on all forms of business receipts but has no sales tax. Delaware, which also has no sales tax, imposes the tax on manufacturers as well as merchants. Mississippi levies its gross receipts tax on all wholesale purchases, while Washington's is on all businesses. Indiana and West Virginia allow retailers a choice of paying either a gross receipts tax or a corporate

income tax. But they do not expect both. Connecticut imposes a gross receipts tax on incorporated businesses in lieu of the corporate tax.

My concern about the inequity of this tax, however, extends beyond my compassion for the plight of the small retailer to the consumer. This is a tax that retailers must pass on in the form of higher prices. Thus, the little man, the beleaguered consumer at the end of the line, pays what in effect is another sales tax on top of that he already must pay on most purchases.

It has been suggested that New Jersey cannot afford to lose this revenue. This is nonsense.

The retail gross receipts tax brings in \$4 million per year. It is one of the taxes imposed by the State to compensate municipalities for the loss of the business personal property tax. This requires \$102 million in aid. The Governor's budget projects collections of \$76 million during the fiscal year ending June 30, 1968 from the tax package of which the retail gross receipts levy is a part. Since only \$51 million - or half of the \$102 million - is required for the first half of 1968, it is obvious that a surplus of \$25 million will exist.

If the State receives the \$76 million anticipated for fiscal 1968 and \$46 million in the last six calendar months of the year, it will accumulate \$122 million as replacement for business personal property taxes and will

have to pay out only \$102 million, leaving a surplus of \$20 million.

Obviously the revenues are there to compensate for the repeal of this unfair and discriminatory tax. I intend to continue my fight for its repeal because I believe this course of action is right and just.

That is the end of my statement.

SENATOR KAY: Thank you, Senator. Are there any members of the Committee who would like to ask of this particular witness any questions?

ASSEMBLYMAN TODD: Through you, Mr. Chairman, I would just like to clarify the fact that this statement is directed toward a retail gross receipts tax and not the unincorporated business.

SENATOR RINALDO: That is correct. I might add that my feelings are pretty much the same about the unincorporated business tax. The reason I have singled out in my testimony the retail gross receipts tax on retailers specifically is because I am here to defend my bill, Senate No. 404, and additionally we do not, according to the estimate that I have just given, have enough money in revenue to repeal both of them at this time. But I think this is a first step in the right direction.

SENATOR KAY: All, right. Thank you, Senator, and my apologies for putting you in the wrong county.

SENATOR RINALDO: That's quite all right and it's been a pleasure being here.

SENATOR KAY: I perhaps did not make it clear before to everyone in the room, but when I do call the name you will then occupy this chair and the first statement should be your name and the organization that you represent, assuming that you represent a group. I will call Mr. Lehman, New Jersey Automobile Dealers Association.

A L N. L E H M A N: My name is Al N. Lehman and I am Executive Vice President of the New Jersey Automobile Dealers Association. Our membership represents approximately 800 franchised new motor vehicle dealers in the State of New Jersey.

First, I would like to compliment this Legislature for its wisdom in creating a Committee on Taxation. I believe that the need for such a committee is long overdue, and we especially appreciate the opportunity to come before you today to discuss the effect of a series of business taxes enacted into law in 1966 replacing the provisions of Chapter 51.

Please let it be understood that the membership of our Association is not against taxes per se. Although taxation is not a popular subject, those in business and government realize it is a necessity if services and programs for the citizens of this State are to be maintained and improved at all levels of government. All of us, however, must be concerned when any form of taxation is discriminatory.

In mid-1966 the Legislature passed and the Governor signed into law a package of four business tax "reforms" to replace the dual tax rate legislation applicable to Chapter 51. This legislation was recommended by a study committee appointed by the Governor, assertedly representative of the business community. It is a matter of record, however, that of the 18 members on this committee, only one represented retail business. We are given to understand that Governor Hughes appointed this Committee because he was not entirely satisfied with the tax nor was he entirely sure the provisions of Chapter 51 were constitutional.

In our opinion, the five-bill "package" enacted to replace Chapter 51 was hastily acted upon by the Legislature and did not receive thorough study and analysis to determine its impact upon New Jersey business. There were no public hearings on any of these measures before they became law. Those affected were not afforded any opportunity to voice their viewpoint.

In the interest of time, may I state our membership is not opposed to the total reform package. In fact, there are many aspects to this new concept of taxation we believe most desirable. For example, under the new concept all taxes are levied, collected and administered by the State before being returned to local municipalities who were previously responsible for these functions. In addition, the tax rate, (depending upon the type of tax imposed) is uniform throughout the State. We believe uniformity in taxation to be highly desirable. It places all those taxed on an equal basis, eliminating the possibility of favoritism or improper administration in any local jurisdiction.

We cannot disagree with the increase in the corporate net income tax or the tax on machinery and equipment used in business. Both of these taxes are uniform in their effect on all segments of business, and in their being based upon ability to pay.

Our primary concern is taxation based upon gross receipts. While the tax rate may be uniform, this is where equity ceases. In rounding out its tax package, the Legislature enacted two pieces of legislation using a gross receipts formula: The tax on the gross receipts of unincorporated business and the tax on the gross receipts of all retail stores. The equity of both of these taxes should be an item of serious concern to this committee.

It is interesting to note the membership of our Association is unique in that they will pay at least 3 of the 4 new taxes. Since all franchised automobile dealerships have extensive service facilities, they will be required to pay the machinery and equipment tax. Because they come within the definition of a retail store, all automobile dealerships are required to pay a gross receipts tax on retail store sales. In addition, all automobile dealerships are required to pay either the increased corporate net income tax or the special gross receipts tax levied upon unincorporated businesses.

I would like to limit my remaining comments to our opposition to the gross receipts tax levied on all retail merchants. We believe that this tax is not only unfair, but unnecessary. The other three taxes should be more than adequate to save the municipalities harmless.

The retail gross receipts tax is a discriminatory tax. It does not burden all segments of the business community equally and it bears no relationship whatsoever with a business' ability to pay. The exemption of the first \$150,000 has meaning to many retailers--but not to the automobile dealer. The smallest automobile dealer in the state has annual sales of \$500,000 with a profit of \$10,000. Compare this with a jeweler or clothier with a profit of several times that amount on sales of \$149,999 and no tax.

Under a gross receipts tax there is no concern whether the business makes a profit or if it does, the amount of profit. Merchants who sell a high price commodity such as automobiles operate on an extremely small margin of profit and will suffer the most severe impact. For your information, here are some statistics compiled by the National Automobile Dealers Association which may prove the impact on our industry if the retail gross receipts tax remains a law of New Jersey.

The record of the average operating profit before Federal taxes on total sales is as follows:

1967---	1.83%	of total sales
1966---	1.8%	of total sales
1965---	2.1%	of total sales
1964---	1.8%	of total sales
1963---	1.9%	of total sales

While we are not crying poverty, the automobile industry is an excellent example of severe price competition at the retail level. Obviously, in the above figures there are dealers who operate below this figure and a substantial number who have only a marginal business.

If an automobile dealership sells fewer than 400 cars annually, the chance of failure in the business increases proportionately. National figures show that 12½ per cent of the Chevrolet dealers in this category lost money last year. Even worse off were Ford dealers, with 17 per cent losses. These are the two most popular cars on the road. Although New Jersey has more than its share of "large" dealers as compared to the rest of the nation, the average dealer in this state will sell approximately 300 new cars annually.

Due to the nature of the products sold, the exemption granted under this tax means little or nothing to an automobile dealer, whose average sales are \$1.6 million dollars. Accentuating the impact of the retail gross receipts tax is the lack of a trade-in exemption under the gross receipts tax law. As all of you know, it is a normal practice to trade in a car when purchasing a new one. The sales tax law takes this trade-in into account and assesses the tax only on the net payment. But there is no provision under the gross receipts tax law for credit on trade-in merchandise.

Our calculations show that the franchised new car dealers in this state, by themselves, will pay more than 25 per cent of the total tax to be collected under this law. This fact alone adds weight to our argument of extreme discrimination. New car dealers in New Jersey are responsible for selling approximately 400,000 new cars annually, and an additional 500,000 to 600,000 used cars each year. In addition, they are the primary source for automotive parts. Simple arithmetic will prove the accuracy of our calculations.

It is interesting to note that at the same approximate time the retailing segment of New Jersey business was singled out to pay this gross receipts tax, they also became the unpaid collector and transmitter to the State of New Jersey of the new 3 per cent sales tax. Incidentally, auto dealers are the largest single collector of this sales tax for the State. Here, no small task is involved. In view of the substantial burden placed upon the retailing industry in collecting and transmitting this tax alone, it seems most unfair they should also be selected to shoulder this additional tax.

In closing, we think it extremely important for this committee to consider the relatively small amount of tax to be collected under this law in relation to the potential damage this taxing theory can have on retail business.

We hope this Legislature would agree with our sister state, New York, that regardless of how badly the State or local community needs money, this is not an equitable way to impose taxation. We understand that only six other states have some form of a gross receipts tax, and none are as discriminatory as New Jersey's. Only in New Jersey is the retailer subject to all other forms of business taxes and a gross receipts tax in addition.

The Chapter 51 "package" was expected to generate additional revenues of \$91 million dollars in its first year of operation. We understand that definitive totals will be available between April 15 and May 1. We also understand that there is a good likelihood of substantial overruns from the three taxes outside of the retail gross receipts levy and that these overruns could equal or exceed the return from the retail tax. Such a result would remove the last reason for retaining this unjust tax. We are certain that you will be closely watching the tax return figures that are due next month. Even if these expectations are not fully met, we think that equity would dictate repeal.

Governor Hughes found the provisions of Chapter 51 undesirable because in his opinion, the business personalty tax was not a fair measure of business' capacity to pay. This is an explicit recognition that business taxes should be based upon ability to pay. That principle is just as valid today as it was under Chapter 51. For this reason and others noted, the members of New Jersey Automobile Dealers Association sincerely thank you for granting them a hearing, and we solicit your support for the repeal of this onerous tax as quickly as possible.

Thank you.

SENATOR KAY: Thank you, Mr. Lehman. Do the members of the Committee have any questions of Mr. Lehman?

ASSEMBLYMAN CRANE: The question I have, Mr. Lehman, is this: You painted a picture of very bleak profits for the automobile dealers from 1.8 to 2.1 per cent over the various years. Does this include all the operations of an automobile dealer; for example, I know many dealers have their used car operations under separate corporate entities and perhaps this isn't figured into this profit picture.

MR. LEHMAN: Gentlemen, in quoting the percentage of profit figure which was used, this is the total gross profit plus any finance and insurance income that a dealership would derive out of selling, - I believe you all understand that -minus total expenses, which include the floor plan interest that they pay the banks. Otherwise, this is the total net.

ASSEMBLYMAN CRANE: Is this typical of New Jersey? This is a U.S. figure you gave us.

MR. LEHMAN: This is a U.S. figure, sir.

ASSEMBLYMAN CRANE: Typical also of New Jersey?

MR. LEHMAN: I would say that the average dealership in our State is slightly above this because nationally the average dealership will sell around 250 cars. We are a little more urban than most States but actually from Mercer County south, the dealerships are much smaller, as you are well aware. There are many dealerships in the State that

sell 2500 cars - not many, but 10 or 15. The average Chevrolet-Ford dealership will probably sell between 750 and 1000 cars, but there are an awful lot of small dealerships in the State. Most of those large dealerships are right up in Hudson, Bergen, Essex, Union.

ASSEMBLYMAN CRANE: So what you are presenting to us then is a picture that with such a small gross profit, the tax on top of that is a burden upon your organization membership.

MR. LEHMAN: I didn't mention specifically too much about the unincorporated business tax because today there is probably only one out of 30 or 35 dealerships remaining in this State that still are unincorporated. Especially since the advent of this tax back in 1966, most of our dealerships felt that if they were going to pay the taxes, they would rather pay the tax based on profit. But if you take an example of a dealership that has 1.6 million dollars in sales, which is approximately 300 cars annually, the tax on that would be somewhere around \$1400, I believe, but under the unincorporated it would be 5 times that big. It would actually almost put him out of business. You are talking now of 3/10ths of 1 per cent.

ASSEMBLYMAN TODD: Mr. Chairman, I would like to clarify a point, if I may, through you. Mr. Lehman, Assemblyman Crane asked whether this figure included all of the

operations of the dealer, to which you answered yes. I'm still not clear, in speaking of a dealership, when Assemblyman Crane mentioned the fact that some used car operations or service operations or parts operations might be held as separate corporate entities.

MR. LEHMAN: If they are held as separate corporate entities, naturally they would have to be removed, sir.

ASSEMBLYMAN TODD: So then these figures really apply, as a good rule of thumb, or probably apply to the new car sales and service end of the dealership. Is that a fair assumption?

MR. LEHMAN: Yes, Mr. Todd. Actually dealers are becoming more refined every year; for example, with the advent of leasing in the last five or six years it has become more and more a practice to establish a separate corporation, for example, for their leasing. But you are only talking of larger dealers. Most dealers do not have a multi-corporate setup where their used car operation is one and their new car operation is another. I have some other figures, gentlemen, that might help you calculate, which I didn't use in my speech. The average used car that is sold will generate around \$1,007. Other wise, there are used cars below that figure and there are used cars above that figure. So when you use a figure of 500,000 used cars in this State, the average used car will sell at retail for around \$1,007.

The average new car will sell at approximately \$3200 and, of course, there are those figures over and those figures under, and in arriving at the over 25 per cent figure we checked this figure out very, very closely.

The average automobile dealership for every new car sold will generate approximately \$5220 in retail sales. Otherwise, the price of the car might be just slightly over \$3000, but then you have your body shop and you have your service facilities and your parts, and so forth and so on, so I think that better answers the other question.

That's the way they figure it to arrive at the calculations that for every new car sold, the average used-car dealership will generate approximately \$5220 in gross sales.

ASSEMBLYMAN TODD: Mr. Chairman, through you: Mr. Lehman, you mentioned with the prospect of this unincorporated tax that your ratio is now approximately 35 to 1 incorporated--

MR. LEHMAN: I would say that would be fairly safe.

ASSEMBLYMAN TODD: What, if I may ask, were the burdens or objections or problems that arose out of incorporation and is it really a problem to the remaining 1 out of 35 that is not incorporated to do so?

MR. LEHMAN: You mean under this gross receipts -

ASSEMBLYMAN TODD: Is this philosophical or does this have some very practical disadvantages in the automobile

dealership field?

MR. LEHMAN: If I understand your question correctly, are you asking me the effect of this tax as opposed to Chapter 51?

ASSEMBLYMAN TODD: Yes.

MR. LEHMAN: In all candor, I believe that the average dealership in the State taxwise, moneywise, this year will probably be no worse off than they were under the provisions of Chapter 51, unless there was some hanky-panky some place in the local community where the Chapter 51 provisions were not enforced correctly. But I think, gentlemen, there is a very important point to be made here. When we first heard of the Committee's suggestions, it started off as a turnover tax and this turnover tax was to be, as I understand it, one-quarter of one per cent. By the time the legislation was introduced in the Legislature, this had become a gross receipts tax and the suggested rate was one-tenth of one per cent. By the time the legislation cleared its Committee, there was a little bit of rapid arithmetic and the rate was decreased to one-twentieth of one per cent. I believe they took an extra two cents and put it on cigarettes at that time and used about one cent of that to make up some of these revenues and the other cent for, quite frankly, I don't know what. But, gentlemen, I ask you to consider that as easily as it could drop from one-quarter to one-tenth

to one-twentieth, it could also rise from one-twentieth to one-tenth to one-quarter. We have figures. In 1966 we conducted surveys among our Association membership, comparing pre-chapter 51 to chapter 51 to the new proposals and our average member really didn't understand the new proposals very well, but we have documentative proof that pre-51 to chapter 51- the average dealership's taxes were raised three to four times what they were. Otherwise, under chapter 51 they were three to four times as high as pre-chapter 51. This is because of the inventory that the average dealer has to maintain to satisfy the public. So if you are asking me the effect of this gross receipts tax, they are just about as well off - or whichever way you want to look at it - as they were before but they are scared to death that with the increased pressures of government, this one discriminatory tax, especially on this industry, can balloon fast.

ASSEMBLYMAN TODD: Mr. Lehman, your organization is aware that this retail tax involves revenue somewhere around four million dollars.

MR. LEHMAN: Yes, sir.

ASSEMBLYMAN TODD: It is not a big tax as far as total revenue of the State and what impact it has so far as the budget is concerned, and I gather in talking to many of you members that the prime objection is not so much the dollars but to the tax structure and the fact that this is the roof

on a series of layers that affect your dealers and there is also the specter of increasing the rate, which I gather from your statement would be the most severe hardship. Do you have any suggestions if this tax were to be repealed of how the State might make up the four million dollar anticipated loss, of which your group is the largest contributor?

MR. LEHMAN: Quite frankly, sir, at this point I don't. We have studied this problem and we have talked about it in our various committees and trustees' meetings but our primary objection, I believe, is to the fact that we just plain think it is just a discriminatory tax upon the retailing industry that was put on at the same time this sales tax was levied. About the only agreement we can get out of our people is that we are really not in the taxing business. This is a solution for government, a solution for the legislature, for this committee, and we would rather come in with our ideas after we know what is proposed and try to come up with an equitable solution to all parties involved rather than put ourselves in the position of suggesting anything at this point. I really don't know.

ASSEMBLYMAN TODD: That is the purpose of these hearings. We have a proposal in the form of 54:11 (a), (b), and (c) that creates a problem. I have no other questions.

SENATOR ITALIANO: Mr. Chairman, through you: Mr. Lehman, I thought I understood you to say somewhere in your statement something about the fact that the gross receipts tax is not only unfair but is not needed. Is that correct?

MR. LEHMAN: Yes.

SENATOR ITALIANO: I think you went into a detailed explanation of its unfairness. I don't think I caught any suggestion as to why it is not needed.

MR. LEHMAN: Well, this raises a very good question and I understand there is another bill also that the legislature might consider to help correct this problem but it is my understanding that this package was supposed to generate X number of million dollars and the purpose of passing this legislation in the first place was solely to raise X number of million dollars. Unfortunately the dollar is devaluating every day, or let's say creeping inflation, and I believe that the tax returns - otherwise the obligation of the legislature is to save the municipalities harmless for X number of dollars and I believe that when you get your returns in from these taxes, you will find that there is a substantial overrun. In fact, I believe that by the time that the legislation was even passed into law, they were shooting for \$102,000,000 rather than ninety-seven and a half, or this was the proposed intake. Each one of these taxes was

supposed to bring in X number of dollars. The information that I have already is that the machine and equipment tax has already generated four or five million dollars in excess and I believe the Senator made some statements previous to myself that would indicate he would know more than I would.

SENATOR ITALIANO: In other words, summing it up you would be saying that the income from all the other taxes would make this tax unnecessary?

MR. LEHMAN: Completely unnecessary, especially in view of the fact it is only supposed to generate four million dollars.

ASSEMBLYMAN TODD: Through you, Mr. Chairman: This is not a question; it is a statement that I just think maybe we ought to clear up some thinking. I don't think you will find that this legislature this year - that any tax is unnecessary, and that any overruns or changes in philosophy for imposing taxes, I think we are fairly safe to say are looked at very greedily by the budget people to be applied to other areas where certain leaks and band aids and plugs are needed to help it balance, so that it really is a matter of consideration that we are not - or at least I'm not - thinking so much in terms of initial intent of the legislation to raise X dollars to serve Y needs, but primarily from the problems created by the

method in administration and the structure of the taxes themselves.

MR. LEHMAN: I couldn't agree more with you personally and I think that this is the most important advantage that this committee has over what was the previous way of doing it. I understand the purpose of this Committee was to study the over-all impact and, before, it appeared like somebody was trying to generate X number of dollars to serve a certain need.

ASSEMBLYMAN DeKORTE: Mr. Chairman, through you: Suppose there were an examination made and this four million dollars was essential for one purpose or another in the State's economy and suppose the rate of taxation on the corporate income tax or corporate franchise tax were adjusted to recover that four million dollars in lieu of this gross receipts tax, what would the position of your Association be on such an increment in the corporate income tax to compensate for the loss of this four million?

MR. LEHMAN: Well, sir, I have already made the statement that as much as anybody hates taxes, at least the corporate income tax is based upon ability to pay and I believe, even with another minor adjustment in that, Heaven forbid, you would still be within the relationship of the sister states and I believe this is an important consideration also.

ASSEMBLYMAN DeKORTE: I think your answer was what my question was designed to elicit.

SENATOR KAY: Are there any other questions by members of the Committee? (No questions)

Thank you, Mr. Lehman.

ASSEMBLYMAN TODD: Mr. Chairman, a quick request at this point. Anyone who is going to testify and has a written statement, would it be possible, if there are copies, to have them distributed to the Committee before they began so that we can use them for notes?

SENATOR KAY: Yes, I would ask that those of you who have a written statement and have copies of it, if they would be given to the Committee before you begin your reading of the statement. It does give us a little advantage and, as the Assemblyman mentioned, an opportunity to perhaps make notes thereon.

Before I call the next witness, and I want to apologize to this individual - I did have him down as Number 1, but unfortunately by-passed it, but let me say this: As far as questions by members of the Committee, and I know I can speak for the entire Committee, there is no intent or desire to embarrass anyone; we are purely seeking information. If we seem to pry into your arguments a little bit, we hope you will bear with us because, again, there are Committee members who are not present and the more complete the record is, the

better treatment, let's say, the entire subject matter can receive from all members of the Committee.

Mr. H. Russell Brown.

ASSEMBLYMAN TODD: While Mr. Brown is coming up, Mr. Chairman, I would like to introduce Assemblyman Fekety who is a member of this Assembly Tax Committee.

H. R U S S E L L B R O W N: Mr. Chairman and members of the Senate and Assembly Taxation Committees, I am H. Russell Brown, Assistant Secretary-Assistant Treasurer of CF&I Steel Corporation. I am appearing here today as Chairman of the New Jersey Manufacturers Association Committee on Taxation. Our Committee has been actively involved since 1958 in the long struggle of New Jersey businesses to eliminate local taxes on business personal property. We are, therefore, happy to present our views to the legislature concerning the business tax reform package now under review.

The new State taxes on business personal property, unincorporated businesses, and retail gross receipts must be evaluated both in accordance with their individual merits and as part of an over-all package of business taxes adopted because it appeared to be better than other available alternatives, particularly better than the controversial system of local levies that preceded it.

As a system of taxation, this program is the product of a long struggle to eliminate the inequities and competitive disadvantages built into the system of local levies on business personal property.

It would be impossible to assess the worth or fairness of any of the specific taxes under consideration without looking to their origin and history and examining their place in the State's total mix of business taxes.

In the appendix to this statement, you will find a synopsis of the legislative and judicial events that led to New Jersey's decision to abolish local taxation of business personal property.

Prior to 1956, whether and to what extent business personal property was taxed varied greatly from one municipality to the next. Some municipalities entirely ignored personal property while others assessed it at far greater than net book value.

The court decision in Switz v. Middletown Township, rendered in 1956, had the effect of requiring assessment of personal property at 100% of market value but gave the Legislature the option of setting forth some other uniform method of personal property taxation.

Legislative studies that followed made it clear that an attempt to assess business personal property at 100% of

market value would discourage industrial expansion in this State.

New Jersey's three immediate neighbors - New York, Pennsylvania and Delaware - had long since eliminated local taxation of tangible personal property used in business. Other states were contemplating such action.

Now, leaving the context of what I have here, I would like you to remember that Pennsylvania, New York and Delaware do not tax inventories or machinery and equipment. Over the years this is one of the things that I've been talking a lot about, saying New Jersey should get settled.

It was also clear that no assessor, however well trained, could reasonably be expected to ascertain the market value of thousands of different items of specialized machinery, equipment and inventory, varying widely in age, condition and degree of obsolescence.

In the face of these facts, the Legislature sought to establish a system of county-wide assessment uniformity, to require the valuation of business personal property at net book value, and to mandate the uniform assessment of business personal property at a percentage of the common level of assessment in each municipality. The legislation incorporating these provisions became known as Chapter 51, Public Laws of 1960.

Doubts and fears that preceded the passage of Chapter 51 continued to thrive after its passage. Year after year,

municipalities expressed fear that the new uniformity would drastically reduce local property tax revenue. On the other hand, businesses voiced concern that Chapter 51 would greatly increase local levies on machinery and equipment.

In 1963, after a series of postponements of Chapter 51, the Legislature required the filing of business information returns setting forth the net book value of inventory, machinery and equipment for use in business in each taxing district. Tabulation and analysis of these returns confirmed the fears of both municipalities and businesses. The State Tax Division report on the 1963 informational returns indicated that the impact of Chapter 51 on individual companies, municipalities and counties would vary greatly. Assessments would rise in 377 municipalities and would decrease in 190. Particularly shocking was the disclosure that manufacturers' personal property assessments would increase an average of 33.7% as a result of the unfavorable treatment of machinery and equipment under Chapter 51.

To prevent the radical shifts in property tax burden foreseen through the 1963 business informational returns, the Legislature adopted an interim plan to provide time for devising a more permanent solution to the State's personal property tax problems. The interim plan permitted the uniform assessment procedures of Chapter 51 to take effect, dropped the percentage at which machinery and equipment would be

assessed, and related assessed value to net book value. It also required annual filing of reports disclosing the net book value of taxable business personalty in each municipality. The most important feature of the interim plan was its temporary preservation of nonuniformity in business personalty taxation through the use of a separate business personalty tax rate. This separate tax rate became effective in a majority of municipalities in 1965 and had the effect of preventing a tax shift to homeowners while avoiding any great increase in business personal property taxes.

The interim plan gained time for a thorough review of alternative methods of business taxation. The Governor appointed a Committee on Local Property Taxation to propose alternatives to New Jersey's then current system of business taxation. As a result of the long and difficult history of Chapter 51, the Governor's Committee decided early in their deliberations that there was no acceptable or equitable method for the local assessment and taxation of personal property, and I want to accentuate the word "local." The Committee set about devising and debating alternative programs of business taxation that would raise approximately \$100 million in replacement revenue.

A replacement tax subcommittee, on which I served as Chairman, was given the task of designing a replacement

package. We decided early that any replacement tax would have to be a measure of a business' profitability or of the volume of business done. We decided also that the overall package of taxes recommended should strike a balance between various types of business activity. We recognized the fact that some businesses choose to incorporate, others do not. Some businesses involve basically the purchase and resale of inventory, while others involve primarily production through the use of machinery and equipment.

The first recommendation of the Governor's Committee proposed four taxes to raise revenue sufficient to replace all local taxes on business personal property (except those of telephone and telegraph companies). And I think here again I'll leave the context of my statement here, because it was a great surprise to many of us to find that the telephone company pays about twenty million dollars personal property taxes and, as we went along in our deliberations, we finally reached the point where we said you're going to continue to pay the twenty million dollars and it was finally decided we would keep it out of the package that was going to be prepared and that the twenty million dollars would continue to be paid locally. So we were talking about twenty million out of a hundred million. And, incidentally - it isn't in what I have here - the problem that we faced over the years was the unfortunate fact that personal property tax was

increasing each year about ten million dollars a year, so the longer we put off doing something about it, the problem of replacement was being compounded.

A 1-1/4% increase in the corporate net income tax was balanced against a 1/10 of 1% tax on the gross receipts of unincorporated businesses. A state tax on machinery and equipment was balanced against a tax on inventory purchases for resale (known as the turnover tax) at the rate of 1/20 of 1% of purchase price. Substantial opposition to the turnover tax resulted in dropping it from the replacement package. In place of the turnover tax, the Committee proposed a 1/10 of 1% tax on the gross receipts from retail store sales (again, an indirect replacement for the inventory tax). Since the retail store sales tax would have replaced only \$8 million of the \$33 million turnover tax revenue, the Committee proposed hiking the corporation tax by an additional 1/4 of 1%. The proposed unincorporated business tax was raised to 1/4 of 1%.

The Governor's Committee recommendations were submitted to the Legislature in this revised form. Continued pressure again caused amendment of the tax package. This time the retail store sales rate was cut to 1/20 of 1%. Part of the increase in cigarette taxes was substituted for the \$4 million lost in this adjustment.

We are now faced with the inevitable reassessment of the replacement package. Before evaluating each new or revised tax, it is important that we recall the chaos, the

nonuniformity, the uncertainty, and the resulting damage to our business climate that occurred under the various phases of local taxation of business personal property in New Jersey. We were once held up as a bad example by competing industrial states. I am pleased to report that our recent reforms have been given widespread and favorable mention. We have been cited as an excellent example of property tax reform by the Advisory Commission on Intergovernmental Relations in their report on State-Local Taxation and Industrial Location. That was in April of 1967. And more recent, the January 1968 edition of the New England Business Review stated: "A far-reaching tax reform in New Jersey may be expected to substantially improve the State's tax image.*** Several other states in the northeast would be well advised to heed the good example."

While reaction outside the State has demonstrated the favorable impact of the reform package on New Jersey's business climate, it cannot serve as a vindication of each specific tax. We, therefore, wish to review separately each of the three taxes that are the subjects of this hearing.

First, State Personal Property Tax. The State Personal Property Tax is basically a tax on machinery and equipment. Inventories are exempt. Of the four basic levies used to replace local taxes on business personal property, the State Personal Property Tax alone fails to measure either

the volume of business done or the profitability of the business taxed. It is a better tax than the local levy it replaces because it is uniform in both form and administration and is both stable and reasonable in rate. Yet, quite frankly, it became part of the replacement package primarily because its revenue was needed to permit replacement. From the standpoint of New Jersey's competition with neighboring states for a substantial share of industrial growth, this tax should be eliminated when and if such a further reform becomes possible.

Unincorporated Business Tax. The unincorporated business tax certainly has become the most controversial of the three new taxes incorporated in the 1966 package. Prior to 1966, New Jersey had chosen not to impose any distinctly separate tax on unincorporated businesses; nevertheless, similar businesses, some incorporated and some unincorporated, continued to compete with each other within the State. It was the opinion of the Governor's Committee on Local Property Taxation that unincorporated businesses, sharing the benefits of New Jersey's economy and being beneficiaries of local business personalty tax replacement, should provide part of the necessary replacement revenue.

Two basic approaches are available for the taxation of an unincorporated business. The State could tax net income, as New York does, or gross income, as Connecticut does. The Governor's Committee proposed a gross income tax

primarily because gross income appeared to be a simple figure for the taxpayer (and the tax auditor) to ascertain. The low rate of this tax, being \$2.50 per \$1,000 of gross, appeared to be far less burdensome to the average unincorporated business than the local property tax which it replaced.

While the gross receipts approach measures the value of business done and is simple to handle for both taxpayer and administrator, it certainly does not reflect the profitability of a business. In that respect it is similar to the State personal property tax, the corporate net worth tax, and a host of other state taxes which are not tied to net income.

We urge this Committee to study the alternative methods of taxing unincorporated businesses, particularly the use of a net income base. Your committee should also determine the net income tax rate necessary to produce revenue comparable to the \$26 million that the State expects to derive from the present tax. We further recommend that the present unincorporated business tax be permitted to take effect until such an alternative tax becomes law.

Retail Gross Receipts Tax. The gross receipts tax on retail store sales is approximately a tenth of the size

of the inventory tax it helped to replace. It tends to treat competitors equally because it is applied to gross sales, contains a \$150,000 exemption and bears a low (1/20 of 1%) rate. While it is equitable in concept, the administrative and compliance costs involved in such a small tax must be weighed carefully against its proceeds. The tax was originally expected to raise \$4 million. Initial collections under this tax, from the March 15 filing, have been disappointing. We urge that the first year's experience under this tax be used as a guide in determining whether the retail gross receipts tax is really worth retaining.

In summary, we urge that the tax reform program be permitted to take effect and that the first year's experience be carefully evaluated as a basis for determining what changes, if any, are desirable.

I have an appendix here which I hope sometime you will take time to read, but I will not go through it. [See page 93 A for appendix).

SENATOR KAY: Thank you, Mr. Brown. Do any members of the Committee have any questions? Mr. Todd?

ASSEMBLYMAN TODD: Mr. Chairman, through you: On the unincorporated business tax, Mr. Brown, you note that a net income tax might be an alternative. I personally have had singularly discouraging results in trying to obtain information from the Bureau of the Budget of the State

Division of Taxation on realigning this tax on an income basis. I wonder if your Association has any figures on this as to what sort of a rate this might impose, whether this is more or less difficult to administer than the present replacement tax, and what your recommendations would be along these lines.

MR. BROWN: Well, so far as the revenues that it would produce - of course, it would depend on the rate - I think quite honestly this was an area where the State didn't have nearly as much information as it did on machinery and equipment and inventory, and thus the corporate tax. You see, in the past we had a corporation income tax and when anyone wanted to figure out how much more it would produce all you had to do was multiply. Now in the case of unincorporated businesses, they are not filing income tax returns with the State and a lot of this had to be in the conjecture area. As far as administration, and in our committee hearings - it's too bad that some of you - by the way, we had representatives from both the Senate and Assembly on our Committee and we met nearly a year on this problem. We had several accountants, and I am talking about independent accountants from the State CPA organization and others, and in our deliberations we talked a great deal about, first, the problem of filing and the ease with which, at least a company that had to file the unincorporated business tax returns. could determine their

gross receipts. In turn, an auditor, and this would be from the state level - and, as you might guess, we had representatives constantly - Mr. Kingsley, Mr. Glazer, Mr. Goldberg and others, and talking about the administration of it, and unless you have an audit, the problem of keeping the taxpayer honest is greatly multiplied. So we should have audit; in fact, business encourages it to see that everyone pays their share. So that auditing on a gross receipts basis is a much more simple task than auditing on a net income basis.

I'm sorry to have skirted your answer but the truth is that no one knows the total net income of unincorporated businesses and for that reason they would have to impose a rate and then adjust it in the future.

ASSEMBLYMAN TODD: Through you, Mr. Chairman: Would it be possible to obtain this information from the federal tax returns on some of these unincorporated entities?

MR. BROWN: Well, I think after the State gets a list - by the way, when this law went in, they suddenly had the problem of getting a list of all the unincorporated businesses and they mailed out thousands and thousands of returns. Now after the first year of operation, the Division of Taxation has all the names of these organizations that filed as unincorporated businesses. I think there might be some possibility to do it. The Internal Revenue Department and some of the States - I know they exchange information but

I am not familiar with the basis on which they do it. I'm afraid that this is an area that had we attempted to tax income, we wouldn't have been able to project the tax revenues nearly as well as we could on gross receipts. However, in all of these cases, until we get past the final filing and the tabulation, we're not in a very good position to make any changes.

ASSEMBLYMAN FEKETY: Through you, Mr. Chairman: Mr. Brown, all too often do we hear that the corporation business tax is in a good competitive position with other states, three and three-quarters, but don't we overlook that there are other corporate taxes involved?

MR. BROWN: Well, I didn't ask you to ask me that question but that is one that I'm happy to tackle. We have in New Jersey a corporation income tax; we also have a net worth tax. Now the net worth tax doesn't receive anywhere near the publicity that the corporation income tax does, yet the over-all effect in the State of New Jersey is that the State corporation tax is somewhere - it's a little over five and towards five and a half per cent, so that when you compare the corporation income tax with New York and Pennsylvania - and I must admit that over the years I've been saying, "Let's talk about New York and Pennsylvania; let's not talk about Nevada and their gambling taxes or how they get taxes down in Texas. We're competing with these industrial states here in the East." So that

the five and a half per cent that we have approximately in New Jersey is not the same as Pennsylvania and New York. Now I read that New York and Pennsylvania are talking about increasing their corporation taxes because they've got to raise more taxes. When I say we have a favorable tax climate, let's not forget that the big single revenue for the State of New Jersey, particularly the municipalities, and it is the municipalities, is the real estate tax, and the real estate taxes in New Jersey in proportion are very high. We are a property tax state and always have been, and the only real change that has been made away from that in recent years was, of course, the sales tax. So when I say we are in an advantageous position, it's because the other states were holding back and as they go ahead with that, we're going to look a little better. But, in turn, when New Jersey needs more revenues, I think changes will have to be made.

So this thing of talking about a corporation rate of three and three-quarters per cent - I wish we could hang a tag on it and say that New Jersey has about a five and a half per cent. I think I'm a little bit high on that but it's somewhere between five and five and a half.

ASSEMBLYMAN TODD: Through you, Mr. Chairman: Mr. Brown you noted that overriding our tax climate is the fact that we are a property tax state. Would you care to comment on the assets and liabilities of that statement? Do you

think that's a good thing? Do you think we should change that?

MR. BROWN: Well, we're undoubtedly not going to change it because I just read this, as well as know from my own company's experience - as we put in a sales tax we all thought that property taxes were going to go down in 1967 and it did not take effect. I think as we are having more spending programs that we are not going to change from a property tax state. Whether we like it or not, I think it's here to stay. The additional revenues, the big revenue raisers - the four million dollars we talked about in gross receipts is really a small thing as compared to what some of the other taxes can raise. The other big broad-based tax, which is an unpleasant word, is a personal income tax. I am not advocating that but many other states have it.

These are things that I think have to be developed in an over-all tax program. This time that we worked on this package which ended up as four taxes was really a gigantic effort, gathering first statistics for a number of years and then trying to come up with an equitable program, and I hope that the first year will give us some good reasons to maybe have some reform. In turn, I think New Jersey needs to look at the over-all taxes. There are rates of taxation in New Jersey which are less than neighboring states.

ASSEMBLYMAN TODD: Through you, Mr. Chairman: If

I can pursue this revision structure just a little bit more: Mr. Brown, I have had a great deal of correspondence personally - I don't know about the rest of the members of the Committee - concerning a type of tax known as an "added value tax." Would you care to comment on this?

MR. BROWN: I should know the answer to that and I'm sorry I don't, If I knew anything about it, I would be happy to comment, but I can't.

ASSEMBLYMAN TODD: With your permission, Mr. Chairman, may I give this to Mr. Brown and ask him if he might just look it over - not right now - but for his comments?

SENATOR KAY: Yes, surely.

ASSEMBLYMAN DeKORTE: Mr. Brown, appreciating your position that in terms of our business climate we should compare ourselves with Pennsylvania and New York, do you have any idea how many other states other than Pennsylvania and New York, which I know do not, do tax business personal property?

MR. BROWN: I have an associate here who might know the answer. Bob?

MR. ROBERT WOODFORD: It would be difficult to give the exact figure because we don't have one but the situation I think is such that there are only three or four states that totally exempt business personal property tax. Connecticut recently exempted manufacturers' inventory and I notice that Governor Chafee of Rhode Island is now

requesting the repeal of manufacturers' inventory and I believe his program actually is broader. Certain states have taken the percentage at which business personal property is assessed in their localities and are rolling back that percentage over a period of years. Maryland is today considering a very wide-spread and rather broad program of local personal property reform. Many of them are looking to New Jersey, in fact, as an example, but of those states that totally exempted it, we just happen to be surrounded by those states, and they happen to be our area competitors. I don't have the exact figures of all the states doing it.

MR. BROWN: By the way, we can get this for you. I think Mr. Kingsley in the Tax Division has it. A number of years ago, the trend in the taxing of personal property was going uphill and in the last half a dozen years it is starting back downhill from taxing personal property, and you gentlemen have found and are going to find in the future that replacement is very tough. In Colorado they are phasing out their personal property tax act over a ten-year period, and Oregon is doing it over a number of years. California is one of the highest taxing states for just everything under the sun, including taxing personal property but they are finding, because of the pressure, particularly manufacturing, which creates a lot of jobs, that these states are seeking taxable companies to come in and one of the

encouragements is to get rid of some of the personal property tax.

ASSEMBLYMAN DeKORTE: Well, following this up, while the reform package of last year did, of course, eliminate the inventory taxation, it could not be said, could it, that the 1967 package constituted a roll-back in New Jersey as to the taxation of business personal property? There is nothing in that law that suggests that we are progressing toward the point of eliminating taxation on business personal property.

MR. BROWN: Well, of course, actually this is really a replacement against business. It went from business to business. Now when we have replacement, some companies were benefited and some were hurt. In fact, the professional people were probably hurt because they weren't paying as much personal property tax in the past as perhaps they should have been, because of the inequitable methods of taxation, so I can't say that we did much on taxation of personal property, since all we did was shift it from one business taxpayer to another.

ASSEMBLYMAN DeKORTE: And from one type of business property to another type of business property.

MR. BROWN: That's right. So we had the problem of - when we first talked about replacement we were supposed to raise \$90 million. During our deliberations, the personal property tax had raised another ten million in the State.

Now on this hearing here today, there is nothing in here that I think has come up about substituting 1967. Now maybe I'm in tender territory but, as you are talking about including 1967, in our Committee deliberations when we first started, we said we'll take the highest year, 1964 or '65, and then toward the end of our deliberations, the Legislature included in the tax package and I think with good wisdom 1966. Now since the tax didn't take effect until 1968, 1967 is pretty fair game and I think I have been told that to include 1967 would take about five and a half million dollars - to put that in, to include it in the "save harmless" for the municipalities.

In my personal opinion - I won't talk for the Association but only for myself - I think it's a real good idea if five and a half million dollars is available. If these over-runs produce an extra five and a half million, I think it's a real good idea to put that in but you also need to have the money to do it.

ASSEMBLYMAN FEKETY: Senator, I have a question:

Mr. Brown, there is a bill in, which calls for a tax convention to review the over-all tax problems of the State and make recommendations. Do you feel that a tax convention, in light of the history of the work that has been done already, is necessary?

MR. BROWN: I must admit I am not too familiar with this. I know there has been a tax convention proposed. I don't think it would hurt anything. I just don't know how much money is involved or how much time. I have a hunch that if they have one I would find myself involved, and it's really a pretty tough job to do it. If they have a tax convention, you can count on our committee supporting and working with it in its entirety. I really don't know what it has produced in other states.

ASSEMBLYMAN CRANE: Mr. Brown, as the prime sponsor of the Assembly version of the tax convention bill, we would be delighted to have you on our Convention.

MR. BROWN: There are certain times when I should have stayed home. Today is the day.

SENATOR KAY: Assemblyman Todd?

ASSEMBLYMAN TODD: Mr. Chairman, through you: Mr. Brown, you are not on tender ground talking about 1967. I see quite a few people here that are going to bring it up later on in detail. I would like to ask you, in view of some additional legislation that has been proposed - I can't give you the bill number because it hasn't got one yet - tying this return dollar to a municipality to a percentage relationship of business personal property to a total assessment rather than a dollar figure in any given year, did your committee, in discussing this, think in terms of

percentage? I am very concerned with any formula or legislation that fixes things to a dollar amount, because you just put everybody at a disadvantage except the State. Now that's not such a bad thing in some cases but I happen to think that in most cases it is. Did you study this on a percentage basis or evaluate it on any type of sliding formula that would take a developing municipality - in other words, give them a continued incentive to attract and build ratables?

MR. BROWN: We did have a lot of discussion on this subject. The only reason that we used a dollar value return was because that information was readily available. Now some municipalities have just honestly done a terrible job over the years in taxing personal property, I guess there are some of them that hardly did anything at all. In turn, the larger cities in particular had to use it as a revenue producing tax, so in tying it into the amount of money raised in prior years it at least saved them harmless; it did not do the other thing, because as revenues are needed locally to balance the budget, you no longer can pick up some of it from business personalty. You then have to go into the area locally and it's real estate taxes. I would think that this might be one of the things that would need change, that tying it in the dollar amount in the past is not the answer. It was the best thing we could do at the time.

As an example, you may have some municipalities who have attracted great industrial growth, who didn't have any in the past and now they wouldn't be getting anything from the State level. I think our idea was as it produced more revenue on the state level, it has presented some opportunity to send money back to the municipalities in another manner. We talked a lot about it but we could never have agreed, I'm sure, on a method of distribution other than "save harmless."

SENATOR KAY: Assemblyman DeKorte?

ASSEMBLYMAN DeKORTE: On this same subject, Mr. Brown, wouldn't the primary objection of a business community to a local levy; that is, the discriminatory element where one town assesses and another doesn't or they assess at different grades, would that not be eliminated nearly by a state-administered assessment and collection program, even though the revenue went back to the municipality ultimately?

MR. BROWN: I think it might. I was a leading advocate - I hope one of the leading advocates, of doing it on a state level rather than locally, and this is no reflection on local assessors. Taxation on machinery and equipment in particular is a very difficult thing for a local assessor to do so that sending it back to the municipality, based on the amount collected - the problem about that gets around to the replacement package, which was in the area of

corporation income tax, and I think the problem in the legislature of determining how much was going to go back to the local municipality would be very difficult. You could send back the tax that was raised by machinery and equipment and you might by gross receipts, but I think it would be a very difficult thing to work out doing it on corporation income taxes or unincorporated businesses.

ASSEMBLYMAN DEKORTE: I make reference solely to the business personal property tax and what I am trying to ascertain really was whether your Committee was primarily motivated by an endeavor to eliminate discrimination as between municipalities or whether it was primarily motivated by an endeavor to produce revenue for state use.

MR. BROWN: Well, unfortunately, we had to consider it both ways because we had to get back a hundred million dollars. I think I said here that the business personalty tax was -

(Addressing Mr. Woodford) What is that business personalty supposed to produce, Bob?

SENATOR KAY: At this point, Mr. Brown. may I get this gentleman's name into the record?

MR. BROWN: His name is Robert Woodford.

What was the business personalty supposed to produce?

MR. WOODFORD: It was expected to produce \$28.5 million dollars, I understand. It is running above that.

I have no idea to what extent it is running above.

MR. BROWN: So you could determine very easily how much of \$28.5 million or \$35 million, whatever is produced by the municipality because the Division of Taxation could do that very easily. So you could send it back in that method but then you would have to get the balance of the money to send back to the local municipality from these other taxes. I think it's something to look into. We really didn't ever discuss it.

ASSEMBLYMAN DeKORTE: I don't want to press you on that. The point I'm trying to pin down is whether the motivation here was to eliminate inequities in administration or raise revenue for state purposes.

MR. BROWN: It was not to raise revenue for state purposes at all because all of this went back to local municipalities. I think it was mostly to get away from the inequities and to get uniformity. By the way, when you asked me the question of how to get money back to the municipalities, this might be one of the methods of doing it, of taxing on the business personalty and sending it back to the municipality that it comes from.

ASSEMBLYMAN DeKORTE: Having the State administer the assessment and the collection and return it to the municipality?

MR. BROWN: That's right.

SENATOR KAY: Thank you. Does anyone else have any questions?

ASSEMBLYMAN FEKETY: Yes. Mr. Brown, are you talking about the same principle we use on gross receipts, on the public utilities, the electric and light - ?

MR. BROWN: Well, I'll speak personally now. I am against the present method of returning money to municipalities from the public utilities tax because those plants serve an area far in excess of that. In the case of machinery and equipment they are used in a local area and there might be some benefits. I think this would be a little better method, a substantially better method, than that used in the return of the public utilities tax to the municipalities.

SENATOR KAY: Any other questions from the Committee?

Thank you very much, Mr. Brown:

Senator Dumont had asked to make a statement at this hearing and he is involved in the hearings in the Assembly Chamber and has a few moments free from that hearing, so I will afford him the privilege of speaking at this time.

SENATOR WAYNE DUMONT, JR.: Thank you very much, Mr. Chairman and members of the Senate and Assembly Taxation Committees. I'm sorry I can't be with you as a member of the Senate Committee this morning, but we are involved in the other house, as you pointed out, with the Crime Commission.

Really all I want to do is to put in a plug for one of my own bills, Senate No. 281, which would add 1967 as

a base year so that the municipalities would have a choice of four years rather than three, to which they are presently limited, for reimbursement of the personal property taxes which, of course, were eliminated at the local level as of December 31st midnight, 1967.

Now Senate 281 would cost, according to the fiscal note which is attached to the bill, roughly five and a half million dollars, because approximately one hundred and ten or one hundred and fifty municipalities would, by being able to use that as their base year, gain financially by having to restrict themselves to a choice of 1964, 1965 or 1966.

Since the purpose of the new personal property taxes, and I might add that I am not very happy about any of them, is to reimburse municipalities for loss of taxes that have either been eliminated entirely at the local level or have been shifted from the municipal to the state level of government, is to replace that loss, and since 1967 was the last calendar year during which local municipalities had available inventory taxes and machine and equipment taxes locally, then it would seem to me it is only fair that 1967 should be used as a base year by way of option.

Now the reason, of course, that the bill has not moved is because we are in such tough financial straits at the moment that we are not sure until the Appropriations

Committees have gotten farther along with reviewing the Governor's budget message just what can be afforded, but I think it's of considerable importance that municipalities regain to the largest possible degree what was taken away from them by the change in the personal property tax structure. And, therefore, I am hopeful very sincerely that Senate Bill 281 will pass both houses in the near future and that 1967 will become, with the signature of the Governor, a possible option for the municipalities as a base year.

Some question arose a moment ago about the amounts of money that these new taxes are producing. Less than a week ago I spoke to the Director of the Division of Taxation who indicated that, on the basis of the returns which they got on February 15th, on the shifting of the machinery and equipment tax from the municipal to the state level, it had been anticipated that \$30 million would be derived from that source of revenue. They expected an override of possibly \$10 million, which would take that perhaps up to \$40 million. On the retail stores gross receipts tax, the returns for which were mandatorily required no later than March 15, it appears that that will fall below the anticipated revenue of \$4 million and might only produce two and a half million. The anticipation for the unincorporated business gross receipts tax is \$26 million. Those returns are due on April 15th and the anticipation on the corporate net income

tax increase from 1-3/4 to 3-1/4 per cent is \$31 million. They also are due, the bulk of them, since most of them will be on a calendar year basis, on April 15th as well. That total would be \$91 million and it is anticipated that the pay-out by way of reimbursement may run a little over \$100 million, particularly if Senate Bill 281 becomes law and 1967 is usable as a base year.

Whether the amount of revenue quite matches what has to be paid out or not, I still feel the municipalities, simply as a matter of fair play, should be entitled to use 1967 as a base year to increase the options to four years instead of three.

That's all I have to say. Thank you very much, gentlemen. If you have any questions, I'll be glad to answer them. Thanks very much for this opportunity.

SENATOR KAY: Does any member of the Committee have any questions of Senator Dumont? (No questions)

We will take a five-minute break and, when I say five minutes, it will be five, and we will then go on with the hearing.

(After recess)

SENATOR KAY: In the interest of moving as quickly as possible, I will call on Mr. Charles Bertini.

C H A R L E S B E R T I N I: Senator and members of the Joint Taxation Committee, my name is Charles Bertini and I am testifying today in my capacity as Vice-President of the New Jersey State Bar Association.

The New Jersey State Bar Association has categorically stated its opposition to the unincorporated business gross receipts tax which was enacted as part of a tax package in June of 1966.

Simply stated, it is our position that this is a very inequitable and administratively unworkable form of taxation. This tax should be removed before it becomes enshrined in the thinking of our tax raising authorities as an untouchable source of revenue.

At the request of the Medical Society of New Jersey, the New Jersey Association of Real Estate Boards, the New Jersey Council of Consulting Engineers, the New Jersey Optometric Association, the New Jersey Pharmaceutical Association, the New Jersey Society of Architects, the New Jersey Society of Professional Engineers, the New Jersey State Bar Association, and the Society of the New Jersey Chiropractors, Dr. Salomon J. Flink, Professor of Business Administration and graduate of the Business Administration

School of Rutgers, The State University, has prepared a report. I will not elaborate on the material which he has compiled but I offer the report in evidence so that it may be referred by representatives of those other organizations when they speak.

However, I wish to call your attention to some of Dr. Flink's major points. First, he irrefutably proves that this tax ignores the ability to pay. Dr. Flink says it also results in unjustifiable differences in tax burdens on groups within the same business or profession. He goes on to show how it discriminates against the self-employed individual as against the employed person. In addition, he illustrates how it often places a heavier tax burden on the self-operated business than it does on a corporation.

May I remind you, gentlemen, that the small business is the backbone of our culture. The creativity and perfection which usually results from individual enterprise should be encouraged, not discouraged.

In many areas of the economy it will be almost impossible to achieve full collection of this tax without incurring tremendous administrative expense for enforcement. To even begin to be workable, it will require endless administrative regulations, litigation, and interpretation. It is a tax which will invite evasion.

The tax is a relatively small one at the present

time, although it will be substantial for those businesses which operate with a high gross for goods and services and a relatively low margin of profit on those receipts. It is not difficult to predict that if this tax remains on the books it will increase, thus magnifying its own shortcomings.

There are some who feel that this act will be improved if the tax is limited to net profits. If you decide on this course, the issue then becomes whether or not New Jersey is to have an income tax. It is inconceivable that you would enact an income tax which would apply only to self-employed persons or persons doing business in an unincorporated form and not tax the incomes of the remainder of the population.

Professor Flink has asked us to advise you that since he could not be present today due to his participation in the Middle States Association Evaluation of the Inter-American University in Puerto Rico, he will make himself available to meet with your Committee at any given time from April 8th through April 19th for purposes of further discussion.

The New Jersey State Bar Association has not taken any position on possible alternate forms of taxation. We do, however, at this time wish to call your attention to the inherent bad features of the unincorporated business gross receipts tax and ask that it be repealed immediately.

With me today are two gentlemen who are very

familiar with all facets of the unincorporated business gross receipts tax.

On my right is Mr. Aaron Lasser of Newark, New Jersey. Aaron was chairman of a special committee of our taxation section which initially investigated this form of taxation and reported back unfavorably on it prior to its enactment.

On Mr. Lasser's right is Harold Ruvoldt, Jr., of Jersey City. Mr. Ruvoldt is co-chairman of our Legislative Action Committee and has been active in our efforts to educate professionals and other unincorporated businesses as to the exact nature of this law.

Both of these gentlemen have indicated that they will be most happy to attempt to answer to the best of their ability any questions which you may wish to put to them.

Thank you.

SENATOR KAY: Thank you, Mr. Bertini. Does any member of the Committee have any questions?

ASSEMBLYMAN TODD: Mr. Chairman, if I may through you.

Mr. Bertini, I don't want to argue with you philosophically but I certainly don't think it's at all inconceivable that we might change the unincorporated tax to a net or ability to pay or an income basis rather than a gross receipts basis. I think, in view of the present

problems we have balancing the budget and seeking revenues for the programs that are forthcoming for the State, we will seek revenues from any tax source available to us.

I realize that changing this from a gross to a net involves the philosophical and constitutional idea that this is now a state income tax and it will be set up on that basis. But I think there is an overriding consideration that the unincorporated business entities of the State are, to a large degree, not contributing perhaps their share as they might, and it's not a question - at least in my mind it is not a question of whether they should be taxed or whether they should not be taxed, it's just merely a question of how is the most equitable method of doing it.

I know that certain professional groups have been very adamantly and vociferously opposed to this particular tax as it stands, and, as far as the Bar Association is concerned, I wonder if you would care to comment on the ruling out of Mr. Kingsley's office, I believe it's special ruling No. 2, concerning the tax and how it modifies its application to your particular professional group and whether that's been any help to you.

MR. BERTINI: It has, and I would like to ask Mr. Lasser, I think, to explain that.

MR. LASSER: It has been of some help because it has cleared up several areas in which there was some

great uncertainty. And the levying of the tax on such matters as the expenses for court costs and other things, and the manner in which they should be set forth, was a burden on the lawyers.

Now, the entire tax is a burden, the way it is set up, but it might be that taxing on the net would help a bit. Now there seems to be the impression, and I think, Senator, you expressed it somewhat but very well that why shouldn't we stand our burden of taxation. And the answer is, we do. lawyers, doctors and professional men. And I just point out that we pay the New Jersey sales taxes, we pay the income taxes, we pay the federal income taxes, we pay the municipal taxes on real property, we pay the state inheritance taxes, the federal estate taxes, the gasoline taxes, automobile taxes, and all the other taxes - cigarette, liquor, and the like. So we stand our share of the taxes.

Now this tax is unreasonable insofar as lawyers and professional men are concerned because it does not take into consideration the net return. It takes into consideration only the gross. And levying on the gross may leave a professional man or one of the people included for this tax without any profit for himself or he may even be compelled to contribute toward it.

I point out to you that I think it is commonly known that the cost of maintaining the overhead of law offices

used to be one-third to 40 or 45%; today it's nearer 50%.

Now when you take the overhead out and the income tax, the federal income tax that the practitioner must pay, there's very little left for him that would encourage him to continue because the most he's doing is paying taxes.

Now I know you may raise some questions about it and want some exact figures. I am not prepared to give you the exact figures but I can furnish them to you if you so desire.

ASSEMBLYMAN TODD: I would like those as a matter of information.

MR. BERTINI: The ruling, however, does aid the problem all over, the whole incorporated problem, not only the lawyer, even the small businessman. I think the idea of removing certain obviously removable items from the impact of the tax is a good one, and we think that was a good idea.

ASSEMBLYMAN TODD: Mr. Chairman, one more while I'm still on the air.

We heard testimony earlier that the effect of this tax in certain other businesses was to force the incorporation of many unincorporated entities.

What problems would face the professional man in making the same choice?

MR. BERTINI: Well, Mr. Ruvoldt will probably answer that.

MR. RUVOLDT: Well fundamentally you have, first, inequitable problems. Some professional men, specifically attorneys, are not free to incorporate under the rules of the court.

In addition, you have the high cost problem. However, I think the crucial problem in facing the question of incorporating or remaining in an unincorporated form is for the marginal businessman, the small man who, for example, operates the local candy store or cigarette store, - and prior to the hearing today we were discussing this very problem. Our office happens to represent a number of these small marginal businessmen, as many lawyers do. And to take an example, a cigarette shop whose receipts in the course of a year will exceed \$300,000, yet the net income to the individual will be less than six or seven thousand dollars. This tax places an exceptional burden upon him and the cost of turning around to incorporate is practically prohibitory. The necessary paper work incumbent upon the incorporation and the cost of maintaining all of this is really burdensome.

ASSEMBLYMAN TODD: It sounds like the lawyers are doing pretty well because of this tax.

SENATOR KAY: As Chairman and a member of the Bar, I object to that statement.

SENATOR ITALIANO: I disagree with that statement also.

ASSEMBLYMAN TODD: Being surrounded by lawyers,
I think I probably fumbled.

SENATOR KAY: Yes, Assemblyman Crane.

ASSEMBLYMAN CRANE: With respect to the objection to the tax, would it be more acceptable philosophically, if not financially, if this Legislature were to enact a tax on unincorporated businesses similar to the corporation tax. This might eventually cost more money but it might be considered to be fairer because that, of course, takes into account existing taxation, the net and gross, etc. This is a possible alternative.

MR. RUVOLDT: As far as alternative tax, a tax similar to the corporate tax is much more equitable and solves many of the problems faced by unincorporated businesses. However, there are other avenues of taxation, again speaking personally and not for the State Bar, which the Committee might well consider. Taxes which will tax professions and businesses separately, depending upon - there has been discussion of some so-called - and I know many of my brethren disagree with me - so-called licensing tax, certain taxes which will apply to the individual in his professional capacity as a professional rather than a corporate income tax or a tax in the fashion of a corporate income tax.

Many of the difficulties which we face with this tax would, of course, in the small business especially -

would be cured by a tax in the nature of a net or a corporate income tax, that same fashion of tax.

However, we do believe there are other much more feasible alternatives which I personally prefer to see the Committee consider.

ASSEMBLYMAN CRANE: Well, to my way of thinking, licensing should be a method of control not of raising revenue. I think if we are going to talk about revenues we should talk strictly about a tax and not a license.

MR. RUVOLDT: Well, I suggest to you that this tax, the unincorporated business tax, we're not talking about that amount of revenue that would necessarily have to be an independent form of taxation. I think in this state particularly there is a great need for regulatory legislation with respect to professions and I think it may well be a vehicle because you are primarily concerned - we have a great concern with revenue and you may well use this as a vehicle to add on many well-meaning regulatory statutes and rather than consider these problems seriatim you might be able to consider them together and reach a very workable solution.

ASSEMBLYMAN DE KORTE: Mr. Chairman, as a brother in the profession, I am rather curious as to what area in which you think lawyers need to be regulated at this point?

MR. RUVOLDT: Not only lawyers, I think regulation with respect to the practice of law by non-lawyers

is very seriously needed in this State.

ASSEMBLYMAN APY: Mr. Bertini, I would be very curious - I was a little disappointed really that this is essentially a negative presentation here today. And one of your members has indicated that he has personal views as to how we may use other forms of taxation to meet our financial needs. I am wondering if the Bar Association, as such, has a program to propose to us which you could let us have and, if the Bar Association does not, when we can anticipate their help in proposing such a program?

MR. BERTINI: We do not have such a program in existence at the time. I would say that by the time we could get a committee in operation to make this kind of a study to be of any help to this particular committee's job, the present job, it would be almost too long to do. It may be that we will consider appointing a committee to be informed on the additional revenues that can be raised should the government need it, and what forms of taxation should be better applied to have a lesser impact upon our economy - that may be a good idea to have such a study committee but we do not have one at this time and if we appoint one now I doubt that they would be able to accomplish anything in time to help this committee.

ASSEMBLYMAN APY: Well, what I'm driving at is, you pointed out, along with some others, some perhaps valid shortcomings. I would hope that the Bar Association would come

forward with specific alternate proposals because most people that we've talked to have acknowledged that we've got financial problems in the State and we are looking for ways to solve them.

MR. RUVOLDT: Professor Flink, who did this study, unfortunately is presently in Puerto Rico, is engaged right now in that very subject.

ASSEMBLYMAN APY: For the Bar Association?

MR. RUVOLDT: For all the associations on whose behalf he prepared this report. I've been advised, in early April he'll be able to supply us with a proposal which we, of course, will present to the individual associations and then I think to your committee.

ASSEMBLYMAN APY: I personally would like to have it available as soon as it is available.

MR. LASSER: May I say this, that in the past our Committee of the Bar Association always cooperated with the Tax Department, Mr. Kingsley and his staff, and we have given him whatever assistance and advice that he would want. He himself is a lawyer, as you know. And we would be glad to do that, get up whatever information we think might be helpful to you. I am sure the Bar Association would be glad to cooperate in that way.

MR. RUVOLDT: I would like to add, if I may, what has not been mentioned thus far is that the attorneys and other professionals most of whom do pay the business

personal property tax, which is collectable to the State under the new tax package at the rate of \$1.30 per hundred - I would suggest to the Committee, again from a personal view, that one of the things that I know is being considered by Professor Flink is the question of adjustment of that rate in order to make up the relatively small amount of money we're talking about with respect to the unincorporated business tax.

ASSEMBLYMAN TODD: I would like to get some clarification. Maybe before I say this I should say to the lawyers in the audience and on the Committee that I have no malice of forethought, I'm just a businessman engaged in other than the practice of law. You stated that the cost of operating a law office now is somewhere close to 50%. Assuming a \$100,000 income and 50% cost, that would be a tax of \$125 which would be leaving a very nice net profit. I just can't believe that you guys are doing that well. What are some of the auxiliary costs? This 50% is an overhead figure?

MR. LASSER: It's overhead rent, the cost of materials to be used, copying machine which we're using almost constantly today with the courts being overburdened and they want their papers in many copies and quickly, with the investigations that you have to make, with the people you have to hire in order to do your work because of the volume that you have, the figures are approximately what I told you, and what is over,

out of the other half and which the lawyer gets, he pays his income tax out of that and pays for other things that he has to do and all the other taxes that any citizen would pay.

ASSEMBLYMAN DE KORTE: Mr. Chairman, just so the record doesn't get too cluttered, the biggest problem with Mr. Todd's assumption is the \$100,000 income.

MR. BERTINI: And, of course, our position is not based upon the economics of the situation. This tax impact on the legal profession is going to be slight but the effect of the principle on the people who are affected by this unincorporated tax is the problem. We are not speaking particularly for ourselves, we're speaking for our clients too.

SENATOR KAY: Does anyone else have any questions?

ASSEMBLYMAN FEKETY: Mr. Brown testified earlier about the Governor's Committee on Local Property Taxation and Mr. Ruvoldt said that the Bar Association has cooperated 100%. I believe that the Bar Association was represented on that Committee, is that right?

MR. BERTINI: On Mr. Brown's Committee?

MR. FEKETY: I believe there was a fellow by the name of Robert Kirschner on that, I believe he worked closely with the Bar Association. Do you know what recommendations the Bar Association made to that Committee when they approached them about the unincorporated tax portion?

MR. BERTINI: Well, Mr. Lasser can answer that.

MR. LASSER: I worked on that before Mr. Kirschner was in, when the Senate first thought of this kind of a tax and I objected to the tax for the same reason that we object it now. At that time, as was stated here by Mr. Brown, it started off with 1/20 of 1% and then it got to be 1/10 of 1% and by the time --

ASSEMBLYMAN FEKETY: This was a compromise.

MR. LASSER: Yes. And then by the time it was voted on it became 1/4 of 1%, which it is now, and the objection was made, as he so well stated and which we made at the time, that that would only be temporary because the experience has been in taxation that taxation increases each time and we didn't know where it would go, and we objected to the thing completely.

Our committees of the State Bar and individual members of the State Bar have always cooperated in all of the tax matters and participated in the matters before the courts but there's one thing about lawyers, they will favor everybody else but not themselves.

MR. RUVOLDT: So that the record is clear, the State Bar Association requested public hearings to express its opinion in opposition to the tax prior to passage of the tax bill, number one, and, number two, I am sure the Committee remembers that before the tax was passed, when first proposed, the New Jersey Bar Journal, which is the legal publication of sorts in this State, had an editorial opposed to it. And, also, I call your attention to the fact that -- and I noticed this

morning it was glossed over very lightly - the Governor's Committee on Taxation indicated in its report specifically that this was a relatively minor proposal which could be eliminated by minor adjustments in other rates, and it was specifically mentioned in that Committee's report and yet still at the very early stages the State Bar Association took strong positions in opposition to this feature.

ASSEMBLYMAN EVERS: Through you, Mr. Chairman, this is in line with Assemblyman Apy's question before, that the State Bar has not actually taken a position as far as an alternate program is concerned.

Now from your statement I gather two things, number 1, that it has no alternate proposals and, number 2, that it is just in favor of repealing this tax.

Now, is it safe to assume, on the basis of this statement that we have before us, that this \$26 million, from the Bar Association's point of view, would be replaced by increasing the revenue that the other three taxes would bring in?

MR. BERTINI: No, I don't think that's a fair assumption. We have not considered alternate methods of raising the money. We've evaluated this particular feature of the statute, and the unincorporated tax portion of it, and we have taken a position on that. We have not studied alternative methods of raising the funds. So we have no

position on what you ought to do to raise the money. But there are other methods, of course, that I can think of, about taking up the slack or \$26 million, and one of them would be economies. And we haven't studied that either.

So we are not in a position, we are not prepared, and we are not the people, I think, to come up with an answer to your problem. We know that there's a problem, but the solution you come forward with, we feel, is probably not the proper one. Now if we can help you in any way with your problems, we're willing to help as much as we can but we do not know the answer and we're not going to try and be placed in a position where we can tell you or claim to be in such a position.

MR. RUVOLDT: Perhaps your own suggestion of a tax convention might be a very worthwhile solution.

ASSEMBLYMAN EVERS: Well, as a fellow member of the Bar, I don't want to be accused of putting words in the mouth of the Bar Association but it does seem to me, in coming in strictly for repeal of this particular tax and not getting into the other three taxes which are part of the package, that it might be assumed that the Bar Association is saying, well, let the other three taxes carry the ball.

MR. BERTINI: We do not say that.

MR. LASSER: That is definitely not our position.

ASSEMBLYMAN DE KORTE: I think what's reflected

in Assemblyman Apy's remarks and Assemblyman Ever's remarks, and the feeling I have myself, is that an entity with as much prestige as the New Jersey State Bar Association might well present to this Committee and, if possible, at a future date to a convention, what it feels are logical alternative programs.

MR. BERTINI: We would be most happy to investigate that and if we find that we are in a position to be of help to you, we offer our services.

ASSEMBLYMAN CRANE: I would go even beyond Assemblyman DeKorte's remarks and make a request, personally and hopefully, although I can't personally speak for the Committee, that the Bar Association does study the problem and does come up with a recommendation. As Assemblyman DeKorte pointed out, it is one of the most prestigious organizations in the State --

MR. BERTINI: We thank you for the compliment.

ASSEMBLYMAN CRANE: And your recommendations would bear tremendous weight with this Committee.

MR. BERTINI: I am not too sure that the organization is most qualified to help you with your problems but we will think about it and, if we can, we will try.

ASSEMBLYMAN DE KORTE: I assure you, you are as qualified as most of us.

ASSEMBLYMAN FEKETY: Mr. Chairman, while we're tossing flowers around, let me caution you, sir. I agree with your expression, the ability to pay. If you come in with that, be prepared to believe with me that the sales tax is wrong.

MR. BERTINI: Is wrong or right?

ASSEMBLYMAN FEKETY: Is wrong, because it does not follow the principle of the ability to pay.

SENATOR KAY: Senator Italiano.

SENATOR ITALIANO: Mr. Bertini, I note in your statement that you say, we have supplied you with a copy of Professor Flink's study of this law. I don't have a copy.

MR. BERTINI: I thought Mr. Sokol was going to give you each a copy.

SENATOR KAY: We don't have it.

Are there any other questions?

All right, thank you, Mr. Bertini.

Mrs. Campbell is the next witness, and while she is coming forward I will put into the record a written statement left on behalf of Louis K. Collins, M.D., President of the Medical Society of New Jersey. It will not be read aloud here today but will be incorporated into the record. (See page 97 A)

M R S. N I C H O L A S D. C A M P B E L L: I am Mrs. Nicholas D. Campbell, a resident of Hackensack, New Jersey. I appear before you today as President of the 2900 realtor members, New Jersey Association of Real Estate Boards.

At the outset, I would like to express the gratitude of the State Realtor Organization for this opportunity to publicly state our position on the matter under discussion.

The New Jersey Association of Real Estate Boards in convention session on December 9, 1966 voted unanimously urging the repeal of New Jersey's unincorporated business gross receipts tax.

This action, I believe, is significant if you analyze the realtors who make up the Association. You will find a significant portion of the membership is made up of small corporations - those, who for all intent and purposes, would be exempt from the tax in question.

Nevertheless, those whom you might expect to be disinterested observers lent their support to the resolution because they know a gross receipts tax is unquestionably unfair and unjust.

There is a quotation from an article which appeared in the "Bergen Magazine," which is a publication of the Bergen County Chamber of Commerce, in December of

1967, which I feel should be made a part of the record. The author of this article, in discussing the gross receipts tax, pointed out that "New York City, which has firmly established itself as the most ingenious tax entity in the United States when it comes to devising new forms of taxation, found it necessary to repeal the gross receipts tax - reasons for the repeal were: first, it was extremely unfair because those losing money were subject to the identical tax as those in the profit area; second, it hit hardest the little businessmen especially those whose margin of profit was small; and, lastly, it was virtually impossible to enforce." I might add that the necessary regulations devised in New York City to collect the tax filled many volumes. This tax was repealed in July of 1966.

I do not intend this morning to embark upon a long dissertation on the economics of a gross receipts tax. This area will, I am sure, be adequately covered by other interested groups here today.

However, I, too, would like to call your attention as "must reading" to the report entitled "New Jersey's Unincorporated Business Gross Receipts Tax - A Critical Evaluation," which you've already heard about from the New Jersey Bar Association. If you gentlemen would like more copies, we will be very happy to send them to you from the New Jersey Association of Real Estate Boards.

The New Jersey Association was one of the concerned associations that also retained Dr. Flink's services for the specific purpose of supplying factual information challenging the inequities created by the gross unincorporated receipts tax. The New Jersey Bar Association, as you know, has already introduced this into the record.

While Dr. Flink has covered the specific problem I am about to discuss, I feel impelled to amplify some of his statements. The NJAREB feels the legislative intent is being subverted through the rules and regulations of the New Jersey Tax Department in at least one area.

Possibly one of the most flagrant inequities of this tax is that through the interpretation of the New Jersey Tax Department the definition of unincorporated business includes large and small property owners who are not in business at all -- their only fault is that they own real property with gross rent receipts of \$5,000 or more.

Even our friend, New York City, did not go as far as our Tax Department in this area, rental income was exempt under their statute.

I would like to point out that we were advised that it was never the legislative intent to expand the gross receipts tax umbrella to cover these rental receipts. Rental property has never been taxed as both real property and personal property, thus, it stands to reason that

real estate, being subject to existing heavy local property tax, should not be included by edict of the tax officials under the gross receipts tax.

At a time when the cry is for private investment in this State and throughout our nation in the housing economy, it appears ironic that owners who would like to invest but do not wish to incorporate should have to pay a gross tax on gross rental income over \$5,000. This, gentlemen, is discriminatory. If the same individual took his capital investment to his stock broker or to a financial institution, he would not be classified as a business, rather he would be what he has always been, an investor. Why should the State of New Jersey single out the individual who elects real estate as the means to invest his hard earned dollars?

Make no mistake about it, this tax will hit hardest those who have the smallest holdings - those who can least afford to pay - those who are now living on a fixed income.

I repeat, no logical reason or historical fact can be found or invested for the sudden inclusion of gross rent receipts in a tax which purports to replace Chapter 51, personal property tax. In other words, the landlord shall not be entitled to take a deduction from his gross for any of his expenses - interest, taxes, insurance, caretaker, garbage removal, repairs. Not one of these things can be deducted.

Another far-fetched interpretation by the Tax Department is to include long-term net rent property leases within the purview of the tax. In the event you are not familiar with this terminology, I might point out that the lessee actually operates the property while the lessor receives a fixed annual income, which, in fact, is the same as interest one would receive on a corporate or tax exempt municipal bond.

According to our Tax Department, interest on bonds is exempt. I ask you, does this make sense? Well, we do not think so and our point of view is also shared by the real estate investing public, the majority of which are the small investor and the retired individual.

Your colleague, Senator Norman Tanzman, who was the prime sponsor of the enabling legislation which authorized the gross receipts tax, has publicly stated on numerous occasions that it was not the legislative intent to include rental receipts, net leases and the like, under the law. We respectfully request that your Committee review this matter with Senator Tanzman and determine for yourself how legislative intent can be misconstrued by those who are charged with administration.

You will hear today many, many similar sets of circumstances where reason and logic will tell you that to follow the gross receipts tax road can only lead to charges of tax irresponsibility.

The morass of administrative rule and regulation that will be necessary to interpret the tax, I am afraid, will become monumental until we reach the same situation in which New York City found itself where there almost was a case by case determination oftentimes conflicting one with another.

The Legislature is already beginning to see a number of bills that seek to correct inequities in the tax. The number will, I am afraid, increase and increase until the tax is emasculated. We urge the 1968 New Jersey Legislature to discharge its responsibilities and remove this millstone from around the neck of a vital area of our State's economy.

And now we come to replacement income which you gentlemen are very much aware of, and we are too. However, we feel confident that if the necessary economies are effected in State Government, there would be no need for a replacement tax. A mere reduction of less than 3% in the State budget would allow for the repeal of the gross unincorporated business tax.

Gentlemen, we would appreciate it if you would give this your very serious consideration.

Thank you.

SENATOR KAY: Thank you, Mrs. Campbell.

Do any members of the Committee have any questions?

ASSEMBLYMAN CRANE: Mrs. Campbell, you, no doubt, in suggesting economies, have some familiarity with the Governor's budget of a billion sixty-four million dollars?

MRS. CAMPBELL: I am very much afraid I do.

ASSEMBLYMAN CRANE: Preferred capital items of some \$78 million and, of course, the capital commission which is correctly forecasting capital needs, and it's going up by in the multi-billions, apparently. Do you have any specific economies in mind that you could give us?

MRS. CAMPBELL: Perhaps you could look for duplication of services in your government. Also there is one other thing, the Appropriations Committee, I understand, has not completed its perusal and I think it's a little early in the game perhaps to make that statement.

ASSEMBLYMAN CRANE: Thank you.

ASSEMBLYMAN TODD: Mr. Chairman, through you, Mrs. Campbell, as a member of the Appropriations Committee I would like to preface my remarks by saying that if economies were effected the competition for relief, I'm sure, would leave anyone but the most hardy to be trampled -

MRS. CAMPBELL: We realize that.

ASSEMBLYMAN TODD: - when we consider removing taxes by way of economies.

I wonder if you have gone beyond the concept of

governmental economy as a means of alleviating the revenues generated by this tax and if you were faced with the problem or the prospect of no economies in the government or using all funds that are available for additional programs - as you know, there has been a lot of discussion on the budget, some say it goes too far but an equal number say it doesn't go far enough -- do you in fact, other than governmental economy, have any suggestion for replacing this revenue?

MRS. CAMPBELL: At the present time, no, we do not have any suggestions. However, we do feel that the inequity of this gross receipt tax could be very seriously considered by you gentlemen.

ASSEMBLYMAN TODD: Through you, Mr. Chairman, Mrs. Campbell, it is my understanding that in addition to the legal profession there was a ruling from Mr. Kingsley regarding the application of this tax to real estate businesses - has that ruling helped on the problem?

MRS. CAMPBELL: Yes, it has helped.

ASSEMBLYMAN TODD: If that ruling were modified, might it be even more helpful?

MRS. CAMPBELL: Naturally.

ASSEMBLYMAN TODD: In other words, short of - what I'm trying to pin you down to is short of total repeal and governmental economy, which we're all interested in, - what modification, what recommendations for modification

would you have?

MRS. CAMPBELL: We have just made a recommendation in our statement and I will be happy to give you a copy of it. You have heard some of the things that we feel are inequities in the gross receipts tax.

ASSEMBLYMAN TODD: I would like a copy of the statement.

MRS. CAMPBELL: May I ask Mr. Ferguson, who is the Executive Vice President, to also speak on the subject?

ASSEMBLYMAN TODD: Yes.

MR. FERGUSON: I would like to point out that we have met with the State tax officials to discuss legislative intent. I think this is important to emphasize. The intent was not to include certain classes in the purview of the tax and now we're finding through administration of the law that we are covered. I will give you one example. What about the individual who may take back a mortgage and who happens to own two or three properties in the state and takes back two or three mortgages in a year, would he be a business? This question has not been answered. It's still up in the air.

I think if we can take this all the way down the line, and we find we are subject to the administration of the law by the Tax Department and not the New Jersey Legislature. And I think the Legislature should review these

areas. And I urge that Senator Tanzman be called before this Committee or should discuss it with them because he has raised these same points with the taxing officials.

We have one ruling where land mortgages for agriculture or farm purposes may be exempt. Now, I see little difference between mortgages for a farm or if it's for a different form of real estate holding. But these are the things that you get into in this type of a tax. This is just what happened in New York City.

ASSEMBLYMAN TODD: Mr. Chairman, through you: What are the problems posed for realtors when they consider incorporation of their business activities?

MR. FERGUSON: There is no problem. Our membership is fifty-fifty, I would say, between those that are incorporated and those that are not.

ASSEMBLYMAN TODD: Have many chosen incorporation because of the prospect of this?

MR. FERGUSON: I would say it's too early at this point.

ASSEMBLYMAN APY: Do I get then that the main thrust from your point of view is that by virtue of administration the intent of the Legislature has not been carried out and perhaps administrative remedies are what are needed more than additional legislation?

MRS. CAMPBELL: However, may I say that we speak

here today for the New Jersey Association which has ruled that their policy is for the repeal. However, we do feel that you have gotten the picture.

ASSEMBLYMAN TODD: I understand.

ASSEMBLYMAN EVERS: Through you, Mr. Chairman: Mrs. Campbell, I gather that your primary concern is with the application of the tax to rent receipts.

MRS. CAMPBELL: That was one of the illustrations. I think it is the interpretation and the administration of the legislation which we are worried about.

ASSEMBLYMAN EVERS: Well, let me carry it one step further. It seems to me that the areas with which you are concerned, although naturally do produce a considerable sum of money, make up a small percentage of the total picture in so far as this tax is concerned. That being the case, I might be wrong on that, why would the association be in favor of total repeal? It seems to me that an exemption in this area would suffice.

MRS. CAMPBELL: We feel that it is inequitable in all respects. I speak now for the Association.

SENATOR KAY: There was a question being discussed among the members of the Committee up here and perhaps at times we do not know all the ramifications either. Senator Italiano, at the risk of the question seeming not knowledgeable, would you put it?

SENATOR ITALIANO: The question I raised here was the possibility of a double taxation with regard to rental income. First, when you collect it as part of your gross receipts, and then when it's transmitted to your client.

MRS. CAMPBELL: That would be true also.

SENATOR ITALIANO: I don't know if there is any regulation that would eliminate this or not. I say it would be included as part of your gross receipts - -

MRS. CAMPBELL: Under management.

SENATOR ITALIANO: -- and then when it's transmitted to your client. I don't know, is there any regulation that eliminates this?

MR. FERGUSON: I would assume that the agent would collect the rent and it would go right into the principal's account.

SENATOR ITALIANO: Well there are occasions where you have trustee accounts which don't go into a principal account. Am I correct in that assumption?

MRS. CAMPBELL: Yes.

SENATOR ITALIANO: It would be part of your gross income until such time as it is transmitted to your client.

SENATOR KAY: I wonder if it would be, Senator. If it went into a trust account, I question whether it

would be a part of their gross income.

MRS. CAMPBELL: I really don't know.

ASSEMBLYMAN TODD: Through you, Mr. Chairman: If you were managing an investment property for me, you would by contract collect all the rents and, therefore, they would be part of your gross receipts, and the State, as I understand your explanation, and again pardon my ignorance, I would be considered a business entity because I owned the property in the first place.

MRS. CAMPBELL: That is correct.

ASSEMBLYMAN TODD: And whatever you passed on to me after your commission for management of the property would also be considered as gross receipts to me and, therefore, have the same tax applied.

MRS. CAMPBELL: Even, take for instance, summer rentals. Many of those run over \$5,000. That would be considered then a small business. There are many facets of this which are all encompassing.

MR. FERGUSON: Speaking from the real estate industry, if we listen to our members and their clients as to the problems that are going to be created, Mr. Kingsley's department will have a volume of regulations for all the specific cases in real estate. And if we compound this through the entire unincorporated business community, it really becomes the problem that New York City

ran into where it boils down to an almost case by case determination on the interpretation of the law.

SENATOR KAY: Any other questions?

ASSEMBLYMAN FEKETY: Yes, just one question, Mrs. Campbell. In principle, you're talking about interpretation of the law and the administration. Now has your organization taken a position that they feel they should pay some sort of a tax?

MRS. CAMPBELL: You mean our individual realtors?

ASSEMBLYMAN FEKETY: Yes.

MRS. CAMPBELL: Are you talking about the individual realtor? I can't speak for them. I can only say that our policy was established for repeal of the gross receipt tax. However, I don't think, and I say this guardedly, that we have had a terrific furor from our realtors in that regard.

SENATOR ITALIANO: As a matter of clarification here on my part, it's in relation to the question that was just answered on interpretation and administration of the law and whether you consider you should be taxed in some aspect. It's my impression that the basic argument you have here is the tax on rentals. Is that correct?

MRS. CAMPBELL: Rentals and other --

SENATOR ITALIANO: Which you're not engaged in primarily, it's someone else who is engaged in --

MRS. CAMPBELL: That's correct.

SENATOR ITALIANO: Not the New Jersey Real Estate Board itself.

MRS. CAMPBELL: No.

SENATOR ITALIANO: That is not their primary function to engage in rentals.

MRS. CAMPBELL: No. We have used this testimony today as one of the illustrations of how complex this can be, and the interpretation of this gross receipts tax. It can go on and on. We could probably come up with a half a dozen more illustrations, particularly in the real estate field, where this gross receipt tax will be most confusing.

ASSEMBLYMAN TODD: Mr. Chairman, I would like to come back to Assemblyman Fekety's question and, again at the risk of being unfair to the lawyers, I would rephrase that question and say, are you in the Association's position of repeal of this particular tax - are you choosing to use the same shield of federal income taxes, gas taxes, cigarette taxes, that you pay enough taxes already, or it's just such an unworkable administrative headache that it just doesn't make any sense.

MRS. CAMPBELL: That is the way we put it. You can see the confusion, I mean, this is just one example.

MR. FERGUSON: I think also the Association's

position that an individual who loses money will be taxed at the same rate as the individual who makes money, just does not meet the crest of what we consider to be fair and reasonable in taxation, not only in New Jersey but in this country. This flies in the face of everything that we have had in the past.

SENATOR ITALIANO: Perhaps I'm wrong but I understood your basic argument to be that the rental of property is not a business to be taxed on the gross receipts, that it's an investment and not a business.

MRS. CAMPBELL: Absolutely.

SENATOR ITALIANO: And this, in all probability, as I understand it, is your argument here today.

MRS. CAMPBELL: One of our arguments. As I said, we could go into other arguments on not only rent, mortgages --

SENATOR ITALIANO: But as to what was presented here today.

MRS. CAMPBELL: That is correct. Rents, mortgages, individual two-family houses, for instance.

MR. FERGUSON: For instance, I've had this question raised at a public meeting, is an individual who is a member of the Legislature a business. Would his remuneration from the State be considered business income under the unincorporated business tax.

SENATOR KAY: How did you answer it, sir?

MR. FERGUSON: I felt that I didn't know enough about it. But I think the point illustrates here that we can carry this to extremes. And I think you will hear this afternoon from other groups where it will be carried to various extremes. And I think this is the point we were trying to raise.

SENATOR KAY: Any other questions of this witness?

Thank you, Mrs. Campbell.

MRS. CAMPBELL: Thank you.

ASSEMBLYMAN TODD: Mrs. Campbell, you will get us copies of your statement?

MRS. CAMPBELL: I shall.

SENATOR KAY: Russel T. Wilson.

R U S S E L T. W I L S O N: My name is Russel T. Wilson. I am the Assessor for the City of Hackensack and Chairman of the Tax Study Committee of the New Jersey State League of Municipalities. I might interpolate that that means that I hopefully represent the taxpaying public of the State of New Jersey. I am here today, however, representing the State League

I would like to address the major portion of my testimony to Senate Bill 281 and Assembly 209 and 279 which would add the 1967 tax year to the alternative years 1964, 1965 and 1966 presently established by statute as the base years for computing the so-called "save harm-

less" provision under the Business Personal Property Tax Package.

As we all know, the intent and purpose of the provision is to reimburse our municipalities for the loss of revenues from business personal property taxes now assessed and collected by the State.

At the time the legislation was enacted, municipal leaders predicted that 1967 business personal property tax collections in many municipalities would far exceed those of the preceding three years. Consequently, the League, at its Annual Conference in Atlantic City last November adopted a resolution urging the inclusion of 1967, along with the years 1964, 1965 and 1966 in the period on which the "save harmless" computation would be based. A copy of that resolution is enclosed at the end of this statement. (See p. 89)

The statistics on revenues for 1967 have now confirmed that prediction. It is a fact that many municipalities in the State will lose very substantial amounts of money that they would otherwise have received if the 1967 business personal property assessments were taken into consideration. I do not have state-wide statistics documenting the loss for each municipality. I can, however, cite examples which are representative. In Bergen County, for example, 31 municipalities stand to lose a total of \$591,000. The City of Hackensack will lose \$129,000; Northvale \$55,000 and Wood-Ridge \$57,000. I read statistics for Middlesex and Somerset Counties to the effect that Dunellen would lose \$54,000,

North Brunswick about \$125,000 and Bridgewater a reputed \$400,000.

Here in Mercer County the City of Trenton collected \$177,000 more in 1967 than it did in the best of its previous three years. In East Windsor Township, collections were \$45,000 higher and in Ewing Township they were \$153,000 higher.

I want to add for the record, incidentally, that these figures were taken from preliminary reports and are not officially certified. They are cited here merely to point to the pattern of losses occurring across the State.

Gentlemen, no one here need be reminded of the seriousness of the municipal fiscal plight. It is common knowledge that the local real property taxpayer is the prime source of municipal revenues. The denial of save harmless replacements of lost revenues from the business personal property source for 1967 will only add to that burden. At this time when our local governments need all the revenues they can get, the exclusion of the 1967 year would mean a loss -- State-wide -- of \$5.4 million. This is inequitable and in violation of the spirit of the legislative intent in establishing the save harmless provision.

The League, on behalf of the many municipalities adversely affected by the present provisions of the law, urges that the year 1967 be included through the enactment of Senate 281.

Moving on now to the other bills before this hearing ----- The League is strongly opposed to the passage of Senate Bill 200 (and similar bills) repealing the excise tax on the gross receipts of unincorporated businesses unless the repeal is tied to a replacement

revenue source. There appear to be sound arguments that the tax, as presently imposed, has inequitable aspects and, as an organization, the League does not take issue with those arguments. We must, however, continue to oppose the loss of this revenue source unless a substitute act is first adopted, without imposing a further burden on real estate.

That, gentlemen, concludes my formal remarks. I will be happy, of course, to answer any questions which you may have.

SENATOR KAY: Thank you, Mr. Wilson.

Are there any questions from the members of the Committee?

Assemblyman DeKorte?

ASSEMBLYMAN DE KORTE: Yes. Mr. Wilson, would not the inclusion of the year 1967, as one of the alternate years to select, merely cure the problem for now, particularly from the point of view of the developing municipalities?

MR. WILSON: Well, it certainly would not provide for any gross factor, if that's what you have in mind, sir.

ASSEMBLYMAN DE KORTE: I have in mind that.

MR. WILSON: It would correct it immediately and, of course, protect it in the future, using '67 as the year which I think for most municipalities would be the best year. And this would be relatively temporary

and not provide for any growth.

ASSEMBLYMAN DE KORTE: So the municipality which was roughly 25% developed and which envisioned further municipal development, this would be no help.

MR. WILSON: It would not be the answer to their problem in the final analysis, no, but it would certainly help those that are pretty well developed at this point.

ASSEMBLYMAN DE KORTE: Would you not say there was some relationship between the amount of business personal property to be found within the community and the amount of expense which had to be incurred by the community in servicing that industry?

MR. WILSON: Oh, there certainly is a relationship, yes. I don't know that I'm prepared to say to what extent. There is certainly a relationship.

ASSEMBLYMAN DE KORTE: That's all.

ASSEMBLYMAN CRANE: Those were essentially the questions I had. If we include 1967 next year there will be pressure to include 1968 and so on along the line so you might just as well change the statute, if that's the intent, to make it the current year.

MR. WILSON: No, I don't see that it would have that effect, sir, because the save-harmless would be limited to the collections of the best of the four years in question and there would be no increase in that, sir.

ASSEMBLYMAN CRANE: Yes, of course, but you're asking, most municipalities are, that the 1967 year be included because the municipalities are not being saved harmless because of development in certain areas.

MR. WILSON: As far as 1967 is concerned in most municipalities the collections are --

ASSEMBLYMAN CRANE: The same situation may very well obtain next year.

MR. WILSON: No, it couldn't, sir. Under the save harmless the most a municipality can get would be to replace the losses of the best of the four optional years.

ASSEMBLYMAN CRANE: 1967 is asked to be included because for some municipalities it is a better year.

MR. WILSON: That's true. But this would remain the last year under which the municipality directly assessed personal property.

ASSEMBLYMAN CRANE: Wouldn't the same pressure as Assemblyman De Korte pointed out come up next year?

MR. WILSON: No, because in 1968 all we can get from the State, barring any growth which we do not now anticipate, would be the best that had been received during the previous four years.

ASSEMBLYMAN CRANE: Unless we would change the statute again.

MR. WILSON: Yes, but there would be no occasion

to, as I see it, in the near future at least.

ASSEMBLYMAN TODD: Along the same line, through you, Mr. Chairman, supposing 1968 was a better growth year than '67?

MR. WILSON: Well, keep in mind, Assemblyman Todd, that '68 might very well prove to be a year in which substantial growth took place and the State will, therefore, collect more than is provided for in this replacement package. The replacement formula for each municipality is based upon the relationship of its business real estate, real estate taxes, to the values in the state as a whole. And it is on this basis that any growth factor is encountered by the municipality. It's a rather awkward formula but it's as good as any that can be devised, as far as I can see.

ASSEMBLYMAN TODD: Mr. Chairman, through you; I agree with you that it is a very awkward formula, Mr. Wilson and I have been trying to figure it out for about six months and I can't see where one single cent is going to be distributed under that formula, something will come along and preclude it.

What is your reaction to the idea of a percentage return based on the individual municipality percentage of business as opposed to total assessment rather than a fixed dollar figure as the legislation now reads?

MR. WILSON: Well, actually, Mr. Todd, the formula does involve a percentage rather than a fixed dollar formula. You're speaking now of the growth formula.

ASSEMBLYMAN TODD: I am talking of the initial save harmless formula.

MR. WILSON: Well, it seems to me that that might produce approximately the same result if we could use, through legislation, the percentage derived through consideration of the 1967 assessments.

ASSEMBLYMAN TODD: Now what I refer specifically to is the legislation that's just been introduced that in effect says that, I'll use an example, if X community in 1964-65-66, we'll say. that if the business personal property is 25% of the total assessment, assessed value of the community, that each year thereafter, under the save harmless provision of the legislation, that community or municipality would receive 25% of its total assessment back each and every year. So that if the assessment grew so would the dollar return grow rather than be frozen to a somewhat artificial dart-throwing method of 1964, '65, '66 or '67.

MR. WILSON: I'd like to comment. May I explain that my answers to your question are obviously of a personal reaction rather than that necessarily of the League of Municipalities where there might be some arguments thrown in. But I would be inclined, I think, to favor such

a thought. There are some communities, and I'm thinking of those who have perhaps suggested it, who are not fully developed where they might feel that they were entitled to a greater percentage because of the fact that they will be developing in the future, perhaps industrially or commercially, where they might be entitled to more than the percentage they were receiving, say in 1967, which was the year of the freeze.

ASSEMBLYMAN TODD: But it's still better than a dollar figure.

MR. WILSON: I'm inclined to agree. I like percentages better than dollars, I agree, because this takes into account a lot of factors that can't be foreseen otherwise.

ASSEMBLYMAN APY: Do I understand you correctly to say that the formula as it now exists, or anticipated to be implemented, already has a growth factor built in even though you can't understand --

ASSEMBLYMAN TODD: On the excess.

MR. WILSON: This would only be for the excess, yes, that's correct.

ASSEMBLYMAN FEKETY: Mr. Wilson, this replacement package that has been passed, do you agree that this puts a municipality in a better competitive position with other municipalities throughout the State?

MR. WILSON: Oh, no, not with respect to municipalities. I think the state picture is improved by virtue of being in a more competitive position with our sister states adjoining us, and perhaps to some degree, if you will permit me to concede that perhaps in the past some assessors have not been as assiduous in assessing industrial property as they might have been, or maybe too strong. Yes, there were inequities, there are built-in inequities in this area. But I think basically there's been no competition except tax rates or effective tax rates so far as intra-municipality competition is concerned. This is, I think, just an effective tax rate, this competitive situation, basically.

ASSEMBLYMAN CRANE: Mr. Wilson, in your report here you cite examples of communities in Bergen County particularly that have lost money through the imposition of this tax. What is the reasoning? Is this because of growth or is it because of increased taxation rates?

MR. WILSON: The figures quoted here, Senator, are those that will lose unless 1967 is incorporated as an alternative year.

ASSEMBLYMAN CRANE: Why will they lose, because of the increase?

MR. WILSON: Because their taxes in 1967 were the best of the four years that I'm talking about.

ASSEMBLYMAN CRANE: Not because of a rate increase

in taxation.

MR. WILSON: Partly, yes.

ASSEMBLYMAN CRANE: Perhaps growth and rate.

MR. WILSON: Growth and rate. But I would suggest that the special rate which was applied to personal property for the last two or three years has contributed substantially to that situation.

ASSEMBLYMAN CRANE: Yes. The second question would be other municipalities of the 567 in the state that have gained.

MR. WILSON: Again, not for this reason because under existing statutes they --

ASSEMBLYMAN CRANE: Save harmless.

MR. WILSON: -- may select from the year '64, '65 or '66. We're urging only that '67 be added as an alternative year because this, I think, for most municipalities will have been the best year from a personal property standpoint.

ASSEMBLYMAN CRANE: What I refer to is this, you have municipalities that are declining, that are losing ratables, for example, --

MR. WILSON: Oh, yes, I'm sure.

ASSEMBLYMAN CRANE: -- and these municipalities may stand to gain through picking the best year.

MR. WILSON: Well, they now have the alternative of selecting the best of the available years.

ASSEMBLYMAN CRANE: So we would have some contra-indication as to your examples of the losses.

MR. WILSON: No, there would not be any contra-indication, Senator. The losses that are mentioned in this report, sir, are based upon what is lost as a result of 1967 being better than any of the other preceding years, '64, '65 and '66.

ASSEMBLYMAN CRANE: What if 1967 is worse?

MR. WILSON: Then they would still resort to one of the previous years as their best year.

ASSEMBLYMAN CRANE: So they would pick their best year still.

MR. WILSON: Correct. I suggested that it be left alternative.

ASSEMBLYMAN CRANE: Thank you.

ASSEMBLYMAN APY: Then, just so I'm clear on this say five and a half million we've been kicking around. This represents then, could represent in large part actual tax increase in the municipalities. It's a tax dollar return we're talking about.

MR. WILSON: Yes, that's what we're talking about.

ASSEMBLYMAN APY: It's the actual tax dollar based on what they tax --

MR. WILSON: Tax dollars, correct. Not on the assessed value but on tax dollars, that's correct.

Mr. Chairman, won't somebody ask me a question as to whether I have any suggestions as to where some revenue might be raised?

ASSEMBLYMAN TODD: Yes, I'll ask. I was just getting around to that.

MR. WILSON: Well I've been reading some books lately and Bishop Pike had a very interesting article not too long ago in Playboy Magazine, and Mayor Lindsey of New York seems to be getting on the bandwagon, and I'm about to propose something that will not necessarily be palatable but I think it's something that's inevitable. And I again want to make this abundantly clear, if the Bergen Record reporter is here, that I am not speaking for my governing body when I make this suggestion, that we give some consideration to taxing some of the presently exempt property, and I do not exclude church lands, and I mean right across the board except veterans and senior citizens - these are untouchables, so far as I am concerned. But I think we have got to give some consideration to restoring to the ratables some parts of the presently exempt property. And I have in mind the present law which now includes such exempt property as that belonging to the United States Power Squadron. I don't happen to be

a member but I respect it very highly since I am a boatman, but I do not think the laws of the State of New Jersey were intended to exempt a power squadron as an educational institution.

I would also like to cast a vote on behalf of a tax convention. The League has long supported this. And while there are, of course, some reservations, the same gentlemen who make tax laws are probably going to be serving on a tax convention, but I still think that the whole tax picture of the State of New Jersey needs considerable review. And gratuitously may I add that, as an appraiser, I am very happy to participate, along with other professionals, in the payment of the unincorporated business tax.

Thank you very much.

ASSEMBLYMAN APY: Could I ask one other thing further of Mr. Wilson.

The first suggestion that you just made is one that I have been giving serious consideration to myself as an avenue that should be opened up. And I would be most interested to the extent that I may introduce legislation to start us along this road of reviewing this exemption of religious and charitable properties from real estate tax, and I would be most happy to have you pass on to me any suggestions that you may have as to the direction that

this should take or, if the League has any specific suggestions, inequities that they can point out in the State of New Jersey, because I am familiar with the articles you referred to - you know I get Playboy -- a lot of those are nationwide and I am most concerned with the State of New Jersey.

MR. WILSON: All right. Thank you very much. I will be very happy to supply you with any information I can get.

ASSEMBLYMAN FEKETY: Mr. Wilson, you are an assessor?

MR. WILSON: That's correct.

ASSEMBLYMAN FEKETY: When you talk about exempt property, how much of the exempt property is up to date on the information as to what the valuation of the property is?

MR. WILSON: Very little of it. Unfortunately, most tax revaluations conducted by professional revaluation firms do not include an appraisal or evaluation of exempt properties. And I would say that generally speaking the values disclosed on the tax lists are highly inaccurate.

ASSEMBLYMAN FEKETY: Actually we have no up-to-date information as to how much of this property is exempt.

MR. WILSON: That's true. I am going to suggest, in fact my recommendation here would be to limit the

assessments if this ever turned out to be a palatable thought, perhaps just to the land without penalizing the glorified buildings that are sometimes erected. But I think to start out, at least, it might be advisable to consider assessing just the land. And from my own standpoint, I think everything except publicly owned property should pay a tax.

SENATOR ITALIANO: Did you say all except publicly owned?

MR. WILSON: I think publicly owned property should obviously be exempt, totally.

SENATOR ITALIANO: In other words, you would be in disagreement with any state authority that went into a municipality and condemned property and took over that particular area, with regard to property they'd be exempt. There would be a loss of ratables on the books in the municipality and you would be opposed to any tax assessment on that property. For instance, the Delaware River Port Authority in the City of Camden has gone in there and has condemned area after area to run a speed line through and we have lost considerable ratables as a result of this, with no replacement coming in, and you would be opposed to --

MR. WILSON: No, I certainly would not be opposed to assessment of it, no. As a matter of fact, I do think

that municipalities, county seats, for example, which house vast county installations and, of course, state properties - I think there should be some reimbursement to the municipality for these areas occupied, at least.

ASSEMBLYMAN CRANE: Mr. Wilson, with regard to your remarks a few minutes ago about tax convention, I have sponsored legislation to that effect and I would hope that the members of the Legislature, except for the two appointive positions in my bill, would not run for this because the reason for the tax convention, in my opinion - the reason I sponsored it - is to get a wide opinion on all sorts of divergent interests throughout the State and to get also, consequently, wide support for the recommendation of the tax convention. So the narrow base of the Legislature as the one who would enact the law making up the identical --

MR. WILSON: Well, I am glad that your bill is as broad as that and I am certainly behind it, and pledge any cooperation that the League can afford.

ASSEMBLYMAN FEKETY: One more question with reference to exempt property. If a municipality were able to tax the land, this would be added tax dollars to the city.

MR. WILSON: Yes, under the present system

ASSEMBLYMAN FEKETY: The county would look at it as ratables and the county would get more money.

MR. WILSON: Right.

ASSEMBLYMAN FEKETY: The state, in turn, will look at the increased ratables and give you a reduction in school rate because of the school rate formula.

MR. WILSON: Well, if it works that way. Unfortunately, that's the way it would have to work. I don't know but what you might on the long range -- if you were so bold as to undertake this, I think that you could then review the entire picture on the save harmless provisions of this law and perhaps amend them somewhat to consider the benefits that the community is receiving through this broader based real estate tax.

ASSEMBLYMAN FEKETY: Well the over-all income would -- the only money derived by the state would be the saving in giving less money to the local school districts to replace whatever losses they sustained from the replacement taxes.

MR. WILSON: It's inconceivable that the Legislature would leave the money in the hands of the municipalities, of course.

ASSEMBLYMAN EVERS: One last question, through you, Mr. Chairman. You mentioned, Mr. Wilson, that you would continue publicly owned property as exempt.

MR. WILSON: Yes.

ASSEMBLYMAN EVERS: Would you care to comment on

payments in lieu of taxes when the state takes over property, such as Green Acres?

MR. WILSON: The League has supported the in-lieu payments, Senator, for many years. Of course, it has always been fruitless until now. These bills have a habit of getting buried, I'm sure, deep in the pile. But we certainly would support in-lieu payments, as I said before, by the state to the municipalities and certainly by the county to the county seat or perhaps the locale of a county college. I think that there should be in-lieu payments in a much broader fashion than they are now.

ASSEMBLYMAN EVERS: Thank you.

ASSEMBLYMAN TODD: Through you, Mr. Chairman. We all enjoy the promotions. There have been a couple here this morning. These are all Assemblymen over here.

MR. WILSON: I am sure they aspire.

ASSEMBLYMAN TODD: We are very proud of our participation in this hearing.

MR. WILSON: It's my pleasure, Mr. Todd.

SENATOR KAY: Thank you very much, Mr. Wilson.

We will now adjourn for lunch. It's about four minutes after one. We will reconvene at 1:45 and the next witness will go on at 1:45. I'm doing the best I can with the list I have. Marriott Haines is next.

(Recess for lunch)

Afternoon Session

SENATOR KAY: We will reconvene the hearing and at this time may I ask that all parties take seats, please, within the Chamber.

Mr. Haines.

M A R R I O T T H A I N E S: Mr. Chairman and members of the Legislature: My name is Marriott G. Haines, Assessor, City of Vineland, and I am representing the Association of Municipal Assessors of New Jersey.

I am accompanied by several members of our Executive Committee, including the President of our Association who is seated at my right, Mr. Daniel Kiley, Assessor, City of Plainfield.

Our statement is as follows:

Assessors agree there is little to concern them directly in bills and proposals to repeal those chapters in the Laws of 1966, (that is, Chapters 133, 134, 136 and 137) which provide the Four-State administered sources of the revenue to distribute to municipalities as a replacement for locally-levied and collected taxes on Business Personalty. The issue is not involved with the bills for repeal. If there is an issue at all which concerns New Jersey Assessors, it is the replacement of the revenue loss by the repealers. If the replacement of the lost revenue is intended to be supplied by returning the administration of Business Personalty taxes to the municipality, in

whole or in part, assessors are divided on whether they want the work back. The question arises whether such a replacement or any other would supply the necessary money to provide the same level of income for municipalities as is now provided by the existing tax package distributed under Chapter 135 of the Laws of 1966. It is noted that legislation such as Assembly Bill No. 208 proposes a revision of Chapter 135, which gives each municipality the best levy of 1964, 1965 and 1966, to include the year 1967 in order to potentially increase the save harmless level.

In general, assessors would prefer not to take a position on the repealers themselves except to point out that repealing the tax producing measures would be calamitous in terms of State finances considering the obligation under Chapter 135, the distribution statute, to indemnify the local taxing districts. On the other hand, if the obligation is removed by the repeal of Chapter 135 as well, it would be calamitous at the local level. If it is suggested that this fiscal vacuum could be filled by returning Business Personal Taxation to the municipalities, we would have to remind the legislators that the last dual-rate ratio-assessment formula of Chapter 51 did not work and that was adopted as a solution to the problem, the inequities and inadequacies of the original personal property legislation. Because of the complexities and types of districts involved in our membership, there are mixed feelings among

assessors about the proposals for the return of personal property taxation to the local level. If the Legislature seriously considers such a proposal, we would have to carefully review what we would recommend as tax administrators until the effects of the repeal or modification of the existing package can be dealt by compensatory legislation. We would, therefore, be against proposals to repeal any of the Chapter 51 replacement taxes.

In view of your committee's function and the opportunity this testimony presents, it seems like a good time to mention for consideration observations that have already been made with regard to the efficacy of the present formula. The replacement funds distributed to the taxing districts are even now deemed inadequate - witness the proposal to add 1967 to the years on which the save harmless formula is based. One of the reasons for this is that the advances in both tax rates and assessed values has far out-stripped the advance in collections or prospect of collections at the fixed rate of State-administered business taxes. To put it another way, if business personalty were taxed locally even under the ratio assessment and the stabilization provided depreciation allowance, the local rates increasing substantially from year to year would produce ever-increasing revenue proportionate to the budgetary demand. It is suggested that a means be sought to more closely link

revenues from business and industrial sources to the increased demand and the existing economy expanding in an inflationary spiral.

This ends our statement. We want to thank you for this opportunity and if there are any questions, we will be happy to answer them.

SENATOR KAY: Thank you, Mr. Haines.

Does any member of the Committee have any questions?
Assemblyman Crane.

ASSEMBLYMAN CRANE: I have a question and it is this: You talk about the question arising as to whether replacement would supply the necessary money. What has been the experience of your city in the replacement package?

MR. HAINES: 1966 was the best year for my particular taxing district and I can give an explanation as to why. I think there are other municipalities that have had a similar experience. Many of our holders of large inventory found as the result of the enactment of Chapter 51 that they could get along with a smaller inventory so they started cutting down to save local taxes.

ASSEMBLYMAN CRANE: But what has been Vineland's experience as far as being saved harmless, so-called, by the replacement package? In other words, have you gained money or lost money this year?

MR. HAINES: We lost a little.

ASSEMBLYMAN CRANE: Would you know how much?

MR. HAINES: Yes, we lost the growth.

ASSEMBLYMAN CRANE: Well, what were your losses, how many dollars?

MR. HAINES: I would have to pull a figure out of the air to answer your question, sir. But I do know from discussing it with our Business Administrator that there was a slight loss because we are a growing municipality.

ASSEMBLYMAN CRANE: Have you any suggestions as to what ought to be done as far as your position as an assessor is concerned for the curing of some of the ills of the replacement package?

MR. HAINES: Well, sir, I don't want to circumvent your question, but as an Association we didn't feel that we were involved with the replacement package to that extent.

ASSEMBLYMAN CRANE: How about you individually, your individual opinion?

MR. HAINES: Individually, I would say this, that if there has to be a replacement, I would hope that it will be other than against real property.

ASSEMBLYMAN CRANE: Thank you.

ASSEMBLYMAN TODD: Through you, Mr. Chairman - Mr. Haines, in considering 1967 as an additional year, I assume you would like to see that included?

MR. HAINES: I have no objection, sir.

ASSEMBLYMAN TODD: Now I don't want to rehash a lot of old ground, but I have been trying to get as many opinions as I can regarding a percentage save harmless formula rather than a fixed dollar save harmless formula so that municipalities that continue to grow would be able to continue to take some parochial advantage in their growth. Do you have any feelings on this or opinions on this?

MR. HAINES: I think that the percentage factor would be preferable. I have no suggestions as to what that percentage factor should be. I think it would more adequately recognize and give the municipality the benefit of growth if we did have a percentage factor.

ASSEMBLYMAN TODD: Through you, Mr. Chairman - has this replacement package created any particular problems for the assessors?

MR. HAINES: No, I don't think so because to all intents and purposes we are out of the picture so to speak. We were only required to furnish a list of potential taxpayers to the State. That we have done. But it has created no other problems on the local level.

ASSEMBLYMAN TODD: I have no further questions.

SENATOR KAY: Thank you very much, Mr. Haines.

MR. HAINES: Thank you, gentlemen.

SENATOR KAY: Mr. Andrew Preston.

A N D R E W J. P R E S T O N: I am Andrew J. Preston, President of the New Jersey Pharmaceutical Association. I reside in Kinnelon, New Jersey, in Morris County and I own Preston's Pharmacy in Boonton, New Jersey.

I wish to thank the Committee for the privilege of appearing here before you, Senator Kay, the Chairman, and Assemblyman Todd, the Co-Chairman.

I would like to relate here that the testimony I am giving here this afternoon is relative to the unincorporated gross receipts tax. Although it is not written in the testimony here, I would like to clarify a point that Assemblyman Todd raised this morning that is rather important to the point we wish to make here, that on \$100 thousand of gross under the unincorporated gross receipts tax, the amount of tax is \$250 per \$100 thousand, not \$125.

ASSEMBLYMAN TODD: Just to clarify that point, that was based on a net basis.

MR. PRESTON: I am bringing that out simply because we are resting our case on the premise that very many businesses have a small markup and that they may have large gross sales and this is directly involved.

The New Jersey Pharmaceutical Association represents approximately 2500 registered pharmacists in the State from amongst approximately 3300 active practicing pharmacists. Approximately 1200 of our pharmacist members are pharmacists in

charge or owners of the 1700-odd community pharmacies in the State.

We have no data on the number which are incorporated versus the number which are unincorporated. When we became interested in the unincorporated gross receipts tax, this matter was discussed at one of our meetings and approximately half of the members present indicated that they were incorporated and the other half indicated that they were unincorporated. There were approximately 30 members present at this meeting; based on my own knowledge of those present, I assume that they represent a cross-section of our membership. On that basis, it is safe to assume that there are approximately 800 to 900 pharmacies in the State which are unincorporated and which are, therefore, forced to pay the tax we are discussing at present. Many, if not most, of these pharmacies are of the one-man type. I would say that in this aspect only, our smaller unincorporated pharmacies are similar to the many tens of thousands of unincorporated retail businesses in the State.

The unincorporated gross receipts tax falls very heavily on retail businesses which in large measure trade dollars between suppliers from whom they purchase their inventories and the consumer whom they service. Many small retail businesses operate on a gross margin of 20 to 34 per cent. This means that the State unincorporated gross receipts tax is taxing the 70 cents, more or less, invested in inventory which the retailer

is merely trading between the consumer and supplier. Additionally, the consumer ultimately pays the tax on the commodity which he purchases based on the turnover which develops between the wholesaler, retailer and manufacturer's level.

The unincorporated business gross receipts tax is unequitable and should be rescinded. Taxes on gross receipts are not sufficiently flexible to allow for the multitudes of unique situations which exist in business today. Taxes which affect service-oriented non-inventory businesses in one way affect service-oriented inventory businesses and non-service-oriented inventory businesses in other ways. A gross receipts tax avoids the issue of equity by taxing all of the various types of businesses in the same way and, therefore, creates a hardship for some segments. We believe that the gross receipts tax should be eliminated in favor of an added value tax, if the State needs these tax dollars. Perhaps the Legislature should allow all unincorporated businesses to compute their tax liability alternately on either a gross receipts basis, if this tax need be maintained, or on an added value basis, if the tax need be maintained.

Since the added value tax was developed in France in the mid 1950's, its use has grown on the European continent. The added value tax is fair to the consumer in that it does not accumulate the tax on one item repetitiously. Each level of distribution has his tax computed merely on the value which he

adds to the item (gross profit). This is most equitable in inventory and commodity handling businesses. The retail business would pay only on the dollars which actually are available to it; wholesalers would pay only on the dollars which are available to it; manufacturers would pay only on the dollars which are available to it.

We believe the concept of alternative computation of tax is a sound one. The same privilege of alternative selection of tax computation has been available through the Federal income tax for several years. For example, the Internal Revenue Service allows each married couple to compute their tax on a joint or individual basis, whichever provides the taxpayer with the most benefits, i.e. the least tax liability. The Internal Revenue Service further allows each taxpayer to make this decision each year. No permanent election is required.

I would like to add this to the written statement for the record - it is not in - to further clarify the point I am making: An inventory-type business, therefore, pays three to four times the tax on the money actually available to it compared to a service business where there is little or no inventory.

I would like to introduce Mr. Alvin Geser, the Executive Secretary of the New Jersey Pharmaceutical Association, who is sitting next to me and I would like to thank the Committee for giving us this opportunity to present these views.

I and Mr. Geser would be happy to answer any questions

that you may have.

SENATOR KAY: Thank you, Mr. Preston.

Assemblyman Todd.

ASSEMBLYMAN TODD: Firstly, Mr. Preston, I would like to compliment you. You are the first one that has really come before us today and offered us an alternative way out of a particular box in suggesting a slightly different tax structure. I would like, however, to ask you, and you can answer this personally or as head of your Association, whichever you choose, whether this unincorporated business tax might not be acceptable on a net basis or a net income basis rather than an added value. What is the difference, number one; and number two, would a net-income basis for taxation be an acceptable alternative in your mind?

MR. PRESTON: Well, I would like to answer that in this respect: Early in 1966, our Association did endorse and recommend a broad-based tax, but we did not take a position as to the sales or income tax aspect. However, if you are asking the question as to which is more equitable, accountants or anyone here that has presented their story today can attest to the fact that the net profits on any business, of course, is more equitable. We present this added value tax as an out for the Committee because as I mention tax after expenses or a net tax, everyone says "income tax" and it is a dirty word in the State of New Jersey and I don't understand why it should be.

ASSEMBLYMAN TODD: This is really my question. This is

a nice out, but compared to a tax on net profits, to avoid the phrase "income tax," is it an acceptable alternative in your mind?

MR. PRESTON: I believe it is the most acceptable alternative to a tax on net income from a business.

ASSEMBLYMAN TODD: Would you have any objection to a change from this unincorporated gross receipts tax to a net income tax?

MR. PRESTON: No, I would have no objections to that, no, sir.

ASSEMBLYMAN FEKETY: In line with Mr. Todd's question on net, you ought to give some consideration of what percentage is involved in the net unless you are applying the old formula of unincorporated and applying it to net. In other words, right now the corporate tax is 3 3/4 per cent. Now if this were 3 3/4 per cent of the net, would you still be of the same opinion?

MR. PRESTON: I don't think I am qualified to answer that.

MR. GESER: Can I say one thing? In reference to net versus added value, the administration of an added value tax should be much easier. One of the hazards in going to net as related to added value is that over the period of years because the legislators are human beings, you develop a tax-loss structure which contains something like the Federal structure, a million

little loopholes - little or large loopholes, depending on how you look at it - that are a great hazard in the administration and which essentially are discriminatory because they shift the tax burden and in many instances they shift the tax burden to those who are the least able to pay and who are also least able to protect themselves in a legislative promotional type of way.

ASSEMBLYMAN FEKETY: One other question: Has your organization taken into consideration the advantages to the unincorporated of incorporating? Has anyone incorporated since the enactment of this law?

MR. PRESTON: I don't know the answer to that. I know there are some businesses that are running scared and are incorporated merely to avoid this particular unincorporated tax. But personally I have been advised by my lawyer and my accountant not to incorporate under these conditions because it is felt by my advisors, my personal advisors, that this particular tax is so inequitable that this Committee might consider a change in it.

SENATOR KAY: Any other questions of this witness?

[No response.] If not, thank you very much.

MR. PRESTON: Thank you.

SENATOR KAY: Mr. George Birmingham.

I trust no one will feel offended at my procedure on the list. I am doing the best I can and am endeavoring to honor a few commitments that were made two and three weeks ago. I cannot

live by a time schedule, but I am doing the best I can.

G E O R G E F. B I R M I N G H A M: I am George Birmingham, Treasurer of Hahne and Company, a department store operating in New Jersey for the past 110 years. I appear today in my capacity as Chairman of the Taxation Committee of the New Jersey Retail Merchants Association, an organization having a membership of more than 300 small and large retail stores throughout the State. I also wear an additional hat as Chairman of the Retail Committee of the New Jersey State Chamber of Commerce.

I sincerely appreciate this opportunity to submit our views at this hearing on a subject which is of the utmost importance to the retailers of New Jersey. That subject is the repeal of the New Jersey Retail Gross Receipts Tax, a tax enacted by the 1966 Legislature and becoming effective on receipts received on and after January 1, 1967. The Retail Gross Receipts Tax was enacted, as you know, as one part of a four-part tax package designed to provide substitute revenue for business personal property taxes under Chapter 51 of the Laws of 1960. This 1966 tax package was, in substance, recommended by a Governor's Committee on Local Property Taxation appointed by Governor Hughes as a result of the general dissatisfaction with the Chapter 51 business personalty tax provisions.

Concurrent with the Governor's notification of his intention

to appoint such a Committee, the Governor stated, and I quote, "In my opinion, the Business Personalty Tax is not a desirable one because it is not a fair measure of business capacity to pay." This statement of the Governor embodies the first objection that retailers have to the Retail Gross Receipts Tax; that is, it is not a fair measure of business capacity to pay. This taxation, confined to one segment of the business population, takes no account of earnings or net worth in its assessment formula. In 1966, the last year for which figures are available, the retail food stores nationwide had an average annual earnings of 1.18 per cent to sales after taxes and the retail department stores had average annual earnings of 2.91 per cent to sales after taxes. Certainly these marginal profit percentages do not lend themselves to the premise that the retail business community should absorb an additional tax not shared by the remainder of the business community.

When the Governor's Committee submitted their report, they noted that their findings were guided by criteria, the first of which they stated to be, and once more I quote, "Equity - it is a rare tax proposal which does not claim the virtue of equity. But such claims usually rest upon the uncertain foundation of inadequate definitions of equity itself. In this sense the Committee believes that an equitable solution to the Personal Property Tax problem requires (1) that business must pay its fair share of the state and local taxation and (2)

that business taxes must be applied in a manner to render them as sterile as possible of selective treatment or tax discrimination as among classes of business or as among single businesses within any class." Certainly the Retail Gross Receipts Tax defies this criteria both as to discrimination as among classes of business as well as among single businesses within a class.

The New Jersey retailers recognize the many demands that are placed upon government for providing a great variety of services for our citizens and we further recognize that various forms of taxes must be imposed to finance these services. We do not appear here today to question any of the basic concepts of taxes or spending at any level of government. The retailer pays his fair share of all local and state taxes. If he is incorporated, he pays as all other incorporated business in the State, his share of the increased Corporate Income Tax, an increase for 1967 of from 1.75 per cent to 3.25 per cent. The retailer also pays, as does other businesses within New Jersey, the new Machinery and Equipment Tax. As a matter of fact, the retailer will pay 9 per cent of the total of this tax to the State of New Jersey. We do appear here today, however, to emphatically protest the discriminatory nature of the Retail Gross Receipts Tax, a tax which the retailer shares with no other segment of the business community.

Our complaint is especially urgent since we have already been burdened with the task of becoming the unpaid collector of

the New Jersey Sales and Use Tax. This very substantial contribution to the State might well be termed another form of taxation. Authoritative studies on the cost to the retailers of collecting the Sales Tax demonstrates that such costs involve anywhere from 1 to more than 10 per cent of the tax collected. This cost is incurred because of the required change in cash register equipment, record-keeping requirements and sales person computation of the tax. Since New Jersey has by far the most complicated and extensive system of tax exemptions, we unquestionably rank highest in collection cost of any state. Twenty-two other states have recognized this cost by permitting the retailer, as a tax collector, to retain from 1 to 5 per cent of the tax collected. New Jersey has ordained that the retailer absorb the full cost of this collection. Based on first 11 months sales tax collections of \$220,000,000, the minimum collection cost required to be absorbed by New Jersey retailers, computed at the rate of 3 per cent, was \$6,600,000.

A fact sometimes ignored, but of economic importance to the retailer, is that the retail industry, in addition to its collection burdens, is also subject to the payment of the Sales Tax. Unlike manufacturers, no exceptions are granted to retailers for their purchases not intended for resale. This simply accentuates the discriminatory approach adopted by the State toward the retail industry.

I would like to point out the status of the Gross Receipts

Tax in other states to demonstrate the inequities existent with the New Jersey Tax. The following states do impose a Gross Receipts Tax:

Alaska - on all forms of business receipts.

Delaware - on all merchants and manufacturers.

Mississippi - on all wholesale purchases.

Washington - on all purchases.

Indiana and West Virginia have Gross Receipts Tax; however, in both states the retailer pays either the Gross Receipts Tax or Corporate Income Tax, but not both.

In Alaska and Delaware, listed above, there is no State Sales Tax, and in Washington there is no Corporate Income Tax. There is no other state in the United States that imposes a Gross Receipts Tax strictly confined to the retail merchants.

Now at the time of enactment of the New Jersey Sales and Use Tax, the Legislature took great pains to eliminate the payment of taxes on food, clothing and other so-called consumer necessities. We now find ourselves in the position of taxing these very items under a different name. It must be obvious that the Retail Gross Receipts Tax cannot be considered to be absorptive by an industry earning the low profit margins mentioned earlier. Eventually this tax must be borne by the ultimate consumer, primarily by the very individual whose purchases were considered to be worthy of exemption under the Sales Tax.

We recognize that this package of replacement taxes must

hold local communities harmless to the extent of their earlier Business Personalty Tax collections. We contend, however, that the State of New Jersey has been somewhat less than precise in portraying the expected yields from these taxes. The yield estimates by the State, tabulated in 1965, were based on 1964 available data. At the time of passage, it was widely rumored that the requisite votes for enactment were obtained only on the representation that if the yield from the first two components, that is, the increased Corporate Tax and the Machinery and Equipment Tax, were sufficient, the Retail Gross Receipts Tax and the Unincorporated Business Tax would be repealed. To this date the estimates of yield by the State are unchanged from the 1964 figures. Certainly the State knows, or should know, what the Retail Gross Receipts Tax will yield because these figures can be found in the 1967 Sales Tax returns and in addition the State has, or should have, a much more current estimate of the yield of the remaining three taxes enacted in the 1966 package.

We ask you gentlemen to please keep in mind that the original State estimate of the first eleven months Sales Tax revenue was \$162,000,000. The State Chamber of Commerce's estimate at that same time was \$200,000,000 and the actual collections were \$202,000,000. It is our contention that the yield from the increased Corporate Income Tax, the Machinery and Equipment Tax and the Unincorporated Business Tax will be

more than sufficient to hold the State harmless for reimbursement of the required revenue to local governments. If this contention is correct, we urge the present Legislature to fulfill the commitment of 1966 and repeal this discriminatory tax. Passage of Assembly Bill 88 or Senate 404 would fulfill this commitment.

We appreciate the opportunity to express our views here today on this most important subject and may I, as a representative of the retail industry, pledge our interest and support to you gentlemen in your deliberations to correct inequities in New Jersey's tax law. We retailers have a very real stake in the economic health of our State and we stand ready to assist in every possible way to insure that health. Thank you.

SENATOR KAY: Thank you, Mr. Birmingham.

Any members of the Committee have any questions of this witness? Assemblyman Todd.

ASSEMBLYMAN TODD: Through you, Mr. Chairman - Mr. Birmingham, I think in view of the present fiscal problems that we have facing the State, that repeal of any of the taxation is going to be highly questionable and certainly any more than the retail gross receipts tax would face very, very strong opposition. I wonder if in either of your two hats you might find a suggestion towards replacing even the \$4 million from the retail gross receipts tax should that be repealed.

MR. BIRMINGHAM: I do believe that the solution to that

has been presented. I was not aware until I listened to the questions and answers this morning as to the status. As you note in here, I make the contention that I feel the collections will be higher. We learned this morning that on an estimated yield of \$28 1/2 million on the machinery and equipment tax, the State Division of Taxation now states that they will receive this first year \$40 million or an excess of \$11 1/2 million over the estimated yield.

Now if this is in fact correct, I would say that you can accomplish two things immediately on that excess alone without going into the corporate income tax. That is, you may well want to consider the extension of adding 1967 to the base year that the municipality may use in their "hold harmless" and you would in addition have sufficient moneys to hold them harmless through 1967 and still not make a collection of the retail gross receipts tax.

I feel very strongly that although we have no accurate figures from the State on the increased corporate income tax, they are being rather modest in their estimates of the increased revenue from that tax.

ASSEMBLYMAN TODD: Through you, Mr. Chairman, I don't mean to question Mr. Kingsley's figures and Mr. Kervick's estimates, but I note that they sort of pop up from time to time when things look a little tough and they have a program that has to come through and people are howling. I would still wonder if

elimination of this tax, which again is a very small figure, \$4 million roughly and again there is some suspect to that figure as to whether that in fact be accurate --- Let me change it a little bit and not say that it should be or must be replaced, but do you feel that it could be replaced through some other method and relieve the discriminatory feeling that the retailers have in the State?

MR. BIRMINGHAM: I would say that in my opinion all of the retailers in the State of New Jersey stand ready to bear their full share as shared by all of the remaining business segment of our State. If in fact the premise that the override on collections for this year would not satisfy the hold harmless features of the act, even if the act were to be amended to include 1967, and there then had to be an alternate choice and if that alternate choice were, as an example, to be a movement of the corporate rate from 3.25 to 3.3, the retailers certainly would prefer this type taxation rather than a tax individually designed for the retailer.

ASSEMBLYMAN TODD: Anything would be better than that.

SENATOR KAY: All right. Thank you very much, Mr. Birmingham.

Mr. Glucksman.

H A R O L D D. G L U C K S M A N: Mr. Chairman and members of the Senate and Assembly Committees: I am Harold Glucksman and I am the Vice President of the New Jersey

Society of Architects and on behalf of the New Jersey Society of Architects, which is a chapter of the American Institute of Architects, we respectfully submit the following facts for your consideration pertaining to inequities to architects resulting from the constitution of gross receipts and the application of the unincorporated business tax act.

These inequities fall into two classifications - first, reimbursed disbursements. These are disbursements by the architects on behalf of clients for costs of official permits, filing fees, application fees and approval fees to municipal, county, state and Federal agencies. Specifically they constitute building permits, State Department of Labor fees, State Housing fees, planning board fees and the like. These disbursements by the architect to governmental agencies is made as a courtesy on behalf of his client in order to expedite the filing for and the obtaining of required approvals and are accompanied always by an official application or filing form with the amount of the fee clearly defined by the agency. The amounts can range from a minimum of one dollar to many thousands of dollars, depending upon the magnitude of the project. Reimbursement by the client to the architect is based upon a precisely defined billing which is kept separate and apart from normal, professional fees. Yet under this act, these reimbursed expenditures are considered taxable as part of the architect's gross receipts.

Other disbursements by the architects consist of travelling

and related expenses when projects are beyond the scope of normal professional services and home, to office, to project travel.

Reimbursement is again based upon an agreement between the architect and the client, is always billed and kept segregated from normal professional fees. Yet such reimbursement by the client is now considered part of gross receipts under the act, whereas this money actually represents the return of expenses advanced by the architect on behalf of his client.

The second inequity I wish to discuss is under the classification of shared fees, namely, where two or more architects are associated on a specific project and share the fees based upon an agreed division of service and responsibility. The total fee is always paid by the client to only one of the associated architects who, in turn, must dispense proportionate shares to his associated architects in accordance with pre-established contractually-agreed percentages. The architect who initially receives the total fee must now include the entire sum as part of his gross receipts and pay a tax on the entire sum, even though he merely acts as a transmitter on behalf of all of the associates and his own particular portion of the fee might very well be less than 50 per cent of the total amount.

The associate architect, of course, in turn includes his portion as part of his gross receipts and also pays a tax accordingly.

As architects, we also share fees with engineers and under

certain architect-engineer contracts, the client establishes specific amounts of fees which are sometimes established by ordinance or similar measure and these fees are paid to the architect's consulting engineers, namely, structural, mechanical, and electrical engineers. However, the architect is established as the over-all coordinator of the entire project and as such, the total fee is again paid to the architect who in turn dispenses the agreed amounts to the engineers upon submission of proper invoices. These payments to engineers usually average between 30 to 50 per cent of the total fee, depending upon the magnitude and complexity of the project. The architect again under this agreement and arrangement must include the entire fee as part of his gross receipts, although again he merely acts as a transmitting agent for that portion which is paid over to the engineers.

The engineers maintain separate practices, organizations and officers, are licensed by the State and operate completely independent from the architect. They share the service and responsibility for the project and in turn also pay tax on their individual gross receipts.

To recapitulate, the New Jersey Society of Architects submits that the act is completely inequitable to include (a) reimbursed expenditures, (b) total fees despite sharing with other professionals, and to include these as gross receipts.

In the instance of reimbursed expenditures, there is no

income involved since they constitute only a replacement of moneys spent by the architect on behalf of his client. In the case of shared fees, the architect is only a transmission agent on behalf of his associated architects and engineers, all of whom do include their shares as part of their own gross receipts and pay the tax as designated by the act.

For these reasons of inequity, the New Jersey Society of Architects urges the repeal of the excise tax on gross receipts of unincorporated businesses, but from a practical consideration and knowing that tax income is required and necessary, we therefore would consider a modification of the existing act to eliminate the heretofore stated inequities and to make the act more palatable to our members. Respectfully submitted.

I might add that the New Jersey Society of Architects is one of the ten professions which committed Dr. Flink to prepare the critical evaluation which was submitted to you and to the members of the Committee by the Bar Association.

SENATOR KAY: Thank you, Mr. Glucksman.

You do not have sufficient copies of your statement to give to the Committee?

MR. GLUCKSMAN: Because of certain modifications the copies that were available are a little outdated and we will send to you tomorrow complete copies for all of your Committee members.

SENATOR KAY: Thank you very much. Assemblyman Crane.

ASSEMBLYMAN CRANE: Mr. Glucksman, if I may, I have a few questions.

MR. GLUCKSMAN: Yes.

ASSEMBLYMAN CRANE: You, of course, have certain standard fees depending on the type of work as I understand the architectural profession. For example, a million-dollar public building would have a certain fee attached to it and out of this would probably come the mechanical engineering and so forth - different categories that you would share your fees with. Is it standard in the industry for you to apply a markup to these fees for your processing and handling of these fees?

MR. GLUCKSMAN: No, it is not. There is no standard fee, per se, for architectural purposes only because the projects range very greatly in complexity. We do have a schedule of recommended fees which is published by our society.

ASSEMBLYMAN CRANE: Yes, I have seen it.

MR. GLUCKSMAN: And use as a guide, of course. But the establishment of fees or the acceptance of standard fees is not considered a definite fact. These fees can range and do range and there is no markup put on for the mechanical engineers or structural engineers.

ASSEMBLYMAN CRANE: In other words, he would get his dollar-for-dollar share of the fee.

MR. GLUCKSMAN: He works on a percentage basis of his particular trade - if he is a structural engineer, of the

structural engineering work, the structural steel and reinforced concrete.

ASSEMBLYMAN CRANE: I see. Now in his practice as a structural engineer, for example -- Well, let me go back a bit. You would then pay a gross receipts tax on the fees which you collect. You would then pass a certain amount of this to the structural engineer, for example. He would then pay a gross receipts tax on that part which he receives?

MR. GLUCKSMAN: That is correct.

ASSEMBLYMAN CRANE: So that part of the money would have the gross receipts tax applied to it twice?

MR. GLUCKSMAN: Correct.

ASSEMBLYMAN CRANE: And if he then has to share fees with somebody else, so on down the line.

MR. GLUCKSMAN: This could multiply two or three or four times, depending on the type of work and the number of additional consultants that are used by the architect or by the various engineers.

ASSEMBLYMAN CRANE: Thank you.

SENATOR KAY: Assemblyman Evers.

ASSEMBLYMAN EVERS: Your main argument, Mr. Glucksman, is that the tax does apply to disbursements that you make on behalf of a client and also shared fees. That being the case, is it safe to assume that the Association then would accept a tax that would be on your gross profits instead of total repeal of

the entire tax?

MR. GLUCKSMAN: Well, I did state at the very end that this certainly would be considered and unofficially, because this has not been discussed in complete detail.

ASSEMBLYMAN EVERS: I see.

MR. GLUCKSMAN: I would feel that this in my opinion would be a good compromise.

ASSEMBLYMAN EVERS: Just one other point so that you won't feel that we are discriminating against you - everyone else has been asked this question - does the Association have anything to offer in the event the tax is repealed as an alternate?

MR. GLUCKSMAN: Well, under the joint effort put forth by the ten organizations who engaged Professor Flink and since architects admittedly are not too good in finance and not tax experts, we felt that his recommendations when they are arrived at would probably be our recommendations.

ASSEMBLYMAN EVERS: You are in the same category as lawyers then?

MR. GLUCKSMAN: Right.

ASSEMBLYMAN EVERS: Thank you.

SENATOR KAY: Assemblyman Todd.

ASSEMBLYMAN TODD: My question has been asked and answered in a slightly different form than I would have proposed it, but satisfactorily nonetheless.

SENATOR KAY: Any other questions by any member of the Committee? [No response.]

Thank you very much.

MR. GLUCKSMAN: Thank you.

SENATOR KAY: Bruce Schragger.

B R U C E M . S C H R A G G E R : Mr. Chairman and members of the Committee: I am Bruce Schragger and I am Township Attorney for Ewing Township, a lovely township not too far from Trenton, with 13.9 per cent of our land owned by the State of New Jersey, which is irrelevant but compounds our problem, and I am sure with another group we will get into that problem.

Ewing Township for better or for worse, I think, under the direction of our Financial Director William Henn, who had to be out of town on business today, discovered some year and a half ago that the replacement tax package by eliminating or not including 1967 was going to cost Ewing in excess of \$100,000, actually it is in excess of \$200,000, and at that time we went on record in favor of including the year 1967 as one of the base years. We come before this Committee again to reiterate that position, the position which has also been taken by the League of Municipalities and several others, I understand, this morning. But we are more concerned than just the use of the year 1967. Of course, this will ease our situation for one year, but what does it do to our future growth? It is true

under the existing law if there are additional funds over and above the replacement packages, these will be distributed throughout the State, but apparently not in accordance with the growth of each municipality.

This again is another hardship and burden on a municipality that has good highways, good facilities and is prepared to grow and to invite and to respect the rights of industry and business. So we are not only concerned about including 1967; we are also concerned about the over-all future growth and loss to the township.

For example, our total percentage of personal property tax up through the year 1966 has been 19.3 to 19.6 per cent. Obviously if we are now levelled off at either '66 or '67, that percentage is going to drop. This means that once again the poor property owner - and we are all tired of hearing the phrase - but after I saw my new tax bill for the year, I decided I liked it even though it was an old phrase - is going to be hit again and again. To tell you exactly what I am talking about, in Ewing with a 50 per cent assessed value, our rate went up some 145 points this year from \$6.29 to \$7.64 or 23 per cent. Now some 15 to 20 per cent of that increase was due to the loss of the year 1967. We received in business personal taxes in 1967, \$1,261,000. Under the package, we will receive this year some \$892,000, a loss of some \$368,000. Of course, some of this is made up in new revenues from utilities. But our loss still is

approximately \$200,000 for the year and the figure, give or take a few dollars, is difficult to tell because of the change in accounting methods.

So I would urge again as others have urged today, not only the use of the year 1967 in the package, but some means to provide for the continued growth of business in Ewing and in other communities throughout the State to benefit the taxpayers of that particular township or area. Thank you.

SENATOR KAY: Thank you, Mr. Schragger. Assemblyman Todd.

ASSEMBLYMAN TODD: Through you, Mr. Chairman - Mr. Schragger, do you have any suggestions along these lines?

MR. SCHRAGGER: Well, again, the only logical suggestion, and everyone has apparently been avoiding it or talking around it, is a broad-based tax and I am not proposing that as a township official. But personally it seems to me - I heard the members of the Pharmaceutical Association talk and your questioning - if we call it a net receipts tax, it is O.K., but if we call it a net income tax, it may be a problem. I think all of us are kidding ourselves. Apparently everyone is requiring more and more services. Apparently the burden is becoming greater and greater on the homeowner, an obvious 23 per cent raise in Ewing, of which none of it or just a very few cents was local purpose. Fifty-nine cents of the 149 points was county. The school and local purpose is difficult to tell because of the change in revenues, but some 20 to 25 points was our loss in

the year '67 and most of the balance was the increased school tax. So obviously it either has to be a broadening of the sales tax or an increasing of the rate or another broad-based tax which is an income tax.

ASSEMBLYMAN TODD: Again, Mr. Chairman - I appreciate your views on the total tax structure in the State. I am thinking specifically about a means of, under the business personal property tax, keeping growing municipalities current rather than freezing them in their "save harmless" return. I wonder if you had any suggestions. We talked this morning about some sort of percentage formula so they could share in their growth.

MR. SCHRAGGER: Well, it would seem to me, and I would agree that the logic of the original package so that industries throughout the State would be treated equitably and assessed at one level is a fair and reasonable one and the only extension of that is to again have the State act as the collecting agency and the rate-making agency and returning the moneys to the municipality based on growth rather than based on a past year's experience which doesn't reflect and as a matter of fact hinders a community that goes out of its way to attract industry.

ASSEMBLYMAN TODD: Thank you.

SENATOR KAY: Senator Italiano.

SENATOR ITALIANO: In other words, I take from this you are more acceptable to a percentage formula rather than a fixed-

dollar formula ---

MR. SCHRAGGER: No, I don't know --

SENATOR ITALIANO: [Continuing] -- with regard to growth.

MR. SCHRAGGER: Well, anything would be better than fixed dollar. I would think it should be based on actualities rather than a percentage of the growth. I mean, if we have grown so our increased income would be \$200,000 next year, I would like to see \$200,000 not a percentage of that.

SENATOR KAY: Assemblyman De Korte.

ASSEMBLYMAN DE KORTE: As long as we are in this, and it is a very difficult area indeed and I may get bogged down a little bit here with this witness, but I would like to pursue it a little bit - there is as you probably know in the present amount a provision calling for the redistribution of the excess over the amount required for the "save harmless," and that excess is to be distributed to each municipality in accordance with the proportion arrived at by taking the amount of commercial, industrial and farm property within that municipality and applying it to the total amount of commercial, industrial and farm property within the State. Now in a sense, answering my own question, but trying to draw you out too, the difficulty I see with that is in the first place a big difficulty with definition, what is industrial property and what is commercial property and what is farm property, and beyond that it doesn't bear any direct relationship to business personal property.

Now would it satisfy or solve your problem to some extent if that ratio were determined by taking the total amount of business personal property located in Ewing Township and applying that against the total amount of business personal property assessed within the State and allocating that percentage of the excess to Ewing Township?

MR. SCHRAGGER: Well, that would obviously help somewhat. But again you are talking about taking every municipality throughout the State and throwing everything into a pot and if there is an excess - and it is amazing how the executive will find a means to need this excess for other urgent compelling programs - if there is an excess, pro-rating this somewhere along the line - of course, this is assuming that no municipalities are losing business personal property tax or that the municipalities are growing at such a fast rate that they are more than compensating for those losing it. It still doesn't solve the problem of the municipality that is growing and reimbursing that municipality on a dollar-for-dollar basis. I mean, some of these formulas have been thrown out - for example, the State guaranteeing of bonds - and this is irrelevant but I think makes a point - the State guaranteeing of bonds for school districts that are too poor to float their own bonds. Well, you get into a big circle. Are you as a municipality better off saying, "Forget our obligation to our electorate and everything else because if we are in deep trouble, the State will take us over"? And I

say this is what is going to happen unless you continue to allow the municipality within reason to make provision for its own financial growth and own financial needs.

SENATOR KAY: Assemblyman Crane.

ASSEMBLYMAN CRANE: Mr. Schragger - is it Councilman Schragger?

MR. SCHRAGGER: No, I am just Township Attorney.

ASSEMBLYMAN CRANE: Well, that is a pretty good position. Would you like to see the package returned to what it was with the municipalities collecting their own moneys and trying to assess all sorts of business personalty?

MR. SCHRAGGER: Yes, sir.

ASSEMBLYMAN CRANE: You would. I got that from your testimony, I just wanted to determine it.

ASSEMBLYMAN DE KORTE: Through the Chair, you have no problem then with your township assessing business personal property taxes at a different rate than your neighbor?

MR. SCHRAGGER: We have never had any problem, no, sir.

SENATOR KAY: Any other questions? [No response.]

Thank you very much.

MR. SCHRAGGER: Thank you very much for the opportunity to speak.

ASSEMBLYMAN TODD: Mr. Schragger, could I request a copy of your figures? They are very interesting to me.

MR. SCHRAGGER: I have a lot of notes over this. I shall

prepare them and send them to you.

ASSEMBLYMAN TODD: If you would.

SENATOR KAY: Mr. Ferrara.

J E R R Y M. F E R R A R A: Gentlemen, I want to apologize for the shortage of copies, but I didn't think the Committee was going to be so large. Any that we missed, we will mail to the respective Committee members.

My name is Jerry Ferrara. I reside at 260 Van Buren Avenue, Teaneck, New Jersey.

I own and operate several gasoline service stations in Hudson County and am also Vice President and Legislative Chairman of the New Jersey Gasoline Retailers Association.

Our Association represents over 2,000 service stations; but in my testimony today, I am sure I speak for all of the 6,500 service stations in New Jersey.

I am here to urge the repeal of the unincorporated business tax in particular as well as modifications if not repeal of the Gross Receipts Tax.

I am not a "Johnny come lately" in speaking against these taxes as I voiced strong opposition in 1966 when they were conceived, hatched and passed even though many of the legislators who voted for passage had reservations about them.

They felt they had no alternative but to vote for passage as the bills were a "policy package." My expressed opinion then

that the small business man would "howl" when the effects of these taxes reached his pocketbook is evident by this hearing today. Most of those who voted for passage are not legislators anymore and you gentlemen, so to speak, "inherited the wind."

As they effect the gasoline retail business the taxes are bad enough, but administrative interpretation as to what is included in gross receipts make it even worse.

The nation at large is concerned about the possibility of a 10 per cent surtax on our income. Yet the unincorporated business tax as written results in a 5 per cent tax - I repeat a 5 per cent tax - on the net income of the average service station owner. I suggest you apply this figure quickly to your own income and see why we are hurt. Ours is a business with large gross receipts in relation to what our net profits are.

To compound our troubles, included in our gross receipts is ten cents a gallon gasoline tax as well as taxes on tires and oil.

These taxes represent over 27 per cent of our gross dollar receipts. With talk of a one cent tax increase, this would go to 30 per cent. An administrative interpretation of the Tax Division says these taxes are not deductible before computing our gross receipts.

Another ruling is that services such as labor are a deduction in computing the gross receipts tax but not the unincorporated business tax. Again we are penalized as labor

is a large factor in automobile repairs and service.

The gasoline tax is a "use" tax that the user is to pay. The taxes are shown as a separate item on our invoices from our suppliers who in turn remit the taxes to the State Treasury. Our price signs indicate the total price with the words "including taxes" printed beneath.

We discussed this with the Tax Division and they suggested our alternative was to seek legislative relief for 1968.

This, of course, does not solve our payments on taxes due for 1967. The only other recourse is to take court action and we intend to pursue it.

This brings us to another problem of the small business man. Court actions are time consuming and cost money, both of which are at a premium.

In the past, as a small business group, we sought legislative action for our problems and met with the answer from some that it was "special interest legislation."

Gentlemen, I say to you, if the small business man isn't of special interest to the legislators, who is?

The Federal anti-trust laws, the Robinson Patman Act and many others were created to protect him.

I feel certain that your presence here today indicates he is of special interest to you.

I would like to conclude by offering these suggestions:

1. Outright repeal of the unincorporated business tax.

2. If it's to remain, a modification of the gross receipts tax to allow for deductions of special taxes, such as the gasoline tax, etc., before computing gross. Also moving the due date of this tax from March 15th to April 15th or later.

3. Finally, calling of a tax convention with all segments of business and community represented to arrive at an equitable solution to the raising of funds for running our government.

I want to thank you for giving of your time to listen to one of the voices of the small business man.

SENATOR KAY: Thank you, Mr. Ferrara.

Do any of the Committee members have questions?

Assemblyman Fekety.

ASSEMBLYMAN FEKETY: Jerry, may I call your attention to the fact that I am one of the holdovers from the previous year.

MR. FERRARA: Yes, John.

ASSEMBLYMAN FEKETY: Number one, what percentage of the small gas stations average over \$150,000 gross?

MR. FERRARA: Roughly about 15 per cent at the maximum.

ASSEMBLYMAN FEKETY: Fifteen per cent are over \$150,000 gross.

MR. FERRARA: That's correct.

ASSEMBLYMAN FEKETY: That's all I wanted to know.

Thank you.

ASSEMBLYMAN CRANE: Jerry, I have to comment and thank

you for your plug for the tax convention, as being a sponsor of that.

MR. FERRARA: I thought it was yours, Assemblyman Crane, but I checked the Legislative Digest, they only record Senator Del Tufo.

ASSEMBLYMAN CRANE: Well, there are two. He has one and I have another.

You call for outright repeal of the unincorporated business tax, which is fine, of course, but you know the State's needs in revenue I am sure as well as a lot of us sitting here since you have been on the State scene for quite a number of years and you are as familiar with the budget as some of us are, I am sure. Is there any substitute measure other than what you have outlined that you think might be fair?

MR. FERRARA: Well, I have heard comment about a net. A net tax on our industry would be still rough for us unless it was a very small percentage. It would be a lot easier to figure out, of course. But the percentage would be important, Assemblyman Crane, as to how it would affect our industry. As you can see here, with one quarter of one per cent on gross, it ultimately arrived at 5 per cent on our net income. So if the percentage was small - I couldn't buy what was previously interpreted as passing over the percentages of the incorporated business tax on to us. That percentage would be murder to the small gasoline station.

ASSEMBLYMAN CRANE: Jerry, what would be an average profit figure for the average service station?

MR. FERRARA: An average net profit?

ASSEMBLYMAN CRANE: Yes, what percentage would he make on his gross, including all his operations?

MR. FERRARA: Dun and Bradstreet and Kiplinger Reports set at 22 per cent the gross profit. Now he nets out a very small percentage. A station doing \$150,000 gross, running with the benefits that should be given to employees, will stay in about the seven to eight thousand dollar class net.

SENATOR KAY: Assemblyman Todd.

ASSEMBLYMAN TODD: Mr. Ferrara, I wonder if you might comment about the number of service stations that are incorporated and what problems this presents to them, again as an alternative?

MR. FERRARA: Well, I would say if the tax stays the way it is, my suggestion would be even to the small service station to incorporate and take the benefits that he can derive from it. At present, about 12 per cent of the service stations are incorporated and they are usually the larger ones who either have one or more stations.

SENATOR KAY: Any other questions? [No response.]

Thank you, Mr. Ferrara.

George E. Smith.

G E O R G E E . S M I T H : Mr. Chairman and members of

your Committee: I would like to take this opportunity to thank you for making this meeting possible. I think it is very wonderful that we have this opportunity to come here and express our differences of opinion as far as this unincorporated tax is concerned.

My name is George E. Smith of West Englewood, New Jersey, and I am a wholesale distributor of hospital linens and textiles.

I would like to call to your attention first that within this group of unincorporated businesses as far as I can gather there are three distinct types of businesses. First there are those that deal in services and then those that are in the retail business and then those that are in the wholesale business.

I am sure when this law was written that they meant it to be equitable to all those concerned in the unincorporated group. However, with this gross receipts clause the way this tax is operated, it is really just the opposite.

You take this first group which include doctors and lawyers and so forth. They are actually taxed on their gross income, although it is called gross receipts, because the retail group are taxed on their sales. However, you have allowed this particular group \$150,000 deduction. Actually in this particular group of retail stores and so forth, they have a possible gross markup of about 50 per cent. So up to \$75,000 gross they do not pay any tax under this law.

The last group in which I am, with our method of operation

we are not able to have as large a percentage of markup because of the type of business and, therefore, we depend on volume.

Taking a \$50,000 gross profit, we will say, the first group would pay \$125 in taxes. The second group wouldn't pay any taxes. The third group would have to do over half a million dollars in order to gross \$50,000. This means that this particular group would pay \$1250 in taxes.

So it is my opinion this law is unfair, that it needs changing and that is why I am here to bring these points to your attention and to your consideration.

SENATOR KAY: Thank you very much, Mr. Smith.

Assemblyman Todd.

ASSEMBLYMAN TODD: Through you, Mr. Chairman - Mr. Smith, what is your reaction to a gross profits, a net receipt, a net income, whatever phrase you choose to apply to it, but converting the unincorporated business tax from an across-the-board gross tax to a net earnings tax?

MR. SMITH: Well, if this tax was equitably distributed as far as percentage is concerned, I have no objection to it the way it is. You are eliminating this textile group where I think you are missing a big boat. I don't know how many textile people there are in the State nor do I know how many unincorporated businesses there are in the State. Maybe you can give me that information. Did I read in the paper that there are 18,000 unincorporated businesses in the State?

SENATOR KAY: I am not prepared to answer that.

MR. SMITH: Well, I read this statement some place and it seems to me since I understand that you are interested in raising \$26 million under this particular law that if each person who is unincorporated and in business if they are taxed \$125 you will get your \$24 or \$26 million, or bring this tax so that it is equitable so far as all are concerned. You are eliminating one group entirely and the tax is falling on the other two and in the third group the tax is ten to twelve times higher than the first group which is certainly unfair.

SENATOR KAY: Any other member of the Committee have any questions of this witness? [No response.]

Thank you very much, Mr. Smith, for appearing here today and letting us have your views.

MR. SMITH: Thank you very much.

SENATOR KAY: At this time the co-chairman has advised me I had made a notation I felt we should take a five-minute break. Again I would like to limit it to the five-minute period. The Chairman will be here ready to go in five minutes.

[Five-Minute Recess.]

SENATOR KAY: We will resume the hearing and I will call on Mayor John L. Hogan. Apparently he wasn't able to remain.

Mayor Anzovino.

L A W R E N C E A N Z O V I N O : My name is Larry Anzovino

and I am Mayor of Dunellen and sitting next to me is Mayor Kerr from Sayreville and what we are asking for is the adding of the tax year 1967 as an alternate year and amend the business personal property tax enacted in 1966.

I would like to first speak about my community and I know that I am speaking not only of my community but of most communities in the State of New Jersey.

Dunellen is faced with a withdrawal of 300 pupils within the next year. Our only industry, our main industry, two weeks ago made a recommendation to close the plant. We lost \$55,000 as a result of this law.

We are faced with record-breaking increases as far as police raises and teachers' salaries.

About two months ago, I called a meeting of 51 mayors that were affected and from this meeting we decided to call another meeting of mayors, one representing each county. We felt that approximately 70 per cent of the communities in the State of New Jersey have been affected by this law.

Bridgewater lost \$340,000. Albert Haywood, the tax assessor from Bridgewater, is here. North Brunswick lost \$125,000. Piscataway lost \$135,000; Garwood, \$27,000; Highland Park, \$28,000; Sayreville, \$133,000; Ewing Township, \$200,000; Middlesex County, \$8,000. Trenton was also represented here today. Middlesex County had a loss of \$600,000.

The reason we had these meetings is more or less to create

pressure on the legislators for expediency to try to have this bill passed, this amendment passed, where it would help us in the year 1967. But I believe the way it appears now it would be too late for us.

I also feel that if it was passed this year, we could use it as surplus for next year.

I don't think that when this bill was passed the legislators realized that there would be repercussions such as there will be from here on in because it does involve most all the taxpayers of the State of New Jersey.

I contacted 140 mayors and found that most of the mayors are in favor of this amendment. I also would like to say that one of the mayors did receive \$100,000 as a result of the year 1966 so this wouldn't affect him.

Now the question is: Where do we get the money? Well, I would like to know what happened to our money. I was talking to one of the Senators and he felt that eventually the personal property tax will yield an excess which will give the State the money to return to us the money that we lost.

At the Mayors' Conference in May there will be a resolution passed pertaining to this law. Resolutions have been sent to all communities. Literature also has been sent to all communities. The loss to communities would be \$5.4 million. Hackensack also lost \$129,000. Woodbridge lost \$57,000.

So what I am asking for is an amendment passed - 281, 208

and 179 passed by the legislators.

SENATOR KAY: Thank you, Mayor. Any members of the Committee have any questions?

ASSEMBLYMAN TODD: I might through you, Mr. Chairman, just ask the Mayor whether he feels the inclusion of '67 is anything more than a stop-gap measure or temporary relief measure and does he have any thoughts on what might be a more permanent solution of this problem.

MAYOR ANZOVINO: Well, I imagine the permanent solution would be the repeal of the package. But if it was repealed, would we lose or the other communities lose the money for 1967?

SENATOR KAY: Assemblyman Crane.

ASSEMBLYMAN CRANE: Mayor, if I may, you asked for repeal of the law as a permanent solution. Would you then ask that the municipality be allowed to charge their own local taxation as they were before with your assessors trying to determine, for example, what a computer is worth or whatever?

MAYOR ANZOVINO: Well, speaking for our town, I would say it would be more beneficial to us.

ASSEMBLYMAN CRANE: Because as far as dollars go, you feel you would get more dollars back this way in spite of all the problems that you have with it?

MAYOR ANZOVINO: Right.

ASSEMBLYMAN CRANE: Have you consulted your assessor on this subject?

MAYOR ANZOVINO: No, I haven't.

MAYOR KERR: Well, might I say in talking with Mr. Kolb, the Assessor from Sayreville.--

SENATOR KAY: Excuse me. May we have your name for the record.

MAYOR KERR: Mayor Kerr of Sayreville. Perhaps a more equitable solution would be if a percentage basis were worked out. Sayreville has a very, very favorable tax rate because of our industrial climate in the community. We have still a great land potential for industrial development and, of course, hand in hand with industrial development we must balance with residential development. These all necessitate services to the community. We cannot throw the whole burden back on the home owner. Yet we must find an equitable way to reimburse the community for their efforts to induce industry to come in and at the same time service the industry.

I heard the questions asked this afternoon of how this might be worked out. I am a very young novice in this field. I have tried to learn a great deal here today and it has been most fruitful in that respect. I don't envy you your positions as you look at this problem. But I think you cannot stop and say a municipality is limited at a certain figure because there are municipalities such as ours who are striving to induce industry to come in to reduce the tax burden on the taxpayer.

What type of formula you can use, I don't know, but perhaps a percentage formula is the most equitable way to give

some type of benefit or reward to those communities who must suffer, and we do suffer as well as gain from industry.

SENATOR KAY: Assemblyman De Korte.

ASSEMBLYMAN DE KORTE: Trying to simplify this, suppose that an amount were to be paid back to your municipality roughly equivalent to the increase in the amount which the State might collect from business personal property located within your municipality, 1968 over 1967. In other words, let's suppose that as additional amounts are collected from this source by the State such additional amounts were funnelled back to the municipality from which they were collected. Would that be satisfactory to you?

MAYOR KERR: Without knowing all the facts and figures or what we can anticipate for the coming year, I couldn't truthfully answer you that question.

ASSEMBLYMAN DE KORTE: Well, I am trying to grossly over-simplify this frankly. Perhaps you can respond to the question.

MRS. ANGELA SZYMANSKI: Well, I would like to ask Assemblyman Todd or someone a question referring to his proposal for the excess dollars after all the municipalities receive their money; it is supposed to be paid back on the amount of commercial, industrial or farmland. Well, Middlesex Borough is primarily a residential borough, but we are bringing in industry as of last year and the year before. We, of course, are losing

money by not including the year 1967 also, but because of the way the personal property tax did run, it ran a year behind. - in other words, you didn't pay the tax the year you went in business, your tax was paid the following year - so this would result, of course, in '68 being a much better year because, as I say, now we are bringing in industry. But we are still primarily residential.

Now what I feel - the way I understand it, the excess is only going to be returned according to your commercial, industrial or farmland. Well, we have residential properties that house lawyers, doctors, dentists, beauticians. They are all paying into this tax. The same applies to apartments. We are bringing in apartments. They are paying on this retail sales tax. Why isn't this classification of property going to be included in the total amount of this excess money? Why just limit it to commercial, industrial and farmland?

ASSEMBLYMAN DE KORTE: Well, this is what I was reaching for before, believe it or not. What I have in mind is an amendment which would relate more closely increases in business personal property in your community to the amount of the excess you would get back in your community so that there was a relationship directly between how much business you had attracted to your community in the future and how much of this excess money collected by the State you would in the future get back. This is what I am trying to reach for and what I am trying to ask you is: Assuming something like that could be worked out and the

year 1967 were included, would you then think from a municipal point of view that you had a satisfactory package?

MRS. SZYMANSKI: I wouldn't say it was satisfactory if you did not include '67 because I think the majority of municipalities are losing in the hundreds of thousands of dollars. I don't think there is going to be in the excess this amount coming back to some of them. As I said, Middlesex Borough only lost \$8,000.

ASSEMBLYMAN DE KORTE: No. I say, assume you include 1967 as an alternative year so that they could recapture that and then went beyond that and tried to reach for some formula which would reward those municipalities which had encouraged business development within them. Would this type of an approach be satisfactory from the municipal point of view?

MRS. SZYMANSKI: Yes, if it is based on the total value of the town, not based on total value of just commercial, industrial and farmland.

SENATOR KAY: Could I have your name and position for the record, please.

MRS. SZYMANSKI: I am tax assessor for Middlesex Borough and my name is Angela Szymanski.

ASSEMBLYMAN TODD: I might just comment, Mr. Chairman. This formula that we talked about for surplus revenue belongs to none of us here. It belongs to those who preceded us as part of the 1966 replacement tax package and the reason it was based around those particular property requirements was because

the moneys involved in redistribution would be moneys generated only by the tax on business personal property.

MRS. SZYMANSKI: Well, as I stated before, we have business people in residential dwellings. We classify this property in our tax books as residential because it is their residence even though they have their business in their home. We cannot classify it as a business, but they have been paying on the personal property. Fortunately I guess with the smaller community, the assessor knows practically everybody so if you have a business in your house, the assessor knew it and he made sure he sent you a form. Maybe in a larger town, it is harder to control this. But our residential property did include business people.

SENATOR KAY: Thank you. Any other member have a question? Assemblyman Fekety.

ASSEMBLYMAN FEKETY: Through you, Mr. Chairman - Mayor, the attorney from Ewing Township stated that he would like to see the municipality take back the administration of the personal property tax. Do you concur with that?

MAYOR ANZOVINO: In other words, repeal the business personal property tax package?

ASSEMBLYMAN FEKETY: And have the State revert it back to the municipality.

MAYOR ANZOVINO: Well, the way I feel, I don't think it makes much difference what the alternatives are, providing we

receive the \$55,000 we lost. I know this doesn't answer your question. Our town is a mile square. I am deviating right now if you don't mind. We have 7500 people and the reason why this bill is so unfair and inadequate is that what it has done is raised our taxes. Our increase has doubled as a result of this law. I am not sure if I can really qualify myself in answering your question.

MAYOR KERR: Could I just make a comment to your question?

ASSEMBLYMAN FEKETY: Yes, Mrs. Kerr.

MAYOR KERR: I think it would depend upon the way the tax would be then levied whether or not it would be allowed to go back as it has in the past under a municipal assessment or on the basis of a uniform State assessment. Now perhaps in our case, the uniform assessment that the State would give would fall far below what even we are certified to receive.

ASSEMBLYMAN FEKETY: You would lose money under the State formula today.

MAYOR KERR: If it were not done with the same municipal rate applying as it had in the past. But if we had to be subjected to perhaps a uniform rate struck by the State to equalize this throughout the State, in all probability Sayreville would lose money. We have already lost \$133,384 this year.

ASSEMBLYMAN FEKETY: This \$133,000 was based on the old formula?

MAYOR KERR: Right.

ASSEMBLYMAN FEKETY: Quite a few people aren't aware of the fact that the formula on depreciation of machinery has been reduced. Whereas the people say they lost money in '67, they are still applying the old formula. Now if they were to take back from the State, and with the State's formula, they will be receiving less money than they did in '66.

MAYOR KERR: That's right.

ASSEMBLYMAN FEKETY: This is why I suggest that people be careful when they say, "Let the municipality take the tax back."

MAYOR KERR: This is a problem that we have faced and we discussed with our assessor and striking it on a uniform rate from the State would be of no benefit, I feel, to a great number of municipalities. Whereas, if we are certified a certain figure, including as an alternate year 1967, and then there is some type of formula worked out whereby those municipalities who do encourage industry to come in are rewarded by a percentage increase - now whether that would be on the overall assessment of the community or taking a figure based upon your industrial ratables, such as you are collecting taxes on now - I don't know which would be more beneficial or how it would work. But I think there has to be some compensation made. I think you cannot freeze us at one particular year. And I think it is perhaps inadequate to say, if there is an excess, you get a certain percentage, because there again the percentage would have to be worked out. I have heard it spoken of here

today that you would perhaps take into consideration all of the communities in the State of New Jersey to work out this percentage. Whereas, perhaps some feel it is equitable, to those who encourage industry it is not because you have many municipalities who are not industrialized and perhaps because of their land limitations will never have a great potential industrialization, whereas, we who have almost 17 square miles have a great deal of virgin territory left for industrialization and we would like to have the benefit of the work that we do and the inconveniences that we must suffer to bring industry into our community.

ASSEMBLYMAN FEKETY: Thank you.

SENATOR KAY: Any other member of the Committee have any questions? Assemblyman Crane.

ASSEMBLYMAN CRANE: Madam Mayor, what is your tax rate in Sayreville?

MAYOR KERR: Right now with the new formula that had to go into effect because of the revenue based on this replacement package, we suffered a 151 point increase in our taxes.

ASSEMBLYMAN CRANE: What is your current rate?

MAYOR KERR: It will be 570 if the Board of Education appeal is not upheld.

ASSEMBLYMAN CRANE: That is on 100 per cent?

MAYOR KERR: On 50 per cent.

SENATOR KAY: Any other questions? [No response.]

Thank you very much.

MAYOR KERR: Thank you, gentlemen.

SENATOR KAY: Doris B. Parker.

D O R I S B. P A R K E R: I am Doris B. Parker of Glen Rock, New Jersey, and I wish to voice a strong protest to the unincorporated business tax as it affects nurses.

I naturally cannot speak for the entire nursing profession in this State or in the other states in which I happen to be also a Registered Nurse. But I can speak in protest for any nurse that I know of who received one of these six-page packets, "New Jersey Unincorporated Business Tax Returns for 1967." If a special interest discriminatory tax on gross receipts was to hit the nursing profession, all nurses in New Jersey should have received a notice of the same through the American Nurses Association or the New Jersey State Nurses Association. Instead by a rather hit and miss method some nurses in New Jersey received a packet containing forms and instructions for New Jersey Unincorporated Business Tax Returns for 1967 and many did not receive any from the so-called Emergency Transportation Tax Bureau.

Since my own gross receipts were well under \$5,000 for my professional services, I was automatically exempt from filing a form by wording of the packet, which I was able to save, however, for reprints.

Upon hearing about the tax for the first time last week,

one hospital administrator in Bergen County had some reprints made and urged that the tax be fought for repeal in Trenton.

I wondered myself if the real intent of the tax might not actually be a sleeper or a feeler for a broad State income tax which Governor Hughes had wanted in the first place instead of a sales tax. If the sales tax could be repealed, I would favor a broad, fairly-gearred State income tax for all over an unjust tax on gross receipts for a selected few who may never use this emergency transportation that is suffering from defects and deficiencies.

A sales tax that taxes essential health products, soap and towels, detergents for dishes and laundry, while forgetting to tax slacks and mini skirts, is most unbusiness-like and even revolting.

Of course, a State income tax would not create new money, but manipulate income by robbing Peter to pay Paul or subtracting from the Federal income tax, the State income tax.

But I speak specifically for nurses. Nurses or nursing are not actually named anywhere in this New Jersey Unincorporated Business Tax. I request, if they are obliged to file this tax, that they be specifically named either in a rider or an amendment to these returns and that no one segment of the profession be isolated to pay this discriminatory tax.

Nurses who have received forms seem rather to be private duty nurses, although newspapers have reported visiting nurses.

While patients can deduct nurses from their income taxes, private duty nurses, right or wrong, are paying 100 per cent of their own self-employment or social security taxes, thus saving hospitals and their employers, the patients, any employer tax at all. A private duty nurse pays for her own liabilities and all benefits paid by hospitals to employees, a private duty nurse pays herself.

This unfair new business tax disregards costs to nurses for collecting bills. If gross receipts are actual income, is the State of New Jersey willing to supply the postage and secretarial assistance to nurses, such as legislators enjoy? I have no office, no machinery, no inventories. Though the amount may appear small, a fraction of one per cent to start, the principle of taxing gross receipts is wrong, as I heard the President of the New Jersey Bar Association state this morning. A sounder and more equitable method of taxation should be sought and the gross receipts tax repealed.

On the basis of what I have heard today, gentlemen, I would recommend instead that a public choice be placed on the referendum in June or in November as such, "Would you favor a State income tax if sales taxes were repealed?" I thank you.

May I ask these Assemblymen here if they were aware that nurses were included on this unincorporated business tax?

ASSEMBLYMAN DE KORTE: We weren't here last year.

MRS. PARKER: You weren't here last year. Very few nurses

even know it themselves to date in this State.

ASSEMBLYMAN EVERS: My better half is a nurse so I was aware of it.

MRS. PARKER: What did you say?

ASSEMBLYMAN EVERS: I am married to a nurse.

MRS. PARKER: What county do you come from?

ASSEMBLYMAN EVERS: Passaic County.

SENATOR KAY: Assemblyman Fekety, do you have any comments?

ASSEMBLYMAN FEKETTY: When you register for a telephone, do you identify yourself as a Registered Nurse?

MRS. PARKER: No. My husband pays the telephone bill. It is a private home. I subtract nothing for telephone. I am not listed as a RN at all.

ASSEMBLYMAN FEKETTY: The ladies that are listed as RN are listed for professional purposes, right?

MRS. PARKER: Well, that I wouldn't know because their attorneys or CPA's work for them. I happen to do my own accounting and I always get a refund back from the government so I have no problem with income tax. Mine was paid a month ago. They cashed my receipt the next day.

ASSEMBLYMAN FEKETTY: The thing I wanted to bring out was that they apply as a business when they get their RN listing in the phone and right there they admit to the fact that they are in business.

MRS. PARKER: Well, there must be a very small minority that do. None of my associates do. I am in the Ridgewood area

where there is an acute shortage. That is why there is nobody else here today. They can't take this kind of time. But I don't know of a single one of my associates that has a listed phone.

SENATOR KAY: Any other questions?

MRS. PARKER: Well, I hope, gentlemen, that you will consider excluding the nurses from this bill and let the others fight their own battles.

SENATOR KAY: Thank you, Mrs. Parker.

Mrs. Hilda Stockton.

M R S. H I L D A M. S T O C K T O N: I just want to let her know I am here to lend a little support.

I am Hilda Stockton, Chairman of the Legislative Committee of the New Jersey State Nurses' Association, with a membership of over 5,000 New Jersey nurses.

We wish to voice opposition to the Unincorporated Business Tax. We feel this tax is unfair in that it discriminates against a selected group of persons.

We are particularly concerned to find this tax being imposed on one group in nursing, the private duty nurses. In the nursing profession, those employed by public and private organizations, or by physicians or other individuals are excluded from this tax.

The private duty nurse, as all other nurses, works under the direction of a physician at all times and when in an

institution, must also conform to their regulations. Her hours of work and fees are established by the State Nurses' Association and are comparable to those of nurses in similar situations.

The only difference between private duty nurses and other nurses, is that they are paid by many persons rather than by a single employer. They are not infrequently at a distinct disadvantage in that their employment may be erratic and their wages may at times be long delayed pending insurance or estate settlement. Too, they do not receive any of the fringe benefits which most nurses now enjoy, such as paid vacations, holidays, sick time, hospitalization, insurance or retirement benefits.

We would like to see this bill repealed. If it is not repealed, we certainly urge that it be revised, and that this small group of nurses, so vital to the health care of the citizens of our State, be exempt from the onus of this tax.

SENATOR KAY: Thank you very much, Mrs. Stockton.

ASSEMBLYMAN APY: Could I just point out, Mrs. Stockton, so you might feel a little better that actually your position as to the nurses' problem is not peculiarly to nurses because by analogy if you go into the other professions, and I will use the law because I am most familiar with it, the attorney who practices for himself is in the same situation as a private duty nurse. Yet one who works as a house counsel on a salary basis or for a company or something such as that is in the same position

as someone who is on the staff of a hospital. So there are other professional people who have the same problem with this particular law.

MRS. STOCKTON: We agree. That is why we feel this is unfair. We are giving you our own group.

ASSEMBLYMAN APY: We appreciate it, but you are not alone.

MRS. STOCKTON: We don't feel really that they are self-employed as the others are. The doctors and lawyers - we have very close contact with them - they may set rates. Our private duty nurses may not. They must work within the arrangement that is set up for them and we feel that the main reason they seem to be picked was because when income tax came in, they didn't know where to put them because there was no W-2 form coming out and the only way it could be worked out was to call them self-employed. They are really not self-employed.

I am not a private duty nurse; I am a nursing administrator and as a nursing administrator, I have to call and get the private duty nurses for patients and I feel that this has upset many of our nurses. Many of the private duty nurses are older and are very upset with these forms and such and for this reason many of them have decided to do part-time nursing in hospitals and many of them are limiting their income. When they get near the \$5,000, they say, "I can't work any more. I'm there. I'll wait until next year." And this is depriving patients of very, very

needed individual care.

SENATOR KAY: Any other questions?

ASSEMBLYMAN FEKETY: Just an administrative question - you mentioned you are an administrator - you are responsible for contacting the nurses for patients, right?

MRS. STOCKTON: We do through our Registry.

ASSEMBLYMAN FEKETY: I see. Now, if your office were to pay the nurse, then she wouldn't have to include this under the gross receipts.

MRS. STOCKTON: I believe we have no way. I mean, the patient would have to pay us

ASSEMBLYMAN FEKETY: She would be on the hospital staff part time, temporarily.

MRS. STOCKTON: But the Registry doesn't work with just one. We have in Passaic County six hospitals and along with that they also service the community for private duty in the home and also in nursing homes on occasion.

SENATOR KAY: Senator Italiano.

SENATOR ITALIANO: If I understand you correctly, if someone were in a hospital and wanted a private duty nurse, you would contact a private duty nurse for them?

MRS. STOCKTON: I would contact the Registry.

SENATOR ITALIANO: And they would send a private duty nurse in?

MRS. STOCKTON: Yes.

SENATOR ITALIANO: Which means they would be paid by the patient and not by the hospital?

MRS. STOCKTON: That's right - the patient.

SENATOR ITALIANO: This is the way I understood it to operate.

ASSEMBLYMAN FEKETY: But if the hospital were to be the collecting agency from the patient --

SENATOR ITALIANO: I don't think they ever do for the private duty nurse.

MRS. STOCKTON: No.

ASSEMBLYMAN FEKETY: But this would be able to help the nurse's problem on this gross receipts tax.

SENATOR ITALIANO: You say they are really not self-employed. Would you give us your opinion and state to us why you think they are not self-employed - the private duty nurses?

MRS. STOCKTON: Well, I think a self-employed person has the right to select their hours and to select their fees. I think as a physician, doctors and various other persons have the right to decide what their office calls are going to be or what price they are charging for a home visit and they can decide what hours they will have their office hours or will make their visits, whereas the private duty nurse must work within the framework of the organization and the State Nurses' Association - of course, in cooperation with the private duty section - sets up the salary and that salary is throughout the

State. Every registry and every hospital is notified what the salary of the private duty nurse is.

SENATOR KAY: Thank you, Mrs. Stockton.

I will call Mr. Mount. Mr. Mount, I want to apologize if I have to leave during your presentation. It will, of course, be in the record and Assemblyman Todd will be the remaining chairman. It is just possible I may have to leave.

MR. MOUNT: I will give you this before you go. (Mr. Mount hands Senator Kay a pamphlet.)

SENATOR KAY: I might say, now seeing this, I have one before me here which I have had for some time. Thank you.

W A D S W O R T H W. M O U N T: Thank you for letting me testify on this added value tax. I have come back to where I was 30 years ago. I would like to read you just what was in the paper 30 years ago about the same hearing. I will just read you the headline - 1938 - "Jersey devises tax plan to cut realty's burden." You can see the rest of it if you want it.

ASSEMBLYMAN APY: I'd rather not.

MR. MOUNT: In 1932 the country was hitting some hard bumps and several of our leaders said the way to get over the depression was to balance our budget. We needed more money and we had less to pay. I started to work in Wall Street and found I was demoted in a hurry in October of 1929 and began to look into this situation of confidence.

To bring it up to date, just last week the telephone company sent me the Seal of the State of New Jersey, which says, "Liberty and Prosperity." Without liberty there is no prosperity. I want to make that point primarily as I present to you American Economic Foundation, Bulletin Number 189, which I would like to have included in the record, which discusses the value-added tax which I originated in this country.

I am going to recommend that you get rid of the business personal property tax because there is nobody in this world that knows what property is worth and I say that in all due deference to all of the reassessors in the world. I may think a rug is worth a thousand dollars because my great grandfather left it to me, but an appraiser could take an entirely different point of view and vice versa.

Gross receipts - I was down here in 1938 advocating when we had a sales tax to help our unfortunate people in the depression, we put it in on a gross receipts basis on the theory that every store should put on the wall, "Three cents of every dollar you pay us, we pay for our less fortunate neighbors." Instead of that, in its wisdom the Legislature wanted to make work. So they decided that every individual transaction had to have a sales tax. We are right back there today. With one cent on twenty cents, the rate is 5 per cent. What brought me here in 1938, I think it was the A and P announcing that they had taken in \$97,000 more than they owed the State under the sales

tax and what should they do with it? They were told to keep it. It was due to that breakage factor.

In the early thirties, I was Assistant Director of Research for the Merchants' Association in New York and working with some of the top tax men in the city, including Godfrey Nelson of the New York Times who was on the committee. In 1941 I presented a complete revision of my thinking on gross receipts tax and it is entitled, "A Re-examination of Taxation Fundamentals," and was presented before the American Management Association Finance Conference in 1941.

I had found very shortly after advocating a gross receipts tax that it had a different incidence on every single business to which it was applied. This is the genius of our free enterprise system. With the benefit of the lawyers in this room, I can devise a series of agreements that will get around, and you can, any regulation you can make that doesn't get down to fundamentals. When is a retailer a retailer? When is he a farmer? When is he this or that?

Now just let me take you back to some of my thinking. If we start out in life with nothing - if we put on different clothes as we go through life - as an engineer, a miner or an accountant, and it is hard to tell by looking at a person how many facets he has in his makeup -- But all he is doing is creating values that other people want.

When you buy a piece of steel from the warehouse in Newark, you are paying only for people - the lawyers who drew

the agreements to buy the mining land, the miner who shoveled the ore, the railroad that hauled it. You are paying all that vast aggregation of added value.

Now if we can get down to that feature, we are taxing all income at the source and that is what we are trying to do here to get a broad-based tax.

I am proposing that you eliminate these three taxes because just this one hearing today certainly illustrates that no matter how you modify the regulations, they are not going to hold up and there is going to be another modification and more until if we keep on with that system, we will drift into the socialistic, bureaucratic system of all of Europe. I am credited by Maurice Puleva of Price Waterhouse with having gotten this value-added tax installed in West Germany and France. I am credited in studies for Japan. It has been used in Michigan. Wherever they put in in on a socialistic basis of trying to apply it to each individual transaction, they have just doubled, tripled and quadrupled the cost of compliance without getting more revenue.

A lot of the talk has been, "What are we going to do with this money? Are we going to give it to the community or not give it to the community and on what basis?" That is an appropriation matter. That is a separate operation. To get the money in, I think is the duty of every citizen of the State of New Jersey. I, for one, would look forward to paying taxes to the State of

New Jersey on the same basis that every other businessman pays taxes to the State of New Jersey and pay it in a sufficient volume to make sure that we meet our obligations.

I say there is no point in putting up confusion that delays a board of directors one week in deciding to build a plant. That week's delay is a week's delay on the man who wants the job as a mason or a trucker or something else. All you have to do is think back a few years to see what happens if people suddenly stand away.

When I saw these forms, I said to myself, "Good grief, New Jersey used to be the state that it was most advantageous to do business in." We can get back to that. You have an opportunity right now, I think, to bring New Jersey back to where any industry would say, "By all means, we will put the plant in New Jersey because we understand what is required of us." These laws do not tell you what is required of you and for the benefit of some of you here this morning, a lawyer told me he has a ruling that he does not have to pay the unincorporated business tax on receipts that are billed separately. I was real curious about all these extras - stenographic and postage and all the rest of that stuff.

Now I would like to present to you the form I worked out at the request of one of the New Jersey Assemblymen. It is on a single sheet of paper and it gives you a tax system which collects the revenue that you need directly and simply on the

basis that it is taxing the money available for distribution as wages, salaries, dividends or interest, ownership, anything you want to call it.

Now I want to make another main point here. I am a graduate student of accounting. I worked in accounting for some years. Profit is a purely arbitrary thing. If you are running a business with a group of men and they suddenly have a strike and raise their costs, under the present profit-loss system of double entry bookkeeping, maybe the profit goes way down. It could; it has done it before.

Secretary of the Treasury George Humphrey has written us a letter that the great advantage of what I have proposed nationally is that it gives the Federal government a stable base compared to taxing just those who operate their companies to show a profit.

On this added value base here, I have worked this out for New Jersey. This has always been considered up to date as most advantageous as a Federal program. That is based on a few very simple concepts. Those of us who had orange juice this morning affected commerce all the way to Florida or California any way we look at it. We bought the services of all the people. Consequently it works easiest and best on a national system. But on this return here, the only variation is, "Personnel headquartered in New Jersey" you put down. A company, say, like DuPont - I don't know what they have in New Jersey, but

I have been to their Deep Water plant - maybe they have a thousand men at Deep Water - they put down a thousand. The total personnel in the United States might be 50,000. Then the percentage would be 1/50th of 2 per cent for DuPont.

Now, if you will agree with me, that people produce wealth and they use tools to do it, maybe you will go a step further with me and agree that in business a tool is a tool to the man that can use it and it may be a heap of junk to the guy who can't use it. I am advocating we do not tax tools, capital. We tax the wood that is cut by the ax, but not the man's ax. Don't take his ax away from him. The moment you do that, industry says, "It will pay us to buy that piece of machinery and put it in New Jersey." What I am against on these new taxes is it makes you think, "Look, let's not get hooked into this," because anything can happen the way these regulations are started. These can end up like the Internal Revenue regulations where no one can give you a firm opinion for sure although everybody wants to.

Now if we get the percentage of personnel for a company, most of the people filing this return, including me for one person, would put 100 per cent. We don't have outside employees. I work for myself like a lawyer. I have been trying to work like a lawyer for years and years, although I am not a lawyer. I just admire the way they work. But I am one person trying to create a value. Now a firm that has a lot of people puts more

people in there. Consequently the firm that has the most people pays the most tax obviously. We don't say that they put on the clothes of a retailer and therefore they are exempt or they put on the uniform of a nurse and therefore they are exempt or a lawyer, and therefore they are exempt. It has nothing to do with this tax.

This tax brings me to another story. I knew a man who was president of one of our largest insurance companies. His salary was \$50,000 a year I read in the paper or somewhere. I had only known him two or three years when he raised his salary in this non-profit institution to \$125,000 a year, which I thought was pretty good non-profit, and during the depression when I ran a factory, any money at all we gave our employees was the profit of that operation anyway you looked at it if you really boiled it down. It wasn't an accounting problem. We went bust with the most beautiful statement you ever want to see there, but nobody wanted a factory that they couldn't sell the product from, so its assessment was completely haywire, assessing it as capital. However, had they assessed us as the payroll we put out, as is illustrated in this little booklet I have given you, you will see how simple this is because it taxes everybody and everybody votes for government spending. The worse they get, the more they will vote for government spending.

So I am saying that the State services are equivalent

to a utility. Without a utility value, there would be no business. They are just as much entitled to a good revenue return as Public Service is. Now Public Service doesn't have its rates set up so if you are losing money on your accounting you don't pay any electric bills. That would be so awful that they would never know whether to build that new power line or not. I think the State deserves at least that same balance-wheel connection.

Let me just read a little from this American Bulletin here: "The method to be employed is known as the 'value added tax' which, by collecting a tax at every stage of production and distribution, winds up taxing the entire production with a minimum of red tape, bookkeeping and chance of evasion. It has the added advantage of giving the government a much more stable tax base than is provided by fluctuating profit figures. . . . The amount of value added is arrived at by simply subtracting from the selling price all payments for goods and services purchased outside. The value added, therefore, is essentially payroll and profit. . . .

"It is hard to exaggerate the administrative advantages of the value added tax over the business profit tax. The brevity of this editorial permits only a brief mention.

"Profits are often misstated, sometimes without any desire to deceive. The estimation and deduction of depreciation and obsolescence is frequently a matter of dispute between the

taxpayer and the tax collector. And, of course, many businesses do not show any profit, and thus pay no taxes."

Depreciation and obsolescence are no longer any concern of the government under this tax because who is to say that a machine bought today might not be outmoded tomorrow? If you wanted to stay in business, you should change over. My grandfather invented the sectional office partitions of wood and glass. My father ran the business. Steel partitions came in; he didn't change over. His factory became valueless just like that. Yet it still produced income in the economy for those who worked, always consumers and producers, which we all are. We are first consumers and then we hythenate producers, but it is just around the circle. We are in effect taking in each other's wash.

This added value tax then, reads like this: "Received for Goods and Services sold, this Quarter." Now this is a cash return. This is not accrual. Germany put it in on an accrual basis. This was taken up, I believe, with Chancellor Erhard directly and he said, "In our socialist economy, we have to do it this way." They are going crazy trying to find out how to operate it over there on an accrual basis. This is a cash basis. In this quarter, this is what you took in for professional fees, sale, rental, use of capital assets, including patents. It does not include dividends or interest because that was paid after the people who paid it to you paid this tax.

[Reading] "Credit, if any, carried over from Line 9 on last Quarterly return." I will explain that later.

[Reading] "Paid out for Outside Goods and Services purchased, to other businesses or people not a part of this reporting business (including payments for capital acquisitions, other taxes) in this Quarter." That is a very big thing. A friend of mine who is high up in the Tool Builders' Association said this would do wonders for the tool building industry. Well, what is the difference between us and the Indians except the tools we have? If we don't have tools, how many of us can plow a field by pulling a stick through it? It is the tools that we want to get into the State. They create the jobs. If we create the jobs, we are taking care of the so-called "hard core" unemployed that want to work. If there are no jobs or if we drive industry away, there is no point in appropriating money by itself. It will be gone before the shovel is dry.

Now if the credit carried over from before and the amount paid out in this quarter is greater than what you took in in this quarter, there is no tax. That is fine. In this quarter, you pay no tax. But suppose you are a utility and you are building a big power plant - oh, like the one down near Barnegat there - you are paying out all this money and it overcomes what you are taking in this month. Fine! Foster Wheeler is paying a big tax and all the contractors that get the money are paying the tax right away.

A friend, a former Commissioner of Internal Revenue, said this tax is self-enforcing. All you have to do is see what came in and what they paid out to the big ones - on the big payouts. Those people then immediately have to show it as a receipt.

So you get down to this rate of one-half of one per cent. How is that determined? We should have in the State of New Jersey, if this goes into effect, an appointed for life Tax Adjustment Board of three or four people with a staff whose sole duty is to tell the Assembly and Senate, "If you appropriate so much money, it is going to do this to the tax rate," and that's all they do. They have nothing to say about how you spend it, what you spend it on or how you allocate it back to communities. It is just that this changes the rate.

Now it is very important to realize that accountingwise capital and goods in transit can be one and the same thing at different times. The man that sells office furniture thinks he has just sold four cabinets. But if you have to show that as capital and get into a big long squabble of when you can deduct how much and charge that off, that might be a 20-year depreciation. Well, we have been hearing lately of 5-year depreciation. Under this tax, it is one-year depreciation. In other words, it is just like the State. When you buy a new building, you don't depreciate that so much a year. You have got the money in; you paid the money out. That is the economy

under which we operate anyway, no matter how you slice it.

So if you run for a while without taking in what you put out, that is perfectly fine. You have encouraged hundreds of other people to produce the stuff that you want.

I gave a speech in Washington some years ago and pointed out that the major difference between the socialist-communist economies and ours was that we let private enterprise function by saying, "This microphone isn't good enough. I can improve it." The minute a man says that, he is starting in motion designers, tool makers, die makers, steel makers, right down the line, and only that kind of activity provides the standard of living we are used to.

Now this tax doesn't say, "We like you; we don't like you." Because you put on this kind of clothing during your life, you get one kind of tax. Because you are working in this kind of business, you get another." This tax is the least common denominator of all business activity for profit.

Let me give you something on yield now. I didn't do much work on this because I haven't appeared before hearings since World War II, but I just worked up a rough estimate in view of what I read in the paper. In the World Almanac, the 1966 per capita income for the United States is \$2,940, say \$3,000. For a family of three, that's \$6,000 average income. But New Jersey's is \$3,480. So we are a little above. We produce more per person in this State than does the national average.

The approximate gross national product for 1966 was \$600 billion; approximate population Federal, 200 million; approximate New Jersey population, 6 million. Or New Jersey can be credited with 6/200ths or 3/100ths of the gross national product. If you multiply that, gross national product of \$600 billion by 3/100ths, unless I have my decimals wrong, that is \$18 billion that we create in this State by our people working here, never mind whether we work for General Motors in Linden or work as I do in my basement and in my hat or wherever one works. This is what figures we have show and they are not accurate figures. They are very poor figures. Multiply that by 1/2 of one per cent and we have \$90 million, right there. There is one page to fill out for General Motors and for me. General Motors has 500,000 maybe; I have one person. Maybe your law office has 20 people. I don't know, but it doesn't matter and we don't exempt the people that work in the biggest operations like food, clothing, shelter, which is the major effort of all humanity. We just say, "We are taking a little of the wood that you cut out of your business to support the people in the government sector whom we have elected to spend money for certain purposes." It is a perfectly logical, simple, direct application.

I say we are going to add \$10 million more because of the higher per capita income in the State of New Jersey. You are going to get on 1/2 of 1 per cent, easily \$100 million. But what it doesn't show here is what happens if you encourage industry

to settle in the State of New Jersey. You don't have any conception of what it means when a group of people say, "That's the place I want to go." I shouldn't say you don't have any conception; you undoubtedly do. What I am trying to say is, let's not cause boards of directors to wait a week, a month, six weeks, to determine whether to put the plant here or elsewhere or even build it because then my neighbor who for years was a mason sits and waits for the job to build that plant. We have had a few good years here. This tax would take care of our poor years. If we get a slump downward, this still keeps the State solvent and keeps us solvent because certainty of payment is much more important to a businessman than the amount of it so long as it is within reasonable range, just so he knows how he can function.

So I am saying that if this works, you get rid of these iniquitous taxes which they are and I could spend till midnight showing you why in each case, and put in this value added tax on this simple form which is always historical -- and I did a great deal of work with what was then the John A. Roebling Sons Company and I was glad to hear Mr. Brown talk today, but I have to get over there and tell him a little about this because when they build a bridge, they may have turned out a lot of money for steel and for other things which shows up as payments to outsiders before they get that money in. So quarter after quarter might go by while they are building the George

Washington Bridge before they got \$20 million or whatever it is that comes in. It doesn't matter under this thing when you get paid or when you pay out.

So when you buy a machine, it is a deduction right away, but the fellow who sold it to you shows it as a receipt right away. Now when you sell that machine, it is a receipt. Nobody knows how much of that machine is good when you sell it or how much of that machine will be good when you sell it and I see that all the time in my work where taxes are determining whether you can afford to keep a machine or not to keep it because of depreciation. I would like to get rid of that.

John W. Haines made speeches in three cities in the United States advocating this tax back in 1941 on account of that depreciation problem which affects industry so drastically.

Now I say, if you want another \$200 million, is it, from your sales tax, nothing is more inequitable than a gross sales tax. It affects everybody differently, every individual businessman, even though you can collect it. You could also collect it by sending a man with a gun to everybody's house and taking the money that was left. We are all in the same pot in this world. I am saying here you just add that rate from 1/1 of 1 per cent to 1 per cent and you have yourself another \$100 million. Make it 1 and 1/2 per cent and you can get rid of the sales tax. You should start by getting rid of these three taxes. Thank you very much.

[Exhibits presented by Mr. Mount can be found on pages 91 A and 92 A]

SENATOR KAY: Thank you, Mr. Mount. Do any members of the Committee have any questions? [No response.] Thank you for appearing.

I believe that completes the roster of those who had requested to appear at this hearing. I will, therefore, declare the hearing closed.

ASSEMBLYMAN TODD: Prior to that, I would just like to present a few items for the record. I won't read them. I will just have you note them: letter from Frank McAleavy of Somerville, New Jersey; letter from Gimbels, letter from the New Jersey State Dental Society; letter from J. C. Penney Company, Inc.; letter from Carber's; letter from Mr. Jack Benjamin; and a letter from the Plant Food Chemical Company. I would like those entered in the record.

[The letters above referred to can be found starting on page 93A of this transcript.]

SENATOR KAY: They will be entered into the record.

Anything further from any member of the Committee?

[No response.]

If not, I will declare the hearing closed.

- - - -

March 27, 1968

CHANGING PERSONAL PROPERTY TAXATION IN NEW JERSEY

1. Court Cases

Prior to 1957, business personal property was assessed at a different fraction of value than real estate. In urban areas, such property was generally taxed at substantial percentages of estimated market value; in less populous areas, it was frequently either ignored by the assessor or was treated favorably in order to attract and hold businesses in the community.

This variation in assessment practices resulted in the inequitable allocation of county budget assessments since each county budget is divided among the municipalities of the county in accordance with their proportionate share of the county's ratables. County tax boards lacked an accurate valuation of business personalty to employ in allocating the county tax load and, therefore, could only include personal property in ratables to the extent of its assessed valuation (a highly inaccurate figure). In the case of Switz v. Middletown Township, 23 N.J. 580 (1956), New Jersey's highest court reiterated the constitutional requirement that all taxable property be assessed "according to the same standard of value," and made it clear that the legal standard of assessment (set by statute at 100% of "true value," i.e., market value). In the Switz case, Middletown Township was granted a two-year period in which to comply with the statutory standard and during which the Legislature could change the statutory standard of value.

Ridgefield Park v. The Bergen County Board of Taxation (1960) broadened the scope of judicial attack on assessment inequality by reaching all taxing districts in Bergen County as contrasted with a single district affected in the Switz case. It was clear that, if the Legislature did not act soon, equalization of property assessments and the rigid application of the statutory "true value" standard would be accomplished by court order for real estate and personal property alike. Such action would clearly mean a substantial hike in business personal property taxes which, compared to the exemption of personal property from local property taxes in Pennsylvania, New York and Delaware, would do serious damage to New Jersey's business climate. From the standpoint of practicality, determining the market value of thousands of different items of business personalty was beyond the capability of any assessor. The system itself was unworkable.

2. Chapter 51

In 1960, the Legislature finally acted to establish uniformity through the passage of Assembly Bill No. 198 which became Chapter 51, Laws of 1960. Among the important aspects of Chapter 51 were the following:

- (a) The new law established three classes of property -- real estate, machinery and equipment, and business inventories, which would be assessed in a ratio of 4-4-1 (i.e., if real estate and machinery were assessed at 100% of value, inventory would be assessed at 25% of value).
- (b) Business personal property was to be valued at book value as determined for Federal income tax purposes. Raw materials, small tools, office supplies and goods stored in public warehouses were exempted from taxation.

- (c) Equality at the county level was assured by requiring that counties establish a uniform percentage of value at which real estate was to be assessed, between 20% and 100% in multiples of 10%.
- (d) Since all assessment differs in practice from the theoretical standards set, equalization would be carried out, based on the comparison of recent real estate selling prices with assessed values. The county tax burden would be distributed on the basis of equalized value of ratables in each municipality.
- (e) Businesses were required to file annual reports declaring the book value of their taxable inventory, machinery and equipment.

3. Postponement of Chapter 51 - Informational Returns

The provisions of Chapter 51 were to take effect in 1961, at which time businesses would file returns to provide assessed values applicable to the 1962 tax year. Fear of the potential consequence of Chapter 51, a fear shared by both businesses and municipalities, led to three successful postponements of the effective date of the act. While these postponements were occurring, suits in the courts and county tax board actions were gradually forcing the level of business personal property assessment up in an effort to assess at the statutory "true value" standard.

~~The final postponement of Chapter 51 was coupled with a requirement for the filing of confidential business information returns showing the book value of machinery and equipment and the value of inventory as of December 31, 1962.~~ The Division of Taxation was ordered to compile statistics by correlating the values declared in the information returns with assessed values for the same taxpayers. The statistics developed would be used to identify and examine any shifts in the tax burden which would occur under Chapter 51.

On February 6, 1964, the State Tax Division issued its report on the 1963 informational returns. The report indicated that the impact of Chapter 51 on individual companies, municipalities and counties would vary greatly. Assessments would rise in fourteen counties and would decrease in seven counties. For all types of business, an average 11% increase in business personal property assessments would result; however, manufacturers' personal property assessments would increase an average of 33.7% as a result of the rise in level of assessment of machinery and equipment!

4. A Temporary Solution - Separate Tax Rates on Business Personal Property

Following the report, nearly everyone agreed that Chapter 51 required amendment of some kind to avoid undesirable tax consequences. The great problem lay in the fact that any simple adjustment of the percentages of value at which the various classes of property were to be assessed would solve a problem in one taxing district only to create a problem in another. An effort to prevent a tax loss in seven counties by assessing business personalty higher would increase the business tax hike for such property in fourteen other counties. An effort to prevent the business tax hike in the fourteen counties gaining taxes from Chapter 51 would merely increase the tax loss in the other seven (which were the more populous counties).

The ideal solution appeared to be the partial or total replacement of the locally levied business personal property tax with other taxes and the distribution of replacement tax revenue to local governments. Various approaches towards this goal were proposed, including the suggestion that the recommendations of the State Tax Policy Commission be adopted. Building support for such a far-reaching change in taxation requires time, consideration and extensive, prolonged effort. Even if there had been time for such a program to be passed, no proposal then available appeared acceptable to a majority of New Jersey's business taxpayers. Broad support failed to materialize for any replacement tax program; hence, a search began for some means of preserving the status quo for a period of years while an acceptable program could be devised to replace local taxes on business personal property.

Clearly, the status quo could be preserved only if the treatment of business personalty was permitted to differ in each local taxing district. Since all such property had to be valued and assessed the same, it was the tax rates which would have to vary to preserve the status quo. Chapter 51 was, therefore, amended to provide for an "adjusted personal property tax rate" in 1965 and 1966. In each district, the rate would be the higher of the general tax rate or the rate at which personal property taxes would represent the same proportion of the total property tax levy in each taxing district as they did in 1963.

As amended, Chapter 51 became effective for the tax year 1965. As provided in Chapter 51, personal property taxpayers filed returns (in 1964) in duplicate and assessors were required to forward each duplicate return to the Division of Taxation for tabulation and analysis of the first year impact of Chapter 51.

5. Governor's Committee on Local Property Taxation

In addition to the Tax Division study, the entire question of personal property taxation was made the subject of intensive review by a Governor's Committee on Local Property Taxation which included representatives of the New Jersey Association of County Tax Board Commissioners and Secretaries, New Jersey Manufacturers Association, the Counsel to the Governor, the Mayor of Newark, New Jersey Bell Telephone Company, Senator Wayne Dumont (R-Warren), Assemblyman Peter Moraites (R-Bergen) and Assemblyman Norman Tanzman (D-Middlesex), Director of the Division of Taxation, Bergen County Board of Taxation, New Jersey Association of Municipal Assessors, New Jersey State Chamber of Commerce, New Jersey State League of Municipalities, South Jersey Manufacturers Association, New Jersey Society of Certified Public Accountants, Newark Industrial Development Commission, Treasurer of the Borough of Haddonfield, and Bayonne Merchants Board of Trade.

Results of all statistical tabulations from the 1963 tax returns were made available to this diverse committee. The Governor's Committee was given the responsibility to develop recommendations to the Governor and to the Legislature concerning any changes in Chapter 51 which its studies indicated appropriate. The Committee was told there was no restriction concerning the nature and extent of change which it could recommend. Early in their deliberations the Committee decided that there was no acceptable or equitable method for the local assessment and taxation of personal property; a replacement tax program had to be devised. The Committee set about devising and debating alternative programs.

6. Replacement of the Business Personal Property Tax

The Committee's first recommendation met with substantial controversy, particularly involving a proposed tax on inventory turnover. The inventory turnover tax was eliminated from the program and, with much involvement by the State Treasurer and officials on the Governor's staff, a revised package of replacement taxes evolved and was proposed to the Legislature. Under the proposal, the dual tax rate for business personal property would be continued through 1967.

As a result of the passage of this replacement tax package, for the year 1968 and thereafter, inventories maintained in New Jersey will be exempt from property taxation and other tangible personal property used in business in New Jersey (except that of telephone and telegraph companies) will be exempt from local taxation as a result of legislation passed in 1966. In substitution for these personal property taxes, local taxing districts will receive replacement revenues from the State treasury. The State, in turn, will obtain the bulk of needed replacement revenue from a 1 1/2% increase in the Corporation Business Tax, a tax on business personal property (equivalent to \$.65 per \$100 of original cost), a 1/4 of 1% tax on the gross receipts of unincorporated businesses, and a 1/20th of 1% tax on gross receipts from retail store sales.

The Medical Society of New Jersey

STATEMENT OF

Louis K. Collins, M.D., President
The Medical Society of New Jersey

AT A

PUBLIC HEARING URGING THE REPEAL OF
NEW JERSEY'S UNINCORPORATED BUSINESS
GROSS RECEIPTS TAX

March 27, 1968

I am Louis K. Collins, M.D., President of The Medical Society of New Jersey. I speak for the more than 7,400 physician members of our Society to record their opposition to New Jersey's Unincorporated Business Gross Receipts Tax and to urge its repeal. In this opposition we stand together with all the other affected professional and non-professional groups.

We view this tax as a State income tax. We question the propriety of the imposition of a tax of this nature on a certain segment of the people of the State when, by referendum action, the voters have unequivocally rejected and disapproved an income tax for New Jersey.

We contend that the tax is improper, discriminatory, inequitable, and administratively impracticable. The arguments in support of these contentions are already in the hands of the Committee and the other members of the Legislature in the brief prepared by Salomon J. Flink, Ph.D., of the Graduate School of Business Administration of Rutgers University. I shall not impose upon you by re-presenting or recapitulating what Dr. Flink has so cogently set forth.

Suffice it to say that we of The Medical Society of New Jersey feel that this tax is unwarranted in view of expressed public opinion; that it is selectively discriminatory against a certain group of citizens; that it discourages enterprise and the establishment of new small businesses; that it is disproportionately heavy compared to other tax imposition, such as the tax on corporations; and, finally, that it would cost almost as much to administer fairly as it would realize through collection... For all these reasons, therefore, we urge that it be repealed by enactment of Senate bill #200.

I take this opportunity also to record the Society's approval of and support for Senate bills #419 and #469.

I thank the Committee for the privilege of offering this statement for inclusion in the record.

P. 97

N.J. STATE LEAGUE OF MUNICIPALITIES
IBM BUILDING
413 WEST STATE STREET
TRENTON, N. J. 08618

No. _____

INCLUSION OF 1967 TAX YEAR IN THE
CHAPTER 51 REPLACEMENT PACKAGE

WHEREAS, Chapter 51, P. L. 1960 has been repealed and replaced by a new Business Personal Property Tax Package; and

WHEREAS, Under terms of the new legislation, the State of New Jersey will tax and assess all business personal property (with the exception of telephone and telegraph companies); and

WHEREAS, Under terms of the new legislation, the State is obligated to pay to each municipality on a "save harmless" basis, revenue equal to the greatest amount received from business personal property when assessed and taxed at the local level during the year 1964, 1965 or 1966; and

WHEREAS, Many municipalities will receive during the year 1967 business personal property taxes in excess of any amount received during the years 1964, 1965 or 1966; now, therefore, be it

RESOLVED, That the New Jersey State League of Municipalities hereby reiterates its call upon the Governor and Members of the Legislature to amend the tax package so that the year 1967 will be included in the act in order that the "save harmless" provision can be based on the greatest revenue received from the local taxation of business personal property received in the years

1964, 1965, 1966 or 1967, in order to more adequately serve the Legislative intent to "save harmless"; and be it further

RESOLVED, That a copy of this resolution be forwarded to The Honorable Richard J. Hughes, Governor of the State of New Jersey, Members of the Legislature, and appropriate State officials.

Following was submitted by Mr. Wadsworth W. Mount:

The Things We "Know" That Are Not So THAT TAXES MUST BE COMPLICATED

By Fred G. Clark and Richard S. Rimanoczy

I.

Everybody knows that business taxes are complicated, and everybody "knows" that nothing can be done about it.

In the face of these "facts", the European Economic Community's Council of Ministers "has adopted directives aimed at harmonizing the Common Market's business taxes". According to INTERNATIONAL COMMERCE (Feb. 20, 1967), what is now a maze of confusion, promises by 1970, to become a model of simplicity.

The method to be employed is known as the "value added tax" which, by collecting a tax at every stage of production and distribution, winds up taxing the entire production with a minimum of red tape, bookkeeping and chance of evasion. It has the added advantage of giving the government a much more stable tax base than is provided by the fluctuating profit figures.

II.

To the best of our knowledge, the first person to design and suggest such a system (in 1941), is the American economist and inventor, Wadsworth W. Mount. This plan attracted more attention in Europe than in the United States. It is meant to be the *only* federal tax paid by business, except for special excise taxes such as those imposed on alcohol and tobacco.

The amount of value added is arrived at by simply subtracting from the selling price all payments for goods and services purchased outside. The value added, therefore, is essentially payroll and profit.

III.

As an example of how this method works, let's consider a simple product—a wooden table—that retails for \$100.

Let's look at just one of the corporations involved—the manufacturer. On a per-table basis, this is the way his taxable income would

be arrived at. These figures, of course, are approximate, and are used for the purpose of illustration.

Amount received from Retailer	\$65.00
Less cost of lumber and other outside costs	35.00
Value added by Manufacturer	\$30.00

The other people involved in this table—starting with the company that cut the lumber and winding up with the Retailer—all add their share of the total added value, which is the \$100 paid by the final customer.

So every penny of the \$100 gets taxed somewhere along the line through the same simple process shown above.

It is hard to exaggerate the administrative advantages of the value added tax over the business profit tax. The brevity of this editorial permits only a brief mention.

Profits are often misstated, sometimes without any desire to deceive. The estimation and deduction of depreciation and obsolescence is frequently a matter of dispute between the tax payer and the tax collector. And, of course, many businesses do not show *any* profit, and thus pay no taxes.

In contrast, taxing the \$100 value added total at each stage of production and distribution is

simple, certain, and far less expensive to everyone concerned. Because every business automatically keeps this record in the course of its operation, tax reporting requires almost no extra time or expense. Depreciation and obsolescence are no longer any concern of government; when they cause the purchase of new facilities, the expenditure is merely another outside expense.

IV.

There is another factor in the value added tax that is not immediately apparent — the profitable businesses would pay less taxes.

The reason for this (using the United States as an example) brings us to the some 2,000,000 businesses which, by bad luck or design, earn no taxable income. They do, however, have a value added total which, in fairness to others, should be taxed. In 1963, their volume of business totalled about \$21 billion. After all, these businesses pay for their public utilities (electricity, telephone service, etc.) whether they make a profit or not. Why shouldn't they pay for their share of the public services of government? There seems to be no good reason.

At least that seems to be the considered judgment of the European Economic Community's Council of Ministers.

NEW JERSEY VALUE ADDED BUSINESS TAX

Business or Professional Name and Address

QUARTERLY RETURN FILED _____ 19

1. Personnel headquartered
in New Jersey.....
Total personnel
in the United States.....
N. J. Percentage of Total
(Enter on Line 7a)..... %

2. ()Corporation; ()Partnership; ()Individual

LINES 3 THROUGH 7 COVER ENTIRE OPERATIONS IN THE UNITED STATES
OF THIS REPORTING TAXPAYER

3. Received for Goods and Services sold, this Quarter.....\$
(Includes receipts from professional fees, from the sale, rental or use
of capital assets, including patents. Does not include dividends or
interest, except for banking businesses.)
4. Credit, if any, carried over from Line 9 on last Quarterly return..\$
5. Paid out for Outside Goods and Services purchased, to other busin-
nesses or people not a part of this reporting business (including
payments for capital acquisitions, other taxes) in this Quarter...\$
6. Enter sum of Lines 4 and 5 here.....\$
7. If Line 5 is greater than Line 6, enter the difference here.....\$
THIS IS THE VALUE ADDED FIGURE FOR THE ENTIRE BUSINESS
- 7a. Amount of Line 7 subject to N. J. tax on Value Added.
Multiply the sum in Line 7 by the percentage % from Line 1.....\$
8. Multiply Line 7a by 1/2 of 1% (current rate established by the New Jersey
Tax Adjustment Board) and enter tax being paid with this return
opposite this applicable Quarter:
- | | | | |
|--------------------------|----------|----|-------|
| First Quarter Tax due by | April 15 | \$ | _____ |
| Second " " " " | July 15 | \$ | _____ |
| Third " " " " | Oct. 15 | \$ | _____ |
| Fourth " " " " | Jan. 15 | \$ | _____ |
9. If Line 6 is greater than Line 3, the difference is a Credit and is to be
entered here and carried over to Line 4 on the next Quarterly return....\$
(This "Credit" is the net amount by which payments made to others
outside this reporting business exceed the amount received from the
sale of Goods and Services.)

Signature of Taxpayer and Title

Date

Signature of Preparer Other than
Taxpayer

Date

Mail this Return, together with payment in full of total amount due (Line 8);
and even if no tax is due this Quarter (evidenced by a sum entered on Line 9)
to:

W. W. M.
March 1968.

Frank McAleavy
16 E. Main Street
Somerville, New Jersey

March 20, 1968

TO: Assembly & Senate Tax Committee

SUBJECT: Unincorporated Business Tax

Gentlemen,

This tax is a very unfair tax to the small individual business man. Take a junior executive in private industry, a police chief, school teachers, principals, administrators etc., these people make as much and most of them more money than I and yet they do not come under this tax. I have a newspaper store and do a large dollar volume, but my net is small. Yet I have to pay on the large gross volume. This is discrimination as only small businesses and individuals who work for themselves come under this tax and not others who make more money than most of us.

It is not fair as it is based on a gross and not a net. Even if you lose money you are expected to pay your unincorporated business tax.

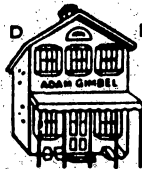
Why not have a state income tax where each individual's tax is figured off of the amount paid to the federal government and then everyone will pay their fair share. This would

eliminate the sales tax as well and make it simpler for everyone.

Thank you for listening and I trust you will eliminate the unincorporated business tax.

NEW YORK
WESTCHESTER
BAY SHORE
ROOSEVELT FIELD

FOUNDED IN 1842



VALLEY STREAM
MASSAPEQUA
STAMFORD
COMMACK

GIMBELS

GARDEN STATE PLAZA

GARDEN STATE PLAZA SHOPPING CENTER

843-9400

March 19, 1968

Assemblyman Webster B. Todd
Chairman
Assembly Taxation Committee
104 West High Street
Somerville, New Jersey

Sir:

I would like to express the opinion of my associates and myself regarding the necessity of repealing the new retail gross receipts tax through Assembly Bill No. 88 and Senate Bill No. 404.

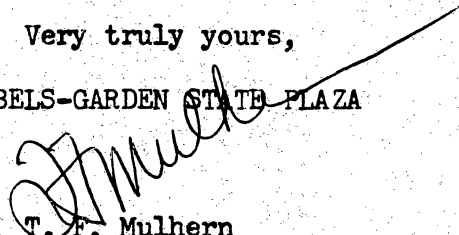
Retail establishments in this State pay all taxes paid by other enterprises in the State. Retailers also generate the business which produces the sales tax and then pay the cost of collecting this tax for the State.

I believe that New Jersey is the only state which singles retailers out in this manner. It would seem that the facts clearly indicate that this unfair and discriminatory legislation should be repealed.

If you agree with this analysis, your interest and support for repeal of this tax would be most appreciated.

Very truly yours,

GIMBELS-GARDEN STATE PLAZA


T. F. Mulhern
General Manager

TFM/kl

MAR 26 1968

NEW JERSEY STATE *Dental* SOCIETY

A CONSTITUENT OF THE AMERICAN DENTAL ASSOCIATION

407 COOPER STREET

CAMDEN, N. J. 08102

AREA CODE 609
964-1691

March 25, 1968

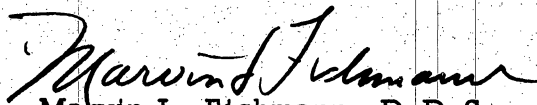
The Honorable Webster B. Todd, Jr.
Chairman, Taxation Committee
New Jersey Assembly
104 West High Street
Somerville, New Jersey 08402

My dear Mr. Todd:

Unfortunately, conflict between previously scheduled activities of this Society and the Open Hearing on the Gross Receipts Tax will prevent any of the officers or chairmen of pertinent councils of the New Jersey State Dental Society from attending the Hearing on Wednesday, March 27, 1968, in the Assembly Chambers of the State House, Trenton.

A Statement on the feelings of this Society on the inequity of this tax is enclosed. I sincerely hope that you will bring it to the attention of the members of your Committee.

Very truly yours,



Marvin L. Fishmann, D.D.S.
President

MLF/mav

enc.

NEW JERSEY STATE *Dental* SOCIETY

A CONSTITUENT OF THE AMERICAN DENTAL ASSOCIATION

407 COOPER STREET

CAMDEN, N. J. 08102

AREA CODE 609
964-1691

To: Assemblyman Webster Todd, Chairman, Taxation Committee

From: Marvin L. Fishmann, President, New Jersey State Dental Society

STATEMENT

The New Jersey State Dental Society's Council on Legislation has made a thorough study of the Unincorporated Business Gross Receipts Tax enacted by the New Jersey Legislature. After studying the report of its Council on Legislation, the Society took formal action urging the repeal of the Gross Receipts Tax as soon as an alternate source of revenue is established.

It is the feeling of this Society that the tax violates every accepted canon of taxation. A study of the experience record of tax authorities clearly demonstrates that a Gross Receipts Tax has proved to be conspicuously inequitable, regressive and, in many cases, economically oppressive. The Gross Receipts Tax imposes, in a majority of cases, a greater burden on unincorporated legal entities than is imposed by the corporate income tax on entities of comparable size. New Jersey's Gross Receipts Tax discriminates in substance, although not in form, against the small economic entity. There is no relation between the Gross Receipts Tax and benefits to the taxpayer. The Gross Receipts Tax imposes on unincorporated legal entities a burden which is in reverse proportion to the ability to pay. Those least able bear the heaviest impact of this tax.

A close examination of the study prepared by Professor Flink for the Interprofessional Council of Executives and distributed to members of the Legislature leads inescapably to the conclusion that the Unincorporated Business Gross Receipts Tax is inequitable, administratively undesirable and an economic burden on the small businessman and must be repealed.



J. C. PENNEY COMPANY, INC.
EDISON, N. J.
08817

March 22, 1968

Senator Robert E. Kay - Assemblyman Webster B. Todd, Jr.
Joint Legislative Taxation Committee Hearing
State Capitol Building
Trenton, New Jersey

Dear Sirs:

I solicit your support for Assembly Bill 88 and Senate Bill 404.
It is important that the Retail Gross Receipts Tax be repealed
for the following reasons:

1. The Retail Gross Receipts tax is an unfair and discriminatory tax upon New Jersey Retailers. It is a tax which demands from retailing more than its fair share of the tax responsibility. New Jersey retailers pay all of the various taxes imposed upon New Jersey businesses, but then are singled out to pay a special additional tax imposed only on retailers, the Retail Gross Receipts Tax. Such an additional tax demand is not imposed upon any other segment of business nor industry---just of retailing, is this not unfair and discriminatory? Retailers do not ask for, nor receive, any special services from government, why then is this additional tax imposed upon retailers?
2. The New Jersey retail industry also has a burden that no other segment of the business community has---the burden of collecting the sales tax. This burden falls very heavily on the retail industry. In order to implement the collection of the sales tax, personnel had to be trained, additional personnel hired, space requirements expanded, new equipment purchased, forms and procedures revised. The continuing administration of the collection of the sales tax requires substantial expenditures of time and money.

Recognizing this burden on the retail industry, some 22 other states reimburse retailers to some extent for the cost to them of collecting the sales tax. Three percent of collections has generally been allowed. Thus, a retailer with taxable sales of \$1,000,000 in a taxing jurisdiction which has a 3% sales tax would be reimbursed \$900. This is very conservative

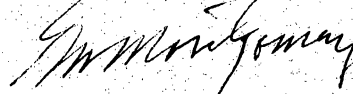
and does not reimburse the retailer but for a portion of his costs in collecting the sales tax.

3. The enactment by the 1966 New Jersey Legislature of the Retail Gross Receipts tax was an injustice to the retailers of New Jersey. The tax is rank discrimination against a New Jersey industry that provides thousands of jobs, millions in taxes, an unlimited other contributions to the general well-being of our state. The basis upon which the tax is imposed is economically and philosophically un-sound, it discriminates against retailing as opposed to other New Jersey businesses, as well as being discriminatory within the ranks of retailing itself.

Your interest and help will make possible the repeal of the Retail Gross Receipts Tax by the 1968 New Jersey Legislature.

Thank you for your consideration on this matter.

Very truly yours,



G. W. Montgomery,
Manager

GWM/ml

MAR 18 1968

CARBER'S

111 SPRING STREET

NEWTON, N. J. 07860

March 16, 1968

Assemblyman Webster B. Todd
104 West High St.
Somerville, N. J. 08876

Dear Sir:

I would greatly appreciate your efforts to repeal the unfair and particularly discriminatory Retail Gross Receipts Tax. We retailers do not ask for, nor receive special services from government - why impose a tax on retailers, alone? Furthermore this tax takes no consideration of whether a business makes a good profit or suffers a loss and is particularly discriminatory on the small businessman.

In my particular case, I have had losses for my year's work because of large chains and discount stores moving in my area. In 1967 my business earned for me \$955.00 on a gross sales of \$46,782.02. On an investment of \$30,000. this was hardly reasonable interest on my investment and no pay whatever for my year's work. Now with this Gross Receipts Tax the state of New Jersey wants \$93.56 of me. You will find many small businesses just hanging on with today's big store competition.

Your efforts to repeal the Retail Gross Receipts Tax would be a great help to keeping the small businessman alive.

Sincerely yours,

CARBER'S



Lowell M. Benz, owner.

MAR 2 1968

22 East Prospect Street
Waldwick, New Jersey 07463
March 13, 1968

Assemblyman Webster Todd Jr.
Assembly Building
Trenton, New Jersey

Dear Sir:

N.J. Unincorporated Business
Tax Raises Chicken Prices

I'm happy to pay all my taxes, because I feel that without them there could be no government (and without government; no civilization).

Ten years ago I started my own retail food business, and with the help of the good Lord and a good wife, we have survived. I sell the best meats at the most competitive prices. (When chickens drop to 28¢lb. at my wholesaler I feature them for 29¢lb.)

I'm sad to say that this type of sale will have to be replaced by some other promotion, since the state is penalizing me for increasing my volume.

Thank you for your
consideration,


Jack Benjamin

JB:JAB

Liq-Nu-Lizer
Sol-Nu-Lizer
Hi-Gro-Nite

PLANT FOOD CHEMICAL CO.

Manufacturers of Liquid, Solid & Suspension Fertilizers



CRANBURY STA. ROAD (BOX 178)
RD #1, CRANBURY, N. J.
TEL. 609-448-0935

E A. PLATZ, OWNER
RD BELLE MEAD, N. J.
TEL. 201-359-6550

March 24, 1968

The Hon. Webster Todd Jr.
Somerset Co. Assembly
Chairman of Assembly Tax Study Committee
State House
Trenton, New Jersey

Dear Dan:

I would like to enter a strong protest against the Gross Receipts Tax that was instituted against all unincorporated businesses in the state of New Jersey last year. We have a small liquid fertilizer manufacturing business which services New Jersey's agriculture in eight counties. Our gross is large compared to our net; the $\frac{1}{4}$ of 1% on the gross will be from 4-6% on our earnings, which is double the N.J. Corporate Income Tax.

The agricultural segment of our N.J. economy is depressed compared to other industries, for this reason our profit margin is small. The farmers are going to suffer greatly from this tax, conceivably they could have a net loss and still have to pay this tax. Service Stations and all small margin high gross operations will be hurt by this unfair tax.

The medium and large unincorporated businesses will be forced to incorporate to insure fair and equitable taxation on earnings not on the gross. Incidentally, I could and will if you request, support this letter with a petition of one thousand names of our unincorporated farmer business customers.

I would like this protest made a part of the record and strongly urge the repeal of this Gross Receipts Tax.

Sincerely,

Edward A. Platz
Owner of Plant Food Chemical Co.

EAP:zp

HUNTERDON COUNTY CITIZENS AND TAXPAYERS ASSOCIATION

RESOLUTION 4

March 1968

WHEREAS, Local property taxes are rising annually, the value of the dollar is diminishing annually and most ageing citizens are on a fixed income,

WHEREAS, Some of these previously self-sufficient taxpayers must seek public assistance to off-set the loss of funds caused by rising local taxes,

WHEREAS, This assistance in turn adds to the cost of government, thus forcing taxes upward,

WHEREAS, The Legislature of the State of New Jersey has passed bills depriving local governments of tax revenues (class 2 railroad property tax, business personal property tax),

WHEREAS, Much of these revenues is being used by the state government to fund programs of relief for disadvantaged segments of the population throughout the state, and

WHEREAS, Several states (Wisconsin, Michigan, California, Florida, Vermont) have legislation to assist senior citizens,


Now, therefore, be it resolved by the Hunterdon County Citizens and Taxpayers Association, in the State of New Jersey:

(1) That the Legislature of the State of New Jersey in Trenton enact legislation stipulating the following:

- (a) That the local property taxes of any taxpayer who is a "senior citizens" be limited to no more than seven percent (7%) of his annual income for any residence that is owned and occupied by the same senior citizen, i.e. so that this provision does not cover more than one residence nor a residence that is not a year-round abode (ref. Section 4829 of 32VSA, State of Vermont).
- (b) That the State reimburse municipalities for any loss of income caused by enactment of the proposed law or any other law that relieves these taxpayers with funds derived from the tax revenues which the state government takes from local municipalities.

(2) That, should Assembly Bill No. 172, which is in committee, become law in lieu of the above, that the legislators delete the word "tenant" and all to which it pertains, since it could unjustly benefit, at "public expense", large commercial interests, and that the legislators set the exemption at \$10,000 instead of \$5,000.

Adopted by the Hunterdon County Citizens and
Taxpayers Association


Floyd S. Merchant (President pro tem)

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