

Sales and Use Tax Review Commission 2003 Annual Report

Annual Report to the New Jersey Legislature
Issued pursuant to N.J.S.A. 54:32B-43

December 31, 2003

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Commission Chairman

Nicholas K. Catalano
Executive Secretary

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(as of August 5, 2003)

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Overview of Authorizing Legislation

The New Jersey Legislature established the Sales and Use Tax Commission through the enactment of Public Law 1999, chapter 416, on January 18, 2000. This authorizing legislation, which is codified as N.J.S.A. 54:32B-37 et seq., became effective March 1, 2000.

Membership

The Commission may comprise ten members. That membership consists of the following, all of whom serve without compensation, but are entitled to reimbursement of expenses incurred in the performance of their Commission duties.

Four members of the Executive Branch: State Treasurer (or designee), *ex officio*, and three other members of the Executive Branch designated by the Governor to serve at the Governor's pleasure.

Two public members (not of the same political party) appointed by the President of the Senate, serving the two-year legislative term in which the appointment is made and until their successors are appointed and qualified.*

Two public members (not of the same political party) appointed by the Speaker of the General Assembly, serving the two-year legislative term in which the appointment is made and until their successors are appointed and qualified.*

Two public members (not of the same political party) to be appointed by the Governor, with the advice and consent of the Senate, serving four years and until successors are appointed and qualified.*

From among the six "public members" the Governor designates a chairman, who serves at the pleasure of the Governor.

The Commission is entitled to receive assistance and services from employees of any New Jersey State, county or municipal department, board, bureau, commission or agency as required, and to employ clerical assistants within the limits of funds available to it. The Division of Taxation is required to assist the Commission in performing its duties. The Commission may use the Division's existing studies and materials, and may also request additional services from the Division.

Duties of the Commission

The Commission is charged with the duty to review all bills, and all joint or concurrent resolutions, originating in either the General Assembly or the Senate of the State Legislature, which would either expand or reduce the base of the sales and use tax. Its review must, at a minimum, include an analysis of the bill's or resolution's impact, comments or recommendations concerning the bill or resolution, and any alternatives to it which the Commission may wish to suggest.

*Of the first members appointed, one is to serve for two years and one is to serve for four years.

Procedures

The following requirements govern the Commission's review process.

(1) First, within 20 days of the introduction of any bill or resolution, the Legislative Budget and Finance Officer must determine whether enactment of the measure would effect an expansion or reduction of the sales and use tax base.

(2) If the officer determines that the measure expands or reduces the tax base, he must then promptly notify the Commission, the presiding officer of the house in which the bill or resolution was introduced, and the chairman of any standing committee of that house to which the bill or resolution may have been referred.

(3) When the Commission receives a bill or resolution for review, it should complete its review and issue its written comments and recommendations within 90 days after the measure's introduction in the Legislature, unless it has been granted an extension. Its comments and recommendations must be provided to the presiding officer of the introducing house and the chairman of the standing committee handling the measure within 90 days after the bill's or resolution's introduction, unless an extension has been granted.

(4) The General Assembly or Senate, or the standing committee handling the bill or resolution, may not vote on it until after the Commission completes its review and provides its comments and recommendations, unless the Commission fails to do so by the deadline described in paragraph (3), in which case the Legislature is free to take action.

(5) However, if the presiding officer of the introducing house notifies the Commission and the standing committee that the bill or resolution is an urgent matter, the house or standing committee is permitted to vote on the bill or resolution without waiting for the Commission's comment.

The Commission may meet and hold hearings, may request the assistance of officials of State agencies or of political subdivisions of the State, and may solicit the testimony of the interested group and the general public.

Rules and Regulations

The Commission may adopt rules and regulations that it deems necessary in order to carry out its functions. The Administrative Procedure Act applies. N.J.S.A. 52:14B-1 et seq.

Commission Report

The Commission must report its activities by December 31 of each year, and it may also issue periodic tax policy recommendations.

This annual report is being issued in accordance with this requirement imposed by N.J.S.A. 54:32B-43.

Standards of Analysis for Review of Sales and Use Tax Legislation

The sales and use tax makes up approximately one-third of New Jersey's tax revenue. It is the major source of revenue for general (not "dedicated") State purposes.

Following are the total figures for sales and use tax collections in the past four fiscal years:

Fiscal Year	Sales and Use Tax Collections
2003	\$5,936,057,000
2002	5,996,839,000
2001	5,758,670,000
2000	5,508,046,000

The magnitude of these figures may suggest how important it is to ensure the continued efficacy of the sales and use tax as a means of funding State purposes, while ensuring that the tax also remains fair and results in minimal interference with the public's economic decision making.

In order to expedite the work of reviewing pending sales and use tax legislative proposals and arriving at recommendations, it can be helpful to identify some standards that might be useful when evaluating the merits of legislation that would alter the sales and use tax base. It may be necessary to give due attention to the sometimes competing visions and values of "fairness," ease of administration, economic neutrality, and compliance cost. While analysis of legislation is generally not limited to the consideration of a fixed, precisely defined list of standards, it can be useful to consider, among other factors, the following standards when performing an analysis of each bill presented for review.

Simplicity

Sales and use tax statutes should be plain, clear, precise, and unambiguous in order to permit both accurate compliance by the public and fair, nonarbitrary enforcement by State tax administrators.

Equity

In this area, the policy analyst faces the challenge of applying two competing concepts of fairness, both of which may merit some consideration.

"Horizontal equity" requires that the tax apply equally to similarly situated taxpayers. That is, all taxpayers engaging in the same type of transaction are deemed to be "equals" and therefore should be equally obligated to pay tax at the same rate, resulting in tax payments proportionate to the monetary value of the transactions. Proponents of "horizontal equity" as a guiding principle of ideal statutory tax schemes generally favor sales tax laws with the broadest possible tax base, with few if any exclusions or exemptions, coupled with the lowest possible rate of tax.

"Vertical equity" requires that the burden of paying the tax be assigned according to the taxpayer's ability to pay. This vision of equity is based on the recognition that paying the same dollar of tax requires a greater proportionate sacrifice for the person of very limited means than it does for the person of wealth. The vertical equity vision is generally implemented through personal income tax schemes, imposing tax at progressively higher rates in accordance with income. It is generally not a guiding principle of sales tax schemes.

However, in the context of consumption taxes, such as the sales and use tax, some degree of vertical equity is indirectly achieved by means of exemptions and exclusions for “necessities” such as food, medicines, and home heating repairs that are so crucial to subsistence living that the poor cannot safely choose to forgo the purchases. However, while the exemptions for necessities result in the nontaxability of a greater percentage of the poor’s purchases than of the wealthy’s purchases, they also promote “horizontal equity,” since the exemptions apply without regard to the taxpayer’s real or assumed ability to pay. Therefore, exemptions for “necessities” can be acceptable to proponents of both competing concepts of equity.

Economic Neutrality

Sales tax policy analysts generally advocate that sales tax legislation should be economically neutral to the extent possible. That is, any exemptions and exclusions in the law should ideally have minimal effect on the free functioning of the State’s market economy. The concept of economic neutrality is of course closely related to the “horizontal equity” vision of tax burden fairness. The tax should be sufficiently broad-based, and its rate sufficiently low, that a transaction’s taxability need not become a significant factor affecting consumers’ economic decisions.

If sales taxes are viewed as simply and fundamentally a means of raising revenue for the support of government services and programs, it is then arguable that they should not be used as a social and political policy tool, by favoring “desirable” activities with exemptions or by penalizing “undesirable” activities through the imposition of higher rates of tax. In addition, they should generally avoid favoring one segment of the economy over another competing segment.

Costs of Administration and Compliance

The State’s cost of administering the tax, and the costs incurred by vendors and consumers in complying with it, should be as low as possible, consistent with the objective of ensuring that the proper amount of tax is paid and remitted on the proper transactions.

List of Bills Reviewed by Commission

(from January 1 – December 31, 2003)

Bill Number	Description	Recommendation Date
A-2910	This bill would provide tax and other incentives for the creation of a consortium to develop personalized handguns.	01/14/03
A-3312	This bill extends a proportion of sales tax revenues into Urban Enterprise Zone assistance funds in those zones designated pursuant to P.L. 1993, c.367 (N.J.S.A. 52:27H-66.6).	04/08/03
A-3499	This bill amends the Urban Enterprise Zones Act to provide that sales of boats and marine products made to a qualified business for the exclusive use or consumption of such business within an Urban Enterprise Zone are no longer entitled to an exemption from sales tax.	08/05/03
A-3597	This bill amends the Urban Enterprise Zones Act to provide that sales of household appliances costing over \$1,200 made to a qualified business for the exclusive use or consumption of such business within an Urban Enterprise Zone are no longer entitled to an exemption from sales tax.	08/05/03
A-3765	This bill provides a sales tax exemption for sales of qualified water conserving gardening devices.	08/05/03
A-3812	Provides a 50% sales tax rate exemption for sales of electric vehicles.	08/05/03
S-2380	This bill would allow Urban Enterprise Zone and Urban Enterprise Zone-impacted business district qualified vendors to charge 3% sales tax on motor vehicles.	04/08/03
S-2589	This bill authorizes the Urban Enterprise Zone Authority to designate a joint Urban Enterprise Zone in the Raritan River Area.	08/05/03
S-2699	Provides a 50% sales tax rate exemption for sales of electric vehicles.	08/05/03

SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

Bill Number: A-2910 **Date of Introduction:** 10/17/02

Sponsor: Assemblyman Cohen **Date of Recommendation:** 01/14/03

Identical Bill:

Committee: Assembly Law and Public Safety

Description

This bill would provide tax and other incentives for the creation of a consortium to develop personalized handguns. The bill would allow for a 50% sales and use tax exemption on the retail sales of personalized handguns manufactured by consortium members, a 50% sales and use tax exemption for materials, supplies, and equipment for use in manufacturing or research facilities that are part of the consortium. The sales tax exemptions would further reduce the already reduced 3% rate of tax imposed in Urban Enterprise Zones (UEZs), and UEZ-impacted business districts, and the reduced Salem countywide rate of tax for sales of qualified merchants. The bill would also allow for a rebate program to be established for purchasers of personalized handguns from licensed dealers, and retailers could also obtain a rebate for complying with reporting requirements. The bill also proposes \$1 million appropriation to the New Jersey Institute of Technology for its participation in the personalized weapons project.

Analysis

In an attempt enhance firearm safety development within the State, the bill offers incentives to firearm manufacturers and high tech companies who join a consortium with each other and the New Jersey Institute of Technology (NJIT) to develop and produce a personalized handgun production model. In addition, it provides a 50% sales and use tax exemption on the retail sales of personalized handguns manufactured by consortium members, and a 50% sales and use tax exemption for materials, supplies, and equipment for use in manufacturing or research facilities that are part of the consortium. The sales tax exemptions would further reduce the rate of tax that is imposed in Urban Enterprise Zones (UEZs), UEZ-impacted business districts, and the reduced Salem countywide rate of tax for sales of qualified merchants.

The sales tax exemptions proposed in this bill benefit a specialized group and do not promote the goal of horizontal equity in that the bill creates disparity between those manufacturers that are members of the personalized handgun consortium and nonmember manufacturers. Sales tax legislation should be broadly based and tax similar transactions, persons, or things in a similar manner. Tax treatment should be uniform from one taxpayer to another.

As a matter of policy, this Commission does not support the use of tax exemption legislation as a tool for encouraging socially desirable behavior. The Commission prefers sales and use tax legislation to be more "neutral" in its impact on the behavior of vendors and consumers. Even if this exemption is intended to serve a socially useful purpose such as promoting handgun safety, the Commission does not favor using tax legislation as a social, political, or environmental policy tool.

In addition, such legislation is unnecessary as the State has already approved legislation that provides favorable tax treatment for those who possess handguns, in an effort to improve handgun safety. "The Firearm Accident Prevention Act" and "The Secure Firearm Storage Act," both passed in 1999, provide sales tax exemptions for owners of firearms. Receipts from the sales of firearm vaults are exempt from

sales tax, and sales of trigger locks and other devices that enable a firearm to be made inoperable by anyone other than an authorized person are exempt from sales tax.

Companies and organizations engaged in research and development already receive a sales tax exemption. Also, there is an exemption from sales and use tax of sales of machinery, apparatus, or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling, or refining. There is no reason to offer special exemptions to manufacturers who may already receive such benefits whether or not they chose to participate as a consortium member.

Finally, the bill would result in an estimated \$10 million in lost revenue from firearms and ammunition sales as well as impose a tremendous administrative burden on the Division of Taxation, Division of Revenue, and the Office of Management and Budget. Increased administrative responsibilities would include establishing and implementing new tax collection and reporting procedures and methods for separating the revenue earmarked for a nonlapsing "Firearms Safety Fund" and a nonlapsing "Victims of Firearms Injuries Fund" from the General Fund. The enactment of this bill would require the State Treasurer to undertake additional responsibilities, which may result in the reallocation of State resources.

Recommendation

The Commission does not recommend enactment of this bill.

Commission members For proposal:	0
Commission members Against proposal:	7
Commission members Abstaining :	0
Commission Meeting Date:	01/14/03

SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

Bill Number: A-3312 **Date of Introduction:** 02/06/03

Sponsor: Assemblyman Kean **Date of Recommendation:** 04/08/03

Identical Bill:

Committee: Assembly Commerce and Economic Development

Description

This bill extends a proportion of sales tax revenues into Urban Enterprise Zone (UEZ) assistance funds in those zones designated pursuant to P.L. 1993, c.367 (N.J.S.A. 52:27H-66.6).

Analysis

Currently, the UEZ Program provides for a percentage of collected reduced rate revenues, within an extended enterprise zone, to be deposited in the enterprise zone assistance fund created pursuant to section 29 of P.L. 1983, c.202 (N.J.S.A. 52:27H-88). The schedule provides for three five-year periods and one one-year period of decreasing allocation of revenues to be deposited in the enterprise zone assistance fund. After first depositing ten percent (10%) of gross revenue from the zones, the schedule provides for the remaining ninety percent (90%) to be allocated and deposited into the enterprise zone assistance fund and the General Fund as follows: all revenues collected to be deposited in the enterprise zone assistance fund during the first five-year period; sixty-six and two-thirds percent ($66\frac{2}{3}\%$) and thirty-three and one-third percent ($33\frac{1}{3}\%$) respectively during the second five-year period; thirty-three and one-third percent ($33\frac{1}{3}\%$) and sixty-six and two-thirds percent ($66\frac{2}{3}\%$) respectively during the third five-year period; and all of the revenues collected to be deposited in the General Fund for the final one-year period.

This bill alters the existing framework of the original 16-year UEZ designation to be replaced with a 26-year period consisting of two ten-year periods, one five-year period, and one one-year period during which the enterprise zone assistance fund would receive all, two-thirds, one-third, and zero, respectively, of the reduced rate sales tax collected within the zone. In other words, although the percentage of sales tax revenues that the General Fund and the enterprise zone assistance fund receives will not change, the amount of money that the zone assistance fund receives will be increased at the expense of the General Fund since the period of designation has been extended.

As a result of the changes in the law that this bill creates, the State's budgetary crisis will be exacerbated since the amount of monies that the State deposits in its General Fund will be decreased. This is especially disheartening since it is not even clear from the Statement attached to the bill why this proposed legislation is considered to be necessary.

The original purpose of the UEZ Program was to help revitalize the State's economically distressed urban areas. This bill appears to be a tool to solve municipal budgetary problems instead of being used to effectuate the UEZ Act's original intended purpose.

In addition, the bill does not provide an economic study to justify the extension of the period of an expanded zone designation. It does not provide any information that would demonstrate that such extension would reverse the economic decline of the affected municipalities or attract businesses or customers to those municipalities. Conversely, it does not demonstrate that if enacted, it would not draw businesses or customers from other depressed municipalities, or if it would do so, then why such an effect is economically justified.

The Committee recommends that a review of the UEZ Program and its effectiveness is necessary to determine the best course of action in relation to future modifications or expansions of the UEZ Program in New Jersey. To date, there has not been a comprehensive review of the UEZ Program by an independent body. As a result, substantive data concerning the actual success of the UEZ Program has not been provided to the Legislature.

Recommendation

The Commission does not recommend enactment of this bill.

Commission Members For Proposal:	0
Commission Members Against Proposal:	7
Commission Members Abstaining :	0
Commission Meeting Date:	04/08/03

SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

Bill Number: A-3499 **Date of Introduction:** 05/05/03

Sponsor: Assemblyman Gregg
Assemblyman Blee **Date of Recommendation:** 08/05/03

Identical Bill: A-205

Committee: Assembly Commerce and Economic Development

Description

This bill amends the Urban Enterprise Zones Act to provide that sales of boats and marine products made to a qualified business for the exclusive use or consumption of such business within an Urban Enterprise Zone are no longer entitled to an exemption from sales tax. The bill further amends the Urban Enterprise Zones Act to require vendors in Urban Enterprise Zones and Urban Enterprise Zone-impacted business districts to charge the full rate of sales tax on retail sales of boats and marine products. It also amends the Sales and Use Tax Act to require vendors located in Salem County to charge the full rate of sales tax on retail sales of boats and marine products.

Analysis

This bill makes two proposed changes to the Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq. First, the bill amends the Urban Enterprise Zones Act to provide that sales of boats and marine products are no longer entitled to an exemption from sales tax when made to a qualified business for the exclusive use or consumption of such business within an Urban Enterprise Zone.

The New Jersey Boat Industry Loan Guarantee Fund Act defines "boat" as "a vessel or watercraft, other than a personal watercraft or sea plane on the water, used or capable of being used as a means of transportation on water, which may be temporarily or permanently equipped with machinery for propulsion." N.J.S.A. 34:1B-7.30. This statute also defines "marine products" as "those parts and materials utilized in the design, construction and maintenance of boats, which shall include, but need not be limited to, parts and materials used in boat engines, generators, transmissions, exhaust systems and electrical, plumbing, heating and cooling systems, except that marine products shall not include any oil or oil-based products or materials." N.J.S.A. 34:1B-7.30.

The original intent of the Legislature in enacting the sales tax exemption for enterprise zone vendors was to create an incentive for businesses to locate to depressed areas within the State. To this end, the Legislature enacted an exemption for the purchase of most items of tangible personal property by a qualified business for the exclusive use or consumption on the premises of the qualified business at its zone location. Only personal property controlled by the qualified business qualifies for the exemption. Items such as office and business equipment and supplies, furnishings, trade fixtures, and repair or construction materials are examples of items that were initially viewed to fall within the exemption. Motor vehicles were specifically excluded by the Legislature. The reasoning behind the exclusion is that by definition motor vehicles are mobile; thus they cannot be exempt since the exemption applies only for items purchased for use exclusively at the place of business within the zone. The same reasoning applies to boats, since they are also mobile. This bill clarifies that boats and marine products are not entitled to the exemption since it is unlikely that they will ever be used exclusively at the place of business within the zone.

Second, the bill amends the Urban Enterprise Zones Act to require vendors in Urban Enterprise Zones and Urban Enterprise Zone-impacted business districts to charge the full rate of sales tax on retail sales

of boats and marine products. It also amends the Sales and Use Tax Act to require vendors located in Salem County to charge the full rate of sales tax on retail sales of boats and marine products.

The Statement to the bill clarifies that it is the sponsor's belief that the original Urban Enterprise Zone Program legislation inadvertently overlooked boat sales in providing for the retail sales tax exemption and that it was never the intent of the Legislature to create a disadvantage for boat and marine product retailers situated outside, but proximate to, Urban Enterprise Zones. This bill was thus enacted to level the playing field for boat and marine dealers located outside the enterprise zone. In other words, by excluding big-ticket items such as boats and marine products (and automobiles) from the partial sales tax exemption, the unfair advantage created for Urban Enterprise Zone retailers on items of sufficient expense to justify travel into the zone for cost savings will be eliminated.

If this bill were to take effect, competitors located outside of the zones and districts will no longer complain of and perceive unfair tax advantages for vendors located within the zones and districts. The regulations to the Urban Enterprise Zones Act states that, "All sales made by a qualified and certified vendor must be made from his place of business within an enterprise zone, that is, either the purchaser must accept delivery at the vendor's place of business within an enterprise zone, or the vendor must deliver the tangible personal property from its place of business within an enterprise zone." N.J.A.C. 18:24-31.4(e). Thus, only receipts from sales which originate and are completed by the purchaser in person at the vendor's place of business within an enterprise zone qualify for the reduced rate of sales tax; provided, however, that after a sale has been completed within an enterprise zone, the vendor may deliver the tangible personal property to the purchaser at a location outside an enterprise zone.

However, in order to make more sales, qualified vendors with store locations inside and outside of a zone may take orders at the store location outside of the zone, but process the sales through its zone location in order to charge the customer a reduced rate of tax. Even though the vendor is not violating the Urban Enterprise Zones Act because the customer comes to the zone location in order to accept delivery or the customer comes into the zone in order to execute the written contract or sales agreement, this puts vendors without an enterprise zone location at a significant disadvantage. This could also occur at boat and trade shows where competitors located outside of zones and districts do not have this benefit of delaying a sale in order to have the customer come to the zone to execute a sales agreement. The adoption of the bill will also discourage potential fraud by vendors who may falsify invoices to show that the sale was made within the zone or district but was actually made in an area where the property is subject to a full rate of tax.

In addition, this bill creates a significant advantage for the State's General Fund since the sales tax revenue of property that is subject to the full rate of tax paid to a qualified vendor in a zone or district is remitted to the State and not to the municipality. The gain of revenue to the State is enhanced by the fact that boats and marine products are traditionally expensive items and a large block of sales tax revenue for the State. As a result of the changes in the law that this bill creates, the State's budgetary crisis will be alleviated since the amount of monies that the State deposits in its General Fund will be increased.

The adoption of this proposal also solves a potential federal constitutional problem. New Jersey imposes use tax on items that are purchased out-of-State for use in New Jersey but sales tax was not collected or was collected at a rate less than the New Jersey sales tax rate. Constitutionally, the use tax in an area must be imposed at the same rate as the sales tax is imposed within the same area. A constitutional issue may result from boats purchased out-of-State for use in an Urban Enterprise Zone. When registering, the State would require sales tax to be paid at the rate of 6%, while the same boat purchased at the Urban Enterprise Zone or district would only be subject to 3% sales tax. Therefore, if certain businesses in a zone may charge 3% sales tax, a payer of use tax within the zone may assert that the use tax must be imposed at 3%, instead of 6%. By taking boats out of the purview of the Urban Enterprise Zones Act, the constitutional issue is mitigated.

Additionally, the bill solves the existing problem under the Urban Enterprise Zones Act whereby inequitable results are created in regard to the casual sale of used boats which are subject to 6% sales tax. In the Urban Enterprise Zone cities, buyers of privately sold boats complain when they have to pay 6% sales tax, compared to paying 3% sales tax for a boat from a nearby used boat dealer.

Further, varying tax rates from municipality to municipality threatens economic neutrality and horizontal equity within the State. The doctrine of economic neutrality promotes a system of taxation that has a limited effect or impact on the marketplace and avoids policy that benefits one segment of the market at the expense of another. The goal upon which the Urban Enterprise Zones Act is based is to bring new businesses and consumers to selected economically depressed areas. In doing this, the surrounding municipalities from which business and consumers are drawn suffer negative economic effects. Horizontal equity refers to the concept that tax treatment should be uniform from one transaction to another. The Act currently creates a lower sales tax rate for transactions involving sales of boats and marine products within the zones and districts. This disparate treatment of certain transactions violates this doctrine. By removing the sales tax benefit for retail sales of boats and marine products from the Urban Enterprise Zones Act and the Sales and Use Tax Act, this bill would bring more economic neutrality and horizontal equity within the State.

The proposal of this bill is in response to the many assertions of abuses and unfairness that have been reported to the Division of Taxation, legislative representatives, and to the Commerce and Economic Development Commission. This bill represents a step in the right direction in reforming a program which has experienced questionable success.

Recommendation

The Commission recommends enactment of this bill.

Commission Members For Proposal:	5
Commission Members Against Proposal:	0
Commission Members Abstaining :	1
Commission Meeting Date:	08/05/03

SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

Bill Number: A-3597 **Date of Introduction:** 05/15/03

Sponsor: Assemblywomen Heck **Date of Recommendation:** 08/05/03

Identical Bill:

Committee: Assembly Commerce and Economic Development

Description

This bill amends the Urban Enterprise Zones Act to provide that sales of household appliances costing over \$1,200 made to a qualified business for the exclusive use or consumption of such business within an Urban Enterprise Zone are no longer entitled to an exemption from sales tax. The bill further amends the Urban Enterprise Zones Act to require vendors in Urban Enterprise Zones and Urban Enterprise Zone-impacted business districts to charge the full rate of sales tax on retail sales of household appliances costing over \$1,200. It also amends the Sales and Use Tax Act to require vendors located in Salem County to charge the full rate of sales tax on retail sales of household appliances costing over \$1,200.

Analysis

This bill makes two proposed changes to the Urban Enterprise Zones Act. N.J.S.A. 52:27H-60 et seq. First, the bill amends the Urban Enterprise Zones Act to provide that sales of household appliances costing over \$1,200 are no longer entitled to an exemption from sales tax when made to a qualified business for the exclusive use or consumption of such business within an Urban Enterprise Zone.

The original intent of the Legislature in enacting the sales tax exemption for enterprise zone vendors was to create an incentive for businesses to locate to depressed areas within the State. To this end, the Legislature enacted an exemption for the purchase of most items of tangible personal property by a qualified business for the exclusive use or consumption on the premises of the qualified business at its zone location. Only personal property controlled by the qualified business qualifies for the exemption. Items such as office and business equipment and supplies, furnishings, trade fixtures, and repair or construction materials are examples of items that were initially viewed to fall within the exemption. This bill changes the law to provide that household appliances costing over \$1,200 are no longer entitled to the exemption.

Second, the bill amends the Urban Enterprise Zones Act to require vendors in Urban Enterprise Zones and Urban Enterprise Zone-impacted business districts to charge the full rate of sales tax on retail sales of household appliances costing over \$1,200. It also amends the Sales and Use Tax Act to require vendors located in Salem County to charge the full rate of sales tax on retail sales of household appliances costing over \$1,200.

The Statement to the bill clarifies that it is the sponsor's belief that the original Urban Enterprise Zone Program legislation excluded automobile sales from the partial sales tax exemption in order not to create an unfair advantage to retailers on items of sufficient expense to justify travel into the zone for cost savings. The Statement to the bill expresses the sponsor's belief that unlike the exclusion for motor vehicles, the original Urban Enterprise Zone legislation did not take into account the purchase of expensive household appliances in providing the partial retail sales tax exemption and that it was never the intent of the Legislature to create a disadvantage for household appliance retailers situated outside, but proximate to, Urban Enterprise Zones. The bill was submitted to rectify this situation.

As testified to the Commission, if this bill were to take effect, competitors located outside of the zones and districts will no longer complain of and perceive unfair tax advantages for vendors located within the zones and districts on sales of household appliances costing over \$1,200. The regulations to the Urban Enterprise Zones Act state that, "All sales made by a qualified and certified vendor must be made from his place of business within an enterprise zone, that is, either the purchaser must accept delivery at the vendor's place of business within an enterprise zone, or the vendor must deliver the tangible personal property from its place of business within an enterprise zone." N.J.A.C. 18:24-31.4(e). Thus, only receipts from sales which originate and are completed by the purchaser in person at the vendor's place of business within an enterprise zone qualify for the reduced rate of sales tax; provided, however, that after a sale has been completed within an enterprise zone, the vendor may deliver the tangible personal property to the purchaser at a location outside an enterprise zone.

However, in order to make more sales, qualified vendors with store locations inside and outside of a zone may take orders at the store location outside of the zone, but process the sales through its zone location in order to charge the customer a reduced rate of tax. Even though the vendor is not violating the Urban Enterprise Zones Act because the customer comes to the zone location in order to accept delivery or the customer comes into the zone in order to execute the written contract or sales agreement, this puts vendors without an enterprise zone location at a significant disadvantage. This could also occur at trade shows where competitors located outside of zones and districts do not have this benefit of delaying a sale in order to have the customer come to the zone to execute a sales agreement. The adoption of the bill will also discourage potential fraud by vendors who may falsify invoices to show that the sale was made within the zone or district but was actually made in an area where the property is subject to a full rate of tax.

In addition, this bill creates a significant advantage for the State's General Fund since the sales tax revenue of property that is subject to the full rate of tax paid to a qualified vendor in a zone or district is remitted to the State and not to the municipality. The gain of revenue to the State is enhanced by the fact that household appliances costing over \$1,200 are expensive items and a large block of sales tax revenue for the State. As a result of the changes in the law that this bill creates, the State's budgetary crisis will be alleviated since the amount of monies that the State deposits in its General Fund will be increased.

The adoption of this proposal also solves a potential federal constitutional problem. New Jersey imposes use tax on items that are purchased out-of-State for use in New Jersey but sales tax was not collected or was collected at a rate less than the New Jersey sales tax rate. Constitutionally, the use tax in an area must be imposed at the same rate as the sales tax is imposed within the same area. A constitutional issue may result from household appliances purchased out-of-State for use in the Urban Enterprise Zone. For instance, the State would require sales tax to be paid at the rate of 6%, while the same appliance purchased at the Urban Enterprise Zone or district would only be subject to 3% sales tax. Therefore, if certain businesses in a zone may charge 3% sales tax, a payer of use tax within the zone may assert that the use tax must be imposed at 3%, instead of 6%. By taking household appliances (costing over \$1,200) out of the purview of the Urban Enterprise Zones Act, the constitutional issue is mitigated.

The proposal of this bill is in response to the many assertions of abuses and unfairness that have been reported to the Division of Taxation, legislative representatives, and to the Commerce and Economic Development Commission. This bill represents a step in the right direction in reforming a program which has experienced questionable success.

Recommendation

The Commission recommends enactment of this bill.

Commission Members For Proposal:	5
Commission Members Against Proposal:	0
Commission Members Abstaining :	0
Commission Meeting Date:	08/05/03

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

Bill Number: A-3765 **Date of Introduction:** 06/09/03

Sponsor: Assemblyman Chatzidakis **Date of Recommendation:** 08/05/03

Identical Bill:

Committee: Assembly Agriculture and Natural Resources

Description

This bill provides a sales tax exemption for sales of qualified water-conserving gardening devices.

Analysis

If enacted, this bill could have a significant revenue impact, because of the widespread use of lawn-watering systems. It is worth noting that this exemption is not limited to home gardening devices, and by its terms, would probably apply as well to drip irrigation systems purchased for golf courses and large corporate complexes.

While it is worthwhile to encourage consumers to use water-conserving devices to alleviate and help prevent ongoing and recurring water shortages in the State and the region, elimination of the tax on such devices is unlikely to be a significant incentive for purchase. In addition, even if it were, the Commission generally does not favor the use of tax policy as a means of influencing consumers' purchasing decisions and other behavior.

Recommendation

The Commission does not recommend enactment of this bill.

Commission Members For Proposal:	1
Commission Members Against Proposal:	5
Commission Members Abstaining :	0
Commission Meeting Date:	08/05/03

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

Bill Number: A-3812 **Date of Introduction:** 06/16/03

Sponsor: Assemblyman Chatzidakis **Date of Recommendation:** 08/05/03
Assemblyman Bodine

Identical Bill: S-2699

Committee: Assembly Environment and Solid Waste

Description

Provides a 50% sales tax rate exemption for sales of electric vehicles.

Analysis

This bill would present problems if it had to be implemented, because the scope of the affected class is not defined or limited in the bill. "Electric cars" is not defined, and the category is not even limited to cars that are subject to registration as motor vehicles for road use. Without such limitation, the exemption can potentially apply to electric cars used for recreational purposes e.g., golf carts, and to carts used to transport items within a factory or on a construction site.

There is also the risk that, as the technology and the market for electric vehicles develop, the sale of electric motor vehicles will become commonplace, and thus the State will lose too much of the potential revenue from sales of motor vehicles.

While encouraging consumers to purchase electric vehicles may result in benefits for the natural environment, the 50% tax break is not likely to be sufficient inducement to purchase electric cars. Even if it were, the Commission does not generally favor the use of tax policy as a tool for influencing consumer purchasing or other behavior.

Recommendation

The Commission does not recommend enactment of this bill.

Commission Members **For** Proposal: 0

Commission Members **Against** Proposal: 5

Commission Members **Abstaining:** 1

Commission Meeting Date: 08/05/03

SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

Bill Number: S-2380 **Date of Introduction:** 03/10/03

Sponsor: Senator James
Senator Gill **Date of Recommendation:** 04/08/03

Identical Bill:

Committee: Senate Economic Growth, Agriculture and Tourism

Description

The bill would allow Urban Enterprise Zone and Urban Enterprise Zone-impacted business district qualified vendors to charge 3% sales tax on motor vehicles.

Analysis

This bill is proposed to amend the Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., to allow Urban Enterprise Zone and Urban Enterprise Zone-impacted business district qualified vendors located in a municipality with a population greater than 250,000 and less than 300,000 in a county of the first class with a population greater than 775,000 and less than 825,000 to charge reduced sales tax on sales of motor vehicles.

Although the Statement to the bill clarifies that it would only apply to the City of Newark due to the limitations on population size, this bill would significantly disrupt the equity of New Jersey's retail auto industry. Car and truck dealers that cannot charge 3% sales tax will be at a great disadvantage. The dealerships located outside the Urban Enterprise Zone would not survive. The demand for vehicles from the enterprise zone qualified auto dealers would be substantial, robbing development from elsewhere for the benefit of the Urban Enterprise Zone.

Since the sales tax revenue paid to a qualified vendor in an Urban Enterprise Zone and in an Urban Enterprise Zone-impacted business district is remitted to the municipality and not to the State, the loss of revenue would be substantial. The loss of revenue to the State is enhanced by the fact that motor vehicles are big-ticket items and the largest single block of sales tax revenue for the State. If this proposal were to go into effect, all revenue previously collected on sales of motor vehicles in enterprise zones and districts would be lost. Moreover, since the proposal encourages motor vehicle dealers to locate in an Urban Enterprise Zone or district, the revenue impact could be significantly greater if a large number of dealers relocate and charge 3% tax.

The adoption of this proposal creates a potential federal constitutional problem. New Jersey imposes use tax on items that are purchased out-of-State for use in New Jersey but sales tax was not collected or was collected at a rate less than the New Jersey sales tax rate. Constitutionally, the use tax in an area must be imposed at the same rate as the sales tax is imposed within the same area. A constitutional issue may result from vehicles purchased out-of-State for use in the Urban Enterprise Zone. When registering, the State would require sales tax to be paid at the rate of 6%, while the same vehicle purchased at the Urban Enterprise Zone or district would only be subject to 3% sales tax. Therefore, if certain businesses in a zone may charge 3% sales tax, a payer of use tax within the zone may assert that the use tax must be imposed at 3%, instead of 6%.

Additionally, the bill would also lead to inequitable results in regard to the casual sale of used vehicles which are subject to 6% sales tax. In the Urban Enterprise Zone cities, buyers of privately sold cars will

complain when they have to pay 6% sales tax, compared to paying 3% sales tax for a vehicle from a nearby used car dealer.

Further, varying tax rates from municipality to municipality threatens economic neutrality and horizontal equity within the State. The doctrine of economic neutrality promotes a system of taxation that has a limited effect or impact on the marketplace and avoids policy that benefits one segment of the market at the expense of another. The goal upon which the Urban Enterprise Zones Act is based is to bring new businesses and consumers to selected economically depressed areas. In doing this, the surrounding municipalities from which business and consumers are drawn suffer negative economic effects. Horizontal equity refers to the concept that tax treatment should be uniform from one transaction to another. The Act creates a lower sales tax rate for transactions involving sales of motor vehicles within the zones and districts. This disparate treatment of certain transactions violates this doctrine. Adding more types of sales under the purview of the 3% sales tax rate would exacerbate the already tenuous foundation upon which the Act is based.

Finally, the Committee recommends that a review of the Urban Enterprise Zone Program and its effectiveness is necessary to determine the best course of action in relation to future modifications or expansions of the program in New Jersey. To date, there has not been a comprehensive review of the program by an independent body. As a result, substantive data concerning the actual success of the Urban Enterprise Zone Program has not been provided to the Legislature.

Recommendation

The Commission does not recommend enactment of this bill.

Commission Members For Proposal:	0
Commission Members Against Proposal:	6
Commission Members Abstaining :	1
Commission Meeting Date:	04/08/03

SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

Bill Number: S-2589 **Date of Introduction:** 05/29/03

Sponsor: Senator Smith **Date of Recommendation:** 08/05/03
Senator Kavanaugh

Identical Bill:

Committee: Senate Economic Growth, Agriculture and Tourism

Description

This bill authorizes the Urban Enterprise Zone Authority to designate a joint Urban Enterprise Zone in the Raritan River Area.

Analysis

This bill is proposed to amend the Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., to allow the creation of a joint Urban Enterprise Zone comprised of four municipalities, each of which is adjacent to one other municipality within which the joint zone is located and bordering the Raritan River.

This proposal is flawed for several reasons. The greater the number of municipalities that have 3% sales tax, the more New Jersey becomes a patchwork of differing sales tax rates. This is contrary to tax simplicity and uniformity. Adding more zones may create a slippery slope because other municipalities which are similarly situated to the Raritan River joint zone may petition to become another Urban Enterprise Zone. This domino effect defeats the original purpose of the Urban Enterprise Zones Act of helping to revitalize the State's economically distressed urban areas. Given the ease with which the Urban Enterprise Zone Program is being expanded, it is conceivable that all municipalities in New Jersey will be able to credibly and successfully press for Urban Enterprise Zone status. As originally conceived, the program was to be limited and its benefits restricted to the most dire cases and this bill does not establish that its provisions would further that purpose.

The Urban Enterprise Zone Program has expanded in ways that the original drafters never intended. For instance, prior to 1994, ten towns in eleven municipalities were designated as Urban Enterprise Zones; however, in 1994, legislation authorized the creation of ten additional zones and in 1995, legislation added seven more zones. Recent legislation added three more zones to that list. Recently, Urban Enterprise Zone-impacted business districts, areas that have been "negatively impacted" by the presence of two or more adjacent enterprise zones, have been created wherein reduced sales tax is collected. If there was a consensus that the Urban Enterprise Zone Program is operating as intended and is thought to be effective and efficient then the amendments set forth in this bill may represent sound policy. However, there has never been an independent, comprehensive analysis performed that confirms that the Urban Enterprise Zone Program has actually been a benefit to the participating communities, yet the program is being constantly amended and expanded.

As the number of zones increase, the challenge of enforcement expands. Due to the high number of zones in existence, New Jersey no longer enjoys the administrative simplicity it once did with sales tax uniformity across the State. The bill Statement attached to this proposed legislation does not explain why the municipalities in question would benefit from Urban Enterprise Zone designation. In addition, the bill does not provide an economic study to justify the creation of a joint Urban Enterprise Zone in the Raritan River area. It does not provide any information that would demonstrate that such designation would reverse the economic decline of the affected municipality or attract businesses or customers to that municipi-

pality. Conversely, it does not demonstrate that if enacted, it would not draw businesses or customers from other depressed municipalities, or if it would do so, then why such an effect is economically justified.

Since the inception of the Urban Enterprise Zones Act, its Federal constitutional validity has been brought into question. Under the Commerce Clause, a state may not impose taxes on out-of-state sale transactions that exceed the taxes imposed on in-state transactions. The Urban Enterprise Zone Program halves the 6% sales tax rate for sales that take place within a zone. However, New Jersey law imposes a 6% compensating use tax on goods purchased outside of New Jersey but brought into the State for use here. Thus, the law appears to discriminate between a "sale" and a "use" based upon where the transaction occurs. As a result, non-Urban Enterprise Zone New Jersey retailers are forced to compete with out-of-State retailers that deliver goods into a designated zone, as well as with the in-State Urban Enterprise Zone vendors. To comply with the Commerce Clause, the Division must take the position that a New Jersey purchaser would be able to claim a 3% use tax rate if delivery is taken within the zone. The de facto extension of the 3% rate to retailers outside of New Jersey was never contemplated, but is nonetheless a real consequence of this program. Any expansion or creation of new 3% zones only perpetuates this situation.

In addition, varying tax rates from municipality to municipality threaten economic neutrality and horizontal equity within the State. The doctrine of economic neutrality promotes a system of taxation that has a limited effect or impact on the marketplace and avoids policy that benefits one segment of the market at the expense of another. The goal upon which the Urban Enterprise Zones Act is based is to bring new businesses and consumers to selected economically depressed areas. In doing this, the surrounding municipalities from which business and consumers are drawn suffer negative economic effects. Horizontal equity refers to the concept that tax treatment should be uniform from one transaction to another. The Act creates a lower sales tax rate for certain sales transactions taking place within Urban Enterprise Zones. This disparate treatment violates the doctrine of horizontal equity. Permitting more municipalities to collect reduced sales tax would exacerbate the already tenuous foundation upon which the Act is based.

Expanding the Urban Enterprise Zone Program would further alter the broad-based nature of the sales and use tax. A broad-based tax, imposed with limited exemptions on a wide range of transactions, is easy to understand and administer, and is generally perceived as economically neutral and "fair." When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. Expanding the Urban Enterprise Zone Program by adding more 3% zones would save an individual taxpayer and vendor a fairly insignificant sum every year. However, the cumulative loss of revenue to the State is substantial, leaving the State to find other means of generating the money lost as a result of expanding the program. This loss of revenue would be considerable because the 3% sales tax collected by qualified vendors is remitted to the municipality in which the Urban Enterprise Zone is located and not to the State's General Fund. Thus, the State would lose the entire 6% sales tax that is currently collected on sales of items in the new Urban Enterprise Zone. This would be a particularly burdensome loss to the State with regard to big-ticket items.

Another consideration against the recommendation of this bill is the existence of the Streamlined Sales and Use Tax Agreement adopted by the Streamlined Sales Tax Project. The Streamlined Sales Tax Project is a joint effort among over 30 states and the National Governors Association, the Federation of Tax Administrators, and the Multistate Tax Commission to design, test, and implement a new sales and use tax system for the purpose of interstate tax simplification and modernization to reduce the burden of sales tax collection. The State of New Jersey supports the goals of the Project and has been involved as an Observer State since September 1999. In August 2000, New Jersey became a Participating State, which indicates that the State is committed to participating in the new system and allows State representatives to vote at Project meetings. An important part of simplification under the Project is Section 302 entitled "State and Local Tax Bases" which mandates a uniform sales tax rate throughout the State (See page 10 of the Streamlined Sales and Use Tax Agreement, adopted November 12, 2002). As such,

further expanding the Urban Enterprise Zone Program and permitting more municipalities to collect a reduced rate of sales tax may cause potential problems under the Agreement since its substantive provisions require that sales tax rates must be uniform throughout the State.

Finally, a major reason many municipalities are now petitioning to become an Urban Enterprise Zone may be the belief that such a designation would replace revenue that the municipality is currently losing from other sources. For instance, many municipal representatives have testified to the Sales and Use Tax Review Commission that Urban Enterprise Zone designation would benefit the municipality since they are currently experiencing financial problems. The main theme in urging the Commission to approve a bill creating yet another zone, stresses that Urban Enterprise Zone status would provide funds for municipal use.

Recommendation

The Commission does not recommend enactment of this bill.

Commission Members For Proposal:	0
Commission Members Against Proposal:	6
Commission Members Abstaining :	0
Commission Meeting Date:	08/05/03

SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

Bill Number: S-2699 **Date of Introduction:** 06/23/03
Sponsor: Senator Bark **Date of Recommendation:** 08/05/03
Identical Bill: A-3812
Committee: Senate Transportation

Description

Provides a 50% sales tax rate exemption for sales of electric vehicles.

Analysis

This bill would present problems if it had to be implemented, because the scope of the affected class is not defined or limited in the bill. "Electric cars" is not defined, and the category is not even limited to cars that are subject to registration as motor vehicles for road use. Without such limitation, the exemption can potentially apply to electric cars used for recreational purposes e.g., golf carts, and to carts used to transport items within a factory or on a construction site.

There is also the risk that, as the technology and the market for electric vehicles develop, the sale of electric motor vehicles will become commonplace, and thus the State will lose too much of the potential revenue from sales of motor vehicles.

While encouraging consumers to purchase electric vehicles may result in benefits for the natural environment, the 50% tax break is not likely to be sufficient inducement to purchase electric cars. Even if it were, the Commission does not generally favor the use of tax policy as a tool for influencing consumer purchasing or other behavior.

Recommendation

The Commission does not recommend enactment of this bill.

Commission Members **For** Proposal: 0
Commission Members **Against** Proposal: 5
Commission Members **Abstaining**: 1
Commission Meeting Date: 08/05/03

CHAPTER 24A

SALES AND USE TAX REVIEW COMMISSION

SUBCHAPTER 1. GENERAL PROVISIONS

18:24A-1.1 Purpose and objectives

The Sales and Use Tax Review Commission (the "Commission"), was established by P.L. 1999, c.416, codified at N.J.S.A. 54:32B-37 to 54:32B-43 (the "Act"), for the purpose of reviewing bills introduced in the Legislature which would expand or reduce the base of the Sales and Use Tax, N.J.S.A. 54:32B-1 et seq. The Commission may analyze a bill's fiscal impact, make comments upon or recommendations concerning a bill, and suggest alternatives to the Legislature. By law, the Commission is in but not part of the Department of the Treasury.

SUBCHAPTER 2. ORGANIZATION AND OPERATION OF THE COMMISSION

18:24A-2.1 Organization

(a) The Commission consists of no more than 10 members: the State Treasurer, ex officio, or the State Treasurer's designee, and three other members of the Executive Branch appointed by the Governor; two public members to be appointed by the President of the Senate, no more than one of whom shall be of the same political party; two public members to be appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party; and two public members, no more than one of whom shall be of the same political party, to be appointed by the Governor with the advice and consent of the Senate.

(b) The officers of the Commission shall include a Chairman appointed by the Governor from among its public members.

18:24A-2.2 Meetings of the Commission

(a) The Chair of the Commission may establish a schedule of regular meetings for the calendar year, setting forth the date, time and location of each meeting, no later than January 10 of such year, and shall make any such schedule available for inspection by the public. The schedule of regular meetings may be revised provided that the notice of such revision is given.

(b) Meetings may be called at any time by the Chair or by any three members of the Commission as the business of the Commission may require.

(c) Emergency meetings may be called by the Chair at any time.

(d) Notice of any meeting shall be given sufficiently in advance of such meeting to permit the submission of written comments and requests for permission to give oral comments at the meeting, as provided in N.J.A.C. 18:24A-3.1.

(e) Notice of any such meeting can be obtained from the following locations:

- i. New Jersey Legislative Calendar (www.njleg.state.nj.us);
- ii. New Jersey Division of Taxation website (www.state.nj.us/treasury/taxation); and
- iii. Sales and Use Tax Review Commission Meeting Announcement Bulletin. Legislative Information and Bill Room (BO1) State House Annex Basement (609) 292-4840.

18:24A-2.3 Quorum; votes

(a) A majority of the current membership of the Commission shall constitute a quorum at any meeting. Actions may be taken and motions and resolutions may be adopted by the Commission by the affirmative majority vote of those members present and constituting a quorum. Any member may abstain from a vote.

(b) Members need not be physically present to attend and constitute a quorum at a meeting, but may attend by way of telephone conference or other technology whereby each member may be heard by others in attendance and whereby each member may hear the proceedings at the meeting.

SUBCHAPTER 3. INFORMATION AND FILINGS

18:24A-3.1 Comment on the work of the Commission

The Commission shall accept written comments with respect to any bill it is reviewing and shall keep such comments in the record of any action taken by the Commission with respect to such bill provided that any written comment is received 10 days in advance of any meeting called pursuant to N.J.A.C. 18:24A-2.2(a) or (b). Written comments shall be received during or immediately following any emergency meeting.

18:24A-3.2 Oral comments

The Commission may hear oral comments on any bill being reviewed by the Commission only upon a written request made in advance of any meeting and in the sole discretion of the Chair of the Commission. At the beginning of a meeting, the Chair may place time restrictions and such restrictions as deemed necessary for the conduct of business on any oral comment.

18:24A-3.3 Notice of policies

Notice of the Commission's policies regarding submission of written comments and requests to address the Commission orally shall be included in every notice of a meeting.

18:24A-3.4 Inquiries and communications to the Commission

Inquiries or written comments with respect to any bill being reviewed by the Division, and written requests for oral comments may be submitted to Executive Secretary, Sales and Use Tax Review Commission, c/o The Division of Taxation, 50 Barrack Street, PO Box 269, Trenton, New Jersey 08695-0269 or e-mail at taxation@tax.state.nj.us

18:24A-3.5 Reports of the Commission

The Commission shall report on its activities by December 31 of each year to the Legislature and may issue periodic reports concerning legislation reviewed by the Commission. Copies of any such report may be obtained from the Executive Secretary of the Commission.