

# **Sales and Use Tax Review Commission 2008 Annual Report**

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

December 31, 2008



## Table of Contents

Commission Membership and Executive Staff .....	v
Overview of Authorizing Legislation .....	1
Standards of Analysis for Review of Sales and Use Tax Legislation.....	3
List of Bills Reviewed by Commission .....	5
Bill Recommendations Issued by Commission	
A-236/S-1514 .....	9
A-881 .....	10
A-1948 .....	11
A-1950 .....	12
A-2057 .....	13
A-2180 .....	15
A-2186 .....	16
A-2379/S-292 .....	17
A-2463/S-424 .....	18
A-2720 .....	19
A-3111 .....	20
A-3153 .....	21
A-3173 .....	22
A-3279 .....	24
S-1200 .....	25
S-1212 .....	26
S-1418 .....	28
S-1550 .....	29
S-1611 .....	30
S-1617 .....	31
S-1652 .....	32
S-1660/A-2186 .....	34
S-1714/A-782 .....	35
S-1718/A-767 .....	36
S-1734 .....	39
S-1765 .....	40
S-1778 .....	41
S-2299 .....	42
Sales and Use Tax Review Commission Regulations .....	43



## 2008 Commission Membership and Executive Staff

### Public Members

#### APPOINTED BY GOVERNOR

Deborah R. Bierbaum  
AT&T  
One AT&T Way – Room 4A221  
Bedminster, NJ 07921  
(908) 234-8323  
(908) 532-1341 (fax)  
e-mail: bierbaum@att.com

Alan J. Preis, CPA  
30 Columbia Turnpike  
Florham Park, NJ 07932  
(973) 660-0444  
e-mail: ajpcpa2000@aol.com

#### APPOINTED BY SENATE

James Appleton, Esq.  
President, New Jersey Coalition of Automotive Retailers  
P.O. Box 7510  
Trenton, NJ 08628  
(609) 883-5056 Ext. 330  
e-mail: jappleton@njcar.org

Susan A. Feeney, Esq.  
McCarter & English  
100 Mulberry Street, Four Gateway Center  
P.O. Box 652  
Newark, NJ 07101  
(973) 639-2087  
(973) 624-7070 (fax)  
e-mail: sfeeney@McCarter.com

#### APPOINTED BY GENERAL ASSEMBLY

Rafael Cuellar  
President and CEO of ECO & Sons, Inc.  
503 Paulison Avenue  
Passaic, NJ 07055  
(973) 417-9905  
e-mail: rcuellar@shopritepassaic.com

Warren Goode, CPA  
1025 Highway #35  
Ocean, NJ 07712-4048  
(732) 531-1400  
(732) 531-1572 (fax)  
e-mail: warren001@aol.com

## **Executive Branch**

Maureen Adams  
Director  
Division of Taxation  
50 Barrack Street, P.O. Box 240  
Trenton, NJ 08695  
(609) 292-5185  
e-mail: [maureen.adams@treas.state.nj.us](mailto:maureen.adams@treas.state.nj.us)

B. Stephan Finkel, Esq.  
Assistant Attorney General  
Justice Complex, 8<sup>th</sup> Floor West Wing  
P.O. Box 080  
Trenton, NJ 08625  
(609) 984-9495  
(609) 633-8087 (fax)  
e-mail: [stephan.finkel@lps.state.nj.us](mailto:stephan.finkel@lps.state.nj.us)

Robert L. Garrenger, III Esq.  
125 West State Street  
P.O. Box 001  
Trenton, NJ 08625  
(609) 777-2472  
e-mail: [robert.garrenger@gov.state.nj.us](mailto:robert.garrenger@gov.state.nj.us)

## **Executive Secretary**

Susan Greitz  
Regulatory Services Branch  
Division of Taxation  
50 Barrack Street  
Trenton, NJ 08695  
(609) 292-5995  
e-mail: [susan.greitz@treas.state.nj.us](mailto:susan.greitz@treas.state.nj.us)

## Overview of Authorizing Legislation

The New Jersey Legislature established the Sales and Use Tax Review 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) 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 was to serve for two years and one was 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 the 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 of 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 consistent with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., that it deems necessary in order to carry out its functions.

### **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 totals for sales and use tax collections (excluding sales tax on energy) in the past seven fiscal years:

Fiscal Year	Sales and Use Tax Collections
2008	\$8,394,600,000
2007	8,609,639,460
2006	6,765,984,000
2005	6,552,199,925
2004	6,261,700,380
2003	5,936,057,000
2002	5,996,839,000

The magnitude of these figures suggests 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 evaluating the merits of pending sales and use tax legislative proposals that would alter the sales and use tax base, it can be helpful to identify some standards that might be useful. Although 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, it can be useful to consider 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 nonarbitrary enforcement by state tax administrators.

### **Equity**

Two compensating concepts of fairness 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 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 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 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**

A 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, 2008)

Bill Number	Description	Recommendation Date
A-236/S-1514	Exempts charges for postage in distribution of direct-mail processing services from sales and use tax where separately stated.	04/17/08
A-881	Excludes health and fitness, athletic, sporting club and organization membership and initiation fees and dues from sales tax.	02/22/08
A-1948	Provides a sales tax exemption for certain purchases made by flood victims residing in qualified disaster areas.	02/22/08
A-1950	Revises a number of aspects of the Sales and Use Tax Act (N.J.S.A. 54:32B-1 <i>et seq.</i> ) in an effort to conform New Jersey's law with various provisions of the Streamlined Sales and Use Tax Agreement of which New Jersey is a member. Areas of change include definitions relating to telecommunications, direct mail, sales price, and fur clothing.	02/22/08
A-2057	Exempts certain purchases by school food service providers from the sales and use tax.	04/17/08
A-2180	Exempts intermodal chassis loaded with a previously consigned container from the charges for parking, storing, or garaging a motor vehicle.	04/17/08
A-2186	Excludes the value of certain manufacturers' rebates from the taxable sales price of motor vehicles.	04/17/08
A-2379	Provides an exemption from sales tax for the purchase of new motor vehicles with a highway miles-per-gallon fuel efficiency rating of 35 or higher.	04/17/08
A-2463	Phases out the imposition of sales tax on certain initiation fees, membership fees and dues over a two-year period.	04/17/08
A-2720	Amends section 20 of P.L. 1983, c.303 (C.52:27H-79) to allow a point-of-sale exemption for retail sales of tangible personal property (except motor vehicles and energy) or services made to qualified Urban Enterprise Zone (UEZ) businesses for the businesses' exclusive use or consumption at the businesses' locations within a Zone.	06/12/08
A-3111	Revises a number of aspects of the Sales and Use Tax Act (N.J.S.A. 54:32B-1 <i>et seq.</i> ) in an effort to conform New Jersey's law with various provisions of the Streamlined Sales and Use Tax Agreement of which New Jersey is a member. Areas of change include definitions relating to telecommunications, direct mail, sales price, and fur clothing.	11/12/08

A-3153	Provides an exemption from sales and use tax for the purchase of certain off-road diesel equipment and certain retrofit devices. The scope of the types of items that would qualify would be certified by the Commissioner of the Department of Environmental Protection (DEP).	11/12/08
A-3173	Amends the Urban Enterprise Zones Act, <u>N.J.S.A. 52:27H-60 et seq.</u> , to allow the creation of a new Urban Enterprise Zone in Belleville Township, Essex County.	11/12/08
A-3279	Establishes an annual sales tax holiday during the third week of April and October for the sale of certain Energy Star rated appliances and products.	11/12/08
S-1200	Removes investigation and security services from the imposition of sales and use tax.	04/17/08
S-1212	Provides an exemption from sales and use tax for the purchase of recreational safety helmets.	04/17/08
S-1418	Revises a number of aspects of the Sales and Use Tax Act ( <u>N.J.S.A. 54:32B-1 et seq.</u> ) in an effort to conform New Jersey's law with various provisions of the Streamlined Sales and Use Tax Agreement of which New Jersey is a member. Areas of change include definitions relating to telecommunications, direct mail, sales price, and fur clothing.	04/17/08
S-1550	Provides an exemption from sales tax for the purchase of new hybrid motor vehicles and new motor vehicles with an average fuel economy of at least 35 miles per gallon.	06/12/08
S-1611	Exempts from sales tax the sales of methane conversion machinery and equipment.	06/12/08
S-1617	Exempts the purchase of materials and labor used to convert traditional motor vehicles into plug-in electric hybrid motor vehicles from sales and use tax.	06/12/08
S-1652	Establishes an annual sales tax holiday during the first full weekend of August for the sales of computers and certain school supplies and instructional materials.	06/12/08
S-1660	Excludes the value of certain manufacturers' rebates from the sales price of motor vehicles taxable under the sales and use tax.	06/12/08
S-1714/A-782	Provides an exemption from sales tax for storage facility space furnished to active duty military personnel three months before training for active duty or three months before active duty and extending to three months after active duty return.	06/12/08
S-1718	Authorizes the creation of a new Urban Enterprise Zone in Beverly City, Burlington County.	06/12/08
S-1734	Eliminates the imposition of sales tax on certain initiation fees, membership fees and dues of health and fitness clubs.	06/12/08

S-1765	Provides a sales and use tax exemption for the purchase of certain high-efficiency home heating equipment.	06/12/08
S-1778	Provides a sales and use tax exemption for the sales of certain Energy Star labeled residential lighting and appliances.	06/12/08
S-2299	Modifies "Revenue Allocation District Financing Act" and "Local Redevelopment and Housing Law" to increase availability of revenue allocation district financing; modifies "Redevelopment Area Bond Financing Law" and authorizes special assessments for environmental cleanup.	11/12/08



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

---

**Bill Number:** A-236/S-1514                      **Date of Introduction:**  
01/08/08/3/10/08

**Sponsor:** Assemblyman Bramnick/              **Date of Recommendation:** 04/17/08  
Senator Kean

**Identical Bill:**

**Committee:** Assembly Appropriations/Senate Economic Growth

---

**Description**

This bill exempts charges for postage in distribution of direct-mail processing services from sales and use tax where separately stated.

**Analysis**

This bill is proposed to amend the Sales and Use Tax Act, N.J.S.A. 54:32B-1 *et seq.*, to create an exemption for charges on postage used in connection with the distribution of direct-mail processing services if the charges for postage are separately stated on an invoice, bill, or similar document presented to the purchaser.

Effective October 1, 2006, the definition of "sales price" was modified to include "delivery charges." "Delivery charges," in turn, are defined to include postage. See N.J.S.A. 54:32B-2(rr), N.J.S.A. 54:32B-2(oo).

Where direct-mail processing services result in property being delivered to a location in this State, the postage expense is now part of the taxable receipt. However, the purchase of postage directly from the United States Postal Service remains nontaxable.

This bill is meant to correct that disparity. If this bill is not enacted, the industry will simply resort to self-help strategies. Specifically, the direct-mail customer will simply purchase the postage from the United States Postal Service directly or establish an account with the United States Postal Service that the direct-mail seller can utilize.

The Committee is concerned that the passage of this bill may violate the Streamlined Sales and Use Tax Agreement. In addition, since the subject matter of this bill is currently a matter of discussion in the State and Local Advisory Council, the Committee stated that it is prudent to wait on the enactment of this bill.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	8
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** A-881                      **Date of Introduction:** Pre-filed for introduction  
in the 2008 Session

**Sponsor:** Assemblyman Albano                      **Date of Recommendation:** 02/22/08

**Identical Bill:**

**Committee:** Assembly Budget

---

Formatted: Font: Not Bold

**Description**

The bill excludes health and fitness, athletic, sporting club and organization membership and initiation fees and dues from sales tax.

**Analysis**

The New Jersey Sales and Use Tax Act was recently amended to impose tax on "initiation fees, membership fees or dues for access to or use of the property of facilities of a health and fitness, athletic, sporting or shopping club or organization in this State, except for membership in a club or organization whose members are predominantly age 18 or under."

This proposal intends to narrow the scope of taxable memberships, initiation fees and dues by eliminating imposition on those sold by health and fitness, athletic, and sporting clubs and organizations.

As this area of imposition was enacted effective October 1, 2006, this area is a new revenue source for the State. The Commission has not been presented with any reason compelling enough to support the repeal or chipping away of this new initiative.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	5
Commission Members <b>Abstaining</b> :	0



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

---

**Bill Number:** A-1948 **Date of Introduction:** 01/28/08  
**Sponsor:** Assemblywoman Vandervalk **Date of Recommendation:** 02/22/08  
**Identical Bill:**  
**Committee:** Assembly Appropriations

---

**Description**

The bill creates a sales tax exemption on certain purchases made by flood victims residing in qualified disaster areas.

**Analysis**

The proposed exemption is intended to provide sales tax exemption to flood victims purchasing goods or services relating to flood damaged property. The scope of the exemption would include installation and repair services as well as the replacement of various household items including: appliances, heating and cooling systems, home repair materials, and household goods. The exemption is also applicable to the repair and/or replacement of motor vehicles.

The exemption would operate by refund only on purchases made where sales tax has been applied. Claims for refund under this proposal would be accepted on or before March 31, 2008, and would apply to purchases made during the defined recovery period of April 4, 2007, through December 31, 2007. "Disaster areas" refers to counties eligible for Federal disaster aid pursuant to the major disaster declaration issued by President Bush on April 26, 2007, and amended on April 29, 2007.

The bill does include appropriate language relating to proofs necessary for making claims for exemption. The Commission supports this exemption as it is limited in its scope and application and the anticipated loss in revenue is minor.

**Recommendation**

The Commission recommends enactment of this bill.

Commission Members <b>For</b> Proposal:	3
Commission Members <b>Against</b> Proposal:	2
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** A-1950 **Date of Introduction:** 01/28/08

**Sponsor:** Assemblywoman Cruz-Perez **Date of Recommendation:** 02/22/08

**Identical Bill:**

**Committee:** Assembly Appropriations

---

**Description**

The bill makes revisions to a number of aspects of the Sales and Use Tax Act (N.J.S.A. 54:32B-1 *et seq.*) in an effort to conform New Jersey's law with various provisions of the Streamlined Sales and Use Tax Agreement of which New Jersey is a member. Areas of change include definitions relating to telecommunications, direct mail, sales price, and fur clothing.

The bill also would eliminate the imposition of sales tax on limousine services and excludes from sales tax health and fitness, athletic, sporting club, and organization membership and initiation fees and dues.

**Analysis**

To date, the Commission has not supported any legislation which seeks to repeal new revenue initiatives such as the impositions on membership fees and limousine services. As these are new revenue sources for the State, the Commission generally views these types of repeals as counterproductive. However, the Commission is aware of the State's current obligations under the Streamlined Sales and Use Tax Agreement and recognizes the need for conforming legislation to pass.

It is based on this apparent contradiction in the State's interests that the Commission opposes the measure unless and until provisions mandating repeal of sales tax imposition on limousine services and membership and initiation fees and dues sales are removed from the bill.

**Recommendation**

The Commission does not recommend enactment of this bill as currently written.

Commission Members **For** Proposal: 0

Commission Members **Against** Proposal: 5

Commission Members **Abstaining**: 0

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

---

**Bill Number:** A-2057 **Date of Introduction:** 02/07/08

**Sponsor:** Assemblyman Conners **Date of Recommendation:** 04/17/08

**Identical Bill:**

**Committee:** Assembly Appropriations

---

**Description**

The bill exempts certain purchases by school food service providers from the sales and use tax.

**Analysis**

This bill provides for an exemption from sales and use tax of supplies, materials, and equipment purchased by school food service providers used directly and exclusively in operating a food service in a public, nonpublic, or charter school pursuant to a contract with a board of education, board of trustees, or person having responsibility for the operation of the school in this State.

Generally, New Jersey schools are exempt from sales and use tax on purchases made with school funds under N.J.S.A. 54:32B-9. This bill seeks to create an exemption based on a taxpayer's contractual relationship to an exempt entity.

The bill's broad language lends itself to many administrative and enforcement problems.

The bill does not define "supplies, material and equipment" or "food service management provider." This language allows for subjective interpretation and may result in fraudulent purchases. Enforcement and administrative problems arise because of the inherent difficulty in determining whether a purchaser and the purchase are qualified for the exemption.

The Commission recommends that in lieu of providing a specific exemption for school food service providers, the proposal be drafted to amend N.J.S.A. 54:32B-9 to address agency relationships between contractors and exempt entities. The existence of an agent/principal relationship determines whether the purported agent may utilize the sales tax status of the principal.

In the alternative, the food service provider may be able to resolve some of the sales tax issues itself by restructuring its transactions. Most of its purchases could be reframed as purchases for resale. Thus, the sales tax on purchases of equipment and supplies that immediately become the property of the school or school board would be eliminated.

The Commission also suggests that school food service providers could structure their relationships with Boards of Education in order to establish a true agency relationship. According to the proposed legislation, the act shall take effect immediately and shall be retroactive to July 1, 1999. This will have the result of ending any pending assessments. However, it is not clear how past assessments should be handled. Pursuant to N.J.S.A. 54:32B-20, if application is made within four years from the date of the payment of the tax, the Division is required to issue a refund of tax paid in error, illegally, or unconstitutionally. Thus, if the intent of the legislature is to have the Division issue refunds, this statute must be amended to permit refunds of tax remitted on and after July 1, 1999.

Since there was no taxpayer reliance on unsettled law and the money is not to be refunded to the municipality, the bill should include a provision prescribing a window, such as 30 days, in which application for refund should be made. This provision is necessary in order to restore certainty to public

finances and to mitigate a potential windfall from being returned to the vendors who are engaged in food service contracts with municipalities.

The Commission has considered an identical bill in a previous session and found the same issues remain in its current drafting that existed at that time. The Commission would suggest that the affected parties take into consideration the suggestions stated above when contemplating any future drafts.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	2
Commission Members <b>Against</b> Proposal:	6
Commission Members <b>Abstaining</b> :	0

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

---

<b>Bill Number:</b>	A-2180	<b>Date of Introduction:</b>	02/25/08
<b>Sponsor:</b>	Assemblyman Wisniewski	<b>Date of Recommendation:</b>	04/17/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Assembly Budget		

---

**Description**

This bill creates an exception in the imposition of sales tax on charges for parking, storing, or garaging a motor vehicle for intermodal chassis loaded with a previously consigned container.

**Analysis**

This bill creates an exception to the current sales tax imposition on charges for parking, storing, or garaging a motor vehicle for intermodal chassis loaded with a "previously consigned container." See N.J.S.A. 43:32B-3(i).

Passage of P.L. 2006, c.55, subjected parking, storing, and garaging of motor vehicles to the sales and use tax, including municipal parking, resulting in the taxation of parking charges for container-loaded intermodal chassis. Although the tax on municipal parking was subsequently repealed as of July 1, 2007, the tax is still imposed on parking at private facilities.

The same parking services would be exempt if performed at a marine terminal facility pursuant to the current exemption at N.J.S.A. 54:32B-8.12. This bill would provide equitable treatment for the parking of intermodal chassis, regardless of whether they are parked at a marine terminal facility or at a location off site.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	2
Commission Members <b>Against</b> Proposal:	5
Commission Members <b>Abstaining</b> :	1

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

---

<b>Bill Number:</b>	A-2186	<b>Date of Introduction:</b>	02/25/08
<b>Sponsor:</b>	Assemblyman Rumpf Assemblyman Van Pelt	<b>Date of Recommendation:</b>	04/17/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Assembly Appropriations		

---

**Description**

The bill excludes the value of certain manufacturers' rebates from the taxable sales price of motor vehicles.

**Analysis**

Current law imposes sales and use tax on the total "sales price" of an item, which includes the total amount of consideration for which personal property is sold, leased, or rented. If a customer pays the retailer a reduced price by relying on a rebate that the manufacturer will send to the retailer as part of the customer's payment, the customer will owe tax on the full price. The receipt payable to the retailer will be the total of the reduced price payable by the customer plus the amount that the retailer will receive from the manufacturer. Sales tax is calculated on the total receipt, or "sales price," not just on the portion of the receipt paid by the customer.

This bill proposes to amend the definition of "sales price" to exclude the value of any manufacturer rebate where used toward a vehicle purchase.

The proposed language defines a manufacturer's rebate as a "cash payment" made by a manufacturer to the dealer. It is unclear whether this description accurately depicts these payments as they typically occur. If these payments are generally not in "cash," the language in the bill may not properly define a "manufacturer's rebate."

Generally, the Commission opposes the passage of measures that are focused on the benefit of one industry. Further, while there have recently been some changes to the definition of "sales price" under the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.), the sales tax treatment of manufacturers' rebates has not been adversely affected.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	1
Commission Members <b>Against</b> Proposal:	6
Commission Members <b>Abstaining</b> :	1

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

---

<b>Bill Number:</b>	A-2379	<b>Date of Introduction:</b>	02/28/08
<b>Sponsor:</b>	Assemblyman Bramnick Assemblyman Moriarty	<b>Date of Recommendation:</b>	04/17/08
<b>Identical Bill:</b>	S-292		
<b>Committee:</b>	Assembly Environment and Solid Waste		

---

**Description**

The bill provides an exemption from sales tax on the purchase of new motor vehicles with a highway miles-per-gallon fuel efficiency rating of 35 or higher.

**Analysis**

This bill is proposed to amend the Sales and Use Tax Act (N.J.S.A. 54:32B-1 *et seq.*) to provide an exemption for the sale of new motor vehicles with a highway miles-per-gallon fuel efficiency rating of 35 or higher. Currently, the law allows for an exemption for zero emission vehicles which are vehicles certified pursuant to the California Air Resources Board zero emission standards for the model year. See N.J.S.A. 54:32B-8.55.

A sales tax exemption for sales of fuel-efficient motor vehicles could open the door for similar tax exemptions on devices that may also be viewed as good for the environment. Generally, the Commission does not support the use of tax policy as a means of influencing consumers' purchasing decisions and other behavior, even though the behaviors promoted might be beneficial to the State. Additionally, the exemption would further alter the broad-based nature of the sales and use tax.

Loss of revenue to the State on big-ticket items, such as automobiles, is substantial. Particularly now, as the State is experiencing a budgetary crisis, the Commission cannot support of passage of this bill.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	7
Commission Members <b>Abstaining</b> :	1

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

---

<b>Bill Number:</b>	A-2463	<b>Date of Introduction:</b>	03/06/08
<b>Sponsor:</b>	Assemblyman Albano Assemblyman Milam	<b>Date of Recommendation:</b>	04/17/08
<b>Identical Bill:</b>	S-424		
<b>Committee:</b>	Assembly Appropriations		

---

**Description**

This bill phases out the imposition of sales tax on certain initiation fees, membership fees and dues over a two-year period.

**Analysis**

The New Jersey Sales and Use Tax Act was recently amended to impose tax on "initiation fees, membership fees or dues for access to or use of the property of facilities of a health and fitness, athletic, sporting or shopping club or organization in this State, except for membership in a club or organization whose members are predominantly age 18 or under."

Since the time of its enactment, sales of memberships, etc. made by government entities and certain qualifying nonprofits have been excluded from this imposition. This has left a disparity of sales tax treatment throughout the industry.

This proposal intends to phase out that imposition over the course of a two-year period, with half the sales tax rate imposed in 2009 and the expiration of the tax at the conclusion of 2010.

As this area of imposition was enacted effective October 1, 2006, this area is a new revenue source for the State. The Commission has not previously been presented with any reason compelling enough to support the repeal or chipping away of this new initiative. However, the Commission agrees with testimony from industry representatives that the recent carve-out for government and exempt organizations has created an inherent unfairness in the application of this imposition and supports a phase-out of the imposition in its entirety.

**Recommendation**

The Commission recommends enactment of this bill.

Commission Members <b>For</b> Proposal:	6
Commission Members <b>Against</b> Proposal:	2
Commission Members <b>Abstaining</b> :	0



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

---

**Bill Number:** A-2720 **Date of Introduction:** 05/12/08

**Sponsor:** Assemblyman Vas **Date of Recommendation:** 06/12/08

**Identical Bill:**

**Committee:** Assembly Commerce and Economic Development

---

**Description**

This bill seeks to amend section 20 of P.L. 1983, c.303 (N.J.S.A. 52:27H-79) to allow a point-of-sale exemption for retail sales of tangible personal property (except motor vehicles and energy) or services made to qualified Urban Enterprise Zone (UEZ) businesses for the businesses' exclusive use or consumption at the businesses' locations within a Zone.

**Analysis**

P.L. 2006, c.34, enacted on July 8, 2006, and effective July 15, 2006, amended both the Urban Enterprise Zones Act and the Sales and Use Tax Act in order to change the way qualified Urban Enterprise Zone businesses may claim their sales tax exemption on purchases of goods and services for their use within the Urban Enterprise Zone. While under previous law qualified Urban Enterprise Zone businesses were entitled to an exemption from sales tax at the time of purchase, under the amended law only "qualified small businesses," i.e., those whose gross receipts for the prior tax year were less than \$1,000,000, may continue to claim exemption at the point of purchase. Qualified Urban Enterprise Zone businesses that are not "small" must instead pay the tax at the point of purchase and may then claim a refund within a year following the date of the transaction.

P.L. 2007, c.328, enacted and effective on January 13, 2008, amends the definition of "small business" applicable to the Urban Enterprise Zone sales tax rebate program by raising the maximum annual gross receipts threshold from less than \$1 million to less than \$3 million.

This bill proposes to repeal these recent initiatives to restore the point-of-sale exemption provision for all qualified businesses.

The Commission recognizes that the above amendments were put in place as an attempt to reduce fraud in the UEZ exemption program. However, it is unclear that any advances have been made in that effort by these initiatives. Further, larger Urban Enterprise Zone businesses have found compliance with the new exemption procedure to be very burdensome and have often determined that the benefits of the exemption were not worth the time and effort of assembling the paperwork to support their applications for refund.

**Recommendation**

The Commission generally reserves support for any initiatives relating to the Urban Enterprise Zone program as it feels that the value of the UEZ program in its entirety has not yet been evaluated. However, due to the burden to businesses that has been created as a result of recent procedural changes outlined above, the Commission feels that it must support enactment of the bill.

Commission Members <b>For</b> Proposal:	5
Commission Members <b>Against</b> Proposal:	0
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** A-3111

**Bill History:** 9/15/2008 Introduced, Referred to Assembly Appropriations Committee  
9/15/2008 Reported out of Assembly Committee, 2nd Reading  
9/25/2008 Passed by the Assembly (49-31-0)  
10/2/2008 Received in the Senate, Referred to Senate Budget and Appropriations Committee

**Sponsor:** Assemblyman Greenwald      **Date of Recommendation:** 11/12/08  
Assemblywoman Pou  
Assemblyman Chivukula

---

**Description**

The bill makes revisions to a number of aspects of the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) in an effort to conform New Jersey's law with various provisions of the Streamlined Sales and Use Tax Agreement of which New Jersey is a member. Areas of change include definitions relating to telecommunications, direct mail, sales price, and fur clothing.

**Analysis**

The Commission is aware of the State's current obligations under the Streamlined Sales and Use Tax Agreement and recognizes the need for conforming legislation to pass. As this bill is a pure effort in that regard, in that it offers no ancillary amendments, the Commission supports its passage.

**Recommendation**

The Commission recommends enactment of this bill as currently written.

Commission Members <b>For</b> Proposal:	5
Commission Members <b>Against</b> Proposal:	0
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** A-3153 **Date of Introduction:** 09/22/08

**Sponsor:** Assemblyman Rumana **Date of Recommendation:** 11/12/08

**Identical Bill:**

**Committee:** Assembly Environment and Solid Waste

---

**Description**

The bill provides an exemption from sales and use tax for the purchase of certain off-road diesel equipment and certain retrofit devices. The scope of the types of items that would qualify would be certified by the Commissioner of the Department of Environmental Protection (DEP).

**Analysis**

This bill proposes to amend the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) to provide a sales tax exemption on the purchase of certain off-road diesel equipment purchases. As the DEP would be required to certify the types of equipment that would qualify for the exemption, it is difficult at this point to foresee the true scope of the exemption. Enacting a sales tax exemption for these types of purchases could open the door for similar tax exemptions on devices the use of which may also be viewed to have a favorable environmental impact.

Generally, the Commission does not support the use of tax policy as a means of influencing consumers' purchasing decisions and other behavior, even though the behaviors promoted might be beneficial to the State.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members **For** Proposal: 0

Commission Members **Against** Proposal: 5

Commission Members **Abstaining**: 0

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

---

<b>Bill Number:</b>	A-3173	<b>Date of Introduction:</b>	09/22/08
<b>Sponsor:</b>	Assemblyman Caputo	<b>Date of Recommendation:</b>	11/12/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Assembly Commerce and Economic Development		

---

**Description**

This bill authorizes the creation of a new Urban Enterprise Zone in Belleville Township.

**Analysis**

This bill amends the Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., to allow the creation of a new Urban Enterprise Zone in Belleville Township, Essex County.

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. In 2002 legislation added three more zones to that list. Finally, the thirty-second zone was added in 2004. In addition, Urban Enterprise Zone-impacted business districts, areas that have been "negatively impacted" by the presence of two or more adjacent Urban 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.

The greater the number of municipalities that have 3.5% sales tax, the more that New Jersey becomes a patchwork of differing sales tax rates. This is contrary to tax simplicity and uniformity. In addition, adding more zones may create a slippery slope because other municipalities which are similarly situated to Belleville Township may petition to become urban enterprise zones. 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. This bill does not establish that its provisions would further that purpose.

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. This bill does not provide an economic study to justify the creation of an Urban Enterprise Zone in Belleville Township. It does not provide any information that would demonstrate that such designation would reverse the economic decline of Belleville Township or attract businesses or customers to that municipality. Further, it does not demonstrate that if enacted, it would not draw businesses or customers from other depressed municipalities.

Since the inception of the Urban Enterprise Zones Act, competitors located outside of the zones have complained of and have perceived unfair tax advantages for vendors located within the zones. There have been many complaints of fraud submitted to the Urban Enterprise Zone Authority and to the Division of Taxation by vendors located outside of the zones charging that Urban Enterprise Zone vendors purchase items tax-free and then transport the property to other locations for use outside of the zone. Permitting more vendors the entitlement of a tax exemption would exacerbate the already tenuous foundation upon which the Act is based.

A major reason municipalities are petitioning for 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. Since the inception of the Urban Enterprise Zones Act, its 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 7% sales tax rate for sales that take place within a zone. However, New Jersey law imposes a 7% 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 3.5% use tax rate if delivery is taken within the zone. The de facto extension of the 3.5% 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 3.5% zones only perpetuates this situation.

Finally, 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 3.5% 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 3.5% 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 7% 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 in regard to big-ticket items.

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 Urban Enterprise Zone Program in New Jersey. To date, there has not been a comprehensive review of the Urban Enterprise Zone 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 <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	5
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** A-3279 **Date of Introduction:** 10/06/08

**Sponsor:** Assemblyman Gusciora **Date of Recommendation:** 11/12/08

**Identical Bill:**

**Committee:** Assembly Environment and Solid Waste

---

**Description**

This bill establishes an annual sales tax holiday during the third week of April and October for the sale of certain Energy Star rated appliances and products.

**Analysis**

This bill would provide a weeklong sales tax exemption for sales of energy-efficient dishwashers, clothes washers and dryers, air conditioners, ceiling fans, compact fluorescent light bulbs, dehumidifiers, programmable thermostats, refrigerators, and weatherization products that have met or exceeded the Energy Star rating. The exemption would only be applicable to products sold for no more than \$2,500.

While the Commission understands the superficial appeal of these programs, the loss of revenue greatly outweighs the small benefits experienced by the purchasers. 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. A sales tax holiday would save an individual purchaser a fairly insignificant sum. However, the cumulative loss of revenue to the State could be substantial.

The Commission does not support the use of implementing sales tax policy for the purpose of influencing consumer purchases. Any impact would be temporal in nature and not result in a permanent change to purchasing patterns.

Further, New Jersey is a member state of the Streamlined Sales and Use Tax Agreement, which provides for limitations on sales tax holidays as to notice time, product types, and duration. It does not appear that this proposal takes into account the provisions of the agreement.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members **For** Proposal: 0

Commission Members **Against** Proposal: 5

Commission Members **Abstaining**: 0

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

---

<b>Bill Number:</b>	S-1200	<b>Date of Introduction:</b>	02/21/08
<b>Sponsor:</b>	Senator Bucco Senator Lance	<b>Date of Recommendation:</b>	04/17/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Senate Budget and Appropriations		

---

**Description**

This bill removes investigation and security services from the imposition of sales and use tax.

**Analysis**

This bill amends the Sales and Use Tax Act. (N.J.S.A. 54:32B-1 *et seq.*) to eliminate the imposition of sales and use tax on investigation and security services, which became effective October 1, 2006.

The imposition of sales and use tax on certain services and goods which were previously untaxed was a major component of the budgetary legislation that provided revenue to balance the State budget. See P.L. 2006, c.44. This bill represents an attempt by the Legislature to rescind portions of that legislation. The approval of this bill will only hasten the call for similar legislation and further undermine the intention of P.L. 2006, c.44, reduce State revenues, and add to the State's deficit.

The Commission acknowledges the importance of homeland security and protecting critical infrastructure and assets at this time. However, this bill is too broad as written.

The Sales and Use Tax Act's definition of investigation and security services encompasses more than just security guard and patrol services. P.L. 2006, c.44 defines "investigation and security services" as: (1) investigation and detective services, including detective agencies and private investigators, and fingerprint, polygraph, missing person tracing and skip tracing services; (2) security guard and patrol services, including bodyguard and personal protection, guard dog, guard, patrol, and security services; (3) armored car services; and (4) security systems services, including security, burglar, and fire alarm installation, repair or monitoring services. N.J.S.A. 54:32B-2(xx).

The Commission would support an amended version of this bill with the following changes: Remove paragraph 2 "security guard and patrol services, including bodyguard and personal protection, guard dog, guard, patrol, and security services" from the definition of "investigation and security services" under N.J.S.A. 54:32B-2(xx). Thus, the tax would still be imposed on paragraphs 1, 3, and 4. As written, the Commission cannot support its passage.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	8
Commission Members <b>Against</b> Proposal:	0
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** S-1212 **Date of Introduction:** 02/21/08

**Sponsor:** Senator Bucco **Date of Recommendation:** 04/17/08

**Identical Bill:**

**Committee:** Senate Law and Public Safety and Veterans' Affairs

---

**Description**

The bill provides an exemption from sales and use tax on the purchase of recreational safety helmets.

**Analysis**

This bill is proposed to provide a tax exemption on the purchase of recreational safety helmets and other protective headgear that meets the standards provided by or pursuant to the laws requiring operators of bicycles, motorcycles, motorized bicycles, roller skates, and skateboards to wear such helmets or headgear. The exemption would also extend to helmets or protective headgear designed to be worn when downhill skiing, operating a toboggan, sled, snowboard or other method of transporting over snow covered terrain.

The language in this bill is too broad. It is not clear whether the exemption applies only to helmets or headgear required for children under the age of 14 as required by law, or if helmets required for operators of any age who engage in the activities specified, but may not be required to wear protective headgear by law, are included. Such ambiguity leads to subjective interpretation rendering the bill difficult to administer and enforce. Without clear definitions or more specific guidelines on the safety standards helmets would be required to meet for exemption, and for whom the exemption is intended to benefit, vendors would have the responsibility of determining which types of "protective headgear" would qualify for exemption.

An exemption from sales tax will not guarantee compliance with the helmet laws or increase safety awareness by those who engage in dangerous activities that require a helmet. Consumers who can only afford to purchase the basic helmets in order to comply with the safety laws will only receive a minimal benefit if the tax was exempt on headgear purchases. Those who are able to purchase more expensive, luxurious helmets will receive a far better benefit than those who can only afford the inexpensive helmets. Relief from sales tax will not have any impact on consumers' ability to purchase safety helmets, or impact the type of protective headgear they choose. Lower-income families will not be more encouraged or relieved of a financial burden if sales tax is not imposed on the purchase of protective headgear.

The bill carries negative public policy implications. Consumers of safety products should not have to be enticed with a financial incentive in order to comply with a public mandate issued as a protective measure. Individuals voluntarily choose to participate in activities that require the use of protective headgear. The State should not have to bear the burden of subsidizing sports and recreational activities that require higher standard safety measures to be taken by the participants.

Enacting special exemptions for purchases of socially desirable merchandise tends to lead to an increased demand for similar exemptions for other useful, necessary, or politically favored purchases. Such piecemeal small exemptions alter the broad-based nature of the sales and use tax, and reduce its credibility as a fairly administered and easy to understand tax. The amount that an individual taxpayer would save from an exemption on purchases of safety helmets and other protective headgear would be miniscule compared to the cumulative loss of revenue the State would suffer. If the proposed exemption were granted, the revenue currently raised by the imposition of tax on these safety items would have to be raised from other revenue sources.



**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	8
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** S-1418 **Date of Introduction:** 03/03/08

**Sponsor:** Senator Sarlo **Date of Recommendation:** 04/17/08

**Identical Bill:**

**Committee:** Senate Budget and Appropriations

---

**Description**

The bill makes revisions to a number of aspects of the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) in an effort to conform New Jersey's law with various provisions of the Streamlined Sales and Use Tax Agreement of which New Jersey is a member. Areas of change include definitions relating to telecommunications, direct mail, sales price, and fur clothing.

**Analysis**

The Commission is aware of the State's current obligations under the Streamlined Sales and Use Tax Agreement and recognizes the need for conforming legislation to pass. As this bill is a pure effort in that regard, in that it offers no ancillary amendments, the Commission supports its passage.

**Recommendation**

The Commission recommends enactment of this bill as currently written.

Commission Members **For** Proposal: 7

Commission Members **Against** Proposal: 0

Commission Members **Abstaining**: 0

<b>Bill Number:</b>	S-1550	<b>Date of Introduction:</b>	04/07/08
<b>Sponsor:</b>	Senator Baroni	<b>Date of Recommendation:</b>	06/12/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Senate Transportation		

The bill provides an exemption from sales tax on the purchase of new hybrid motor vehicles and new motor vehicles with an average fuel economy of at least 35 miles per gallon.

This bill proposes to amend the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) to provide an exemption for the sale of new hybrid vehicles and motor vehicles with a highway miles-per-gallon fuel efficiency rating of 35 or higher. Currently, the law allows for an exemption for zero emission vehicles which are vehicles certified pursuant to the California Air Resources Board zero emission standards for the model year. See N.J.S.A. 54:32B-8.55.

A sales tax exemption for sales of fuel-efficient motor vehicles could open the door for similar tax exemptions on devices the use of which may also be viewed as good for the environment. Generally, the Commission does not support the use of tax policy as a means of influencing consumers' purchasing decisions and other behavior, even though the behaviors promoted might be beneficial to the State. Additionally, the exemption would further alter the broad-based nature of the sales and use tax.

Loss of revenue to the State on big-ticket items, such as automobiles, is substantial.

Particularly now, as the State is experiencing a budgetary crisis, the Commission cannot support passage of this bill.

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	4
Commission Members <b>Abstaining</b> :	1

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

---

<b>Bill Number:</b>	S-1611	<b>Date of Introduction:</b>	05/05/08
<b>Sponsor:</b>	Senator Allen	<b>Date of Recommendation:</b>	06/12/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Senate Economic Growth		

---

**Description**

The bill exempts from sales tax the sales of methane conversion machinery and equipment.

**Analysis**

This proposal would provide for a broad exemption of all tangible personal property and services purchased in relation to the conversion of machinery and equipment to accept methane fuel. The bill requires that the exemption be administered by refund.

Additionally, the claim for exemption must be supported by documentation to be acquired from the Department of Environmental Protection.

Generally, the Commission does not support use of sales tax laws and policy to create incentives to influence consumer choice or to benefit specific industries.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	5
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** S-1617 **Date of Introduction:** 05/05/08

**Sponsor:** Senator Allen **Date of Recommendation:** 06/12/08

**Identical Bill:**

**Committee:** Senate Environment

---

**Description**

The bill exempts the purchase of materials and labor used to convert traditional motor vehicles into plug-in electric hybrid motor vehicles from sales and use tax.

**Analysis**

This bill amends the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) to provide for an exemption for purchases relating to the conversion of traditional motor vehicles into plug-in hybrid electric motor vehicles. The exemption would apply to the purchase of batteries, electronic equipment, and conversion services.

A sales tax exemption for these conversion purchases could open the door for similar tax exemptions on devices the use of which may also be viewed to have a favorable environmental impact. Generally, the Commission does not support the use of tax policy as a means of influencing consumers' purchasing decisions and other behavior, even though the behaviors promoted might be beneficial to the State.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members **For** Proposal: 0

Commission Members **Against** Proposal: 4

Commission Members **Abstaining**: 1

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

---

**Bill Number:** S-1652 **Date of Introduction:** 05/05/08

**Sponsor:** Senator Madden **Date of Recommendation:** 06/12/08

**Identical Bill:**

**Committee:** Senate Budget and Appropriations

---

**Description**

This bill establishes an annual sales tax holiday during the first full weekend of August for the sales of computers and certain school supplies and instructional materials.

**Analysis**

This bill establishes an annual "back-to-school" sales tax holiday during first full weekend of August for the sales of computers and certain school supplies and instructional materials. The exemption provides for a sales price cap of less than \$1,000 and would be available to non-business purchasers.

The limitation of the exemption to individual purchasers for non-business use would be difficult to administer. Retailers cannot reasonably be expected to recognize whether a particular individual is making a purchase for business or personal use, and it is foreseeable that, like the exemption for paper products for home use only, this personal use exemption will be widely misused and easily abused by consumers making purchases for their small businesses. Retailers would object to being required to determine whether every sale was "non-business" or to obtain an exemption certificate from every purchaser during the exclusion period.

Presumably the holiday will only affect sales within New Jersey and not use tax imposed on items purchased from outside of New Jersey. Thus, the proposal is contrary to the Commerce Clause of the United State Constitution, under which states cannot discriminate against interstate commerce. If the tax holiday is limited to sales physically taking place in New Jersey, this will create a federal Constitutional problem, since use tax is imposed when tangible property purchased out-of-State from non-New Jersey mail-order vendors is used in or delivered to New Jersey. The State cannot lawfully exempt a sale of an item taking place within New Jersey while at the same time, impose tax on comparable items purchased from an out-of-State source. This scheme whereby an in-State sale would not be subject to any tax, while the full use tax of 7% would be imposed on interstate purchases used in New Jersey, discriminates against interstate commerce and would not likely survive constitutional scrutiny.

It is unlikely that consumers would enjoy a true savings as a result of a tax holiday which merely eliminates the 7% sales tax. Sales offered by the retailer, generally at a percentage far greater than 7%, result in much greater savings for the customer.

Confident that the public will be enticed to the stores by the prospect of a tax-free holiday, retailers may actually raise their "sale" prices during a tax holiday or elect not to discount regular prices. Rather than provide a savings for consumers, the bill could easily result in increased profit for vendors. Thus, consumers may not realize that they are actually paying more for the merchandise during the holiday and not enjoying a real tax savings.

The sales tax holiday 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. A sales tax holiday would save an individual purchaser a fairly insignificant sum. However, the cumulative loss of revenue to the State could be substantial.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	5
Commission Members <b>Abstaining</b> :	0

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

---

<b>Bill Number:</b>	S-1660	<b>Date of Introduction:</b>	05/05/08
<b>Sponsor:</b>	Senator Connors	<b>Date of Recommendation:</b>	06/12/08
<b>Identical Bill:</b>	A-2186		
<b>Committee:</b>	Senate Transportation		

---

**Description**

The bill excludes the value of certain manufacturers' rebates from the taxable sales price of motor vehicles.

**Analysis**

**The Commission has considered this bill in its previous version, designated as S-2657 introduced in the 2006-2007 session. By way of motion, the Commission has voted to readopt its previous reasoning and recommendation and apply that disposition to this bill.**

Current law imposes sales and use tax on the total "sales price" of an item, which includes the total amount of consideration for which personal property is sold, leased, or rented. If a customer pays the retailer a reduced price by relying on a rebate that the manufacturer will send to the retailer as part of the customer's payment, the customer will owe tax on the full price. The receipt payable to the retailer will be the total of the reduced price payable by the customer plus the amount that the retailer will receive from the manufacturer. Sales tax is calculated on the total receipt, or "sales price," not just on the portion of the receipt paid by the customer.

This bill amends the definition of "sales price" to exclude the value of any manufacturer rebate where used toward a vehicle purchase.

The proposed language defines a manufacturer's rebate as a "cash payment" made by a manufacturer to the dealer. It is unclear whether this description accurately depicts these payments as they typically occur. If these payments are generally not in "cash," the language in the bill may not properly define a "manufacturer's rebate."

Generally, the Commission opposes the passage of measures that are focused on the benefit of one industry. Further, while there have recently been some changes to the definition of "sales price" under the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.), the sales tax treatment of manufacturers' rebates has not been adversely affected.

**Recommendation**

The commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	4
Commission Members <b>Abstaining</b> :	1



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

---

<b>Bill Number:</b>	S-1714	<b>Date of Introduction:</b>	05/08/08
<b>Sponsor:</b>	Senator Allen	<b>Date of Recommendation:</b>	06/12/08
<b>Identical Bill:</b>	A-782		
<b>Committee:</b>	Senate Law and Public Safety and Veterans' Affairs		

---

**Description**

This bill creates an exemption from sales tax on storage facility space furnished to active duty military personnel three months before training for active duty or three months before active duty and extending to three months after active duty return.

**Analysis**

Effective October 1, 2006, amendments to the New Jersey Sales and Use Tax Act (P.L. 2006, c.44) impose tax on the furnishing of space for storage of tangible personal property by a person engaged in the business of furnishing space for such storage. The law extends the tax to transactions where the facility merely provides the space, but not any services. These facilities are commonly referred to as "self-storage" or "miniwarehouse" units.

Although the Commission values the sacrifice and commitment made by the men and women who would be the beneficiaries of this legislation, the Commission does not support the use of tax policy as a vehicle to advance or reward favorable social or civic behaviors, even though the behaviors promoted might be beneficial to the State.

Additionally, the exemption would further alter the broad-based nature of the sales and use tax. As this area of imposition was enacted effective October 1, 2006, this area is a new revenue source for the State. The Commission has not been presented with any reason compelling enough to support the repeal or chipping away of this new initiative.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	2
Commission Members <b>Against</b> Proposal:	5
Commission Members <b>Abstaining</b> :	1

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

---

**Bill Number:** S-1718 **Date of Introduction:** 05/08/08

**Sponsor:** Senator Allen **Date of Recommendation:** 06/12/08

**Identical Bill:**

**Committee:** Senate Economic Growth

---

**Description**

This bill authorizes the creation of a new Urban Enterprise Zone in Beverly City, Burlington County.

**Analysis**

This bill amends the Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., to allow the creation of a new Urban Enterprise Zone in Beverly City, Burlington County.

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. In 2002 legislation added three more zones to that list. Finally, the thirty-second zone was added in 2004. In addition, Urban Enterprise Zone-impacted business districts, areas that have been "negatively impacted" by the presence of two or more adjacent Urban 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.

The greater the number of municipalities that have 3.5% sales tax, the more that New Jersey becomes a patchwork of differing sales tax rates. This is contrary to tax simplicity and uniformity. In addition, adding more zones may create a slippery slope because other municipalities which are similarly situated to Beverly City may petition to become urban enterprise zones. 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. This bill does not establish that its provisions would further that purpose.

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. This bill does not provide an economic study to justify the creation of an Urban Enterprise Zone in Beverly City. It does not provide any information that would demonstrate that such designation would reverse the economic decline of Beverly City or attract businesses or customers to that municipality. Further, it does not demonstrate that if enacted, it would not draw businesses or customers from other depressed municipalities.

Since the inception of the Urban Enterprise Zones Act, competitors located outside of the zones have complained of and have perceived unfair tax advantages for vendors located within the zones. There have been many complaints of fraud submitted to the Urban Enterprise Zone Authority and to the Division of Taxation by vendors located outside of the zones charging that Urban Enterprise Zone vendors purchase items tax-free and then transport the property to other locations for use outside of the zone.

Permitting more vendors the entitlement of a tax exemption would exacerbate the already tenuous foundation upon which the Act is based.

A major reason municipalities are petitioning for 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.

Since the inception of the Urban Enterprise Zones Act, its 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 7% sales tax rate for sales that take place within a zone. However, New Jersey law imposes a 7% 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 3.5% use tax rate if delivery is taken within the zone. The de facto extension of the 3.5% 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 3.5% zones only perpetuates this situation.

Finally, 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 3.5% 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 3.5% 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 7% 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 in regard to big-ticket items.

The Commission 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 Urban Enterprise Zone Program in New Jersey. To date, there has not been a comprehensive review of the Urban Enterprise Zone 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 <b>For</b> Proposal:	0
Commission Members <b>Against</b> Proposal:	5
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** S-1734 **Date of Introduction:** 05/08/08

**Sponsor:** Senator Allen **Date of Recommendation:** 06/12/08

**Identical Bill:**

**Committee:** Senate Health, Human Services and Senior Citizens

---

**Description**

This bill proposes to eliminate the imposition of sales tax on certain initiation fees, membership fees and dues of health and fitness clubs.

**Analysis**

On and after October 1, 2006, the law (P.L. 2006, c.44) imposes sales and use tax on the charges for initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness club or organization in New Jersey, unless the club or organization's members are predominantly age 18 or under.

Since the time of its enactment, sales of memberships, etc. made by government entities and certain qualifying nonprofits have been excluded from this imposition. This has left a disparity of sales tax treatment throughout the industry. This proposal intends to repeal the remaining imposition of sales tax on memberships sold by these facilities.

As this area of imposition was enacted effective October 1, 2006, this area is a new revenue source for the State. The Commission has not previously been presented with any reasoning compelling enough to support the repeal or chipping away of this new initiative. However, the Commission believes that the recent carve-out for government and exempt organizations has created an inherent unfairness in the application of this imposition and supports a repeal of the imposition.

**Recommendation**

The Commission recommends enactment of this bill.

Commission Members <b>For</b> Proposal:	5
Commission Members <b>Against</b> Proposal:	0
Commission Members <b>Abstaining</b> :	0

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

---

<b>Bill Number:</b>	S-1765	<b>Date of Introduction:</b>	05/08/08
<b>Sponsor:</b>	Senator Bucco	<b>Date of Recommendation:</b>	06/12/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Senate Economic Growth		

---

**Description**

This bill provides a sales and use tax exemption for the purchase of certain high-efficiency home heating equipment.

**Analysis**

This bill eliminates sales tax on the purchase of energy-efficient home heating equipment. Generally, this burden is borne at the time of purchase directly by a contractor hired to install a new unit or component. In theory, the contractor passes on these costs, including sales tax paid and reasonable markup to the property owner as the cost of the materials installed. In accordance with current sales tax law, this resulting cost for materials is not directly taxed to the consumer. If the exemption were available to the contractor upon his purchase, the consumer, who receives an estimate on the installation, may or may not receive the benefit of the resulting tax savings.

Further, energy prices are currently so high that a sales tax exemption is not necessary to motivate energy-conscious purchases.

Finally, the passage of this bill would also encourage other products that also meet the energy efficiency standards of the Energy Star program to seek a similar exemption.

These products currently include home appliances, home electronics, office equipment, and lighting. Currently, the WarmAdvantage program administered by the Board of Public Utilities under the New Jersey's Clean Energy Program provides cash rebates for home heating equipment that meets certain standards. The Board of Public Utilities seems the more appropriate venue to advance further energy initiatives.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	1
Commission Members <b>Against</b> Proposal:	4
Commission Members <b>Abstaining</b> :	0

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

---

<b>Bill Number:</b>	S-1778	<b>Date of Introduction:</b>	05/08/08
<b>Sponsor:</b>	Senator Baroni	<b>Date of Recommendation:</b>	06/12/08
<b>Identical Bill:</b>			
<b>Committee:</b>	Senate Economic Growth		

---

**Description**

This bill provides a sales and use tax exemption for the sales of certain Energy Star labeled residential lighting and appliances.

**Analysis**

This proposal would require that receipts from sales of the following products sold for residential use are exempt from the tax imposed under the "Sales and Use Tax Act," P.L. 1966, c.30 (N.J.S.A. 54:32B-1 et seq.) if the products bear the Energy Star label: compact fluorescent light bulbs, ceiling fans, clothes washers, dehumidifiers, dishwashers, refrigerators and freezers, residential light fixtures, room air conditioners, and room air cleaners.

This bill proposes to eliminate sales tax on the purchase of a wide range of the energy-efficient residential use items. Generally, the Commission does not support the use of tax policy as a means of influencing consumers' purchasing decisions and other behavior, even though the behaviors promoted might be beneficial to the State. Further, energy prices are currently so high that a sales tax exemption is not necessary to motivate energy-conscious purchases.

The passage of this bill would also encourage other products that also meet the energy efficiency standards of the Energy Star program to seek a similar exemption.

These products currently include home electronics, office equipment, and household heating or cooling units. Currently, the Board of Public Utilities under the New Jersey's Clean Energy Program provides cash rebates or other incentives for certain energy-efficient home purchases. The Board of Public Utilities seems the more appropriate venue to advance further energy initiatives.

**Recommendation**

The Commission does not recommend enactment of this bill.

Commission Members <b>For</b> Proposal:	1
Commission Members <b>Against</b> Proposal:	4
Commission Members <b>Abstaining</b> :	0

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

---

**Bill Number:** S-2299 **Date of Introduction:** 10/20/08

**Sponsor:** Senator Lesniak **Date of Recommendation:** 11/12/08

**Identical Bill:**

**Committee:** Senate Economic Growth

---

**Description**

Modifies "Revenue Allocation District Financing Act" and "Local Redevelopment and Housing Law" to increase availability of revenue allocation district financing; modifies "Redevelopment Area Bond Financing Law" and authorizes special assessments for environmental cleanup.

**Analysis & Recommendation**

The Sales and Use Tax Review Commission has reviewed this bill in response to certification from the Legislative Budget and Finance Officer that passage of the bill, as introduced, would result in expansion or reduction of the sales tax base.

After review and consideration of the bill, the Commission finds that the proposed legislation does not appear to directly impact the sales and use tax base. Thus, the Commission withholds any recommendation at this time.



## **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](http://www.njleg.state.nj.us));
- ii. New Jersey Division of Taxation website ([www.state.nj.us/treasury/taxation](http://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 [nj.sutrc@treas.state.nj.us](mailto:nj.sutrc@treas.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.