

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

BILL NUMBER:

A-3969

DATE OF INTRODUCTION:

May 2, 2005

SPONSOR:

Assemblyman Chiappone
Assemblyman Van Drew

DATE OF RECOMMENDATION:

July 27, 2005

IDENTICAL BILL:

S-604

COMMITTEE:

Assembly Education Committee

DESCRIPTION:

This bill provides an exemption for New Jersey teachers' purchase of qualified teaching materials from sales and use tax.

ANALYSIS:

This bill is proposed to mitigate the financial burden of teachers who use their personal funds to make purchases for classroom use without school reimbursement.

This exemption benefits a specialized group and does not promote horizontal equity. Horizontal equity mandates that sales tax legislation be broadly based and taxes similar transactions, persons or things in a similar manner. Tax treatment should be uniform from one taxpayer to another. This proposal creates a disparity between school teachers/staff and taxpayers in other professions not qualifying for the exemption.

The creation of an exemption based on a taxpayer's employment could encourage other occupations to pursue the same exemption from purchases for their work and professional development.

Generally, schools themselves are exempt from New Jersey sales tax on purchases made with school funds under N.J.S.A. 54:32B-9. The New Jersey Sales and Use Tax Act also provides a sales and use tax exemption for school textbooks. The financial burden on teachers would be more appropriately handled by legislation mandating school supply allowances.

The slight financial benefit that would accrue to teachers making qualified purchases would be outweighed by the high risk of a very significant level of fraudulent exemption. Since computers and office-type supplies qualify for exemption, there is a high risk of purchasers fraudulently claiming exemption, yet there would be no administratively

feasible way for vendors to know that the purchaser was a teacher making a qualifying purchase.

The list of materials that would qualify for exemption is not restrictive enough. Purchasers could claim that almost anything qualifies for exemption. Moreover, the bill states that “public or private school teacher or teaching staff member of preschool through grade 12 in New Jersey” qualifies for the exemption. This language does not further define “teaching staff member[s]” or further identify who qualifies for this exemption. Enforcement and administrative problems arise because of the inherent difficulty in determining whether a purchaser and the purchase are qualified for the exemption.

RECOMMENDATION:

The Commission does not recommend enactment of this bill.

COMMISSION MEMBERS FOR PROPOSAL:

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING:

(BB)