

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L. 1999, C.416

BILL NUMBER: S-1678

**DATE OF
INTRODUCTION: 10/19/00**

**SPONSOR: Senators Bucco &
Littell**

**DATE OF
RECOMMENDATION:12/28/00**

IDENTICAL BILL:

COMMITTEE: Budget and Appropriations

DESCRIPTION:

The bill provides a sales and use tax exemption for the following categories of taxable purchases by victims of severe storms, flooding or mudslides, living in August 2000 disaster areas: replacement vehicles, household goods, home repair materials, heating and cooling systems and appliances, and services to install or repair any of the above items during a specified recovery period. In addition, it provides an exemption for the purchase of motor vehicles to replace ones damaged in the federally designated disaster areas (up to the value of the vehicle being replaced, or \$2000, whichever is higher), or for the purchase of services to repair the vehicles damaged by floods in the August 2000 disaster areas, by any New Jersey resident whose vehicle was damaged by the storm conditions in the August 2000 federally designated areas; the vehicle exemption is not limited to the residents of those areas. Under the terms of this bill, vendors of the exempt merchandise and services would be required to collect tax from the purchasers. Purchasers qualified to claim the exemption as victims of the August 2000 disasters would then be eligible to file a sales tax refund claim with the Division of Taxation.

ANALYSIS:

This bill would result in only a temporary and very limited narrowing of the tax base. The exemption would apply only to replacement of items damaged in a limited area, during a specific August 2000 natural disaster period, and only to services rendered during a statutorily limited "recovery period" of less than 21 months to repair the damage caused during the specific disaster. Since the narrowing of the tax base is only temporary, the humanitarian purposes advanced by the bill could be deemed a superior legislature policy choice in this case.

This bill is patterned upon P.L. 1999, c.365, which provided the same kind of exemption to victims of Hurricane Floyd. It is important to note that, like the Hurricane Floyd exemption, the exemption that this bill would provide would not burden vendors at all. Sales to the disaster victims would simply be treated like any other taxable sale. Eligible disaster victims would then be entitled to apply for a tax refund from the Division after paying the tax to the vendor. The Division of Taxation has developed administrative procedures for implementing the Hurricane Floyd exemption without undue burdens on either taxpayers or the State. These procedures could easily be applied to an exemption for August 2000 disaster victims as well.

If enacted, however, this legislation would not be without problems. For example, when an eligible disaster victim has household repairs made by a contractor who supplies his own materials for the job, the bill nevertheless allows the disaster victim to claim a refund for sales tax on the materials; the bill stipulates that where charges for materials are not separately stated, 50% of the total lump sum charged for a job is deemed to be for taxable materials. Yet, the homeowner would not have paid sales tax in this situation, since contractors are responsible for paying sales or use tax on the materials that they use or install in performing repairs or improvements on this customers' realty. The exemption for replacement motor vehicles might motivate some disaster victims to purchase a new car during the statutory recovery period, instead of simply repairing the flood damage and purchasing a new vehicle years later. This decision would result in a greater tax saving for the taxpayer, but also a greater revenue loss for the State. Like the Hurricane Floyd legislation, this bill does not explicitly provide an exemption for the purchase of materials or of services to repair or replace non-household goods (except motor vehicles) or nonresidential realty. Nevertheless, none of these potential problems was considered sufficient to militate against support of this bill.

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RECOMMENDATION:

The Sales and Use Tax Review Commission recommends this bill for enactment.

COMMISSION MEMBERS FOR PROPOSAL: 5

COMMISSION MEMBERS AGAINST PROPOSAL: 2

COMMISSION MEMBERS ABSTAINING:

COMMISSION MEETING DATE: 11/28/00