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P.L. 1999, CHAPTER 369, *approved January 14, 2000*  
Assembly, No. 3622

1 **AN ACT** excluding certain investment income of certain corporations  
2 of foreign nations from taxation under the corporation business tax,  
3 amending P.L.1945, c.162.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read  
9 as follows:

10 4. For the purposes of this act, unless the context requires a  
11 different meaning:

12 (a) "Commissioner" shall mean the Director of the Division of  
13 Taxation of the State Department of the Treasury.

14 (b) "Allocation factor" shall mean the proportionate part of a  
15 taxpayer's net worth or entire net income used to determine a measure  
16 of its tax under this act.

17 (c) "Corporation" shall mean any corporation, joint-stock company  
18 or association and any business conducted by a trustee or trustees  
19 wherein interest or ownership is evidenced by a certificate of interest  
20 or ownership or similar written instrument.

21 (d) "Net worth" shall mean the aggregate of the values disclosed  
22 by the books of the corporation for (1) issued and outstanding capital  
23 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided  
24 profits, and (4) surplus reserves which can reasonably be expected to  
25 accrue to holders or owners of equitable shares, not including  
26 reasonable valuation reserves, such as reserves for depreciation or  
27 obsolescence or depletion. Notwithstanding the foregoing, net worth  
28 shall not include any deduction for the amount of the excess  
29 depreciation described in paragraph (2)(F) of subsection (k) of this  
30 section. The foregoing aggregate of values shall be reduced by 50%  
31 of the amount disclosed by the books of the corporation for investment  
32 in the capital stock of one or more subsidiaries, which investment is  
33 defined as ownership (1) of at least 80% of the total combined voting  
34 power of all classes of stock of the subsidiary entitled to vote and (2)  
35 of at least 80% of the total number of shares of all other classes of  
36 stock except nonvoting stock which is limited and preferred as to  
37 dividends. In the case of investment in an entity organized under the  
38 laws of a foreign country, the foregoing requisite degree of ownership  
39 shall effect a like reduction of such investment from the net worth of  
40 the taxpayer, if the foreign entity is considered a corporation for any  
41 purpose under the United States federal income tax laws, such as (but

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 not by way of sole examples) for the purpose of supplying deemed  
2 paid foreign tax credits or for the purpose of status as a controlled  
3 foreign corporation. In calculating the net worth of a taxpayer entitled  
4 to reduction for investment in subsidiaries, the amount of liabilities of  
5 the taxpayer shall be reduced by such proportion of the liabilities as  
6 corresponds to the ratio which the excluded portion of the subsidiary  
7 values bears to the total assets of the taxpayer.

8 In the case of banking corporations which have international  
9 banking facilities as defined in subsection (n), the foregoing aggregate  
10 of values shall also be reduced by retained earnings of the international  
11 banking facility. Retained earnings means the earnings accumulated  
12 over the life of such facility and shall not include the distributive share  
13 of dividends paid and federal income taxes paid or payable during the  
14 tax year.

15 If in the opinion of the commissioner, the corporation's books do  
16 not disclose fair valuations the commissioner may make a reasonable  
17 determination of the net worth which, in his opinion, would reflect the  
18 fair value of the assets, exclusive of subsidiary investments as defined  
19 aforesaid, carried on the books of the corporation, in accordance with  
20 sound accounting principles, and such determination shall be used as  
21 net worth for the purpose of this act.

22 (e) (Deleted by amendment, P.L.1998 , c.114.)

23 (f) "Investment company" shall mean any corporation whose  
24 business during the period covered by its report consisted, to the  
25 extent of at least 90% thereof of holding, investing and reinvesting in  
26 stocks, bonds, notes, mortgages, debentures, patents, patent rights and  
27 other securities for its own account, but this shall not include any  
28 corporation which: (1) is a merchant or a dealer of stocks, bonds and  
29 other securities, regularly engaged in buying the same and selling the  
30 same to customers; or (2) had less than 90% of its average gross  
31 assets in New Jersey, at cost, invested in stocks, bonds, debentures,  
32 mortgages, notes, patents, patent rights or other securities or  
33 consisting of cash on deposit during the period covered by its report;  
34 or (3) is a banking corporation or a financial business corporation as  
35 defined in the Corporation Business Tax Act.

36 (g) "Regulated investment company" shall mean any corporation  
37 which for a period covered by its report, is registered and regulated  
38 under the Investment Company Act of 1940 (54 Stat. 789), as  
39 amended.

40 (h) "Taxpayer" shall mean any corporation required to report or to  
41 pay taxes, interest or penalties under this act.

42 (i) "Fiscal year" shall mean an accounting period ending on any day  
43 other than the last day of December on the basis of which the taxpayer  
44 is required to report for federal income tax purposes.

45 (j) Except as herein provided, "privilege period" shall mean the  
46 calendar or fiscal accounting period for which a tax is payable under

1 this act.

2 (k) "Entire net income" shall mean total net income from all  
3 sources, whether within or without the United States, and shall include  
4 the gain derived from the employment of capital or labor, or from both  
5 combined, as well as profit gained through a sale or conversion of  
6 capital assets. For the purpose of this act, the amount of a taxpayer's  
7 entire net income shall be deemed prima facie to be equal in amount to  
8 the taxable income, before net operating loss deduction and special  
9 deductions, which the taxpayer is required to report to the United  
10 States Treasury Department for the purpose of computing its federal  
11 income tax; provided, however, that in the determination of such entire  
12 net income,

13 (1) Entire net income shall exclude for the periods set forth in  
14 paragraph (2)(F)(i) of this subsection, any amount, except with respect  
15 to qualified mass commuting vehicles as described in section  
16 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately  
17 prior to January 1, 1984, which is included in a taxpayer's federal  
18 taxable income solely as a result of an election made pursuant to the  
19 provisions of paragraph (8) of that section.

20 (2) Entire net income shall be determined without the exclusion,  
21 deduction or credit of:

22 (A) The amount of any specific exemption or credit allowed in any  
23 law of the United States imposing any tax on or measured by the  
24 income of corporations;

25 (B) Any part of any income from dividends or interest on any kind  
26 of stock, securities or indebtedness, except as provided in paragraph  
27 (5) of subsection (k) of this section;

28 (C) Taxes paid or accrued to the United States, a possession or  
29 territory of the United States, a state, a political subdivision thereof,  
30 or the District of Columbia on or measured by profits or income, or  
31 business presence or business activity, or the tax imposed by this act,  
32 or any tax paid or accrued with respect to subsidiary dividends  
33 excluded from entire net income as provided in paragraph (5) of  
34 subsection (k) of this section;

35 (D) (Deleted by amendment, P.L.1985, c.143.)

36 (E) (Deleted by amendment, P.L.1995, c.418.)

37 (F) (i) The amount by which depreciation reported to the United  
38 States Treasury Department for property placed in service on and after  
39 January 1, 1981, but prior to taxpayer fiscal or calendar accounting  
40 years beginning on and after the effective date of P.L.1993, c.172, for  
41 purposes of computing federal taxable income in accordance with  
42 section 168 of the Internal Revenue Code in effect after December 31,  
43 1980, exceeds the amount of depreciation determined in accordance  
44 with the Internal Revenue Code provisions in effect prior to January  
45 1, 1981, but only with respect to a taxpayer's accounting period ending  
46 after December 31, 1981; provided, however, that where a taxpayer's

1 accounting period begins in 1981 and ends in 1982, no modification  
2 shall be required with respect to this paragraph (F) for the report filed  
3 for such period with respect to property placed in service during that  
4 part of the accounting period which occurs in 1981. The provisions  
5 of this subparagraph shall not apply to assets placed in service prior to  
6 January 1, 1998 of a gas, gas and electric, and electric public utility  
7 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et  
8 seq.) prior to 1998.

9 (ii) For the periods set forth in subparagraph (F)(i) of this  
10 subsection, any amount, except with respect to qualified mass  
11 commuting vehicles as described in section 168(f)(8)(D)(v) of the  
12 Internal Revenue Code as in effect immediately prior to January 1,  
13 1984, which the taxpayer claimed as a deduction in computing federal  
14 income tax pursuant to a qualified lease agreement under paragraph  
15 (8) of that section.

16 The director shall promulgate rules and regulations necessary to  
17 carry out the provisions of this section, which rules shall provide,  
18 among others, the manner in which the remaining life of property shall  
19 be reported.

20 (G) (i) The amount of any civil, civil administrative, or criminal  
21 penalty or fine, including a penalty or fine under an administrative  
22 consent order, assessed and collected for a violation of a State or  
23 federal environmental law, an administrative consent order, or an  
24 environmental ordinance or resolution of a local governmental entity,  
25 and any interest earned on the penalty or fine, and any economic  
26 benefits having accrued to the violator as a result of a violation, which  
27 benefits are assessed and recovered in a civil, civil administrative, or  
28 criminal action, or pursuant to an administrative consent order. The  
29 provisions of this paragraph shall not apply to a penalty or fine  
30 assessed or collected for a violation of a State or federal  
31 environmental law, or local environmental ordinance or resolution, if  
32 the penalty or fine was for a violation that resulted from fire, riot,  
33 sabotage, flood, storm event, natural cause, or other act of God  
34 beyond the reasonable control of the violator, or caused by an act or  
35 omission of a person who was outside the reasonable control of the  
36 violator.

37 (ii) The amount of treble damages paid to the Department of  
38 Environmental Protection pursuant to subsection a. of section 7 of  
39 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the  
40 department in removing, or arranging for the removal of, an  
41 unauthorized discharge upon failure of the discharger to comply with  
42 a directive from the department to remove, or arrange for the removal  
43 of, the discharge.

44 (H) The amount of any sales and use tax paid by a utility vendor  
45 pursuant to section 71 of P.L.1997, c.162.

46 (3) The commissioner may, whenever necessary to properly reflect

1 the entire net income of any taxpayer, determine the year or period in  
2 which any item of income or deduction shall be included, without  
3 being limited to the method of accounting employed by the taxpayer.

4 (4) There shall be allowed as a deduction from entire net income  
5 of a banking corporation, to the extent not deductible in determining  
6 federal taxable income, the eligible net income of an international  
7 banking facility determined as follows:

8 (A) The eligible net income of an international banking facility shall  
9 be the amount remaining after subtracting from the eligible gross  
10 income the applicable expenses;

11 (B) Eligible gross income shall be the gross income derived by an  
12 international banking facility, which shall include, but not be limited to,  
13 gross income derived from:

14 (i) Making, arranging for, placing or carrying loans to foreign  
15 persons, provided, however, that in the case of a foreign person which  
16 is an individual, or which is a foreign branch of a domestic corporation  
17 (other than a bank), or which is a foreign corporation or foreign  
18 partnership which is controlled by one or more domestic corporations  
19 (other than banks), domestic partnerships or resident individuals, all  
20 the proceeds of the loan are for use outside of the United States;

21 (ii) Making or placing deposits with foreign persons which are  
22 banks or foreign branches of banks (including foreign subsidiaries) or  
23 foreign branches of the taxpayers or with other international banking  
24 facilities;

25 (iii) Entering into foreign exchange trading or hedging transactions  
26 related to any of the transactions described in this paragraph; or

27 (iv) Such other activities as an international banking facility may,  
28 from time to time, be authorized to engage in;

29 (C) Applicable expenses shall be any expense or other deductions  
30 attributable, directly or indirectly, to the eligible gross income  
31 described in subparagraph (B) of this paragraph.

32 (5) Entire net income shall exclude 100% of dividends which were  
33 included in computing such taxable income for federal income tax  
34 purposes, paid to the taxpayer by one or more subsidiaries owned by  
35 the taxpayer to the extent of the 80% or more ownership of investment  
36 described in subsection (d) of this section. With respect to other  
37 dividends, entire net income shall not include 50% of the total included  
38 in computing such taxable income for federal income tax purposes.

39 (6) (A) Net operating loss deduction. There shall be allowed as  
40 a deduction for the taxable year the net operating loss carryover to  
41 that year.

42 (B) Net operating loss carryover. A net operating loss for any  
43 taxable year ending after June 30, 1984 shall be a net operating loss  
44 carryover to each of the seven years following the year of the loss. The  
45 entire amount of the net operating loss for any taxable year (the "loss  
46 year") shall be carried to the earliest of the taxable years to which the

1 loss may be carried. The portion of the loss which shall be carried to  
2 each of the other taxable years shall be the excess, if any, of the  
3 amount of the loss over the sum of the entire net income, computed  
4 without the exclusions permitted in paragraphs (4) and (5) of this  
5 subsection or the net operating loss deduction provided by  
6 subparagraph (A) of this paragraph, for each of the prior taxable years  
7 to which the loss may be carried.

8 (C) Net operating loss. For purposes of this paragraph the term  
9 "net operating loss" means the excess of the deductions over the gross  
10 income used in computing entire net income without the net operating  
11 loss deduction provided for in subparagraph (A) of this paragraph and  
12 the exclusions in paragraphs (4) and (5) of this subsection.

13 (D) Change in ownership. Where there is a change in 50% or more  
14 of the ownership of a corporation because of redemption or sale of  
15 stock and the corporation changes the trade or business giving rise to  
16 the loss, no net operating loss sustained before the changes may be  
17 carried over to be deducted from income earned after such changes.  
18 In addition where the facts support the premise that the corporation  
19 was acquired under any circumstances for the primary purpose of the  
20 use of its net operating loss carryover, the director may disallow the  
21 carryover.

22 (7) The entire net income of gas, electric and gas and electric  
23 public utilities that were subject to the provisions of P.L.1940, c.5  
24 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting  
25 the New Jersey depreciation allowance for federal tax depreciation  
26 with respect to assets placed in service prior to January 1, 1998. For  
27 gas, electric, and gas and electric public utilities that were subject to  
28 the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998,  
29 the New Jersey depreciation allowance shall be computed as follows:  
30 All depreciable assets placed in service prior to January 1, 1998 shall  
31 be considered a single asset account. The New Jersey tax basis of this  
32 depreciable asset account shall be an amount equal to the carryover  
33 adjusted basis for federal income tax purposes on December 31, 1997  
34 of all depreciable assets in service on December 31, 1997, increased  
35 by the excess, of the "net carrying value," defined to be adjusted book  
36 basis of all assets and liabilities, excluding deferred income taxes,  
37 recorded on the public utility's books of account on December 31,  
38 1997, over the carryover adjusted basis for federal income tax  
39 purposes on December 31, 1997 of all assets and liabilities owned by  
40 the gas, electric, or gas and electric public utility as of December 31,  
41 1997. "Books of account" for gas, gas and electric, and electric public  
42 utilities means the uniform system of accounts as promulgated by the  
43 Federal Energy Regulatory Commission and adopted by the Board of  
44 Public Utilities. The following adjustments to entire net income shall  
45 be made pursuant to this section:

46 (A) Depreciation for property placed in service prior to January 1,

1 1998 shall be adjusted as follows:

2 (i) Depreciation for federal income tax purposes shall be  
3 disallowed in full.

4 (ii) A deduction shall be allowed for the New Jersey depreciation  
5 allowance. The New Jersey depreciation allowance shall be computed  
6 for the single asset account described above based on the New Jersey  
7 tax basis as adjusted above as if all assets in the single asset account  
8 were first placed in service on January 1, 1998. Depreciation shall be  
9 computed using the straight line method over a thirty-year life. A full  
10 year's depreciation shall be allowed in the initial tax year. No half-year  
11 convention shall apply. The depreciable basis of the single account  
12 shall be reduced by the adjusted federal tax basis of assets sold,  
13 retired, or otherwise disposed of during any year on which gain or loss  
14 is recognized for federal income tax purposes as described in  
15 subparagraph (B) of this paragraph.

16 (B) Gains and losses on sales, retirements and other dispositions  
17 of assets placed in service prior to January 1, 1998 shall be recognized  
18 and reported on the same basis as for federal income tax purposes.

19 (C) The Director of the Division of Taxation shall promulgate  
20 regulations describing the methodology for allocating the single asset  
21 account in the event that a portion of the utility's operations are  
22 separated, spun-off, transferred to a separate company or otherwise  
23 disaggregated.

24 (8) In the case of taxpayers that are gas, electric, gas and electric,  
25 or telecommunication public utilities as defined pursuant to subsection  
26 (q) of this section, the director shall have authority to promulgate rules  
27 and issue guidance correcting distortions and adjusting timing  
28 differences resulting from the adoption of P.L.1997, c.162  
29 (C.54:10A-5.25 et al.).

30 (9) Notwithstanding paragraph (1) of this subsection, entire net  
31 income shall not include the income derived by a corporation  
32 organized in a foreign country from the international operation of a  
33 ship or ships, or from the international operation of aircraft, if such  
34 income is exempt from federal taxation pursuant to section 883 of the  
35 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

36 (10) Entire net income shall exclude all income of an alien  
37 corporation the activities of which are limited in this State to investing  
38 or trading in stocks and securities for its own account, investing or  
39 trading in commodities for its own account, or any combination of  
40 those activities, within the meaning of section 864 of the federal  
41 Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on  
42 December 31, 1998. Notwithstanding the previous sentence, if an  
43 alien corporation undertakes one or more infrequent, extraordinary or  
44 non-recurring activities, including but not limited to the sale of  
45 tangible property, only the income from such infrequent, extraordinary  
46 or non-recurring activity shall be subject to the tax imposed pursuant

1 to P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income  
2 subject to tax shall be determined without regard to the allocation to  
3 that specific transaction of any general business expense of the  
4 taxpayer and shall be specifically assigned to this State for taxation by  
5 this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-  
6 6). For the purposes of this paragraph, "alien corporation" means a  
7 corporation organized under the laws of a jurisdiction other than the  
8 United States or its political subdivisions.

9 (l) "Real estate investment trust" shall mean any corporation, trust  
10 or association qualifying and electing to be taxed as a real estate  
11 investment trust under federal law.

12 (m) "Financial business corporation" shall mean any corporate  
13 enterprise which is (1) in substantial competition with the business of  
14 national banks and which (2) employs moneyed capital with the object  
15 of making profit by its use as money, through discounting and  
16 negotiating promissory notes, drafts, bills of exchange and other  
17 evidences of debt; buying and selling exchange; making of or dealing  
18 in secured or unsecured loans and discounts; dealing in securities and  
19 shares of corporate stock by purchasing and selling such securities and  
20 stock without recourse, solely upon the order and for the account of  
21 customers; or investing and reinvesting in marketable obligations  
22 evidencing indebtedness of any person, copartnership, association or  
23 corporation in the form of bonds, notes or debentures commonly  
24 known as investment securities; or dealing in or underwriting  
25 obligations of the United States, any state or any political subdivision  
26 thereof, or of a corporate instrumentality of any of them. This shall  
27 include, without limitation of the foregoing, business commonly  
28 known as industrial banks, dealers in commercial paper and  
29 acceptances, sales finance, personal finance, small loan and mortgage  
30 financing businesses, as well as any other enterprise employing  
31 moneyed capital coming into competition with the business of national  
32 banks; provided that the holding of bonds, notes, or other evidences  
33 of indebtedness by individual persons not employed or engaged in the  
34 banking or investment business and representing merely personal  
35 investments not made in competition with the business of national  
36 banks, shall not be deemed financial business. Nor shall "financial  
37 business" include national banks, production credit associations  
38 organized under the Farm Credit Act of 1933 or the Farm Credit Act  
39 of 1971, Pub.L. 92-181 (12 U.S.C.s.2091 et seq.), stock and mutual  
40 insurance companies duly authorized to transact business in this State,  
41 security brokers or dealers or investment companies or bankers not  
42 employing moneyed capital coming into competition with the business  
43 of national banks, real estate investment trusts, or any of the following  
44 entities organized under the laws of this State: credit unions, savings  
45 banks, savings and loan and building and loan associations,  
46 pawnbrokers, and State banks and trust companies.

1 (n) "International banking facility" shall mean a set of asset and  
2 liability accounts segregated on the books and records of a depository  
3 institution, United States branch or agency of a foreign bank, or an  
4 Edge or Agreement Corporation that includes only international  
5 banking facility time deposits and international banking facility  
6 extensions of credit as such terms are defined in section 204.8(a)(2)  
7 and section 204.8(a)(3) of Regulation D of the board of governors of  
8 the Federal Reserve System, 12 CFR Part 204, effective December 3,  
9 1981. In the event that the United States enacts a law, or the board  
10 of governors of the Federal Reserve System adopts a regulation which  
11 amends the present definition of international banking facility or of  
12 such facilities' time deposits or extensions of credit, the Commissioner  
13 of Banking and Insurance shall forthwith adopt regulations defining  
14 such terms in the same manner as such terms are set forth in the laws  
15 of the United States or the regulations of the board of governors of the  
16 Federal Reserve System. The regulations of the Commissioner of  
17 Banking and Insurance shall thereafter provide the applicable  
18 definitions.

19 (o) "S corporation" means a corporation included in the definition  
20 of an "S corporation" pursuant to section 1361 of the federal Internal  
21 Revenue Code of 1986, 26 U.S.C.s.1361.

22 (p) "New Jersey S corporation" means a corporation that is an S  
23 corporation; which has made a valid election pursuant to section 3 of  
24 P.L.1993, c.173 (C.54:10A-5.22); and which has been an S  
25 corporation continuously since the effective date of the valid election  
26 made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

27 (q) "Public Utility" means "public utility" as defined in  
28 R.S.48:2-13.

29 (cf: P.L.1998, c.114, s.2.)

30

31 2. This act shall take effect immediately and apply to privilege  
32 periods ending on or after the July 1 next following enactment.

33

34

35

## STATEMENT

36

37 This bill excludes from taxation under the corporation business tax  
38 certain hedge fund activity income of corporations of foreign nations  
39 generated in New Jersey.

40 The bill excludes the income of a foreign corporation active in New  
41 Jersey if the corporation's activities in this State are limited to  
42 investing or trading in stocks and securities for its own account,  
43 investing or trading in commodities for its own account, or any  
44 combination of those activities.

45 However, even if the corporation has some activities that go beyond  
46 trading for its own account, the trading income may remain exempt.

1 If the foreign corporation has income from one or more infrequent,  
2 extraordinary or non-recurring activities (for example, it buys new  
3 office furniture and sells all of its old office furniture) only the income  
4 from such infrequent, extraordinary or non-recurring activity will be  
5 taxed. If the corporation goes beyond infrequent, extraordinary or  
6 non-recurring activities, for example to regularly engage in activities  
7 in New Jersey that are not trading for its own account, then all of the  
8 corporation's income becomes subject to taxation.

9 Neighboring states have enacted similar laws. Corporation's "hedge  
10 funds" that trade large blocks of stock on behalf of their corporate  
11 parents are discouraged from locating in New Jersey because  
12 neighboring states allow the exclusion of the income of hedge funds  
13 with offices located in those states. This bill will remove a tax  
14 disincentive to locating these trading management offices in New  
15 Jersey, making New Jersey an equally attractive business location for  
16 traders.

17

18

19

20

21 Excludes certain hedge fund activity income of corporations of foreign  
22 nations from taxation under the corporation business tax.

# ASSEMBLY, No. 3622

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED DECEMBER 6, 1999

**Sponsored by:**

**Assemblyman PAUL KRAMER  
District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Senator Inverso**

**SYNOPSIS**

Excludes certain hedge fund activity income of corporations of foreign nations from taxation under the corporation business tax.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/11/2000)**

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5 values bears to the total assets of the taxpayer.

6 In the case of banking corporations which have international  
7 banking facilities as defined in subsection (n), the foregoing aggregate  
8 of values shall also be reduced by retained earnings of the international  
9 banking facility. Retained earnings means the earnings accumulated  
10 over the life of such facility and shall not include the distributive share  
11 of dividends paid and federal income taxes paid or payable during the  
12 tax year.

13 If in the opinion of the commissioner, the corporation's books do  
14 not disclose fair valuations the commissioner may make a reasonable  
15 determination of the net worth which, in his opinion, would reflect the  
16 fair value of the assets, exclusive of subsidiary investments as defined  
17 aforesaid, carried on the books of the corporation, in accordance with  
18 sound accounting principles, and such determination shall be used as  
19 net worth for the purpose of this act.

20 (e) (Deleted by amendment, P.L.1998 , c.114.)

21 (f) "Investment company" shall mean any corporation whose  
22 business during the period covered by its report consisted, to the  
23 extent of at least 90% thereof of holding, investing and reinvesting in  
24 stocks, bonds, notes, mortgages, debentures, patents, patent rights and  
25 other securities for its own account, but this shall not include any  
26 corporation which: (1) is a merchant or a dealer of stocks, bonds and  
27 other securities, regularly engaged in buying the same and selling the  
28 same to customers; or (2) had less than 90% of its average gross  
29 assets in New Jersey, at cost, invested in stocks, bonds, debentures,  
30 mortgages, notes, patents, patent rights or other securities or  
31 consisting of cash on deposit during the period covered by its report;  
32 or (3) is a banking corporation or a financial business corporation as  
33 defined in the Corporation Business Tax Act.

34 (g) "Regulated investment company" shall mean any corporation  
35 which for a period covered by its report, is registered and regulated  
36 under the Investment Company Act of 1940 (54 Stat. 789), as  
37 amended.

38 (h) "Taxpayer" shall mean any corporation required to report or to  
39 pay taxes, interest or penalties under this act.

40 (i) "Fiscal year" shall mean an accounting period ending on any day  
41 other than the last day of December on the basis of which the taxpayer  
42 is required to report for federal income tax purposes.

43 (j) Except as herein provided, "privilege period" shall mean the  
44 calendar or fiscal accounting period for which a tax is payable under  
45 this act.

46 (k) "Entire net income" shall mean total net income from all

1 sources, whether within or without the United States, and shall include  
2 the gain derived from the employment of capital or labor, or from both  
3 combined, as well as profit gained through a sale or conversion of  
4 capital assets. For the purpose of this act, the amount of a taxpayer's  
5 entire net income shall be deemed prima facie to be equal in amount to  
6 the taxable income, before net operating loss deduction and special  
7 deductions, which the taxpayer is required to report to the United  
8 States Treasury Department for the purpose of computing its federal  
9 income tax; provided, however, that in the determination of such entire  
10 net income,

11 (1) Entire net income shall exclude for the periods set forth in  
12 paragraph (2)(F)(i) of this subsection, any amount, except with respect  
13 to qualified mass commuting vehicles as described in section  
14 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately  
15 prior to January 1, 1984, which is included in a taxpayer's federal  
16 taxable income solely as a result of an election made pursuant to the  
17 provisions of paragraph (8) of that section.

18 (2) Entire net income shall be determined without the exclusion,  
19 deduction or credit of:

20 (A) The amount of any specific exemption or credit allowed in any  
21 law of the United States imposing any tax on or measured by the  
22 income of corporations;

23 (B) Any part of any income from dividends or interest on any kind  
24 of stock, securities or indebtedness, except as provided in paragraph  
25 (5) of subsection (k) of this section;

26 (C) Taxes paid or accrued to the United States, a possession or  
27 territory of the United States, a state, a political subdivision thereof,  
28 or the District of Columbia on or measured by profits or income, or  
29 business presence or business activity, or the tax imposed by this act,  
30 or any tax paid or accrued with respect to subsidiary dividends  
31 excluded from entire net income as provided in paragraph (5) of  
32 subsection (k) of this section;

33 (D) (Deleted by amendment, P.L.1985, c.143.)

34 (E) (Deleted by amendment, P.L.1995, c.418.)

35 (F) (i) The amount by which depreciation reported to the United  
36 States Treasury Department for property placed in service on and after  
37 January 1, 1981, but prior to taxpayer fiscal or calendar accounting  
38 years beginning on and after the effective date of P.L.1993, c.172, for  
39 purposes of computing federal taxable income in accordance with  
40 section 168 of the Internal Revenue Code in effect after December 31,  
41 1980, exceeds the amount of depreciation determined in accordance  
42 with the Internal Revenue Code provisions in effect prior to January  
43 1, 1981, but only with respect to a taxpayer's accounting period ending  
44 after December 31, 1981; provided, however, that where a taxpayer's  
45 accounting period begins in 1981 and ends in 1982, no modification  
46 shall be required with respect to this paragraph (F) for the report filed

1 for such period with respect to property placed in service during that  
2 part of the accounting period which occurs in 1981. The provisions  
3 of this subparagraph shall not apply to assets placed in service prior to  
4 January 1, 1998 of a gas, gas and electric, and electric public utility  
5 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et  
6 seq.) prior to 1998.

7 (ii) For the periods set forth in subparagraph (F)(i) of this  
8 subsection, any amount, except with respect to qualified mass  
9 commuting vehicles as described in section 168(f)(8)(D)(v) of the  
10 Internal Revenue Code as in effect immediately prior to January 1,  
11 1984, which the taxpayer claimed as a deduction in computing federal  
12 income tax pursuant to a qualified lease agreement under paragraph  
13 (8) of that section.

14 The director shall promulgate rules and regulations necessary to  
15 carry out the provisions of this section, which rules shall provide,  
16 among others, the manner in which the remaining life of property shall  
17 be reported.

18 (G) (i) The amount of any civil, civil administrative, or criminal  
19 penalty or fine, including a penalty or fine under an administrative  
20 consent order, assessed and collected for a violation of a State or  
21 federal environmental law, an administrative consent order, or an  
22 environmental ordinance or resolution of a local governmental entity,  
23 and any interest earned on the penalty or fine, and any economic  
24 benefits having accrued to the violator as a result of a violation, which  
25 benefits are assessed and recovered in a civil, civil administrative, or  
26 criminal action, or pursuant to an administrative consent order. The  
27 provisions of this paragraph shall not apply to a penalty or fine  
28 assessed or collected for a violation of a State or federal  
29 environmental law, or local environmental ordinance or resolution, if  
30 the penalty or fine was for a violation that resulted from fire, riot,  
31 sabotage, flood, storm event, natural cause, or other act of God  
32 beyond the reasonable control of the violator, or caused by an act or  
33 omission of a person who was outside the reasonable control of the  
34 violator.

35 (ii) The amount of treble damages paid to the Department of  
36 Environmental Protection pursuant to subsection a. of section 7 of  
37 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the  
38 department in removing, or arranging for the removal of, an  
39 unauthorized discharge upon failure of the discharger to comply with  
40 a directive from the department to remove, or arrange for the removal  
41 of, the discharge.

42 (H) The amount of any sales and use tax paid by a utility vendor  
43 pursuant to section 71 of P.L.1997, c.162.

44 (3) The commissioner may, whenever necessary to properly reflect  
45 the entire net income of any taxpayer, determine the year or period in  
46 which any item of income or deduction shall be included, without

1 being limited to the method of accounting employed by the taxpayer.

2 (4) There shall be allowed as a deduction from entire net income  
3 of a banking corporation, to the extent not deductible in determining  
4 federal taxable income, the eligible net income of an international  
5 banking facility determined as follows:

6 (A) The eligible net income of an international banking facility shall  
7 be the amount remaining after subtracting from the eligible gross  
8 income the applicable expenses;

9 (B) Eligible gross income shall be the gross income derived by an  
10 international banking facility, which shall include, but not be limited to,  
11 gross income derived from:

12 (i) Making, arranging for, placing or carrying loans to foreign  
13 persons, provided, however, that in the case of a foreign person which  
14 is an individual, or which is a foreign branch of a domestic corporation  
15 (other than a bank), or which is a foreign corporation or foreign  
16 partnership which is controlled by one or more domestic corporations  
17 (other than banks), domestic partnerships or resident individuals, all  
18 the proceeds of the loan are for use outside of the United States;

19 (ii) Making or placing deposits with foreign persons which are  
20 banks or foreign branches of banks (including foreign subsidiaries) or  
21 foreign branches of the taxpayers or with other international banking  
22 facilities;

23 (iii) Entering into foreign exchange trading or hedging transactions  
24 related to any of the transactions described in this paragraph; or

25 (iv) Such other activities as an international banking facility may,  
26 from time to time, be authorized to engage in;

27 (C) Applicable expenses shall be any expense or other deductions  
28 attributable, directly or indirectly, to the eligible gross income  
29 described in subparagraph (B) of this paragraph.

30 (5) Entire net income shall exclude 100% of dividends which were  
31 included in computing such taxable income for federal income tax  
32 purposes, paid to the taxpayer by one or more subsidiaries owned by  
33 the taxpayer to the extent of the 80% or more ownership of investment  
34 described in subsection (d) of this section. With respect to other  
35 dividends, entire net income shall not include 50% of the total included  
36 in computing such taxable income for federal income tax purposes.

37 (6) (A) Net operating loss deduction. There shall be allowed as  
38 a deduction for the taxable year the net operating loss carryover to  
39 that year.

40 (B) Net operating loss carryover. A net operating loss for any  
41 taxable year ending after June 30, 1984 shall be a net operating loss  
42 carryover to each of the seven years following the year of the loss. The  
43 entire amount of the net operating loss for any taxable year (the "loss  
44 year") shall be carried to the earliest of the taxable years to which the  
45 loss may be carried. The portion of the loss which shall be carried to  
46 each of the other taxable years shall be the excess, if any, of the

1 amount of the loss over the sum of the entire net income, computed  
2 without the exclusions permitted in paragraphs (4) and (5) of this  
3 subsection or the net operating loss deduction provided by  
4 subparagraph (A) of this paragraph, for each of the prior taxable years  
5 to which the loss may be carried.

6 (C) Net operating loss. For purposes of this paragraph the term  
7 "net operating loss" means the excess of the deductions over the gross  
8 income used in computing entire net income without the net operating  
9 loss deduction provided for in subparagraph (A) of this paragraph and  
10 the exclusions in paragraphs (4) and (5) of this subsection.

11 (D) Change in ownership. Where there is a change in 50% or more  
12 of the ownership of a corporation because of redemption or sale of  
13 stock and the corporation changes the trade or business giving rise to  
14 the loss, no net operating loss sustained before the changes may be  
15 carried over to be deducted from income earned after such changes.  
16 In addition where the facts support the premise that the corporation  
17 was acquired under any circumstances for the primary purpose of the  
18 use of its net operating loss carryover, the director may disallow the  
19 carryover.

20 (7) The entire net income of gas, electric and gas and electric  
21 public utilities that were subject to the provisions of P.L.1940, c.5  
22 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting  
23 the New Jersey depreciation allowance for federal tax depreciation  
24 with respect to assets placed in service prior to January 1, 1998. For  
25 gas, electric, and gas and electric public utilities that were subject to  
26 the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998,  
27 the New Jersey depreciation allowance shall be computed as follows:  
28 All depreciable assets placed in service prior to January 1, 1998 shall  
29 be considered a single asset account. The New Jersey tax basis of this  
30 depreciable asset account shall be an amount equal to the carryover  
31 adjusted basis for federal income tax purposes on December 31, 1997  
32 of all depreciable assets in service on December 31, 1997, increased  
33 by the excess, of the "net carrying value," defined to be adjusted book  
34 basis of all assets and liabilities, excluding deferred income taxes,  
35 recorded on the public utility's books of account on December 31,  
36 1997, over the carryover adjusted basis for federal income tax  
37 purposes on December 31, 1997 of all assets and liabilities owned by  
38 the gas, electric, or gas and electric public utility as of December 31,  
39 1997. "Books of account" for gas, gas and electric, and electric public  
40 utilities means the uniform system of accounts as promulgated by the  
41 Federal Energy Regulatory Commission and adopted by the Board of  
42 Public Utilities. The following adjustments to entire net income shall  
43 be made pursuant to this section:

44 (A) Depreciation for property placed in service prior to January 1,  
45 1998 shall be adjusted as follows:

46 (i) Depreciation for federal income tax purposes shall be

1 disallowed in full.

2 (ii) A deduction shall be allowed for the New Jersey depreciation  
3 allowance. The New Jersey depreciation allowance shall be computed  
4 for the single asset account described above based on the New Jersey  
5 tax basis as adjusted above as if all assets in the single asset account  
6 were first placed in service on January 1, 1998. Depreciation shall be  
7 computed using the straight line method over a thirty-year life. A full  
8 year's depreciation shall be allowed in the initial tax year. No half-year  
9 convention shall apply. The depreciable basis of the single account  
10 shall be reduced by the adjusted federal tax basis of assets sold,  
11 retired, or otherwise disposed of during any year on which gain or loss  
12 is recognized for federal income tax purposes as described in  
13 subparagraph (B) of this paragraph.

14 (B) Gains and losses on sales, retirements and other dispositions  
15 of assets placed in service prior to January 1, 1998 shall be recognized  
16 and reported on the same basis as for federal income tax purposes.

17 (C) The Director of the Division of Taxation shall promulgate  
18 regulations describing the methodology for allocating the single asset  
19 account in the event that a portion of the utility's operations are  
20 separated, spun-off, transferred to a separate company or otherwise  
21 disaggregated.

22 (8) In the case of taxpayers that are gas, electric, gas and electric,  
23 or telecommunication public utilities as defined pursuant to subsection  
24 (q) of this section, the director shall have authority to promulgate rules  
25 and issue guidance correcting distortions and adjusting timing  
26 differences resulting from the adoption of P.L.1997, c.162  
27 (C.54:10A-5.25 et al.).

28 (9) Notwithstanding paragraph (1) of this subsection, entire net  
29 income shall not include the income derived by a corporation  
30 organized in a foreign country from the international operation of a  
31 ship or ships, or from the international operation of aircraft, if such  
32 income is exempt from federal taxation pursuant to section 883 of the  
33 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

34 (10) Entire net income shall exclude all income of an alien  
35 corporation the activities of which are limited in this State to investing  
36 or trading in stocks and securities for its own account, investing or  
37 trading in commodities for its own account, or any combination of  
38 those activities, within the meaning of section 864 of the federal  
39 Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on  
40 December 31, 1998. Notwithstanding the previous sentence, if an  
41 alien corporation undertakes one or more infrequent, extraordinary or  
42 non-recurring activities, including but not limited to the sale of  
43 tangible property, only the income from such infrequent, extraordinary  
44 or non-recurring activity shall be subject to the tax imposed pursuant  
45 to P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income  
46 subject to tax shall be determined without regard to the allocation to

1 that specific transaction of any general business expense of the  
2 taxpayer and shall be specifically assigned to this State for taxation by  
3 this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-  
4 6). For the purposes of this paragraph, "alien corporation" means a  
5 corporation organized under the laws of a jurisdiction other than the  
6 United States or its political subdivisions.

7 (l) "Real estate investment trust" shall mean any corporation, trust  
8 or association qualifying and electing to be taxed as a real estate  
9 investment trust under federal law.

10 (m) "Financial business corporation" shall mean any corporate  
11 enterprise which is (1) in substantial competition with the business of  
12 national banks and which (2) employs moneyed capital with the object  
13 of making profit by its use as money, through discounting and  
14 negotiating promissory notes, drafts, bills of exchange and other  
15 evidences of debt; buying and selling exchange; making of or dealing  
16 in secured or unsecured loans and discounts; dealing in securities and  
17 shares of corporate stock by purchasing and selling such securities and  
18 stock without recourse, solely upon the order and for the account of  
19 customers; or investing and reinvesting in marketable obligations  
20 evidencing indebtedness of any person, copartnership, association or  
21 corporation in the form of bonds, notes or debentures commonly  
22 known as investment securities; or dealing in or underwriting  
23 obligations of the United States, any state or any political subdivision  
24 thereof, or of a corporate instrumentality of any of them. This shall  
25 include, without limitation of the foregoing, business commonly  
26 known as industrial banks, dealers in commercial paper and  
27 acceptances, sales finance, personal finance, small loan and mortgage  
28 financing businesses, as well as any other enterprise employing  
29 moneyed capital coming into competition with the business of national  
30 banks; provided that the holding of bonds, notes, or other evidences  
31 of indebtedness by individual persons not employed or engaged in the  
32 banking or investment business and representing merely personal  
33 investments not made in competition with the business of national  
34 banks, shall not be deemed financial business. Nor shall "financial  
35 business" include national banks, production credit associations  
36 organized under the Farm Credit Act of 1933 or the Farm Credit Act  
37 of 1971, Pub.L. 92-181 (12 U.S.C.s.2091 et seq.), stock and mutual  
38 insurance companies duly authorized to transact business in this State,  
39 security brokers or dealers or investment companies or bankers not  
40 employing moneyed capital coming into competition with the business  
41 of national banks, real estate investment trusts, or any of the following  
42 entities organized under the laws of this State: credit unions, savings  
43 banks, savings and loan and building and loan associations,  
44 pawnbrokers, and State banks and trust companies.

45 (n) "International banking facility" shall mean a set of asset and  
46 liability accounts segregated on the books and records of a depository

1 institution, United States branch or agency of a foreign bank, or an  
2 Edge or Agreement Corporation that includes only international  
3 banking facility time deposits and international banking facility  
4 extensions of credit as such terms are defined in section 204.8(a)(2)  
5 and section 204.8(a)(3) of Regulation D of the board of governors of  
6 the Federal Reserve System, 12 CFR Part 204, effective December 3,  
7 1981. In the event that the United States enacts a law, or the board  
8 of governors of the Federal Reserve System adopts a regulation which  
9 amends the present definition of international banking facility or of  
10 such facilities' time deposits or extensions of credit, the Commissioner  
11 of Banking and Insurance shall forthwith adopt regulations defining  
12 such terms in the same manner as such terms are set forth in the laws  
13 of the United States or the regulations of the board of governors of the  
14 Federal Reserve System. The regulations of the Commissioner of  
15 Banking and Insurance shall thereafter provide the applicable  
16 definitions.

17 (o) "S corporation" means a corporation included in the definition  
18 of an "S corporation" pursuant to section 1361 of the federal Internal  
19 Revenue Code of 1986, 26 U.S.C.s.1361.

20 (p) "New Jersey S corporation" means a corporation that is an S  
21 corporation; which has made a valid election pursuant to section 3 of  
22 P.L.1993, c.173 (C.54:10A-5.22); and which has been an S  
23 corporation continuously since the effective date of the valid election  
24 made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

25 (q) "Public Utility" means "public utility" as defined in  
26 R.S.48:2-13.

27 (cf: P.L.1998, c.114, s.2.)

28

29 2. This act shall take effect immediately and apply to privilege  
30 periods ending on or after the July 1 next following enactment.

31

32

33

#### STATEMENT

34

35 This bill excludes from taxation under the corporation business tax  
36 certain hedge fund activity income of corporations of foreign nations  
37 generated in New Jersey.

38 The bill excludes the income of a foreign corporation active in New  
39 Jersey if the corporation's activities in this State are limited to  
40 investing or trading in stocks and securities for its own account,  
41 investing or trading in commodities for its own account, or any  
42 combination of those activities.

43 However, even if the corporation has some activities that go beyond  
44 trading for its own account, the trading income may remain exempt.  
45 If the foreign corporation has income from one or more infrequent,  
46 extraordinary or non-recurring activities (for example, it buys new

1 office furniture and sells all of its old office furniture) only the income  
2 from such infrequent, extraordinary or non-recurring activity will be  
3 taxed. If the corporation goes beyond infrequent, extraordinary or  
4 non-recurring activities, for example to regularly engage in activities  
5 in New Jersey that are not trading for its own account, then all of the  
6 corporation's income becomes subject to taxation.

7 Neighboring states have enacted similar laws. Corporation's "hedge  
8 funds" that trade large blocks of stock on behalf of their corporate  
9 parents are discouraged from locating in New Jersey because  
10 neighboring states allow the exclusion of the income of hedge funds  
11 with offices located in those states. This bill will remove a tax  
12 disincentive to locating these trading management offices in New  
13 Jersey, making New Jersey an equally attractive business location for  
14 traders.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3622

# STATE OF NEW JERSEY

DATED: JANUARY 6, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3622.

Assembly No. 3622 excludes from taxation under the corporation business tax certain hedge fund activity income of corporations of foreign nations generated in New Jersey.

The bill excludes the income of a foreign corporation active in New Jersey if the corporation's activities in this State are limited to investing or trading in stocks and securities for its own account, investing or trading in commodities for its own account, or any combination of those activities.

Neighboring states, e.g. Connecticut and New York, have enacted similar laws that exempt such foreign corporations from status as taxpayers if their activities are limited to hedge fund trading; under those laws, if the corporations have income from other activity, they lose their exemptions and all of their income becomes subject to taxation. This bill is distinctively different.

First, the bill excludes the hedge fund *income* of such foreign corporations from taxation; the corporations remain taxpayers subject to certain reporting duties and payment of at least the minimum tax (currently \$200 annually).

Second, if the foreign corporation has some limited activities that go beyond trading for its own account, the trading income may remain exempt. If the foreign corporation has income from one or more infrequent, extraordinary or non-recurring activities (for example, it buys new office furniture and sells all of its old office furniture) only the income from such infrequent, extraordinary or non-recurring activity will be taxed. If the corporation goes beyond infrequent, extraordinary or non-recurring activities, for example to regularly engage in activities in New Jersey that are not trading for its own account, then all of the corporation's income becomes subject to taxation.

#### FISCAL IMPACT:

The number of foreign corporations active in New Jersey whose activities in this State are limited to investing or trading in stocks and securities for their own accounts is not known, and the Office of

Legislative Services has not been able to identify a single such entity in the State. If such corporations are discouraged from locating in the State under current law, the direct revenue impact of the bill is minimal.

**SENATE, No. 2281**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED DECEMBER 13, 1999

**Sponsored by:**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Excludes certain hedge fund activity income of corporations of foreign nations from taxation under the corporation business tax.

**CURRENT VERSION OF TEXT**

As introduced.



S2281 INVERSO

2

1 AN ACT excluding certain investment income of certain corporations  
2 of foreign nations from taxation under the corporation business tax,  
3 amending P.L.1945, c.162.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read  
9 as follows:

10 4. For the purposes of this act, unless the context requires a  
11 different meaning:

12 (a) "Commissioner" shall mean the Director of the Division of  
13 Taxation of the State Department of the Treasury.

14 (b) "Allocation factor" shall mean the proportionate part of a  
15 taxpayer's net worth or entire net income used to determine a measure  
16 of its tax under this act.

17 (c) "Corporation" shall mean any corporation, joint-stock company  
18 or association and any business conducted by a trustee or trustees  
19 wherein interest or ownership is evidenced by a certificate of interest  
20 or ownership or similar written instrument.

21 (d) "Net worth" shall mean the aggregate of the values disclosed  
22 by the books of the corporation for (1) issued and outstanding capital  
23 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided  
24 profits, and (4) surplus reserves which can reasonably be expected to  
25 accrue to holders or owners of equitable shares, not including  
26 reasonable valuation reserves, such as reserves for depreciation or  
27 obsolescence or depletion. Notwithstanding the foregoing, net worth  
28 shall not include any deduction for the amount of the excess  
29 depreciation described in paragraph (2)(F) of subsection (k) of this  
30 section. The foregoing aggregate of values shall be reduced by 50%  
31 of the amount disclosed by the books of the corporation for investment  
32 in the capital stock of one or more subsidiaries, which investment is  
33 defined as ownership (1) of at least 80% of the total combined voting  
34 power of all classes of stock of the subsidiary entitled to vote and (2)  
35 of at least 80% of the total number of shares of all other classes of  
36 stock except nonvoting stock which is limited and preferred as to  
37 dividends. In the case of investment in an entity organized under the  
38 laws of a foreign country, the foregoing requisite degree of ownership  
39 shall effect a like reduction of such investment from the net worth of  
40 the taxpayer, if the foreign entity is considered a corporation for any  
41 purpose under the United States federal income tax laws, such as (but  
42 not by way of sole examples) for the purpose of supplying deemed  
43 paid foreign tax credits or for the purpose of status as a controlled

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**S2281 INVERSO**

1 foreign corporation. In calculating the net worth of a taxpayer entitled  
2 to reduction for investment in subsidiaries, the amount of liabilities of  
3 the taxpayer shall be reduced by such proportion of the liabilities as  
4 corresponds to the ratio which the excluded portion of the subsidiary  
5 values bears to the total assets of the taxpayer.

6 In the case of banking corporations which have international  
7 banking facilities as defined in subsection (n), the foregoing aggregate  
8 of values shall also be reduced by retained earnings of the international  
9 banking facility. Retained earnings means the earnings accumulated  
10 over the life of such facility and shall not include the distributive share  
11 of dividends paid and federal income taxes paid or payable during the  
12 tax year.

13 If in the opinion of the commissioner, the corporation's books do  
14 not disclose fair valuations the commissioner may make a reasonable  
15 determination of the net worth which, in his opinion, would reflect the  
16 fair value of the assets, exclusive of subsidiary investments as defined  
17 aforesaid, carried on the books of the corporation, in accordance with  
18 sound accounting principles, and such determination shall be used as  
19 net worth for the purpose of this act.

20 (e) (Deleted by amendment, P.L.1998 , c.114.)

21 (f) "Investment company" shall mean any corporation whose  
22 business during the period covered by its report consisted, to the  
23 extent of at least 90% thereof of holding, investing and reinvesting in  
24 stocks, bonds, notes, mortgages, debentures, patents, patent rights and  
25 other securities for its own account, but this shall not include any  
26 corporation which: (1) is a merchant or a dealer of stocks, bonds and  
27 other securities, regularly engaged in buying the same and selling the  
28 same to customers; or (2) had less than 90% of its average gross  
29 assets in New Jersey, at cost, invested in stocks, bonds, debentures,  
30 mortgages, notes, patents, patent rights or other securities or  
31 consisting of cash on deposit during the period covered by its report;  
32 or (3) is a banking corporation or a financial business corporation as  
33 defined in the Corporation Business Tax Act.

34 (g) "Regulated investment company" shall mean any corporation  
35 which for a period covered by its report, is registered and regulated  
36 under the Investment Company Act of 1940 (54 Stat. 789), as  
37 amended.

38 (h) "Taxpayer" shall mean any corporation required to report or to  
39 pay taxes, interest or penalties under this act.

40 (i) "Fiscal year" shall mean an accounting period ending on any day  
41 other than the last day of December on the basis of which the taxpayer  
42 is required to report for federal income tax purposes.

43 (j) Except as herein provided, "privilege period" shall mean the  
44 calendar or fiscal accounting period for which a tax is payable under  
45 this act.

46 (k) "Entire net income" shall mean total net income from all

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1 sources, whether within or without the United States, and shall include  
2 the gain derived from the employment of capital or labor, or from both  
3 combined, as well as profit gained through a sale or conversion of  
4 capital assets. For the purpose of this act, the amount of a taxpayer's  
5 entire net income shall be deemed prima facie to be equal in amount to  
6 the taxable income, before net operating loss deduction and special  
7 deductions, which the taxpayer is required to report to the United  
8 States Treasury Department for the purpose of computing its federal  
9 income tax; provided, however, that in the determination of such entire  
10 net income,

11 (1) Entire net income shall exclude for the periods set forth in  
12 paragraph (2)(F)(i) of this subsection, any amount, except with respect  
13 to qualified mass commuting vehicles as described in section  
14 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately  
15 prior to January 1, 1984, which is included in a taxpayer's federal  
16 taxable income solely as a result of an election made pursuant to the  
17 provisions of paragraph (8) of that section.

18 (2) Entire net income shall be determined without the exclusion,  
19 deduction or credit of:

20 (A) The amount of any specific exemption or credit allowed in any  
21 law of the United States imposing any tax on or measured by the  
22 income of corporations;

23 (B) Any part of any income from dividends or interest on any kind  
24 of stock, securities or indebtedness, except as provided in paragraph  
25 (5) of subsection (k) of this section;

26 (C) Taxes paid or accrued to the United States, a possession or  
27 territory of the United States, a state, a political subdivision thereof,  
28 or the District of Columbia on or measured by profits or income, or  
29 business presence or business activity, or the tax imposed by this act,  
30 or any tax paid or accrued with respect to subsidiary dividends  
31 excluded from entire net income as provided in paragraph (5) of  
32 subsection (k) of this section;

33 (D) (Deleted by amendment, P.L.1985, c.143.)

34 (E) (Deleted by amendment, P.L.1995, c.418.)

35 (F) (i) The amount by which depreciation reported to the United  
36 States Treasury Department for property placed in service on and after  
37 January 1, 1981, but prior to taxpayer fiscal or calendar accounting  
38 years beginning on and after the effective date of P.L.1993, c.172, for  
39 purposes of computing federal taxable income in accordance with  
40 section 168 of the Internal Revenue Code in effect after December 31,  
41 1980, exceeds the amount of depreciation determined in accordance  
42 with the Internal Revenue Code provisions in effect prior to January  
43 1, 1981, but only with respect to a taxpayer's accounting period ending  
44 after December 31, 1981; provided, however, that where a taxpayer's  
45 accounting period begins in 1981 and ends in 1982, no modification  
46 shall be required with respect to this paragraph (F) for the report filed

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1 for such period with respect to property placed in service during that  
2 part of the accounting period which occurs in 1981. The provisions  
3 of this subparagraph shall not apply to assets placed in service prior to  
4 January 1, 1998 of a gas, gas and electric, and electric public utility  
5 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et  
6 seq.) prior to 1998.

7 (ii) For the periods set forth in subparagraph (F)(i) of this  
8 subsection, any amount, except with respect to qualified mass  
9 commuting vehicles as described in section 168(f)(8)(D)(v) of the  
10 Internal Revenue Code as in effect immediately prior to January 1,  
11 1984, which the taxpayer claimed as a deduction in computing federal  
12 income tax pursuant to a qualified lease agreement under paragraph  
13 (8) of that section.

14 The director shall promulgate rules and regulations necessary to  
15 carry out the provisions of this section, which rules shall provide,  
16 among others, the manner in which the remaining life of property shall  
17 be reported.

18 (G) (i) The amount of any civil, civil administrative, or criminal  
19 penalty or fine, including a penalty or fine under an administrative  
20 consent order, assessed and collected for a violation of a State or  
21 federal environmental law, an administrative consent order, or an  
22 environmental ordinance or resolution of a local governmental entity,  
23 and any interest earned on the penalty or fine, and any economic  
24 benefits having accrued to the violator as a result of a violation, which  
25 benefits are assessed and recovered in a civil, civil administrative, or  
26 criminal action, or pursuant to an administrative consent order. The  
27 provisions of this paragraph shall not apply to a penalty or fine  
28 assessed or collected for a violation of a State or federal  
29 environmental law, or local environmental ordinance or resolution, if  
30 the penalty or fine was for a violation that resulted from fire, riot,  
31 sabotage, flood, storm event, natural cause, or other act of God  
32 beyond the reasonable control of the violator, or caused by an act or  
33 omission of a person who was outside the reasonable control of the  
34 violator.

35 (ii) The amount of treble damages paid to the Department of  
36 Environmental Protection pursuant to subsection a. of section 7 of  
37 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the  
38 department in removing, or arranging for the removal of, an  
39 unauthorized discharge upon failure of the discharger to comply with  
40 a directive from the department to remove, or arrange for the removal  
41 of, the discharge.

42 (H) The amount of any sales and use tax paid by a utility vendor  
43 pursuant to section 71 of P.L.1997, c.162.

44 (3) The commissioner may, whenever necessary to properly reflect  
45 the entire net income of any taxpayer, determine the year or period in  
46 which any item of income or deduction shall be included, without

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1 being limited to the method of accounting employed by the taxpayer.

2 (4) There shall be allowed as a deduction from entire net income  
3 of a banking corporation, to the extent not deductible in determining  
4 federal taxable income, the eligible net income of an international  
5 banking facility determined as follows:

6 (A) The eligible net income of an international banking facility shall  
7 be the amount remaining after subtracting from the eligible gross  
8 income the applicable expenses;

9 (B) Eligible gross income shall be the gross income derived by an  
10 international banking facility, which shall include, but not be limited to,  
11 gross income derived from:

12 (i) Making, arranging for, placing or carrying loans to foreign  
13 persons, provided, however, that in the case of a foreign person which  
14 is an individual, or which is a foreign branch of a domestic corporation  
15 (other than a bank), or which is a foreign corporation or foreign  
16 partnership which is controlled by one or more domestic corporations  
17 (other than banks), domestic partnerships or resident individuals, all  
18 the proceeds of the loan are for use outside of the United States;

19 (ii) Making or placing deposits with foreign persons which are  
20 banks or foreign branches of banks (including foreign subsidiaries) or  
21 foreign branches of the taxpayers or with other international banking  
22 facilities;

23 (iii) Entering into foreign exchange trading or hedging transactions  
24 related to any of the transactions described in this paragraph; or

25 (iv) Such other activities as an international banking facility may,  
26 from time to time, be authorized to engage in;

27 (C) Applicable expenses shall be any expense or other deductions  
28 attributable, directly or indirectly, to the eligible gross income  
29 described in subparagraph (B) of this paragraph.

30 (5) Entire net income shall exclude 100% of dividends which were  
31 included in computing such taxable income for federal income tax  
32 purposes, paid to the taxpayer by one or more subsidiaries owned by  
33 the taxpayer to the extent of the 80% or more ownership of investment  
34 described in subsection (d) of this section. With respect to other  
35 dividends, entire net income shall not include 50% of the total included  
36 in computing such taxable income for federal income tax purposes.

37 (6) (A) Net operating loss deduction. There shall be allowed as  
38 a deduction for the taxable year the net operating loss carryover to  
39 that year.

40 (B) Net operating loss carryover. A net operating loss for any  
41 taxable year ending after June 30, 1984 shall be a net operating loss  
42 carryover to each of the seven years following the year of the loss. The  
43 entire amount of the net operating loss for any taxable year (the "loss  
44 year") shall be carried to the earliest of the taxable years to which the  
45 loss may be carried. The portion of the loss which shall be carried to  
46 each of the other taxable years shall be the excess, if any, of the

**S2281 INVERSO**

1 amount of the loss over the sum of the entire net income, computed  
2 without the exclusions permitted in paragraphs (4) and (5) of this  
3 subsection or the net operating loss deduction provided by  
4 subparagraph (A) of this paragraph, for each of the prior taxable years  
5 to which the loss may be carried.

6 (C) Net operating loss. For purposes of this paragraph the term  
7 "net operating loss" means the excess of the deductions over the gross  
8 income used in computing entire net income without the net operating  
9 loss deduction provided for in subparagraph (A) of this paragraph and  
10 the exclusions in paragraphs (4) and (5) of this subsection.

11 (D) Change in ownership. Where there is a change in 50% or more  
12 of the ownership of a corporation because of redemption or sale of  
13 stock and the corporation changes the trade or business giving rise to  
14 the loss, no net operating loss sustained before the changes may be  
15 carried over to be deducted from income earned after such changes.  
16 In addition where the facts support the premise that the corporation  
17 was acquired under any circumstances for the primary purpose of the  
18 use of its net operating loss carryover, the director may disallow the  
19 carryover.

20 (7) The entire net income of gas, electric and gas and electric  
21 public utilities that were subject to the provisions of P.L.1940, c.5  
22 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting  
23 the New Jersey depreciation allowance for federal tax depreciation  
24 with respect to assets placed in service prior to January 1, 1998. For  
25 gas, electric, and gas and electric public utilities that were subject to  
26 the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998,  
27 the New Jersey depreciation allowance shall be computed as follows:  
28 All depreciable assets placed in service prior to January 1, 1998 shall  
29 be considered a single asset account. The New Jersey tax basis of this  
30 depreciable asset account shall be an amount equal to the carryover  
31 adjusted basis for federal income tax purposes on December 31, 1997  
32 of all depreciable assets in service on December 31, 1997, increased  
33 by the excess, of the "net carrying value," defined to be adjusted book  
34 basis of all assets and liabilities, excluding deferred income taxes,  
35 recorded on the public utility's books of account on December 31,  
36 1997, over the carryover adjusted basis for federal income tax  
37 purposes on December 31, 1997 of all assets and liabilities owned by  
38 the gas, electric, or gas and electric public utility as of December 31,  
39 1997. "Books of account" for gas, gas and electric, and electric public  
40 utilities means the uniform system of accounts as promulgated by the  
41 Federal Energy Regulatory Commission and adopted by the Board of  
42 Public Utilities. The following adjustments to entire net income shall  
43 be made pursuant to this section:

44 (A) Depreciation for property placed in service prior to January 1,  
45 1998 shall be adjusted as follows:

46 (i) Depreciation for federal income tax purposes shall be

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1 disallowed in full.

2 (ii) A deduction shall be allowed for the New Jersey depreciation  
3 allowance. The New Jersey depreciation allowance shall be computed  
4 for the single asset account described above based on the New Jersey  
5 tax basis as adjusted above as if all assets in the single asset account  
6 were first placed in service on January 1, 1998. Depreciation shall be  
7 computed using the straight line method over a thirty-year life. A full  
8 year's depreciation shall be allowed in the initial tax year. No half-year  
9 convention shall apply. The depreciable basis of the single account  
10 shall be reduced by the adjusted federal tax basis of assets sold,  
11 retired, or otherwise disposed of during any year on which gain or loss  
12 is recognized for federal income tax purposes as described in  
13 subparagraph (B) of this paragraph.

14 (B) Gains and losses on sales, retirements and other dispositions  
15 of assets placed in service prior to January 1, 1998 shall be recognized  
16 and reported on the same basis as for federal income tax purposes.

17 (C) The Director of the Division of Taxation shall promulgate  
18 regulations describing the methodology for allocating the single asset  
19 account in the event that a portion of the utility's operations are  
20 separated, spun-off, transferred to a separate company or otherwise  
21 disaggregated.

22 (8) In the case of taxpayers that are gas, electric, gas and electric,  
23 or telecommunication public utilities as defined pursuant to subsection  
24 (q) of this section, the director shall have authority to promulgate rules  
25 and issue guidance correcting distortions and adjusting timing  
26 differences resulting from the adoption of P.L.1997, c.162  
27 (C.54:10A-5.25 et al.).

28 (9) Notwithstanding paragraph (1) of this subsection, entire net  
29 income shall not include the income derived by a corporation  
30 organized in a foreign country from the international operation of a  
31 ship or ships, or from the international operation of aircraft, if such  
32 income is exempt from federal taxation pursuant to section 883 of the  
33 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

34 (10) Entire net income shall exclude all income of an alien  
35 corporation the activities of which are limited in this State to investing  
36 or trading in stocks and securities for its own account, investing or  
37 trading in commodities for its own account, or any combination of  
38 those activities, within the meaning of section 864 of the federal  
39 Internal Revenue Code of 1986, 26 U.S.C.s.864, as in effect on  
40 December 31, 1998. Notwithstanding the previous sentence, if an  
41 alien corporation undertakes one or more infrequent, extraordinary or  
42 non-recurring activities, including but not limited to the sale of  
43 tangible property, only the income from such infrequent, extraordinary  
44 or non-recurring activity shall be subject to the tax imposed pursuant  
45 to P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income  
46 subject to tax shall be determined without regard to the allocation to

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1 that specific transaction of any general business expense of the  
2 taxpayer and shall be specifically assigned to this State for taxation by  
3 this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-  
4 6). For the purposes of this paragraph, "alien corporation" means a  
5 corporation organized under the laws of a jurisdiction other than the  
6 United States or its political subdivisions.

7 (l) "Real estate investment trust" shall mean any corporation, trust  
8 or association qualifying and electing to be taxed as a real estate  
9 investment trust under federal law.

10 (m) "Financial business corporation" shall mean any corporate  
11 enterprise which is (1) in substantial competition with the business of  
12 national banks and which (2) employs moneyed capital with the object  
13 of making profit by its use as money, through discounting and  
14 negotiating promissory notes, drafts, bills of exchange and other  
15 evidences of debt; buying and selling exchange; making of or dealing  
16 in secured or unsecured loans and discounts; dealing in securities and  
17 shares of corporate stock by purchasing and selling such securities and  
18 stock without recourse, solely upon the order and for the account of  
19 customers; or investing and reinvesting in marketable obligations  
20 evidencing indebtedness of any person, copartnership, association or  
21 corporation in the form of bonds, notes or debentures commonly  
22 known as investment securities; or dealing in or underwriting  
23 obligations of the United States, any state or any political subdivision  
24 thereof, or of a corporate instrumentality of any of them. This shall  
25 include, without limitation of the foregoing, business commonly  
26 known as industrial banks, dealers in commercial paper and  
27 acceptances, sales finance, personal finance, small loan and mortgage  
28 financing businesses, as well as any other enterprise employing  
29 moneyed capital coming into competition with the business of national  
30 banks; provided that the holding of bonds, notes, or other evidences  
31 of indebtedness by individual persons not employed or engaged in the  
32 banking or investment business and representing merely personal  
33 investments not made in competition with the business of national  
34 banks, shall not be deemed financial business. Nor shall "financial  
35 business" include national banks, production credit associations  
36 organized under the Farm Credit Act of 1933 or the Farm Credit Act  
37 of 1971, Pub.L. 92-181 (12 U.S.C.s.2091 et seq.), stock and mutual  
38 insurance companies duly authorized to transact business in this State,  
39 security brokers or dealers or investment companies or bankers not  
40 employing moneyed capital coming into competition with the business  
41 of national banks, real estate investment trusts, or any of the following  
42 entities organized under the laws of this State: credit unions, savings  
43 banks, savings and loan and building and loan associations,  
44 pawnbrokers, and State banks and trust companies.

45 (n) "International banking facility" shall mean a set of asset and  
46 liability accounts segregated on the books and records of a depository

1 institution, United States branch or agency of a foreign bank, or an  
2 Edge or Agreement Corporation that includes only international  
3 banking facility time deposits and international banking facility  
4 extensions of credit as such terms are defined in section 204.8(a)(2)  
5 and section 204.8(a)(3) of Regulation D of the board of governors of  
6 the Federal Reserve System, 12 CFR Part 204, effective December 3,  
7 1981. In the event that the United States enacts a law, or the board  
8 of governors of the Federal Reserve System adopts a regulation which  
9 amends the present definition of international banking facility or of  
10 such facilities' time deposits or extensions of credit, the Commissioner  
11 of Banking and Insurance shall forthwith adopt regulations defining  
12 such terms in the same manner as such terms are set forth in the laws  
13 of the United States or the regulations of the board of governors of the  
14 Federal Reserve System. The regulations of the Commissioner of  
15 Banking and Insurance shall thereafter provide the applicable  
16 definitions.

17 (o) "S corporation" means a corporation included in the definition  
18 of an "S corporation" pursuant to section 1361 of the federal Internal  
19 Revenue Code of 1986, 26 U.S.C.s.1361.

20 (p) "New Jersey S corporation" means a corporation that is an S  
21 corporation; which has made a valid election pursuant to section 3 of  
22 P.L.1993, c.173 (C.54:10A-5.22); and which has been an S  
23 corporation continuously since the effective date of the valid election  
24 made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

25 (q) "Public Utility" means "public utility" as defined in  
26 R.S.48:2-13.

27 (cf: 1998, c.114, s.2.)

28

29 2. This act shall take effect immediately and apply to privilege  
30 periods ending on or after the July 1 next following enactment.

31

32

33

STATEMENT

34

35 This bill excludes from taxation under the corporation business tax  
36 certain hedge fund activity income of corporations of foreign nations  
37 generated in New Jersey.

38 The bill excludes the income of a foreign corporation active in New  
39 Jersey if the corporation's activities in this State are limited to  
40 investing or trading in stocks and securities for its own account,  
41 investing or trading in commodities for its own account, or any  
42 combination of those activities.

43 However, even if the corporation has some activities that go beyond  
44 trading for its own account, the trading income may remain exempt.  
45 If the foreign corporation has income from one or more infrequent,  
46 extraordinary or non-recurring activities (for example, it buys new

**S2281 INVERSO**

11

1 office furniture and sells all of its old office furniture) only the income  
2 from such infrequent, extraordinary or non-recurring activity will be  
3 taxed. If the corporation goes beyond infrequent, extraordinary or  
4 non-recurring activities, for example to regularly engage in activities  
5 in New Jersey that are not trading for its own account, then all of the  
6 corporation's income becomes subject to taxation.

7 Neighboring states have enacted similar laws. Corporation's  
8 "hedge funds" that trade large blocks of stock on behalf of their  
9 corporate parents are discouraged from locating in New Jersey  
10 because neighboring states allow the exclusion of the income of hedge  
11 funds with offices located in those states. This bill will remove a tax  
12 disincentive to locating these trading management offices in New  
13 Jersey, making New Jersey an equally attractive business location for  
14 traders.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2281

# STATE OF NEW JERSEY

DATED: JANUARY 6, 2000

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2281.

This bill excludes from taxation under the corporation business tax certain hedge fund activity income of corporations of foreign nations generated in New Jersey.

The bill excludes the income of a foreign corporation active in New Jersey if the corporation's activities in this State are limited to investing or trading in stocks and securities for its own account, investing or trading in commodities for its own account, or any combination of those activities.

Neighboring states (e.g., Connecticut and New York) have enacted similar laws that exempt such foreign corporations from status as taxpayers if their activities are limited to hedge fund trading; under those laws, if the corporations have income from other activity, they lose their exemptions and all of their income becomes subject to taxation. This bill is distinctly different.

First, the bill excludes the hedge fund *income* of such foreign corporations from taxation; the corporations remain taxpayers subject to certain reporting duties and payment of at least the minimum tax (currently \$200 annually).

Second, if the foreign corporation has some limited activities that go beyond trading for its own account, the trading income may remain exempt. If the foreign corporation has income from one or more infrequent, extraordinary or non-recurring activities (for example, it buys new office furniture and sells all of its old office furniture), only the income from such infrequent, extraordinary or non-recurring activity will be taxed. If the corporation goes beyond infrequent, extraordinary or non-recurring activities, for example to regularly engage in activities in New Jersey that are not trading for its own account, then all of the corporation's income becomes subject to taxation.

#### FISCAL IMPACT

The number of foreign corporations active in New Jersey whose activities in this State are limited to investing or trading in stocks and securities for their own accounts is not known, and the Office of Legislative Services has not been able to identify a single such entity

in the State. If such corporations are discouraged from locating in the State under current law, the direct revenue impact of the bill is minimal.

PO BOX 004  
TRENTON, NJ 08625

*Office of the Governor*  
**NEWS RELEASE**

CONTACT: Gene Herman  
609-777-2600

RELEASE: January 14, 2000

**S-279** (Girgenti) (Russo) - Clarifies duties and responsibilities of municipal prosecutors.

**S-504** (Ciesla/Matheussen) (Blee/Malone) - Requires public school districts to provide transportation to all nonpublic schools in certain situations.

**S-912** (Palaia/Bark) (Roberts/Geist) - Authorizes certain charges to office of county fire marshal and allows creation of arson investigation unit therein.

**SCS for S-1196** (Kosco/Bryant/Furnari) (Cohen/DiGaetano) - Amends "Check Cashers Regulatory Act" to make it a crime to cash a check for consideration without a license and requires the revocation of license under certain circumstances; amends "Casino Control Act" to require casino licensees to file suspicious transaction report.

**S-1492** (Sinagra/Bassano) (Cruz-Perez/Vandervalk) - "Physician- Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities," appropriates \$2,500,000.

**S-2217** (Gormley) (LeFevre/Blee) - Clarifies that cooperative to condominium conversions are not subject to realty transfer fee.

**AS for SCS for S-949** (Blee/Cruz-Perez/Previte/Bryant/Gormley) (Jones/Asselta) - Makes Division of Criminal Justice investigators and probation officers eligible for body armor grants.

**A-2965** (Bodine/Gregg) (Sinagra/Vitale) - Clarifies that only large water systems are required annually to mail drinking water quality information to customers; requires certain entities to post water quality test results.

**A-3270** (Malone/Cottrell) (Singer/Allen) - Requires a board of education providing certain services to nonpublic school pupils to provide consultation with representatives of the nonpublic school on any change in the provision of services.

**A-3408** (Biondi/Heck) (Kavanaugh/Robertson) - Provides sales tax exemptions for certain purchases by flood victims of Hurricane Floyd.

**A-3571** (Blee) (Bryant/Matheussen) - Revises certain procedures for the receipt of State matching funds against contributions and donations made to institutions of higher education and institutional foundations.

**S-1842** (Singer/Bark) (Malone/Conaway) - Establishes a special license plate to aid Deborah Hospital Foundation.

**S-1869** (O'Connor) (Asselta/Gregg) - Makes permanent the Vietnam Veterans' Memorial Fund contribution gross income tax return check-off.

**SCS for S-2034** (Ciesla/Codey) (Moran/Impeveduto) - Establishes certain licensing requirements for limousine drivers and additional requirements for owners of limousines.

**A-2055** (Weinberg/Zisa) (Bassano/Singer) - Establishes Prostate Cancer Awareness, Education and Research Program in DHSS; appropriates \$1 million.

**A-3245** (Lance/Gregg) (Schluter) - Appropriates \$200,000 for deer control research.

**A-3410** (Lance/Smith) (Lynch) - Authorizes municipalities to establish grant programs to provide relief to certain real property owners for damages due to floods, hurricanes and other natural disasters.

**A-3568** (Felice/Doria) (Bassano/Codey) - Continues health service corporation member on Individual Health Coverage and Small Employer Health Benefits Program boards.

**A-3622** (Kramer) (Inverso) - Excludes certain hedge fund activity income of corporations of foreign nations from taxation under the corporation business tax.

**A-3636** (DeCroce/Ciesla) - Exempts motor carrier employees from the State's statutory overtime wage rate requirements.