

54:10A-4.3

**LEGISLATIVE HISTORY CHECKLIST**  
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(Business tax--15 year net operating loss)

**NJSA:** 54:10A-4.3

**LAWS OF:** 1997 **CHAPTER:** 350

**BILL NO:** S447

**SPONSOR(S):** Singer and McGreevey

**DATE INTRODUCED:** January 18, 1996

**COMMITTEE: ASSEMBLY:** Appropriations

**SENATE:** Natural Resources; Budget

**AMENDED DURING PASSAGE:** Yes

First reprint enacted

**DATE OF PASSAGE: ASSEMBLY:** December 4, 1997 Re-enacted 1-12-98

**SENATE:** April 21, 1997

**DATE OF APPROVAL:** January 15, 1998

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT: ASSEMBLY:** Yes

**SENATE:** Yes 5-9-96 & 1-14-97

**FISCAL NOTE:** No

**VETO MESSAGE:** Yes

**MESSAGE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

See newspaper clipping--attached:

"Three bills to lure high tech signed," 1-16-98, Asbury Park Press.

KBP:pp

P.L. 1997, CHAPTER 350, *approved January 15, 1998*  
Senate, No. 447 (*First Reprint*)

1 **AN ACT** extending for certain taxpayers the carryforward of the net  
2 operating loss deduction under the corporation business tax, and  
3 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).  
4

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

7  
8 1. a. Notwithstanding the provisions of paragraph (6) of subsection  
9 k. of section 4 of P.L.1945, c.162 (C.54:10A-4) to the contrary, a  
10 taxpayer that has for the fiscal or calendar accounting period (referred  
11 to hereafter as the "tax year"), qualified research expenses as defined  
12 in section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C.  
13 § 41, as in effect on June 30, 1992, paid or incurred for research  
14 conducted in this State, in the fields of advanced computing, advanced  
15 materials, biotechnology, electronic device technology, environmental  
16 technology, or medical device technology, shall be allowed to carry  
17 over a net operating loss for that tax year to each of the 15 tax years  
18 following the year of the loss.

19 b. As used in this section:

20 "Advanced computing" means a technology used in the designing  
21 and developing of computing hardware and software, including  
22 innovations in designing the full spectrum of hardware from hand-held  
23 calculators to super computers, and peripheral equipment;

24 "Advanced materials" means materials with engineered properties  
25 created through the development of specialized processing and  
26 synthesis technology, including ceramics, high value-added metals,  
27 electronic materials, composites, polymers, and biomaterials;

28 "Biotechnology" means the continually expanding body of  
29 fundamental knowledge about the functioning of biological systems  
30 from the macro level to the molecular and sub-atomic levels, as well  
31 as novel products, services, technologies and sub-technologies

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Senate amendments adopted in accordance with Governor's recommendations January 12, 1998.**

1 developed as a result of insights gained from research advances which  
2 add to that body of fundamental knowledge ;

3 "Electronic device technology" means a technology involving  
4 microelectronics, semiconductors, electronic equipment, and  
5 instrumentation, radio frequency, microwave, and millimeter  
6 electronics, and optical and optic-electrical devices, or data and digital  
7 communications and imaging devices;

8 "Environmental technology" means assessment and prevention of  
9 threats or damage to human health or the environment, environmental  
10 cleanup, or the development of alternative energy sources; and

11 "Medical device technology" means a technology involving any  
12 medical equipment or product (other than a pharmaceutical product)  
13 that has therapeutic value, diagnostic value, or both, and is regulated  
14 by the federal Food and Drug Administration.

15

16 2. This act shall take effect immediately <sup>1</sup>[and section 1 shall apply  
17 to tax years beginning on or after January 1 next following enactment]  
18 but shall apply only to net operating losses which occur during  
19 privilege periods which begin on or after July 1, 1998, but no later  
20 than June 30, 2001<sup>1</sup>.

21

22

23

24 Provides 15 year net operating loss deduction carryforward under  
25 corporation business tax for certain high-technology companies.

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11  
12  
13 STATEMENT

14  
15 This bill extends for certain companies with advanced technology  
16 research expenditures in New Jersey the carryforward of the net  
17 operating loss deduction under the corporation business tax.

18 Taxpayers contributing to advanced technology research in New  
19 Jersey will be able, under this bill, to carry forward their net operating  
20 loss deduction for up to 15 years instead of the seven years allowed  
21 for other taxpayers. High technology, research intensive companies  
22 typically do not show a profit during their early years and often cannot  
23 fully utilize the carryforward of the net operating loss deduction  
24 during the first seven years following a net operating loss.

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[Passed Both Houses]

[First Reprint]

SENATE, No. 447

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# STATE OF NEW JERSEY

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INTRODUCED JANUARY 18, 1996

By Senators SINGER, McGREEVEY, Kyrillos, Palaia, Inverso,  
Assemblymen Felice, Impreveduto, Cohen, Bucco, LeFevre, Augustine,  
Suliga and Corodemus

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recommendations January 12, 1998.

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26

27 Provides 15 year net operating loss deduction carryforward under  
28 corporation business tax for certain high-technology companies.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 447

**STATE OF NEW JERSEY**

DATED: NOVEMBER 6, 1997

The Assembly Appropriations Committee reports favorably Senate Bill No. 447.

Senate Bill No. 447 extends the carryforward period for utilizing the net operating loss deduction allowed under the corporation business tax for certain companies with advanced technology research expenditures in New Jersey. These taxpayers contributing to advanced technology research in New Jersey will be able to carry forward their net operating loss deduction for up to 15 years instead of the seven years allowed for other corporate taxpayers.

This bill is identical to Assembly Bill No. 1506.

FISCAL IMPACT:

The Division of Taxation in the Department of Treasury has observed that any tax revenue loss would not begin to occur until eight years following enactment of this bill (expected FY 2005). That would be the first fiscal year following the end of the maximum seven-year net operating loss carryforward period currently allowed. According to the division, the revenue loss would slowly increase after this point and reach a plateau of \$12 million per year in FY 2012 and thereafter, depending on the future levels of net operating losses. The division calculates that approximately \$12 million in unused operating loss deductions will be available each year to be carried forward from the eighth through the 15th year following the tax year in which the loss is actually incurred.

SENATE NATURAL RESOURCES AND ECONOMIC  
DEVELOPMENT COMMITTEE

STATEMENT TO

**SENATE, No. 447**

**STATE OF NEW JERSEY**

DATED: MAY 9, 1996

The Senate Natural Resources and Economic Development Committee favorably reports Senate Bill No. 447.

This bill extends for certain companies with advanced technology research expenditures in New Jersey the carryforward of the net operating loss deduction under the corporation business tax.

Taxpayers contributing to advanced technology research in New Jersey will be able, under this bill, to carry forward their net operating loss deduction for up to 15 years instead of the seven years allowed for other taxpayers. High technology, research intensive companies typically do not show a profit during their early years and often cannot fully utilize the carryforward of the net operating loss deduction during the first seven years following a net operating loss.



SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 447

**STATE OF NEW JERSEY**

DATED: JANUARY 14, 1997

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 447 of 1996.

Senate Bill No. 447 extends the carryforward period for utilizing the net operating loss deduction allowance under the corporation business tax by certain companies with advanced technology research expenditures in New Jersey. These taxpayers contributing to advanced technology research in New Jersey will be able to carry forward their net operating loss deduction for up to 15 years instead of the seven years allowed for other corporate taxpayers.

As reported, this bill is identical to Senate Bill No. 1506 of 1996 (Felice/Impreveduto).

FISCAL IMPACT

In a fiscal note prepared by the Office of Legislative Services, the Division of Taxation in the Department of Treasury observes that any additional tax revenue loss would not begin to occur until eight years following enactment of this bill (approximately FY 2005). This would be the first fiscal year following the end of the maximum seven-year net operating loss carryforward period allowed under existing law. According to the division, the revenue loss would slowly increase after this point and reach a plateau of \$12 million per year in FY 2012 and thereafter, depending on the future levels of net operating losses. The division calculates that approximately \$12 million in unused operating loss deductions will be available each year to be carried forward from the eighth through the 15th year following the tax year in which the loss is actually incurred.

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## OFFICE OF THE GOVERNOR NEWS RELEASE

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TRENTON, NJ 08625  
RELEASE: THURSDAY,  
January 15, 1997

### GOV. CHRISTIE WHITMAN SIGNS PACKAGE OF BILLS PROVIDING TAX INCENTIVES TO HIGH TECH FIRMS EXPANDING IN NEW JERSEY

Gov. Christie Whitman today continued her efforts to spur economic growth and job creation in New Jersey when she signed a package of bills providing tax incentives that will encourage the development and expansion of high-technology businesses in the state.

"These bills will help nurture the growth of our many start-up and smaller high-tech companies," Gov. Whitman said. "The technology field is undergoing explosive growth. And so often the ideas that will set the industry standard tomorrow are just starting up in somebody's garage today."

"High tech jobs pay high salaries," she said. "In fact, among high-tech companies nationwide, New Jersey's high-tech jobs earn the second highest salaries -- nearly \$56,000 a year. That's 65 percent higher than the average private sector wage in our state."

"New Jersey has a great deal to offer high-tech companies," Whitman said. "Our work force is among the nation's best -- well-educated and highly skilled. Our location is unbeatable -- with convenient access to transportation and capital markets. And we already have the prestige of being home to many of the world's leading high-tech companies."

"But if we're going to keep our leading edge, we have to stay a few steps ahead of the rest of the pack," she added. "And that's what this package of bills does."

(more)

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The bills the Governor signed are:

**S-445**, sponsored by Senator Robert Singer (R-Burlington/Monmouth/Ocean) and former Senator Jim McGreevey (D-Middlesex) and Assembly Members Nick Felice (R-Bergen/Passaic) and Neil Cohen (D-Union), provides corporation business tax credit (CBT) for certain investments in small New Jersey-based high technology businesses. The maximum tax credit allowable under the bill is \$500,000 for investments in small New Jersey-based high technology firms with gross receipts from start-up manufacturing under \$1 million. The bill will apply beginning January 1, 1999 for a three-year period to allow the state time to assess the impact of the tax credit.

**S-447**, sponsored by Senator Singer and former Senator McGreevey and Assembly Members Felice and Anthony Impreveduto (D-Bergen/Hudson), extends the net operating loss deduction carryforward under the CBT for certain high-technology companies from seven to 15 years. The net operating loss deduction carryforward under the corporate business tax will apply prospectively for operating losses that occur during the next three business tax years beginning after July 1, 1998. A report will be issued by the Department of Treasury after the three-year period before it is made a permanent part of the tax code.

**S-449**, sponsored by Senator Singer and former Senator McGreevey and Assembly Members Impreveduto and Cohen, will provide a 15-year carryforward of research and development tax credit under the corporation business tax for certain high-technology companies. The longer carryforward time under the CBT will apply prospectively for operating losses that occur during the next three business tax years, beginning after July 1, 1998. A report will be issued by the Department of Treasury after the three-year period before it is made a permanent part of the tax code.

The Governor on Monday signed a companion measure, **S-446**, regarding the transfer of corporate business tax certificates for high technology firms. The bill, sponsored by Senator Singer and former Senator McGreevey and Assembly Members Felice and Impreveduto requires the New Jersey Economic Development Authority to administer a corporate business tax benefit certificate program. This program will allow new or expanding technology and biotechnology companies to apply to the EDA to transfer certain tax benefits to other corporate business taxpayers. The transferable tax benefits are unused carryover of research and development tax credits and unused net operating loss carry over.

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