

54A: 6-14.1

LEGISLATIVE HISTORY CHECKLIST  
Compiled by the NJ State Law Library

(Qualified investment fund--  
futures)

NJSA: 54A:6-14.1

LAWS OF: 1992 CHAPTER: 204

BILL NO: A1276

SPONSOR(S) Penn

DATE INTRODUCED: April 30, 1992

COMMITTEE: ASSEMBLY: Financial Institutions  
SENATE: Commerce; Budget

AMENDED DURING PASSAGE: Yes Amendments during passage  
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: November 30, 1992  
SENATE: December 17, 1992

DATE OF APPROVAL: December 24, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes 6-18-92 & 10-8-92

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]  
ASSEMBLY, No. 1276

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1992

By Assemblymen PENN and LUSTBADER

LAW LIBRARY COPY  
DO NOT REMOVE

1 AN ACT concerning the permissible investments of qualified  
2 investment funds which may distribute tax-exempt interest or  
3 gain under the New Jersey gross income tax, amending  
4 P.L.1987, c.310.

5

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

8 1. Section 2 of P.L.1987, c.310 (C.54A:6-14.1) is amended to  
9 read as follows:

10 2. Gross income shall not include distributions paid by a  
11 qualified investment fund, to the extent that the distributions are  
12 attributable to interest or gain from obligations described in  
13 N.J.S.54A:6-14.

14 For the purposes of this act, "qualified investment fund" means  
15 any investment company or trust registered with the Securities  
16 and Exchange Commission, or any series of such investment  
17 company or trust, which for the calendar year in which the  
18 distribution is paid:

19 a. Has no investments other than interest-bearing obligations,  
20 obligations issued at a discount, <sup>1</sup>[financial options, futures,  
21 forward contracts, or other similar financial instruments,]<sup>1</sup> and  
22 cash and cash items, including receivables<sup>1</sup>, and financial options,  
23 futures, forward contracts, or other similar financial instruments  
24 related to interest-bearing obligations, obligations issued at a  
25 discount or bond indexes related thereto<sup>1</sup>; and

26 b. Has not less than 80% of the aggregate principal amount of  
27 all of its investments, excluding financial options, futures,  
28 forward contracts, or other similar financial instruments <sup>1</sup>[, and]  
29 related to interest-bearing obligations, obligations issued at a  
30 discount or bond indexes related thereto to the extent such  
31 instruments are authorized by section 851(b) of the federal  
32 Internal Revenue Code of 1986, 26 U.S.C. §851(b),<sup>1</sup> cash and cash  
33 items, which cash items shall include receivables, in obligations  
34 described in N.J.S.54A:6-14.

35 For purposes of this section, "series" means a segregated  
36 portfolio of assets, the beneficial interests in which are owned by  
37 the holders of a class or series of stock or shares of the  
38 investment company or trust that is preferred over all other  
39 classes or series in respect to the portfolio of assets.

40 (cf: P.L.1987, c.310, s.2)

41 2. This act shall take effect immediately and be retroactive to  
42 January 1, 1992.

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.

Matter enclosed in superscript numerals has been adopted as follows:  
<sup>1</sup> Senate SBA committee amendments adopted October 8, 1992.



ASSEMBLY, No. 1276  
STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1992

By Assemblymen PENN and LUSTBADER

1 AN ACT concerning the permissible investments of qualified  
2 investment funds which may distribute tax-exempt interest or  
3 gain under the New Jersey gross income tax, amending  
4 P.L.1987, c.310.

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

8 1. Section 2 of P.L.1987, c.310 (C.54A:6-14.1) is amended to  
9 read as follows:

10 2. Gross income shall not include distributions paid by a  
11 qualified investment fund, to the extent that the distributions are  
12 attributable to interest or gain from obligations described in  
13 N.J.S.54A:6-14.

14 For the purposes of this act, "qualified investment fund" means  
15 any investment company or trust registered with the Securities  
16 and Exchange Commission, or any series of such investment  
17 company or trust, which for the calendar year in which the  
18 distribution is paid:

19 a. Has no investments other than interest-bearing obligations,  
20 obligations issued at a discount, financial options, futures,  
21 forward contracts, or other similar financial instruments, and  
22 cash and cash items, including receivables; and

23 b. Has not less than 80% of the aggregate principal amount of  
24 all of its investments, excluding financial options, futures,  
25 forward contracts, or other similar financial instruments, and  
26 cash and cash items, which cash items shall include receivables,  
27 in obligations described in N.J.S.54A:6-14.

28 For purposes of this section, "series" means a segregated  
29 portfolio of assets, the beneficial interests in which are owned by  
30 the holders of a class or series of stock or shares of the  
31 investment company or trust that is preferred over all other  
32 classes or series in respect to the portfolio of assets.

33 (cf: P.L.1987, c.310, s.2)

34 2. This act shall take effect immediately and be retroactive to  
35 January 1, 1992.

36

37

38 *Sponsor* STATEMENT

39

40 The New Jersey gross income tax allows certain investment  
41 funds that invest in tax-exempt State and municipal bonds to  
42 distribute tax-exempt interest or gain to investors, but precludes  
43 such a fund from investing in any financial futures, options,  
44 forward contracts, or other similar financial instruments. This

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 bill allows qualified investment funds to invest in these financial  
2 instruments. This modification will remove certain investment  
3 disadvantages that investors in these funds face in this State, but  
4 will not create additional tax-exempt investments.

5 Currently the New Jersey statute places New Jersey citizens  
6 at a competitive disadvantage. Only two states, New Jersey and  
7 North Dakota, do not permit a qualified investment fund to use  
8 hedging instruments in its portfolio without forfeiting the right to  
9 the pass-through of exempt interest from federal obligations to  
10 its shareholders. As a result, New Jersey shareholders are not  
11 permitted to benefit from the fund's use of hedging transactions  
12 to reduce risk.

13 Small investors in particular are heavily penalized by the  
14 current New Jersey statute. Large investors can afford to hold  
15 federal government obligations directly, but the only means by  
16 which small investors can maintain diversified portfolios is  
17 through mutual funds. To give the same tax benefit to small  
18 investors as are given to large investors, New Jersey needs to  
19 modify its statute to grant mutual fund investors the same  
20 investment flexibility accorded larger investors.

21 This bill does not create additional tax-exempt investments  
22 under the gross income tax. Gains or loss on futures and options  
23 would continue to be reported as taxable income to shareholders  
24 of these funds.

25 The use of futures and options by qualified investment mutual  
26 funds is strictly regulated, so these funds are not susceptible to  
27 the volatility traditionally associated futures contracts  
28 leveraging. These regulations eliminate, for all practical  
29 purposes the kind of highly speculative trading that has given  
30 other market participants a reputation as high-risk traders. For  
31 mutual funds, that kind of speculation is simply not allowed, even  
32 if it were desired.

33

34

35

36

---

37 Allows qualified investment funds which may distribute  
38 tax-exempt interest or gain under the New Jersey gross income  
39 tax to invest in financial futures.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1276

STATE OF NEW JERSEY

DATED: MAY 4, 1992

The Assembly Financial Institutions Committee favorably reports Assembly Bill No. 1276.

This bill redefines a qualified investment fund to include investments in financial options, futures, forward contracts, or other similar financial instruments and excludes such investments from the requirement that at least 80% of the qualified investment fund's investments be in obligations described in N.J.S.54A:6-14. This modification will remove certain investment disadvantages that investors in these funds face in this State, but will not create additional tax-exempt investments.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1276**

with committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 8, 1992

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1276, with committee amendments.

Assembly Bill No. 1276, as amended, allows mutual funds which only invest in interest bearing obligations and have not less than 80% of those investments in federal, State and local government obligations, to invest in financial futures, options, forward contracts or other similar financial instruments and still continue to pass through the interest and gain on those tax-free government obligations to investors as tax-free income under the New Jersey gross income tax.

COMMITTEE AMENDMENTS:

The amendments clarify that the options, futures and other such investments permitted to be held by these funds are limited to financial instrument-related investments and not unrelated options such as stock options. The amendments also explicitly incorporate the otherwise implied limitations of section 851(b) of the federal Internal Revenue Code that restrict the options and futures investments that these mutual funds may invest in and receive regulated investment company treatment under the federal income tax.

FISCAL IMPACT:

This bill does not create additional tax-exempt investments under the gross income tax. Gains or losses on financial instrument-related futures and options will be reported as taxable income to shareholders of these funds.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1276

STATE OF NEW JERSEY

DATED JUNE 18, 1992

The Senate Commerce Committee reports favorably Assembly Bill No. 1276.

This bill allows mutual funds which only invest in interest bearing obligations and have not less than 80% of those investments in federal, State and local government obligations, to invest in financial futures, options, forward contracts or other similar financial instruments and still continue to pass through the interest and gain on those tax-free government obligations to investors as tax-free income under New Jersey's gross income tax.