

ASSEMBLY COMMERCE AND MILITARY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 670

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 3, 1996

The Assembly Commerce and Military and Veterans' Affairs Committee reports favorably Assembly Bill No. 670, with committee amendments.

As amended, this bill exempts the international ship operation income of foreign national shipping companies and the international aircraft operation income of foreign airline companies from New Jersey corporation business tax if their home countries provide a similar exemption for the income of United States shipping and airline companies.

New Jersey has never subjected the carrier income of foreign carriers to taxation. However, under a strict reading of the corporation business tax, foreign carrier corporations with offices or regular business agents in New Jersey might be found to be subject to the tax. If subject to the tax, they would determine their taxable income under the three-factor apportionment formula to determine the portion of their corporations' world-wide income that will be subject to tax. Because of their limited contacts with the State, their apportionment percentage would be very small and their tax liabilities minimal.

Federal and international income tax laws use a different system and a different kind of bookkeeping from the formula apportionment method used by states. Because of the difference in systems, an international corporation subject to state taxation on a small fraction of its income could have a tax reporting and compliance cost that far exceeds its tax liability. Most states, including New Jersey, do not exercise their power to impose taxes on the income from the international operation of ships and or aircraft by foreign corporations to avoid discouraging international commerce. Foreign carrier corporations, if subjected to tax in New Jersey, would be encouraged to move their shipping traffic, offices and employment of business agents to neighboring states that do not tax carrier income.

Most states that exempt the income of foreign national shipping and aircraft companies, including New Jersey, do so under

administrative regulations or under uncodified administrative determinations. This bill puts the exemption in statute, which can only be changed by a subsequent act of the Legislature, to send a clear message that New Jersey is a willing and responsible partner in international commerce.

The committee adopted technical amendments to conform the bill to the latest version of the law.

This bill was pre-filed for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.