

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 670**

# **STATE OF NEW JERSEY**

DATED: JANUARY 14, 1997

The Senate Commerce Committee reports favorably Assembly Bill No. 670 (1R).

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 provisions of this bill do not exempt a foreign national shipping or aircraft company which is exempt under the bill from the requirements of filing a tax return and paying any minimum tax pursuant to the New Jersey corporation business tax law.