SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 871 and 690

STATE OF NEW JERSEY

DATED: MAY 2, 1996

The Senate Commerce Committee reports favorably Senate Committee Substitute for Senate Bill Nos. 871 and 690.

This bill allows certain gains from the sale or exchange of New Jersey assets held for extended investment periods to be excluded from income for taxation purposes under the "Corporation Business Tax Act (1945)" and the "New Jersey Gross Income Tax Act."

Under the bill, corporation business taxpayers that are themselves qualified small businesses at the time that an asset is sold may exclude 50% of the gain on New Jersey assets held for more than three years but less than five years, and 100% of the gain on New Jersey assets held for more than five years, from their entire net income subject to apportionment and taxation. Individual taxpayers may also exclude from their gross income subject to the New Jersey gross income tax 50% of the gain on New Jersey assets held for more than three years but less than five years, and 100% of the gain on New Jersey assets held for more than five years. If a loss results in the scenarios above, the taxpayer may exclude the full amount of the loss in calculating the taxes.

New Jersey assets means real or tangible property located in New Jersey at the time of its sale and equity securities in a qualified small business headquartered in New Jersey at the time of the taxpayer's acquisition of the security. A qualified small business is a business that has $25,000,000 or less capitalization.

This part of the bill allows the exclusion of the gains on New Jersey assets already owned by taxpayers and is effective immediately and applies to sales or other exchanges of assets occurring on or after its enactment.

This bill also establishes a New Jersey cost basis that a partner may use for the calculation of the net gain or loss for gross income tax purposes under the "New Jersey Gross Income Tax Act" for the sale of a partnership interest. Currently, that statute requires a partner to use the adjusted basis applicable for federal income tax purposes to determine gain or loss. Under this bill, the basis for determining gain or loss for New Jersey gross income tax purposes will be the adjusted federal basis increased by an amount equal to the partner's net losses

and deductions allowed and deducted from income for federal income tax purposes to the extent that the losses were not offset by the taxpayer's distributive share of income from another partnership.

By modifying the cost basis pursuant to the bill, a partner who was not able to use his share of net losses from a partnership for New Jersey gross income tax purposes due to the provisions of the gross income statute would be able to use those net losses to calculate the basis of a partnership interest for gross income tax purposes.

This part of the bill is effective for the years following the year in which the bill is enacted.