

# SENATE, No. 2754

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2011

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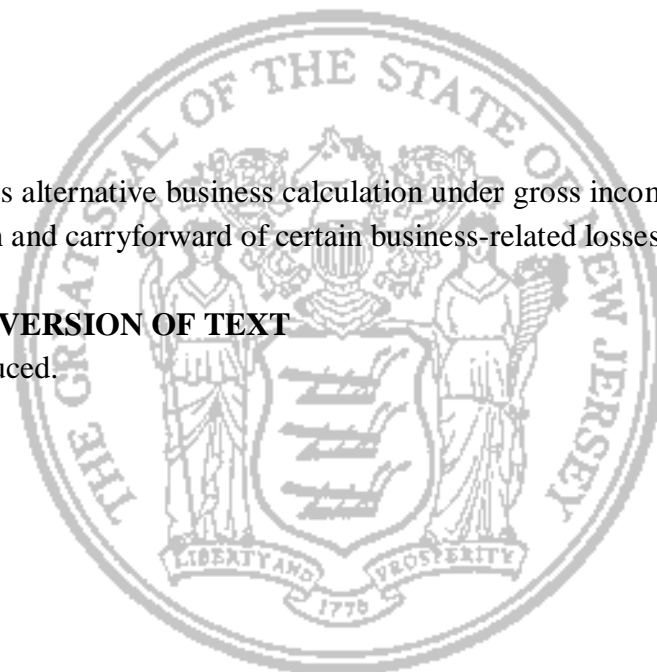
**Senator Sarlo, Assemblymen Connors and Conaway**

**SYNOPSIS**

Establishes alternative business calculation under gross income tax to permit consolidation and carryforward of certain business-related losses.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/4/2011)

1 AN ACT establishing the alternative business calculation under the  
2 gross income tax to permit the consolidation and carryforward of  
3 certain business-related losses, supplementing Title 54A of the  
4 New Jersey Statutes.

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

8  
9 1. a. Notwithstanding the provisions of N.J.S.54A:5-1, for the  
10 purposes of the alternative business calculation pursuant to this  
11 section a taxpayer who sustains a net loss in one or more of the net  
12 categories of gross income determined pursuant to subsections b.,  
13 d., k., and p. of N.J.S.54A:5-1 shall net that loss against any other  
14 gains or losses sustained in those categories of gross income and  
15 any loss carryforward allowed pursuant to subsection b. of this  
16 section to determine alternative business income or loss.

17 b. Notwithstanding the provisions of N.J.S.54A:5-2, a taxpayer  
18 who sustains an alternative business loss pursuant to the provisions  
19 of subsection a. of this section may carry that loss forward, if  
20 necessary and in accordance with the terms and conditions  
21 prescribed by the director, for application pursuant to the provisions  
22 of subsection a. of this section during each of the 20 taxable years  
23 following the alternative business loss' taxable year.

24 c. (1) A taxpayer shall calculate regular business income as the  
25 total of the subsection b., d., k., and p. categories of gross income  
26 determined pursuant to N.J.S.54A:5-1 in accordance with  
27 N.J.S.54A:5-2.

28 (2) A taxpayer shall subtract alternative business income from  
29 regular business income determined pursuant to paragraph (1) of  
30 this subsection to determine the business increment.

31 (3) For purposes of calculating a taxpayer's liability pursuant to  
32 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., a  
33 taxpayer shall adjust the taxpayer's taxable income pursuant to the  
34 following schedule:

35 For taxable years beginning in 2012, the taxpayer shall subtract  
36 from taxable income 10% of the business increment;

37 For taxable years beginning in 2013, the taxpayer shall subtract  
38 from taxable income 20% of the business increment;

39 For taxable years beginning in 2014, the taxpayer shall subtract  
40 from taxable income 30% of the business increment;

41 For taxable years beginning in 2015, the taxpayer shall subtract  
42 from taxable income 40% of the business increment.

43 For taxable years beginning in 2016 and thereafter, the taxpayer  
44 shall subtract from taxable income 50% of the business increment.

45  
46 2. This act shall take effect immediately and apply to taxable  
47 years beginning on or after January 1, 2012.

1 STATEMENT

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3 This bill establishes an alternative business calculation under the  
4 gross income tax as a mechanism that permits taxpayers who  
5 generate income from different types of business entities to offset  
6 gains from one type of business with losses from another, and  
7 permits taxpayers to carry forward business-related losses for a  
8 period of up to 20 taxable years.

9 The bill specifically permits taxpayers to net gains and losses  
10 derived from one or more of the following business-related  
11 categories of gross income: net profits from business; net gains or  
12 net income derived from or in the form of rents, royalties, patents,  
13 and copyrights; distributive share of partnership income; and net  
14 pro rata share of S corporation income. The bill specifies that a  
15 taxpayer who sustains a loss from a sole proprietorship may apply  
16 that loss against income derived from a partnership, subchapter S  
17 corporation, or rents and royalties, but is prohibited from applying  
18 those losses from those categories to income that is not related to  
19 the taxpayer's conduct of the taxpayer's own business, including  
20 salaries and wages, the disposition of property, and interest and  
21 dividends.

22 The bill provides that net losses from the business-related  
23 categories of income may be carried forward and applied against  
24 income in future taxable years. The bill limits the application of net  
25 losses which are carried forward to gains and losses from the same  
26 business-related categories of income from which the net loss is  
27 derived, and allows the losses to be carried forward for a period of  
28 up to 20 taxable years following the year the net loss occurs.

29 The bill phases in the tax savings over five years beginning with  
30 tax year 2012. Once fully implemented, the maximum savings will  
31 be equal to 50 percent of the savings that would accrue from  
32 unlimited netting between these income categories and the net loss  
33 carryforward.