

Senate, April 16, 1998. The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY, 11th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE FINANCIAL SERVICES AD HOC STUDY COMMITTEE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) For purposes of this
2 section:

3 (1) "Administrative services" includes, but
4 is not limited to, clerical, fund or investment or
5 account holder accounting, participant record
6 keeping, transfer agency, bookkeeping, data
7 processing, custodial, internal auditing, legal
8 and tax services performed for an investment
9 entity, pension fund or retirement account but
10 only if the provider of such service or services
11 during the income year in which such service or
12 services are provided also provides, or is a
13 related person of a person that provides,
14 management or distribution services to such an
15 investment entity, pension fund or retirement
16 account.

17 (2) "Billing address" means the location
18 indicated in the books and records of the taxpayer
19 or, as applicable, the investment entity, pension
20 fund or retirement fund on the first day of the
21 taxable year or on such later date in the taxable
22 year when the relationship with the customer or,

23 in the case of an investment entity, pension fund
24 or retirement account, investor or participant
25 began as the address where any notice, statement
26 or bill relating to a customer's, investor's or
27 participant's account is mailed.

28 (3) "Borrower located in this state" means
29 (A) a borrower that is engaged in a trade or
30 business which maintains its commercial domicile
31 in this state, or (B) a borrower that is not
32 engaged in a trade or business whose billing
33 address is in this state.

34 (4) "Commercial domicile" means the
35 headquarters of the trade or business, that is,
36 the place from which the trade or business is
37 principally managed and directed.

38 (5) "Distribution services" means the
39 services of advertising, servicing, marketing or
40 selling interests in an investment entity, pension
41 fund or retirement account, but, in the case of
42 advertising, servicing or marketing interests,
43 only where such service is performed by a person
44 that is, or, in the case of a closed-end company,
45 was, either engaged in the service of selling such
46 interests or a related person of a person that is
47 engaged in the service of selling such interests.

48 (6) "Financial service company" means:

49 (A) Any corporation or other business entity
50 registered under the laws of any state as a bank
51 holding company or registered under the federal
52 Bank Holding Company Act of 1956, as amended, or
53 registered as a savings and loan holding company
54 under the federal National Housing Act, as
55 amended;

56 (B) A national bank organized and existing as
57 a national bank association pursuant to the
58 provisions of the National Bank Act, 12 USC
59 Section 21 et seq.;

60 (C) A savings association or federal savings
61 bank, as defined in the federal Deposit Insurance
62 Act, 12 USC 1813(b)(1);

63 (D) Any bank, banking association, trust
64 company, savings and loan association or thrift
65 institution incorporated or organized under the
66 laws of any state, or any other corporation or
67 other business entity, the deposits or accounts of
68 which are insured under the Federal Deposit
69 Insurance Act or by the Federal Deposit Insurance
70 Corporation;

71 (E) Any corporation organized under the
72 provisions of 12 USC 611 to 631;

73 (F) Any foreign bank that has an agency or
74 branch, as defined in 12 USC 3101;

75 (G) A credit union organized under the laws
76 of any state the loan assets of which exceed fifty
77 million dollars as of the first day of its income
78 year;

79 (H) A production credit association organized
80 under the federal Farm Credit Act of 1933, all of
81 whose stock held by the Federal Production Credit
82 Corporation has been retired;

83 (I) Any company whose voting stock is more
84 than fifty per cent owned, directly or indirectly,
85 by any person described in subparagraphs (A) to
86 (H), inclusive, of this subdivision or by an
87 insurance company, other than an insurance company
88 or a company that has more than fifty per cent of
89 its gross income from one or more of the following
90 sources other than from sales to a related person:
91 Manufacturing, construction, mining,
92 transportation and public utilities; retail or
93 wholesale trade, other than the retail or
94 wholesale delivery of the services described in
95 subparagraph (J) of this subdivision, or
96 agriculture, forestry and fishing;

97 (J) (i) Any company, other than an insurance
98 company or a real estate broker, which derives
99 fifty per cent or more of its gross income from
100 one or more of the following sources or
101 activities: Loans; letters of credit and
102 acceptance of drafts; underwriting, purchase,
103 placement, sale or brokerage of securities,
104 commodities contracts or other financial
105 instruments or contracts on its own account or for
106 the account of others; exchanges, exchange
107 clearinghouses and other services allied with the
108 exchange of securities or commodities contracts;
109 investment advisory or management services;
110 investment banking services, corporate trust and
111 escrow services; securities information
112 processing; securities and financial rating agency
113 services; transfer agent, clearing agent,
114 securities custodial and depository services;
115 securities exchange or quotation services; any of
116 the services described in subsection (f) of
117 section 12-218 of the general statutes; any of the
118 services described in subsection (g) of section

119 12-218 of the general statutes, as amended;
120 management, distribution or administrative
121 services to or on behalf of an investment entity;
122 management, distribution or administrative
123 services to or on behalf of pension funds or
124 retirement accounts; leasing or acting as an
125 agent, broker or adviser in connection with
126 leasing real and personal property that is the
127 functional equivalent of an extension of credit
128 and that transfers substantially all of the
129 benefits and risks incident to the ownership of
130 property, including any direct financing lease or
131 leverage lease that meets the criteria of
132 Financial Accounting Standards Board Statement No.
133 13, "Accounting for Leases" or any other lease
134 that is accounted for as a financing by a lessor
135 under generally accepted accounting principles;
136 activities of a Morris plan company; credit card
137 activities; third party insurance administration
138 services, claim administration services, claim
139 adjusting services, premium billing and collection
140 services, or employee benefit plan administration
141 services; insurance underwriting or policy
142 issuance services; actuarial services; trust
143 company services; financial planning services;
144 insurance brokerage services; or risk management
145 services;

146 (ii) Any company which derives fifty per cent
147 or more of its gross income from an activity in
148 which a person described in subparagraphs (B) to
149 (H), inclusive, of this subdivision is authorized
150 to transact;

151 (iii) Whether a company is classified as a
152 financial service company for any income year by
153 virtue of this subparagraph shall be determined
154 based upon the sources of such taxpayer's gross
155 income, other than gross income from nonrecurring,
156 extraordinary transactions, for such income year,
157 except that any taxpayer classified as a financial
158 service company solely by virtue of this
159 subparagraph for any income year shall continue to
160 be classified as a financial service company until
161 the second consecutive year the taxpayer would not
162 otherwise qualify as a financial service company.

163 (K) (i) Any person described in subparagraph
164 (J) of this subdivision may petition the
165 commissioner to apportion its income without
166 regard to the provisions of this section upon such

167 person proving, by clear and convincing evidence,
168 that the income producing activity of such person
169 is not in substantial competition with a financial
170 service company without regard to subparagraph (I)
171 of this subdivision.

172 (ii) Any person may petition the commissioner
173 to apportion its income in accordance with the
174 provisions of this section upon such person
175 proving by clear and convincing evidence, that the
176 income producing activity is substantially similar
177 to the income producing activities of a financial
178 service company without regard to subparagraph (I)
179 of this subdivision.

180 (7) "Gross rents" means the actual sum of
181 money or other consideration payable for the use
182 or possession of property, including, but not be
183 limited to, (A) any amount payable for the use or
184 possession of real property or tangible property
185 whether designated as a fixed sum of money or as a
186 percentage of receipts, profits, or otherwise, (B)
187 any amount payable as additional rent or in lieu
188 of rent, such as interest, taxes, insurance,
189 repairs or any other amount required to be paid by
190 the terms of a lease or other arrangement, and (C)
191 a proportionate part of the cost of any
192 improvement to real property made by or on behalf
193 of the taxpayer which reverts to the owner or
194 lessor upon termination of a lease or other
195 arrangement. The amount to be included in gross
196 rents is the amount of amortization or
197 depreciation allowed in computing the taxable
198 income base for the income year, provided where a
199 building is erected on leased land by or on behalf
200 of the taxpayer, the value of the land is
201 determined by multiplying the gross rent by eight
202 and the value of the building is determined in the
203 same manner as if owned by the taxpayer. "Gross
204 rents" shall not include reasonable amounts
205 payable as separate charges for water and electric
206 service furnished by the lessor, reasonable
207 amounts payable as service charges for janitorial
208 services furnished by the lessor, reasonable
209 amounts payable to storage, provided such amounts
210 are payable for space not designated and not under
211 the control of the taxpayer, and that portion of
212 any rental payment which is applicable to the
213 space subleased from the taxpayer and not used by
214 it.

215 (8) "Insurance company" means any
216 corporation, limited liability company,
217 association, partnership or combination of persons
218 doing any kind or form of insurance business other
219 than a fraternal benefit society, including a
220 receiver, trustee or other fiduciary of any
221 insurance company when the context reasonably
222 permits.

223 (9) "Investment entity" means (A) an
224 investment partnership, a real estate investment
225 trust, as defined in Section 856 of the Internal
226 Revenue Code, a real estate mortgage investment
227 conduit, as defined in Section 860D of the
228 Internal Revenue Code, a financial asset
229 securitization investment trust, as defined in
230 Section 860L of the Internal Revenue Code, or a
231 similar investment entity which is exempt from, or
232 is not subject to, federal income tax, or (B) a
233 separate account of an insurance company.

234 (10) "Loan" means any extension of credit
235 resulting from direct negotiations between the
236 taxpayer and its customer, or the purchase or
237 receipt, in whole or in part, of such extension of
238 credit from another. Loans include participations,
239 syndications, and leases treated as loans for
240 federal income tax purposes. Loans shall not
241 include: (A) Futures or forward contracts; (B)
242 options; (C) notional principal contracts such as
243 swaps; (D) credit card receivables, including
244 purchased credit card relationships; (E)
245 noninterest bearing balances due from depository
246 institutions; (F) cash items in the process of
247 collection; (G) federal funds sold; (H) securities
248 purchased under agreements to resell; (I) assets
249 held in a trading account; (J) securities; (K)
250 interests in a real estate mortgage investment
251 conduit, as defined in Section 860D of the
252 Internal Revenue Code or other mortgage-backed or
253 asset-backed security; and (L) other similar
254 items.

255 (11) "Loan secured by real property" means
256 that fifty per cent or more of the aggregate value
257 of the collateral used to secure a loan or other
258 obligation, when valued at fair market value as of
259 the time the original loan or obligation was
260 incurred, was real property.

261 (12) "Management services" means the
262 rendering of investment advice directly or

263 indirectly to an investment entity, pension fund
264 or retirement account, making determinations as to
265 when sales and purchases of property are to be
266 made on behalf of the investment entity, pension
267 fund or retirement account, or the selling or
268 purchasing of property constituting assets of an
269 investment entity, pension fund or retirement
270 account and related activities, but only where
271 such activity or activities are performed (A)
272 pursuant to a contract with the investment entity,
273 pension fund or retirement account, (B) for a
274 person that has entered into such contract with
275 the investment entity, pension fund or retirement
276 account, or (C) for a person that is a related
277 person of a person that has entered into such
278 contract with an investment entity, pension fund
279 or retirement account.

280 (13) "Participation" means an extension of
281 credit in which an undivided ownership interest is
282 held on a pro rata basis in a single loan or pool
283 of loans and related collateral. In a loan
284 participation, the credit originator initially
285 makes the loan and then subsequently resells all
286 or a portion of it to other lenders. The
287 participation may or may not be known to the
288 borrower.

289 (14) "Pension fund or retirement fund" means
290 any fund, trust, plan, account, annuity or
291 contract referred to in subsection (a) of section
292 52-321a of the general statutes, or other fund,
293 trust, plan, account, annuity or contract
294 established pursuant to the Internal Revenue Code
295 or any other federal or state statute, including,
296 but not limited to, funds held in an insurance
297 company general or separate account, which is
298 designed to provide pension or retirement
299 benefits.

300 (15) "Principal base of operations", with
301 respect to transportation property, means the
302 place of more or less permanent nature from which
303 said property is regularly directed or controlled.

304 (16) "Real property owned" and "tangible
305 personal property owned" means real and tangible
306 personal property, respectively, (A) on which the
307 taxpayer may claim depreciation for federal income
308 tax purposes, or (B) property to which the
309 taxpayer holds legal title and on which no other
310 person may claim depreciation for federal income

311 tax purposes or could claim depreciation if
312 subject to federal income tax. Real and tangible
313 personal property does not include coin, currency
314 or property acquired in lieu of or pursuant to a
315 foreclosure.

316 (17) "Regular place of business" means an
317 office at which the taxpayer carries on its
318 business in a regular and systematic manner and
319 which is continuously maintained, occupied and
320 used by employees of the taxpayer.

321 (18) "Related person" means (A) a
322 corporation, limited liability company,
323 partnership, association or trust controlled by
324 the taxpayer, (B) an individual, corporation,
325 limited liability company, partnership,
326 association or trust that is in control of the
327 taxpayer, (C) a corporation, limited liability
328 company, partnership, association or trust
329 controlled by an individual, corporation, limited
330 liability company, partnership, association or
331 trust that is in control of the taxpayer, or (D) a
332 member of the same controlled group as the
333 taxpayer. For purposes of this subdivision,
334 "control", with respect to a corporation, means
335 ownership, directly or indirectly, of stock
336 possessing fifty per cent or more of the total
337 combined voting power of all classes of the stock
338 of such corporation entitled to vote. "Control",
339 with respect to a trust, means ownership, directly
340 or indirectly, of fifty per cent or more of the
341 beneficial interest in the principal or income of
342 such trust. The ownership of stock in a
343 corporation, of a capital or profits interest in a
344 partnership or association or of a beneficial
345 interest in a trust shall be determined in
346 accordance with the rules for constructive
347 ownership of stock provided in Section 267(c) of
348 the Internal Revenue Code other than paragraph (3).
349 of said section.

350 (19) "State" means a state of the United
351 States, the District of Columbia, the Commonwealth
352 of Puerto Rico, any territory or possession of the
353 United States or any foreign country.

354 (20) "Syndication" means an extension of
355 credit in which two or more persons fund and each
356 person is at risk only up to a specified
357 percentage of the total extension of credit or up
358 to a specified dollar amount.

359 (21) "Transportation property" means vehicles
360 and vessels capable of moving under their own
361 power, such as aircraft, trains, water vessels and
362 motor vehicles, as well as any equipment or
363 containers attached to such property, such as
364 rolling stock, barges, trailers or the like.

365 (b) (1) Except as otherwise specifically
366 provided, a financial service company whose
367 business activity is taxable within this state,
368 whether or not it is taxable outside this state,
369 shall apportion its net income from business
370 carried on within this state in accordance with
371 this section. The net income of a financial
372 service company shall be apportioned to this state
373 by multiplying such income by the receipts factor.
374 The receipts factor for a financial service
375 company is a fraction, the numerator of which is
376 the receipts of the taxpayer in this state during
377 the income year and the denominator of which is
378 the receipts of the taxpayer within and without
379 this state during the income year. The method of
380 calculating receipts for purposes of the
381 denominator is the same as the method used in
382 determining receipts for purposes of the
383 numerator.

384 (2) Any receipts attributable to an
385 international banking facility, as defined in
386 section 12-217 of the general statutes, as
387 amended, shall not be included in the numerator or
388 denominator of the receipts factor. In lieu of
389 such exclusion of receipts attributable to an
390 international banking facility, the taxpayer,
391 pursuant to the provisions of subdivision (3) of
392 this subsection, may, on or before the due date
393 or, if applicable, the extended due date, of its
394 corporation business tax return, make an election
395 on its corporation business tax return, to exclude
396 receipts attributable to an international banking
397 facility from the numerator of its receipts factor
398 and to include such receipts in the denominator of
399 its receipts factor.

400 (3) If the taxpayer makes the election under
401 subdivision (2) of this subsection, the taxpayer
402 may not, in arriving at its net income, deduct the
403 gross income attributable to the international
404 banking facility from its gross income, but
405 expenses or losses attributable to the
406 international banking facility, to the extent

407 deductible under the Internal Revenue Code, may be
408 deducted from its gross income. The election, if
409 made by the taxpayer, shall be irrevocable for,
410 and applicable for, five successive income years.

411 (c) The numerator of the receipts factor
412 includes receipts from the lease or rental of real
413 property owned by the taxpayer if the property is
414 located within this state and receipts from the
415 sublease of real property if the property is
416 located within this state.

417 (d) (1) Except as described in subdivision
418 (2) of this subsection, the numerator of the
419 receipts factor includes receipts from the lease
420 or rental of tangible personal property owned by
421 the taxpayer if the property is located within
422 this state when it is first placed in service by
423 the lessee.

424 (2) Receipts from the lease or rental of
425 transportation property owned by the taxpayer are
426 included in the numerator of the receipts factor
427 to the extent that the property is used in this
428 state. The extent an aircraft will be deemed to be
429 used in this state and the amount of receipts that
430 is to be included in the numerator of this state's
431 receipts factor is determined by multiplying all
432 the receipts from the lease or rental of the
433 aircraft by a fraction, the numerator of which is
434 the number of landings of the aircraft in this
435 state and the denominator of which is the total
436 number of landings of the aircraft. If the extent
437 of the use of any transportation property within
438 this state cannot be determined, the property
439 shall be deemed to be used wholly in the state in
440 which the property has its principal base of
441 operations. A motor vehicle shall be deemed to be
442 used wholly in the state in which it is
443 registered.

444 (e) (1) The numerator of the receipts factor
445 includes interest and fees or penalties in the
446 nature of interest from loans secured by real
447 property if the property is located within this
448 state. If the property is located both within this
449 state and one or more other states, the receipts
450 described in this subsection are included in the
451 numerator of the receipts factor if more than
452 fifty per cent of the fair market value of the
453 real property is located within this state. If
454 more than fifty per cent of the fair market value

455 of the real property is not located within any one
456 state, the receipts described in this subsection
457 shall be included in the numerator of the receipts
458 factor if the borrower is located in this state.

459 (2) The determination of whether the real
460 property securing a loan is located within this
461 state shall be made as of the time the original
462 agreement was made and all subsequent
463 substitutions of collateral shall be disregarded.

464 (f) The numerator of the receipts factor
465 includes interest and fees or penalties in the
466 nature of interest from loans not secured by real
467 property if the borrower is located in this state.

468 (g) (1) The numerator of the receipts factor
469 includes net gains from the sale of loans. Net
470 gains from the sale of loans includes income
471 recorded under the coupon stripping rules of
472 Section 1286 of the Internal Revenue Code.

473 (2) The amount of net gains, but not less
474 than zero, from the sale of loans secured by real
475 property included in the numerator is determined
476 by multiplying such net gains by a fraction the
477 numerator of which is the amount included in the
478 numerator of the receipts factor pursuant to
479 subsection (e) of this section and the denominator
480 of which is the total amount of interest and fees
481 or penalties in the nature of interest from loans
482 secured by real property.

483 (3) The amount of net gains, but not less
484 than zero, from the sale of loans not secured by
485 real property included in the numerator is
486 determined by multiplying such net gains by a
487 fraction the numerator of which is the amount
488 included in the numerator of the receipts factor
489 pursuant to subsection (f) of this section and the
490 denominator of which is the total amount of
491 interest and fees or penalties in the nature of
492 interest from loans not secured by real property.

493 (h) (1) The numerator of the receipts factor
494 includes loan servicing fees derived from loans
495 secured by real property multiplied by a fraction
496 the numerator of which is the amount included in
497 the numerator of the receipts factor pursuant to
498 subsection (e) of this section and the denominator
499 of which is the total amount of interest and fees
500 or penalties in the nature of interest from loans
501 secured by real property.

502 (2) The numerator of the receipts factor
503 includes loan servicing fees derived from loans
504 not secured by real property multiplied by a
505 fraction the numerator of which is the amount
506 included in the numerator of the receipts factor
507 pursuant to subsection (f) of this section and the
508 denominator of which is the total amount of
509 interest and fees or penalties in the nature of
510 interest from loans not secured by real property.

511 (3) In circumstances in which the taxpayer
512 receives loan servicing fees for servicing either
513 the secured or the unsecured loans of another, the
514 numerator of the receipts factor shall include
515 such fees if the borrower is located in this
516 state.

517 (i) (1) Interest, dividends, net gains, but
518 not less than zero, and other income from
519 investment assets and activities and from trading
520 assets and activities shall be included in the
521 receipts factor. Investment assets and activities
522 and trading assets and activities include, but are
523 not limited to, investment securities, trading
524 account assets, federal funds, securities
525 purchased and sold under agreements to resell or
526 repurchase, options, futures contracts, forward
527 contracts, notional principal contracts such as
528 swaps, equities, and foreign currency
529 transactions. With respect to the investment and
530 trading assets and activities described in
531 subparagraphs (A) and (B) of this subdivision, the
532 receipts factor shall include the amounts
533 described in said subparagraphs (A) and (B).

534 (A) The receipts factor shall include the
535 amount by which interest from federal funds sold
536 and securities purchased under resale agreements
537 exceeds interest expense on federal funds
538 purchased and securities sold under repurchase
539 agreements.

540 (B) The receipts factor shall include the
541 amount by which interest, dividends, gains and
542 other income from trading assets and activities,
543 including, but not limited to, assets and
544 activities in the matched book, in the arbitrage
545 book, and foreign currency transactions, exceed
546 amounts paid in lieu of interest, amounts paid in
547 lieu of dividends and losses from such assets and
548 activities.

549 (2) The numerator of the receipts factor
550 includes interest, dividends, net gains, but not
551 less than zero, and other income from investment
552 assets and activities and from trading assets and
553 activities described in subdivision (1) of this
554 subsection that are attributable to this state.

555 (A) The amount of interest, dividends, net
556 gains, but not less than zero, and other income
557 from investment assets and activities in the
558 investment account to be attributed to this state
559 and included in the numerator is determined by
560 multiplying all such income from such assets and
561 activities by a fraction, the numerator of which
562 is the average value of such assets which are
563 properly assigned to a regular place of business
564 of the taxpayer within this state and the
565 denominator of which is the average value of all
566 such assets.

567 (B) The amount of interest from federal funds
568 sold and purchased and from securities purchased
569 under resale agreements and securities sold under
570 repurchase agreements attributable to this state
571 and included in the numerator is determined by
572 multiplying the amount described in subparagraph
573 (A) of subdivision (1) of this subsection from
574 such funds and such securities by a fraction, the
575 numerator of which is the average value of federal
576 funds sold and securities purchased under
577 agreements to resell which are properly assigned
578 to a regular place of business of the taxpayer
579 within this state and the denominator of which is
580 the average value of all such funds and such
581 securities.

582 (C) The amount of interest, dividends, gains
583 and other income from trading assets and
584 activities, including, but not limited to, assets
585 and activities in the matched book, in the
586 arbitrage book and foreign currency transactions,
587 but excluding amounts described in subparagraphs
588 (A) or (B) of this subdivision, attributable to
589 this state and included in the numerator is
590 determined by multiplying the amount described in
591 subparagraph (B) of subdivision (1) of this
592 subsection by a fraction, the numerator of which
593 is the average value of such trading assets which
594 are properly assigned to a regular place of
595 business of the taxpayer within this state and the

596 denominator of which is the average value of all
597 such assets.

598 (D) For purposes of this subdivision, the
599 average value of property owned by the taxpayer is
600 computed on an annual basis by adding the value of
601 the property on the first day of the income year
602 and the value on the last day of the income year
603 and dividing the sum by two. If averaging on this
604 basis does not properly reflect average value, the
605 commissioner may require averaging on a more
606 frequent basis. The taxpayer may elect to average
607 on a more frequent basis. When averaging on a more
608 frequent basis is required by the commissioner or
609 is elected by the taxpayer, the same method of
610 valuation must be used consistently by the
611 taxpayer with respect to property within and
612 without this state and on all subsequent returns
613 unless the taxpayer receives prior permission from
614 the commissioner or the commissioner requires a
615 different method of determining average value.

616 (3) In lieu of using the method set forth in
617 subdivision (2) of this subsection, the taxpayer
618 may elect, or the commissioner may require in
619 order to fairly represent the business activity of
620 the taxpayer in this state, the use of the method
621 set forth in this subdivision.

622 (A) The amount of interest, dividends, net
623 gains, but not less than zero, and other income
624 from investment assets and activities in the
625 investment account to be attributed to this state
626 and included in the numerator is determined by
627 multiplying all such income from such assets and
628 activities by a fraction, the numerator of which
629 is the gross income from such assets and
630 activities which are properly assigned to a
631 regular place of business of the taxpayer within
632 this state and the denominator of which is the
633 gross income from all such assets and activities.

634 (B) The amount of interest from federal funds
635 sold and purchased and from securities purchased
636 under resale agreements and securities sold under
637 repurchase agreements attributable to this state
638 and included in the numerator is determined by
639 multiplying the amount described in subparagraph
640 (A) of subdivision (1) of this subsection from
641 such funds and such securities by a fraction, the
642 numerator of which is the gross income from such
643 funds and such securities which are properly

644 assigned to a regular place of business of the
645 taxpayer within this state and the denominator of
646 which is the gross income from all such funds and
647 securities.

648 (C) The amount of interest, dividends, gains
649 and other income from trading assets and
650 activities, including, but not limited to, assets
651 and activities in the matched book, in the
652 arbitrage book and foreign currency transactions,
653 but excluding amounts described in subparagraph
654 (A) or (B) of this subdivision, attributable to
655 this state and included in the numerator is
656 determined by multiplying the amount described in
657 subparagraph (B) of subdivision (1) of this
658 subsection by a fraction, the numerator of which
659 is the gross income from such trading assets and
660 activities which are properly assigned to a
661 regular place of business of the taxpayer within
662 this state and the denominator of which is the
663 gross income from all such assets and activities.

664 (4) If the taxpayer elects or is required by
665 the commissioner to use the method set forth in
666 subdivision (3) of this subsection, it shall use
667 this method on all subsequent returns unless the
668 taxpayer receives prior permission from the
669 commissioner to use, or the commissioner requires
670 a different method.

671 (5) The taxpayer shall have the burden of
672 proving that an investment asset or activity or
673 trading asset or activity was properly assigned to
674 a regular place of business outside of this state
675 by demonstrating that the day-to-day decisions
676 regarding the asset or activity occurred at a
677 regular place of business outside this state.
678 Where the day-to-day decisions regarding an
679 investment asset or activity or trading asset or
680 activity occur at more than one regular place of
681 business and one such regular place of business is
682 in this state and one such regular place of
683 business is outside this state, such asset or
684 activity shall be considered to be located at the
685 regular place of business of the taxpayer where
686 the investment or trading policies or guidelines
687 with respect to the asset or activity are
688 established. Unless the taxpayer demonstrates to
689 the contrary, such policies and guidelines shall
690 be presumed to be established at the commercial
691 domicile of the taxpayer.

692 (j) (1) The numerator of the receipts factor
693 includes receipts received for management,
694 distribution and administrative services performed
695 on behalf of an investment entity in an amount
696 equal to the product of such receipts for the
697 income year multiplied by a fraction (A) the
698 numerator of which shall be the average of (i) the
699 fair market value of the interests in the
700 investment entity issued and outstanding on the
701 first day of such investment entity's taxable year
702 for federal income tax purposes, which ends within
703 or at the same time as the income year of the
704 financial service company, that are owned by
705 investors in such investment entity if the billing
706 address of such investors is in this state, and
707 (ii) the fair market value of the interests in the
708 investment entity issued and outstanding on the
709 last day of such investment entity's taxable year
710 for federal income tax purposes, which ends within
711 or at the same time as the income year of the
712 financial service company, that are owned by
713 investors in such investment entity if the billing
714 address of such investors is in this state; and
715 (B) the denominator of which shall be the average
716 of the fair market value of the interests in the
717 investment entity issued and outstanding that are
718 owned by investors in such investment entity on
719 such dates.

720 (2) The numerator of the receipts factor
721 includes receipts received for management,
722 distribution and administrative services performed
723 on behalf of a pension fund or retirement account
724 in an amount equal to the product of such receipts
725 for the income year multiplied by a fraction (A)
726 the numerator of which shall be the average of (i)
727 the number of participants with an interest in the
728 pension fund or retirement account on the first
729 day of the pension fund or retirement account
730 taxable year, for federal income tax purposes,
731 which ends within or at the same time as the
732 income year of the financial service company,
733 whose billing address is in this state, and (ii)
734 the number of participants with an interest in the
735 pension fund or retirement account on the last day
736 of the pension fund or retirement account taxable
737 year, for federal income tax purposes, which ends
738 within or at the same time as the income year of
739 the financial service company, whose billing

740 address is in this state; and (B) the denominator
741 of which shall be the total number of participants
742 with an interest in the pension fund or retirement
743 account on such dates. In lieu of using the
744 billing addresses of the participants with an
745 interest in the pension fund or retirement account
746 as provided in this subdivision, the taxpayer may
747 elect to determine receipts in the manner provided
748 for in this subsection based upon the average of
749 the fair market value of funds under management in
750 each income year allocated to the commercial
751 domicile of the sponsor of the pension fund or
752 retirement account and, where there is no sponsor
753 for a particular pension fund or retirement
754 account, the billing address of the participant.
755 The election, if made by the taxpayer, shall be
756 irrevocable for, and applicable for, five
757 successive income years and shall be applicable to
758 all receipts from the rendering of management,
759 distribution or administrative services performed
760 for any pension fund or retirement account.

761 (3) In the case of a separate account of an
762 insurance company, to the extent that both
763 subdivisions (1) and (2) of this subsection may be
764 applicable, then subdivision (2) shall apply.

765 (k) This section shall not apply to net
766 income from services or activities described in
767 subsection (f), (g) or (j) of section 12-218 of
768 the general statutes, as amended by this act,
769 which income shall be apportioned in accordance
770 with said subsection (f) or (g) or, for income
771 years commencing prior to January 1, 2002, in the
772 case of net income from activities described in
773 said subsection (j) that is earned by a taxpayer
774 that is either not eligible to make the election
775 described in said subsection (j) or does not make
776 the election described in said subsection (j)
777 which income shall be apportioned in accordance
778 with subsection (b) of said section 12-218.

779 (1) For all other receipts not otherwise
780 sourced by this subsection, the numerator of the
781 receipts factor includes all other receipts if the
782 billing address of the customer is in this state;
783 otherwise the numerator will include all other
784 receipts pursuant to the provisions of section
785 12-218 of the general statutes, as amended by this
786 act.

787 Sec. 2. Subsection (a) of section 12-213 of
788 the general statutes, as amended by section 3 of
789 public act 97-295, is repealed and the following
790 is substituted in lieu thereof:

791 (a) When used in this part, unless the
792 context otherwise requires:

793 (1) "Taxpayer" and "company" [mean] MEANS any
794 corporation, foreign municipal electric utility,
795 as defined in section 12-59, joint stock company
796 or association or any fiduciary thereof [but not
797 a] AND ANY DISSOLVED CORPORATION WHICH CONTINUES
798 TO CONDUCT BUSINESS BUT DOES NOT INCLUDE A PASSIVE
799 INVESTMENT COMPANY OR municipal utility, as
800 defined in chapter 212 and chapter 212a; [, and
801 any dissolved corporation which continues to
802 conduct business;]

803 (2) "Dissolved corporation" means any company
804 which has terminated its corporate existence by
805 resolution, expiration, decree or forfeiture;

806 (3) "Commissioner of Revenue Services" or
807 "commissioner" means the Commissioner of Revenue
808 Services;

809 (4) "Tax year" means the calendar year in
810 which the tax is payable;

811 (5) "Income year" means the calendar year
812 upon the basis of which net income is computed
813 under this part, unless a fiscal year other than
814 the calendar year has been established for federal
815 income tax purposes, in which case it means the
816 fiscal year so established or a period of less
817 than twelve months ending as of the date on which
818 liability under this chapter ceases to accrue by
819 reason of dissolution, forfeiture, withdrawal,
820 merger or consolidation;

821 (6) "Fiscal year" means the income year
822 ending on the last day of any month other than
823 December or an annual period which varies from
824 fifty-two to fifty-three weeks elected by the
825 taxpayer in accordance with the provisions of the
826 Internal Revenue Code;

827 (7) "Paid" means "paid or accrued" or "paid
828 or incurred", construed according to the method of
829 accounting upon the basis of which net income is
830 computed under this part;

831 (8) "Received" means "received" or "accrued",
832 construed according to the method of accounting
833 upon the basis of which net income is computed
834 under this part;

835 (9) (A) "Gross income" means gross income, as
836 defined in the Internal Revenue Code, and, in
837 addition, means any interest or exempt interest
838 dividends, as defined in Section 852(b)(5) of the
839 Internal Revenue Code, received by the taxpayer or
840 losses of other calendar or fiscal years,
841 retroactive to include all calendar or fiscal
842 years beginning after January 1, 1935, incurred by
843 the taxpayer which are excluded from gross income
844 for purposes of assessing the federal corporation
845 net income tax, and in addition, notwithstanding
846 any other provision of law, means interest or
847 exempt interest dividends, as defined in said
848 Section 852(b)(5) of the Internal Revenue Code,
849 accrued on or after the application date, as
850 defined in section 12-242ff, with respect to any
851 obligation issued by or on behalf of the state,
852 its agencies, authorities, commissions and other
853 instrumentalities, or by or on behalf of its
854 political subdivisions and their agencies,
855 authorities, commissions and other
856 instrumentalities;

857 (B) "Gross income" shall not include the
858 amount which for federal income tax purposes is
859 treated as a dividend received by a domestic
860 United States corporation from a foreign
861 corporation on account of foreign taxes deemed
862 paid by such domestic corporation, when such
863 domestic corporation elects the foreign tax credit
864 for federal income tax purposes;

865 (C) "GROSS INCOME" SHALL NOT INCLUDE ANY
866 AMOUNT WHICH FOR FEDERAL INCOME TAX PURPOSES IS
867 TREATED AS A DIVIDEND RECEIVED DIRECTLY OR
868 INDIRECTLY BY A TAXPAYER FROM A PASSIVE INVESTMENT
869 COMPANY;

870 (10) "Net income" means net earnings received
871 during the income year and available for
872 contributors of capital, whether they are
873 creditors or stockholders, computed by subtracting
874 from gross income the deductions allowed by the
875 terms of section 12-217, except that in the case
876 of a domestic insurance company which is a life
877 insurance company "net income" means life
878 insurance company taxable income (A) increased by
879 any amount or amounts which have been deducted in
880 the computation of gain or loss from operations in
881 respect of (i) the life insurance company's share
882 of tax-exempt interest, (ii) operations loss

883 carry-backs and capital loss carry-backs and (iii)
884 operations loss carry-overs and capital loss
885 carry-overs arising in any taxable year commencing
886 prior to January 1, 1973, and (B) reduced by any
887 amount or amounts which have been deducted as
888 operations loss carry-backs or capital loss
889 carry-backs in the computation of gain or loss
890 from operations for any taxable year commencing on
891 or after January 1, 1973, but only to the extent
892 that such amount or amounts, would, for federal
893 tax purposes, have been deductible in the taxable
894 year as operations loss carry-overs or capital
895 loss carry-overs if they had not been deducted in
896 a previous taxable year as carry-backs and
897 provided no expense related to income, the
898 taxation of which by the state of Connecticut is
899 prohibited by the law or Constitution of the
900 United States, as applied, or by the law or
901 Constitution of this state, as applied, shall be
902 deducted under this chapter and provided further
903 no item may, directly or indirectly be excluded or
904 deducted more than once;

905 (11) "Life insurance company" has the same
906 meaning as it has under the Internal Revenue Code;

907 (12) "Life insurance company taxable income"
908 has the same meaning as it has under the Internal
909 Revenue Code;

910 (13) "Life insurance company's share" has the
911 same meaning as it has under the Internal Revenue
912 Code;

913 (14) "Operations loss carry-over", with
914 respect to a life insurance company, has the same
915 meaning as it has under the Internal Revenue Code;

916 (15) "Operations loss carry-back", with
917 respect to a life insurance company, has the same
918 meaning as it has under the Internal Revenue Code;

919 (16) "Capital loss carry-over", with respect
920 to a life insurance company, has the same meaning
921 as it has under the Internal Revenue Code;

922 (17) "Capital loss carry-back", with respect
923 to a life insurance company, has the same meaning
924 as it has under the Internal Revenue Code;

925 (18) "Gain or loss from operations", with
926 respect to a life insurance company, has the same
927 meaning as it has under the Internal Revenue Code;

928 (19) "Fiduciary" means any receiver,
929 liquidator, referee, trustee, assignee or other
930 fiduciary or officer or agent appointed by any

931 court or by any other authority, except the
932 Commissioner of Banking acting as receiver or
933 liquidator under the authority of the provisions
934 of sections 36a-210 and 36a-218 to 36a-239,
935 inclusive;

936 (20) "Carrying on or doing business" means
937 and includes each and every act, power or
938 privilege exercised or enjoyed in this state, as
939 an incident to, or by virtue of, the powers and
940 privileges acquired by the nature of any
941 organization whether the form of existence is
942 corporate, associate, joint stock company or
943 fiduciary, except that a company that has
944 contracted with a commercial printer for printing
945 and distribution of printed material shall not be
946 deemed to be carrying on or doing business in this
947 state because of (A) the ownership or leasing by
948 that company of tangible or intangible personal
949 property located at the premises of the commercial
950 printer in this state, (B) the sale by that
951 company of property of any kind produced or
952 processed at and shipped or distributed from the
953 premises of the commercial printer in this state,
954 (C) the activities of that company's employees or
955 agents at the premises of the commercial printer
956 in this state, which activities relate to quality
957 control, distribution or printing services
958 performed by the printer, or (D) the activities of
959 any kind performed by the commercial printer in
960 this state for or on behalf of that company;

961 (21) "Alternative energy system" means design
962 systems, equipment or materials which utilize as
963 their energy source solar, wind, water or biomass
964 energy in providing space heating or cooling,
965 water heating or generation of electricity, but
966 shall not include wood-burning stoves;

967 (22) "S corporation" means any corporation
968 which is an S corporation for federal income tax
969 purposes;

970 (23) "Internal Revenue Code" means the
971 Internal Revenue Code of 1986, or any subsequent
972 internal revenue code of the United States, as
973 from time to time amended, effective and in force
974 on the last day of the income year;

975 (24) "Partnership" means a partnership, as
976 defined in the Internal Revenue Code, and includes
977 a limited liability company that is treated as a
978 partnership for federal income tax purposes;

979 (25) "Partner" means a partner, as defined in
980 the Internal Revenue Code, and includes a member
981 of a limited liability company that is treated as
982 a partnership for federal income tax purposes;

983 (26) "Investment partnership" means a limited
984 partnership that meets the gross income
985 requirement of Section 851(b)(2) of the Internal
986 Revenue Code, except that income and gains from
987 commodities that are not described in Section
988 1221(1) of the Internal Revenue Code or from
989 futures, forwards and options with respect to such
990 commodities shall be included in income which
991 qualifies to meet such gross income requirement,
992 provided such commodities are of a kind
993 customarily dealt with in an organized commodity
994 exchange and the transaction is of a kind
995 customarily consummated at such place, as required
996 by Section 864(b)(2)(B)(iii) of the Internal
997 Revenue Code. To the extent that such a
998 partnership has income and gains from commodities
999 that are not described in Section 1221(1) of the
1000 Internal Revenue Code or from futures, forwards
1001 and options with respect to such commodities, such
1002 income and gains must be derived by a partnership
1003 which is not a dealer in commodities and is
1004 trading for its own account as described in
1005 Section 864(b)(2)(B)(ii) of the Internal Revenue
1006 Code. The term "investment partnership" does not
1007 include a dealer, within the meaning of Section
1008 1236 of the Internal Revenue Code, in stocks or
1009 securities;

1010 (27) "PASSIVE INVESTMENT COMPANY" MEANS ANY
1011 CORPORATION WHICH IS A RELATED PERSON TO A
1012 FINANCIAL SERVICE COMPANY, AS DEFINED IN SECTION 1
1013 OF THIS ACT, OR TO AN INSURANCE COMPANY, AS
1014 DEFINED IN SECTION 1 OF THIS ACT, AND (A) EMPLOYS
1015 NOT LESS THAN FIVE FULL-TIME EQUIVALENT EMPLOYEES
1016 IN THE STATE; (B) MAINTAINS AN OFFICE IN THE
1017 STATE; AND (C) CONFINES ITS ACTIVITIES TO THE
1018 PURCHASE, RECEIPT, MAINTENANCE, MANAGEMENT AND
1019 SALE OF ITS INTANGIBLE INVESTMENTS, AND THE
1020 COLLECTION AND DISTRIBUTION OF THE INCOME FROM
1021 SUCH INVESTMENTS, INCLUDING, BUT NOT LIMITED TO,
1022 INTEREST AND GAINS FROM THE SALE, TRANSFER OR
1023 ASSIGNMENT OF SUCH INVESTMENTS OR FROM THE
1024 FORECLOSURE UPON OR SALE, TRANSFER OR ASSIGNMENT
1025 OF THE COLLATERAL SECURING SUCH INVESTMENTS. FOR
1026 PURPOSES OF THIS SUBDIVISION, "INTANGIBLE

1027 INVESTMENTS" SHALL BE LIMITED TO LOANS SECURED BY
1028 REAL PROPERTY AS DEFINED IN SECTION 1 OF THIS ACT,
1029 INCLUDING A LINE OF CREDIT WHICH IS A LOAN SECURED
1030 BY REAL PROPERTY AND WHICH PERMITS FUTURE ADVANCES
1031 BY THE PASSIVE INVESTMENT COMPANY; THE COLLATERAL
1032 OR AN INTEREST IN THE COLLATERAL THAT SECURED SUCH
1033 LOANS IF THE SALE OF SUCH COLLATERAL OR INTEREST
1034 IS ACTIVELY MARKETED BY OR ON BEHALF OF THE
1035 PASSIVE INVESTMENT COMPANY; AND ANY SHORT-TERM
1036 INVESTMENT OF CASH HELD BY THE PASSIVE INVESTMENT
1037 COMPANY WHICH CASH IS REASONABLY NECESSARY FOR THE
1038 OPERATIONS OF SUCH PASSIVE INVESTMENT COMPANY.

1039 Sec. 3. Subsection (a) of section 12-214 of
1040 the general statutes is repealed and the following
1041 is substituted in lieu thereof:

1042 (a) (1) Every mutual savings bank, savings
1043 and loan association and every company engaged in
1044 the business of carrying passengers for hire over
1045 the highways of this state in common carrier motor
1046 vehicles doing business in this state, and every
1047 other company carrying on, or having the right to
1048 carry on, business in this state, including a
1049 dissolved corporation which continues to conduct
1050 business, except those companies described in
1051 subdivision (2) of this subsection, shall pay,
1052 annually, a tax or excise upon its franchise for
1053 the privilege of carrying on or doing business,
1054 owning or leasing property within the state in a
1055 corporate capacity or as an unincorporated
1056 association taxable as a corporation for federal
1057 income tax purposes or maintaining an office
1058 within the state, such tax to be measured by the
1059 entire net income as herein defined received by
1060 such corporation or association from business
1061 transacted within the state during the income year
1062 and to be assessed for each income year commencing
1063 prior to January 1, 1995, at the rate of eleven
1064 and one-half per cent, for income years commencing
1065 on or after January 1, 1995, and prior to January
1066 1, 1996, at the rate of eleven and one-quarter per
1067 cent, for income years commencing on or after
1068 January 1, 1996, and prior to January 1, 1997, at
1069 the rate of ten and three-fourths per cent, for
1070 income years commencing on or after January 1,
1071 1997, and prior to January 1, 1998, at the rate of
1072 ten and one-half per cent, for income years
1073 commencing on or after January 1, 1998, and prior
1074 to January 1, 1999, at the rate of nine and

1075 one-half per cent, for income years commencing on
1076 or after January 1, 1999, and prior to January 1,
1077 2000, at the rate of eight and one-half per cent,
1078 and for income years commencing on or after
1079 January 1, 2000, at the rate of seven and one-half
1080 per cent. The exemption of companies described in
1081 subparagraphs (G) and (H) of subdivision (2) of
1082 this subsection shall not be allowed with respect
1083 to any income year of any such company commencing
1084 on or after January 1, 1998, and any such company
1085 claiming such exemption for any income years
1086 commencing on or after January 1, 1985, but prior
1087 to January 1, 1998, shall be required to file a
1088 corporation business tax return in accordance with
1089 section 12-222 for each such income year.

1090 (2) The following companies shall be exempt
1091 from the tax imposed under this chapter: (A)
1092 Insurance companies incorporated or organized
1093 under the laws of any other state or foreign
1094 government AND FOR INCOME YEARS COMMENCING ON OR
1095 AFTER JANUARY 1, 1999, DOMESTIC INSURANCE
1096 COMPANIES, (B) companies exempt by the federal
1097 corporation net income tax law, and any company
1098 which qualifies as a domestic international sales
1099 corporation (DISC), as defined in Section 992 of
1100 the Internal Revenue Code [of 1986, or any
1101 subsequent corresponding internal revenue code of
1102 the United States, as from time to time amended,]
1103 and as to which a valid election under subsection
1104 (b) of said Section 992 to be treated as a DISC is
1105 effective, but excluding companies, other than any
1106 company which so qualifies as, and so elects to be
1107 treated as, a DISC, which elect not to be subject
1108 to such tax under any provision of said Internal
1109 Revenue Code other than said subsection (b) of
1110 Section 992; (C) companies subject to gross
1111 earnings taxes under chapter 210; (D) companies
1112 all of whose properties in this state are operated
1113 by companies subject to gross earnings taxes under
1114 chapter 210; (E) cooperative housing corporations,
1115 as defined for federal income tax purposes; (F)
1116 any organization or association of two or more
1117 persons established and operated for the exclusive
1118 purpose of promoting the success or defeat of any
1119 candidate for public office or of any political
1120 party or question or constitutional amendment to
1121 be voted upon at any state or national election or
1122 for any other political purpose; (G) any company

1123 which is not owned or controlled, directly or
1124 indirectly, by any other company, the gross annual
1125 revenues of which in the most recently completed
1126 year did not exceed one hundred million dollars
1127 and which engaged in the research, design,
1128 manufacture, sale or installation of alternative
1129 energy systems or motor vehicles powered in whole
1130 or in part by electricity, natural gas or solar
1131 energy including their parts and components,
1132 provided at least seventy-five per cent of the
1133 gross annual revenues of such company are derived
1134 from such research, design, manufacture, sale or
1135 installation; and (H) any company which engages in
1136 the research, design, manufacture or sale in
1137 Connecticut of aero-derived gas turbine systems in
1138 advanced industrial applications, which
1139 applications are developed after October 1, 1992,
1140 which are limited to simply-cycle systems, humid
1141 air, steam or water injection, recuperation or
1142 intercooling technologies, including their parts
1143 and components, to the extent that such company's
1144 net income is directly attributable to such
1145 purposes.

1146 (3) (A) A company is carrying on or doing
1147 business in this state if it is a general partner
1148 of a partnership that does business, owns or
1149 leases property or maintains an office in this
1150 state. (B) A company is carrying on or doing
1151 business in this state if it is a limited partner
1152 of a limited partnership, other than an investment
1153 partnership, that does business, owns or leases
1154 property or maintains an office in this state. (C)
1155 A company that is not otherwise carrying on or
1156 doing business in this state, either directly or
1157 by virtue of being a partner in a partnership
1158 described in subparagraph (A) or (B) of this
1159 subdivision is not carrying on or doing business
1160 in this state solely by virtue of being a limited
1161 partner of one or more investment partnerships.

1162 Sec. 4. Subsection (f) of section 12-218 of
1163 the general statutes is repealed and the following
1164 is substituted in lieu thereof:

1165 (f) (1) [Any] EACH taxpayer that provides
1166 management, distribution or administrative
1167 services, as defined in this subsection, to or on
1168 behalf of a regulated investment company, as
1169 defined in Section 851 of the Internal Revenue
1170 Code [of 1986, or any subsequent corresponding

1171 internal revenue code of the United States, as
1172 from time to time amended,] may elect, on or
1173 before the due date or, if applicable, the
1174 extended due date, of its corporation business tax
1175 return for an income year commencing on or after
1176 January 1, 1996, to apportion its net income
1177 derived, directly or indirectly, from providing
1178 management, distribution or administrative
1179 services to or on behalf of a regulated investment
1180 company, including net income received directly or
1181 indirectly from trustees, and sponsors or
1182 participants of employee benefit plans which have
1183 accounts in a regulated investment company, in the
1184 manner provided in this subsection. The election,
1185 if made by the taxpayer, shall be irrevocable for,
1186 and applicable for, five successive income years.
1187 Income derived by such taxpayer from sources other
1188 than the providing of management, distribution or
1189 administrative services to or on behalf of a
1190 regulated investment company shall be apportioned
1191 as provided in this [section] CHAPTER.

1192 (2) The numerator of the apportionment
1193 fraction shall consist of the sum of the
1194 Connecticut receipts, as described in subdivision
1195 (3) of this subsection. The denominator of the
1196 apportionment fraction shall consist of the total
1197 receipts from the sale of management, distribution
1198 or administrative services to or on behalf of all
1199 the regulated investment companies. For purposes
1200 of this subsection, "receipts" means receipts
1201 computed according to the method of accounting
1202 used by the taxpayer in the computation of net
1203 income.

1204 (3) For purposes of this subsection,
1205 Connecticut receipts shall be determined by
1206 multiplying receipts from the rendering of
1207 management, distribution or administrative
1208 services to or on behalf of each separate
1209 regulated investment company by a fraction (A) the
1210 numerator of which shall be the average of (i) the
1211 number of shares on the first day of such
1212 regulated investment company's taxable year, for
1213 federal income tax purposes, which ends within or
1214 at the same time as the taxable year of the
1215 taxpayer, that are owned by shareholders of such
1216 regulated investment company then domiciled in
1217 this state and (ii) the number of shares on the
1218 last day of such regulated investment company's

1219 taxable year, for federal income tax purposes,
1220 which ends within or at the same time as the
1221 taxable year of the taxpayer, that are owned by
1222 shareholders of such regulated investment company
1223 then domiciled in this state; and (B) the
1224 denominator of which shall be the average of the
1225 number of shares that are owned by shareholders of
1226 such regulated investment company on such dates.

1227 (4) (A) For purposes of this subsection,
1228 "management services" [include] INCLUDES, but
1229 [are] IS not limited to, the rendering of
1230 investment advice directly or indirectly to a
1231 regulated investment company, making
1232 determinations as to when sales and purchases of
1233 securities are to be made on behalf of the
1234 regulated investment company, or the selling or
1235 purchasing of securities constituting assets of a
1236 regulated investment company, and related
1237 activities, but only where such activity or
1238 activities are performed (i) pursuant to a
1239 contract with the regulated investment company
1240 entered into pursuant to 15 USC [Section]
1241 80a-15(a), as from time to time amended, (ii) for
1242 a person that has entered into such contract with
1243 the regulated investment company, or (iii) for a
1244 person that is affiliated with a person that has
1245 entered into such contract with a regulated
1246 investment company.

1247 (B) For purposes of this subsection,
1248 "distribution services" [include] INCLUDES, but
1249 [are] IS not limited to, the services of
1250 advertising, servicing, marketing or selling
1251 shares of a regulated investment company, but, in
1252 the case of advertising, servicing or marketing
1253 shares, only where such service is performed by a
1254 person that is, or, in the case of a closed end
1255 company, was, either engaged in the service of
1256 selling such shares or affiliated with a person
1257 that is engaged in the service of selling such
1258 shares. In the case of an open end company, such
1259 service of selling shares shall be performed
1260 pursuant to a contract entered into pursuant to 15
1261 USC [Section] 80a-15(b), as from time to time
1262 amended.

1263 (C) For purposes of this subsection,
1264 "administrative services" [include] INCLUDES, but
1265 [are] IS not limited to, clerical, fund or
1266 shareholder accounting, participant record

1267 keeping, transfer agency, bookkeeping, data
1268 processing, custodial, internal auditing, legal
1269 and tax services performed for a regulated
1270 investment company but only if the provider of
1271 such service or services during the income year in
1272 which such service or services are provided also
1273 provides, or is affiliated with a person that
1274 provides, management or distribution services to
1275 such regulated investment company.

1276 (D) For purposes of this subsection, a person
1277 is "affiliated" with another person if each person
1278 is a member of the same affiliated group, as
1279 defined under Section 1504 of the Internal Revenue
1280 Code [of 1986, or any subsequent corresponding
1281 internal revenue code of the United States, as
1282 from time to time amended,] without regard to
1283 subsection (b) of [such] SAID section.

1284 (E) [(i)] For purposes of this subsection,
1285 [except as provided in (ii) of this subparagraph,]
1286 the domicile of a shareholder shall be presumed to
1287 be such shareholder's mailing address as shown in
1288 the records of the regulated investment company
1289 except [(ii)] THAT for purposes of this
1290 subsection, if the shareholder of record is an
1291 insurance company which holds the shares of the
1292 regulated investment company as depositor for the
1293 benefit of a separate account, then the taxpayer
1294 may elect, in the same manner and at the same time
1295 as the election under subdivision (1) of this
1296 subsection, to treat as the shareholders the
1297 contract owners or policyholders of the contracts
1298 or policies supported by such separate account. An
1299 election made under this subparagraph shall apply
1300 to all shareholders that are insurance companies
1301 and shall be irrevocable for, and applicable for,
1302 five successive income years. In any year that
1303 such an election is applicable, it shall be
1304 presumed that the domicile of a shareholder is the
1305 mailing address of the contract owner or
1306 policyholder as shown in the records of the
1307 insurance company.

1308 Sec. 5. Subsection (f) of section 12-218 of
1309 the general statutes, as amended by section 4 of
1310 this act, is repealed and the following is
1311 substituted in lieu thereof:

1312 (f) (1) Each taxpayer that provides
1313 management, distribution or administrative
1314 services, as defined in this subsection, to or on

1315 behalf of a regulated investment company, as
1316 defined in Section 851 of the Internal Revenue
1317 Code [may elect, on or before the due date or, if
1318 applicable, the extended due date, of its
1319 corporation business tax return for an income year
1320 commencing on or after January 1, 1996, to] SHALL
1321 apportion its net income derived, directly or
1322 indirectly, from providing management,
1323 distribution or administrative services to or on
1324 behalf of a regulated investment company,
1325 including net income received directly or
1326 indirectly from trustees, and sponsors or
1327 participants of employee benefit plans which have
1328 accounts in a regulated investment company, in the
1329 manner provided in this subsection. [The election,
1330 if made by the taxpayer, shall be irrevocable for,
1331 and applicable for, five successive income years.]
1332 Income derived by such taxpayer from sources other
1333 than the providing of management, distribution or
1334 administrative services to or on behalf of a
1335 regulated investment company shall be apportioned
1336 as provided in this chapter.

1337 (2) The numerator of the apportionment
1338 fraction shall consist of the sum of the
1339 Connecticut receipts, as described in subdivision
1340 (3) of this subsection. The denominator of the
1341 apportionment fraction shall consist of the total
1342 receipts from the sale of management, distribution
1343 or administrative services to or on behalf of all
1344 the regulated investment companies. For purposes
1345 of this subsection, "receipts" means receipts
1346 computed according to the method of accounting
1347 used by the taxpayer in the computation of net
1348 income.

1349 (3) For purposes of this subsection,
1350 Connecticut receipts shall be determined by
1351 multiplying receipts from the rendering of
1352 management, distribution or administrative
1353 services to or on behalf of each separate
1354 regulated investment company by a fraction (A) the
1355 numerator of which shall be the average of (i) the
1356 number of shares on the first day of such
1357 regulated investment company's taxable year, for
1358 federal income tax purposes, which ends within or
1359 at the same time as the taxable year of the
1360 taxpayer, that are owned by shareholders of such
1361 regulated investment company then domiciled in
1362 this state and (ii) the number of shares on the

1363 last day of such regulated investment company's
1364 taxable year, for federal income tax purposes,
1365 which ends within or at the same time as the
1366 taxable year of the taxpayer, that are owned by
1367 shareholders of such regulated investment company
1368 then domiciled in this state; and (B) the
1369 denominator of which shall be the average of the
1370 number of shares that are owned by shareholders of
1371 such regulated investment company on such dates.

1372 (4) (A) For purposes of this subsection,
1373 "management services" includes, but is not limited
1374 to, the rendering of investment advice directly or
1375 indirectly to a regulated investment company,
1376 making determinations as to when sales and
1377 purchases of securities are to be made on behalf
1378 of the regulated investment company, or the
1379 selling or purchasing of securities constituting
1380 assets of a regulated investment company, and
1381 related activities, but only where such activity
1382 or activities are performed (i) pursuant to a
1383 contract with the regulated investment company
1384 entered into pursuant to 15 USC [Section]
1385 80a-15(a), as from time to time amended, (ii) for
1386 a person that has entered into such contract with
1387 the regulated investment company, or (iii) for a
1388 person that is affiliated with a person that has
1389 entered into such contract with a regulated
1390 investment company.

1391 (B) For purposes of this subsection,
1392 "distribution services" includes, but is not
1393 limited to, the services of advertising,
1394 servicing, marketing or selling shares of a
1395 regulated investment company, but, in the case of
1396 advertising, servicing or marketing shares, only
1397 where such service is performed by a person that
1398 is, or, in the case of a closed end company, was,
1399 either engaged in the service of selling such
1400 shares or affiliated with a person that is engaged
1401 in the service of selling such shares. In the case
1402 of an open end company, such service of selling
1403 shares shall be performed pursuant to a contract
1404 entered into pursuant to 15 USC 80a-15(b), as from
1405 time to time amended.

1406 (C) For purposes of this subsection,
1407 "administrative services" includes, but is not
1408 limited to, clerical, fund or shareholder
1409 accounting, participant record keeping, transfer
1410 agency, bookkeeping, data processing, custodial,

1411 internal auditing, legal and tax services
1412 performed for a regulated investment company but
1413 only if the provider of such service or services
1414 during the income year in which such service or
1415 services are provided also provides, or is
1416 affiliated with a person that provides, management
1417 or distribution services to such regulated
1418 investment company.

1419 (D) For purposes of this subsection, a person
1420 is "affiliated" with another person if each person
1421 is a member of the same affiliated group, as
1422 defined under Section 1504 of the Internal Revenue
1423 Code without regard to subsection (b) of said
1424 section.

1425 (E) For purposes of this subsection, the
1426 domicile of a shareholder shall be presumed to be
1427 such shareholder's mailing address as shown in the
1428 records of the regulated investment company except
1429 that for purposes of this subsection, if the
1430 shareholder of record is an insurance company
1431 which holds the shares of the regulated investment
1432 company as depositor for the benefit of a separate
1433 account, then the taxpayer may elect [, in the
1434 same manner and at the same time as the election
1435 under subdivision (1) of this subsection,] to
1436 treat as the shareholders the contract owners or
1437 policyholders of the contracts or policies
1438 supported by such separate account. An election
1439 made under this subparagraph shall apply to all
1440 shareholders that are insurance companies and
1441 shall be irrevocable for, and applicable for, five
1442 successive income years. In any year that such an
1443 election is applicable, it shall be presumed that
1444 the domicile of a shareholder is the mailing
1445 address of the contract owner or policyholder as
1446 shown in the records of the insurance company.

1447 Sec. 6. Subsection (g) of section 12-218 of
1448 the general statutes, as amended by section 10 of
1449 public act 97-243, is repealed and the following
1450 is substituted in lieu thereof:

1451 (g) (1) [Any] EACH taxpayer that provides
1452 securities brokerage services, as defined in this
1453 subsection, [may elect, on or before the due date
1454 or, if applicable, the extended due date, of its
1455 corporation business tax return for an income year
1456 commencing on or after January 1, 1996, to] SHALL
1457 apportion its net income derived, directly or
1458 indirectly, from rendering securities brokerage

1459 services in the manner provided in this
1460 subsection. [The election, if made by the
1461 taxpayer, shall be irrevocable for, and applicable
1462 for, five successive income years.] Income derived
1463 by such taxpayer from sources other than the
1464 rendering of securities brokerage services shall
1465 be apportioned as provided in this [section]
1466 CHAPTER.

1467 (2) The numerator of the apportionment
1468 fraction shall consist of the brokerage
1469 commissions and total margin interest paid on
1470 behalf of brokerage accounts owned by the
1471 taxpayer's customers who are domiciled in this
1472 state during such taxpayer's income year, computed
1473 according to the method of accounting used in the
1474 computation of net income. The denominator of the
1475 apportionment fraction shall consist of brokerage
1476 commissions and total margin interest paid on
1477 behalf of brokerage accounts owned by all of the
1478 taxpayer's customers, wherever domiciled, during
1479 such taxpayer's income year, computed according to
1480 the method of accounting used in the computation
1481 of net income.

1482 (3) For purposes of this subsection: [,
1483 "security brokerage services"] (A) "SECURITY
1484 BROKERAGE SERVICES" means services and activities
1485 including all aspects of the purchasing and
1486 selling of securities rendered by [(A)] a broker,
1487 as defined in 15 USC [Section] 78c(a)(4) and
1488 registered under the provisions of 15 USC
1489 [Sections] 78a to 78kk, inclusive, as from time to
1490 time amended, to effectuate transactions in
1491 securities for the account of others, and [(B)] a
1492 dealer, as defined in 15 USC [Section] 78c(a)(5)
1493 and registered under the provisions of 15 USC
1494 [Sections] 78a to 78kk, inclusive, as from time to
1495 time amended, to buy and sell securities, through
1496 a broker or otherwise. Security brokerage services
1497 shall not include services rendered by [a bank,
1498 or] any [other] person buying or selling
1499 securities for such person's own account, either
1500 individually or in some fiduciary capacity, but
1501 not as part of a regular business carried on by
1502 such person.

1503 [(4) For purposes of this subsection,
1504 "securities"] (B) "SECURITIES" means security, as
1505 defined in 15 USC [Section] 78c(a)(10), as from
1506 time to time amended.

1507 [(5) For purposes of this subsection,
1508 "brokerage commission" includes, but is not
1509 limited to, all sales fees on agency or principal
1510 transactions whether charged explicitly or
1511 implicitly.] (C) "BROKERAGE COMMISSION" MEANS ALL
1512 COMPENSATION RECEIVED FOR EFFECTING PURCHASES AND
1513 SALES FOR THE ACCOUNT OR ON ORDER OF OTHERS,
1514 WHETHER IN A PRINCIPAL OR AGENCY TRANSACTION, AND
1515 WHETHER CHARGED EXPLICITLY OR IMPLICITLY AS A FEE,
1516 COMMISSION, SPREAD, MARKUP OR OTHERWISE.

1517 [(6)] (4) For purposes of this subsection,
1518 the domicile of a customer shall be presumed to be
1519 such customer's mailing address as shown in the
1520 records of the taxpayer.

1521 Sec. 7. Subdivision (1) of subsection (j) of
1522 section 12-218 of the general statutes, as amended
1523 by section 10 of public act 97-243 and section 1
1524 of public act 97-4 of the June 18 special session,
1525 is repealed and the following is substituted in
1526 lieu thereof:

1527 (j) (1) Any taxpayer described in subdivision
1528 (2) of this subsection may elect, on or before the
1529 due date or, if applicable, the extended due date,
1530 of its corporation business tax return for an
1531 income year commencing on or after January 1,
1532 1997, to apportion its net income derived from
1533 credit card activities in the manner provided in
1534 this subsection. The election, if made by the
1535 taxpayer, shall be irrevocable for, and applicable
1536 for, five successive income years. Income derived
1537 by such taxpayer from sources other than credit
1538 card activities shall be apportioned as provided
1539 in this [section] CHAPTER. A taxpayer so electing
1540 shall, for purposes of subsection (a) of this
1541 section, be deemed to be taxable in another state
1542 if, under the laws of such state, such taxpayer is
1543 subject to a net income tax, a franchise tax for
1544 the privilege of doing business, or a corporate
1545 stock tax on such taxpayer's net income derived
1546 from credit card activities, and such state does,
1547 in fact, impose such a tax on such net income.

1548 Sec. 8. Subdivisions (1) and (2) of subsection
1549 (j) of section 12-218 of the general statutes, as
1550 amended by section 10 of public act 97-243,
1551 section 1 of public act 97-4 of the June 18
1552 special session and section 7 of this act, are
1553 repealed and the following is substituted in lieu
1554 thereof:

1555 (j) [(1) Any taxpayer described in
1556 subdivision (2) of this subsection may elect, on
1557 or before the due date or, if applicable, the
1558 extended due date, of its corporation business tax
1559 return for an income year commencing on or after
1560 January 1, 1997, to] EACH TAXPAYER THAT ENGAGES IN
1561 CREDIT CARD ACTIVITIES, AS DEFINED IN THIS
1562 SUBSECTION, SHALL apportion its net income derived
1563 from credit card activities in the manner provided
1564 in this subsection. [The election, if made by the
1565 taxpayer, shall be irrevocable for, and applicable
1566 for, five successive income years.] Income derived
1567 by such taxpayer from sources other than credit
1568 card activities shall be apportioned as provided
1569 in this chapter. A taxpayer [so electing] shall,
1570 for purposes of subsection (a) of this section, be
1571 deemed to be taxable in another state if, under
1572 the laws of such state, such taxpayer is subject
1573 to a net income tax, a franchise tax for the
1574 privilege of doing business, or a corporate stock
1575 tax on such taxpayer's net income derived from
1576 credit card activities, and such state does, in
1577 fact, impose such a tax on such net income.

1578 [(2) A taxpayer is eligible to make the
1579 election provided by subdivision (1) of this
1580 subsection if it is (A) an institution whose
1581 activities are limited to those described in 12
1582 USC Section 1841(c)(2)(F), as from time to time
1583 amended, (B) a bank whose deposits are insured by
1584 the Federal Deposit Insurance Corporation and
1585 which issues credit cards and regularly engages in
1586 credit card activities, or (C) a wholly-owned
1587 subsidiary of a bank that is described in
1588 subparagraph (B) of this subdivision, if such
1589 subsidiary is engaged in purchasing, holding,
1590 selling, assigning, transferring, pledging or
1591 otherwise dealing with (i) revolving credit card
1592 accounts and credit card receivables, (ii)
1593 passthrough or asset-backed certificates
1594 evidencing interests in one or more trusts or
1595 pools of credit card receivables, or (iii) related
1596 letters of credit, indentures, evidences of
1597 indebtedness and agreements including, but not
1598 limited to, agreements with originators or
1599 servicers of credit card receivables, and if both
1600 such subsidiary and such bank have made the
1601 election provided by subdivision (1) of this
1602 subsection for the same five successive income

1603 years. Notwithstanding the provisions of this
1604 subdivision, a taxpayer shall be eligible to make
1605 the election provided by subdivision (l) of this
1606 subsection for income years commencing on or after
1607 January 1, 1997, and prior to January 1, 2002,
1608 only if its principal credit card activities
1609 during such income years are located in a
1610 distressed municipality as defined in subsection
1611 (b) of section 32-9p. For income years commencing
1612 on or after January 1, 2002, a taxpayer shall be
1613 eligible to make the election without regard to
1614 the location of its principal credit card
1615 activities.]

1616 Sec. 9. Section 12-219 of the general
1617 statutes is repealed and the following is
1618 substituted in lieu thereof:

1619 (a) (1) Each company subject to the
1620 provisions of this part [, except savings banks,
1621 Morris plan companies, corporations qualified
1622 under the laws of the United States as small
1623 business investment companies and state banks and
1624 trust companies incorporated under the laws of
1625 this state and production credit associations and
1626 savings and loan associations and banks
1627 incorporated under the laws of the federal
1628 government and the Connecticut Development Credit
1629 Corporation,] shall pay for the privilege of
1630 carrying on or doing business within the state,
1631 the larger of the tax, if any, imposed by section
1632 12-214 and the tax calculated under this
1633 subsection. [(1) In the case of a company other
1634 than a regulated investment company or real estate
1635 investment trust, the] THE tax calculated under
1636 this section shall be [: A] A tax of three and
1637 one-tenth mills per dollar for each income year of
1638 the amount derived (A) by adding (i) the average
1639 value of the issued and outstanding capital stock,
1640 including treasury stock at par or face value,
1641 fractional shares, scrip certificates convertible
1642 into shares of stock and amounts received on
1643 subscriptions to capital stock, computed on the
1644 balances at the beginning and end of the taxable
1645 year or period, the average value of surplus and
1646 undivided profit computed on the balances at the
1647 beginning and end of the taxable year or period,
1648 and (ii) the average value of all surplus reserves
1649 computed on the balances at the beginning and end
1650 of the taxable year or period, (B) by subtracting

1651 from the sum so calculated (i) the average value
1652 of any deficit carried on the balance sheet
1653 computed on the balances at the beginning and end
1654 of the taxable year or period, and (ii) the
1655 average value of any holdings of stock of private
1656 corporations including treasury stock shown on the
1657 balance sheet computed on the balances at the
1658 beginning and end of the taxable year or period,
1659 and (C) by apportioning the remainder so derived
1660 between this and other states under the provisions
1661 of section 12-219a, provided in no event shall the
1662 tax so calculated exceed one million dollars or be
1663 less than two hundred fifty dollars. (2) For
1664 purposes of this subsection, in the case of a new
1665 domestic company, the balances at the beginning of
1666 its first fiscal year or period shall be the
1667 balances immediately after its organization or
1668 immediately after it commences business
1669 operations, whichever is earlier; and in the case
1670 of a foreign company, the balances at the
1671 beginning of its first fiscal year or period in
1672 which it becomes liable for the filing of a return
1673 in this state shall be the balances as established
1674 at the beginning of the fiscal year or period for
1675 tax purposes. In the case of a domestic company
1676 dissolving or limiting its existence, the balances
1677 at the end of the fiscal year or period shall be
1678 the balances immediately prior to the final
1679 distribution of all its assets; and in the case of
1680 a foreign company filing a certificate of
1681 withdrawal, the balances at the end of the fiscal
1682 year or period shall be the balances immediately
1683 prior to the withdrawal of all of its assets. When
1684 a taxpayer has carried on or had the right to
1685 carry on business within the state for eleven
1686 months or less of the income year, the tax
1687 calculated under this subsection shall be reduced
1688 in proportion to the fractional part of the year
1689 during which business was carried on by such
1690 taxpayer. The tax calculated under this subsection
1691 shall, in no case, be less than two hundred fifty
1692 dollars for each income year. The taxpayer shall
1693 report the items set forth in this subsection at
1694 the amounts at which such items appear upon its
1695 books; provided, when, in the opinion of the
1696 Commissioner of Revenue Services, the books of the
1697 taxpayer do not disclose a reasonable valuation of
1698 such items, the commissioner may require any

1699 additional information which may be necessary for
1700 a reasonable determination of the tax calculated
1701 under this subsection and shall, on the basis of
1702 the best information available, calculate such tax
1703 and notify the taxpayer thereof.

1704 [(b) (1) Each savings bank, Morris plan
1705 company, corporation qualified under the laws of
1706 the United States as a small business investment
1707 company, state bank and trust company incorporated
1708 under the laws of this state, production credit
1709 association, savings and loan association, bank
1710 incorporated under the laws of the federal
1711 government and the Connecticut Development Credit
1712 Corporation shall pay for the privilege of
1713 carrying on or doing business within the state the
1714 larger of the tax, if any, imposed by section
1715 12-214 and the tax calculated under this
1716 subsection. (2) For such banking and other
1717 financial institutions other than state banks and
1718 trust companies, national banks, mutual savings
1719 banks, and savings and loan associations, the tax
1720 calculated under this subsection shall be two
1721 hundred fifty dollars for each income year. (3)
1722 For state banks and trust companies, national
1723 banks, mutual savings banks, and savings and loan
1724 associations the tax calculated under this
1725 subsection shall be an amount equal to four per
1726 cent for each income year of the amount of
1727 interest or dividends credited by them on savings
1728 accounts of depositors or account holders during
1729 the taxable year preceding that in which such tax
1730 became due, provided, in determining such amount,
1731 each interest or dividend credit to the savings
1732 account of a depositor or account holder shall be
1733 deemed to be the interest or dividend actually
1734 credited or the interest or dividend which would
1735 have been credited if it had been computed and
1736 credited at the rate of one-eighth of one per cent
1737 per annum, whichever is less.]

1738 [(c)] (b) (1) With respect to income years
1739 commencing on or after January 1, 1989, and prior
1740 to January 1, 1992, the additional tax imposed on
1741 any company and calculated in accordance with
1742 subsection (a) [or subsection (b)] of this section
1743 shall, for each such income year, except when the
1744 tax so calculated is equal to two hundred fifty
1745 dollars, be increased by adding thereto an amount
1746 equal to twenty per cent of the additional tax so

1747 calculated for such income year, without reduction
1748 of the additional tax so calculated by the amount
1749 of any credit against such tax. The increased
1750 amount of tax payable by any company under this
1751 section, as determined in accordance with this
1752 subsection, shall become due and be paid,
1753 collected and enforced as provided in this
1754 chapter.

1755 (2) With respect to income years commencing
1756 on or after January 1, 1992, and prior to January
1757 1, 1993, the additional tax imposed on any company
1758 and calculated in accordance with subsection (a)
1759 [or subsection (b)] of this section shall, for
1760 each such income year, except when the tax so
1761 calculated is equal to two hundred fifty dollars,
1762 be increased by adding thereto an amount equal to
1763 ten per cent of the additional tax so calculated
1764 for such income year, without reduction of the tax
1765 so calculated by the amount of any credit against
1766 such tax. The increased amount of tax payable by
1767 any company under this section, as determined in
1768 accordance with this subsection, shall become due
1769 and be paid, collected and enforced as provided in
1770 this chapter.

1771 [(d)] (c) The tax imposed by this section
1772 shall be assessed and collected and be first
1773 applicable at the time or times herein provided
1774 for the tax measured by net income. This section
1775 shall not apply to insurance companies, real
1776 estate investment trusts, [or] regulated
1777 investment companies, [or to] interlocal risk
1778 management agencies formed pursuant to chapter
1779 113a OR FINANCIAL SERVICE COMPANIES, AS DEFINED IN
1780 SECTION 1 OF THIS ACT.

1781 Sec. 10. (NEW) (a) As used in this section:

1782 (1) "Affiliated group" has the same meaning
1783 as in Section 1504 of the Internal Revenue Code.

1784 (2) "Intangible expenses and costs" includes
1785 (A) expenses, losses and costs for, related to, or
1786 in connection directly or indirectly with the
1787 direct or indirect acquisition, use, maintenance
1788 or management, ownership, sale, exchange, or any
1789 other disposition of intangible property to the
1790 extent such amounts are allowed as deductions or
1791 costs in determining taxable income before
1792 operating loss deduction and special deductions
1793 for the taxable year under the Internal Revenue
1794 Code; (B) losses related to or incurred in

1795 connection directly or indirectly with factoring
1796 transactions or discounting transactions; (C)
1797 royalty, patent, technical and copyright fees; (D)
1798 licensing fees; and (E) other similar expenses and
1799 costs.

1800 (3) "Intangible property" means patents,
1801 patent applications, trade names, trademarks,
1802 service marks, copyrights and similar types of
1803 intangible assets.

1804 (4) "Interest expenses and costs" means
1805 amounts directly or indirectly allowed as
1806 deductions under Section 163 of the Internal
1807 Revenue Code for purposes of determining taxable
1808 income under the Internal Revenue Code to the
1809 extent such expenses and costs are directly or
1810 indirectly for, related to, or in connection with
1811 the direct or indirect acquisition, maintenance,
1812 management, ownership, sale, exchange or
1813 disposition of intangible property.

1814 (5) "Related member" means a person that,
1815 with respect to the taxpayer during all or any
1816 portion of the taxable year, is a related entity,
1817 as defined in this subsection, a component member
1818 as defined in Section 1563(b) of the Internal
1819 Revenue Code, or is a person to or from whom there
1820 is attribution of stock ownership in accordance
1821 with Section 1563(e) of the Internal Revenue Code.

1822 (6) "Related entity" means (A) a stockholder
1823 who is an individual, or a member of the
1824 stockholder's family enumerated in Section 318 of
1825 the Internal Revenue Code, if the stockholder and
1826 the members of the stockholder's family own,
1827 directly, indirectly, beneficially or
1828 constructively, in the aggregate, at least fifty
1829 per cent of the value of the taxpayer's
1830 outstanding stock; (B) a stockholder, or a
1831 stockholder's partnership, limited liability
1832 company, estate, trust or corporation, if the
1833 stockholder and the stockholder's partnerships,
1834 limited liability companies, estates, trusts and
1835 corporations own directly, indirectly,
1836 beneficially or constructively, in the aggregate,
1837 at least fifty per cent of the value of the
1838 taxpayer's outstanding stock; or (C) a
1839 corporation, or a party related to the corporation
1840 in a manner that would require an attribution of
1841 stock from the corporation to the party or from
1842 the party to the corporation under the attribution

1843 rules of Section 318 of the Internal Revenue Code,
1844 if the taxpayer owns, directly, indirectly,
1845 beneficially or constructively, at least fifty per
1846 cent of the value of the corporation's outstanding
1847 stock. The attribution rules on Section 318 of the
1848 Internal Revenue Code shall apply for purposes of
1849 determining whether the ownership requirements of
1850 this subdivision have been met.

1851 (b) For purposes of computing its net income
1852 under section 12-217 of the general statutes, as
1853 amended, a corporation shall add back otherwise
1854 deductible interest expenses and costs and
1855 intangible expenses and costs directly or
1856 indirectly paid, accrued or incurred to, or in
1857 connection directly or indirectly with one or more
1858 direct or indirect transactions with, one or more
1859 related members.

1860 (c) (1) The adjustments required in
1861 subsection (b) of this section shall not apply if
1862 the corporation establishes by clear and
1863 convincing evidence that the adjustments are
1864 unreasonable, or the corporation and the
1865 Commissioner of Revenue Services agree in writing
1866 to the application or use of an alternative method
1867 of apportionment under section 12-221a of the
1868 general statutes. Nothing in this subdivision
1869 shall be construed to limit or negate the
1870 commissioner's authority to otherwise enter into
1871 agreements and compromises otherwise allowed by
1872 law.

1873 (2) The adjustments required in subsection
1874 (b) of this section shall not apply to such
1875 portion of interest expenses and costs and
1876 intangible expenses and costs that the corporation
1877 can establish by the preponderance of the evidence
1878 meets both of the following: (A) The related
1879 member during the same income year directly or
1880 indirectly paid, accrued or incurred such portion
1881 to a person who is not a related member, and (B)
1882 the transaction giving rise to the interest
1883 expenses and costs or the intangible expenses and
1884 costs between the corporation and the related
1885 member did not have as a principal purpose the
1886 avoidance of any portion of the tax due under
1887 chapter 208 of the general statutes.

1888 (3) The adjustments required in subsection
1889 (b) of this section shall apply except to the
1890 extent that increased tax, if any, attributable to

1891 such adjustments would have been avoided if both
1892 the corporation and the related member had been
1893 eligible to make and had timely made the election
1894 to file a combined return under subsection (a) of
1895 section 12-223a of the general statutes, as
1896 amended by this act.

1897 (d) Nothing in this section shall require a
1898 corporation to add to its net income more than
1899 once any amount of interest expenses and costs or
1900 intangible expenses and costs that the corporation
1901 pays, accrues or incurs to a related member
1902 described in subsection (b) of this section.

1903 (e) Nothing in this section shall be
1904 construed to limit or negate the commissioner's
1905 authority to make adjustments under section
1906 12-221a or 12-226a of the general statutes.

1907 Sec. 11. Section 12-223a of the general
1908 statutes is repealed and the following is
1909 substituted in lieu thereof:

1910 [(1)] (a) Any taxpayer included in a
1911 consolidated return with one or more other
1912 corporations for federal income tax purposes may
1913 elect to file a combined return under this chapter
1914 together with such other companies subject to the
1915 tax imposed thereunder as are included in the
1916 federal consolidated corporation income tax return
1917 and such combined return shall be filed in such
1918 form and setting forth such information as the
1919 Commissioner of Revenue Services may require.
1920 Notice of an election made pursuant to the
1921 provisions of this subsection and consent to such
1922 election must be submitted in written form to the
1923 Commissioner of Revenue Services by each
1924 corporation so electing not later than the due
1925 date of returns due from the electing corporations
1926 for the initial income year for which the election
1927 to file a combined return is made.

1928 [(2)] (b) Any taxpayer, other than a
1929 corporation filing a combined return with one or
1930 more other corporations under subsection [(1)] (a)
1931 of this section, which owns or controls either
1932 directly or indirectly substantially all the
1933 capital stock of one or more corporations, or
1934 substantially all the capital stock of which is
1935 owned or controlled either directly or indirectly
1936 by one or more other corporations or by interests
1937 which own or control either directly or indirectly
1938 substantially all the capital stock of one or more

1939 other corporations, may, in the discretion of the
1940 Commissioner of Revenue Services, be required or
1941 permitted by written approval of the Commissioner
1942 of Revenue Services to make a return on a combined
1943 basis covering any such other corporations and
1944 setting forth such information as the Commissioner
1945 of Revenue Services may require, provided no
1946 combined return covering any corporation not a
1947 taxpayer shall be required unless the Commissioner
1948 of Revenue Services deems such a return necessary,
1949 because of intercompany transactions or some
1950 agreement, understanding, arrangement or
1951 transaction referred to in section 12-226a, in
1952 order properly to reflect the tax liability under
1953 this part.

1954 [(3)] (c) (1) In the case of a combined
1955 return, the tax shall be measured by the sum of
1956 the separate net income or loss of each
1957 corporation included or the minimum tax base of
1958 the included corporations but only to the extent
1959 that said income, loss or minimum tax base of any
1960 included corporation is separately apportioned to
1961 Connecticut in accordance with the provisions of
1962 section 12-218, AS AMENDED BY THIS ACT, 12-219a or
1963 12-244, whichever is applicable. In computing said
1964 net income or loss, intercorporate dividends shall
1965 be eliminated, and in computing the combined
1966 additional tax base, intercorporate stockholdings
1967 shall be eliminated. IN COMPUTING SAID NET INCOME
1968 OR LOSS, ANY INTANGIBLE EXPENSES AND COSTS, AS
1969 DEFINED IN SECTION 10 OF THIS ACT, ANY INTEREST
1970 EXPENSES AND COSTS, AS DEFINED IN SECTION 10 OF
1971 THIS ACT, AND ANY INCOME ATTRIBUTABLE TO SUCH
1972 INTANGIBLE EXPENSES AND COSTS OR TO SUCH INTEREST
1973 EXPENSES AND COSTS SHALL BE ELIMINATED PROVIDED
1974 THE CORPORATION THAT IS REQUIRED TO MAKE
1975 ADJUSTMENTS UNDER SECTION 10 OF THIS ACT FOR SUCH
1976 INTANGIBLE EXPENSES AND COSTS OR FOR SUCH INTEREST
1977 EXPENSES AND COSTS, AND THE RELATED MEMBER OR
1978 MEMBERS, AS DEFINED IN SECTION 10 OF THIS ACT, ARE
1979 INCLUDED IN SUCH COMBINED RETURN.

1980 (2) If the method of determining the combined
1981 measure of such tax in accordance with this
1982 subsection for two or more affiliated companies
1983 validly electing to file a combined return under
1984 the provisions of subsection [(1)] (a) of this
1985 section is deemed by such companies to unfairly
1986 attribute an undue proportion of their total

1987 income or minimum tax base to this state, said
1988 companies may submit a petition in writing to the
1989 Commissioner of Revenue Services for approval of
1990 an alternate method of determining the combined
1991 measure of their tax not later than sixty days
1992 prior to the due date of the combined return to
1993 which the petition applies and said commissioner
1994 shall grant or deny such approval before said due
1995 date. In deciding whether or not the companies
1996 included in such combined return should be granted
1997 approval to employ the alternate method proposed
1998 in such petition, the Commissioner of Revenue
1999 Services shall consider approval only in the event
2000 that the petitioners have clearly established to
2001 the satisfaction of said commissioner that all the
2002 companies included in such combined return are, in
2003 substance, parts of a unitary business engaged in
2004 a single business enterprise and further that
2005 there are substantial intercorporate business
2006 transactions among such included companies.

2007 (3) Upon the filing of a combined return
2008 under [subsections (1) and (2)] SUBSECTION (a) OR
2009 (b) of this section, combined returns shall be
2010 filed for all succeeding income years or periods
2011 for those corporations reporting therein, provided
2012 IN THE CASE OF CORPORATIONS FILING UNDER
2013 SUBSECTION (a) OF THIS SECTION, such corporations
2014 are included in a federal consolidated corporation
2015 income tax return filed for the succeeding income
2016 years and, in the case of a corporation filing
2017 under subsection [(2)] (b) OF THIS SECTION, the
2018 aforesaid ownership or control continues in full
2019 force and effect and is not extended to other
2020 corporations, and further, provided no substantial
2021 change is made in the nature or locations of the
2022 operations of such corporations.

2023 [(4)] (d) Notwithstanding the provisions of
2024 subsections [(1) and (3)] (a) AND (c) of this
2025 section, any taxpayer which has elected to file a
2026 combined return under this chapter as provided in
2027 said subsection [(1)] (a), may subsequently elect
2028 to file a separate corporation business tax return
2029 under this chapter, although continuing to be
2030 included in a federal consolidated corporation
2031 income tax return with other companies subject to
2032 tax under this chapter, provided notice of intent
2033 to file such separate return is filed with the
2034 Commissioner of Revenue Services prior to the

2035 beginning of the income year with respect to which
2036 such taxpayer elects to file such separate return
2037 and all other companies included in such combined
2038 return under this chapter also elect to file
2039 separate returns, and provided further, such
2040 notice of intent may not be revoked subsequent to
2041 the beginning of such income year.

2042 Sec. 12. This act shall take effect from its
2043 passage and shall be applicable to income years
2044 commencing on or after January 1, 1999, except
2045 that section 4 shall be applicable to income years
2046 commencing on or after January 1, 1999, and prior
2047 to January 1, 2001, section 5 shall be applicable
2048 to income years commencing on or after January 1,
2049 2001, section 7 shall be applicable to income
2050 years commencing on or after January 1, 1999, and
2051 prior to January 1, 2002, and section 8 shall be
2052 applicable to income years commencing on or after
2053 January 1, 2002.

2054 FIN COMMITTEE VOTE: YEA 44 NAY 0 JFS

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER sSB 582

STATE IMPACT Revenue Loss, Revenue Gain, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Revenue Services

EXPLANATION OF ESTIMATES:

STATE IMPACT: Below presents the revenue impact of the provisions contained in the bill.

<u>Bill Section</u>	<u>Provision</u>	<u>Revenue Impact</u>
1, 4-9	Allows financial services companies to use a single factor apportionment formula for Corporation Business Tax and excludes financial services companies from the alternative capital base.	Gain of \$5 to \$10 million
2	Establishes limit Passive Investment Companies (PIC).	Loss of \$16 to \$24 million
	(It should be noted that if the largest Connecticut financial institutions were to form PIC's in Rhode Island because this provision is not enacted the state may	

lose between \$15 to \$20 million).

3	Exempts domestic insurers from the Corporation Business Tax.	Loss of \$8 to \$12 million
10 & 11	Restricts the deductibility of certain intangible expenses and certain interest expenses with a related member	Gain of \$15 million

* * * * *

OFA BILL ANALYSIS

sSB 582

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE FINANCIAL SERVICES AD HOC STUDY COMMITTEE

SUMMARY: The bill contains the following provisions:

Section 1 adopts a new single-factor formula for the apportionment of the net income of a financial service company. A financial service company is broadly defined to include banking institutions, certain subsidiaries of banking institutions and insurance companies, and organizations (other than insurance companies or real estate brokers) that derive fifty percent or more of their gross income from activities in which a banking institution is authorized to engage or from certain enumerated financial service-related activities or sources. A taxpayer additionally may petition the commissioner to use or not use the formula based on whether the taxpayer's activities are substantially similar to, or are in substantial competition with, those of financial service businesses. Unlike current law which generally allocates the net income of a financial service business based on where the business performs its services, the new receipts-based formula will allocate net income principally on the basis of the billing address of the financial service business's customers.

Section 2 provides for an exclusion from the Corporation Business Tax for certain passive investment

companies and for dividends received from passive investment companies. A passive investment company is defined as a corporation that is related to a financial service company or an insurance company and that: (a) employs not less than five full-time equivalent employees in the state; (b) maintains an office in the state; and (c) confines its activities to the purchase, receipt, maintenance, management and sale of loans secured by real property, the collateral or an interest in collateral that secured such loans, and any short-term investments of cash, which cash is reasonable necessary for the operations of the passive investment company.

Section 3 provides an exemption from the Corporation Business Tax for domestic insurers.

Section 4 makes technical changes to Section 12-218(f) to parallel certain changes in Section 1 of the bill.

Section 5 eliminates the apportionment election for companies rendering services to regulated investment companies (mutual funds) in conformity with Section 1 of the bill effective for income years on or after 1/1/2001.

Section 6 makes technical changes to Section 12-218(g) to parallel certain changes in Section 1 of the bill. In addition it eliminates the apportionment election for companies providing security brokerage services in conformity with Section 1 of the bill.

Section 7 makes technical changes to Section 12-218(j) to parallel certain changes in Section 1 of the bill.

Section 8 eliminates the apportionment election for companies with income from credit card activities in conformity with Section 1 of the bill effective for income years on or after 1/1/2002, the year in which the apportionment methodology is available throughout the state.

Section 9 excludes financial service companies, as defined in Section 1 of the bill, from the alternative capital base for Corporation Business Tax purposes.

Section 10 requires an add-back for Corporation Business Tax purposes of certain royalty expenses and

interest expenses paid to a related entity of the taxpayer unless the taxpayer demonstrates a valid business purpose for such deductions.

Section 11 makes technical changes to the provisions of calculating the combined income of a combined group of taxpayers pursuant to Section 12-223a to conform with Section 10 of the bill.

EFFECTIVE DATE: Upon Passage and is applicable to income years January 1, 1999, except Section 4 is applicable to income years January 1, 1999 through January 1, 2001, except Section 5 is applicable to income years beginning on January 1, 2001, except Section 7 is applicable income years January 1, 1999 through January 1, 2002, except Section 8 is applicable to income years beginning on January 1, 2002.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 44 Nay 0