

54:4-8.40 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:4-8.40 et seq. (Disabled or elderly taxpayers, surviving spouses)

Laws of 1976 Chapter 129

Bill No. S913

Sponsor(s) Merlino

Date Introduced Pre-filed

Committee: Assembly Taxation

Senate Revenue, Finance & Appropriations

Amended during passage Yes No Amendments during passage denoted by asterisks.

Date of passage: Assembly November 9, 1976

Senate July 22, 1976

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Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes No

Senate Yes ~~No~~

Fiscal Note Yes No

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Message on signing Yes No

Following were printed:

Reports Yes No

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10/4/76
SEP 1977

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SENATE No. 913

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senator MERLINO

AN ACT to amend the title of "An act concerning deductions from the taxes assessed against certain real property of citizens and residents of this State of the age of 65 or more years, having an income not in excess of \$5,000.00 per year, supplementing chapter 4 of Title 54 of the Revised Statutes and repealing chapter 9 of the laws of 1961," approved December 16, 1963 (P. L. 1963, c. 172), so that the same shall read "An act concerning deductions from the taxes assessed against certain real property of citizens and residents of this State of the age of 65 or more years, or less than 65 years of age who are permanently and totally disabled, and their surviving spouses in certain cases, having incomes not in excess of \$5,000.00 per year, providing for reimbursement by the State to taxing districts in connection therewith, supplementing chapter 4 of Title 54 of the Revised Statutes and repealing chapter 9 of the laws of 1961," to amend and supplement the body of said act, to amend the title of "An act concerning senior citizen tax deductions, amending and supplementing P. L. 1963, c. 172, and providing for reimbursement by the State to taxing districts in connection therewith," approved February 3, 1971 (P. L. 1971, c. 20), so that the same shall read "An act to amend and supplement 'An act concerning deductions from the taxes assessed against certain real property of citizens and residents of this State of the age of 65 or more years, or less than 65 years of age who are permanently and totally disabled, and their surviving spouses in certain cases, having incomes not in excess of \$5,000.00 per year, providing for reimbursement by the State to taxing districts in connection therewith, supplementing chapter 4 of Title 54 of the Revised Statutes and repealing chapter 9 of the laws of 1961,' " to amend the body of said act, and to amend P. L. 1964, c. 255, s. 5.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The title of P. L. 1963, c. 172 is amended to read as follows:
2 An act concerning deductions from the taxes assessed against
3 certain real property of citizens and residents of this State of the
4 age of 65 or more years, *or less than 65 years of age who are*
5 *permanently and totally disabled, and their surviving spouses in*
6 *certain cases, having [an income] incomes not in excess of \$5,000.00*
7 *per year, providing for reimbursement by the State to taxing*
8 *districts in connection therewith, supplementing chapter 4 of Title*
9 *54 of the Revised Statutes and repealing P. L. 1961, c. 9.*

1 2. Section 1 of P. L. 1963, c. 172 (C. 54:4-8.40) is amended to
2 read as follows:

3 1. As used in this act:

4 (a) "Income" means all income from whatever source derived
5 including, but not limited to, realized capital gains *except for a*
6 *capital gain resulting from the sale or exchange of real property*
7 *owned and used by the taxpayer as his principal residence, and on*
8 *which he received a deduction allowed by this act, and, in their*
9 *entirety, pension, annuity and retirement benefits. For the pur-*
10 *pose of claiming a deduction from taxes for any tax year, pursuant*
11 *to this act, "income" shall be deemed to be equal in amount to the*
12 *income which the taxpayer reasonably anticipates he will receive*
13 *during the tax year for which such deduction is claimed and shall be*
14 *exclusive of benefits under any one of the following:*

15 (1) The Federal Social Security Act and all amendments and
16 supplements thereto;

17 (2) Any other program of the Federal Government or pur-
18 suant to any other Federal law which provides benefits in whole
19 or in part in lieu of benefits referred to in, or for persons ex-
20 cluded from coverage under, (1) hereof including but not
21 limited to the Federal Railroad Retirement Act and Federal
22 pension, disability and retirement programs; or

23 (3) Pension, disability or retirement programs of any state
24 or its political subdivisions, or agencies thereof, for persons
25 not covered under (1) hereof;

26 provided, however, that the total amount of benefits to be allowed
27 exclusion by any owner under (2) or (3) hereof shall not be in ex-
28 cess of the maximum amount of benefits payable to, and allowable
29 for exclusion by, an owner in similar circumstances under (1)
30 hereof.

31 (b) "*Permanently and totally disabled*" means *total and per-*
32 *manent inability to engage in any substantial gainful activity by*

33 *reason of any medically determinable physical or mental impair-*
 34 *ment, including blindness. For purposes of this subsection, "blind-*
 35 *ness" means central visual acuity of 20/200 or less in the better*
 36 *eye with the use of a correcting lens. An eye which is accompanied*
 37 *by a limitation in the fields of vision such that the widest diameter*
 38 *of the visual field subtends an angle no greater than 20 degrees*
 39 *shall be considered as having a central visual acuity of 20/200 or*
 40 *less.*

41 **[(b)]** (c) "Pretax year" means the calendar year immediately
 42 preceding the "tax year."

43 **[(c)]** (d) "Post-tax year" means the calendar year immediately
 44 following the "tax year."

45 **[(d)]** (e) "Resident" means one legally domiciled within the
 46 State of New Jersey for a period of 1 year immediately preceding
 47 October 1 of the pretax year. Mere seasonal or temporary residence
 48 within the State, of whatever duration, shall not constitute domicile
 49 within the State for the purposes of this act. Absence from this
 50 State for a period of 12 months shall be prima facie evidence of
 51 abandonment of domicile in this State. The burden of establishing
 52 legal domicile within the State shall be upon the claimant.

53 **[(e)]** (f) "**[Senior citizen's deduction]** *Deduction*" means the
 54 *senior citizen's deduction or the deduction for the permanently*
 55 *and totally disabled* against the taxes payable by any person,
 56 allowable pursuant to this act.

57 **[(f)]** (g) "Tax year" means the calendar year in which the
 58 general property tax is due and payable.

1 3. Section 2 of P. L. 1963, c. 172 (C. 54:4-8.41) is amended to
 2 read as follows:

3 2. Every person, a citizen and resident of this State of the age
 4 of 65 or more years, *or less than 65 years of age who is permanently*
 5 *and totally disabled*, having an income not in excess of \$5,000.00
 6 per year and residing in a dwelling house owned by him which is a
 7 constituent part of his real property, shall be entitled, annually, on
 8 proper claim being made therefor, to a **[senior citizen's]** deduction
 9 against the tax or taxes assessed against such real property to an
 10 amount not exceeding the amount of said tax, or the sum of
 11 \$160.00, whichever is the lesser, but no such deduction from taxes
 12 shall be in addition to any other deduction or exemption from taxes
 13 to which said person may be entitled, *except ***[as may be otherwise***
 14 *authorized by law]** **said citizen and resident may receive in*
 14A *addition any homestead rebate or credit provided by law*.*

15 For the purposes of this act the income of a married person shall
 16 be deemed to include an amount equal to the income of the spouse
 17 during the applicable income year, except for such portion of that
 18 year as the two were living apart in a state of separation, whether
 19 under judicial decree or otherwise.

1 4. (New section) The surviving spouse of a deceased citizen
 2 and resident of this State who during his or her life received a
 3 real property tax deduction pursuant to this act shall be entitled,
 4 so long as he or she shall remain unmarried and a resident in the
 5 same dwelling house with respect to which said deduction was
 6 granted, to the same deduction, upon the same conditions, with
 7 respect to the same real property, notwithstanding that said sur-
 8 viving spouse is under the age of 65 and is not permanently and
 9 totally disabled, provided that said surviving spouse is 55 years
 10 of age or older at the time of the death of said citizen and resident.

1 5. Section 3 of P. L. 1963, c. 172 (C. 54:4-8.42) is amended to
 2 read as follows:

3 3. No **["senior citizen's"]** deduction, as provided herein, shall be
 4 allowed except upon written application therefor, which application
 5 shall be on a form prescribed by the Director, Division of Taxa-
 6 tion, in the Department of the Treasury, and provided for the
 7 use of claimants hereunder by the governing body of the munici-
 8 pality constituting the taxing district in which such claim is to be
 9 filed and the application has been approved as provided in this
 10 act. As to claims for exemption from taxation filed with an
 11 assessor on or before November 1, 1963 on forms prescribed by the
 12 director, the assessor shall not require of any person who has filed
 13 such a claim the filing of an application for a tax deduction but
 14 shall approve such person for a tax deduction if it appears from
 15 the claim for exemption from taxation that such person meets all
 16 the other prerequisites required by this act for the approval of
 17 the tax deduction. Each assessor may at any time inquire into
 18 the right of a claimant to the continuance of a **["senior citizen's"]**
 19 deduction hereunder and for that purpose he may require the
 20 filing of a new application or the submission of such proof as he
 21 shall deem necessary to determine the right of the claimant to
 22 continuance of such deduction.

1 6. Section 4 of P. L. 1963, c. 172 (C. 54:4-8.43) is amended
 2 to read as follows:

3 4. An application for a **["senior citizen's"]** deduction hereunder
 4 may be filed with the assessor of the taxing district on or before
 5 December 31 of the pretax year. If an application is approved by

6 the assessor, he shall allow a [senior citizen's] deduction from the
7 taxes assessed against the real property assessed to the claimant
8 as described therein and shall indicate upon the assessment list
9 and duplicates the approval thereof in such manner as shall be
10 prescribed by rules of the Director of the Division of Taxation
11 together with the proportionate share of such property deemed to
12 be owned by the claimant for the purposes of this act if he is not
13 the sole owner thereof.

14 Upon approval of the application for a [senior citizen's] tax
15 deduction the tax collector shall note in his records the existence
16 of a contingent liability for taxes in the amount of the [senior
17 citizen's] deduction in the event the deduction is subsequently dis-
18 allowed on the basis of the taxpayer's income, the transfer of title
19 to the property to a person not entitled to such deduction, or on
20 the basis of the failure to meet any other prerequisites required
21 by this act for a [senior citizen's] tax deduction, which contingent
22 liability shall be reported on any tax search made on the property
23 for which the [exemption] *deduction* was approved.

24 The application, if not filed with the assessor within the time
25 aforementioned, may be filed with the collector during the tax year
26 and upon approval by the collector of such application he shall
27 determine the amount of the reduction in tax to which the claim-
28 ant is entitled and shall allow said amount as an offset against the
29 tax then remaining unpaid. If the amount allowable as an offset
30 shall exceed the amount of the tax then unpaid for that tax year, or
31 if the application for a [senior citizen's] tax deduction is not filed
32 with the collector until after all taxes for the tax year have been
33 fully paid, the claimant may make application to the governing
34 body of the municipality constituting the taxing district for the
35 refund of any tax overpaid, but without interest, and the governing
36 body may, in its discretion, direct the return of any tax deemed by
37 it to have been overpaid by reason of claimant's failure to make
38 timely application for a [senior citizen's] tax deduction; provided,
39 however, that no application for a [senior citizen's] tax deduction
40 for any previous tax year shall be allowed by any assessor, col-
41 lector or governing body. Where an application for a [senior
42 citizen's] tax deduction is filed with and allowed by a collector
43 he shall promptly transmit such application and all exhibits
44 attached thereto, or a photostatic copy thereof, to the assessor
45 of the taxing district. Upon receipt thereof the assessor shall re-
46 view the application and if approved by him it shall have the same
47 force as if originally filed with him.

1 7. Section 5 of P. L. 1963, c. 172 (C. 54:4-8.44) is amended to
2 read as follows:

3 5. Every fact essential to support a claim for a **senior citizen's**
4 deduction hereunder shall exist on October 1 of the pretax year,
5 except as in this section otherwise provided. Every application by
6 a claimant therefor shall establish that he is or will be on or before
7 December 31 of the pretax year 65 or more years of age *or on that*
8 *date was permanently and totally disabled*, and that he was, on
9 October 1 of the pretax year, (a) a citizen and resident of this
10 State for the period required, (b) the owner of a dwelling house
11 which is a constituent part of the real property for which the
12 **senior citizen's** deduction is claimed, (c) residing in said dwell-
13 ing house. Said application shall also establish that his anticipated
14 income, including the income of his or her spouse, for the tax year
15 will not exceed \$5,000.00. *In the case of a claim for a deduction*
16 *by a person who is permanently and totally disabled, said applica-*
17 *tion shall include a physician's certificate verifying the claimant's*
18 *permanent and total disability. The Director of the Division of*
19 *Taxation may promulgate rules and regulations prescribing the*
20 *form and content of the certificate.*

21 *In the case of claims for a deduction authorized by section 4 of*
22 *this amendatory and supplementary act every application by a*
23 *claimant therefor shall establish that he is or will be on or before*
24 *December 31 of the pretax year 55 or more years of age and was*
25 *55 or more years of age at the time of the death of the decedent*
26 *and unmarried and that he was, on October 1 of the pretax year,*
27 *(a) a citizen and resident of this State for the period required,*
28 *(b) the owner of a dwelling house which is a constituent part of*
29 *the real property for which the deduction is claimed, (c) residing*
30 *in said dwelling house. Said application shall also establish that*
31 *his anticipated income for the tax year will not exceed \$5,000.00.*
32 *The collector or the assessor of the taxing district as the case may*
33 *be shall establish whether the deceased spouse of the claimant re-*
34 *ceived a deduction.*

1 8. Section 5 of P. L. 1964, c. 255 (C. 54:4-8.44a) is amended to
2 read as follows:

3 5. Every person who is allowed a **senior citizen's** deduction
4 shall, except as hereinafter provided, be required to file with the
5 collector of the taxing district on or before February 1 of the post-
6 tax year a statement under oath of his income for the tax year and
7 his anticipated income for the ensuing tax year as well as any
8 other information deemed necessary to establish **the** *his* right

9 **[of the senior citizen]** to a tax deduction for such ensuing tax
 10 year. The collector may grant a reasonable extension of time for
 11 filing the statement required by this section, which extension shall
 12 terminate no later than March 1 of the post-tax year, in any
 13 event where it shall appear to the satisfaction of the collector,
 14 *verified by a physician's certificate*, that the failure to file by
 15 February 1 was due to **[the]** illness **[of the senior citizen and the**
 16 **senior citizen has filed with the collector a physician's certificate**
 17 **stating that the senior citizen was physically incapacitated and**
 18 **unable to file on or before February 1]**. In any case where such
 19 an extension is granted by the collector, the required statement
 20 shall be filed on or before March 1 of the post-tax year.

21 Such statement shall be on a form prescribed by the Director,
 22 Division of Taxation, in the Department of the Treasury and pro-
 23 vided for the use of persons required to make such statement by
 24 the governing body of the municipality constituting the taxing
 25 district in which such statement is required to be filed. Each
 26 collector may require the submission of such proof as he shall deem
 27 necessary to verify any such statement. Upon the failure of any
 28 such person to file the statement within time herein provided or to
 29 submit such proof as the collector deems necessary to verify a
 30 statement that has been filed, or if it is determined that the income
 31 of any such person exceeded \$5,000.00 for said tax year, his ***[senior**
 32 **citizen's]*** tax deduction for said tax year shall be disallowed and
 33 his taxes to the extent represented by the amount of said deduction
 34 shall be payable on or before March 1 of the post-tax year or, where
 35 an extension of time for filing has been granted no later than 30
 36 calendar days after the expiration of said extension, after which
 37 date if unpaid, said taxes shall be delinquent, constitute a lien on
 38 the property, and, in addition, the amount of said taxes shall be a
 39 personal debt of said person.

40 The amount of any lien and tax liability shall be prorated by the
 41 tax collector upon the transfer of title based on the number of days
 42 during the tax year that entitlement to the **[senior citizen's]** tax
 43 deduction is established. The lien shall be considered satisfied by
 44 the tax collector upon payment of the prorated amount for that
 45 portion of the tax year for which entitlement to the **[senior citi-**
 46 **zen's]** tax *deduction* is not established.

1 9. Section 6 of P. L. 1963, c. 172 (C. 54:4-8.45) is amended to
 2 read as follows:

3 6. A claim having been filed with and allowed by the assessor on
 4 and after the effective date of this act shall continue in force from

5 year to year thereafter without the necessity for further claim so
6 long as the claimant shall be entitled to a [senior citizen's] deduc-
7 tion hereunder, but the claimant shall be required yearly to estab-
8 lish by post-tax year statement, as provided for in this act, his
9 income for the tax year, his anticipated income for the ensuing tax
10 year and his compliance with all other prerequisites for eligibility
11 for the tax deduction for such ensuing tax year and the assessor
12 may at any time require the filing of a new application or such
13 proof as he may deem necessary to establish the right of the claim-
14 ant to continuance of such deduction. It shall be the duty of every
15 claimant to inform the assessor of any change in his status or prop-
16 erty which may affect his right to continuance of such deduction.

1 10. Section 7 of P. L. 1963, c. 172 (C. 54:4-8.46) is amended to
2 read as follows:

3 7. Where title to property as to which a [senior citizen's] de-
4 duction is claimed is held by claimant and another or others, either
5 as tenants in common or as joint tenants, claimant shall not be
6 allowed a [senior citizen's] deduction in an amount in excess of
7 his proportionate share of the taxes assessed against said prop-
8 erty, which proportionate share, for the purposes of this act, shall
9 be deemed to be equal to that of each of the other tenants, unless
10 it is shown that the interests in question are not equal, in which
11 event claimant's proportionate share shall be as shown. Nothing
12 herein shall preclude more than one tenant, whether title be held
13 in common or joint tenancy, from claiming a [senior citizen's]
14 deduction from the taxes assessed against the property so held,
15 but no more than the equivalent of one full [senior citizen's]
16 deduction in regard to such property shall be allowed in any year,
17 and in any case in which the claimants cannot agree as to the ap-
18 portionment thereof, such deduction shall be apportioned between
19 or among them in proportion to their interest. Property held by
20 husband and wife, as tenants by the entirety, shall be deemed
21 wholly owned by each tenant, but no more than one [senior
22 citizen's] deduction in regard to such property shall be allowed in
23 any year. Right to claim a [senior citizen's] deduction hereunder
24 shall extend to property the title to which is held by a partnership,
25 to the extent of the claimant's interest as a partner therein, and by
26 a guardian, trustee, committee, conservator or other fiduciary for
27 any person who would otherwise be entitled to claim such deduc-
28 tion hereunder, but not to property the title to which is held by a
29 corporation.

1 11. Section 8 of P. L. 1963, c. 172 (C. 54:4-8.47) is amended to
2 read as follows:

3 8. The director may promulgate such rules and regulations and
4 prescribe such forms as he shall deem necessary to implement this
5 act. He may, in his discretion, eliminate the necessity for sworn
6 application, in which event all declarations by the claimant shall
7 be considered as if made under oath and the claimant, as to false
8 declarations, shall be subject to the penalties as provided by law
9 for perjury.

10 **【Pending the promulgation of such rules and regulations, and**
11 **the prescription of such forms, every application for an exemption**
12 **from taxation as prescribed in P. L. 1961, c. 9, filed as prescribed**
13 **by this act, shall be construed and treated as an application filed**
14 **for a senior citizen's deduction from taxes against the real prop-**
15 **erty described in such application under this act, and if ap-**
16 **proved, such approval shall be construed and treated as an ap-**
17 **proval of a senior citizen's deduction accordingly.】**

1 12. Section 9 of P. L. 1963, c. 172 (C. 54:4-8.48) is amended to
2 read as follows:

3 9. Each assessor and collector and his duly designated assistants
4 are hereby authorized to take and administer the oath, where re-
5 quired, on any claim for or statement in connection with a **【senior**
6 **citizen's】** deduction hereunder and no charge shall be made for the
7 taking of any affidavit or the preparation of any form required by
8 this act.

1 13. Section 10 of P. L. 1963, c. 172 (C. 54:4-8.49) is amended to
2 read as follows:

3 10. An aggrieved taxpayer may appeal from the disposition of
4 a claim for a **【senior citizen's】** deduction under this act in the same
5 manner as is provided for appeals from assessments generally.

1 14. The title of P. L. 1971, c. 20 is amended to read as follows:
2 An act **【concerning senior citizen tax deductions, amending and**
3 **supplementing P. L. 1963, c. 172, and providing for reimbursement**
4 **by the State to taxing districts in connection therewith】** *to amend*
5 *and supplement "An act concerning deductions from the taxes as-*
6 *essed against certain real property of citizens and residents of*
7 *this State of the age of 65 or more years, or less than 65 years of*
8 *age who are permanently and totally disabled, and their surviving*
9 *spouses in certain cases, having incomes not in excess of \$5,000.00*
10 *per year, providing for reimbursement by the State to taxing dis-*
11 *tricts in connection therewith, supplementing chapter 4 of Title 54*
12 *of the Revised Statutes and repealing P. L. 1961, c. 9.*

1 15. Section 4 of P. L. 1971, c. 20 (C. 54:4-8.52) is amended to
2 read as follows:

3 4. On or before [June 15, 1971, and on or before] June 15 of
 4 each year [thereafter], each county board of taxation shall, on a
 5 form prescribed by the director, certify to the director from the
 6 tax lists certified with it for each taxing district for the current tax
 7 year the following:

8 a. Number of [senior citizen] tax deductions allowed for the
 9 current tax year;

10 b. Total dollar amount of [senior citizen] tax deductions allowed
 11 for the current tax year;

12 c. Separately, the number and dollar amount of [senior citizen]
 13 tax deductions allowed or disallowed, as certified by the collector,
 14 from the time of certification made the previous year and prior to
 15 certification for the current year;

16 d. The totals for a., b., and c. above, by district and for the county
 17 as a whole.

1 16. Section 5 of P. L. 1971, c. 20 (C. 54:4-8.53) is amended to
 2 read as follows:

3 5. **[After review the director shall determine an amount equal
 4 to *[one-half of]* the amount allowed by each taxing district for
 5 [senior citizens] tax deductions and shall certify these amounts to
 6 the State Treasurer on or before [September 15, 1971, and on or
 7 before] September 15 annually [thereafter].]** The director may
 8 inspect all records in the office of the collector and the assessor with
 9 respect to claims and allowances for [senior citizens] tax deduction.

10 **[The State Treasurer annually on or before [November 1,
 11 1971, and on or before] November 1 [annually thereafter], upon
 12 the certification of the Director of the Division of Taxation and
 13 upon the warrant of the State Comptroller, shall pay and distribute
 14 to each taxing district the amounts indicated and certified by the
 15 director.]**

1 17. Section 6 of P. L. 1971, c. 20 (C. 54:4-8.54) is amended to
 2 read as follows:

3 6. For [the tax year 1971 and] each year [thereafter], each
 4 county board of taxation shall include in the abstract of ratables
 5 prepared pursuant to R. S. 54:4-52 the full estimated amount of
 6 the [senior citizens'] tax deductions as provided for in this act,
 7 *[but only one-half of]* **[*and* said amount shall be included in
 8 the total on which the tax rate is to be computed.]** ***but said
 9 amount shall not be included in the total on which the tax rate is
 10 to be computed.***

1 18. This act shall take effect immediately and shall be applicable
 2 with respect to tax deductions for the tax year ***[1976]***
 3 ***1977*** and thereafter.

12 c. Separately, the number and dollar amount of [senior citizen]
13 tax deductions allowed or disallowed, as certified by the collector,
14 from the time of certification made the previous year and prior to
15 certification for the current year;

16 d. The totals for a., b., and c. above, by district and for the county
17 as a whole.

1 16. Section 5 of P. L. 1971, c. 20 (C. 54:4-8.53) is amended to
2 read as follows:

3 5. After review the director shall determine an amount equal to
4 one-half of the amount allowed by each taxing district for [senior
5 citizens] tax deductions and shall certify these amounts to the State
6 Treasurer on or before [September 15, 1971, and on or before]
7 September 15 annually [thereafter]. The director may inspect all
8 records in the office of the collector and the assessor with respect
9 to claims and allowances for [senior citizens] tax deduction.

10 The State Treasurer annually on or before [November 1, 1971,
11 and on or before] November 1 [annually thereafter], upon the
12 certification of the Director of the Division of Taxation and upon
13 the warrant of the State Comptroller, shall pay and distribute to
14 each taxing district the amounts indicated and certified by the
15 director.

1 17. Section 6 of P. L. 1971, c. 20 (C. 54:4-8.54) is amended to
2 read as follows:

3 6. For [the tax year 1971 and] each year [thereafter], each
4 county board of taxation shall include in the abstract of ratables
5 prepared pursuant to R. S. 54:4-52 the full estimated amount of
6 the [senior citizens'] tax deductions as provided for in this act,
7 but only one-half of said amount shall be included in the total on
8 which the tax rate is to be computed.

1 18. This act shall take effect immediately and shall be applicable
2 with respect to tax deductions for the tax year 1976 and thereafter.

STATEMENT

This bill implements that portion of the constitutional amendment relating to property tax abatement, approved by the voters on November 4, 1975, dealing with disabled taxpayers and surviving spouses.

The bill defines "permanently and totally disabled" (section 2) and extends the \$160.00 property tax deduction now enjoyed by elderly citizens to them; permits the deduction's continuation to a surviving spouse over age 55 of a deceased exemption-holder; and authorizes the Division of Taxation to make appropriate regulations (section 7).

12 from taxation as prescribed in P. L. 1961, c. 9, filed as prescribed
 13 by this act, shall be construed and treated as an application filed
 14 for a senior citizen's deduction from taxes against the real prop-
 15 erty described in such application under this act, and if ap-
 16 proved, such approval shall be construed and treated as an ap-
 17 proval of a senior citizen's deduction accordingly.】

1 12. Section 9 of P. L. 1963, c. 172 (C. 54:4-8.48) is amended to
 2 read as follows:

3 9. Each assessor and collector and his duly designated assistants
 4 are hereby authorized to take and administer the oath, where re-
 5 quired, on any claim for or statement in connection with a 【senior
 6 citizen's】 deduction hereunder and no charge shall be made for the
 7 taking of any affidavit or the preparation of any form required by
 8 this act.

1 13. Section 10 of P. L. 1963, c. 172 (C. 54:4-8.49) is amended to
 2 read as follows:

3 10. An aggrieved taxpayer may appeal from the disposition of
 4 a claim for a 【senior citizen's】 deduction under this act in the same
 5 manner as is provided for appeals from assessments generally.

1 14. The title of P. L. 1971, c. 20 is amended to read as follows:
 2 An act 【concerning senior citizen tax deductions, amending and
 3 supplementing P. L. 1963, c. 172, and providing for reimbursement
 4 by the State to taxing districts in connection therewith】 *to amend
 5 and supplement "An act concerning deductions from the taxes as-
 6 sessed against certain real property of citizens and residents of
 7 this State of the age of 65 or more years, or less than 65 years of
 8 age who are permanently and totally disabled, and their surviving
 9 spouses in certain cases, having incomes not in excess of \$5,000.00
 10 per year, providing for reimbursement by the State to taxing dis-
 11 tricts in connection therewith, supplementing chapter 4 of Title 54
 12 of the Revised Statutes and repealing P. L. 1961, c. 9.*

1 15. Section 4 of P. L. 1971, c. 20 (C. 54:4-8.52) is amended to
 2 read as follows:

3 4. On or before 【June 15, 1971, and on or before】 June 15 of
 4 each year 【thereafter】, each county board of taxation shall, on a
 5 form prescribed by the director, certify to the director from the
 6 tax lists certified with it for each taxing district for the current tax
 7 year the following:

8 a. Number of 【senior citizen】 tax deductions allowed for the
 9 current tax year;

10 b. Total dollar amount of 【senior citizen】 tax deductions allowed
 11 for the current tax year;

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 913

with Senate committee amendment

STATE OF NEW JERSEY

DATED: MAY 13, 1976

The Senate Revenue, Finance and Appropriations Committee has released this bill without recommendation and with amendment, to be considered by the Senate as part of the overall tax program.

This bill implements in part the constitutional amendment approved by the voters last November, with regard to extension of the \$160 senior citizens property tax deduction to the permanently and totally disabled and to a qualified surviving spouse of a senior citizen or permanently and totally disabled deduction holder.

The definition of permanently and totally disabled in the bill is, as required under the constitutional amendments, the same as is provided in the Social Security Act. To qualify for the deduction as a permanent and totally disabled person, the determination of permanent and totally disabled must be by a physician and acceptable to the tax collector. The Committee expects uniform regulations governing such determinations to be made by the Director of the Division of Taxation, pursuant to his existing rule-making power.

To qualify as a surviving spouse, one must have been 55 years of age or older at the time of death of the deduction holder, a citizen and resident, resident in and owner of the same property on which the deduction was allowed to deceased spouse, meet the income requirements, and remain unmarried.

In addition to implementing the constitutional amendment, this bill amends the income exclusion section of the senior citizens property tax deduction statute, adding to the list of income exclusions allowed in meeting the income requirements the gain realized on disposition of a residence. The exclusion is added as a matter of equity. A senior citizen currently loses the property tax deduction of \$160 if he sells a residence and realized a gain which is sufficient to increase his income that year, together with other income, above the \$5,000 level. Excluding such a gain permits a senior citizen—and the newly qualified permanently and

totally disabled person—to realize a gain on disposition of a residence and not lose the \$160 deduction for that year.

The committee amendments are technical in nature, amending the wording in the bill to reflect the wording in the Constitution with regard to other deductions provided in law for which a deduction holder may qualify. Further, the requirement of a municipality to capitalize the amount of deduction reimbursement received from the State for county and State equalization and apportionment purposes is amended from one-half to 100% of such reimbursement, anticipating enactment and implementation of Assembly Bill No. 1663 for tax year 1977 purposes. Assembly Bill No. 1663 provides for full reimbursement of both the \$160 senior citizens and permanently and totally disabled deduction as well as the veterans deduction.

The cost of this bill to the State is estimated at \$8 million annually, and would be payable out of the proceeds of a personal income tax if such tax is enacted.

This bill is one of the bills which must be enacted before the income tax imposed under Assembly Bill No. 1513 is operative as provided in Assembly Bill No. 1513 as amended.