

54A:3-6

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1999 **CHAPTER:** 372

NJSA: 54A:3-6 (Deduction against gross income—conservation)

BILL NO: A1918 (Substituted for S940)

SPONSOR(S): Lance

DATE INTRODUCED: March 30, 1998

COMMITTEE: **ASSEMBLY:** Agriculture; Appropriations

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 24, 1999

SENATE: January 10, 2000

DATE OF APPROVAL: January 14, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 2nd Reprint
(Amendments during passage denoted by superscript number)

A1918

SPONSORS STATEMENT: (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#) 3-11-99 (Agriculture)
[Yes](#) 5-3-99 (Appropriations)

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: [Yes](#) 4-23-99
[Yes](#) 11-23-99

S940

SPONSORS STATEMENT: (Begins on page 2 of original bill) [Yes](#)
Bill and Sponsors statement identical to A1918

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: [Yes](#)
Identical to legislative Fiscal Estimate to 11-23-99

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

SEE: [Section 170 of the IRS Code](#)

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or refdesk@njstatelib.org

No

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

P.L. 1999, CHAPTER 372, *approved January 14, 2000*
Assembly, No. 1918 (*Second Reprint*)

1 **AN ACT** allowing taxpayers a deduction against gross income for
2 qualified contributions of certain interests in real property for
3 conservation purposes, supplementing Title 54A of the New Jersey
4 Statutes.

5

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

8

9 1. A taxpayer shall be allowed a deduction against gross income
10 for a qualified conservation contribution, as defined under subsection
11 (h) of section 170 of the federal Internal Revenue Code of 1986, 26
12 U.S.C. s.170, made by the taxpayer ²of a qualified real property
13 interest in property located in this State². The amount of the
14 deduction in a taxable year shall be equal to the amount of the
15 contribution allowed in the taxable year as a deduction pursuant to
16 section 170 of the federal Internal Revenue Code of 1986 in
17 computing the taxpayer's taxable income for federal income tax
18 purposes.

19

20 2. This act shall take effect immediately and shall be applicable to
21 qualified conservation contributions made ¹**[on or after March 23,**
22 **1998]** during ²**[the]**² taxable ²years beginning on or after January 1
23 of the calendar² year in which this act takes effect ²**[and**
24 **thereafter**¹]².

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28

29 Allows deduction against gross income for qualified conservation
30 contribution.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted March 11, 1999.

² Assembly AAP committee amendments adopted May 3, 1999.

ASSEMBLY, No. 1918

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED MARCH 30, 1998

Sponsored by:

Assemblyman **LEONARD LANCE**
District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman **Arnone**

SYNOPSIS

Allows deduction against gross income for qualified conservation contribution.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/1999)

1 AN ACT allowing taxpayers a deduction against gross income for
2 qualified contributions of certain interests in real property for
3 conservation purposes, supplementing Title 54A of the New Jersey
4 Statutes.

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

8
9 1. A taxpayer shall be allowed a deduction against gross income
10 for a qualified conservation contribution, as defined under subsection
11 (h) of section 170 of the federal Internal Revenue Code of 1986, 26
12 U.S.C. s.170, made by the taxpayer. The amount of the deduction in
13 a taxable year shall be equal to the amount of the contribution allowed
14 in the taxable year as a deduction pursuant to section 170 of the
15 federal Internal Revenue Code of 1986 in computing the taxpayer's
16 taxable income for federal income tax purposes.

17
18 2. This act shall take effect immediately and shall be applicable to
19 qualified conservation contributions made on or after March 23, 1998.

20
21
22 STATEMENT

23
24 The purpose of this bill is to provide New Jersey taxpayers with an
25 incentive, similar to an incentive under federal tax law, to transfer
26 ownership interests in real property to governmental or
27 nongovernmental agencies engaged in land conservation or, through
28 such means as development easements and conservation restrictions,
29 to limit permanently the use of such property so that its natural
30 character is preserved.

31 The bill supplements the New Jersey gross income tax to allow a
32 deduction against gross income to a taxpayer who makes a "qualified
33 conservation contribution" as defined under subsection (h) of section
34 170 of the federal Internal Revenue Code of 1986. Section 170 allows
35 a deduction against federal taxable income for charitable contributions.
36 Except for certain transfers in trust, a deduction is not generally
37 allowed under section 170 for the contribution of an interest in
38 property that is less than the donor's entire interest in the property.
39 There is, however, a special provision allowing a deduction for the gift
40 of a partial interest that is a "qualified conservation contribution."
41 Such a contribution is defined under section 170 as a contribution of a
42 "qualified real property interest" to a "qualified organization" that is
43 exclusively for conservation purposes. A "qualified real property
44 interest" is an interest in real property that is the donor's entire interest
45 except for certain mining rights, a remainder interest, or a restriction

1 in perpetuity on the use of the property (i.e., against its use for non-
2 conservation purposes). The use restriction contemplated under
3 section 170 may take the form of a "conservation restriction" as
4 provided under the "New Jersey Conservation Restriction and Historic
5 Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or
6 an "agricultural deed restriction for farmland preservation purposes"
7 as provided under the "Agriculture Retention and Development Act,"
8 P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under
9 section 170 means the United States, or a state or possession of the
10 U.S. or political subdivision of either, or any of various entities
11 created under federal or state law and operated exclusively for
12 religious, charitable, or any of the other public purposes specified in
13 the tax code.

14 The bill limits the amount of the New Jersey deduction allowable in
15 a taxable year with respect to the contribution to the amount of the
16 taxpayer's federal deduction allowed therefor in that year. If the
17 taxpayer takes all or a portion of the federal deduction in any post-
18 contribution year (a federal carryforward is allowed for a period of up
19 to five years), a State deduction in the same amount would be allowed
20 in that year.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1918

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 11, 1999

The Assembly Agriculture and Natural Resources Committee favorably reports Assembly Bill No. 1918 with committee amendments.

As amended, this bill supplements the New Jersey gross income tax to allow a deduction against gross income to a taxpayer who makes a "qualified conservation contribution" as defined under subsection (h) of section 170 of the federal Internal Revenue Code of 1986. Section 170 allows a deduction against federal taxable income for charitable contributions, and includes a special provision allowing a deduction for the gift of a partial interest that is a "qualified conservation contribution." Such a contribution is defined under section 170 as a contribution of a "qualified real property interest" to a "qualified organization" that is exclusively for conservation purposes. A "qualified real property interest" is an interest in real property that is the donor's entire interest except for certain mining rights, a remainder interest, or a restriction in perpetuity on the use of the property (i.e., against its use for non-conservation purposes). The use restriction contemplated under section 170 may take the form of a "conservation restriction" as provided under the "New Jersey Conservation Restriction and Historic Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or an "agricultural deed restriction for farmland preservation purposes" as provided under the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under section 170 means the United States, or a state or possession of the U.S. or political subdivision of either, or any of various entities created under federal or state law and operated exclusively for religious, charitable, or any of the other public purposes specified in the tax code.

The bill limits the amount of the New Jersey deduction allowable in a taxable year with respect to the contribution to the amount of the taxpayer's federal deduction allowed therefor in that year.

If the taxpayer takes all or a portion of the federal deduction in any post-contribution year (a federal carryforward is allowed for a period of up to five years), a State deduction in the same amount would be allowed in that year.

The committee amended the bill to provide that it would apply to qualified conservation contributions made during the taxable year in which the bill takes effect and thereafter.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1918

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 3, 1999

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1918 (1R) with committee amendments.

Assembly Bill No. 1918 (1R), as amended, allows a New Jersey gross income tax deduction for certain conservation contributions of interests in New Jersey real property.

Currently the federal Internal Revenue Code allows a federal income tax deduction for charitable contributions, and generally requires the taxpayer contribute the entirety of a thing to get the deduction. However, the federal tax code includes a special provision allowing a deduction for the gift of a partial interest that is a "qualified conservation contribution." Such a contribution is defined under 26 U.S.C. s.170 as a contribution of a "qualified real property interest" to a "qualified organization" that is exclusively for conservation purposes. A "qualified real property interest" is an interest in real property that is the donor's entire interest except for certain mining rights, a remainder interest, or a restriction in perpetuity on the use of the property (i.e., a conservation development easement).

The use restriction contemplated might take the form of a "conservation restriction" as provided under the "New Jersey Conservation Restriction and Historic Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or an "agricultural deed restriction for farmland preservation purposes" as provided under the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under section 170 includes the United States, a state or political subdivision of a state, or a "charity" operated exclusively for religious, charitable, or any of the other public purposes specified.

The bill limits the amount of the New Jersey deduction allowable in a taxable year with respect to the contribution to the amount of the taxpayer's federal deduction allowed therefor in that year.

If the taxpayer takes all or a portion of the federal deduction in any post-contribution year (a federal carryforward is allowed for deduction amounts that exceed certain federal limits), the bill allows a New Jersey deduction in the same amount to be taken allowed in that year.

FISCAL IMPACT:

The Office of Legislative Services (OLS) has been unable to forecast the reduction in State revenues that may result from the enactment of this bill because OLS is unable to predict the value of qualified conservation contributions that may be made by taxpayers with gross income tax liability. OLS has noted that the maximum loss of State revenue would equal 6.37 percent of the value of the contribution (6.37 percent is the highest gross income tax bracket rate) and that the federal carryforward to which the State deduction is linked may spread the cost to the State for any particular contribution over as many as six taxable years.

COMMITTEE AMENDMENTS:

The amendments limit the deduction to contributions of interests in New Jersey property and make a technical amendment to the effective date to assure the deduction will apply to contributions made on or after January 1 of the year in which the bill is enacted.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1918

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: APRIL 23, 1999

BILL SUMMARY

Assembly Bill No. 1918 (1R) of 1998 provides New Jersey taxpayers with an incentive, similar to an incentive under federal tax law, to transfer ownership interests in real property to governmental or nongovernmental agencies engaged in land conservation or, through such means as development easements and conservation restrictions, to limit permanently the use of such property so that its natural character is preserved.

The bill supplements the New Jersey gross income tax to allow a deduction against gross income to a taxpayer who makes a "qualified conservation contribution" as defined under subsection (h) of section 170 of the federal Internal Revenue Code of 1986. Section 170 allows a deduction against federal taxable income for charitable contributions. Except for certain transfers in trust, a deduction is not generally allowed under section 170 for the contribution of an interest in property that is less than the donor's entire interest in the property. There is, however, a special provision allowing a deduction for the gift of a partial interest that is a "qualified conservation contribution." Such a contribution is defined under section 170 as a contribution of a "qualified real property interest" to a "qualified organization" that is exclusively for conservation purposes. A "qualified real property interest" is an interest in real property that is the donor's entire interest except for certain mining rights, a remainder interest, or a restriction in perpetuity on the use of the property (i.e., against its use for non-conservation purposes). The use restriction contemplated under section 170 may take the form of a "conservation restriction" as provided under the "New Jersey Conservation Restriction and Historic Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or an "agricultural deed restriction for farmland preservation purposes" as provided under the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under section 170 means the United States, or a state or possession of the

U.S. or political subdivision of either, or any of various entities created under federal or state law and operated exclusively for religious, charitable, or any of the other public purposes specified in the tax code.

The bill limits the amount of the New Jersey deduction allowable in a taxable year with respect to the contribution to the amount of the taxpayer's federal deduction allowed therefor in that year. If the taxpayer takes all or a portion of the federal deduction in any post-contribution year (a federal carryforward is allowed for a period of up to five years), a State deduction in the same amount would be allowed in that year.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

The Office of Legislative Services (OLS) is unable to forecast the reduction in State revenues that may result from the enactment of this bill because OLS is unable to predict the value of qualified conservation contributions that may be made by taxpayers with gross income tax liability. OLS does note, however, that the maximum loss of State revenue would equal 6.37 percent of the value of the contribution. This maximum would be realized only when the taxpayer is in the highest gross income tax bracket and has sufficient federal adjusted gross income to permit the utilization of the full value of the deduction. Even under such circumstances, the cost to the State may be spread over as many as six tax years.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

FISCAL NOTE

[Second Reprint]

ASSEMBLY, No. 1918

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: NOVEMBER 23, 1999

BILL SUMMARY

Assembly Bill No. 1918 (2R) of 1998 provides New Jersey taxpayers with an incentive, similar to an incentive under federal tax law, to transfer ownership interests in real property to governmental or nongovernmental agencies engaged in land conservation or, through such means as development easements and conservation restrictions, to limit permanently the use of such property so that its natural character is preserved.

The bill supplements the New Jersey gross income tax to allow a deduction against gross income to a taxpayer who makes a "qualified conservation contribution" as defined under subsection (h) of section 170 of the federal Internal Revenue Code of 1986. Section 170 allows a deduction against federal taxable income for charitable contributions. Except for certain transfers in trust, a deduction is not generally allowed under section 170 for the contribution of an interest in property that is less than the donor's entire interest in the property. There is, however, a special provision allowing a deduction for the gift of a partial interest that is a "qualified conservation contribution." Such a contribution is defined under section 170 as a contribution of a "qualified real property interest" to a "qualified organization" that is exclusively for conservation purposes. A "qualified real property interest" is an interest in real property that is the donor's entire interest except for certain mining rights, a remainder interest, or a restriction in perpetuity on the use of the property (i.e., against its use for non-conservation purposes). The use restriction contemplated under section 170 may take the form of a "conservation restriction" as provided under the "New Jersey Conservation Restriction and Historic Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or an "agricultural deed restriction for farmland preservation purposes" as provided under the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under

section 170 means the United States, or a state or possession of the U.S. or political subdivision of either, or any of various entities created under federal or state law and operated exclusively for religious, charitable, or any of the other public purposes specified in the tax code.

The bill limits the amount of the New Jersey deduction allowable in a taxable year with respect to the contribution to the amount of the taxpayer's federal deduction allowed therefor in that year. If the taxpayer takes all or a portion of the federal deduction in any post-contribution year (a federal carryforward is allowed for a period of up to five years), a State deduction in the same amount would be allowed in that year.

AGENCY COMMENTS

The Division of Taxation estimates that the annual revenue loss to the Property Tax Relief Fund from the bill will be approximately \$2.9 million. This estimate is based on the following assumptions: the State will add 100,000 acres to its inventory of preserved open space over the next ten years through private donations, the average value of donated development rights will be \$4,500 per acre, and that most donors will be at the highest marginal State income tax rate of 6.37 percent.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

The Office of Legislative Services (OLS) finds that the assumptions about average value and marginal rates are reasonable given recent experience. However, OLS is unsure as to the basis for assuming that gross income tax payers (a category which excludes corporations) will make donations of 10,000 acres per year.

OLS is unable to forecast the reduction in State revenues that may result from the enactment of this bill because OLS is unable to predict the value of qualified conservation contributions that may be made by taxpayers with gross income tax liability. OLS does note, however, that the maximum loss of State revenue would equal 6.37 percent of the value of the contribution. This maximum would be realized only when the taxpayer is in the highest gross income tax bracket and has sufficient federal adjusted gross income to permit the utilization of the full value of the deduction. Even under such circumstances, the cost to the State arising from any single donation may be spread over as many as six tax years.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 940

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 23, 1998

Sponsored by:

Senator WILLIAM E. SCHLUTER
District 23 (Warren, Hunterdon and Mercer)
Senator JOHN O. BENNETT
District 12 (Monmouth)

Co-Sponsored by:

Senators Littell, Turner, Kavanaugh, Singer, Bark and Bucco

SYNOPSIS

Allows deduction against gross income for qualified conservation contribution.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT allowing taxpayers a deduction against gross income for
2 qualified contributions of certain interests in real property for
3 conservation purposes, supplementing Title 54A of the New Jersey
4 Statutes.

5

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

8

9 1. A taxpayer shall be allowed a deduction against gross income
10 for a qualified conservation contribution, as defined under subsection
11 (h) of section 170 of the federal Internal Revenue Code of 1986, 26
12 U.S.C.s.170, made by the taxpayer. The amount of the deduction in
13 a taxable year shall be equal to the amount of the contribution allowed
14 in the taxable year as a deduction pursuant to section 170 of the
15 federal Internal Revenue Code of 1986 in computing the taxpayer's
16 taxable income for federal income tax purposes.

17

18 2. This act shall take effect immediately and shall be applicable to
19 qualified conservation contributions made on or after March 23, 1998.

20

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22

STATEMENT

23

24 The purpose of this bill is to provide New Jersey taxpayers with an
25 incentive, similar to an incentive under federal tax law, to transfer
26 ownership interests in real property to governmental or
27 nongovernmental agencies engaged in land conservation or, through
28 such means as development easements and conservation restrictions,
29 to limit permanently the use of such property so that its natural
30 character is preserved.

31

32 The bill supplements the New Jersey gross income tax to allow a
33 deduction against gross income to a taxpayer who makes a "qualified
34 conservation contribution" as defined under subsection (h) of section
35 170 of the federal Internal Revenue Code of 1986. Section 170 allows
36 a deduction against federal taxable income for charitable contributions.
37 Except for certain transfers in trust, a deduction is not generally
38 allowed under section 170 for the contribution of an interest in
39 property that is less than the donor's entire interest in the property.
40 There is, however, a special provision allowing a deduction for the gift
41 of a partial interest that is a "qualified conservation contribution."
42 Such a contribution is defined under section 170 as a contribution of a
43 "qualified real property interest" to a "qualified organization" that is
44 exclusively for conservation purposes. A "qualified real property
45 interest" is an interest in real property that is the donor's entire interest
except for certain mining rights, a remainder interest, or a restriction

1 in perpetuity on the use of the property (i.e., against its use for non-
2 conservation purposes). The use restriction contemplated under
3 section 170 may take the form of a "conservation restriction" as
4 provided under the "New Jersey Conservation Restriction and Historic
5 Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or
6 an "agricultural deed restriction for farmland preservation purposes"
7 as provided under the "Agriculture Retention and Development Act,"
8 P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under
9 section 170 means the United States, or a state or possession of the
10 U.S. or political subdivision of either, or any of various entities
11 created under federal or state law and operated exclusively for
12 religious, charitable, or any of the other public purposes specified in
13 the tax code.

14 The bill limits the amount of the New Jersey deduction allowable in
15 a taxable year with respect to the contribution to the amount of the
16 taxpayer's federal deduction allowed therefor in that year. If the
17 taxpayer takes all or a portion of the federal deduction in any post-
18 contribution year (a federal carryforward is allowed for a period of up
19 to five years), a State deduction in the same amount would be allowed
20 in that year.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 940

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 940.

This bill supplements the New Jersey gross income tax to allow a deduction against gross income to a taxpayer who makes a "qualified conservation contribution" as defined under subsection (h) of section 170 of the federal Internal Revenue Code of 1986. Section 170 allows a deduction against federal taxable income for charitable contributions, and includes a special provision allowing a deduction for the gift of a partial interest that is a "qualified conservation contribution." Such a contribution is defined under section 170 as a contribution of a "qualified real property interest" to a "qualified organization" that is exclusively for conservation purposes. A "qualified real property interest" is an interest in real property that is the donor's entire interest except for certain mining rights, a remainder interest, or a restriction in perpetuity on the use of the property (i.e., against its use for non-conservation purposes). The use restriction contemplated under section 170 may take the form of a "conservation restriction" as provided under the "New Jersey Conservation Restriction and Historic Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or an "agricultural deed restriction for farmland preservation purposes" as provided under the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under section 170 means the United States, or a state or possession of the U.S. or political subdivision of either, or any of various entities created under federal or state law and operated exclusively for religious, charitable, or any of the other public purposes specified in the tax code.

The bill limits the amount of the New Jersey deduction allowable in a taxable year with respect to the contribution to the amount of the taxpayer's federal deduction allowed therefor in that year. If the taxpayer takes all or a portion of the federal deduction in any post-contribution year (a federal carryforward is allowed for a period of up to five years), a State deduction in the same amount would be allowed in that year.

COMMITTEE AMENDMENTS

Amendments to this bill provide that the deduction that it allows will apply to qualified conservation contribution made during the taxable year of enactment and thereafter. As amended, the bill is identical to Assembly Bill No. 1918 (1R).

FISCAL IMPACT

The Office of Legislative Services (OLS) is unable to forecast the reduction in State revenues that may result from the enactment of this bill because OLS is unable to predict the value of qualified conservation contributions that may be made by taxpayers with gross income tax liability. OLS does note, however, that the maximum loss of State revenue would equal 6.37 percent of the value of the contribution. This maximum would be realized only when the taxpayer is in the highest gross income tax bracket and has sufficient federal adjusted gross income to permit the utilization of the full value of the deduction. Even under such circumstances, the cost to the State may be spread over as many as six tax years.

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 940

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: APRIL 15, 1999

BILL SUMMARY

Senate Bill No. 940 of 1998 provides New Jersey taxpayers with an incentive, similar to an incentive under federal tax law, to transfer ownership interests in real property to governmental or nongovernmental agencies engaged in land conservation or, through such means as development easements and conservation restrictions, to limit permanently the use of such property so that its natural character is preserved.

The bill supplements the New Jersey gross income tax to allow a deduction against gross income to a taxpayer who makes a "qualified conservation contribution" as defined under subsection (h) of section 170 of the federal Internal Revenue Code of 1986. Section 170 allows a deduction against federal taxable income for charitable contributions. Except for certain transfers in trust, a deduction is not generally allowed under section 170 for the contribution of an interest in property that is less than the donor's entire interest in the property. There is, however, a special provision allowing a deduction for the gift of a partial interest that is a "qualified conservation contribution." Such a contribution is defined under section 170 as a contribution of a "qualified real property interest" to a "qualified organization" that is exclusively for conservation purposes. A "qualified real property interest" is an interest in real property that is the donor's entire interest except for certain mining rights, a remainder interest, or a restriction in perpetuity on the use of the property (i.e., against its use for non-conservation purposes). The use restriction contemplated under section 170 may take the form of a "conservation restriction" as provided under the "New Jersey Conservation Restriction and Historic Preservation Restriction Act," P.L.1979, c.178 (C.13:8B-1 et seq.) or an "agricultural deed restriction for farmland preservation purposes" as provided under the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.). A "qualified organization" under section 170 means the United States, or a state or possession of the U.S. or political subdivision of either, or any of various entities created under federal or state law and operated exclusively for

religious, charitable, or any of the other public purposes specified in the tax code.

The bill limits the amount of the New Jersey deduction allowable in a taxable year with respect to the contribution to the amount of the taxpayer's federal deduction allowed therefor in that year. If the taxpayer takes all or a portion of the federal deduction in any post-contribution year (a federal carryforward is allowed for a period of up to five years), a State deduction in the same amount would be allowed in that year.

OFFICE OF LEGISLATIVE SERVICES COMMENT

The Office of Legislative Services (OLS) is unable to forecast the reduction in State revenues that may result from the enactment of this bill because OLS is unable to predict the value of qualified conservation contributions that may be made by taxpayers with gross income tax liability. OLS does note, however, that the maximum loss of State revenue would equal 6.37 percent of the value of the contribution. This maximum would be realized only when the taxpayer is in the highest gross income tax bracket and has sufficient federal adjusted gross income to permit the utilization of the full value of the deduction. Even under such circumstances, the cost to the State may be spread over as many as six tax years.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.