

PUBLIC HEARING

before

SENATE REVENUE, FINANCE AND APPROPRIATIONS COMMITTEE

and

ASSEMBLY TAXATION COMMITTEE

on

SCR 120, 121, 122, 137, 139, 140;  
Assembly Committee Substitute  
for ACR 175, 177, 178; ACR 176,  
as amended; and ACR 180 and 187.  
(Re: Taxes)

Held:  
July 16, 1974  
Assembly Chamber  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEES PRESENT:

Senator Joseph P. Merlino (Chairman)  
Senator Stephen B. Wiley  
Assemblyman Steven P. Perskie  
Assemblyman John A. Sweeney

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# SENATE CONCURRENT RESOLUTION No. 120

## STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1974

By Senators FELDMAN and MERLINO

(Without Reference)

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I, paragraph 4 of the Constitution of the State of New Jersey to permit senior citizens to receive a homestead tax rebate or credit.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*  
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of  
2 the State of New Jersey is hereby agreed to:

### PROPOSED AMENDMENT

3 Amend Article VIII, Section I, paragraph 4 of the Constitution  
4 to read as follows:

5 4. The Legislature may, from time to time, enact laws granting  
6 an annual deduction from the amount of any tax bill for taxes on  
7 the real property of any citizen and resident of this State of the age  
8 of 65 or more years residing in a dwelling house owned by him  
9 which is a constituent part of such real property but no such  
10 deduction shall be in excess of \$160.00 and such deduction shall be  
11 restricted to owners having an income not in excess of \$5,000.00  
12 per year exclusive of benefits under any one of the following:

13 a. The Federal Social Security Act and all amendments and  
14 supplements thereto;

15 b. Any other program of the Federal Government or pursuant  
16 to any other Federal law which provides benefits in whole or in  
17 part in lieu of benefits referred to in, or for persons excluded from  
18 coverage under, a. hereof including but not limited to the Federal  
19 Railroad Retirement Act and Federal pension, disability and re-  
20 tirement programs; or

21 c. Pension, disability or retirement programs of any state or

12 2. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT RELATING TO SENIOR CITIZENS</p> <p>Shall the amendment to Article VIII, Section I of the Constitution, agreed to by the Legislature permitting senior citizens to receive a homestead tax rebate or credit for taxes paid on real property regardless of any other deduction or exemption to which said senior citizens may be entitled, be adopted?</p>
	No.	

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#### STATEMENT

This concurrent resolution permits senior citizens to be eligible for the homestead rebate or credit being provided by a companion bill. The State Constitution in effect at this time, precludes a senior citizen receiving the senior citizen's property tax reduction from receiving any other deduction or exemption, such as the homestead rebate or credit. Particularly in view of the low income of most senior citizens, it would be inequitable to preclude their eligibility for the homestead rebate or credit.

# SENATE CONCURRENT RESOLUTION No. 121

## STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1974

By Senators MERLINO and FELDMAN

(Without Reference)

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I of the Constitution of the State of New Jersey to add a new paragraph to limit increases in municipal, county and school district property tax rates.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*  
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of  
2 New Jersey is agreed to:

### PROPOSED AMENDMENT

3 Amend Article VIII, Section I by adding a new paragraph 5 as  
4 follows:

5 5. The effective tax rate for municipal purposes as defined by  
6 law, or the effective tax rate for county purposes as defined by law,  
7 exclusive of debt service, reserve for uncollected taxes and cash  
8 deficits, shall not increase by more than 6% in any 1 tax year, except  
9 by referendum. The effective tax rate for school district purposes  
10 as defined by law for the tax year 1977 and thereafter, exclusive of  
11 debt service, shall not increase in any 1 year by more than 6% of  
12 the quotient resulting from dividing the average State school  
13 district effective tax rate for school district purposes by the par-  
14 ticular school district's effective tax rate for school district  
15 purposes, except by referendum or by order of the State Board  
16 of Education.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
3 it shall be submitted to the people at the next general election  
4 occurring more than 3 months after such final agreement and shall  
5 be published at least once in at least one newspaper of each  
6 county designated by the President of the Senate and the

SENATE CONCURRENT RESOLUTION No. 122

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1974

By Senators FELDMAN and MERLINO

(Without Reference)

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I of the Constitution of the State of New Jersey to add a new paragraph to provide for a homestead tax rebate or credit.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*  
2 *General Assembly concurring)*:

1 1. The following proposed amendment of the Constitution of  
2 New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section I by adding a new paragraph 6  
4 as follows:

5 6. The Legislature shall adopt a homestead statute which  
6 entitles homeowners and residential tenants to a rebate or a credit  
7 of a sum of money related to property taxes paid by or allocable  
8 to them, according to the following table:

If household income (rounded to the nearest dollars) is:	then the claimant is entitled to a rebate or credit for payments of real property taxes or rent constituting property taxes in excess of this percent of household income:
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8A	Under \$5,000	5
9	\$5,000 to 10,000	6
10	10,001 to 15,000	7
11	15,001 to 20,000	8
12	20,001 to 25,000	9
13	25,001 and over	10

14 The Legislature shall define "household income" and "rent  
15 constituting property taxes."

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
3 it shall be submitted to the people at the next general election  
4 occurring more than 3 months after such final agreement and shall  
5 be published at least once in at least one newspaper of each county

# SENATE CONCURRENT RESOLUTION No. 137

## STATE OF NEW JERSEY

INTRODUCED JULY 1, 1974

By Senators WILEY, MERLINO, SCARDINO, MARTINDELL,  
RUSSO and DUMONT

Referred to Committee on Revenue, Finance and Appropriations

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section II of the Constitution of the State of New Jersey by adding a new paragraph thereto providing for public hearings on State legislation in certain instances.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*  
2 *General Assembly concurring):*

1 1. The following proposed amendment to the Constitution of the  
2 State of New Jersey is hereby agreed to:

### PROPOSED AMENDMENT

3 Amend Article VIII, Section II by adding a new paragraph as  
3A follows:

4 4. When a State budget is submitted for any fiscal year in which  
5 the total proposed for general State operations is more than 8%  
6 greater than that for the previous fiscal year, the Committee of  
7 the Legislature considering the budget shall hold public hearings  
8 in at least 10 county seats of the State on the general State opera-  
9 tions portion of the budget and each such hearing shall be adver-  
10 tised in a daily newspaper published and circulating in the county  
11 of the hearing once a week for the 3 weeks next preceding such  
12 hearing. If said portion of the budget is more than 14% greater  
13 than that for the previous fiscal year, such hearings shall be held in  
14 every county seat in the State. Any bill proposed in the Legislature  
15 for which the annual cost is estimated to exceed \$1,000,000.00 in  
16 public funds shall, at least 1 week prior to its being listed for third  
17 reading, be the subject of public hearings by a committee of the  
18 house of origin to which it is referred to be held in five county seats  
19 of the State at least 1 week prior to its third reading in said house,  
20 and each such hearing shall be advertised in the aforesaid manner.  
21 Any legislation enacted without compliance with this paragraph

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# STATE OF NEW JERSEY

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INTRODUCED JULY 1, 1974

By Senator MERLINO

(Without Reference)

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I of the Constitution of the State of New Jersey to add a new paragraph to limit increases in municipal, county and school district property tax rates.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*  
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of  
2 New Jersey is agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section I by adding a new paragraph 5 as  
4 follows:

5 5. The effective tax rate or the total amount to be raised by  
6 taxation for municipal purposes as the Legislature may prescribe,  
7 or the effective tax rate or the total amount to be raised by taxa-  
8 tion for county purposes as the Legislature may prescribe, ex-  
9 clusive of debt service, reserve for uncollected taxes and cash  
10 deficits, shall not increase by more than 3% in any 1 tax year,  
11 except by referendum. The effective tax rate or the total amount  
12 to be raised by taxation for school district purposes as defined by  
13 law for the tax year 1977 and thereafter, exclusive of debt service,  
14 shall not increase in any 1 year by more than 3% of the quotient  
15 resulting from dividing the average State school district effective  
16 tax rate for school district purposes by the particular school  
17 district's effective tax rate for school district purposes, except  
18 by referendum.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
3 it shall be submitted to the people at the next general election  
4 occurring more than 3 months after such final agreement and shall  
5 be published at least once in at least one newspaper of each county

STATE OF NEW JERSEY

INTRODUCED JULY 1, 1974

By Senator MERLINO

(Without Reference)

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I of the Constitution of the State of New Jersey to add a new paragraph to provide for a homestead tax rebate or credit.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*  
 2 *General Assembly concurring:*

1 1. The following proposed amendment of the Constitution of  
 2 New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section I by adding a new paragraph 6  
 4 as follows:

5 6. The Legislature shall adopt a homestead statute which entitles  
 6 homeowners and residential tenants to a rebate or a credit of a  
 7 sum of money related to property taxes paid by or allocable to  
 8 them, according to the following table:

If household income (rounded to the nearest dollars) is:	then the claimant is entitled to a rebate or credit for payments of real property taxes or rent constituting property taxes in excess of this percent of household income:
--	--

9	Under \$5,000	5
10	\$5,000 to 10,000	6
11	10,000 to 15,000	7
12	15,001 to 20,000	8
13	25,001 to 25,000	9
14	25,001 and over	10

15 The Legislature shall define "household income," "rent consti-  
 16 tuting property taxes" and "claimant," and may limit the rebate  
 17 or credit to which a claimant is entitled to \$500.00.

1 2. When this proposed amendment to the Constitution is finally  
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
 3 it shall be submitted to the people at the next general election

Assembly Committee Substitute  
For

ACR 175, ACR 177 and ACR 178 OCR

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I,

paragraph 4, and adding a paragraph 5 to provide a homestead tax rebate or credit and a paragraph 6 permitting the Legislature to enact laws regulating local tax abatement.

BE IT RESOLVED by the General Assembly of the State of New Jersey (the Senate concurring):

1. The following proposed amendment of the Constitution of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

Amend Article VIII, Section I, paragraph 4 of the Constitution and add paragraphs 5 and 6 as follows:

4. The Legislature may, from time, enact laws granting an annual deduction from the amount of any tax bill for taxes on the real property of any citizen and resident of this State of the age of 65 or more years, or any citizen and resident of this State less than 65 years of age who is permanently and totally disabled according to the provisions of the Federal Social Security Act, residing in a dwelling house owned by him which is a constituent part of such real property but no such deduction shall be in excess of \$160.00 and such deduction shall be restricted to owners having an income not in excess of \$5,000.00 per year exclusive of benefits under any one of the following:

- a. The Federal Social Security Act and all amendments and supplements thereto;
- b. Any other program of the Federal Government or pursuant to any other Federal law which provides benefits in whole or in part in lieu of benefits referred to in, or for persons excluded from coverage under, a. hereof including but not limited to the Federal Railroad Retirement Act and Federal pension, disability and retirement programs; or
- c. Pension, disability or retirement programs of any state or its political subdivisions, or agencies thereof, for persons not covered under a. hereof; provided, however, that the total amount of benefits to be allowed exclusion by any owner under b. or c. hereof shall not be in excess of the maximum amount of benefits payable to, and allowable for exclusion by, an owner in similar circumstances under a. hereof.

6. (New) The Legislature may enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation on improvements to buildings and structures in areas declared in need of rehabilitation in accordance with statutory criteria, within such municipalities and to the land comprising the premises upon which such buildings or structures are erected and which is necessary for the fair enjoyment thereof. Such exemptions shall be for limited periods of time as specified by law, but not in excess of 5 years, shall not be in excess of the additional value of the real property resulting from the improvement, and may be limited according to the nature and extent of the improvement.

2. When this proposed amendment to the Constitution is finally agreed to, pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than 3 months after such final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate and the Speaker of the General Assembly and the Secretary of State not less than 3 months prior to said general election.

3. This proposed amendment to the Constitution shall be submitted to the people at said general election in the following manner and form:

There shall be printed on each official ballot to be used at such general election, the following:

1. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+) or check (✓) in the square opposite the word "Yes."

If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

2. In every municipality the following question:

YES	Constitutional Amendment Relating to Senior Citizens, Homestead Rebates or Credits and Property Tax Abatement.  Shall the amendment to Article VIII, Section I of the Constitution, agreed to by the Legislature, extending the Senior Citizen property tax deduction, permitting Senior Citizens to receive a homestead tax rebate or credit in addition to any other deduction or exemption, providing a homestead rebate or credit to home owners and residential tenants and authorizing the Legislature to enact general laws relative to property tax abatement in certain instances, be adopted?
NO	

# ASSEMBLY CONCURRENT RESOLUTION No. 176

## STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1974

By Assemblymen BARBOUR, LEFANTE, HAMILTON, WOODSON,  
BURSTEIN, MARTIN, Assemblywoman WILSON, Assemblymen  
KLEIN and PATERO.

Referred to Committee on Taxation

A CONCURRENT RESOLUTION proposing to amend Article VIII,  
Section I of the Constitution of the State of New Jersey to add  
a new paragraph to limit increases in municipal, county and  
school district property tax rates.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of  
2 New Jersey is agreed to:

### PROPOSED AMENDMENT

3 Amend Article VIII, Section I by adding a new paragraph 5 as  
4 follows:

5 5. The effective tax rate for municipal purposes as defined by  
6 law, or the effective tax rate for county purposes as defined by law,  
7 exclusive of debt service, reserve for uncollected taxes and cash  
8 deficits, shall not increase by more than 6% in any 1 tax year, except  
9 by referendum. The effective tax rate for school district purposes  
10 as defined by law for the tax year 1977 and thereafter, exclusive of  
11 debt service, shall not increase in any 1 year by more than 6% of  
12 the quotient resulting from dividing the average State school  
13 district effective tax rate for school district purposes by the par-  
14 ticular school district's effective tax rate for school district  
15 purposes, except by referendum.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
3 it shall be submitted to the people at the next general election  
4 occurring more than 3 months after such final agreement and shall  
5 be published at least once in at least one newspaper of each  
6 county designated by the President of the Senate and the

ASSEMBLY COMMITTEE AMENDMENTS TO  
ASSEMBLY CONCURRENT RESOLUTION No. 176

STATE OF NEW JERSEY

ADOPTED JULY 8, 1974

Amend page 1, title, lines 3-4, delete in their entirety and insert "a new paragraph to limit increases in municipal and county tax levies, and school district effective property tax rates."

Amend page 1, section 1, line 3, delete "5", insert "appropriately numbered".

Amend page 1, section 1, line 5, delete "effective tax rate for municipal purposes" and insert "municipal tax levy".

Amend page 1, section 1, line 6, delete "effective tax rate for county purposes" and insert "county tax levy".

Amend page 1, section 1, line 10, delete "tax year 1977", insert "school year 1977 and 1978".

Amend page 1, section 1, line 11, delete "of" and insert "multiplied by".

Amend page 1, section 1, line 12, delete "school" and insert "net".

Amend page 1, section 1, lines 13-15, delete in their entirety and insert "operating budget per pupil of the pre-school year by the particular district's net operating budget per pupil of the pre-school year, except that when the quotient is less than 1.0, the quotient shall be deemed to be 1.0, except by referendum or by order of the State Board of Education."

Amend page 2, public question, line 5, delete in its entirety and insert "pal and county tax levies, and school district effective real".

Amend page 2, public question, line 6, delete "rates", and insert "rate,".

ASSEMBLY CONCURRENT RESOLUTION No. 180

STATE OF NEW JERSEY

INTRODUCED JULY 8, 1974

By Assemblymen HERMAN and STEWART

Referred to Committee on Taxation

A CONCURRENT RESOLUTION proposing an amendment to Article VIII, Section II of the Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of  
2 the State of New Jersey is agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section II by adding the following para-  
4 graph:

5 4. The Legislature may enact laws dedicating revenue from  
6 any tax for a specific purpose or specific purposes and any revenue  
7 so dedicated shall not be appropriated for any other purpose.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
3 it shall be submitted to the people at the next general election  
4 occurring more than 3 months after such final agreement and shall  
5 be published at least once in at least one newspaper of each county  
6 designated by the President of the Senate and the Speaker of the  
7 General Assembly and the Secretary of State, not less than 3  
8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-  
2 mitted to the people at said election in the following manner and  
3 form:

4 There shall be printed on each official ballot to be used at such  
5 general election, the following:

6 1. In every municipality in which voting machines are not used,  
7 a legend which shall immediately precede the question, as follows:

8 If you favor the proposition printed below make a cross (X),  
9 plus (+) or check (✓) in the square opposite the word "Yes."  
10 If you are opposed thereto make a cross (X), plus (+) or check  
11 (✓) in the square opposite the word "No."

STATE OF NEW JERSEY

INTRODUCED JULY 11, 1974

By Assemblyman PERSKIE

(Without Reference)

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I, paragraph 1 of the Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of the  
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section I, paragraph 1 as follows:

4 1. (a) Property shall be assessed for taxation under general  
5 laws and by uniform rules. All real property assessed and taxed  
6 locally or by the State for allotment and payment to taxing districts  
7 shall be assessed according to the same standard of value, except  
8 as otherwise permitted herein, and such real property shall be  
9 taxed at the general tax rate of the taxing district in which the  
10 property is situated, for the use of such taxing district; *provided,*  
11 *however, that if the Legislature enacts laws which impose a State*  
12 *tax on business property it may do so at a rate other than the*  
13 *general tax rate of the taxing district and may pay a portion thereof*  
14 *to the taxing districts to reduce the residential local property tax.*

15 (b) The Legislature shall enact laws to provide that the value  
16 of land, not less than 5 acres in area, which is determined by the  
17 assessing officer of the taxing jurisdiction to be actively devoted to  
18 agricultural or horticultural use and to have been so devoted for at  
19 least the 2 successive years immediately preceding the tax year in  
20 issue, shall, for local tax purposes, on application of the owner,  
21 be that value which such land has for agricultural or horticultural  
22 use.

23 Any such laws shall provide that when land which has been  
24 valued in this manner for local tax purposes is applied to a use  
25 other than for agriculture or horticulture it shall be subject to  
26 additional taxes in an amount equal to the difference, if any,

STATEMENT

This proposed constitutional amendment permits the Legislature to enact laws imposing a State tax on business property. A portion of tax may be returned to the taxing districts to reduce the residential local property tax.

SENATOR JOSEPH P. MERLINO (Chairman): The joint public hearing is now called to order. This hearing is being held pursuant to and in compliance with Article 9, Paragraph 1 of the New Jersey State Constitution and the rules of the Senate and the Assembly.

This public hearing is being held jointly by the Senate Revenue, Finance and Appropriations Committee and the Assembly Committee on Taxation for the purpose of taking testimony from any person or persons with regard to the proposed amendments to the New Jersey State Constitution, as set forth in Senate Concurrent Resolutions 120, 121, 122, 137, 139 and 140 and Assembly Committee substitute for Assembly Concurrent Resolutions 175, 177, 178 and Assembly Concurrent Resolution 176, as amended, and Assembly Concurrent Resolutions 180 and 187.

In the interest of conducting an orderly hearing and affording all persons an opportunity to be heard, anyone desiring to comment on the proposed amendments will please give his or her name to the committee staff sitting here in the front row. This listing of persons will not preclude testimony from those not on the list but, of course, we would like to run this hearing in an orderly fashion and everyone and anyone will be afforded an opportunity to speak, even after the list is exhausted. Preferably if you have any written testimony we would like to have copies given to the staff and they will distribute them to the members of the committee. For those having printed testimony, if you would please thereafter, after presentation of the written statement to the staff, just summarize that which is contained in your statement we would appreciate it.

I don't see any overwhelming numbers here to testify but I think for those who spent the day here yesterday, we would appreciate the fact that the sooner

State to dedicate revenues for specific purposes to any bill.

I believe that the need for this type of amendment is in response to much public comment; that the people of this State want to assure that their Legislature has the opportunity, when they enact legislation which raises new revenues, to see that those revenues are dedicated for specific purposes and will continue to be dedicated for specific purposes as the years pass by, as a result of those particular revenues.

I think this is a step which will encourage better government. I think it is a step which will engender the public trust, something which stands a bit of engendering and upgrading. The public expects us to do as we say as well as enact legislation and I think that this will go a long way towards effecting those ends.

SENATOR MERLINO: Thank you, Assemblyman. Are there any questions?

(no questions)

Rodney Dayan, Montclair Board of Education.

R O D N E Y S. D A Y A N: My name is Rodney Dayan, I am President of the Montclair Board of Education. With me are Walter L. Marks, Montclair's Acting Superintendent of Schools and Robert H. Davis, Montclair's Business Administrator.

We appreciate the opportunity you have extended to us to testify here this morning.

We want to make clear at the outset that we are not opposed to the Governor's program but we are here to seek limited specific modifications.

We have reviewed the measures which are designed, as we understand it, to put a 6% "cap" or ceiling on increases in the local tax rate for school district purposes. These include Senate Concurrent Resolution

the schools. A district in difficulty under this measure will have no alternative but to cut deeply into educational programs and to lay off large numbers of teachers.

With all due respect, we must say that we are totally opposed to an even lower limitation for districts like Montclair. As I mentioned a moment ago, the ceiling for Montclair would be less than 4% and, in fact, I think it is important to bring out that it would actually be 3.85%.

ASSEMBLYMAN PERSKIE: Mr. Dayan, I hate to interrupt you but I want to observe for the record, and also for your attention - I am sure you are not aware of this - that, in its deliberations, the Assembly Taxation Committee, in considering Assembly Concurrent Resolution 176, has addressed itself specifically to that question and in the amended version of 176, which I have here for you, it provides that the 6% rate is subject to an adjustment upward in the event of that formula, but not to an adjustment downward.

MR. DAYAN: I am gratified.

ASSEMBLYMAN PERSKIE: So, your testimony is very well taken, at least as far as the Assembly Taxation Committee is concerned, and the percentage would not, in any case, go below 6%. In some instances it may go higher.

MR. DAYAN: I guess my response to that would be that we are very pleased at that change. Nevertheless, in an inflationary year--

ASSEMBLYMAN PERSKIE: I wanted to correct that for the record.

MR. DAYAN: --in an inflationary period of 10.7% it is still going to present a substantial problem. We do not want to be understood as saying that we are not sympathetic with the plight of poorer districts. We are sympathetic and we agree that they should be encouraged to improve their educational programs through increased

disastrous and an appeal would have to be taken as a matter of course.

We recommend the following solution to this problem. The present 6% formula rate should be eliminated and an appropriate cost of living measure should be substituted. If a board of education proposed an increase in the school district tax rate in excess of this cost of living measure, the board in a Type I district would be required to go to referendum. If the budget failed on referendum, the board would be obligated to go to the Board of School Estimate which could not certify a tax rate increase in excess of the cost of living measure.

This proposal would eliminate the rigidity of the proposed 6% formula rate and would also eliminate the "sudden death" aspect of a defeat at the polls. This proposal would also furnish an incentive for Type I districts to keep their budgets down in order to avoid going to referendum.

I might say parenthetically, at this point, that we have similar concerns with the "thorough and efficient" bill, Section 22, but I suspect this is not the appropriate forum in which to raise those concerns.

With respect to the referendum itself, I believe that it is generally recognized that only a small percentage of the voters actually vote in school elections. I believe, by the way, that that figure in Essex County, the last time I heard, was that 13% of the registered voters turn out - on an average.

We suggest that a small minority should not control the educational and fiscal affairs of an entire school district. Consequently, we recommend a provision which would require a fixed minimum percentage of voter turnout in order to defeat a school budget. By the way, I would imagine this could be done statutorily as an interpretation of constitutional provisions.

Under this proposal, if the number of votes cast

MR. DAYAN: Thank you. We thought that that was inadvertent.

We also believe that the relevant order should issue from the Commissioner of Education, rather than from the State Board of Education. Recourse to the State Board will serve only to create additional delays in the budget appeal process and we might say, in this regard, that the problem that we have been experiencing is that the process can take from 9 to 12 months. Under these circumstances the school year for which the budget was intended is almost over before the money is received. This is meaningless relief.

Finally, we come to the question whether this type of measure, whether adopted as proposed or adopted with modifications, should be dealt with by statute or by constitutional amendment. We have grave misgivings about casting these principles in concrete at the present time.

No matter what type of provision is adopted, until school districts throughout the State have had some experience with it, we do not believe that it is possible to foresee its long-range consequences for education in New Jersey. We do not believe that it is wise to lock ourselves into an arbitrary ceiling on expenditures by local school districts. We must be certain that the measure adopted will not cause a long-run deterioration in the quality of education in the State.

We have some drafting suggestions to make which are too technical to go into now. Thank you for listening to our concerns.

SENATOR MERLINO: Thank you, Mr. Dayan.

I have one question. On page 6, you suggested the minimum percentage of 15% of the registered voters would be acceptable on a referendum.

MR. DAYAN: Yes, sir.

SENATOR MERLINO: Have you considered the possibility of all school elections, either for board members

MR. DAYAN: Yes. Well, we are seriously concerned about the fact that the 6% figure - and I say this with all due deference to the difficulties you gentlemen face - is, at best, an arbitrary figure and in times of inflation it is too low. In exceedingly stable periods it may also be too high. What we would like to find is some kind of a measure that is reasonably related to what the economy is doing because 80% of our budget is salary and salary-related items. (drafting comments on page 37 )

SENATOR MERLINO: Thank you very much, Mr. Dayan.

I would like the record to indicate that Senator Wiley has joined the panel at this time.

Senator Wiley, before you get too comfortable, do you have some testimony to offer?

SENATOR STEPHEN B. WILEY: Yes, I do.

Mr. Chairman, members of the two Committees, I appreciate the opportunity to appear before you this morning. I comment with respect to Senate Concurrent Resolution No. 137, which I participated in sponsoring.

The general nature of this Resolution is to require public hearings by the appropriate committees of the Legislature, keyed to certain proposed financial steps. On the one end it would require hearings in a number of county seats, depending upon the proposed increase in the general State operations portion of the budget - 10 county seats if the increase would be in the order of 8% and 21, or all, county seats if the increase were in the order of 14% or more. That is on the general appropriations bill.

Secondly, on independent bills that appropriate money, or propose to appropriate money, or require the expenditure of public funds by other units of government, it would require that the Legislature go to 5 county seats for hearings before acting on that kind of a bill.

us, when the only way we can change our Constitution is by general referendum once a year, in November, from spending above a certain increased level would be too severe and would inhibit us from meeting the kinds of emergency obligations that have hit us from time to time in the past, whether it is flooding of the Delaware River or whatever it may be, and we should not strait-jacket ourselves in that fashion.

Feeling, as I do, that on the one hand we shouldn't so straitjacket ourselves and, on the other hand, that people are entitled to some kind of reassurance, I sought a middle ground and this is the middle ground. I have confidence that the people of the Legislature, just being good representatives and representative people drawn from the population of the State of New Jersey, are thoroughly capable of doing a deliberate, careful, and well-diciplined job if the procedures were right - if they are exposed to the facts. Part of the design of this bill is to assure that they will be exposed to the facts.

There is an element of fairness about this because we are talking about some kind of limitation on local, county and school expenditures and I think it would be in keeping with that general thought to have some such similar limitation with respect to spending at the State level.

The provision could be extended to other portions of the budget - capital construction and state aid. I have not proposed that. I think it would be a meaningful step to get into general state operations - that is the money that is spent here in Trenton. It tends to be the money around which more discretion is exercised. Many of the state aid formulas are built into the law and you don't have much choice about them.

General State Purpose now amounts to about one-

Normally there are good and sufficient reasons for that sort of increase and this would simply give an opportunity to examine them and maybe people would be persuaded that it ought to be increased that much, or maybe the legislators would be persuaded that it shouldn't. But I think it would be an interesting forum in any event.

I have the additional feeling that the one branch of government that is most affected by this proposal - the Legislative Branch - would benefit by it. I think nearly every legislator has a yearning within him, or within her, for a better day some time ahead for this Legislature of ours. All of us would like to be prouder of our institution than we are. All of us are capable of performing at a much higher level than we do perform because the system doesn't call for the best in us. Our procedures don't call for that degree of deliberation. I, personally, am stressing committee hearings and committee reports - as I know Senator Merlino and Assemblyman Perskie, in their committees, do also. I see this as a means by which we could help bootstrap ourselves into a more deliberate legislature and into giving more thorough consideration to money legislation in years to come.

So, on the whole, I conceive it as somewhat of a burden on legislators, without any question. It is going to take us more time. But I think, perhaps, the kind of time we would spend in going to the county seats to meet the people and show that we are trying to bring government to them to protect their interest, would be time well spent and I thank the Committee for listening to my statement.

SENATOR MERLINO: Thank you, Senator Wiley. Are there any questions?

ASSEMBLYMAN PERSKIE: I have just one. Senator, in view of the multiplicity of questions that are being suggested for submission, particularly this year, would

worthy of attainment and, two, possible to attain so that the thing would have a therapeutic value.

SENATOR MERLINO: Thank you, Senator.

SENATOR WILEY: Thank you.

Mary Nash.

The League opposes SCR.139 because an increase limited to 3% of either rates or levies is unrealistic. A major function of government is to provide those services best accomplished collectively. Governments must have reasonable resources with which to provide such services. An increase of 3% wouldn't keep up with inflation even over the long run, let alone now when it is increasing so rapidly.

The public hearings required by SCR.137 might contribute to greater public understanding of state government and state governmental finances. They would provide for increased participation of citizens in government.

The League opposes ACR.180. We believe dedication has several serious flaws. (1) Dedication hampers sound fiscal management. The yield of a given tax will seldom match the purpose for which it is dedicated and, since both needs and tax yields change, there is little chance they will change in the same proportion over the years. Now inflation is leading to rising incomes and property values which would increase revenue from both an income tax and a state property tax, but school enrollments are declining so costs should stabilize if not actually go down. Would money for education be wisely spent if funds exceeded needs? (2) Dedication makes the revenue system less flexible. Looking back at our own history we see that New Jersey faced a serious crisis during the depression when state revenues began to fall just as unemployment relief needs began to rise. Only one fourth of the state budget was available for urgently needed state services because the rest was all in dedicated funds. (3) Dedication infringes on the policy making powers of the executive branch and the Legislature since it removes a portion of governmental activity from periodic review and control. The Legislature can most effectively carry out its responsibility for efficient use of public funds without the straitjacket effect which a series of dedicated funds would impose. (4) Once dedication is allowed, as permitted under ACR.180, pressures increase from lobbying and special interest groups to dedicate a tax for their "pet" program.

Experience in New Jersey has shown that dedicated funds can be an obstacle to efficient administration of the state's financial affairs. We believe, if permitted to flourish, dedication would again create a situation wherein the state government would be unable to direct its resources to the most desirable ends.

Thank you once again for your time and interest. If you have questions, I'll try to answer them.

are a non-profit, non-partisan, governmental research organization, incorporated in 1930. Our office is 104 North Broad Street in Trenton.

I would like to commend you gentlemen for your fortitude in being back here so early this morning after such a long, tedious day yesterday. I frankly was apprehensive whether there would be a hearing today. I must commend you on being on the spot.

ASSEMBLYMAN PERSKIE: Under certain circumstances, some of us might not have been here.

MR. HAINES: I watched the televising until about 2:00 A.M. this morning. So I am sympathetic with you as to your situation yesterday.

I owe an apology to you and the secretary for not having a completed transcript of my remarks today. The rather fluid situation that surrounded consideration of these numerous tax bills over the past two weeks and frequent changes in the hearing schedule, and also scheduled Association activities made it impossible for us to get our statement reproduced in quantity for you today.

I will attempt to address myself very specifically and briefly, with one exception, to all of the proposed resolutions on the agenda today.

The first, a combination of SCR 120 and ACR 177, which are identical bills, which will permit the senior citizens to receive an additional homestead rebate or credit, which would be provided by the personal income tax. We recognize that this is the key to permitting senior citizens to qualify also for the circuit breaker in the personal income tax. We feel it is a commendable objective and it has our support in principle.

The next three resolutions, ACR 175, SCR 122 and SCR 140: We recognize that they are similar and will add a new paragraph, spelling out the circuit breaker concept,

these special further exemptions at a time when a new property tax relief program is expected to be enacted, which is being clouted as providing significant tax relief to the groups in question.

A year ago this past January, NJTA testifying on SCR No. 5 (Official Copy Reprint), which would give tax deductions to disabled citizens, suggested a new approach to granting deductions; that is, the substitution of broad constitutional language and leaving implementation to statute.

Our opposition to ACR No. 178, which is paragraph 6 of the substitute for the three ACRs, is based on a statement made on SCR No. 20 before the Senate Judiciary Committee on January 10th of 1973, for reasons again that there appeared to be a more desirable statutory and regulatory approach to provide incentives in rehabilitation areas. I refer to those statements and we can provide copies of that past policy in connection with those.

I now will address myself to the tax limit amendments. ACR 176 and SCR 121, as originally introduced, were identical bills, which would fix limits on effective municipal and county tax rates at 6 per cent increases over the previous year, unless submitted to referendum, and provide a similar limit on increases in the effective school tax rate beginning in 1977. While SCR 139 uses similar language, except for a 3 per cent limit instead of 6 per cent, its beginning language is significantly different and permits the Legislature to prescribe whether the limits for municipal or county purposes will be based on either effective tax rate or total tax levy.

The amendments to ACR No. 176 appear to have been made to agree with amendments in the implementing legislation - that is Assembly No. 1906, as amended - which would change the measure of the limits from an effective rate to a tax levy for municipal and county purposes and modify

am sure that you will find that public officials may be looking for a way to exceed any tax levy limits. I can suggest a few. One is the use of the reserve for uncollected taxes. As you know, it is discretionary at the present time as long as they don't exceed the existing tax collection experience. So it is not inconceivable that the estimates of tax collections may be dropped in order to build up surplus in order to exceed limits. And in some situations, I don't think that I could fault some of the officials with some of the situations in which they may find themselves, particularly in connection with employee negotiations.

While the tax levy method for limits I think is easier for a citizen to understand than the complex effective rate method in the original proposal, limiting appropriations, that is, the spending side, would appear to many to make a lot more sense. Not to provide any technique which can provide budget flexibility in the event of emergencies may be shortsighted. The tax limits amendment places a responsibility on officials who want to exceed the 6 per cent levy limit to carry on an education campaign for the voters on the need for more tax dollars. It also places a new responsibility as well as an additional election cost on the voters in a municipality or county where elected officials see the need for funds in excess of the limit.

In 1947 and again in 1968, NJTA adopted policy against placing tax limits in the Constitution. We, therefore, must oppose the amendments being advocated because of the excessive detail and the difficulty of modification if experience shows that they are unworkable.

I understand from your earlier remarks, Assemblyman Perskie, that ACR No. 187 may not be legally before the Committee this morning.

**ASSEMBLYMAN PERSKIE:** It is before the Committee

to take budget hearings on the road, you shouldn't have to have a constitutional amendment to do it. If you want to take more forthright action to demonstrate to taxpayers a desire to control spending, we suggest that there are many alternatives ranging from statutory limits on budget increases to a tightening of your rules relating to consideration of and action on spending bills.

ACR 180. This is a measure which would permit the Legislature to pass laws dedicating revenues to a specific purpose or purposes. First, I want to state that the New Jersey Taxpayers Association policy is in opposition to dedication of revenues, particularly of major tax sources; This policy dates to the 1947 Constitutional Convention hearings, at which NJTA joined with other groups in urging a constitutional prohibition on dedication of funds. The principal reason, among many, against dedication, especially constitutional dedication, is the need for budget flexibility.

The Association questions the need for this amendment for the reason that the Constitution, in our interpretation, contrary to popular belief already permits dedication. Perhaps it would be better to state the premise in reverse. The Constitution does not prohibit dedication.

In my personal opinion, based on nearly 23 years of working with New Jersey government, one of the most common and widespread misconceptions about the New Jersey Constitution of '47 is that it prohibits dedication of revenue. The following quote is taken from a special Research Bulletin, which the Association issued in January of 1972, titled "Accounting for the New Jersey Lottery": (Reading) "Are dedicated funds permitted in New Jersey? The question of fund dedication in New Jersey has been controversial and greatly misunderstood since adoption of the 1947 Constitution. There is a common statement frequently

about the New Jersey Constitution that exists on the part of many, many officials. I will document it for you.

ASSEMBLYMAN PERSKIE: Before you do, and I know you well enough to be absolutely certain ---

MR. HAINES: I am not a lawyer though. Let me preface this with that, Mr. Perskie.

ASSEMBLYMAN PERSKIE: I got past that in a hurry. Let me make one point for the record that has just come to my attention that may affect the extent to which you choose to document it this morning. It has been brought to my attention that the same infirmities which I have described with respect to Assembly Concurrent Resolution 187 apply with respect to Assembly Concurrent Resolution 180, in that they were both distributed on the desks of the members of the Assembly last Thursday, but neither was distributed on the desks of the members of the Senate because the Senate was not in session, and that, therefore, given that yesterday has passed us and the 20-day requirement, etc., of the rules, it seems to me that Assembly Concurrent Resolution 180 will likewise, as ACR 187, not be in a position to be submitted to the people this November.

That doesn't mean you can't continue to testify, but might I note before you even indicate what you are going to do that whatever documentation you have on that point - and it certainly opened my eyes a bit personally - I would like, regardless of what you do this morning, to have delivered to Mr. Deardorff so we in the Committee can begin to get our teeth into that.

MR. HAINES: Thank you, sir. With all due respect, I would hope that you would let me continue to document this and put it on the record.

ASSEMBLYMAN PERSKIE: Fine.

MR. HAINES: I plan to put it on the record again this afternoon if that hearing is held on these other measures this afternoon. But because there is, as I said,

Paragraph 2 of the Finance Article of the 1944 proposal, which was felt absolutely to prevent the dedication of funds." In other words, they removed language which would have prevented dedication. That is why I say, by reversal, if it is not prevented, then I think it should be assumed that it is permitted.

This is further substantiated in the majority opinion handed down on May 12, 1972, by Justice Francis - and I don't have the Annotated citation, but it is on pages 17 and 18 of the advance copy which was released. Referring back to the similar section which I just read, "The proposed 1944 Constitution included a clause requiring all such revenues 'from whatever source derived' to be paid into the general treasury. It was rejected at the 1947 Constitutional Convention, quite apparently because it would prevent any dedication of funds." And this reason goes into the majority opinion which questioned the dedication or race-track revenues in connection with the Sports Authority decision.

Maybe some of the members of the press will pick this up. Perhaps we can do a further research job on this to clarify, as I stated, what I think is one of the greatest misinterpretations of the 1947 Constitution.

ASSEMBLYMAN PERSKIE: I have the same general train of thought. I just glanced through the Constitution very quickly, particularly Article VIII, and I can't find anything in there pertaining to dedication. I, as an individual, am in accord with your interpretation that if the Constitution doesn't prohibit it, we can do it, in this area. What I would request of you, Mr. Haines, knowing the calibre of work that your organization can put out, is that you have your organization, through counsel or otherwise, prepare for us, specifically for my Committee and Senator Merlino's Committee, at your convenience - it

was discussed in '44 and in '45 some legislative action was taken. You will find in Title 52 a statute undoing the dedication of gas tax funds, for instance, and saying that all of that money is to go into the general treasury. In '47, at the Constitutional Convention, I share your recollection. I think you will also find in the Minutes of the Constitutional Convention a paragraph in the report which talks about the fact that they were beset from both sides - those who wanted to make it possible and those who wanted to make it impossible - and they walked a thin line and they didn't do either.

They provided in the Constitution that all funds should be appropriated in one annual general appropriations law. But they did not include a specific provision saying that you could not dedicate funds.

Much of the confusion, I think, is in the use of the word "dedication." We dedicate funds every year by passing an appropriations act. We take the moneys from the treasury and we spend them in a loose sense. But the word is used just about that loosely and it means many different things. With the transportation tax, for instance, that tax could only stand by a dedication of funds to a particular purpose because it was a very special tax, reaching only a very small proportion of the population of the State. And from a constitutional point of view, it had to be limited to the benefit of those people, else it could never stand a test in court.

On the pari-mutuel kind of situation, you get into the consideration of pledging through a contract, making a contract with bondholders, by which you for the future dedicate the revenues of the State or a particular revenue to purposes for future times.

You also get the question - and this really goes to the essence of it - for how long does the dedication

act and a number of other things, had it not seemed to be one of the key points in the Sports Exposition Authority decision where they went at great length to examine these points. That is why I say we pretty much are hanging on the Judge's conclusions which were in both the lower court and higher court decisions in that case in the interpretation.

Again, in conclusion, I want to thank you, unless you have other questions, and express our appreciation for the opportunity to again talk to you on these matters. I hope you will accept my apology for not having the facility to get our statement off today. I will try to have it in your hands. I realize it will probably be in this transcript, but I think possibly we will attempt to distribute it to legislators independently.

ASSEMBLYMAN PERSKIE: Good. Thank you, Mr. Haines. The thanks of the Committee go to you. There are some of us who don't remember a lot about the Constitutional Convention of 1947. It is a rare day we can't learn something and, as far as I am concerned, I learned a lot this morning. I appreciate it.

MR. HAINES: Regrettably, I wasn't here at the time.

ASSEMBLYMAN PERSKIE: You mean in New Jersey?

MR. HAINES: That is correct.

ASSEMBLYMAN PERSKIE: Any further questions? (No response.) Thank you very much, Mr. Haines.

I believe that concludes our proceedings this morning. There is a Taxation Committee meeting scheduled for this afternoon for 12 o'clock. It will probably be a little late getting underway. But for anyone who is here for that, we will probably be in the Lounge where we have recourse both to the air conditioners and to the bombers. There is likewise, I think, a public hearing this afternoon scheduled by another Senate Committee. I assume they

DRAFTING COMMENTS

RE S-1246

1. Section 7(b), lines 18-22. It is not clear why Montclair, with an equalized assessed valuation per pupil of \$~~6~~4,000, can only increase its school district purpose effective tax rate by 3.85% under the provisions of Section 7(a), while a school district having more than twice the Statewide average of equalized assessed valuations per pupil (i.e., \$106,000) can increase its school district purpose effective tax rate by 6% under Section 7(b).

2. Section 7(a)(2). A budget appeal to the Commissioner of Education should be retained to provide for unforeseen or emergency situations. We do not believe, however, that the legislation as drafted achieves this intended effect. Line 14 of Section 7 indicates that the State Board of Education may order adoption of a budget requiring a higher tax rate, "Pursuant to P.L. 1974, c..." We assume that this reference is to Section 15 of the "thorough and efficient" bill (A-1863 and S-1256). Section 15 of the thorough and efficient bill, however, requires a finding by the State