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PUBLIC HEARING

before

SENATE REVENUE, FINANCE AND APPROPRIATIONS COMMITTEE

on

SENATE CONCURRENT RESOLUTION #3022 (OCR)

(Amending the State Constitution to authorize persons 65 years of age or over or persons permanently and totally disabled who are entitled to a "veteran's" tax deduction and also entitled to a "senior citizen's" tax deduction to receive both simultaneously.)

Held:

June 29, 1981

Senate Majority Conference Room

State House

Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Charles B. Yates (Chairman)
Senator John H. Ewing
Senator Matthew Feldman
Senator Walter E. Foran

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ALSO:

Peter McHugh,
substituting for William D. Zuzzio, Staff Assistant,
Senate Revenue, Finance and Appropriations Committee

Samuel Temkin, Assistant Superintendent
Local Property and Public Utility Branch
Division of Taxation
Department of the Treasury

* * * *

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SENATE CONCURRENT RESOLUTION No. 3022

STATE OF NEW JERSEY

INTRODUCED APRIL 27, 1981

By Senators HAMILTON, WEISS, MUSTO and FORAN

Referred to Committee on Revenue, Finance and Appropriations

A CONCURRENT RESOLUTION proposing an amendment to paragraph 4 of Section I of Article VIII of the Constitution of the State of New Jersey.

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 I, paragraph 4 to read as follows:

4 4. The Legislature may, from time to time, enact laws granting
5 an annual deduction from the amount of any tax bill for taxes on
6 the real property of any citizen and resident of this State of the
7 age of 65 or more years, or any citizen and resident of this State
8 less than 65 years of age who is permanently and totally disabled
9 according to the provisions of the Federal Social Security Act,
10 residing in a dwelling house owned by him which is a constituent
11 part of such real property or residing in a dwelling house owned
12 by him which is assessed as real property but which is situated on
13 land owned by another or others but no such deduction shall be in
14 excess of \$160.00 with respect to any year prior to 1981, \$200.00 per
15 year in 1981, \$225.00 per year in 1982, and \$250.00 per year in 1983
16 and any year thereafter and such deduction shall be restricted to
17 owners having an income not in excess of \$5,000.00 per year with
18 respect to any year prior to 1981, \$8,000.00 per year in 1981,
19 \$9,000.00 per year in 1982, and \$10,000.00 per year in 1983 and
20 any year thereafter, exclusive of benefits under any one of the
21 following:

22 a. The Federal Social Security Act and all amendments and
23 supplements thereto;

24 b. Any other program of the Federal Government or pursuant
25 to any other Federal law which provides benefits in whole or in

26 part in lieu of benefits referred to in, or for persons excluded from
 27 coverage under, a. hereof including but not limited to the Federal
 28 Railroad Retirement Act and Federal pension, disability and re-
 29 tirement programs; or

30 c. Pension, disability or retirement programs of any state or its
 31 political subdivisions, or agencies thereof, for persons not covered
 32 under a. hereof; provided, however, that the total amount of
 33 benefits to be allowed exclusion by any owner under b. or c. hereof
 34 shall not be in excess of the maximum amount of benefits payable
 35 to, and allowable for exclusion by, an owner in similar circum-
 36 stances under a. hereof.

37 The surviving spouse of a deceased citizen and resident of this
 38 State who during his or her life received a real property tax deduc-
 39 tion pursuant to this paragraph shall be entitled, so long as he or
 40 she shall remain unmarried and a resident in the same dwelling
 41 house situated on the same land with respect to which said de-
 42 duction was granted, to the same deduction, upon the same condi-
 43 tions, with respect to the same real property or with respect to the
 44 same dwelling house which is situated on land owned by another
 45 or others, notwithstanding that said surviving spouse is under
 46 the age of 65 and is not permanently and totally disabled, provided
 47 that said surviving spouse is 55 years of age or older.

48 Any such deduction when so granted by law shall be granted so
 49 that it will not be in addition to any other deduction or exemption,
 50 **[except a deduction granted under Article VIII, Section I, para-*
 51 *graph 3]** to which the said citizen and resident may be entitled, but
 52 said citizen and resident may receive in addition any homestead
 53 rebate or credit provided by law **and the deduction granted under*
 54 *paragraph 3 of this section**. The State shall annually reimburse
 55 each taxing district in an amount equal to one-half of the tax loss
 56 to the district resulting from the allowance of tax deductions
 57 pursuant to this paragraph.

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 a. 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."

12 b. In every municipality the following question:

	Yes.	ALLOWS A PERSON TO RECEIVE BOTH A VETERAN'S TAX DEDUCTION AND A SENIOR CITIZEN'S TAX DEDUCTION Do you approve the amendment to the Constitution of the State of New Jersey, agreed to by the Legislature, providing that the Legislature may, by law, au- thorize persons 65 years of age or over or persons permanently and totally dis- abled who are entitled to a "veteran's" tax deduction and are also entitled to a "senior citizen's" tax deduction to re- ceive both simultaneously?
	No.	

SENATOR CHARLES R. YATES (Chairman): We are going to call the meeting to order and begin the public hearing before the Senate Revenue, Finance and Appropriations Committee on Senate Concurrent Resolution No. 3022 (OCR), proposing to amend Article VIII, Section 1, Paragraph 4, of the Constitution of the State of New Jersey, which, if adopted, will permit qualified persons to receive both the senior citizens' and the veterans' tax reductions simultaneously. This public hearing is being held to comply with Article IX, Paragraph 1, of the State Constitution and Rule 164 of the Senate.

I am Charles Yates, Chairman of the Committee. Senator Walter Foran and Senator Jack Ewing are on my right.

Our first witness testifying on behalf of the Resolution will be Joseph Ciccone of the American Veterans of World War II, Korea and Vietnam.

J O S E P H C I C C O N E: Gentlemen, with regard to this bill or whatever you call it, first of all we didn't get any notice. I only saw one copy. The gentleman over there had it. I went through it. It is quite a lengthy thing and it is pretty hard to digest in just a few minutes.

I have one thing to ask. It is up to \$8,000 now. Is that correct?

SENATOR FORAN: Are you talking about single income?

MR. CICCONE: Yes.

SENATOR FORAN: It is \$9,000 and \$12,000 for a couple.

MR. CICCONE: Is your social security deductible from that?

SENATOR FORAN: As far as I know, it is not. I don't think that has anything to do with this bill, sir. I think the financial requirement of \$9,000 for a single person and \$12,000 for a couple deals with the Pharmaceutical Assistance Program, SSI and a few things like that. I don't think it has anything to do with what we are talking about here today. I might be wrong.

SENATOR YATES: Let me try to clarify this. There are two kinds of property tax breaks that some people are entitled to. The one is a veteran's deduction which all properly qualified veterans are supposed to get, irrespective of income or anything else. The other is the senior citizen's deduction of \$160, which again, as I understand it, is irrespective of income level. The problem that has emerged is --- You fellows correct me if I am wrong.

MR. SAMUEL TEMKIN: I am Mr. Temkin with the Division of Taxation. Last year, there was a constitutional amendment that changed the senior citizen deductions and beginning with 1981, the income limitation was raised from \$5,000 to \$8,000; and the deduction, instead of being \$160, was raised to \$200. In 1982, the exemption will be \$225 and the income limitation will be raised to \$9,000. In 1983 and thereafter, the deduction will be \$250 and the income limitation will be raised to \$10,000.

SENATOR FORAN: May I ask a question of the gentleman from the Division of Taxation?

SENATOR YATES: Surely.

SENATOR FORAN: The normal veteran's exemption is still \$50. Is that right?

MR. TEMKIN: \$50.

SENATOR FORAN: And there is no income limitation tied to that at all. Is that correct?

MR. TEMKIN: That is correct.

SENATOR FORAN: On the homestead rebate, there is no income tied to that either.

MR. TEMKIN: That is correct.

SENATOR FORAN: So what we are talking about is just a senior citizen's

deduction and/or the veteran's exemption. Now, under the current law, is it not possible to get both?

MR. TEMKIN: No. There is a constitutional requirement under the senior citizens' constitutional amendment that says that you cannot get anything else, except that senior citizen deduction, other than the homestead. When they passed the homestead rebate, they put that exception in.

SENATOR FORAN: If you don't take the one, you are allowed the veteran's?

MR. TEMKIN: That's right.

SENATOR FORAN: So what this bill essentially does then is correct that inequity - and I call it an inequity because I am a co-sponsor of the bill - and permits a veteran who can qualify as a senior citizen to get the \$200 as well as the \$50 rebate.

MR. TEMKIN: That's correct.

SENATOR FORAN: But this bill does nothing whatsoever to change the qualifications of the \$8,000 this year and the \$9,000 next year. That is not in this bill.

MR. TEMKIN: That's correct. That doesn't affect that at all.

SENATOR FORAN: Okay. Thank you.

SENATOR EWING: And if they are over the income limit, they can still get the \$50 deduction?

MR. TEMKIN: That is correct.

MR. CICCONE: Another thing is clarification on disability. I have some pros and cons from other people which is just the opposite of my understanding of what you declare as total disability. I think this gentleman can answer that.

SENATOR YATES: Can we hear from the people from Taxation on that? The question is: What is the definition of disability for purposes of ---

MR. TEMKIN: That is defined under the rules or the regulations of the Veterans Administration. In other words, under the Constitution, the Veterans Administration will submit a letter to the applicant that they submit to us, indicating that they are totally and permanently disabled in an act of service during a time of war. But that is something that under the legislation we can't go in and question because a lot of it is privileged information. So we accept the basis upon which the VA determines the total and permanent disability.

SENATOR FORAN: Through you, Mr. Chairman, what do you do in a case of 10 percent disability or 20 percent disability or 50 percent disability?

MR. TEMKIN: The VA must note in their correspondence to us or to the applicant that it is a 100 percent disability.

SENATOR FORAN: One hundred percent. All right.

MR. CICCONE: Thank you for that answer. There is another question I want to ask. You are over 65 and you don't have a service-connected disability. Say you fall off the back of a truck - and I am just using that as an example - and you are totally disabled. What effect would that have if it is not service connected?

MR. TEMKIN: It has to be service connected under our Constitution.

MR. CICCONE: Under the bill, it has to be?

MR. TEMKIN: That's right.

MR. CICCONE: Therefore, a person who is totally disabled without it being service connected is not eligible to collect the full extent of this thing. Is that correct?

MR. TEMKIN: That is correct.

SENATOR YATES: If they are over 65 though, they are.

MR. CICCONE: That is what I am asking about. I said 65. If I didn't say it, I meant it.

MR. TEMKIN: But not total disability.

MR. CICCONE: I meant total disability.

MR. TEMKIN: I mean, as far as getting total exemption from taxes --- see, a totally and permanently disabled veteran pays no taxes at all - local property taxes - if the VA certifies 100 percent disability. However, if you have a person, whether it is a veteran or not, that is listed as permanently and totally disabled and he is 50 or 60, whatever age he may be, he could be eligible for what we call the senior citizen's deduction, the \$200 deduction.

MR. CICCONE: That is with total disability.

MR. TEMKIN: Yes.

MR. CICCONE: Under the senior citizen's deduction.

MR. TEMKIN: But he doesn't get a total exemption.

MR. CICCONE: Again, if a man is totally disabled after 65, which is not service connected - he has an accident - he cannot get 100 percent disability from the Veterans Administration.

MR. TEMKIN: That's correct.

MR. CICCONE: Gentlemen, I got the information I wanted and I thank you very much.

SENATOR YATES: I think what we would like to get for our record is this: Whereas under the present law you cannot get both the senior citizen's deduction and the veteran's deduction, this legislation says that just because you qualify for the senior citizen's deduction should not take away the benefit of the veteran's deduction you have had for many years and you should be entitled to get both. The purpose of this hearing is to find out: Do you support that idea?

MR. CICCONE: Yes.

SENATOR YATES: Do you think then this should be adopted by the public and become a part of the Constitution?

MR. CICCONE: Under the clarification, yes.

SENATOR YATES: Fine. That is exactly what we want to know. Thank you very much for coming down and testifying.

I have a number of other names on our list. Bill Stafford, Legislative Agent, Veterans of Foreign Wars, State of New Jersey.

W I L L I A M S T A F F O R D: I am also Past State Commander of the State of New Jersey, Veterans of Foreign Wars.

I just want one little clarification. When I became 65, I applied for the senior citizen's exemption, of course, it being much higher than the veteran's. At that time, it was \$5,000 and the income included your social security too. Under the new Constitution, according to what I heard from this gentleman, based on the new minimum of \$8,000, that does not include your social security income. Am I correct about that? That is important because I will be asked these questions by the veterans in our organization. If you do include social security, that \$8,000 will be reached pretty easily, unless you are pretty sadly off.

I want to just state for the record that the 71,000 members of the Veterans of Foreign Wars and the 20,000 members of our ladies auxiliary, a total of 90,000 people, are heartily in favor of seeing this Resolution made into a bill and passed, because we think that the connection between a man's veteran's entitlement and the fact he now

has become a senior citizen should not be considered as overlapping, but two separate and distinct things. So the VFW, Senator, throw their entire weight behind this bill.

SENATOR YATES: Mr. Stafford, thank you very much. That is exactly what we wanted to know.

MR. STAFFORD: Thank you.

SENATOR YATES: I would like the record to reflect we have three additional visitors. I am not sure whether you want to testify formally or just indicate your support by your presence. I would like the record to reflect who you are. We have Mr. H. Louis Brooks, Department Commander of the Veterans of World War I.

H. L O U I S B R O O K S: I would like to add that there is another factor that hasn't been mentioned. In our age group - 86½ is the average age - there are perhaps 50 percent who are now widowers. In some cases, I have been told, the wife has applied for the \$160 and the veteran has applied for the \$50. I have never known that to be the way it works, but somebody has told me that. However, if you are a widower, you can get the \$160 but you can't get the \$50. This bill, as I understand it, will take care of that matter.

SENATOR YATES: Fine. Mr. Brooks, thank you very much for clarifying that.

In addition, we have George H. Townsend, Past Commander, World War I Veterans, Barracks 3440. George, do you want to add anything or shall we just have the record reflect that you are here and you support the measure?

G E O R G E H. T O W N S E N D: All I want to say is that I agree with Commander Brooks, who is the Commander of the entire State of New Jersey for the World War I Veterans, and say we have many, many men who are widowers and only getting one exemption, or one credit, or whatever it is. We would be in full agreement if we could get that - both the \$50 and the other, whatever it is.

SENATOR YATES: Mr. Townsend, thank you very much.

Lolita M. Burnett, Ladies Auxiliary, Veterans of World War I, Past District President. If I haven't got that right, please correct me.

L O L I T A M. B U R N E T T: Past Department President of New Jersey.

The only thing is that the widows today of the Veterans of World War I are up in age and they are living on social security and find it very difficult with the cost of living today and inflation to pay their taxes. They do not want to go into retirement homes or nursing homes. With what they have earned over the years and saved, they are trying to keep their small homes together. They could use that extra amount of tax deduction if it were given to them. Thank you.

SENATOR YATES: Thank you very much. I want to thank all of you for coming. I realize you have come a long way in order to help us in this hearing.

Do we have any additional witnesses who would like to testify on the legislation before us, Senate Concurrent Resolution 3022 (OCR)?

I would like to mention for the record that we have substantially equivalent legislation moving in the State Assembly, sponsored by Assemblyman Costello, addressing the very same matter. So I think there is a fairly good chance that this issue will be on the ballot this fall and the public will have a chance to vote on it.

SENATOR FORAN: What is the time limit for putting the question on the ballot?

SENATOR YATES: The bill has already passed in our house. I think it is sometime in August.

MR. MC HUGH: You can't vote before July 13 and then there are three months'

advertising required.

SENATOR FORAN: Ninety days before?

MR. MC HUGH: Yes, for advertising.

SENATOR EWING: What is the cost of this to the State?

SENATOR YATES: We are requesting from Taxation the cost impact to the State of this measure.

MR. TEMKIN: We didn't have precise figures, but we estimate it will run anywhere from \$3.5 to maybe \$4 million.

SENATOR YATES: Out of the Property Tax Relief Fund?

MR. TEMKIN: I don't know where it comes from, but that is what it would cost.

SENATOR YATES: But it became a part of the State's obligation to cover the cost and not as part of the big tax reform package of several years ago.

MR. TEMKIN: The State's revenue-sharing - it would come through that.

MR. CICCONE: Senator, I have another question.

SENATOR YATES: Mr. Ciccone.

MR. CICCONE: The woman here has talked here about the widow's pension. Again, they come under the limitations of earnings; isn't that right, sir? Just because she becomes a widow, she cannot receive a pension if her income is greater than the \$8,000 at this time. I have this question thrown at me too.

MR. TEMKIN: The way the constitutional amendment read, you can deduct social security. But there are certain cases where people are getting railroad retirement, for instance. That is in place of social security. You can get that then in place of social security or any one of the governmental pensions can replace it. The taxpayer has a right to take whichever one is greater, social security or the pension, but it has to be a governmental pension. However, the governmental pension cannot exceed what the taxpayer would have gotten had he been under social security. Each year, the Division sends out notices to all the assessors as to what that maximum limitation is. We get it through the Social Security Offices. So, it depends. You cannot deduct social security and a pension. It is one or the other.

MR. CICCONE: That doesn't answer my question in its entirety. Say a fellow gets \$10,000 - I am just going to use a round figure - pension. Of course, when he dies, the widow is limited and it goes to \$4,400, or whatever. I'll just use the figure of \$4,000 for purposes of discussion. If that \$4,000 is considered, she wouldn't get a pension from the Army - from the service. Say he was getting twenty and she was receiving ten after his death. She couldn't collect this money.

MR. TEMKIN: I don't quite follow you. The best way I can answer you is to say you total up all the income.

MR. CICCONE: That goes for everything.

MR. TEMKIN: The only thing they can subtract is either social security or the railroad retirement, not both, or some governmental pensions within the limitations of the social security.

MR. CICCONE: I understand that.

MR. TEMKIN: Now, whatever the final figure is ---

MR. CICCONE: If she is getting a \$4,000 pension from some company ---

MR. TEMKIN: Private?

MR. CICCONE: Yes, private.

MR. TEMKIN: That's income.

MR. CICCONE: Therefore, what is the limitation there? Is she allowed to make up to \$8,000?

MR. TEMKIN: Yes.

MR. CICCONE: Therefore, \$4,000 would come within the limitation?

MR. TEMKIN: That's right.

MR. CICCONE: If it went over \$8,000, she couldn't collect a thing?

MR. TEMKIN: The \$8,000 doesn't change, whether it is husband and wife income or just a widow's income.

MR. CICCONE: You have to remember that in a veterans' organization, you get all these questions thrown at you. It is pretty hard to convince some widowers or other people. You have to have the right information to know what you are talking about. Thank you very much.

SENATOR YATES: Mr. Ciccone, thank you very much.

Sir, did you want to say something?

W I L L I A M M O S T R A N G E L I: Senator, I am William Mostrangeli, from the Disabled American Veterans.

There was a law just signed in March - Senate 1053 - that deals with this subject. I think I am right on this. It is based, as the gentleman says, on your social security or \$5,000; whichever is greater would be the benefit for tax relief. Am I right, sir?

MR. TEMKIN: Well, in 1980, there was a \$5,000 income limitation. But that has been changed to \$8,000. But it has nothing to do with your pension. In other words, your social security or your railroad retirement or your governmental pension, up to what you would have gotten under social security, is not included in that \$5,000.

SENATOR YATES: Could I suggest something here. The law requires us to hold a hearing on Concurrent Resolution 3022 (OCR) and we are getting into some areas I know are awfully interesting, but they are not really on this amendment. I would like to suggest that we draw the hearing to a close, unless there are any further witnesses, on this specific amendment, which so far everybody here thinks is a good idea. Then we can end our formal hearing and save some time for some of these collateral questions on related issues. Is that all right with everybody here? That being the case, I will declare the public hearing on Senate Concurrent Resolution 3022 (OCR) closed at this point. We have met our legal obligations and we can now spend some time answering some of these questions.

(Hearing Concluded)

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