

ASSEMBLY, No. 2824

STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1997

By Assemblymen DiGAETANO, KRAMER, Bagger, Bucco,
Assemblywoman Wright, Assemblyman Augustine,
Assemblywomen Murphy, Heck and Assemblyman DeCroce

1 AN ACT replacing the method of distributing certain funds to
2 municipalities from the taxation by the State of gas and electric
3 public utilities and certain telecommunications companies, and of
4 sales of electricity, natural gas and energy transportation service,
5 establishing the "Energy Tax Receipts Property Tax Relief Fund,"
6 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title
7 52 of the Revised Statutes.

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9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

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12 1. This act shall be known and may be cited as the "Energy Tax
13 Receipts Property Tax Relief Act."

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15 2. a. Commencing July 1, 1997 there is established the "Energy
16 Tax Receipts Property Tax Relief Fund" as a special dedicated fund in
17 the State Treasury into which there shall be credited annually,
18 commencing in State fiscal year 1998, the sum of \$730,000,000 from
19 the following: net payments under the "Sales and Use Tax Act,"
20 P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use of energy or
21 utility services, net payments under the Corporation Business Tax Act
22 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from gas, electric, and
23 gas and electric public utilities, whether municipal or otherwise, that
24 were subject to tax pursuant to the provisions of P.L.1940, c.5
25 (C.54:30A-49 et seq.) prior to January 1, 1998, net payments under
26 the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-
27 1 et seq.) from telecommunications public utilities that were subject to
28 tax pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.)
29 as of April 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49
30 et seq.) from sewerage and water corporations, net payments under
31 the "Transitional Energy Facility Assessment Act," P.L. , c.
32 (C.) (now pending before the Legislature as sections 36 through
33 49 of Senate Bill No.31 of 1997 or Assembly Bill No. 2825 of 1997),
34 and such sums from the General Fund as may be necessary to provide
35 that the annual amount credited to the fund shall equal \$730,000,000.

1 b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-16
2 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other provision
3 of law concerning the apportionment and distribution by the State of
4 taxes paid by public utilities,

5 (1) There shall be paid during the State fiscal year 1998 and during
6 each fiscal year thereafter from the "Energy Tax Receipts Property
7 Tax Relief Fund" to the municipalities of the State the sum of
8 \$730,000,000.

9 (2) A portion of the \$730,000,000 shall be allocated in a manner
10 that provides that each municipality shall receive an amount not less
11 than the largest annual amount received or to be received by the
12 municipality from:

13 (a) the distribution of \$685,000,000 from the proceeds of the
14 public utilities franchise and gross receipts taxes under P.L.1940, c.4
15 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) in
16 calendar year 1994, 1995 or 1996; or

17 (b) the distribution of \$685,000,000, from the proceeds of the
18 public utilities franchise and gross receipts taxes under P.L.1940, c.4
19 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) or
20 from taxes and assessments collected in replacement of such taxes as
21 released by the Division of Local Government Services in the
22 Department of Community Affairs as fiscal year 1998 estimated
23 franchise and gross receipts taxes State aid distributions by
24 municipality prior to the certification of apportionment of such funds
25 by the Director of the Division of Taxation.

26 c. The funds distributed pursuant to paragraph (2) of subsection b.
27 of this section shall be distributed to municipalities on the following
28 schedule: July 15, 35% of the total amount due; August 1, 10% of the
29 total amount due; September 1, 30% of the total amount due; October
30 1, 15% of the total amount due; November 1, 5% of the total amount
31 due; and December 1, 5% of the total amount due.

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33 3. a. The annual appropriations act for each State fiscal year
34 commencing with fiscal year 1998 shall appropriate and distribute
35 during the fiscal year an amount not less than \$730,000,000 from the
36 "Energy Tax Receipts Property Tax Relief Fund" pursuant to the
37 provisions of section 2 of P.L. , c. (C.)(now pending before
38 the Legislature as this bill), for the purposes of that fund.

39 b. If the provisions of subsection a. of this section are not met on
40 the effective date of an annual appropriations act for the State fiscal
41 year, or if an amendment or supplement to an annual appropriations
42 act for the State fiscal year should violate the provisions of subsection
43 a. of this section, the Director of the Division of Budget and
44 Accounting in the Department of the Treasury shall, not later than five
45 days after the enactment of the annual appropriations act, or an
46 amendment or supplement thereto, that violates the provisions of

1 subsection a. of this section, certify to the Director of the Division of
2 Taxation that the requirements of subsection a. of this section have not
3 been met.

4 c. The Director of the Division of Taxation shall, no later than five
5 days after certification by the Director of the Division of Budget and
6 Accounting in the Department of the Treasury pursuant to subsection
7 b. of this section that the provisions of subsection a. of this section
8 have not been met or have been violated by an amendment or
9 supplement to the annual appropriations act, notify all taxpayers that
10 have filed a return under the Corporation Business Tax (1946),
11 P.L.1945, c.162 (C.54:10A-1 et seq.) during the previous calendar
12 year, other than taxpayers that are gas, electric, and gas and electric,
13 or telecommunications public utilities as defined pursuant to
14 subsection (q) of section 4 of P.L.1945, c.162 (C.54:10A-4) pursuant
15 to the amendment to that section 4 made in section 2 of P.L. , c.
16 (now pending before the Legislature as Senate Bill No.31 of 1997 or
17 Assembly No. 2825 of 1997), that the taxpayer shall have no liability
18 pursuant to the provisions of P.L.1945, c.162 for any corporation
19 business tax for the taxpayer's current privilege period,
20 notwithstanding any other provision of law to the contrary.

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22 4. Notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1
23 et seq.) or any other law to the contrary, for a privilege period of a
24 taxpayer, other than a taxpayer that is a gas, electric, and gas and
25 electric, or telecommunications public utility as defined pursuant to
26 subsection (q) of section 4 of P.L.1945, c.162 (C.54:10A-4) pursuant
27 to the amendment to that section 4 made in section 2 of P.L. , c.
28 (now pending before the Legislature as Senate Bill No.31 of 1997 or
29 Assembly Bill No. 2825 of 1997), in which the taxpayer would
30 otherwise have had a tax liability or minimum tax due under P.L.1945,
31 c.162, during which privilege period the Director of the Division of
32 Budget and Accounting in the Department of the Treasury makes a
33 certification that the provisions of subsection a. of section 3 of P.L. ,
34 c. (C.) (now pending before the Legislature as this bill) have
35 not been met or have been violated by an amendment or supplement
36 to the annual appropriations act, there shall be no liability pursuant to
37 the provisions of P.L.1945, c.162 for any such taxpayer's current
38 privilege period.

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40 5. This act shall take effect immediately but shall remain
41 inoperative until July 1, 1997.

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STATEMENT

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46 This bill revises the method of distributing certain funds to

1 municipalities from the taxation by the State of gas and electric public
2 utilities and certain telecommunications companies, and of sales of
3 electricity, natural gas and energy transportation service. The State's
4 current taxation of energy and certain telecommunications providers
5 is anticipated to be revised under a companion bill that will preserve
6 certain revenues for distribution to municipalities under a transition to
7 competitive markets in energy and telecommunications that is to be
8 implemented in this State. This bill will effectively guarantee to
9 municipalities an annual State aid distribution of at least \$730,000,000
10 from revenues from the taxes that will replace the public utilities
11 franchise and gross receipts taxes and unit-based energy taxes.

12 The bill requires that these replacement revenues be credited to the
13 "Energy Tax Receipts Property Tax Relief Fund," to be established in
14 the State Treasury as a special dedicated fund. Of the \$730,000,000,
15 a portion approximating \$700,000,000 will be allocated annually to
16 provide each municipality with an amount not less than the largest
17 annual amount it received from the distribution of \$685,000,000 from
18 the proceeds of the public utilities franchise and gross receipts taxes
19 and unit-based energy taxes under P.L.1940, c.4 (C.54:30A-16 et seq.)
20 and P.L.1940, c.5 (C.54:30A-49 et seq.) in calendar year 1994, 1995
21 or 1996, or initially proposed for distribution in 1997. If the
22 appropriation and distributions are not made by the State in this
23 manner the State will forfeit the collection of corporation business tax
24 liabilities from all corporate taxpayers that are not public utilities for
25 that tax year.

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30 The "Energy Tax Receipts Property Tax Relief Act;" replaces method
31 of distributing certain funds guaranteed to municipalities from the
32 State's taxation of energy and telecommunications.