

SENATE, No. 30

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1997

By Senators **INVERSO** and **BUBBA**

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. 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.

36 b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-16
37 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other provision

1 of law concerning the apportionment and distribution by the State of
2 taxes paid by public utilities,

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

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

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

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

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

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

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

1 been met.

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

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

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

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STATEMENT

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44 This bill revises the method of distributing certain funds to
45 municipalities from the taxation by the State of gas and electric public
46 utilities and certain telecommunications companies, and of sales of

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

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

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