

[Second Reprint]

SENATE, No. 330

STATE OF NEW JERSEY
220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

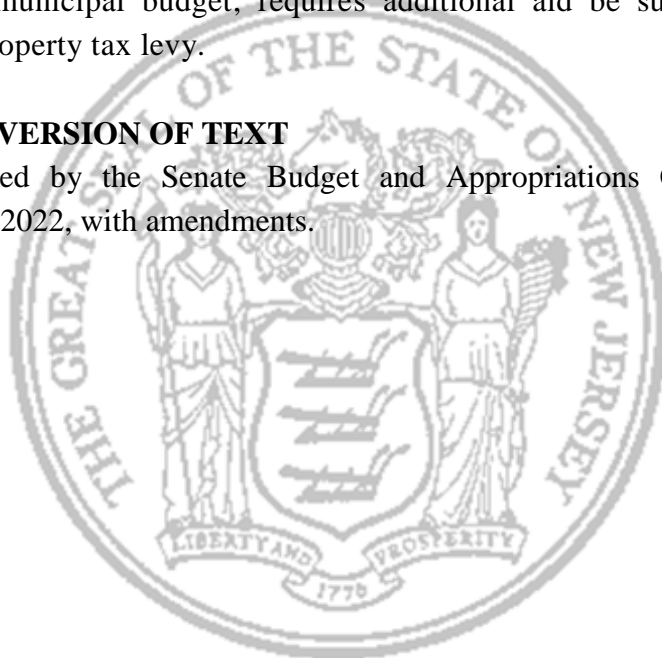
Senators Connors, O'Scanlon, Polistina, Sarlo, Schepisi, Stanfield, Gill, Bramnick, A.M.Bucco, Johnson, Ruiz, Gopal, Holzapfel, Lagana, Madden, Pou, Turner, Greenstein, Diegnan and Zwicker

SYNOPSIS

Increases distribution to municipalities from Energy Tax Receipts Property Tax Relief Fund over two years; prohibits anticipation of certain revenue in municipal budget; requires additional aid be subtracted from municipal property tax levy.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on February 28, 2022, with amendments.



(Sponsorship Updated As Of: 3/3/2022)

1 AN ACT concerning State aid to municipalities and amending
2 P.L.1997, c.167 and P.L.2007, c.62.

3

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

6

7 1. Section 9 of P.L.2007, c.62 (C.40A:4-45.44) is amended to
8 read as follows:

9 9. For the purposes of sections 9 through 13 of P.L.2007, c.62
10 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e):

11 "Adjusted tax levy" means an amount not greater than the
12 amount to be raised by taxation of the previous fiscal year, less
13 **any waivers from a prior fiscal year required to be deducted by the**
14 **Local Finance Board pursuant to section 11 of P.L.2007, c.62**
15 **(C.40A:4-45.46) the difference between any amount distributed to**
16 **2[, or anticipated by]2 a local unit pursuant to paragraph (2) of**
17 **subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439) in its**
18 **current fiscal year and its previous fiscal year, that result multiplied**
19 **by 1.02, to which the sum of exclusions defined in subsection b. of**
20 **section 10 of P.L.2007, c.62 (C.40A:4-45.45) shall be added.**

21 "Amount to be raised by taxation" means the property tax levy
22 set in the annual budget of a local unit.

23 "Local unit" means a municipality, county, fire district, or solid
24 waste collection district, but shall not include a municipality that
25 had a municipal purposes tax rate of \$0.10 or less per \$100 for the
26 previous tax year.

27 "New ratables" means the product of the taxable value of any
28 new construction or improvements times the tax rate of a local unit
29 for its previous tax year.

30 "County entity budget authority" means the county tax
31 administrator, county superintendent of election, county board of
32 election, county register of deeds and mortgages, county clerk,
33 county surrogate, county prosecutor, and county sheriff, in their role
34 as the appointing authority of their respective offices.

35 "County entity" means a county board of taxation, office of the
36 county superintendent of election, office of the county board of
37 election, office of the county register of deeds and mortgages, office
38 of the county clerk, office of the county surrogate, office of the
39 county prosecutor, and county sheriff's department.

40 (cf: P.L.2015, c.249, s.2)

41

42 2. Section 2 of P.L.1997, c.167 (C.52:27D-439) is amended to
43 read as follows:

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted January 27, 2022.

²Senate SBA committee amendments adopted February 28, 2022.

1 2. a. **【Commencing July 1, 1997 there】** There is established
2 the "Energy Tax Receipts Property Tax Relief Fund" as a special
3 dedicated fund in the State Treasury into which there shall be
4 credited annually, commencing in State fiscal year 1998, the sum of
5 \$740,000,000 or the amount determined pursuant to subsection e. of
6 this section from the following: net payments under the "Sales and
7 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and
8 use of energy or utility services, net payments under the
9 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
10 et seq.) from gas, electric, and gas and electric public utilities,
11 whether municipal or otherwise, that were subject to tax pursuant to
12 the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to
13 January 1, 1998, net payments under the Corporation Business Tax
14 Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from
15 telecommunications public utilities that were subject to tax pursuant
16 to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April
17 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49 et seq.)
18 from sewerage and water corporations, net payments under the
19 "Transitional Energy Facility Assessment Act," P.L.1997, c.162
20 (C.54:30A-100 through C.54:30A-113), and such sums from the
21 General Fund as may be necessary to provide that the annual
22 amount credited to the fund shall equal \$740,000,000 or the amount
23 determined pursuant to subsection e. of this section.

24 b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-
25 16 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other
26 provision of law concerning the apportionment and distribution by
27 the State of taxes paid by public utilities,

28 (1) There shall be paid during the State fiscal year 1998 and
29 during each fiscal year thereafter from the "Energy Tax Receipts
30 Property Tax Relief Fund" to the municipalities of the State the sum
31 of \$740,000,000 or the amount determined pursuant to subsection e.
32 of this section.

33 (2) A portion of the \$740,000,000 or the amount determined
34 pursuant to subsection e. of this section shall be allocated in a
35 manner that provides that each municipality shall receive an amount
36 not less than the largest annual amount received or to be received
37 by the municipality from:

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

42 (b) the distribution of \$685,000,000 from the proceeds of the
43 public utilities franchise and gross receipts taxes under P.L.1940,
44 c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)
45 or from taxes and assessments collected in replacement of such
46 taxes as released by the Division of Local Government Services in
47 the Department of Community Affairs as fiscal year 1998 estimated
48 franchise and gross receipts taxes State aid distributions by

1 municipality prior to the certification of apportionment of such
2 funds by the Director of the Division of Taxation and the amounts
3 required pursuant to subsection d. of this section.

4 (3) A portion of the \$740,000,000 or the amount determined
5 pursuant to subsection e. of this section shall be allocated in a
6 manner that provides that each municipality shall receive an amount
7 equal to the difference, if any, between the amount it received
8 pursuant to paragraph (2) of this subsection and the sum of the
9 amounts that the municipality received pursuant to the certification
10 made in the 1997 calendar year released by the Division of Local
11 Government Services in the Department of Community Affairs as
12 the fiscal year 1998 estimated franchise and gross receipts taxes
13 State aid distribution of \$685,000,000 and the certification of the
14 1997 fiscal year distribution of \$45,000,000.

15 (4) The portion of the \$740,000,000 or the amount, not more
16 than \$755,000,000, determined pursuant to subsection e. of this
17 section remaining after the allocations pursuant to paragraphs (2)
18 and (3) of this subsection shall be distributed in proportion to the
19 amounts distributed pursuant to paragraph (2) of this subsection.

20 c. (1) The funds distributed pursuant to paragraphs (2) and (4)
21 of subsection b. of this section shall be distributed annually to
22 municipalities on the following schedule: July 15, 35% of the total
23 amount due; August 1, 10% of the total amount due; September 1,
24 30% of the total amount due; October 1, 15% of the total amount
25 due; November 1, 5% of the total amount due; and December 1, 5%
26 of the total amount due.

27 (2) The funds distributed pursuant to paragraph (3) of
28 subsection b. of this section, prior to January 1, 2002 for all
29 municipalities, and distributed after January 1, 2002 for
30 municipalities operating on a State fiscal year basis, shall be
31 distributed annually to those municipalities on or before June 30.
32 The funds distributed after January 1, 2002 pursuant to paragraph
33 (3) of subsection b. of this section to calendar year municipalities
34 shall be distributed annually on or before July 15.

35 d. The allocation set forth in paragraph (2) of subsection b. of
36 this section shall be adjusted to increase each appropriate municipal
37 distribution by the amount necessary to:

38 (1) make corrections to apportionment valuations or distribution
39 values made by the Director of the Division of Taxation in the
40 Department of the Treasury pursuant to R.S.54:30-2; and

41 (2) correct equitable distortions, as determined by the State
42 Treasurer, resulting from the application of section 2 of P.L.1980,
43 c.10 (C.54:30A-24.1) and section 4 of P.L.1980, c.11 (C.54:30A-
44 61.1).

45 The director shall report to the Legislature, on or before July 15,
46 1997, the amount and distribution of the corrections pursuant to
47 paragraphs (1) and (2) of this subsection.

1 e. (1) The amount credited to the "Energy Tax Receipts
 2 Property Tax Relief Fund" shall be \$745,000,000 for State fiscal
 3 year 1999, \$750,000,000 for each of State fiscal years 2000 and
 4 2001, \$755,000,000 for State fiscal year 2002, and for each fiscal
 5 year thereafter the amount equal to the amount credited in the prior
 6 fiscal year multiplied by the sum of 1.0 and the index rate or zero,
 7 whichever is greater. As used in this section, "index rate" means
 8 the rate of annual percentage increase, rounded to the nearest half-
 9 percent, in the Implicit Price Deflator for State and Local
 10 Government Purchases of Goods and Services, computed and
 11 published quarterly by the United States Department of Commerce,
 12 Bureau of Economic Analysis, calculating the annual increase
 13 therein at the second calendar quarter which occurred in the next
 14 preceding State fiscal year. The Director of the Division of Local
 15 Government Services shall promulgate annually the index rate to
 16 apply in the next following State fiscal year which shall be the same
 17 as the index rate determined pursuant to section 4 of P.L.1983, c.49
 18 (C.40A:4-45.1a). Any amount of aid distributed to a municipality
 19 in excess of the amount distributed to the municipality from the
 20 "Energy Tax Receipts Property Tax Relief Fund" during the State
 21 fiscal year 2002 shall be used solely and exclusively by each
 22 municipality for the purpose of reducing the amount the
 23 municipality is required to raise by local property tax levy for
 24 municipal purposes.

25 (2) In ²~~additional~~ ²addition² to the amount credited in
 26 paragraph (1) of this subsection, there shall be an amount sufficient
 27 to provide to each municipality from the "Energy Tax Receipts
 28 Property Tax Relief Fund" an additional amount to be determined
 29 as follows: in fiscal year ¹~~2017~~ ¹2023¹ an amount equal to
 30 ²~~20%~~ ²50 percent² of the difference between the sum of
 31 Consolidated Municipal Property Tax Relief Aid and Energy Tax
 32 Receipts Property Tax Relief Aid paid to that municipality in fiscal
 33 year 2008 and the sum of Consolidated Municipal Property Tax
 34 Relief Aid and Energy Tax Receipts Property Tax Relief Aid paid
 35 to that municipality in fiscal year 2012 ²~~;~~ ²40%² , and in fiscal year
 36 2024, and in each fiscal year thereafter, 100 percent² of that
 37 difference amount ²~~shall be paid in fiscal year~~² ¹2018² ²2024¹
 38 , 60% of that difference amount shall be paid fiscal year² ¹2019²
 39 ²2025¹ ; 80% of that difference amount shall be paid in fiscal
 40 year² ¹2020² ²2026¹ ; and 100% of that difference amount shall
 41 be paid in fiscal year² ¹2021² ²2027¹ and in each fiscal year
 42 thereafter². The amounts determined herein shall be distributed to
 43 municipalities annually pursuant to the schedule under paragraph
 44 (1) of subsection c. of this section. ²A municipality shall not
 45 anticipate for purposes of preparing its annual budget the receipt of
 46 any State aid payment distributed pursuant to this paragraph prior to
 47 the introduction of the budget by the governing body pursuant to the

1 “Local Budget Law,” N.J.S.40A:4-1 et seq. A municipality shall
2 amend its local budget pursuant to N.J.S.40A:4-9 to properly reflect
3 the additional amount distributed to that municipality from the
4 “Energy Tax Receipts Property Tax Relief Fund.” The amendment
5 to the municipal budget shall increase revenue and reduce the
6 amount to be raised by taxation for local purposes by the same
7 amount as the additional amount distributed to that municipality
8 from the “Energy Tax Receipts Property Tax Relief Fund.”²

9 f. Notwithstanding any other provision of this section or any
10 other provision of law to the contrary, if any municipality paid a
11 county for an amount for county purposes from the amount it
12 received from its apportionment of taxes according to the
13 limitations on the municipalities apportionment under section 4 of
14 P.L.1980, c.11 (C.54:30A-61.1), the highest amount of that
15 payment during calendar years 1994, 1995, and 1996 shall be paid
16 annually directly to that county by the State Treasurer and be
17 deducted from that municipality's distribution otherwise determined
18 pursuant to paragraph (2) of subsection b. of this section.

19 (cf: P.L.2002, c.3, s.1)

20
21 3. Section 4 of P.L.1997, c.167 (C.52:27D-441) is amended to
22 read as follows:

23 4. a. (1) The annual appropriations act for each State fiscal
24 year commencing with fiscal year 1998 shall appropriate and
25 distribute during the fiscal year an amount not less than
26 \$740,000,000 or the amount determined pursuant to subsection e. of
27 section 2 of P.L.1997, c.167 (C.52:27D-439) from the "Energy Tax
28 Receipts Property Tax Relief Fund" pursuant to the provisions of
29 that section **【2 of P.L.1997, c.167 (C.52:27D-439), for the purposes**
30 **of that fund】**.

31 (2) The annual appropriations act for each State fiscal year
32 commencing with fiscal year ¹**【2017】 2023¹** shall appropriate and
33 distribute to each municipality an amount not less than (a) the sum
34 of Consolidated Municipal Property Tax Relief Aid and Energy Tax
35 Receipts Property Tax Relief Aid paid to that municipality in fiscal
36 year 2012 and (b) the amount distributed to each municipality
37 pursuant to paragraph (2) of subsection e. of section 2 of P.L.1997,
38 c.167 (C.52:27D-439).

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

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

3 c. The Director of the Division of Taxation shall, no later than
4 five days after certification by the Director of the Division of
5 Budget and Accounting in the Department of the Treasury pursuant
6 to subsection b. of this section that the provisions of subsection a.
7 of this section have not been met or have been violated by an
8 amendment or supplement to the annual appropriations act, notify
9 all taxpayers that have filed a return under the Corporation Business
10 Tax (1946), P.L.1945, c.162 (C.54:10A-1 et seq.) during the
11 previous calendar year, other than taxpayers that are gas, electric,
12 and gas and electric, or telecommunications public utilities as
13 defined pursuant to subsection (q) of section 4 of P.L.1945, c.162
14 (C.54:10A-4) pursuant to the amendment to that section 4 made in
15 section 2 of P.L.1997, c.162, that the taxpayer shall have no
16 liability pursuant to the provisions of P.L.1945, c.162 for any
17 corporation business tax for the taxpayer's current privilege period,
18 notwithstanding any other provision of law to the contrary.
19 (cf: P.L.1997, c.167, s.4)
20

21 4. This act shall take effect immediately.