

**ASSEMBLY CONCURRENT
RESOLUTION No. 23**

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RYAN E. PETERS

District 8 (Atlantic, Burlington and Camden)

Assemblywoman JEAN STANFIELD

District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:

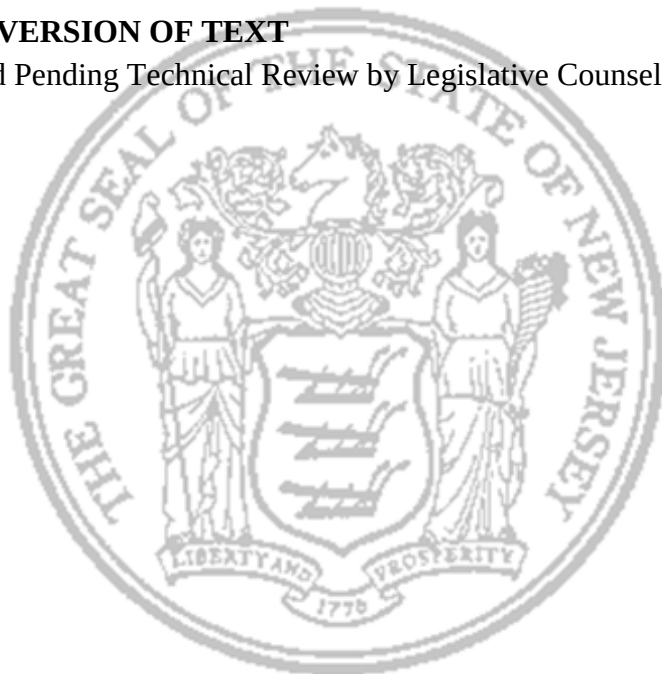
Assemblymen Wirths, Space, DiMaio and Peterson

SYNOPSIS

Amends Constitution to require Energy Tax Receipts Property Tax Relief Act aid and Consolidated Municipal Property Tax Relief Aid programs be fully funded each year, with dedicated amounts distributed to municipalities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/5/2020)

1 **A CONCURRENT RESOLUTION** proposing to amend Article VIII,
2 Section II of the Constitution of the State of New Jersey by
3 adding a new paragraph thereto.

4
5 **BE IT RESOLVED** *by the Senate of the State of New Jersey (the*
6 *General Assembly concurring):*

7
8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is agreed to:

10
11 **PROPOSED AMENDMENT**

12
13 Amend Article VIII, Section II by adding a new paragraph 10 to
14 read as follows:

15 10. a. (1) For the State fiscal year commencing on July 1, 2019,
16 the amount credited to the “Energy Tax Receipts Property Tax
17 Relief Fund,” established by the “Energy Tax Receipts Property
18 Tax Relief Act,” P.L.1997, c.167 (C.52:27D-438 et seq.), as
19 amended and supplemented, shall be no less than \$1,136,000,000
20 multiplied by the sum of 1.0 and the index rate or zero, whichever
21 is greater. For each State fiscal year thereafter, the amount credited
22 to the “Energy Tax Receipts Property Tax Relief Fund,” established
23 by the “Energy Tax Receipts Property Tax Relief Act,” P.L.1997,
24 c.167 (C.52:27D-438 et seq.), as amended and supplemented, shall
25 be no less than the amount credited in the prior State fiscal year
26 multiplied by the sum of 1.0 and the index rate or zero, whichever
27 is greater.

28 (2) For the State fiscal year commencing on July 1, 2019, and
29 for each State fiscal year thereafter, the annual appropriations act
30 for the State fiscal year shall appropriate and pay to, or on behalf of,
31 the municipalities of the State an amount no less than the amount
32 determined pursuant to subsubparagraph (1) of subparagraph a. of
33 this paragraph. Each municipality shall receive the same
34 proportionate share of the respective distribution made pursuant to
35 this subsubparagraph as was allocated to the municipality in State
36 fiscal year 2018.

37 b. For the State fiscal year commencing on July 1, 2019, the
38 annual appropriations act for the State fiscal year shall appropriate
39 and distribute to, or on behalf of, each municipality the amount of
40 Consolidated Municipal Property Tax Relief Aid no less than the
41 amount of Consolidated Municipal Property Tax Relief Aid
42 distributed in State fiscal year 2009 multiplied by the sum of 1.0
43 and the index rate or zero, whichever is greater. For each State
44 fiscal year thereafter, the annual appropriations act for the State
45 fiscal year shall appropriate and distribute to, or on behalf of, each
46 municipality the amount of Consolidated Municipal Property Tax
47 Relief Aid no less than the amount of Consolidated Municipal
48 Property Tax Relief Aid distributed in the prior State fiscal year

1 multiplied by the sum of 1.0 and the index rate or zero, whichever
2 is greater.

3 c. As used in this paragraph, "index rate" means the rate of
4 annual percentage increase, rounded to the nearest half-percent, in
5 the Implicit Price Deflator for State and Local Government
6 Purchases of Goods and Services, computed and published quarterly
7 by the United States Department of Commerce, Bureau of
8 Economic Analysis, calculating the annual increase therein at the
9 second calendar quarter which occurred in the State fiscal year next
10 preceding the appropriation. The Director of the Division of Local
11 Government Services in the Department of Community Affairs, or
12 its successor, shall promulgate annually the index rate to apply in
13 the next following State fiscal year which shall be the same as the
14 index rate determined pursuant to section 4 of P.L.1983, c.49
15 (C.40A:4-45.1a), as amended or supplemented, or a subsequent law
16 of similar effect.

17

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

26

27 3. This proposed amendment to the Constitution shall be
28 submitted to the people at that election in the following manner and
29 form:

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

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

34 If you favor the proposition printed below make a cross (X), plus
35 (+), or check (✓) in the square opposite the word "Yes." If you are
36 opposed thereto make a cross (X), plus (+) or check (✓) in the
37 square opposite the word "No."

38 b. In every municipality the following question:

	YES	<p>CONSTITUTIONAL AMENDMENT FULLY FUNDING AND DEDICATING CERTAIN STATE AID MONIES TO MUNICIPALITIES</p> <p>Do you approve amending the Constitution to require the State to fully fund energy tax aid and Consolidated Municipal Property Tax Relief Aid? A required amount would have to be paid to municipalities as aid each year.</p> <p>The energy tax imposes a fee related to certain electric, gas, and other utilities. Consolidated Municipal Property Tax Relief Aid is the term for a group of taxes and fees collected by the State. In past years, some of these monies were used to fund State programs.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This amendment requires that the State fully fund the “Energy Tax Receipts Property Tax Relief Act” (the “energy tax”) and Consolidated Municipal Property Tax Relief Aid (“local aid”) programs. A set amount of these monies would have to be given to municipalities as aid each year.</p> <p>The State taxes certain gas, electric, sewerage, water, and other utility producers and consumers; the monies from these taxes are referred to as the energy tax. Local aid refers to monies collected by the State related to various taxes and fees.</p> <p>Current law requires an amount of energy tax and local aid monies be given by the State to municipalities each year. In some years, the State has not given municipalities the full amount as set by law. The monies were instead used to fund State programs.</p> <p>This amendment requires the State to fully fund the energy tax and local aid programs. The amount of energy tax monies to be distributed equals the amount set to be distributed in fiscal year 2018 and then adjusted for inflation each year. The amount of local aid monies to be distributed equals the amount distributed in fiscal year 2009 and then adjusted for inflation each year. The amount of energy tax and local aid collected as taxes would not change.</p>

STATEMENT

This concurrent resolution proposes to amend the State Constitution to require that the Energy Tax Receipts Property Tax Relief Act aid and the Consolidated Municipal Property Tax Relief Aid programs be fully funded, and with constitutionally set amounts to be distributed to municipalities as State aid each year.

The State collects revenue pursuant to the “Energy Tax Receipts Property Tax Relief Act,” P.L.1997, c.167 (C.52:27D-438 et seq.), (the “energy tax”) through an assessment on certain producers and consumers of gas, electric, telecommunications, sewerage and water, and other utility services. These fees were formerly collected by municipalities as a gross receipts and franchise tax. However, a 1997 law, P.L.1997, c.162, revised the taxation of energy-related public utilities and, henceforth, receipts collected by the State have been deposited into the “Energy Tax Receipts Property Tax Relief Fund,” with a statutorily determined amount required to be distributed as aid to municipalities based on prior distribution amounts adjusted by an inflation index.

Consolidated Municipal Property Tax Relief Aid (“CMPTRA”) was established by the fiscal year 1996 appropriations act, P.L.1995, c.164, as the consolidation of 14 separate municipal aid programs. Similar to the energy tax, a statutorily determined amount, based on prior distributions adjusted by an inflation index, N.J.S.A.52:27D-442, is required to be distributed as aid to municipalities each year.

In certain years, however, the State has not distributed to municipalities the amount of CMPTRA and energy tax aid that is required to be distributed pursuant to statute. Through the annual appropriations act, the statutory dedication for the energy tax, CMPTRA, or both, have been overridden and receipts therefrom have been used for general State funding purposes.

This concurrent resolution amends the Constitution to require that the full amount of CMPTRA and energy tax aid be appropriated and distributed to, or on behalf of, municipalities each year. The “full amount” of energy tax and CMPTRA aid means the formulas currently provided for by statute and reproduced in this concurrent resolution, N.J.S.A.52:27D-439(e) and 52:27D-442, respectively. Specifically, this concurrent resolution uses as the CMPTRA base year the amounts of CMPTRA distributed in fiscal year 2009. The energy tax base year is the amount of energy tax set to be distributed in fiscal year 2018. These amounts are then adjusted by an “index rate,” for both the first fiscal year in which this concurrent resolution is effective and then readjusted for each fiscal year thereafter. The “index rate” is the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price

ACR23 PETERS, STANFIELD

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1 Deflator for State and Local Government Purchases of Goods and
2 Services, computed and published quarterly by the United States
3 Department of Commerce, Bureau of Economic Analysis.

4 The provisions of this concurrent resolution would begin on July
5 1, 2019, the first day of State fiscal year 2020.