

# STATE AID

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Or is it?



LET'S START WITH A  
LITTLE HISTORY LESSON

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# Energy Tax History

## 1884

- Franchise Tax created for entities having line or mains located in, on, or over any street, highway or other public place.
  - Provided for a 2% assessment on gross receipts of telegraph, telephone, cable and express companies

## 1900

- The Voorhees Tax Act extended the Franchise Tax to all utilities except those subject to the Railroad and Canal Property Tax Act.
  - Provided that receipts were to be returned to municipalities

# Energy Tax History (continued)

## 1917

- Franchise Tax rates were increased to 3%

## 1918

- Franchise Tax rates were increased to 4%

## 1919

- Franchise Tax rates were increased to 5%
- Gross Receipts Tax was imposed “**in lieu of local taxes** on certain properties of the following utilities – Street railways, traction, sewerage, water, gas and electric, heat and power corporations using or occupying public streets, highways, roads and other public places”

# Energy Tax History (continued)

## 1940

- Unit values were applied to each class and type of utility owned tangible personal property “for the purpose of securing a fair and equitable apportionment” of Franchise and Gross Receipts Taxes among the various utilities.
- The Franchise Tax rate of 2% was applied to each utility’s gross receipts of \$50,000.00, or less, and 5% for gross receipts in excess of that amount.
- After subtracting its administrative expenses, the proceeds from each taxpaying utility was **distributed back to individual municipalities**, based on the value of the facilities and personal property each hosted, as a percentage of the statewide total.

# Energy Tax History (continued)

## 1955

- In 1955, the maximum rate of Gross Receipts Taxes was capped at 7.5%

## 1956

- In 1956, a minimum of 5% was set.

## 1960

- In 1960, a firm rate of 7.5% was established.

# Energy Tax History (continued)

## 1980

- In 1980, Chapters 10 and 11 “**provided for State collection of the taxes**” and redistribution back to the municipalities.
- These reforms capped the distribution to any municipality with a municipal purposes tax rate of \$0.10 or less in each of the three preceding years and capped the distribution to all municipalities at \$700.00, per capita.
- Chapter 12 established the Municipal Purposes Tax Assistance Fund (MPTAF), funded from the amounts NOT distributed, pursuant to the caps.

# Energy Tax History (continued)

## 1997

- Governor Whitman then signed Chapter 167, P.L. 1997, The "Energy Tax Receipts Property Tax Relief Act;" replaces method of distributing certain funds guaranteed to municipalities from the State's taxation of energy and telecommunications.

# Energy Tax History (continued)

## 1998

- Effective January 1, 1998, regulated natural gas and electric energy utilities and telecommunications utilities operating in New Jersey were freed from franchise and gross receipts taxes, which were repealed.
- The Energy Tax Receipts Program was allocated to **ensure** that municipalities would receive **at least** the same amount of money they received from the Gross Receipts and Franchise Tax in the past.

# Energy Tax History (continued)

## 1998 (Continued)

- Revenue for the Energy Tax Receipts Property Tax Relief Fund will be raised by applying:
  - Sales and Use Tax to energy or utility services
  - Corporation Business Tax to electric and natural gas utilities that were subject to the Gross Receipts and Franchise Tax prior to January 1, 1998
  - Corporation Business Tax to telecommunications utilities that were subject to the Gross Receipts and Franchise Tax as of April 1, 1997
  - Gross Receipts and Franchise Tax to privately owned sewerage and water corporations as before

# Energy Tax History (continued)

## 1999

- Chapter 168, P.L. 1999, provided that in each year subsequent to State FY 2002, ETR (and CMPTRA) distributions would annually increase at the rate of the **Implicit Price Deflator** – used to measure the impact of inflation on governmental spending.
- The formula used to distribute ETR from FY 1999 through FY 2002 to each municipality was previous year amount plus an increase proportional to the aggregate dollar value increase.

# Energy Tax History (continued)

## 2006

- The Sales Tax was 6%, but since July 15, 2006, it has been 7%.
- That is a 16.7% increase in revenue to the State of New Jersey, not 1%.
- Was supposed to be used for Property Tax Relief

# Energy Tax History (continued)

## 2009

- In State FY 2010 (Calendar 2009), Governor Corzine proposed and the Legislature agreed to a formula change in combined ETR/CMPTRA cuts. The “**needs based**” **formula cuts** were taken from each municipalities FY 2009 distribution. A wealth calculation. “**The Robin Hood Principle**”
- “Total formula aid (CMPTRA and ETR) was reduced by \$32 million. The budget also accounts for this year’s mandatory **ETR inflation increase of 6.5 percent**, as it has for the past several years, by **transferring the 6.5 percent increase from CMPTRA to ETR.**”

# Energy Tax History (continued)

## 2010

- The similar formula was used to administer FY 2011 (CY 2010) total **ETR/CMPTRA cuts of \$272 million**. Local Finance Notice 2010-08.
- “Similar to 2009, the calculation placed municipalities into nine groups based on low, medium, and high equalized tax rates and wealth.

# Energy Tax History (continued)

**2011**

- Level Funding

**2012**

- Level Funding

**2013**

- Level Funding

# Energy Tax History (continued)

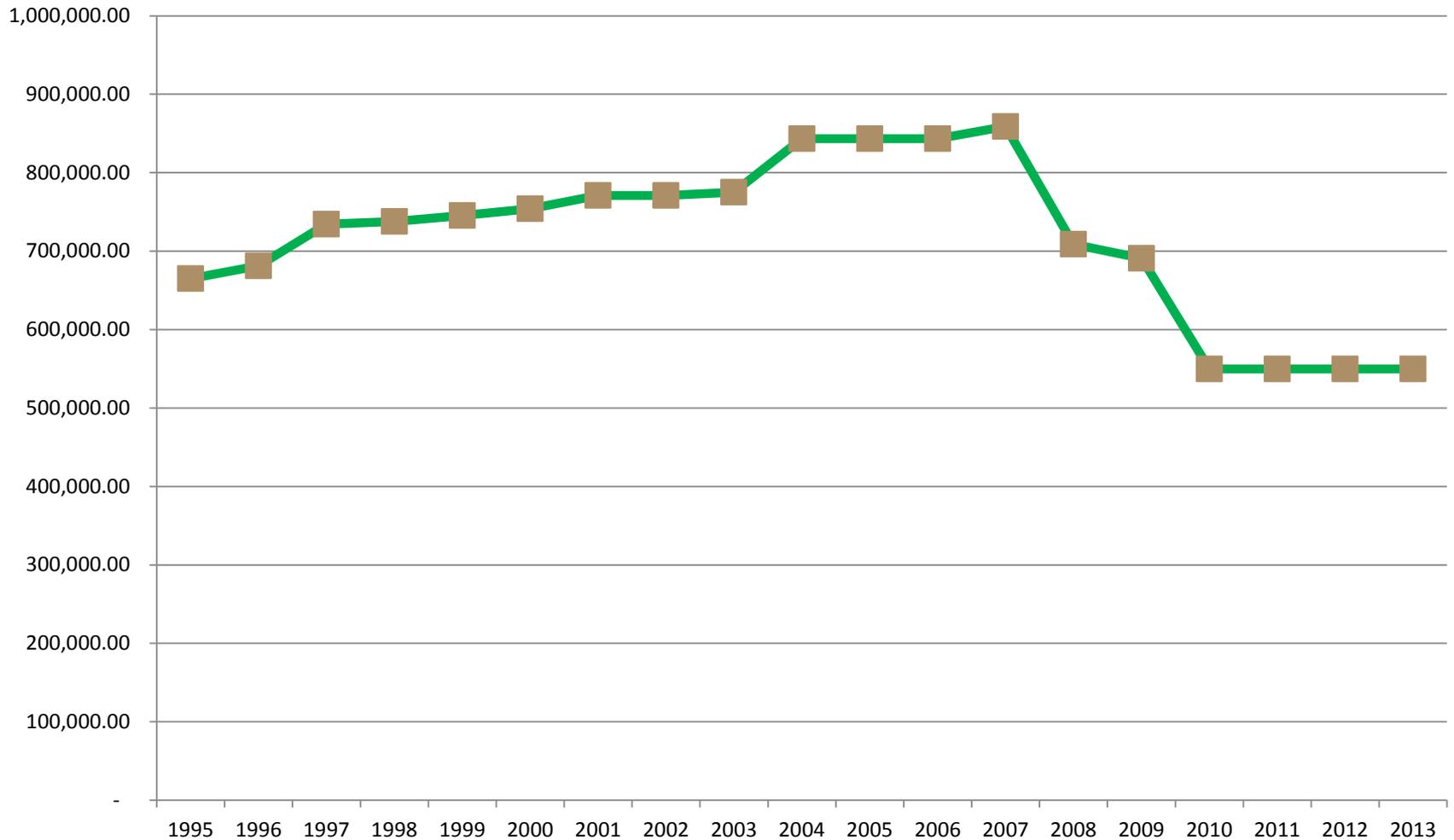
**So how is it that the State of New Jersey can continue to take our local revenue sources when the legislation and history of these taxes is so clear?**

- Karcher v. Kean, 479 A. 2d 403 - NJ: Supreme Court 1984
- Based upon this State Supreme Court decision, the state found that it can supersede permanent statutes simply by including a provision, to that effect, in the Annual Appropriations Act.

# What is State Aid?

- As we just learned, beginning in the 1980's, the State of New Jersey took control over the collection and distribution of the various energy taxes
- Rebranded the local municipal revenues and now call them "**State Aid**"
- The State is now reneging on the original intent of the 1997 law to provide property tax relief
- The State is using municipal revenues to balance their own budget while exacerbating the local property tax problem
- The State then blames local government for creating a property tax problem

# Historic State Aid Graph (All Aid)

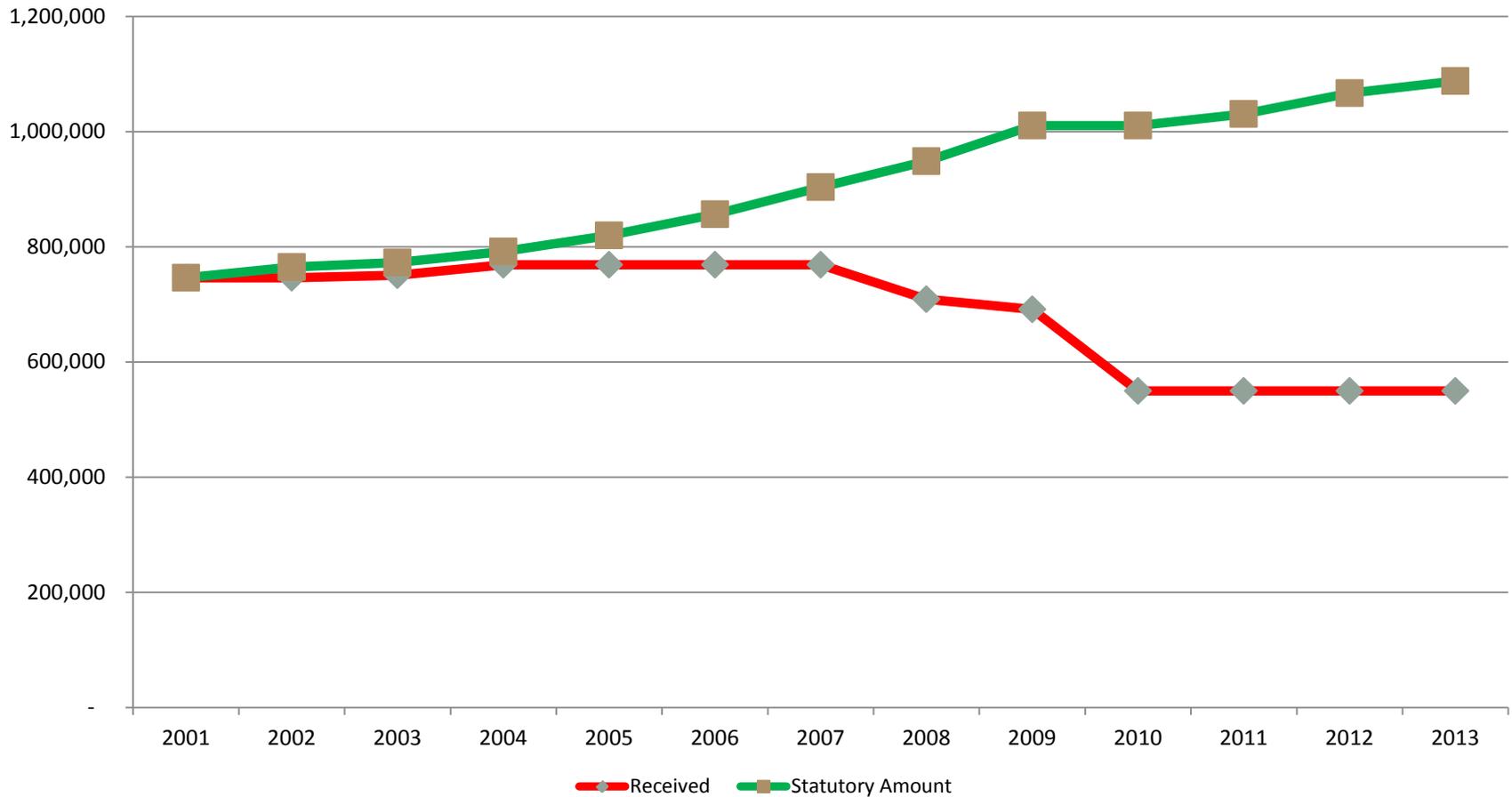


# CMPTRA & ETR Amounts Restated

Year	Received	IPD	Statutory	Shortage
2001	\$ 746,174	Base Year		
2002	746,174	2.5%	\$ 764,828	\$ 18,654
2003	750,316	1.0%	772,477	22,160
2004	768,716	2.5%	791,789	23,073
2005	768,716	3.5%	819,501	50,785
2006	768,716	4.5%	856,379	87,663
2007	768,716	5.5%	903,480	134,764
2008	708,743	5.0%	948,654	239,911
2009	691,025	6.5%	1,010,316	319,291
2010	549,711	0.0%	1,010,316	460,605
2011	549,711	2.0%	1,030,522	480,811
2012	549,711	3.5%	1,066,591	516,880
2013	549,711	2.0%	1,087,922	538,211
<b>Totals</b>	<b>\$ 8,916,140</b>		<b>\$ 11,808,948</b>	<b>\$ 2,892,807</b>

# CMPTRA & ETR Amounts Restated

## Calculation of State Energy Tax Obligation



# PROPERTY TAX DILEMMA REVEALED

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# Why do we have a Property Tax Dilemma?

- The State took our local energy taxes for their own use
- The State increased Sales Tax 16.7% (Not 1%) under the guise of providing Property Tax Relief. (Never Happened)
- The State took a risk by leveraging Pension Funds in a down market which we all know failed miserably
- The State told local government to take a pension holiday and not pay into the pension system for many years and is charging us 8.5% on those amounts
- The State now wants to blame local government for its years of mismanagement at the State level

# Tax Impact in 2013 Alone!

Issue Area	Amount
PFRS Contribution Rates go from 8.0% to 25.14%	\$ 355,465
PERS Contribution Rates go from 3.65% to 11.21%	72,139
State Aid Shortage in 2013	538,211
<b>Total Municipal Impact</b>	<b>\$ 965,815</b>

**Taxes would be 26% Lower without State mishaps**

# Questions

